

NH.PUC\*01/02/80\*[78463]\*65 NH PUC 1\*Public Service Company of New Hampshire

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## Re Public Service Company of New Hampshire

DR 79-187, 12th Supplemental Order No. 13,975

65 NH PUC 1

New Hampshire Public Utilities Commission

January 2, 1980

ORDER amending a prior commission order.

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BY THE COMMISSION:

Supplemental Order

Those portions of 11th Supplemental Order No. 13,962 ([1979] 64 NH PUC 458) that read "Supplement No. 7" are hereby amended to read "Supplement No. 8, issued in lieu of Supplement No. 7, rejected."

By order of the Public Utilities Commission of New Hampshire this second day of January, 1980.

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NH.PUC\*01/03/80\*[78464]\*65 NH PUC 1\*Public Service Company of New Hampshire

[Go to End of 78464]

## Re Public Service Company of New Hampshire

Intervenors: Legislative Utility Consumers' Council

DF 79-236, Order No. 13,977

65 NH PUC 1

New Hampshire Public Utilities Commission

January 3, 1980

PETITION of an electric utility to issue and sell bonds for construction purposes; granted.

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1. SECURITY ISSUES, § 28 — Bond issue — Jurisdiction over terms.

[N.H.] The commission declined to set a ceiling on the interest rate or the underwriters' fee

on bonds proposed to be distributed by an electric utility in view of the commission's customary practice of issuing a preliminary order generally authorizing the proposed financing but reserving jurisdiction to approve the specific terms. p. 3.

2. SECURITY ISSUES, § 58 — Subject of capitalization — Construction.

[N.H.] The commission approved the issuance of bonds by an electric utility to pay off a portion of the short-term notes outstanding at the time of the sale, the proceeds of which had been expended in the purchase and construction of property reasonably requisite for present and future use, to finance the purchase and construction of additional such property, and for other corporate purposes. p. 3.

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APPEARANCES: Frederick J. Coolbroth

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and Ralph H. Wood, for the petitioner; William L. Shaine and Gerald Lynch, for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this unopposed petition filed December 14, 1979, 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 not exceeding \$35 million of general and refunding mortgage bonds, Series C (the "Series C G&R bonds"), and to mortgage its present and future property, tangible and intangible including franchises, as security for the Series C G& R bonds and other outstanding G&R bonds. As originally filed, the company's petition requested authorization with respect to only \$30 million of Series C G&R bonds and in addition requested authority to issue a new series of first mortgage bonds to be pledged as additional security for the G&R bonds of all series. However, by motion filed on December 21, 1979, the company requested that its petition be amended to cover \$35 million of Series C G&R bonds and at the hearing informed the commission that no first mortgage bonds would be issued in connection with this financing. A duly noticed hearing was held in Concord on December 26, 1979, at which time the commission granted the company's motion to amend.

*Positions of the Parties*

*A. Position of Public Service Company of New Hampshire*

The company through witness Harrison stated that the proceeds of the Series C G&R bonds will be used (a) to pay off a portion of the short-term notes outstanding at the time of sale (estimated to be \$131.1 million on January 29, 1980), 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 finance the purchase and construction of

additional such property; and (c) for other proper corporate purposes. All expenses incurred in accomplishing the financing will be paid from the general funds of the company.

The Series C G&R bonds will be sold through a negotiated public offering. Mr. Harrison described in detail the major terms of the proposed Series C G&R bonds. He also explained why the company again proposed a negotiated rather than a competitive sale.

The company submitted a balance sheet as at October 31, 1979, actual and pro formed for the sale of the Series C G&R bonds. Exhibits were also submitted showing: disposition of proceeds; estimated expenses of the issue; and capital structure as at October 31, 1979, actual and pro formed for the sale of the Series C G&R bonds. Projected financing requirements and estimated construction expenditures were outlined in testimony. A certified copy of authorizing votes of the company's board of directors was put in evidence at the hearing.

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### *B. Position of Legislative Utility Consumers' Council (LUCC)*

The LUCC stated that it had no objection to the issuance of the Series C G&R bonds, but that its position should not be interpreted as a waiver of LUCC's position in other proceedings that the company's cost of service would not be affected by such issuance until completion of construction of the Seabrook plant. Legislative Utility Consumers' Council also recommended that the commission set ceilings on both the interest rate on the Series C G&R bonds and on the underwriters' fee. In referring to a "fee," we assume LUCC means the underwriters' discount, which is the difference between the price of the bonds to the public and the price paid by the underwriters to the company.

[1] In view of the commission's customary practice of issuing a preliminary order generally authorizing the proposed financing but reserving jurisdiction to approve the specific terms, there is no reason to consider establishing any ceiling of the type recommended by LUCC.

[2] Based upon all of the evidence, the commission finds that the proceeds from the proposed financing will be expended (1) 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 petitioner's business; (2) to finance the purchase and construction of additional such property; and (3) for other proper corporate purposes, and further finds that the issue and sale of the Series C G&R bonds for the purposes described, and the mortgaging of the company's property, 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 not exceeding \$35 million of its general and refunding mortgage bonds, Series C, for cash in accordance with the foregoing report and as set forth in its petition, as amended; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is,

authorized to mortgage its present and future property, tangible and intangible including franchises, as security for its general and refunding mortgage bonds; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this commission the principal amount, term, purchase price, and rate of interest of said Series C general and refunding mortgage bonds, following which a supplemental order will issue approving the terms of the issue and sale of the securities, including the principal amount, term, purchase price, and rate of interest thereof; and it is

Further ordered, that the proceeds from the sale of the Series C G&R bonds shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of the company and for the other purposes stated in the report; and it is

Further ordered, that on July 1st and January 1st in each year, Public Service Company of New Hampshire shall file with this commission a detailed statement, duly sworn to by its treasurer or assistant treasurer, showing the disposition

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of the proceeds of the Series C general and refunding mortgage bonds 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 third day of January, 1980.

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NH.PUC\*01/07/80\*[78465]\*65 NH PUC 4\*Winter Termination Policy for Electric and Gas Utilities

[Go to End of 78465]

**Re Winter Termination Policy for Electric and Gas Utilities**

Intervenors: Community Action Program, New Hampshire Legal Assistance, Concord Natural Gas Corporation, Granite State Electric Company, Connecticut Valley Electric Company, Concord Electric Company, Exeter and Hampton Electric Company, Public Service Company of New Hampshire, Manchester Gas Company, New Hampshire People's Alliance, New Hampshire Citizens Labor Energy Coalition, New Hampshire Clients Council, City of Manchester, and Elderly Legal Services Development Program et al.

DE 79-217, Order No. 13,982

65 NH PUC 4

New Hampshire Public Utilities Commission

January 7, 1980

ORDER regarding the winter termination policy of electric and gas utilities.

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1. SERVICE, § 220 — Notice of discontinuance — Consumer rights.

[N.H.] The commission required all present termination notices for electric and gas utilities to be accompanied by a statement of consumer rights in order to increase consumer awareness as to their right to repay arrearages on a reasonable deferral basis thus preventing termination of service. p. 11.

2. SERVICE, § 220 — Notice of discontinuance — Billing insert.

[N.H.] The commission required electric and gas utilities to send to consumers a billing insert detailing consumer rights as to winter service terminations under both existing and emergency regulations. p. 12.

3. PAYMENT, § 33 — Denial of service — Arrearage limit.

[N.H.] The commission instituted an emergency rule that no residential consumer or customer shall be disconnected if that customer's arrearage is less than \$125. p. 12.

4. PAYMENT, § 33 — Denial of service — Social agencies.

[N.H.] The commission adopted a proposal whereby if a social agency agrees verbally or in writing to pay current bills, but not arrears, all electric and gas utilities shall continue to provide service despite the outstanding arrearage. p. 12.

5. SERVICE, § 220 — Notice of disconnection — Personal or telephone notice.

[N.H.] The commission required that prior to termination in the winter, every gas and electric utility must contact an adult living at the residence, either in person or by telephone, to inform the consumer of pending termination at least twenty-four hours prior to the

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proposed termination in order to allow greater consideration and a greater potential for discovery of medical emergencies. p. 13.

6. SERVICE, § 280 — Restoration of service — Medical emergencies.

[N.H.] The commission adopted a winter policy whereby service of gas and electric utilities must be immediately restored if the utility receives a written statement by a physician advising them that a medical emergency exists. p. 13.

7. SERVICE, § 215 — Termination of service — Commission authority.

[N.H.] With respect to bills rendered between January and April, no termination of service could take place without the express approval of the commission if a social agency could establish that a member of the customer's household was either handicapped or sixty-five years of age or older, that the customer was unable to pay for such service in full, and that the residential customer agreed to pay the arrearage in a maximum of five equal monthly installments between April and September. p. 13.

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APPEARANCES: Gerald Eaton for the Community Action Program; Mark Furman for the New

Hampshire Legal Assistance; Ronald Bisson for Concord Natural Gas Corporation; Kathleen Gardner for Granite State Electric Company; Janice Field for Connecticut Valley Electric Company; George Blood for Concord Electric Company; Robert Boisvert for Exeter and Hampton Electric Company; Pierre O. Caron for Public Service Company of New Hampshire; David Skryzowski for Manchester Gas Company; Gloria White for New Hampshire People's Alliance; Earl Bourden for New Hampshire Citizens Labor Energy Coalition; Connie Partridge for New Hampshire Clients Council; Emile Beaulieu for city welfare commissioner, city of Manchester; Michael Cornelius on behalf of Governor Hugh Gallen; Beverly Gage, state representative from Salem; Clifford Birch, state representative from Gilford; Robert Hoey, representative from Manchester; Maureen Dunnigan, Elderly Legal Services Development Program.

#### BY THE COMMISSION:

##### Report

The commission, on October 26, 1979, initiated this docket on its own motion to determine whether or not present termination regulations should be altered. On November 16, 1979, the commission issued an order of notice providing for testimony and written comments to be presented at a public hearing to be held in Concord on December 13, 1979.

The commission, at the public hearing, heard nearly 200 pages of testimony. In addition, numerous letters, case summaries, briefs, and proposals were submitted. The transcript of this public hearing was made available to the commission on December 31, 1979. Staff has accumulated data on terminations and termination notices for all electric and gas utilities for the past three years.

The commission's determination in this proceeding will be governed by the oral and written comments rendered in this proceeding. Furthermore, the scope of this proceeding and the order pursuant hereto is restricted in application to the electric and gas utilities serving customers within the confines of the state of New Hampshire.

#### *I. Positions of the Main Participants*

##### *A. People's Alliance*

The People's Alliance (hereinafter

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referred to as the "alliance") propose a residential utility consumer bill of rights, which would include the following provisions.

(1) Residential utility service is a necessity of life, and residents of New Hampshire have a basic human right to this.

(2) Every customer has an absolute right to a hearing before the shutoff of utility services.

(3) Direct personal contact must be provided to all customers facing a normal shutoff situation.

(4) Each utility company is required to inform customers that they may utilize a deferred

payment or an installment plan if the customer is unable to make full payment.

(5) No terminations can take place when the temperature is less than 45 degrees or on Fridays.

(6) No shutoffs can take place if the customer has an unpaid balance of less than \$200.

#### B. *Community Action Program*

The Community Action Program (CAP) is in a different position from that of the alliance and other consumer representatives whose positions are referred to, *infra*. Community Action Program disperses the energy crisis assistance program (ECAP). This program allows upwards to \$400 worth of assistance for energy payments for back bills for heating oil, electric service, gas service, and also sets up future credit accounts for people who are income eligible. (Transcript, p. 64.) The eligibility requirement is 125 per cent of the poverty level, or \$8,375, for a family of four and \$5,625 for a family of two. (Transcript, p. 65.) The assistance is paid directly to the utility or oil company involved.

Community Action Program finds major areas for improvement in the commission's regulations. However, CAP does not advocate a blanket moratorium on winter terminations. The following represents the major areas of CAP's focus.

(1) As to Rule 8-A-C, CAP believes that no customer should be disconnected for an unpaid bill of less than \$200 during the winter period. (Contrasts present regulation of \$25.)

(2) As to Rule 8-A-E, CAP believes that the language of this regulation is subject to abuse. Presently, it states that a utility shall continue to serve the customer, if the customer pays a reasonable portion of the bill. However, CAP asserts that the term "reasonable" is never defined. Community Action Program proposes that if a customer can pay 10 per cent of the arrearage, together with the current bill, then the term "reasonable" would have meaning.

(3) Community Action Program believes that generally the notice of disconnect fails to state important rights and considerations that the consumer should have awareness. A softer notice is proposed.

(4) Community Action Program proposes that a termination not be allowed where there is an initial payment of 10 per cent arrearage, plus an agreement to pay the current bill when due.

(5) Community Action Program proposes greater commission emphasis on its protection for consumers, especially medical emergency.

Community Action Program indicated that it had a good working arrangement with the utilities in the greater Belknap-Merrimack counties. Community Action Program also contends that much of the increased termination

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notices over the past year relates to CAP's previous requirement that it had to have a disconnect notice in hand before it could provide energy crisis assistance.

#### C. *LISTEN*

LISTEN, a multiservice neighborhood center serving the lower income residents of Lebanon,

requests that there be no terminations during the winter. However, LISTEN cites the current policy of Granite State Electric as being both flexible and humane. LISTEN states that its general request is not to be interpreted as a criticism of Granite State Electric, but rather as to other utilities.

*D. New Hampshire Clients Council*

The New Hampshire Clients Council (NHCC) represents that while CAP and Legal Assistance may have good relations with the utilities, NHCC contends that the commission must also be mindful of the fact that there is a sector of the consumer community which does not turn to CAP or legal aid for assistance. New Hampshire Clients Council states that these individuals who represent themselves or negotiate with a utility over termination are in an unfair situation. These consumers lack the impact or clout of a consumer agency. New Hampshire Clients Council states that the commission must address its rules to both those consumers who seek consumer agency assistance and those who represent themselves.

*E. Representative James Kaklamanos*

Representative James Kaklamanos strongly urges the commission to promulgate a rule which would change its shutoff regulations to assure that no individual willing, but unable, to pay would be deprived of utility service necessary to heat his or her home. Representative Kaklamanos cites the study by Baltimore Gas and Electric Company, which showed no significant increases in cost when a moratorium on utility termination was imposed.

*F. New Hampshire Legal Assistance*

New Hampshire Legal Assistance devoted considerable time and effort to bringing its views before the commission. Numerous legal personnel of the organization testified or submitted memoranda as to actual termination cases during the proceeding. This testimony focused on numerous cases where people had their service terminated because of arrearages less than \$100. Breakdowns of individual incomes and expenses revealed that for many people, expenses for heat and/or utility service are a significant portion of the cash-flow problem that low-income families experience.

Legal Assistance has reviewed the commission's present regulations and finds that the following problems exist:

1. Legal Assistance contends that the present notice provisions do not inform consumers that there is a potential to pay any arrearage through a deferred payment plan.
2. Legal Assistance contends that while the commission's present regulations commendably prohibit service disconnections when there is a medical emergency, most people do not know that the regulation exists.
3. Concern is also expressed that commission Regulation 8-A-2-e fails to give sufficient consideration to a customer's *ability* to pay.

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4. Legal Assistance believes that there is some merit to serving personal notice during the winter, because through this mechanism the utility will be made aware if any medical emergency



exists.

5. Many consumers are unaware of energy assistance programs and that any notice of termination should provide information as to where this assistance can be obtained.

6. If a medical emergency exists, Legal Assistance believes that service, if terminated, should be reconnected.

7. Legal Assistance is also concerned that the commission's deposit regulations may impose a hardship on many low-income customers when they are coupled with its present termination regulations during the winter. Legal Assistance believes that a deferred deposit payment plan needs to be developed.

Legal Assistance requests that the commission adopt the following on an emergency basis:

1. No termination of residential gas or electric service between now and March 31, 1980, without commission approval.

2. That the above rule shall not relieve any utility consumer from the obligation of paying amounts owed to the utility.

3. That "termination of residential service" means a cessation caused by the utility for reasons other than protection of public safety and not requested by a customer.

4. That notice provisions accompany all disconnect provisions which state that residential consumers have the right to: (a) a deferred payment plan; (b) have service termination prevented by a medical emergency; (c) a hearing before the commission; and (d) contact emergency assistance agencies.

5. That the commission shall not give approval to disconnect unless:

(a) the delinquent account exceeds \$75 where the utility service does not control the primary source of heat or \$250 where the utility service controls the primary source of heat; and

(b) the company demonstrates that:

(1) it has notified the customer of the opportunity to arrange a deferred payment plan as provided herein; and

(2) the customer has failed to contact the company to arrange such a plan; or

(3) the plan offered the customer is reasonable but the customer is unwilling to agree to it.

Legal Assistance has also submitted numerous decisions from other state public utility commissions. In addition, Legal Assistance has referred to the new voluntary guidelines issued by the Economic Regulatory Administration as to termination.

#### *G. Women's Supportive Services*

Citing problems with fixed incomes, which cannot accommodate inflationary pressures, Women's Supportive Services endorses a policy that prevents shutoffs for the winter months.

#### *H. Governor Hugh Gallen*

The governor, through his representative Michael Cornelius, has proposed the following:

1. No gas or electric utility shall, between the date of adoption of this regulation and March

15, 1980, terminate gas or electric service to any residential customer who is unable to pay outstanding bills because of financial hardship when such gas or electric service is used to provide heat or to operate the heating system of the customer's residence.

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2. This regulation shall not relieve any residential customer from the obligation of paying outstanding bills owed to the utility. Following the termination of § 1 of this regulation on March 15, 1980, any gas or electric utility may proceed to terminate service in accordance with regular commission regulations.

3. This regulation shall not require any gas or electric utility to restore service to any residential customer whose service has been terminated prior to the promulgation of this regulation. However, all electric and gas utilities shall inform the commission of customers who are without service as a result of a termination proceeding as of the effective date of this resolution.

4. The commission shall monitor the effect of this regulation on energy conservation and bill payments. In the event that evidence demonstrates an adverse conservation impact or marked abuse of the timely payment of bills, the commission will take that evidence into account in drafting any permanent winter termination regulations.

*I. Speaker George Roberts*

Speaker George Roberts appeared before the commission and urged the following:

1. New Hampshire should be included in the list of states having a moratorium on utility terminations during the winter months.

2. An adoption of a more flexible deferred payment plan for senior citizens and the low- and moderate-income families.

3. Concern for those consumers who are slightly over the 125 per cent poverty level that they be assured heat as long as they demonstrate an ability to pay.

*J. Representative Beverly Gage*

Representative Beverly Gage appeared before the commission and stated the following:

1. People should pay their bills but there is something wrong to risk the sort of life threatening situations that can result from residential utility disconnection in the winter.

2. There should be a four-month moratorium on terminations from November through February.

3. A deferred payment plan program be made available to all residential consumers.

*K. New Hampshire Citizens Labor Energy Coalition*

The New Hampshire Citizens Labor Energy Coalition (NHCLEC) through its chairman, Earl Bourden, appeared before the commission with the following concerns:

1. There should be a ban on winter terminations.

2. Concern should exist for consumers who are peripherally poor, the people who have an

income over the 125 per cent of the poverty level but who still cannot meet the tremendous increase in the cost of fuel.

3. If our government leaders have stated that because of the energy situation life will be different, then business practices should also be different.

*L. Granite State Electric*

Granite State Electric has adopted the following policy as to winter terminations:

(1) Service to customers known to the company to be elderly persons of low income or persons suffering from serious

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illnesses will not be terminated for nonpayment.

(2) Before service to any customer is terminated for nonpayment, all reasonable efforts will be made to notify such customer of the impending termination in person or by telephone.

(3) Where the customer whose bill is unpaid has vacated the premises, or where such customer occupies an apartment or other rental property for which the landlord provides heat, the procedure of giving personal or telephone notice of termination will not apply.

(4) Service to a customer will not be terminated for nonpayment if such customer, while making timely payments of current bills, enters into and carries out an agreement for installment payments or other reasonable arrangements for the payment of any overdue balance.

(5) Service will not be terminated for nonpayment due to causes beyond his or her control.

*M. Exeter and Hampton Electric*

Exeter and Hampton Electric appeared before the commission and made its winter policy known to the commission. This policy was represented as follows:

(1) During the winter months, the company will not disconnect service during extremely cold weather.

(2) During the winter, an effort is made to call prior to actual termination or reach the customer in some fashion.

(3) Routes all calls on termination to the credit personnel people.

*N. Public Service Company of New Hampshire*

Pierre Caron appeared before the commission to inform the commission as to the winter termination policy of Public Service Company of New Hampshire. The salient features of this policy are as follows:

(1) No one will be terminated during the winter, unless there is personal contact made with a responsible adult member of the household.

(2) Budget payments are normally available for persons who use electricity for heating, and payment arrangements are made for others.

(3) The company takes into account legitimate hardships.

(4) Public Service Company attempts to work with all governmental and social agencies so as to avoid terminations.

(5) Public Service Company complies with the medical emergency provision of the commission, but has experienced problems reaching the doctors involved.

Public Service Company is opposed to a total ban on utility service terminations, since they believe this only postpones the problem rather than solves it.

#### *O. Concord Natural Gas*

Ronald Bisson of Concord Natural Gas testified before the commission as to winter termination. The Concord Natural Gas Company is concerned about problems with abuse by landlords under a policy of winter termination moratorium. The company is also concerned with the abuses by some customers that could not be addressed if there was a ban on winter termination.

Testimony given by Mr. Eaton of CAP and the records of the commission reveal Concord Natural Gas to be one of the most sympathetic as to consumer problems.

#### *P. Manchester Gas Company*

The Manchester Gas Company policy

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is to strictly adhere to the existing regulations of the commission. David Skryzowski of the company testified that the company will shortly be providing a notice where a consumer can turn to seek assistance if he or she is faced with termination. The company has also provided bill stuffers as to consumer rights in the past.

#### *Q. Senator Robert Monier*

Senate President Robert Monier, through Legal Assistance, provided his comments for the commission. They are as follows:

(1) While the senate president supports a moratorium on shutoffs for persons willing and unable to pay, the senator also desires adequate safeguards should be implemented so that the policy is not used for other purposes.

(2) All too frequently many assistance plans are misused by specific individuals for their own personal gain, and the end result is that those needing assistance and acting in good faith become hurt by such actions.

#### *R. Catholic Charities*

Catholic Charities of New Hampshire appeared before the commission and focused on many of the concerns raised by the People's Alliance. The Catholic Charities is very concerned about New Hampshire's elderly and the harm that can result from winter terminations.

#### *S. Other Comments*

The commission has received other comments from individuals, utilities, and groups. Each of the comments have been taken into consideration by the commission in arriving at a decision.

## II. *Commission Evaluation*

### A. *General Concerns*

Our review of the testimony and exhibits reveals that in addition to the need for consideration of a new termination policy, many agencies and customers are not presently aware of the commission's termination policies, which already exist. Clearly, there is a compelling need to better publicize our existing rules. For example, present commission rules clearly stipulate that:

(1) Service cannot be terminated if a customer makes arrangements for reasonable installments.

(2) Personal or telephone contact with a customer is required before actual shutoff.

(3) The hours and days during which disconnection can be made.

The commission will address this need for greater consumer awareness as it discusses the questions raised in this proceeding.

### B. *Softer Notice and Right to Deferred Payments*

[1] The commission agrees that a softer and more informative notice is necessary to make consumers more aware of their rights. This concern is especially visible in the lack of consumer awareness as to the postponement of termination when a medical emergency exists. In addition, many consumers are unaware that they have a right to repay arrearages on a reasonable deferral basis. Consequently, the commission will require all present residential termination notices to be accompanied by "Important Notice — Your Rights," Appendix A.

Appendix A will accompany all disconnect

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notices and will be available at all offices of all companies where consumer payments are received through April 1, 1980. The commission will prior to that date promulgate a new notice on a permanent basis, which will include much of the information contained in Appendix A.

Appendix A will make consumers aware of: (1) their right of appeal to the commission; (2) their right to postpone termination if a medical emergency exists; (3) their right to pay arrearages on a deferred basis; and (4) assistance agencies that may offer financial help.

[2] Such notice will allow for a greater awareness of the consumers most affected; namely, those about to be terminated. In addition, the commission will require a billing insert to all electric and gas consumers, which details their rights on terminations under both the existing and emergency regulations. This billing insert by the utilities will be sent to residential consumers before the end of February, 1980.

### C. *Disconnection for Arrearages — Dollar Limit*

The commission presently does not allow for any termination where the arrearage is less than \$25. Various groups have proposed changes to this amount. The numbers submitted have ranged from \$75 to \$250. The commission believes that during the winter, a higher amount is justified in keeping with the anticipated higher monthly gas and electric bills necessary to sustain basic

human needs. However, the commission is also aware that if the amount is increased to a level that is too high, consumers may have a problem paying off this bill before a new heating season begins.

[3] The commission will temporarily alter its regulation until April 1, 1980, to an amount of \$125. The emergency rule shall be that no residential consumer or customer shall be disconnected if that customer's arrearage is less than \$125. Residential customers, who have accumulated arrears equal to or less than \$125, on April 1, 1980, shall be allowed to repay the arrearage in a maximum of five equal monthly installments, the last of which shall be due on or before September 1, 1980. Payment of that arrearage shall be in addition to current bills accumulating throughout the summer in accordance with existing commission rules.

#### *D. Payment Of Current Bills — Effect on Termination*

[4] Community Action Program and Legal Assistance have raised the issue that if someone pays current bills, plus a percentage of arrearage, then termination should be postponed. The commission finds value to this proposal during the winter period. Consequently, if a social agency (either state, local, private, public, federal, or religious) agrees verbally or in writing to pay current bills, but not the arrears, all electric and gas utilities shall continue to provide service despite the outstanding arrearage.

If a social agency, as defined above, agrees to pay the current bills of an already terminated service, the utility company shall restore and maintain service during the period that the agency pays current bills.

#### *E. Relations with Social Agencies*

Each gas and electric company shall prepare and maintain a representative list of at least four social assistance agencies

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which will include the Community Action Program. Customers with payment difficulties, who cannot make satisfactory arrangements under the terms of our rules and regulations, shall be referred to a specific agency. When a customer contacts a company in accord with existing rules before the termination date as defined in the disconnect notice, and the customer is then referred to a social agency, termination shall be delayed an additional three days, during which the social agency may effect assistance. Termination shall be allowed only after the utility company verifies with the referred social agency that assistance has not been achieved.

#### *F. Personal or Telephonic Notice*

[5] Numerous consumer groups have requested that there be a greater notice to consumers; i.e., personal or telephonic notice. The commission finds that prior to termination in the winter, every gas and electric utility will be required to contact an adult living at the residence, either in person or by telephone, to inform the consumer of pending termination at least twenty-four hours prior to the proposed termination. If a company attempts the aforementioned in a good faith fashion, service can be terminated through contact and approval by a staff member of the commission. This step will allow for greater consideration and a greater potential for discovery of medical emergencies.

### *G. Medical Emergencies*

[6] While the commission already has the laudable regulation that prevents termination if a medical emergency exists, concern has been voiced that the regulation is not known to most consumers. The commission's. "Important Notice — Your Rights" provision will provide for greater awareness. However, for the winter, the commission will take two additional steps: (1) any receipt of a written statement by a physician after termination will necessitate service being immediately restored; the commission will circulate a medical emergency form to the appropriate medical organization. This form will facilitate the operation of this rule by cutting down the time required of the doctor.

### *H. Special Provisions for Elderly or Handicapped Persons*

[7] With respect to bills rendered between January 1, 1980, and April 1, 1980, no termination of service can take place without the express approval of the commission if a social agency can establish all of the following:

(a) That a member of the customer's household is either handicapped or elderly (sixty-five years of age or older), or both.

(b) That the customer is unable to pay for such service in full.

(c) That the residential customer agrees to pay the arrearage in a maximum of five equal monthly installments between April 1, 1980, and September 1, 1980.

### *I. Other Considerations*

(1) These rules apply on all bills rendered between now, January 4, 1980, and April 1, 1980.

(2) As of 12:01 A.M. on April 1, 1980, the prior rules and regulations of the commission as to termination are in force to the extent that they have been superseded by these emergency provisions.

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(3) These emergency provisions apply only to electric and gas utilities.

(4) Any individual abuse of these regulations can be brought to the commission by a utility for termination.

(5) Any special compelling factors to extend the limits of these winter termination policies can be brought to our attention by an individual consumer or a social agency.

(6) None of these emergency regulations alleviate the fact that ultimately all bills must be paid in full.

Our order will issue accordingly.

Order

Upon consideration of a report issued January 4, 1980, which is made a part hereof, and whereas a notice of hearing was issued on November 16, 1979, to receive comment on winter termination policies for New Hampshire electric and gas utilities, and whereas a public hearing was held pursuant thereto on December 13, 1979, and whereas a result of testimony and exhibits

presented at said public hearing, the commission finds that an emergency situation exists for many New Hampshire families due to the increased costs of energy; it is hereby

Ordered, that emergency termination procedures shall hereby become effective upon the date of this order and shall remain in effect until April 1, 1980, and shall apply to all gas and electric companies under the jurisdiction of this commission; and it is

Further ordered, that residential termination notices shall be accompanied by a separate notice entitled "Important Notice — Your Rights " as attached hereto as Appendix A; and it is

Further ordered, that such "Important Notice — Your Rights" will be available at all offices of all companies where consumer payments are received; and it is

Further ordered, that for the duration of the winter period, residential service shall not be disconnected if a customer's arrearage is less than \$125; and it is

Further ordered, that accumulated arrearages on April 1, 1980, shall be allowed to be repaid in a maximum of five equal monthly installments, the last of which shall be due on or before September 1, 1980, and which shall be due in addition to the normal payment of current bills accumulating through the summer in accordance with existing commission rules; and it is

Further ordered, that if a social agency agrees verbally or in writing to pay current bills, but not the arrears, all electric and gas utilities shall continue to provide service despite the outstanding arrearage; and it is

Further ordered, that if a social agency agrees to pay the current bills of an already terminated service, the utility company shall restore and maintain service during the period that the agency pays current bills; and it is

Further ordered, that each company shall prepare and maintain a representative list of at least four social assistance agencies and shall refer customers with payment difficulties who cannot make satisfactory arrangements under the terms of commission rules and regulations to a specific agency; and it is

Further ordered, that termination to a customer referred to a service agency shall be allowed only after the utility company verifies with the referred social agency that assistance has not been achieved; and it is

Further ordered, that three days in addition to the normal provision of commission rules shall be allowed for administration

**Page 14**

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by the social agency; and it is

Further ordered, that prior to termination each company shall contact an adult living at the residence either in person or by telephone to inform the consumer of pending termination at least twenty-four hours prior to proposed termination and upon failure to make such contact, service shall be terminated only upon approval by a staff member of the commission; and it is

Further ordered, that if a written statement by a physician after termination of a customer's service is received by the company or the commission, the company will immediately restore



customer service; and it is

Further ordered, that no termination of service can take place without the express approval of the commission if a social agency can establish all the following:

A. That a member of the customer's household is either handicapped or elderly (sixty-five years of age or older), or both

B. That the customer is unable to pay for such service in full

C. That the residential customer agrees to pay the arrearage in a maximum of five equal monthly installments between April 1, 1980, and September 1, 1980; and it is

Further ordered, that all parties to this proceeding and all customers are reminded that customers remain responsible for their bills and that ultimately all bills must be paid in full; and it is

Further ordered, that any part of the New Hampshire rules and regulations inconsistent with this order is hereby repealed during the effective period of this order.

By order of the Public Utilities Commission of New Hampshire this seventh day of January, 1980.

#### Appendix A

##### Important Notice — Your Rights

You have received a disconnect notice because your account is overdue. If you cannot pay your whole bill now, please contact us to work out a payment arrangement. If you contact us by \_\_\_\_, we will try to arrange a reasonable plan for you to catch up on your bill and continue service. We do not want to shut off your service. Please get in touch with us by calling \_\_\_\_. If you do not contact us, we may have to shut off your service.

If you contact us and we cannot agree on a payment arrangement, you have the right to appeal our decision to the public utilities commission. We will inform you how to appeal, if we are not able to reach an agreement. Please contact us first.

If a medical emergency exists at your home or would result from disconnection, we will postpone disconnecting your service if the medical emergency is certified to us by a registered physician. Oral certification will be effective for seven days. Written certification will be effective for thirty days and can be renewed if the medical emergency continues to exist. You are reminded that under all circumstances, you eventually must pay this bill.

If you are low income, you may be eligible for federal assistance to help pay your utility bill through your local Community Action Program office. You can call \_\_\_\_ to obtain more information about this program.

You have a right to a reasonable deferred

payment plan for arrearages.

Where disagreements arise, the public utilities commission will mediate the differences.

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NH.PUC\*01/08/80\*[78466]\*65 NH PUC 16\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78466]

## Re New Hampshire Electric Cooperative, Inc.

Intervenors: Legislative Utility Consumers' Council and Community Action Program

DR 79-178, Supplemental Order No. 13,983

65 NH PUC 16

New Hampshire Public Utilities Commission

January 8, 1980

APPLICATION for authority to increase rates; granted.

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1. RATES, § 276 — Declining block rate — National goals.

[N.H.] The commission accepted an electric utility's proposed rate design which retreated from the traditional declining block energy rate in favor of net rates because such a structure was in keeping with commission precedent and reflected the national goals of conservation, equity, and efficiency. p. 18.

2. RATES, § 303 — Purchased power cost — Rates related to demand.

[N.H.] The commission approved an electric utility's proposed roll-in into basic rates of a purchased power cost adjustment in order to allow some costs to be applied to demand. p. 18.

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APPEARANCES: Mayland H. Morse, Jr., for the petitioner; Gerald L. Lynch for the Legislative Utility Consumers' Council; Gerald M. Eaton for the Community Action Program.

BY THE COMMISSION:

Report

These proceedings were initiated on August 17, 1979, when the New Hampshire Electric Cooperative, Inc., hereinafter referred to as the "cooperative," a public utility engaged in the business of supplying electrical service in the state of New Hampshire, filed with the commission its proposed tariff, NHPUC No. 9 — Electricity, providing for increased annual revenue of \$534,276, effective September 20, 1979.

On September 12, 1979, the proposed increase was suspended pending investigation and decision per commission Order 13,818 (64 NH PSC 318).

A procedural hearing was held on October 31, 1979, at the commission office.

On November 26, 1979, discussions were held between the commission staff, cooperative

representatives, and the LUCC. As a result of those discussions agreement was reached as to the required increase prior to the duly noticed hearing.

The duly noticed hearing was held on

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December 11, 1979, at 10:00 A.M. at the offices of the commission.

*Fair Rate of Return*

The cooperative presented Professor J. Peter Williamson of Dartmouth College to testify on its cost of capital and rate of return requirements.

The professor testified to a minimum cost of capital of 6.49 per cent excluding any attrition allowance. The 6.49 per cent was based on a pro formed capital structure of 70 per cent debt and 30 per cent equity. The cost of debt used was 3.48 per cent, while equity was costed at 13.5 per cent, as a minimum.

The cooperative in its Exh 4 only requested a 5.93 per cent rate of return based on its adjusted test-year figures. The commission accepts a rate of return of 5.93 per cent.

*Revenues and Expenses*

The cooperative submitted Exh 3 which depicted total operating revenues for the test year, ending May 31, 1979, to be \$17,758,744, and total utility operating expenses of \$16,493,810. These figures were revised by four pro forma adjustments which depict the adjusted operating revenue to be \$18,075,994 and the adjusted utility operating expenses to be \$16,657,580.

An additional major adjustment could have been made for a known wage increase which would have resulted in an addition to adjusted utility operating expenses of up to \$150,000 annually.

The commission accepts the company's adjusted figures as stated above.

*Rate Base*

The cooperative introduced Exh 4 which depicted the beginning and end of test-year average rate base adjusted to be \$33,007,003. The commission accepts the filed rate base of \$33,007,003 while noting that it includes \$755,874 of unrecovered fuel charges as of May 30, 1979.

*Revenue Requirements and TIER Coverage*

The commission determined that by multiplying the approved rate base of \$33,007,003 by the approved rate of return of 5.93 per cent results in a required net utility operating income of \$1,957,315. Adding this required amount of net utility operating income to the adjusted utility operating expense of \$16,657,580 results in required operating revenue of \$18,614,895. Subtracting the adjusted test-year operating revenues of \$18,075,994, yields a revenue increase slightly greater than the amount requested.

From a TIER coverage viewpoint this requested revenue increase corresponds to a coverage of 1.83, or 0.33 above 1.50. Professor Williamson testified that "the cooperative must, subject to regulatory limitations, charge rates that will produce a net income that is at least 1.5 times interest on long-term debt (this is referred as a 1.5 TIER). The CFC loan also has the TIER

requirement."

The commission staff felt the pro formed requested TIER coverage of 1.83 viewed independently is high, considering that the commission allowed a 1.55 TIER in the cooperative's previous rate case.

If the coverage is looked at in the context of two other items it becomes an acceptable figure. The other two items are: (1) the actual TIER coverage for the twelve months ended October 31, 1979, was 1.22, which is considerably below

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the adjusted test-year figure; and (2) the known wage adjustment of approximately \$150,000 on an annual basis was not taken into account in the cooperative's filing.

Recognizing these two additional facts, but not the growth in interest costs, sales growth, general inflation, etc., the estimated TIER coverage drops to a range of between 1.55 and 1.65, which the commission readily accepts.

The commission finds that the cooperative is entitled to the requested increase in gross revenues of \$534,276 on an annual basis.

*Rate Structure*

[1] The cooperative's proposal has several changes to its current rate design. One significant feature is the establishment of a flat energy charge for the domestic power and light customer. The cooperative contends that it is in line with national objectives to retreat from the traditional declining block energy rate. In other categories, the cooperative proposes a reduction of the blocks within the rate. The commission allowed flat energy charges in *Re Connecticut Valley Electric Co., Inc.* (1977) 62 NH PUC 7; (1977) 62 NH PUC 46. The commission has also reduced the number of blocks within a rate as well as flattened out the rates in its most recent decisions involving *Granite State Electric and Public Service Company*. See *Re Granite State Electric Co.* (1978) 63 NH PUC 121; (1978) 63 NH PUC 190; *Re Public Service Co. of New Hampshire* (1978) 64 NH PUC 127. Therefore, the commission accepts the cooperative's proposed rate design changes as to the energy charge and the reduction in blocks. This acceptance is in keeping with past commission precedent and reflects the national goals of conservation, equity, and efficiency.

[2] The cooperative's second rate design change involves rolling into basic rates the present purchased power cost adjustment (PPCA), currently a surcharge of 0.0023 per kwh. Upon a review of the evidence the commission will allow the proposed roll-in by the cooperative. This approval allows some of the costs to be applied to demand.

The cooperative's third proposal would allow for residential demand metering for customers with poor load factors. These customers are assumed to be customers with electric heat as a backup or secondary heating source. To offset the additional demand costs the cooperative proposes to charge such customers \$2.50 per kw during peak hours. Upon review of the evidence the commission will not allow this tariff change. The commission will review this matter in its PURPA hearings and thereby will be in a better position to test the validity of this assumption.

Rates for the cooperative's uncontrolled and controlled water heating subclasses are the same under proposed Tariff No. 9. Such pricing does not offer an advantage to the customer who elects to purchase the more expensive, large capacity, water heater to qualify for the controlled rate. The controlled water rate when used properly is a load management device. The commission will expect the cooperative to reflect a price incentive in its future filings. The commission believes there should be a price incentive for controlled water heating and that the similar pricing provision will not be accepted in future filings. The cooperative will undertake an investigation of all controlled and uncontrolled water heating customers so as to provide the commission facts upon

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which to base a rate differential in the future.

The cooperative's final proposed change involves the creation of a deadline for accepting new domestic space-heating rate customers. Such policy has been approved for other utilities and will be allowed; however, our order will allow a phaseout period to permit completion of projects already designed for electric heating. Following such date, space-heating customers will be served under the regular domestic rate.

Our order will issue accordingly. The effective date will be all bills rendered on or after January 8, 1980.

#### Supplemental Order

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

Ordered, that New Hampshire Electric Cooperative, Inc., be, and hereby is, allowed a revenue increase in the amount of \$534,276, said increase to be gained in the manner proposed by Tariff No. 9, except as to residential demand metering which is rejected; and it is

Further ordered, that Original Pages 14 and 15 be, and hereby are, rejected; said pages outlining a temporary surcharge, now completed; to be replaced with appropriate First Revised Pages 14 and 15 in lieu of the originals; and it is

Further ordered, that the cooperative initiate an investigation of its controlled water heating customers' equipment and meters as indicated in the report, and provide results to the commission; and it is

Further ordered, that Original Page 19 of Tariff No. 9, be, and hereby is, rejected; to be replaced by First Revised Page 19 in lieu of same, said revision to indicate a deadline for domestic space-heating applications of April 1, 1980 ... applicants subsequent to this date to be served under the "D" rate; and it is

Further ordered, that increases specified by tariff, NHPUC No. 9 — Electricity as amended herein become effective with all billings rendered on or after January 8, 1980; and it is

Further ordered, that the New Hampshire Electric Cooperative, Inc., give public notice of these rates by publication as directed by Tariff filing Rule 27.

By order of the Public Utilities Commission of New Hampshire this eighth day of January,

1980.

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NH.PUC\*01/08/80\*[78467]\*65 NH PUC 19\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78467]

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

DE 79-219, Order No. 13,984

65 NH PUC 19

New Hampshire Public Utilities Commission

January 8, 1980

PETITION for authority to enter into an easement agreement; granted.

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BY THE COMMISSION:

Order

Whereas, on October 24, 1979, the New Hampshire Electric Cooperative, Inc., submitted to this commission, under the provisions of RSA 371:24, a plan and layout delineating the proposed utility route over railroad property in the town of Bartlett, New Hampshire; and

Whereas, said plan includes an offer submitted to the Maine Central Railroad of 5100 for the right of permanent easement; and

Whereas, the Maine Central Railroad, by letter of October 5, 1979, recommended the granting of the easement for \$206.77; and

Whereas, on December 26, 1979, this commission was advised by the Maine Central Railroad that an agreement with the cooperative had been reached; and

Whereas, by letter of December 27, 1979, the New Hampshire Electric Cooperative advises that the parties have agreed to a permanent easement for payment of \$100 by the cooperative; and

Whereas, upon investigation, this commission finds that the agreement between the parties is consistent, reasonable, and in the public interest; it is

Ordered, that this agreement between the New Hampshire Electric Cooperative, Inc., and the Maine Central Railroad, be, and hereby is, approved.

By order of the Public Utilities Commission of New Hampshire this eighth day of January, 1980.

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NH.PUC\*01/08/80\*[78468]\*65 NH PUC 20\*Manchester Gas Company v City of Manchester, Parks and Recreation

Department

[Go to End of 78468]

## Manchester Gas Company v City of Manchester, Parks and Recreation Department

IE 14,840, Supplemental Order No. 13,985

65 NH PUC 20

New Hampshire Public Utilities Commission

January 8, 1980

ORDER dismissing a gas company's motion to amend decision and for rehearing.

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### 1. REPARATION, § 29 — Meter operation — Remedies for miscalculation.

[N.H.] In order to encourage efficiency and accuracy in gas meter operations, the commission's regulations provide that if the meter operations of a company result in over- or undercalculations, specific remedies are prompted. p. 21.

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### 2. RATES, § 185 — Duty to verify current rates — Rate proceedings.

[N.H.] Any utility has a duty to examine its accounts to verify that the rates being collected are proper before seeking higher rates from the commission. p. 22.

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BY THE COMMISSION:

Supplemental Order

On December 28, 1979, the Manchester Gas Company filed a motion to amend decision and for rehearing as to the commission's report and Order No. 13,943, December 11, 1979 (64 NH PUC 424).

The motion states the following:

1. The commission's action in ruling that the "slow meter" regulations are applicable to the underbilling involved in this case, is unreasonable and unlawful and erroneous as a matter of law.

2. The commission's conclusion that the company does not qualify "for any consideration that it approaches rate matters with clean hands" (p. 11), is not supported by any evidence, is directly contrary to the evidence, is highly prejudicial and unjust to the Manchester Gas Company, and is erroneous, unlawful, and unreasonable, as further set forth in the affidavit of

Robert Giordano, vice president of Manchester Gas Company, attached hereto and incorporated herein.

3. The commission's decision and order is not in accord with past commission precedent in such matters and constitutes informal and unlawful rule making by the commission, contrary to the requirements of RSA 541-A.

4. This matter was considered by the commission on its own initiative, informally, and there is no record, nor was there any evidence introduced, to support the commission's finding referred to in Par 2.

The commission analogy to a slow meter was due to the recognition that for most of the period in question, the meter did in fact operate. Therefore, it is clear that commission Regulation 18(b)(3) is simply not applicable by definition. "Nonregistration" did not occur; registration did occur.

[1] The commission analogy to its slow meter regulation is in keeping with the philosophy expressed in the report on pp. 8 and 9. The commission's regulations provide that if the meter operations of a company result in over- or undercalculations, specific remedies are prompted. The overriding thread of the commission's regulations is to encourage efficiency and accuracy in meter operations. These concerns are clearly shown by the differential in time period in which rates are adjusted due to meter operations which under- or overcollect.

Therefore, the commission's precedent has been unheld and the finding as to this case is in accord with the philosophy established by Regulation 18(b)(1) and (2).

While the company maintains that the commission's decision is against past precedent, it has offered no legal cites to support this contention. The company, in testimony and its brief in this proceeding, has made only one reference to any prior commission action. The action referred to was a staff person's decision in a dispute as to the proper bill for Crystal Laundry of Manchester. In that dispute, which was never given an informal case number or a formal case number, Crystal Laundry had two meters with similar usage when all of a sudden one bill began to be substantially

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lower than the other despite continued similar usage.

Obviously, in that situation the customer, Crystal, knew because of past usage on both meters that there was something amiss. The staff member's decision, while not made by the full commission or in a docketed case, however, does lead to a recognition then and now about other factors that apply to a dispute.

The commission's decision did not rely solely on the slow meter finding. Rather, there were numerous factors that went into the commission's decision.

First, is the question of who could have known of the error. In this proceeding the city of Manchester had no reason to know of any error because (1) there was no prior usage correctly billed, (2) it possessed no estimates as to the actual usage, and (3) the bill, month after month, year after year, failed to state any factor. Furthermore, the city testified and the company



confirmed that there were numerous trips by the company to the garage. Obviously, there was never any signal to this consumer that there was any error in billing. There was no actual correct prior usage that could place the consumer on notice that any error was being made.

Second, the city is entitled to consideration that its usage may have been different if the bills should have been higher. The recognition of the relationship between price and usage is standard regulatory theory.

[2] Third, the commission believes that any utility has a duty to examine the accounts to verify that the rates being collected are proper before seeking higher rates from this commission.

Fourth, the fact that Manchester Gas is already whole and any relief provided the company would require reconsideration of past rate cases.

All of these considerations, together with the finding of analogy to the slow meter regulations, resulted in the commission's decision. Therefore, both separately as to the slow meter analogy and together as to the overall result, the commission finds that the company has failed to sustain its burden of proof.

The company's concern over the commission's "clean hands" statement is also unsupported. This commission's finding on this matter rested in part on the company's failure to inform the commission of the discovered error as to the city's park and recreation garage as well as the other accounts (Genest Bakery and Washington Park Estates).

The company, in its motion for rehearing, stated that the company objected in DR 78-100 to consideration of revenue adjustment unless the record was reopened to permit the introduction of evidence with respect to that newly discovered meter (city's garage) and "any other newly discovered matter that would affect the company's cost of service" or would otherwise be relevant.

The commission did in fact reopen the proceeding so as to allow the company to dispute the adjustment to revenue that recognized that increased revenues would be received from the city of Manchester henceforth. Additionally, the company was provided an opportunity to bring forward any newly discovered matter that would affect the company's cost of service.

The company availed itself of this opportunity and brought forward pro forma adjustments to expense and new information as to attrition that went beyond the test year. However, no "newly discovered" misbilled accounts

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were brought to the commission's attention.

The commission in good faith increased the permanent increase granted by approximately \$55,000 (\$486,000 up from \$431,000).

The other considerations that relate to this finding are the events of 1976. (1) In the first three months of 1976 there was by all accounts a failure to register proper consumption, yet the company, despite zero usage in a winter month, failed to submit any estimated bill. (2) This failure to register, coupled with the failure to submit an estimated bill, also resulted in a failure despite all imaginable warning signs to investigate the accounts.

The company's allegation that the commission is indulging in rule making is incorrect. The commission is weighing all facts before it in making a determination between the rights of this consumer, the company, and consumers in general. The commission routinely settles disputes that arise as to billing on the merits of each case.

Nor does the commission find any validity to the company's request for a formal record. This commission routinely hears disputes between consumers and utilities in informal dockets. The full commission sat in this case as opposed to the usual practice of one commissioner or a hearing examiner. All parties submitted written memorandums and no one asked for a formal record. The factual matters of this case are apparent from the commission's initial order. Consequently, the company's motion is denied.

By order of the Public Utilities Commission of New Hampshire this eighth day of January, 1980.

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NH.PUC\*01/10/80\*[78469]\*65 NH PUC 23\*Public Service Company of New Hampshire

[Go to End of 78469]

## **Re Public Service Company of New Hampshire**

DR 79-187, 13th Supplemental Order No. 13,988

65 NH PUC 23

New Hampshire Public Utilities Commission

January 10, 1980

ORDER stipulating certain procedural matters.

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BY THE COMMISSION:

Supplemental Order

Procedural Matters

Due to the general work load of the commission staff, the desirability of having staff review both company and intervenor testimonies, and because of extraordinary family situations involving key staff members, the commission will allow staff to file its testimony on February 1, 1980.

In addition, because the commission recognizes that the hearings scheduled

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for the month of January will not be sufficient to complete the submission of evidence by the commission, the following dates will also be reserved for hearings on the merits: February 4th, 6th, 7th, 14th, 19th, 20th, 26th, 27th, and 28th.

By order of the Public Utilities Commission of New Hampshire this tenth day of January, 1980.

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NH.PUC\*01/10/80\*[78470]\*65 NH PUC 24\*Winter Termination Policy for Electric and Gas Utilities

[Go to End of 78470]

## **Re Winter Termination Policy for Electric and Gas Utilities**

DE 79-217, Supplemental Order. No. 13,989

65 NH PUC 24

New Hampshire Public Utilities Commission

January 10, 1980

ORDER requiring termination notices to be accompanied by a telephone number. For earlier order, see 65 J/H PUC 4, supra.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Public Service Company of New Hampshire has requested permission to incorporate an appendage to Appendix A, " Important Notice — Your Rights," consisting of the phrase " Important Notice — If You Do Not Understand This Notice Call (telephone number repeated)." written in both Spanish and French; and

Whereas, this suggestion was first presented by the commissioners and discussed at the public hearing held on December 13, 1979, and where this appendage would appear to be in the public interest in the areas served by this utility, the commission endorses its inclusion; it is hereby

Ordered, that Public Service Company of New Hampshire will include the phrase "Important Notice — If You Do Not Understand This Notice Call (telephone number repeated)," written in both Spanish and French in all "Important Notice — Your Rights" appendages that are sent out together with termination notices.

By order of the Public Utilities Commission of New Hampshire this tenth day of January, 1980.

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NH.PUC\*01/14/80\*[78471]\*65 NH PUC 25\*New England Telephone and Telegraph Company

[Go to End of 78471]

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

DE 79-229, Order No. 13,992

65 NH PUC 25

New Hampshire Public Utilities Commission

January 14, 1980

PETITION of a telephone company for a license to place a submarine telephone cable under a lake in order to provide telephone service to island inhabitants; granted.

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SERVICE, § 209 — Submarine cable — Telephone company.

[N.H.] The commission ordered that authority be granted for a telephone company to install a submarine cable under a lake in order to provide the inhabitants of an island in the lake with telephone service.

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APPEARANCES: Robert D. Bruce for the petitioner.

BY THE COMMISSION:

Report

On November 26, 1979, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to install and maintain a submarine telephone cable under Lake Winnepesaukee for approximately 520 feet from telephone pole 64E/1 on the shoreline in Moultonboro, New Hampshire to telephone pole 640/10 on Black Cat Island in Moultonboro, New Hampshire, to provide a telephone service to Black Cat Island.

The commission issued an order of notice on December 4, 1979, directing all interested parties to appear at public hearing at 10:00 A.M. on January 8, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; George Gilman, DRED; John Bridges, division of safety services; selectmen's office, town of Moultonboro, New Hampshire; Office of Attorney General; and John Coleman, New England Telephone and Telegraph Company. An affidavit of publication in the Manchester Union Leader on December 12, 1979, signed by Sylvia Prince was received in the commission's offices in Concord, New Hampshire, on December 20, 1979.

Counsel for the petitioner presented one witness, Wayne Snow, field engineer, New England Telephone and Telegraph Company, who described the submarine cable as being a 100-pair line, polyester, with armored surfacing, allied to existing telephone cable now being utilized at an approximate depth of 25 feet below the surface of Lake Winnepesaukee in the town of Moultonboro, New Hampshire, increasing service capabilities to approximately fifty-two customers on Black Cat Island utilizing 47 lines in the Center Harbor, New Hampshire, exchange, thereby expanding service capabilities to approximately 85 per cent of capacity.

The commission noted that letters were on file from the Department of Resources and Economic Development

dated December 13, 1979; Permit No. N-478 dated October 23, 1979, approved and signed by George McGee, Sr. (WSPCC); town clerk (town of Moultonboro), S. M. Smith (WSPCC) dated September 20, 1979; Permit (New Hampshire Wetlands Board) No. 226709, dated October 23, 1979; a plan Winnepesaukee Quadrangle, Drawing No. 29-66 indicating cable location on the lake; cross-section Drawing No. 29-66 indicating a lake crossing of 520 +/- with a span of 180 feet (Moultonboro — Pole No. 64 E/1) and a span of 210 feet (Black Cat Island — Pole 640/10) Center Harbor Exchange, dated November 1, 1979.

The commission notes that no objections were filed or expressed either prior to or at the public hearing and that publicized and proper notification was given to the public as to the proposed installation of submarine telephone cable in Moultonboro, New Hampshire. The commission finds said cable will be in the public interest. Our order will issue accordingly.

Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that authority be granted for installation of a submarine telephone cable under Lake Winnepesaukee for New England Telephone and Telegraph Company, said crossing to be approximately 520 feet from telephone pole 64E/1 on shore line in Moultonboro, New Hampshire, to telephone pole 640/10 on Black Cat Island in Moultonboro, New Hampshire, to be installed and maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of January, 1980.

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NH.PUC\*01/15/80\*[78472]\*65 NH PUC 26\*Public Service Company of New Hampshire

[Go to End of 78472]

**Re Public Service Company of New Hampshire**

DF 79-100-6205, Seventh Supplemental Order No. 13,994

65 NH PUC 26

New Hampshire Public Utilities Commission

January 15, 1980

ORDER denying a motion to intervene in a divestiture proceeding.

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PARTIES, § 19 — Intervention — Protective association.

[N.H.] The commission reaffirmed its decision not to allow an antipollution league to intervene in a divestiture case because the league did not sustain its burden to intervene since the

issues raised were not relevant in that they were outside the scope of the proceeding or would fail to address the main issue.

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BY THE COMMISSION:

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### Supplemental Order

The Seacoast Anti-Pollution League (SAPL) requests that this commission grant a rehearing regarding our Fifth Supplemental Order No. 13,937 ([1979] 64 NH PUC 415) which denied SAPL the right to intervene in this proceeding. Rehearing is sought for the following reasons:

- (1) Seacoast Anti-Pollution League would furnish to the commission in support a different and more conservative (lower) estimate of demand growth than what has been previously been used by the commission.
- (2) That the commission is in error in suggesting that it has already made an independent study into peak demand for PSNH. That further, the commission has decided that an estimated 5 per cent annual growth in peak based upon an analysis done by others.
- (3) The commission has never allowed its "independent study" to be cross-examined.
- (4) That the commission has never established the issues to be tried in this proceeding.
- (5) That the commission has failed to set forth a reasoned basis for its decision of December 7th denying SAPL's motion to intervene.

The commission in this divestiture case was not seeking to turn the question of transfer of the Seabrook interest into a lengthy proceeding involving the need for power. The commission was satisfied from its investigation, that adequate capacity would be available to the consumers of New Hampshire for a substantial and reasonable period of time.

The commission's finding was not 5 per cent but rather a range of 4.2 per cent to 5 per cent. The commission was only interested in determining whether growth in demand was in the range of above 5 per cent. After review, the commission determined that to the extent accuracy is possible in this area, the commission was satisfied that peak demand growth would not exceed 5 per cent. The commission's decision in this proceeding would not be aided by a lower demand growth rate. Certainly a lower demand growth rate would only support the transfer which was the question for determination in this proceeding.

The commission's denial of SAPL's motion to intervene was simply based on the fact that SAPL did not sustain its burden to intervene at the eleventh hour. The issues sought to be raised were not relevant in that they were outside the scope (inquiry as to whether the commission should reexamine the nuclear question) or would fail to address the main issue of transfer (a lower demand growth).

Consequently, the commission reaffirms its decision not to allow SAPL to intervene and SAPL's motion is denied.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of January, 1980.

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NH.PUC\*01/16/80\*[78473]\*65 NH PUC 28\*Public Service Company of New Hampshire

[Go to End of 78473]

## Re Public Service Company of New Hampshire

DF 79-100-6205, Eighth Supplemental Order No. 13,996

65 NH PUC 28

New Hampshire Public Utilities Commission

January 16, 1980

ORDER dismissing a motion for rehearing for failure to allege relevant grounds.

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PROCEDURE, § 32 — Motion for rehearing — Relevant contentions.

[N.H.] The commission denied the Legislative Utility Consumers' Council's motion for rehearing because the council failed to support their motion with relevant specific contentions.

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BY THE COMMISSION:

Supplemental Order

On January 4, 1980, the Legislative Utility Consumers' Council (LUCC) filed a motion for rehearing as to the commission's Sixth Supplemental Order No. 13,970 of December 31, 1979 (64 NH PUC 485). On January 7, 1980, Public Service Company of New Hampshire (PSNH) filed its objection to the LUCC's motion.

The LUCC makes the following arguments:

1. That the commission has failed to address the need for power.
2. That the commission has failed to state who will bear the cost of AFUDC after the proposed divestiture takes place.
3. That the commission's order is unjust, unreasonable, and unlawful.

The arguments presented as to contentions of need for power and treatment of AFUDC have been rejected by the commission in past orders. The commission has set forth a standard and a legal presumption as to the question of AFUDC. Therefore, any allegations that the commission has failed to address the problem are false.

This motion for rehearing as to need for power is again deficient as to whether the LUCC believes the growth in peak demand will exceed or be lower than the range of 4.2 per cent to 5

per cent. The commission takes administrative notice of its library and files, which reveal that New England presently has a reserve margin of 32 per cent, or a level higher than any other region. The commission also finds the raising of the need for power issue in this portion of the proceeding to be particularly unfounded given that the overwhelming portion of the motion for further orders relates to a transfer of an interest between one New Hampshire entity (PSNH) to another New Hampshire entity (New Hampshire Electric Cooperative). Since the peak demand of the New Hampshire Electric Cooperative system is a portion of the total Public Service Company of New Hampshire peak demand, the objection is without merit.

As to the general overall allegation as to being unjust, unreasonable, and unlawful, the LUCC has failed to support this contention with specifics other than

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those referred to earlier in this opinion. Consequently, the motion for rehearing is denied.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of January, 1980.

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NH.PUC\*01/18/80\*[78474]\*65 NH PUC 29\*Concord Steam Corporation

[Go to End of 78474]

## **Re Concord Steam Corporation**

DR 80-2, Order No. 13,997

65 NH PUC 29

New Hampshire Public Utilities Commission

January 18, 1980

PETITION of a steam company seeking rate increase; 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 December 27, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 2 — Steam, providing for an increase in rates, effective January 31, 1980; 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 of its tariff, NHPUC No. 2 — Steam, of Concord



Steam Corporation, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of January, 1980.

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NH.PUC\*01/18/80\*[78475]\*65 NH PUC 29\*Public Service Company of New Hampshire

[Go to End of 78475]

## Re Public Service Company of New Hampshire

DR 79-187, 14th Supplemental Order No. 13,998

65 NH PUC 29

New Hampshire Public Utilities Commission

January 18, 1980

ORDER allowing an extension of time to file testimony.

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**Page 29**

BY THE COMMISSION:

Supplemental Order

A motion having been filed for an extension of time to file testimony of George Sterzinger (rate structure witness) by Community Action Program (CAP) and for good cause being shown; it is hereby

Ordered, that CAP shall be allowed to file the testimony of George Sterzinger on or before January 24, 1980.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of January, 1980.

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NH.PUC\*01/18/80\*[78476]\*65 NH PUC 30\*Concord Electric Company

[Go to End of 78476]

## Re Concord Electric Company

DR 80-3, Order No. 13,999

65 NH PUC 30

New Hampshire Public Utilities Commission

January 18, 1980

PETITION of an electric company to revise tariff; 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 December 31, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Electricity, providing for a revision of its limited power service schedule PL; effective February 1, 1980; 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 25 of tariff, NHPUC No. 6 — Electricity, of Concord Electric Company, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of January, 1980.

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NH.PUC\*01/21/80\*[78478]\*65 NH PUC 36\*Connecticut Valley Electric Company, Inc.

[Go to End of 78478]

**Re Connecticut Valley Electric Company, Inc.**

DE 79-216, Supplemental Order No. 14,005

65 NH PUC 36

New Hampshire Public Utilities Commission

January 21, 1980

ORDER amending a prior commission order to recognize a joint service territory.

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BY THE COMMISSION:

Supplemental Order

Whereas, the town map of Unity also includes a joint service territory wherein service is to be rendered subject to the provisions of RSA 374:22-c; it is

Ordered, that so much of Order No. 13,958 ([1979] 64 NH PUC 453, 455) as reads:

"Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive territories of Connecticut Valley Electric Company, Inc., as follows:

"Cornish (53), Hanover (108), Lyman (144), Plainfield (194), and Unity (240) "; be, and

hereby is, amended to read as follows:

"Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories, except as noted, of Connecticut Valley Electric Company, Inc., as follows:

"Cornish (53), Hanover (108), Lyman (144), Plainfield (194), and Unity (240);<sup>1(1)</sup>

By order of the Public Utilities Commission of New Hampshire this twenty-first day of January, 1980.

FOOTNOTE

<sup>1</sup>"Includes a joint service territory in which New Hampshire Electric Cooperative, Inc., is also authorized to serve."

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NH.PUC\*01/21/80\*[78479]\*65 NH PUC 37\*Public Service Company of New Hampshire

[Go to End of 78479]

**Re Public Service Company of New Hampshire**

DF 79-236, Supplemental Order No. 14,006

65 NH PUC 37

New Hampshire Public Utilities Commission

January 21, 1980

ORDER approving the petition of an electric utility to issue and sell bonds for construction purposes.

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SECURITY ISSUES, § 106 — Bond issue — Sale price and interest rate.

[N.H.] The commission authorized an electric utility to issue and sell for cash its bonds for construction purposes at a price of 97.8 per cent of the principal amount with an interest rate of 14.5 per cent per annum.

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 13,977 dated January 3, 1980 (65 NH PUC 1) issued in the above entitled proceeding authorized Public Service Company of New Hampshire to issue its general and refunding mortgage bonds Series C (the "Series C bonds"), in a principal amount not

exceeding \$35 million; and

Whereas, in compliance with said Order No. 13,977, the company has submitted to this commission details concerning the sale of the Series C G&R bonds, including the principal amount, the term and purchase price thereof, and the interest rate thereon, the principal amount of the Series C G&R bonds being \$30 million said term being twenty years from January 15, 1980, said price of the Series C G&R bonds being 97.8 per cent of the principal amount, and said interest rate being 14.5 per cent per annum, all in accordance with the underwriting agreement, a copy of which is to be filed with the commission; and

Whereas, after due consideration, it appears that the issue and sale of \$30 million of the Series C G&R bonds hereinabove described under the terms and conditions of the general and refunding mortgage indenture, dated as of August 15, 1978, together with the indentures supplemental thereto, including the second supplemental indenture to be dated as of January 15, 1980, upon the terms presented to this commission, including the term, purchase price, and interest 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 for cash its general and refunding mortgage bonds, Series C 14.5 per cent due 2000, in the principal amount of \$30 million at a price of 97.8 per cent of the principal amount, said Series C bonds to bear interest at the rate of 14.5 per cent per annum; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to mortgage its present and future property, tangible and intangible including franchises, as security for the Series C general and refunding mortgage bonds hereinabove authorized; and it is

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Further ordered, that all other provisions of said Order No. 13,977 of this commission are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of January, 1980.

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NH.PUC\*01/22/80\*[78480]\*65 NH PUC 38\*Public Service Company of New Hampshire

[Go to End of 78480]

## Re Public Service Company of New Hampshire

DR 79-187, 15th Supplemental Order No. 14,007

65 NH PUC 38

New Hampshire Public Utilities Commission

January 22, 1980

ORDER denying a motion to require a surety bond to guarantee refund to residential consumers.

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REPARATION, § 45 — Bond to guarantee refund.

[N.H.] The commission accepted a bond tendered by a public service company to guarantee refund pending the disposition of the company's rate proceeding because the bond protected consumers in the event the commission upon deliberation found permanent rates to be less than emergency rates, the cost of the bond would be allocated to consumers as a surcharge, and retail consumers were in a better position than wholesale consumers who had no bond protection but merely higher rates subject to refund.

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BY THE COMMISSION:

Supplemental Order

On December 31, 1979, the Legislative Utility Consumers' Council (LUCC) made a request that a surety bond be required of Public Service Company of New Hampshire (PSNH). On January 3, 1980, PSNH filed an objection to LUCC's petition for a surety bond. The position of the LUCC is that the bond tendered by PSNH is not adequate protection for New Hampshire residential consumers. Public Service Company of New Hampshire contends that the bond offered does not differ from those historically tendered by utilities when a bond has been requested by the commission.

Upon review of the arguments including those presented orally at the beginning of the hearings on January 4, 1980, the commission accepts the bond tendered by the company. This bond (1) does protect consumers if the commission upon deliberation finds permanent rates to be less than emergency rates, (2) the cost of a surety bond (in excess of \$200,000) based on past supreme court opinions would be allocated to consumers as a surcharge, and (3) New Hampshire retail consumers stand in a better position than New Hampshire wholesale consumers who have no bond protection but merely higher rates subject to refund.

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Accordingly, the motion is denied. By order of the Public Utilities Commission of New Hampshire this twenty-second day of January, 1980.

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NH.PUC\*01/22/80\*[78482]\*65 NH PUC 40\*Public Service Company of New Hampshire

[Go to End of 78482]

## **Re Public Service Company of New Hampshire**

DR 79-187, 16th Supplemental Order No. 14,009

65 NH PUC 40

New Hampshire Public Utilities Commission

January 22, 1980

ORDER denying a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

On December 14, 1979, the Legislative Utility Consumers' Council (LUCC) filed a motion for a rehearing with respect to six motions to strike. The position of LUCC has been the subject of oral argument held on November 28, 1979, and a decision of the commission denying said motion.

Throughout this proceeding, the LUCC has continually renewed its motion, and on each occasion the commission has denied each request. There has been no further reason presented to the commission to reconsider its finding, and upon consideration of the arguments made and presented, it is hereby

Ordered, that the LUCC's motion filed December 14, 1979, is hereby denied.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of January, 1980.

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NH.PUC\*01/23/80\*[78481]\*65 NH PUC 39\*Winter Termination Policy for Electric and Gas Utilities

[Go to End of 78481]

## **Re Winter Termination Policy for Electric and Gas Utilities**

DE 79-217, Second Supplemental Order No. 14,008

65 NH PUC 39

New Hampshire Public Utilities Commission

January 23, 1980

ORDER amending a requirement that a gas utility use billing inserts to inform consumers of the commission's winter termination policy.

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SERVICE, § 220 — Notice of discontinuance — Publication.

[N.H.] The commission amended its requirement that a gas utility send to consumers a billing insert detailing consumer rights on winter service terminations because it would have required a special mailing since the company utilized a postcard billing system; the commission instead required the company to publish notice in local newspapers for two consecutive weeks since such notice would provide adequate opportunity to notify the general public of the

provisions of the winter termination procedures.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission's report regarding its winter termination policy for electric and gas utilities issued January 4, 1980 (65 NH PUC 4) provided (II. B. Softer Notice and Right to Deferred Payments) that the commission requires a billing insert to all electric and gas consumers, which details their rights on terminations under both the existing and emergency regulations to be sent to residential consumers before the end of February, 1980; and

Whereas, by letter of January 14, 1980, Gas Service, Inc., requests consideration of the publishing of a public notice in the Nashua Telegraph and the Laconia Evening Citizen in lieu of a billing insert; and

Whereas, the company contends that since they utilize a postcard billing system, a billing insert is impossible and will require a special mailing; and

Whereas, upon investigation the commission finds that publishing a public notice would serve the public interest and will provide adequate opportunity to notify the general public of the provisions of the commission's termination procedures; it is

Ordered, that Gas Service, Inc., may publish a notice in the *Nashua Telegraph*, the *Laconia Evening Citizen*, and the *Manchester Union Leader* once a week for two consecutive weeks prior to the end of February, 1980.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of January, 1980.

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NH.PUC\*01/24/80\*[78484]\*65 NH PUC 44\*Dr. Lewis Mann

[Go to End of 78484]

**Re Dr. Lewis Mann**

IE 14,900, Order No. 14,011

65 NH PUC 44

New Hampshire Public Utilities Commission

January 24, 1980

ORDER directing a customer of a telephone company to pay an outstanding bill and remit a deposit for future payment.

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1. PAYMENT, § 19 — Time of payment — Commission rules.

[N.H.] The commission rules allow thirty days for payment of telephone bills. p. 44.

2. PAYMENT, § 47 — Deposit to guarantee future payment — Denial of service.

[N.H.] The commission required the customer of a telephone company to remit to the company a deposit equal in amount to an overdue bill; failure of the customer to abide by this order was authorization for the company to terminate service immediately. p. 45.

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BY THE COMMISSION:

Order

Whereas, on December 27, 1979, Dr. Lewis Mann, representing the Salem Medical Clinic, instituted a complaint before this commission in regard to the payment of a bill to the New England Telephone and Telegraph Company; and

Whereas, the nature of the complaint was the company's unwillingness to accept a delayed payment plan for a single telephone bill of \$567.24; and

Whereas, upon investigation, commission staff found in favor of the company, and directed payment in accordance with prescribed commission rules and regulations; and

Whereas, commission staff offered the complainant an opportunity to appeal staff's decision to the commission at public hearing; and

Whereas, Dr. Mann accepted the offer of appeal and agreed to appear at the commission offices on Wednesday, January 2, 1980, at 10:00 A.M.; and

Whereas, a public hearing was held in accordance with commission practice; and

Whereas, at the hearing, Dr. Mann did not dispute the amount owed the New England Telephone and Telegraph Company or offer proof of any inability to pay said bill; and

Whereas, Dr. Mann did dispute the manner in which the New England Telephone and Telegraph Company distributed its bills and notices and specifically complained that the company had not provided adequate payment time as directed by commission rules and regulations; and

[1] Whereas, New England Telephone and Telegraph Company witnesses provided exhibits substantiating the amounts of the bill and the time schedule of the notices; and

Whereas, upon consideration the commission finds:

1. That the company did not follow the commission rules in allowing thirty days for payment of the bill;

2. That the amount of the bill in question is due and payable;

3. That no extension of payment is justified; it is

Ordered, that service is to be retained to Dr. Mann pending full payment in



the amount of \$567.24 by cash or certified check at Colt News Agency in Hampton, New Hampshire, by 2:00 P.M. on January 9, 1980; and it is

Further ordered, that failure to make the aforementioned payment shall be authorization for the company to make immediate termination of service; and it is

[2] Further ordered, that if the aforementioned payment is made, continued service shall be contingent upon a deposit paid by cash or certified check in an amount equal to \$567.24 plus the amount of a December telephone bill as yet unreceived, to be paid on or before January 31, 1980, at 2:00 P.M. at Colt News Agency, Hampton, New Hampshire; and it is

Further ordered, that if payment of \$567.24 is made precisely in accordance with the schedule set forth herein, the commission will consider the authorization of payment arrangements for the deposit; and it is

Further ordered, that failure of payment of the aforementioned deposit shall be authorization for the company to make immediate termination of service.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of January, 1980.

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NH.PUC\*01/28/80\*[78485]\*65 NH PUC 45\*Public Service Company of New Hampshire

[Go to End of 78485]

## Re Public Service Company of New Hampshire

Intervenors: Legislative Utility Consumers' Council and Community Action Program.

DR 79-187, 17th Supplemental Order No. 14,012

65 NH PUC 45

New Hampshire Public Utilities Commission

January 28, 1980

ORDER denying motions for rehearing of a commission order allowing an electric utility an emergency rate increase.

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1. REVENUES, § 10 — Allowance for funds used during construction.

[N.H.] The commission adopted a method of treating financing costs whereby allowance for funds used during construction were accumulated, capitalized, and charged to an electric company's construction work in progress account, together with other costs associated with construction; only when the plant became operational was the total labor and materials cost, as well as the accumulated allowance for funds used during construction, included in rate base. p. 48.

2. PROCEDURE, § 33 — Rehearing — Inadequate grounds.

[N.H.] The commission denied a motion for rehearing regarding their order as to an electric company's construction work in progress account because the commission's treatment of the account was in compliance with the method adopted by the legislature. p. 48.

3. RETURN, § 4 — Rate of return — Commission duty.

[N.H.] The commission by law is bound to provide a utility the opportunity to earn not less than a reasonable return on the cost of

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property of the utility used and useful in the public service less accrued depreciation. p. 49.

4. RETURN, § 6 — Rate of return — Amount to be allowed.

[N.H.] In making its finding as to permanent rates, the commission must arrive at an acceptable method of calculating rates; rate of return cannot be artificially set, nor can it be excessive or extortionate. p. 49.

5. RETURN, § 35 — Rate of return — Market conditions.

[N.H.] A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally. p. 51.

6. RETURN, § 7 — Calculation of return — Cost rates of equity and debt.

[N.H.] The rule that the cost rates of all equity and debt issues should be included for the purposes of conducting the traditional method of calculating an overall rate of return has been a cornerstone of utility regulation even though the commission does retain its right to use a hypothetical capital structure where just and reasonable considerations dictate such a finding. p. 53.

7. RETURN, § 20 — Rate of return — Amount to be allowed.

[N.H.] A utility is entitled to a rate of return which is at minimum its cost of capital. p. 53.

8. RATES, § 354 — Water heating surcharge — Transfer from residential to commercial customers.

[N.H.] The commission ordered an electric utility to remove an emergency surcharge from residential controlled water heating rates and transfer the revenue impact to the commercial classification to be recovered on a per kilowatt-hour basis, except for controlled water heating commercial customers, which would continue to have an exemption from any emergency surcharge; the commission's action was necessitated by the President's call for less oil usage and greater conservation during the energy crisis, year-end figures which revealed larger increases in commercial usage, and a contention as to the plight of the low-income consumers and the necessity for them to have an avenue to mitigate the rising costs of energy. p. 54.

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## BY THE COMMISSION:

## Supplemental Order

*I. Procedural History*

The commission issued a report and final Order No. 13,962 on December 26, 1979 (64 NH PUC 458), to be effective as of December 28, 1979. In that report and order, the commission allowed an emergency rate increase of \$11,970,591. A legal interpretation was made that any motions for rehearing had to be filed by January 17, 1980. This legal interpretation was made known to all parties as was the commission's decision to render one decision in addressing any and all motions for rehearing. On January 8, 1980, the Legislative Utility Consumers' Council (hereinafter referred to as LUCC) filed a motion for rehearing. This filing was supplemented by a second filing on January 9, 1980.

On January 10, 1980, sixty-five members of the New Hampshire legislature filed a motion for rehearing. On January 16, 1980, the selectmen from Seabrook filed a motion for rehearing. On January 17, 1980, the Community Action Program (hereinafter referred to as CAP) filed a motion for rehearing. Community Action Program and the LUCC are the only full parties to the proceedings to file motions for rehearing.

*II. Standing*

The commission is concerned that the members of the New Hampshire legislature are not parties to the proceeding. Nor, for that matter, are the selectmen from Seabrook. The concerns of both of these groups revolves around the question of whether or not the commission's

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decision violates RSA 378:30-a. Since this concern is already raised by the motions for rehearing submitted by CAP and LUCC, the motions by these nonparties are duplicative. Therefore, our response to the CAP and LUCC motions will be a sufficient answer to all motions.

*III. LUCC Motion for Rehearing*

The LUCC cites numerous grounds for rehearing: (1) that RSA 378:30-a precludes the discussion of the costs of construction and, therefore, is irrelevant for the establishment of rates; (2) that the emergency rates should have been denied since Public Service Company of New Hampshire (PSNH) cannot substantiate an increase of 5.5 per cent over their current level of revenues; (3) that there is no resulting benefit to the ratepayer when utility profits are allowed to become astronomical; (4) the granting of an enhanced rate of return for the purpose of creating cash flow is an unconstitutional deprivation of the ratepayers' property without adequate compensation; (5) that the commission committed an error of law in finding that an emergency exists when the company is earning a rate of return, which is in excess of that allowed by this commission in DR 77-45; (6) that the commission committed error in its description of Professor Williamson's testimony; (7) that the commission failed in its statutory duty to follow RSA 363:17-b; (8) that the commission committed error as to its discussion of debt and preferred stock costs; (9) that the commission took improper notice of stating what would have been the

case had not RSA 378:30-a been passed and that the \$18 million increase is comparable to putting \$180 million of CWIP in the rate base; (10) that the commission committed error on pp. 9 and 10 of its report where it made observations concerning the risk factors affecting PSNH now as compared to the situation in DR 77-49; (11) that the LUCC has been denied an opportunity to meet in appropriate fashion the factors upon which the commission relied; (12) that PSNH failed to inform either the parties or the commission as to the possibility of increased available funds; (13) that the commission committed error because it based its report and order on rates and charges that reflect construction; (14) that the commission committed error by ruling that RSA 378:30-a was not designed in consideration of construction from all elements of rate making; (15) that the commission committed error by not disclosing Commissioner Stevenson's opinion that RSA 378:30-a is unconstitutional.

#### IV. CAP's Motion for Rehearing

Community Action Program asserts the following as grounds for rehearing: (1) that the commission's Order No. 13,962 is unreasonable, in that low-income ratepayers are being required to pay emergency rates when PSNH is not being required to take emergency measures to alleviate the financial crisis; (2) that the commission Order No. 13,962 is unreasonable because even though an emergency may exist, the crisis cannot be cured by the rates requested and the regulatory steps proposed by PSNH; (3) that the commission is basing rates upon the cost of financing the Seabrook construction project and, therefore, its action is unlawful; and (4) that the rates are unjust and unreasonable.

#### V. Commission Analysis

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##### A. Financing Costs

Any public utilities commission has in essence two ways of treating financing costs. The first method is to include CWIP in rate base. The account, construction work in progress (CWIP), is included in rate base and thereafter earns a return, which represents the financing costs of plant under construction. The rate-making effect of such treatment is to increase rate base and thereby increase the rates to present consumers. *Because CWIP is added to rate base, the financing costs associated with construction are recovered currently.* (Emphasis supplied.) *Legislative Utility Consumers' Council v Public Service Co. of New Hampshire* (1979) 119 NH — , 31 PUR4th 333, 402 A2d 626.

The second method is to exclude CWIP from rate base. The financing costs incurred during construction, AFUDC (allowance for funds used during construction), are accumulated, capitalized, and charged to the utility's CWIP account, together with other costs associated with construction. When the plant begins to actually generate electricity (in the case of an electric utility's generating plant) the rate base *then and only then* includes the total labor and materials costs, as well as the accumulated AFUDC (financing costs). At this time of actual generation, the company earns a rate of return on the AFUDC and recoups the same by depreciation.

[1, 2] In DR 77-49, the commission adopted the first method, which resulted in present consumers paying the financing costs for CWIP currently. The legislature, by the passage of RSA 378 :30-a, foreclosed the commission from basing rates and charges after May 7, 1979, on

this method. Consequently, the commission after notice and hearing issued its report and order in DR 79-107. One of the effects of our order in DR 79-107 was to revert to the second method as to treatment of financing costs, AFUDC. When the generating units presently listed in PSNH's construction work in progress account actually begin to generate electricity, that is when this commission will pass on to consumers the costs of financing, labor, and materials for these plants. Public Service Company of New Hampshire has returned to its prior method (before DR 77-49) of accumulating and capitalizing financing costs, which will be passed on to consumers when the plants begin to generate electricity. There is simply nothing in our order that allows the financing costs associated with CWIP to be passed on to present consumers. Rather, the commission in *Re Public Service Co. of New Hampshire* (1979) 64 NH PUC 124; (1979) 64 NH PUC 312, has specifically removed all costs from construction out of rate base. Therefore, since the commission is not passing on to present consumers the cost of financing, these aspects of the motions for rehearing are rejected.

#### *B. Enhanced Rate of Return*

The LUCC and the members of the legislature who filed a motion for rehearing have alleged that the commission has allowed an enhanced rate of return. Counsel for the LUCC had originally asserted that this phrase appeared somewhere in PSNH's testimony. Later the counsel for the LUCC admitted that his office was unable to find any statement as to enhanced rate of return in the company's request, testimony, or exhibits. However, the allegation still remains

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supplemented by the assertion that the commission is allowing astronomic profits. (See transcript 5-176, 6-48.)

[3] The commission has not allowed an enhanced rate of return. Seemingly, this concept is based on some misconception that the commission has found a level of return and just added some enhancing factor. This argument is simply false. The commission by law is bound to provide a utility the opportunity to earn not less than a reasonable return on the cost of property of the utility used and useful in the public service less accrued depreciation. RSA 378:27 28, 7.

[4] These statutes require the commission to allow an overall rate of return that is at a minimum the cost of capital. *New England Teleph. & Teleg. Co. v New Hampshire* (1949) 95 NH 353, 361, 78 PUR NS 67, 64 A2d 9. The New Hampshire supreme court has also found that the commission must disclose the method it uses to arrive at a reasonable rate of return as to permanent rates. *New England Teleph. & Teleg. Co. v New Hampshire* (1949) 95 NH 353, 358, 359, 78 PUR NS 67, 64 A2d 9. In addition, the commission must find a rate of return that is within the zone of reasonableness that is neither too low to be confiscatory, nor too high to be excessive and extortionate. *New England Teleph. & Teleg. Co. v New Hampshire* (1962) 104 NH 229, 232, 233, 44 PUR3d 498, 183 A2d 237; *Legislative Utility Consumers' Council v Public Service Co. of New Hampshire* (1979) 119 NH — , 31 PUR4th 333, 402 A2d 626. The commission, therefore, must in making its finding as to permanent rates arrive at an acceptable method of calculating rate of return; and rate of return cannot be artificially set, nor can it be excessive or extortionate.

In determining a proper rate of return for any regulated utility, this commission breaks out

the total capitalization of the company into its debt and equity components. These components are weighted and costed and then through mathematics used to arrive at the overall cost of capital. When the commission based its emergency rates finding on the fact that a higher rate of return was reasonable (as compared to DR 77-49) it was merely reflecting changes known in this proceeding and other proceedings involving this company and, for that matter, the intervenors in this proceeding. (See *Re Public Service Co. of New Hampshire* [1979] 64 NH PUC 321; [1979] 64 NH PUC 324.)

For example, the cost rate of short-term debt is tied to the prime interest rate. Both Mr. Harrison and Mr. Williamson were aware of the prime interest rate, the recent dramatic rise in this rate since the last case, and the fact that the company's short-term debt is directly tied to the prime rate. (Transcript — December 13, 1979, pp. 71-73, Exh D, p. 1.)

As to the commission's eventual finding of a proper return on common equity, this commission is required to follow the general tests set forth in *Bluefield Water Works & Improv. Co. v West Virginia Pub. Service Commission*, 262 US 679, PUR1923D 11, 67 L Ed 1176, 43 S Ct 675; *Federal Power Commission v Hope Nat. Gas Co.* (1944) 320 US 591, 51 PUR NS 193, 88 L Ed 333, 64 S Ct 281. The relevant sections are as follows:

"A public utility is entitled to such rates as will 'permit it to earn a return on the value of the property which it employs for the convenience of the

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public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties'; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally." (262 US 679, 692, 693, PUR1923D at pp. 20, 21.)

"The rate-making process under the [Natural Gas] Act — i.e., the fixing of 'just and reasonable' rates — involves a balancing of the investor and the consumer interests. Thus we stated in the *Natural Gas Pipeline Company* case that 'regulation does not insure that the business shall produce net revenues.' 315 US at p. 590. But such considerations aside, the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view, it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock ... . By that standard the return to the equity owner should 'be commensurate with returns on investments in other enterprises having corresponding risks.' That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital ... ." (320 US 591, 603, 51 PUR NS at pp. 200, 201.)

In determining a final and permanent return on common equity, the commission will have the advantage of numerous witnesses, who will apply the aforementioned criteria of Hope and Bluefield to PSNH's present situation. However, when the commission is forced to make an examination based on RSA 378:9 and/or 27, the commission has not been afforded the option of a thorough review. Rather, that responsibility relates to the commission's decision on any permanent finding. *New England Teleph. & Teleg. Co. v New Hampshire* (1948) 95 NH 58, 62, 75 PUR NS 370, 57 A2d 267. *New England Teleph. & Teleg. Co. v New Hampshire* (1949) 95 NH 515, 518, 82 PUR NS 296, 68 A2d 114. If the commission's findings are too low or too high, when actual testimony is received relating to the Hope and Bluefield criteria, the legislature has provided avenues of address in the form of RSA 378:29 and 30.

The allegation that the commission has merely substituted return on equity for CWIP also is unfounded. The company's expense levels were last adopted for rate making at April, 1976, to April, 1977, levels. The commission has removed CWIP from rate base and has thereby reduced rate base below that used in the last proceeding. The final determination as to a proper overall return, together with the increased expense levels and reduced rate base, will determine the direction of future rates. The commission will measure the various traditional cost rates and determine a final overall return. See Priest,

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Book 1, "*Principles of Public Utility Regulation*," p. 209.

Neither the expenses of this company nor the rate base will reflect any financing, labor, or material costs associated with the account labeled "construction work in progress."

Since the commission will be making a finding as to a proper rate of return in the permanent rate case based on the application of legal criteria to testimony and exhibits, and where, further, both the consumers (RSA 378:30) and the investors (RSA 378:29) are protected during the interim, and, finally, where the expression of enhanced rate of return has neither any factual record, nor other support, the commission does not find any error in its decision.

*C. Astronomical Profits and Enhanced Return for Cash Flow*

The commission has already stated that it is in the process of conducting its full investigation into a proper rate level. The commission is bound by statute RSA 378:7 and *New England Teleph. & Teleg. Co. v New Hampshire* (1962) 104 NH 229, 232, 233, 44 PUR3d 498, 183 A2d 237, not to allow either an excessive, extortionate, or confiscatory return. Our determination reflects this standard. In addition, the standard that a utility must be allowed an opportunity to earn a reasonable return so as to attract capital is reflected in our decision in this emergency proceeding and will also be reflected in our decision as to permanent rates.

Since the commission has found no factual basis for the assertion that the commission has made a finding of an enhanced rate of return, the commission finds no merit to the LUC's contention.

*D. Return in Excess of That Allowed in DR 77-49*

[5] Just and reasonable rates are the touchstone for the establishment of rates in New

Hampshire. *New England Teleph. & Teleg. Co. v New Hampshire* (1962) 104 NH 229, 232, 44 PUR3d 498, 183 A2d 237, 240. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally. *Bluefield Water Works & Improv. Co. v West Virginia Pub. Service Commission*, 262 US 679, 692, 693, PUR1923D 11, 67 L Ed 1176, 43 S Ct 675.

The cost rates of new issues of debt and preferred stock have been higher than the average found in DR 77-49. The testimony of Mr. Williamson (transcript — December 13th at p. 105) and Mr. Meyer, indicate a higher return on common equity. Together they support a finding that the overall rate of return, to be at minimum the cost of capital, *New England Teleph. & Teleg. Co. v New Hampshire* (1962) 104 NH 229, 44 PUR3d 498, 183 A2d 237 is higher now than in DR 77-49. Whether the commission has allowed a return unreasonably high or low will be the subject of the permanent hearings. Further changes in the economy, the prime rate, the money market, and business conditions may change the overall result. At this time, the commission rejects the LUCC's contention of error.

#### *E. Commission's Analysis of Professor Williamson*

Professor Williamson testified that he believed Public Service Company to be riskier than what it was at the time of

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the most recent rate increase (December 13th transcript, pp. 109, 105). Professor Williamson was also asked if the commission chose to base rates only on cost of service, was the range between 4.2 and 6.2 per cent increase? Professor Williamson indicated at that point in time that it was his best range (December 13th transcript, p. 90). The commission does not find any substance to the contention that it misstated Professor Williamson's testimony.

#### *F. Assertion that PSNH Failed to Inform the Commission and Parties that Additional Lines of Credit Were Available*

Counsel for the LUCC alleged in the LUCC's motion for rehearing that PSNH had failed to inform the commission and the LUCC as to the possibility of increased lines of credit from banks previously not involved with PSNH. Counsel for PSNH by letter to the commission has indicated various references in the record to this possibility. (*Public Service Company of New Hampshire Exh E*, at p. 4, transcript — pp. 2-279.) (The commission would also note staff Exh 5, staff Exh 6 — p. 5.)

On January 23, 1980, counsel for the LUCC sent a letter to the commission, which indicated he agreed with the company's position. However, while no longer finding the company guilty of hindering the possibility of additional credit, the LUCC now turns its focus to the commission, the allegation being that the commission has failed to address with sufficient detail the possibility of this additional line of credit.

However, besides being a faulty contention as to error, the opinion of the commission indicated its awareness of the possibility of additional extensions of credit. (See line 1 of p. 9.) Furthermore, the entire opinion, which focused on the need to have a level of rates that attracted capital, is satisfactory proof that the commission desired to achieve additional areas of access to



the capital markets. Therefore, the commission rejects the LUCC's contention as to this aspect of its motion for rehearing.

*G. The Commission's Analysis on Pages 9 and 10 of the Original Opinion*

The allegations made by the LUCC are that the findings on pp. 9 and 10 are without support on the record. Consequently, the LUCC argues that the LUCC has been deprived of an opportunity to address the factors relied upon by the commission. The LUCC cites the commission's attention to *Legislative Utility Consumers' Council v Public Service Co. of New Hampshire* (1979) 119 NH — 31 PUR4th 333, 402 A2d 626. To begin with, even if there was not factual support on the record, the LUCC has the opportunity to meet these contentions in the permanent rate increase hearings. However, there is support in the record for the commission's findings.

The increased risk associated with the construction of nuclear plants has support in numerous places in the record. (Williamson, transcript, p. 110, middle p. 111 — December 13, 1979; Harty Exh E, pp. 1, 3; also Meyer prefiled testimony.)

The finding as to the steady decline of the market and the chilling effect on stocks of utilities has support also within the record. Mr. Meyer made repeated references to the Volker Saturday night massacre (transcript — December 12, p. 22, for example) and its effect on the electric utility market. Mr. Meyer found today's marketplace to be as difficult as

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any period since the 1974-75 crisis period. (Transcript — December 12th, p. 263.) The marketplace for PSNH's common stock, as well as for all electric utilities, has been on a downward slide (transcript — December 12th, p. 222).

The lack of progress on the divestiture has had an adverse impact on investors' confidence (transcript — December 12th, p. 272; Harrison Exh D, p. 1). An adverse impact that unfortunately will be "enhanced" by actions taken after the commission rendered its decision.

Finally, the partial offset to the new increased risks of nuclear — namely, the recent increases in the price of oil — was recognized by the LUCC's own witness. (Transcript — December 13th, p. 110.)

Consequently, the commission has adequate support for its findings and will, therefore, reject this aspect of the LUCC's finding.

*H. Discussion of the Effects of RSA 378:30-a*

The commission had representations from the LUCC, CAP, as well as numerous members of the public, that the emergency rate increase was a variation of CWIP and against RSA 378:30-a. The commission had the issue placed before it, and due to RSA 373:17-b had to address the issue.

The LUCC's contention that the \$18 million increase is comparable to putting \$180 million in rate base is a perfect example of the assertions. When the hearings resumed as to the permanent rate determination, the LUCC again put forward this theory only to learn that they had forgotten to tax effect their result. Therefore, if one assumes: (1) that expense levels were the

same as 1976-77; (2) that the rate of return was unchanged; (3) that there were no new additions to rate base of completed plant since 1977; and (4) there was no increased depreciation, the LUCC learned that the placement of \$180 million in rate base would be an increase of \$30 million, not \$18 million. Furthermore, all those other elements have not remained stable, and the present account for construction work in progress is closer to \$500 million.

#### *I. Other LUCC Contentions*

The LUCC's other arguments revolve around its disagreement with the commission's interpretation of RSA 378:30-a. The commission finds that this new statute prohibits this commission from including CWIP in the rate base. The commission also finds that all financing costs, AFUDC, will be accumulated and capitalized until the units in the account, construction work in progress, are actually generating electricity. When this time comes, only then will the financing, labor, and material costs of these units be passed on to the consumer.

[6] The commission does find that the cost rates of all equity and debt issues (external capital) should be included for the purposes of conducting the traditional method of calculating an overall rate of return. This standard rule, which has been a cornerstone of utility regulation for decades, has not been altered by the passage of RSA 378:30-a. (The commission does retain its right to use a hypothetical capital structure where just and reasonable considerations dictate such a finding.) *New England Teleph. & Teleg. Co. v New Hampshire* (1962) 104 NH 229, 44 PUR3d 498, 183 A2d 237.

[7] The commission rejects, as it has repeatedly, the argument that RSA

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378:30-a requires this commission to have evidentiary records void of any mention of a utility's construction program. Furthermore, this commission does not find any conflict with its interpretation of RSA 378:30-a, and the standard that a utility is entitled to a rate of return, which is at minimum its cost of capital. *New England Teleph. & Teleg. Co. v New Hampshire* (1962) 104 NH 229, 44 PUR3d 498, 183 A2d 237.

As to Commissioner Stevenson's observations, it is clear that RSA 363:17-b does not require each commissioner to disclose each element of his or her decision process in arriving at his or her respective conclusion. Besides, since Commissioner Stevenson has left the commission, the issue is moot. The LUCC's other grounds for rehearing are denied.

#### *J. CAP's Contentions*

The commission has addressed many of CAP's contentions in responding to the LUCC's contentions. Community Action Program offers nothing new to its arguments and, therefore, the commission does not find merit to its motion for rehearing.

However, the contention that the commission must address not only the short-term considerations, but also the long term, is a valid point. The proper forum for consideration of the avenues open to the commission on both a short-term and a long-term basis are proper subjects for the hearings on permanent rates. Until that time, the commission must deny CAP's motion. *New England Teleph. & Teleg. Co. v New Hampshire* (1948) 95 NH 58, 62, 75 PUR NS 370, 57 A2d 267.

[8] In addition, the commission finds that CAP's concern as to low-income users to be valid at least in part. The commission is attempting to encourage conservation and to the extent that low income and low and wise usage are comparable, the following should assist. Public Service Company of New Hampshire, at its earliest convenience during the month of February, 1980, will remove the emergency surcharge from residential controlled (off-peak) water heating rates and transfer that revenue impact to the commercial classification. This revenue will then be recovered from commercial customers on a per kwh basis, except for controlled water heating commercial customers, which will continue to have an exemption from any emergency surcharge. This action is necessitated by three factors: (1) the President's call for less oil usage and greater conservation during this moment of crisis; (2) year-end usage figures, which reveal larger increases in commercial usage than previously thought; (3) CAP's contention as to the plight of the low-income consumer and the necessity for these consumers to at least have an avenue to mitigate the rising costs of energy.

Consequently, the motions for rehearing are denied and Public Service Company is instructed to alter its rate structure pursuant to this order.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of January, 1980.

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NH.PUC\*01/28/80\*[78486]\*65 NH PUC 55\*Manchester Gas Company

[Go to End of 78486]

## **Re Manchester Gas Company**

DF 80-1, Order No. 14,017

65 NH PUC 55

New Hampshire Public Utilities Commission

January 28, 1980

PETITION of a gas company to increase its short-term debt limit; granted.

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SECURITY ISSUES, § 85 — Purposes of capitalization — Additions and replacements.

[N.H.] The commission approved a gas company's proposed financing which was to be used to defray the cost of making additions and replacements to the company's plant, to reduce the level of accounts payable, and for other lawful corporate purposes.

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APPEARANCES: John R. McLane, Jr., for the petitioner.

BY THE COMMISSION:

## Report

By this unopposed petition filed on December 20, 1979, Manchester Gas Company, a public utility organized under the laws of New Hampshire and operating under the jurisdiction of this commission, as a gas public utility in Manchester, Goffstown, and a limited area in Hooksett, seeks authority to increase its short-term debt limit from \$1.2 million to \$2 million.

A duly noticed public hearing was held at the offices of the commission on January 17, 1980.

During the course of the hearing the company submitted exhibits reflecting the 1979 report to stockholders, proxy statement from the annual meeting of stockholders held on January 16, 1980, a listing of short-term notes payable as of December 31, 1979, a breakdown of the company's net bondable property not currently appropriated, and letters from the Manchester Bank and the Amoskeag National Bank and Trust Company reflecting a potential increase in their current lines of credit to \$2 million.

The company witness, Mr. Giordano, stated these bank lines of credit are at the local prime rates without any sort of compensating balances or other costs of availability. If this situation should change, the company should notify the commission in a very timely manner.

The proceeds of the proposed additional financing would be used to defray the cost of making additions and replacements to the company's plant, reduce the current exceedingly high level of accounts payable, and for other lawful corporate purposes.

Based on information requested by the commission finance staff and provided subsequent to the hearing, the company should have sufficient earnings after the proposed financing to provide ample interest coverage; to pay all interest costs and reasonable dividends on its capital stocks; and thus to maintain the company's credit standing and ability to attract capital at reasonable rates.

The company in addition stated that in 1981, or thereabouts, it contemplates seeking authority to issue up to \$2 million of long-term debt which will be used in whole or in part to reduce the company's short-term indebtedness. The company plans to wait until at least

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1981, in hopes that the currently high rates of interest on long-term debt will come down.

Mr. Giordano testified that as of the date of the hearing the company had \$1.1 million of short-term debt outstanding. Assuming authorization from this commission the short-term borrowings are expected to reach approximately \$1.8 million within a short period of time before dropping off again. The estimated average short-term borrowings of the company for fiscal year 1980 are \$1,233,333, per the company's response to staff on January 18, 1980, which results in an estimated "times interest earned ratio" of 2.96 to one. Even with \$2 million of short-term debt, the ratio stands above a satisfactory level of two to one.

Based upon all the evidence, the commission finds that the short-term debt limit should be raised to \$2 million. This action will be for the period of up to three years as stipulated in RSA 369:7, which should give the company sufficient time to issue long-term debt at hopefully more advantageous rates than they could get currently.

The proceeds from the short-term notes will be reasonably necessary for present and future use in the conduct of the petitioner's business and for other corporate purposes. The issuance and sale of 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 Manchester Gas Company, be, and hereby is, authorized to issue and sell, and from time to time renew, for cash its notes or notes payable less than twelve months after the date thereof in an aggregate principal amount not exceeding \$2 million. This additional authority shall last for a maximum period of three years from the date of this order per RSA 369:7, after which time Order No 10,444 ([1977] 56 NH PUC 578) will be reinstated; and it is

Further ordered, that interest on bank borrowings will be at the local prime rate or rates; and it is

Further ordered, that on or before January 1st and July 1st of each year, Manchester Gas Company shall file with this commission a detailed statement, duly sworn to by its treasurer or assistant treasurer showing the disposition of proceeds of the note or notes, or other evidences of indebtedness herein authorized, until the whole of said proceeds have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of January, 1980.

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NH.PUC\*01/29/80\*[78487]\*65 NH PUC 57\*Manchester Water Works

[Go to End of 78487]

## Re Manchester Water Works

IE 14,901, Order No. 14,018

65 NH PUC 57

New Hampshire Public Utilities Commission

January 29, 1980

PETITION of a water company for authority to extend its mains and service; 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 January 21, 1980, 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:

"Beginning at a point along the center line of Donald street extension (formally Pulpit Farm road) where said road intersects with the center line of Sandstone drive, more specifically, 555 feet +/- westerly of the intersection of Donald street with Savoie street. From this point northerly, easterly, and northerly again, following the path and contour of the center line of Sandstone drive, a distance of 1,675 feet +/- to the end of said street existing at this date, 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-ninth day of January, 1980.

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NH.PUC\*01/29/80\*[78488]\*65 NH PUC 57\*New England Power Company

[Go to End of 78488]

## Re New England Power Company

DF 80-7, Order No. 14,020

65 NH PUC 57

New Hampshire Public Utilities Commission

January 29, 1980

PETITION of an electric utility for authority to execute a loan agreement and to issue and sell bonds; granted.

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### 1. SECURITY ISSUES, § 106 — Terms of issuance — Bonds.

[N.H.] The commission ordered an electric utility to make application to the commission immediately prior to the issuance of its bonds for a supplemental order approving the interest rate, amount, and any changed provisions. p. 63.

### 2. SECURITY ISSUES, § 57 — Disposition of proceeds — Bond issue.

[N.H.] The commission ordered an electric utility to file with the commission a detailed

statement, duly sworn by its treasurer or assistant treasurer, showing the disposition of the proceeds of its approved bond issue until the expenditure of the whole of said proceeds was fully accounted for. p. 63.

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APPEARANCES: Robert King Wulff and James E. Enterkin, Jr., for New England Power Company.

BY THE COMMISSION:

Report

New England Power Company (the "company"), a Massachusetts corporation engaged in the business of generating, purchasing, transmitting, and selling electricity at wholesale, is qualified as a foreign corporation to do business in New Hampshire but does not engage in local distribution in the state. The company owns and operates properties in Massachusetts, New Hampshire, Maine, and Vermont, including hydroelectric developments and storage reservoirs on the Connecticut river and related transmission lines therefrom. On January 8, 1980, the company filed an application requesting authorization and approval of the commission for the issue of not exceeding \$90 million aggregate principal amount of general and refunding mortgage bonds of Series C (the "Series C bonds"), for the issue of not exceeding \$90 million aggregate principal amount of general and refunding mortgage bonds of Series D the general and refunding mortgage bonds of Series D (the "Series D G&R bonds"), for the issue and pledge of not exceeding \$15 million aggregate principal amount of first mortgage bonds of Series X (the "Series X bonds"), and for the issue and pledge of not exceeding \$90 million aggregate principal amount of first mortgage bonds of Series Y (the "Series Y bonds"). The issue and sale of the Series C and D G&R bonds will be pursuant to the company's general and refunding mortgage indenture which requires, in connection with the issuance of bonds thereunder, the issue and pledge, for the additional security of said bonds, of first mortgage bonds in a specified amount. It is for this reason that approval is requested for the issue and pledge of Series X and Y bonds.

The Series C and D G&R bonds for which approval is requested will be delivered to the trustee under an indenture pursuant to a loan agreement to be executed between the Massachusetts Industrial Finance Agency ("MIFA") and the company in order to evidence the obligation of the company to pay the principal of, interest on, and premium if any on, the pollution control bonds to be issued and sold by MIFA under said indenture (the "MIFA indenture"). The proceeds from the sale of pollution control bonds in the spring of 1980 will be deposited with a corporate trustee under the MIFA indenture and held in a construction fund to be released to the company for the payment of costs of pollution control expenditures as they are incurred in connection with the conversion of the company's Brayton Point generating Units 1, 2, and 3 from oil to

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coal firing. The construction of pollution control facilities, and related expenditures, necessary to the lawful conversion of the company's Brayton Point Units 1, 2, and 3 from oil to coal firing will be financed through pollution control bonds to be issued by MIFA. Because the

pollution control bonds will be tax-exempt under the Internal Revenue Code, purchasers will be willing to accept a lower interest rate, resulting in substantial savings to the company and ultimately, its customers.

The pollution control bonds will be issued by MIFA in two phases, and the loan agreement will so provide. The first phase will consist of three-year bonds. The second phase will consist of long-term bonds having a maturity not to exceed thirty years, to be issued for the purpose of refinancing the three-year bonds at or prior to their maturity. This structure is made necessary by the current state of high interest rates. It will afford the company the immediate advantage of tax-free financing and the flexibility to take advantage of lower interest rates for the 30-year bonds. The company seeks approval of both phases at this time because, it avers, there may be only short periods of decline in interest rates, requiring a prompt response if refinancing is to be successful. The company proposes, however, to seek supplemental orders from this commission for certain terms of its related G&R and first mortgage bonds at the time of the 30-year issue.

The company, in its application, also requests the authorization and approval of the commission for the execution of the loan agreement.

A public hearing was held on the application on January 25, 1980. Votes taken by the directors of the company authorizing (i) issues of Series C and D G&R bonds, (ii) issues of Series X and Y bonds, (iii) execution and delivery of the loan agreement, and (iv) the filing of the necessary applications, were introduced at the hearing as an exhibit. Votes taken by the stockholders of the company were also introduced at the hearing as an exhibit.

The company's financial statements presented as exhibits were the basis of testimony relating to the company's capitalization. They show that on the date of the statements, September 30, 1979, the first mortgage bonds outstanding amounted to \$361.8 million, consisting of 17 outstanding series with interest rates ranging from 2.875 per cent to 10.875 per cent and with maturity dates from 1981 to 2005. The Series C G&R bonds are the company's third issue of general and refunding mortgage bonds. As of September 30, 1979, the G&R bonds outstanding amounted to \$100 million. The outstanding long-term debt of the company consists of both first mortgage bonds (other than pledged bonds) and general and refunding mortgage bonds. Pledged bonds, including the Series X bonds and subsequent issues of first mortgage bonds, do not constitute part of the company's outstanding long-term debt. Common stock totaled \$128,997,920 represented by 6,449,896 shares outstanding having a par value of \$20 per share. The cumulative preferred stock, having a par value of \$100 per share and a combined aggregate par value of \$86,028,000, was comprised of 80,140 shares of the 6 per cent series and 780,140 shares of dividend series preferred stock. A single series of cumulative preferred stock, the 11.04 per cent series, having a par value of \$25 per share, had an aggregate par value of \$25 million and one million shares outstanding.

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Premiums on capital stock amounted to \$87,207,450 and retained earnings were \$29,385,109. Short-term debt on the date of the financial statements was reported at \$5 million.

The company reported as of September 30, 1979, its total utility plant was \$1,184,221,721. The accumulated depreciation reserve against such property amounted to \$237,855,895. Other



investments, of which a major part of the amount was authorized investments in securities of nuclear generating companies, was shown as \$38,885,523.

The proposed \$90 million aggregate principal amount of Series C G&R bonds will be issued under and pursuant to the terms of the company's general and refunding mortgage indenture and deed of trust dated as of January 1, 1977, as previously amended and supplemented, and as amended and supplemented by a second supplemental general and refunding mortgage indenture (collectively the "G&R indenture"). The G&R indenture secures on a pro rata basis the Series C G&R bonds and all other outstanding G&R bonds by the mortgage, subject to the lien of the company's indenture of trust and first mortgage dated as of November 15, 1936, and supplements thereto (the "first mortgage indenture"), of all the company's property, assets, and franchises (except property of the character specifically reserved to the company in the G&R indenture). The G&R indenture also obligates the company, so long as any of its first mortgage bonds, Series D through P and R through U, are outstanding, to issue and pledge first mortgage bonds with the trustee for the G&R indenture in amounts specified in the G&R indenture as security for all bonds issued or to be issued under and pursuant to the terms of the G&R indenture and except for such purpose will preclude the company from issuing any further first mortgage bonds.

The Series C G&R bonds will be issued in fully registered form only and will mature in three years from the date as of which they are issued. They will not be transferable except to a successor trustee under the MIFA indenture. They will be redeemable during the last year prior to maturity at 101 per cent, and also redeemable at any time prior to maturity at par under certain conditions, such as destruction of the project, or as required to prevent the loss of the tax-exempt status of the three-year pollution control bonds which they support. If market conditions at the time of issue require, however, the Series C G&R bonds may not be redeemable during their entire term, except under those certain conditions. The date, maturity date, and discount if any, of the Series C G&R bonds, will conform to the terms of the three-year pollution control bonds to be issued by MIFA under the MIFA indenture.

The Series X bonds will bear the same date, maturity date, and interest rate as the Series C G&R bonds. The Series X bonds and future issues of first mortgage bonds will be deposited with the trustee under the G&R indenture as a pledge, and will, to the extent of their principal amount, offer first mortgage security to holders of bonds issued under the G&R indenture. The company will not pay interest on or principal of both the G&R bonds and the pledged bonds at the same time.

After giving effect to the sale of \$90 million of the Series C G&R bonds and a capital contribution of \$20 million made in December, 1979, bonds (excluding

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pledged bonds) will comprise 53.3 per cent of the total capitalization, preferred stock 10.7 per cent, and common equity 36.0 per cent.

The Series D G&R bonds will be issued under and pursuant to a supplemental indenture, amending and supplementing the G&R indenture, for the replacement of the Series C G&R bonds on or before the date of maturity of the Series C G&R bonds. The Series D G&R bonds, to mature in not more than thirty years after the date as of which they are issued, will evidence the

company's obligation to pay the principal of, interest on, and premium if any on, the 30-year pollution control bonds to be issued by MIFA simultaneously with the Series D G&R bonds, and will be delivered to the trustee under the MIFA indenture for that purpose pursuant to the loan agreement. The Series D G&R bonds will bear the same interest rate and other terms as the 30-year pollution control bonds.

The Series Y bonds will bear the same date, maturity date, and interest rate as the Series D G&R bonds. The Series Y bonds will secure all general and refunding mortgage bonds and will be pledged with the trustee under the G&R indenture for that purpose. The company will not pay interest on or principal of both the G&R bonds and the pledged bonds at the same time.

The company proposes that this commission authorize and approve the issue of Series D G&R and Series Y bonds at this time so that the company and its ratepayers may realize the advantages of long-term financing at more favorable rates, anticipated at some point during the next three years, without postponing the advantages of tax-exempt financing. Such authorization and approval would be subject to the issuance, upon application of the company immediately prior to the time of issue of such bonds, of a supplemental order approving the interest rate and any changed provisions of the Series D G&R bonds and the amount, interest rate, and any changed provisions of the Series Y bonds. Additional permanent financing is necessary at this time because of the company's construction project, involving the conversion of the company's Brayton Point generating units from oil to coal firing. The issue of bonds pursuant to the G&R indenture and the loan agreement appears to be the most appropriate and logical means to provide funds at the lowest cost consistent with a balanced capital structure.

The last issue of securities by the petitioner was authorized and approved by the commission in DF 78-59 by orders dated June 13 (63 NH PUC 179), and July 25, 1978 (63 NH PUC 213), at which time the commission authorized the issue and sale of \$50 million principal amount of general and refunding mortgage bonds, Series B, and B, and the issue and pledge of \$15 million principal amount of first mortgage bonds, Series W.

Upon investigation and consideration of the evidence submitted, this commission is of the opinion that the granting of the authorizations sought 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 New England Power Company, be, and hereby is, authorized to issue and sell \$90 million principal amount of general and refunding mortgage bonds, the Series C G&R

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bonds, to mature in three years from the date of which the bonds are issued, and to conform to the terms of the three-year pollution control bonds to be issued and sold by the Massachusetts Industrial Finance Agency ("MIFA") under the indenture pursuant to the loan agreement between New England Power Company and MIFA; and it is

Further ordered, that the general and refunding mortgage bonds, Series C, authorized herein, shall be delivered to the trustee under the indenture pursuant to the loan agreement to be

executed between the Massachusetts Industrial Finance Agency ("MIFA") and New England Power Company for the purpose of evidencing the obligation of the company to pay the principal of, interest on, and premium if any on, the three year pollution control bonds to be issued by MIFA under said indenture for the purpose of financing pollution control facilities, and associated costs, required by New England Power Company to lawfully convert its Brayton Point generating Units 1, 2, and 3 from oil to coal firing; and it is

Further ordered, that New England Power Company be, and hereby is, authorized to issue and pledge \$15 million principal amount of first mortgage bonds, the Series X bonds, to bear the same interest rate and to have the same maturity as the general and refunding mortgage bonds, Series C; and it is

Further ordered, that New England Power Company be, and hereby is, authorized to issue and sell not exceeding \$90 million principal amount of general and refunding mortgage bonds, the Series D G&R bonds, to mature in not more than thirty years from the date as of which the bonds are issued, and to conform to the terms of the 30-year pollution control bonds to be issued simultaneously therewith by the Massachusetts Industrial Finance Agency ("MIFA") under the indenture pursuant to the loan agreement to be executed between the company and MIFA; and it is

Further ordered, that the general and refunding mortgage bonds, Series D, authorized herein, shall be issued for the replacement of the Series C G&R bonds herein authorized, and shall be delivered to the trustee under the indenture pursuant to the loan agreement to be executed between the Massachusetts Industrial Finance Agency ("MIFA") and New England Power Company for the purpose of evidencing the obligation of the company to pay the principal of, interest on, and premium if any on, the 30-year pollution control bonds to be issued by MIFA simultaneously with said Series D G&R bonds; and it is

Further ordered, that New England Power Company be, and hereby is, authorized to issue and pledge not exceeding \$90 million principal amount of first mortgage bonds, the Series Y bonds, to bear the same interest rate and have the same maturity as the Series D G&R bonds; and it is

Further ordered, that New England Power Company be, and hereby is, authorized to execute and deliver the loan agreement between New England Power Company and the Massachusetts Industrial Finance Agency ("MIFA") under which loan agreement New England Power Company will deliver general and refunding mortgage bonds to MIFA at such times and of such tenor as will correspond to the payments for principal, premium if any, and interest on certain pollution control bonds to be issued by MIFA; and it is

Further ordered, that New England

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Power Company be, and hereby is, authorized to mortgage its present and future property, tangible and intangible, including franchises in New Hampshire, and to confirm the mortgage thereof, as security for the outstanding Series A and B general and refunding mortgage bonds, the proposed Series C and D general refunding mortgage bonds, the outstanding Series D through P and R through W first mortgage bonds, the proposed Series X and Y first mortgage

bonds, and bonds thereafter issued under the provisions of the company's general and refunding mortgage and first mortgage indentures; and it is

Further ordered, that the authorization to issue Series C G&R bonds and the Series X bonds contained herein shall be exercised on or before April 30, 1980, and not thereafter, unless such period is extended by order of this commission; and it is

[1] Further ordered, that New England Power Company shall make application to this commission immediately prior to the time of issue of the Series D G&R and the Series Y bonds for a supplemental order approving (i) the interest rate, amount, and any changed provisions of the Series D G&R bonds and (ii) the interest rate, amount, and any changed provisions of the Series Y bonds; and it is

[2] Further ordered, that on or before 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 or assistant treasurer showing the disposition of the proceeds of said securities, 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-ninth day of January, 1980.

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NH.PUC\*01/30/80\*[78483]\*65 NH PUC 40\*Fuel Adjustment Charge

[Go to End of 78483]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Legislative Utility Consumers' Council, and Community Action Program

DR 76-46, 48th Supplemental Order No. 14,010

65 NH PUC 40

New Hampshire Public Utilities Commission

January 30, 1980

ORDER reducing the level of an electric company's fuel adjustment clause to compensate the company's customers for overcollections.

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1. RATES, § 303 — Fuel adjustment clause — Function.

[N.H.] Adjustment clauses which track rising fuel costs were not designed to be a financing device, thereby allowing companies the use of consumer-supplied funds at a relatively low interest rate; rather, the fuel adjustment clause was designed to provide a recovery of

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full costs during a period of escalating fuel costs. p. 41.

2. RATES, § 303 — Fuel adjustment clause — Recalculation due to overcharge.

[N.H.] The commission adjusted downward an electric company's fuel adjustment charge from \$1.81 per 100 kilowatt-hours to \$1.70 per 100 kilowatt-hours in order to compensate the company's customers for overcollec-tions caused by erroneous predictions of fuel use and cost in providing electric service. p. 42.

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APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers, for Public Service Company of New Hampshire; Gerald L. Lynch for the Legislative Utility Consumers' Council; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378:30A (II), the commission on January 21, 1980, held hearings on the petition of Public Service Company of New Hampshire for authority to apply a fuel adjustment charge to regular February, 1980, 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.

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 18, 1980, filed with this commission 26th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the estimated monthly calculation of the fuel adjustment charge for effect February 1, 1980.

The company reported a fuel cost above base of \$8,704,073 and total kilowatt-hours subject to the fuel adjustment of 477,948,000 resulting in a per kilowatt-hour charge of \$1.82 per 100 kwh rounded. This amount was then reduced to \$1.81 per 100 kwh rounded to account for the remaining balance of the Merrimack inventory adjustment not previously refunded.

This commission's finance staff has been conducting an extensive investigation into the revenues, expenses, and rate base of the Public Service Company of New Hampshire. See DR 79-187. One revelation of this staff investigation has been that the present fuel adjustment clause has been overcollecting revenues from consumers on a regular basis. Historical data reveals the amount of the overcollection since the fuel adjustment charge began, fluctuates from month to month. The most disturbing aspect of this newly discovered evidence is the trend whereby the overcollection increases dramatically during the winter months at a time when consumers are experiencing the greatest difficulty in making payment on their monthly bills.

[1] This result was not the intent of the fuel adjustment charge. When the supreme court ordered the commission to make some form of allowance for inevitable increases in the price of fuel, the supreme court did not intend the fuel adjustment clause to develop into a money maker. *Public Service Co. of New Hampshire v New Hampshire* (1973) 113 NH 497, 2 PUR4th 59, 311 A2d 513. Rather, the fuel adjustment clause was designed to provide a recovery of full costs

during a period of escalating fuel costs. As this commission stated in Re Concord Nat. Gas Corp. (1979) 64 NH PUC 119; (1979) 64 NH PUC 370, adjustment clauses which track rising fuel costs are "not designed to be a financing device, thereby allowing the

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companies the use of consumer-supplied funds at a relatively low interest rate." (P. 2)

The commission, the company, and intervenors are all involved in devising a better fuel adjustment clause in DR 79-187. However, because the staff investigation reveals very clearly that this overcollection problem worsens during the winter, this commission must begin to take measures to correct this imbalance. To do nothing would only worsen the gravity and inequity of the situation.

Consequently, this commission will remove \$481,332 from the total fuel costs above base. This figure was arrived at by taking the average of the past two years overcollection for February. This adjustment will reduce the fuel adjustment clause by approximately nine cents per 100 kwh.

The company also submitted a credit for the remainder of refunds owed consumers from previous overcollections related to the coal pile at the Merrimack station. This remainder resulted from inaccurate predictions as to the amount of kwh sales in two previous months. The commission believes that the company's estimate for February sales is again inflated since there has been no recognition of the fact that the past February was one of the coldest in history. The mere addition of a factor to last February's sales will only overestimate sales and again result in consumers not being refunded full amount to which they are entitled. Consequently, the commission will use an estimate of approximately 457 million kwh, which in turn will more properly refund the \$71,146 of overcharges.

[2] These two adjustments result in a fuel adjustment charge of \$1.70 instead of the \$1.81 filed by Public Service Company.

The following companies: Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, and Woodsville Water and Light Department submitted their fuel adjustment calculations for the subject period, and the commission having reviewed the calculations, accepts said calculations were prepared accurately.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of February, 1980, are just and reasonable, for all companies, except Public Service Company. Public Service Company is given permission to charge \$1.70 per 100 kwh fuel adjustment charge. Our order will issue accordingly.

Supplemental Order

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

Ordered, that 26th Revised Pages 17 and 18 of Public Service Company of New Hampshire

tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of \$1.81 per hundred kilowatt-hours for the month of February, 1980, be, and hereby are, rejected; and it is

Further ordered, that Public Service Company of New Hampshire will file new tariff pages for a monthly fuel surcharge of \$1.70 per hundred kilowatt-hours for the month of February, 1980,

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to become effective February 1, 1980; and it is

Further ordered, that 60th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.74 per hundred kilowatt-hours for the month of February, 1980, be, and hereby is, permitted to become effective February 1, 1980; and it is

Further ordered, that 55th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.84 per hundred kilowatt-hours for the month of February, 1980, be, and hereby is, permitted to become effective February 1, 1980; and it is

Further ordered, that 34th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 29 cents per hundred kilowatt-hours for the month of February, 1980, be, and hereby is, permitted to become effective February 1, 1980; and it is

Further ordered, that First Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$ 1.51 per hundred kilowatt-hours for the month of February, 1980, be, and hereby is, permitted to become effective February 1, 1980; and it is

Further ordered, that 65th Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$2.41 per hundred kilowatt-hours for the month of February, 1980, be, and hereby is, permitted to become effective February 1, 1980; and it is

Further ordered, that 17th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$1.65 per hundred kilowatt-hours for the month of February, 1980, be, and hereby is, permitted to become effective February 1, 1980; and it is

Further ordered, that 73rd Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$1.27 per hundred kilowatt-hours for the month of February, 1980, be, and hereby is, permitted to become effective February 1, 1980; and it is

Further ordered, that 39th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 28 cents per hundred kilowatt-hours for the month of February, 1980, be, and hereby is, permitted to become effective February 1, 1980.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of January, 1980.

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NH.PUC\*01/30/80\*[78490]\*65 NH PUC 64\*Exeter and Hampton Electric Company

[Go to End of 78490]

## Re Exeter and Hampton Electric Company

DR 80-16, Order No. 14,022

65 NH PUC 64

New Hampshire Public Utilities Commission

January 30, 1980

PETITION of an electric company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 22, 1980, filed with this commission Third Revised Page 15A of its tariff, NHPUC No. 11 — Electricity, a revision of the purchased power cost adjustment, effective February 7, 1980; 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 15A of tariff, NHPUC No. 11 — Electricity, of Exeter and Hampton Electric Company be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of January, 1980.

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NH.PUC\*01/31/80\*[78489]\*65 NH PUC 63\*Concord Electric Company

[Go to End of 78489]

## Re Concord Electric Company

DR 80-15, Order No. 14,021



65 NH PUC 63

New Hampshire Public Utilities Commission

January 31, 1980

PETITION of an electric company to revise its tariff; 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 January 22, 1980, filed with this commission Third Revised Page 14A of its tariff, NHPUC No. 6 — Electricity, a revision of the purchased power cost adjustment, effective February 7, 1980; 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

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Ordered, that Third Revised Page 14A of tariff, NHPUC No. 6 — Electricity, of Concord Electric Company, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of January, 1980.

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NH.PUC\*02/01/80\*[78491]\*65 NH PUC 64\*Dr. Lewis Mann

[Go to End of 78491]

### Re Dr. Lewis Mann

IE 14,900, Supplemental Order No. 14,025

65 NH PUC 64

New Hampshire Public Utilities Commission

February 1, 1980

ORDER requiring a telephone company's customer to render payments in strict accordance with commission orders at risk of service denial.

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**Page 64**

PAYMENT, § 49 — Payment requirement — Denial of service.

[N.H.] The commission ordered that if payments, including outstanding service balances and deposits, were not made precisely in accordance with the letter of the order, service could be promptly terminated without further consideration.

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BY THE COMMISSION:

Supplemental Order

Whereas, on January 30, 1980, Dr. Lewis Mann, representing the Salem Medical Clinic, requested that this commission reconsider its decision in Order No. 14,011 dated January 24, 1980 (65 NH PUC 44) in so far as that decision related to the payment of a deposit; and

Whereas, this commission notes that Dr. Mann did not conform to the precise payment schedule set forth in that Order No. 14,011, but that he did comply within a reasonable period of time thereafter; and

Whereas, Dr. Mann asserts that a current bill in the amount of \$293, more or less, has been paid by check mailed on Wednesday, January 30, 1980, and that no arrearages exist; it is

Ordered, that the deposit requirement of \$567.24 plus an amount of the December telephone bill, to be paid on or before January 31, 1980, at 2:00 P.M. at Colt News Agency, Hampton, New Hampshire, is hereby waived; and it is

Further ordered, that a deposit in the amount of \$300 shall be made by cash or certified check before 10:00 A.M. on Friday, February 1, 1980, at Colt News Agency in Hampton, New Hampshire; and it is

Further ordered, that a further payment of \$300 (minus an amount of \$160 currently credited to Dr. Mann's account) shall be paid before 10:00 A.M. on Thursday, February 28, 1980, at Colt News Agency in Hampton, New Hampshire; and it is

Further ordered, that a period of approximately seven days until 3:00 P.M. on February 7, 1980, will be given for the check which was mailed on January 30, 1980, to be processed and received at the telephone company offices; and it is

Further ordered, that if any of the above payments are not properly made *precisely* in accordance with the letter of this order, service to the Salem Medical Clinic may be promptly terminated without further consideration.

By order of the Public Utilities Commission of New Hampshire this first day of February, 1980.

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NH.PUC\*02/04/80\*[78477]\*65 NH PUC 30\*Union Telephone Company

[Go to End of 78477]

## Re Union Telephone Company

DR 79-120, Second Supplemental Order No. 14,004

65 NH PUC 30

New Hampshire Public Utilities Commission

February 4, 1980

ORDER indicating the disposition of motions for rehearing.

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1. DISCRIMINATION, § 157 — Mileage charges — Lack of substantiation.

[N.H.] The commission found that a telephone company's rate differential between the monthly basic rate and the basic rate, plus mileage fees, to be discriminatory because there were no records to substantiate the differential given the fact that a telephone call, as well as telephone access, provides benefits of equal value to both participants. p. 32.

2. REVENUES, § 2 — Adjustments for known and measurable changes.

[N.H.] The commission has historically made revenue adjustments to reflect known and measurable changes; in particular, revenue adjustments because of customers, revenue per customer, and customers due to increased additions have strong precedent support. p. 33.

3. EXPENSES, § 69 — Vehicle expense — Exclusion of inflation factor.

[N.H.] The commission adjusted test-year expenses downward regarding vehicle expense because the 7.5 per cent estimated inflation factor associated with the expense was speculative and not known or measurable. p. 34.

4. EXPENSES, § 89 — Rate case expense — Recognition by commission.

[N.H.] The commission is required by the state supreme court to recognize rate case expenses although there is a level of reasonableness which, if exceeded, would necessitate a disallowance. p. 35.

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BY THE COMMISSION:

Supplemental Order

On January 4, 1980, the Union Telephone Company (company) filed a motion for rehearing as to the commission's report and Order No. 13,956 (64 NH PUC 434) dated December 19, 1979. On January 8, 1980, the Legislative Utility Consumers' Council (LUCC) filed a motion for rehearing as to the same report and order.

*I. Union Telephone Company's Issues*

*A. Operating Expenses — Salaries*

The company alleges that the commission has taken administrative notice of information from the council on wage and price stability. The company thereby objects to the commission's exclusion of \$4,560 in expenses related to salaries above the wage increase ceiling set by the President.

The commission's finding rests on the testimony of staff witness Traum. While referring to published governmental documents, the basis of the finding dealt with witness Traum's testimony. The commission does not find any validity to the company's claim as to this adjustment.

#### *B. REA Financing*

The company next cites the commission's attention to REA-RTB regulations and the 1978 annual statistical report of rural telephone borrowers, which were mentioned by the commission in its decision. The company alleges that the commission has taken official notice to the detriment of the interests of the company.

The commission had sworn testimony by witness Camfield as to the advantages of REA-RTB financing. The commission has its previous decision as to the advantages of REA-RTB financing and the use of this financial device by other New Hampshire independent telephone companies. Further, the commission had these governmental publications within our records. The record in this proceeding clearly demonstrates that there is an ever-widening gap between prime and REA interest rates. Finally, citing governmental regulations

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and rules is proper in utility rate-making proceedings. The commission rejects the company's request as to this finding.

#### *C. Mileage Charges*

The company continues to argue that the commission should ignore input from members of the public. Because the company did not cross-examine various members of the public, it contends it was denied basic procedural due process on the issue of mileage.

The record in this proceeding is totally void of evidence to substantiate mileage charges. The commission had testimony by the company that they had no records to substantiate these charges. (Transcript, p. 109.) Furthermore, there are no studies or supporting workpapers to substantiate the continuation of these charges, nor any record as to why these charges were established in the first instance. (Transcript, p. 109.) In essence, Union Telephone failed to meet its burden of proof.

[1] In addition, the commission found the rate differential between the monthly basic rate and the basic rate, plus mileage fees, to be discriminatory. The commission notes with approval the reasoning of the Arkansas Public Utilities Commission. *Re General Teleph. Co. of the Southwest* (1979) 29 PUR4th 379, 397.

A telephone call, as well as telephone access, provides benefits of equal value to both participants. When, in addition, there are no records to substantiate the differential, discrimination exists.

The commission also had the sworn testimony of staff witness Partan and its previous findings as to Re Kearsarge Teleph. Co. (1979) 64 NH PUC 131; Re Dunbarton Teleph. Co. (1979) 64 NH PUC 159; and Re Continental Teleph. Co. (1979) 64 NH PUC 190.

In addition, the commission recognized the information that the public sought to provide the commission. The commission has historically had these public hearings and has also historically considered the information provided in these proceedings.

In summary, there was ample evidence to support the commission finding that mileage charges should be eliminated. Consequently, the commission rejects this aspect of the company's request for rehearing.

#### *D. Quality of Service*

The company is concerned that the service standards, by which the company's return on equity will be judged next year, have not been stated.

The commission would cite the company to the concern expressed by the commission in Re New England Teleph. & Teleg. Co. (1972) 57 NH PUC 47 as to quality of service. The commission would also cite the company's attention to the standards examined in Re New England Teleph. & Teleg. Co. (1975) DR 75-164. Those standards will be adopted by the commission as to Union for purposes of measurement. In addition, prior to filing its motion for rehearing, Union received a letter from the commission's telephone engineer indicating the necessity of an early meeting between Union and staff personnel, so as to discover which service problems are solely within the Union system and which are in the interconnection with the New England Telephone System. Finally, the company has a right to hearing before any action is taken.

The commission, therefore, rejects this aspect of the company's motion for rehearing.

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#### *E. Test-year Methodology and Computational Error*

The company asserts that the commission has rejected the standard of an estimated test year while adapting some of the company's estimates throughout the opinion. This alleged inconsistency causes confusion for the company.

The company also asserts that the commission ignored some known and measurable expense increases and revenue reductions shown on Exh 43. Failure to address this pro forma adjustment is asserted to be error.

Finally, the company requests that the commission reconsider unidentified difference between the commission's findings and the "numbers" portion of the text.

The commission has not set a vacillating standard. Rather, the commission has attempted to strike an even balance as to rate base, expenses, and rate of return. The commission updated the rate base to a time period which reflected an average of the beginning and ending for the time period June, 1978, through June, 1979. As to expenses, the commission made an extraordinary amount of pro forma adjustments to 1978 expense level so as to reflect known and measurable changes as to almost every expense of this company. The pro forma expense adjustments take

the company through 1979 and in some instances slightly beyond. The commission also updated the company's depreciation expense to reflect the update as to rate base. This adjustment resulted in an increase in depreciation expense over that proposed by the company.

Obviously, the commission could not make these adjustments to rate base and expenses without taking recognition of the fact that the company had increased customers due to (1) the continued growth of the service area, (2) the increased revenues that correspond with the increased additions taken into consideration in rate base, and (3) the fact that revenues as of 1978 do not correspond to a June 20, 1978, to June 30, 1979, rate base or 1979 expense and depreciation levels.

[2] The commission has historically made revenue adjustments to reflect known and measurable changes for revenues. The company, in this case, provided actual data as to growth in customers. Such data was conformed by the commission through use of quarterly reports filed by this company as well as others, that clearly indicate increased customers and revenues.

Revenue adjustments because of (a) customers, (b) revenue per customers, and (c) customers due to increased additions have strong precedent support at this commission. See *Re Granite State Teleph. Co.* (1978) DR 77-116, at p. 4; *Re Kearsarge Teleph. Co.* (1977) DR 76-171 at p. 4; *Re Hudson Water Co.* (1979) 28 PUR4th 617, 620.

The evidence supports both the methodology used by the commission as well as its consistency.

Exhibit 43 filed by the company covers a scope of different areas. As to the municipal calling loss estimate of \$3,815, the commission finds the adjustment to be speculation and without convincing evidentiary support. As to the change in the pole attachment rent, the commission upon review will allow an adjustment for this known and measurable change of \$5,664 minus \$750 already recognized for this purpose in the original order. The difference is an adjustment to test-year expenses of \$4,914.

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Two other adjustments are proposed for alleged expenses related to general auto insurance (\$2,111) and workman's compensation audit (\$3,042). The commission finds adequate evidence to support the \$2,111 adjustment. However, the \$3,042 received no supporting evidence and has already been recognized in the commission's findings as to Exh 15 and 16 and the additional attrition factor. The company has failed to carry its burden of proof that these adjustments do not adequately compensate the company.

As to the differences between the commission's written and numbers portion of the original decision, the commission has identified three errors. The commission stated that it would not accept the company's property tax increase estimate. The commission, through experience, has found these estimates to be extremely vulnerable to examination. See *Re Concord Nat. Gas Corp.* (1978) 63 NH PUC 304; (1978) 63 NH PUC 321. Upon review, Union fares no better than Concord Natural Gas.

The 1978 property tax expense was \$7,564.57. The company made a \$4,137 adjustment upwards. The commission has checked with the tax collectors in each town and found the 1979

property tax expense to be \$7,310.07; consequently, instead of a \$4,137 increase, there has been a \$254.50, rounded to \$255, decrease. The commission failed to reflect the removal of the \$4,137 estimate in its original order. The commission will correct this situation by removing the \$4,137 and the \$255 from test-year expenses, or an adjustment downwards of \$4,392.

[3] The commission also failed to remove the 7.5 per cent estimated inflation factor as to vehicle expenses. This amount, \$2,191, is speculative and is not known or measurable. Consequently, a downward adjustment should be made in test-year expenses of \$2,191.

The third error relates to p. 23 of the decision where the commission recognized taxes twice to the company. However, since a new calculation will be necessitated by the change in test-year expenses, this error is of little consequence.

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

December 31, 1978 Net Utility Operating Income	\$ 157,958 <sup>1</sup>
Revenue Adjustment	\$ 88,697 <sup>1</sup>
Co. Proposed Pro-formas	( 62,420) <sup>1</sup>
Pole Rents (additional pro forma)	( 4,914) <sup>1</sup>
Property Taxes – reduction to actual	4,392
7.5 Per Cent Inflation Factor Removed	3,447 <sup>1</sup>
Vehicles (Inflation Factor Removed) additional	2,191
Salaries of Officers	4,560 <sup>1</sup>
Depreciation	( 7,023) <sup>1</sup>
Nonutility Operating Taxes	503 <sup>1</sup>
IBM Adjustment	1,296 <sup>1</sup>
Consulting Fees	900 <sup>1</sup>
Rate Case Expense (1)	503 <sup>1</sup>
Rate Case Expense (2)	( 6,406) <sup>1</sup>
Other Operating Taxes excl. NHBPT	( 5,197)
	<hr/>
	\$ 20,529
FIT and BPT Adjustment	( 1,570)
Net Income Adjustment	
18,959	
	<hr/>
Pro formed NOI	
\$ 176,917	
Req. Net Operating Income	
216,694	
	<hr/>
Required Increase in NOI	
\$ (39,777)	

Income Tax Adjust. ( $\div$  4968)  
 Required Increase  
 \$ 80,066

<sup>1</sup>Original report and order.

#### F. Attrition

The commission does not accept the company's concerns on attrition as valid. The commission specifically objects to the company's assertion that attrition is to be measured back to the rate of return earned by this company in 1971 of 12.28 per cent. At that time, the commission found a proper rate of return to be approximately 9 per cent. (See LUCC Request No. 3, T-1.) The commission properly took recognition that the drop from this level by one per cent over seven years is approximately 0.14 per cent, which can be then rounded to 0.2 per cent.

This company has experienced accretion in three of the last four years. Furthermore, the commission has made numerous pro forma adjustments to wages, depreciation, computer, insurance, vehicle, and other expense items, which this commission traditionally has viewed as offsets to attrition. Re Concord Electric Co. (1978) DR 77-142; Re Pennichuck Water Works (1979) DR 79-3.

Furthermore, the commission has provided a secondary step increase for attrition so as to provide the encouragement to increase the quality of service in the Union Telephone System. Finally, the commission has updated rate base, which is a further offset to attrition. The commission believes it has complied with the requirements laid out by the New Hampshire supreme court in *New England Teleph. & Teleg. Co. v New Hampshire* (1973) 113 NH 92, 98 PUR3d 253, 302 A2d 814.

### II. LUCC issues

#### A. Rate Case Expenses

The LUCC states that the commission should reopen the record for the purpose of receiving actual evidence on rate case expenses. The LUCC challenges the commission's procedure of considering rate case expenses filed after the submission of evidence. The LUCC asserts that it has been denied the opportunity to cross-examine the amount of rate case expenses on the record.

[4] Upon review of the LUCC's assertions, the commission finds that LUCC's petition must be denied. This administrative body is required by our supreme court to recognize rate case expenses. *New Hampshire v Hampton Water Works Co.* (1941) 91 NH 278, 38 PUR NS 72, 18 A2d 765. While there is certainly a level of reasonableness which, if exceeded, would necessitate a disallowance, the commission does not find the rate case expenses in this proceeding to have reached that level. There was a tremendous amount of data requests in this proceeding, which under normal circumstances would result in substantial time for counsel. The commission will require counsel for Union Telephone to file an hourly breakdown with the commission. However, the commission will not alter its order as requested by the LUCC.

### III. Commission Action



The motion for rehearing filed by the company is denied in part and granted

**Page 35**

in part as reflected by this order. The LUCC motion for rehearing is denied. The difference between the level of rates allowed under temporary rates and those allowed by our final decision shall be refunded to those consumers who previously paid mileage charges. Since these charges have been found to be unsubstantiated, it is these consumers who should receive the difference pro rated by the amount of mileage charges collected.

By order of the Public Utilities Commission of New Hampshire this fourth day of February, 1980.

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NH.PUC\*02/06/80\*[78492]\*65 NH PUC 65\*Public Service Company of New Hampshire

[Go to End of 78492]

### **Re Public Service Company of New Hampshire**

DR 79-187, 18th Supplemental Order No. 14,038

65 NH PUC 65

New Hampshire Public Utilities Commission

February 6, 1980

ORDER clarifying a prior commission order.

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**Page 65**

**BY THE COMMISSION:**

Supplemental Order

The Legislative Utility Consumers' Council (LUCC) and the Community Action Program (CAP) seek clarification of the commission's Order No. 13,799 ([1979] 64 NH PUC 295) and its subsequent tenth supplemental order in this docket.

The two parties pose a sentence from our order to which they seek the commission to "fill in the blank." The commission originally issued its Order No. 13,799, which made the rates being charged by Public Service Company of New Hampshire (PSNH) temporary as of May 7, 1979. The commission by its tenth supplemental order struck all reference to "temporary rates" while preserving CAP's and LUCC's rights to rebates under NHRSA 365:29 and RSA 378:7.

Therefore, to facilitate the understanding of our order, the commission states the following:

Further ordered, that the rates of PSNH are made subject to refund as of May 7, 1979.

By order of the Public Utilities Commission of New Hampshire this sixth day of February,

1980.

=====

NH.PUC\*02/06/80\*[78493]\*65 NH PUC 66\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78493]

## Re New Hampshire Electric Cooperative, Inc.

DR 80-20, Order No. 14,044

65 NH PUC 66

New Hampshire Public Utilities Commission

February 6, 1980

PETITION of an electric company to revise its tariff; suspended pending commission investigation.

-----

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 January 29, 1980, filed with this commission, Second Revised Page 14, its tariff, NHPUC No. 9 — Electricity, a revision of the purchased power cost adjustment, effective February 11, 1980; 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 14 of tariff, NHPUC No. 9 — Electricity, of New Hampshire Electric Cooperative, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this sixth day of February, 1980.

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NH.PUC\*02/07/80\*[78494]\*65 NH PUC 67\*New England Telephone and Telegraph Company

[Go to End of 78494]

## Re New England Telephone and Telegraph Company

DR 80-23, Order No. 14,048

65 NH PUC 67

New Hampshire Public Utilities Commission

February 7, 1980

PETITION of a telephone company to revise its tariff; 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 February 1, 1980, filed with this commission certain revisions of its tariffs, NHPUC Nos. 70 and 73 — Telephone, providing for additional annual revenues of approximately \$22 million, filed for effect March 2, 1980; 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, tariff, NHPUC Nos. 70 and 73 — 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 seventh day of February, 1980.

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NH.PUC\*02/07/80\*[78495]\*65 NH PUC 67\*Gas Service, Inc.

[Go to End of 78495]

**Re Gas Service, Inc.**

DE 79-13, Sixth Supplemental Order No. 14,049

65 NH PUC 67

New Hampshire Public Utilities Commission

February 7, 1980

ORDER approving a gas company's tariff.

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BY THE COMMISSION:

Supplemental Order

Whereas, certain portions of Gas Service, Inc., operations were transferred to Keene Gas Corporation on August 3, 1979, per order of this commission; and

Whereas, Keene Gas Corporation subsequently filed a tariff pertaining to its operations, said

tariff having been approved by the commission; and

Whereas, Gas Service, Inc., has filed with the commission Section 3, First

**Page 67**

Revised Page 1, of its tariff, NHPUC No. 5 — Gas, said revision deleting all reference to its former Keene division operations; it is

Ordered, that Third Revised Page 1 of Section 3, Gas Service, Inc., tariff, NHPUC No. 5 — Gas, be, and hereby is, effective as of August 3, 1979.

By order of the Public Utilities Commission of New Hampshire this seventh day of February, 1980.

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NH.PUC\*02/12/80\*[78496]\*65 NH PUC 68\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78496]

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

DR 80-20, Supplemental Order No. 14,054

65 NH PUC 68

New Hampshire Public Utilities Commission

February 12, 1980

ORDER lifting suspension of a tariff filing and requiring published notice.

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BY THE COMMISSION:

Supplemental Order

Whereas, New Hampshire Electric Cooperative, Inc., on January 29, 1980, filed with this commission Second Revised Page 14 of tariff, NHPUC No. 9 — Electricity, providing for a revision of its purchased power cost adjustment; and

Whereas, this commission by Order No. 14,044 (65 NH PUC 66) suspended said filing; it is

Ordered, that the suspension of said filing is now lifted, and the filing be, and hereby is, allowed to become effective with all billings issued on or after the date of this order; and it is

Further ordered, that New Hampshire Electric Cooperative, Inc., give public notice of this tariff revision by publication, in accordance with Rule 27 of the commission's tariff rules, of a summary in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twelfth day of February, 1980.

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NH.PUC\*02/12/80\*[78497]\*65 NH PUC 68\*Concord Electric Company

[Go to End of 78497]

**Re Concord Electric Company**

DR 80-15, Supplemental Order No. 14,055

65 NH PUC 68

New Hampshire Public Utilities Commission

February 12, 1980

ORDER lifting suspension of a tariff filing and requiring published notice.

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**Page 68**

BY THE COMMISSION:

Supplemental Order

Whereas, Concord Electric Company, on January 22, 1980, filed with this commission Third Revised Page 14A of tariff, NHPUC No. 6 — Electricity, providing for a revision of its purchased power cost adjustment; and

Whereas, this commission by Order No. 14,021 (65 NH PUC 63) suspended said filing; it is

Ordered, that the suspension of said filing is now lifted, and the filing be, and hereby is, allowed to become effective with all billings issued on or after the date of this order; and it is

Further ordered, that Concord Electric Company give public notice of this tariff revision by publication, in accordance with Rule 27 of the commission's tariff rules, of a summary in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twelfth day of February, 1980.

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NH.PUC\*02/12/80\*[78498]\*65 NH PUC 69\*Exeter and Hampton Electric Company

[Go to End of 78498]

**Re Exeter and Hampton Electric Company**

DR 80-16, Supplemental Order No. 14,056

65 NH PUC 69

New Hampshire Public Utilities Commission

February 12, 1980

ORDER lifting suspension of a tariff filing and requiring published notice.

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BY THE COMMISSION:

Supplemental Order

Whereas, Exeter and Hampton Electric Company, on January 22, 1980, filed with this commission Third Revised Page 15A of tariff, NHPUC No. 11 — Electricity, providing for a revision of its purchased power cost adjustment; and

Whereas, this commission by Order No. 14,022 (65 NH PUC 64) suspending said filing; it is

Ordered, that the suspension of said filing is now lifted, and the filing be, and hereby is, allowed to become effective with all billings issued on or after the date of this order; and it is

Further ordered, that Exeter and Hampton Electric Company give public notice of this tariff revision by publication, in accordance with Rule 27 of the commission's tariff rules, of a summary in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twelfth day of February, 1980.

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NH.PUC\*02/13/80\*[78499]\*65 NH PUC 70\*Pennichuck Water Works

[Go to End of 78499]

## Re Pennichuck Water Works

DE 80-26, Order No. 14,057

65 NH PUC 70

New Hampshire Public Utilities Commission

February 13, 1980

PETITION of a water company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Pennichuck Water Works, a public utility engaged in the business of supplying water service in the state of New Hampshire, on February 4, 1980, filed with this commission certain revisions to its tariff, NHPUC No. 4 — Water, filed for effect February 17, 1980; 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 revisions to tariff, NHPUC No. 4 — Water, of Pennichuck Water Works, 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 February, 1980.

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NH.PUC\*02/13/80\*[78500]\*65 NH PUC 70\*Public Service Company of New Hampshire

[Go to End of 78500]

## Re Public Service Company of New Hampshire

Intervenor: Legislative Utility Consumers' Council

DF 80-17, Order No. 14,058

65 NH PUC 70

New Hampshire Public Utilities Commission

February 13, 1980

PETITION of an electric company to issue stock; granted.

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1. SECURITY ISSUES, § 25 — Reserved jurisdiction — Number of securities authorized.

[N.H.] The commission approved the issue and sale of common stock but reserved jurisdiction to approve the number of shares to be sold and the price thereof. p. 72.

2. SECURITY ISSUES, § 58 — Purposes of capitalization — Construction.

[N.H.] The commission approved the issue and sale of common stock, the purpose of which was to pay off short-term notes whose proceeds were expended for purchase and construction of property reasonably requisite

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for present and future use, to finance the purchase and construction of additional such property, and for other corporate purposes. p. 72.

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APPEARANCES: Ralph H. Wood and Frederick J. Coolbroth for the petitioner; William L. Shaine and Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this unopposed petition filed January 23, 1980, 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 not exceeding 2 million shares of common stock, \$5 par value. A duly noticed hearing was held in Concord on February 7, 1980. The hearing was recessed and continued on February 11, 1980.

*Positions of the Parties*

*A. Position of Public Service Company of New Hampshire*

The company through witness Lampron stated that the proceeds of the sale of the common stock will be used (a) to pay off a portion of the short-term notes outstanding at the time of sale (estimated to be \$126,350,000 on February 27, 1980), 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 finance the purchase and construction of additional such property; and (c) for other proper corporate purposes. All expenses incurred in accomplishing the financing will be paid from the general funds of the company.

The common stock will be sold through a negotiated public offering. Mr. Lampron described the expected terms of sale and explained why the company again proposed a negotiated rather than a competitive sale.

At the first session of the hearing, the company submitted a balance sheet as at November 30, 1979, actual and pro forma to reflect the sale of \$30 million of G&R bonds and the proposed sale of the common stock. Exhibits were also submitted showing: disposition of proceeds; estimated expenses of the issue; and capital structure as at November 30, 1979, actual and pro forma to reflect the sale of \$30 million of G&R bonds and the proposed sale of the common stock. Projected financing requirements and estimated construction expenditures were outlined in testimony. A certified copy of authorizing votes of the company's board of directors and a copy of the registration statement filed with the Securities and Exchange Commission were put in evidence.

At the resumed hearing session on February 11, 1980, the company presented exhibits and related additional testimony by witness Lampron explaining certain changes from previous estimates of the cost of the company's 1980 construction program and detailing the company's tentative 1980 financing plans.

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*B. Position of Legislative Utility Consumers' Council (LUCC)*

The LUCC stated that it had no objection to the company's proceeding to sell the common stock. Legislative Utility Consumers' Council also stated that the commission should make sure that a sufficient number of shares are sold and that the price is not so low as to hurt the company.

[1] The commission will, as is our customary practice, reserve jurisdiction to approve the number of shares to be sold and the price thereof.

[2] Based upon all of the evidence, the commission finds that the proceeds from the proposed



financing will be expended (1) 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 petitioner's business; (2) to finance the purchase and construction of additional such property; and (3) for other proper corporate purposes, and further finds that the issue and sale of the common stock for the purposes described will be consistent with the public good. Our order will issue accordingly.

Order

Based 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 not exceeding 2 million shares of common stock, \$5 par value, for cash in accordance with the foregoing report and as set forth in its petition; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this commission the number of shares of said common stock to be sold and the purchase price thereof, after which a supplemental order will issue approving the number of shares of said common stock to be sold and the purchase price thereof; and it is

Further ordered, that the proceeds from the sale of said common stock shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of said company and for the other purposes stated in the report; and it is

Further ordered, that on July 1st and January 1st in each year, Public Service Company of New Hampshire 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 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 thirteenth day of February, 1980.

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NH.PUC\*02/13/80\*[78501]\*65 NH PUC 73\*Northern Utilities, Inc.

[Go to End of 78501]

**Re Northern Utilities, Inc.**

IE 14,912, Order No. 14,059

65 NH PUC 73

New Hampshire Public Utilities Commission

February 13, 1980

PETITION of a gas company to implement a more restrictive service connection policy; suspended pending commission investigation.

-----

BY THE COMMISSION:

Order

Whereas, Northern Utilities, Inc., a public utility engaged in the business of supplying gas service in the state of New Hampshire, on January 2, 1980, filed with this commission Supplement No. 14 to its tariff, NHPUC No. 6 — Gas, providing for a more restrictive policy on connection of new commercial and industrial 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 Supplement No. 14 of tariff, NHPUC No. 6 — Gas, of Northern Utilities, 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 February, 1980.

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NH.PUC\*02/14/80\*[78502]\*65 NH PUC 73\*Gas Utilities Service

[Go to End of 78502]

### Re Gas Utilities Service

Intervenors: Concord Natural Gas Corporation, Gas Service, Inc., Manchester Gas Company, and Northern Utilities, Inc.

DR 80-29, Order No. 14,060

65 NH PUC 73

New Hampshire Public Utilities Commission

February 14, 1980

ORDER requiring a gas company to justify current service and rates.

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RATES, § 644 — Commission initiation — Rate justification.

[N.H.] The commission, by its own motion, ordered a gas company to present testimony and exhibits in explanation of current methods of providing interruptible, seasonal, or nonfirm gas service, and whether or not such services should be provided as tariff service classes rather than by special contract.

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BY THE COMMISSION:

Order

Whereas, the New Hampshire Public Utilities Commission having by its own motion opened docket DR 80-29 for the purpose of investigating the manner in

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which gas utilities provide so-called interruptible, seasonal, or nonfirm gas service to their customers, and to determine whether such service should continue by special contract or become a separate tariff class; it is

Ordered, that Concord Natural Gas Corporation, Gas Service, Inc., Manchester Gas Company, and Northern Utilities, Inc., appear before the commission at its offices in Concord on April 1, 1980, at 10:00 A.M. to present testimony and exhibits in explanation of current methods of providing interruptible, seasonal, or nonfirm gas service, and whether or not such services should be provided as tariff service classes rather than by special contract; and it is

Further ordered, that addressees prefile testimony and exhibits for said hearing no later than March 3, 1980; and it is

Further ordered, that addressees notify all persons desiring to be heard to appear at said hearing, when and where they may be heard upon the question, by causing an attested copy of this order of notice to be published once in a newspaper having general circulation in that portion of the state in which operations are conducted, such publication to be not later than March 17, 1980, such publication to be designated in an affidavit to be made on a copy of this order of notice and filed with this office.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of February, 1980.

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NH.PUC\*02/14/80\*[78503]\*65 NH PUC 74\*Public Service Company of New Hampshire

[Go to End of 78503]

## Re Public Service Company of New Hampshire

DE 79-242, Order No. 14,061

65 NH PUC 74

New Hampshire Public Utilities Commission

February 14, 1980

PETITION of an electric company to construct and maintain a distribution line; granted.

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CERTIFICATES, § 88 — Approval of a license — Public interest.

**[N.H.]** The commission found that approval of a license to construct and maintain an electric distribution line was in the public interest.

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APPEARANCES: Pierre O. Caron, for the petitioner.

BY THE COMMISSION:

Report

On December 10, 1979, the Public Service Company of New Hampshire filed with this commission a petition seeking authority to construct and maintain an electric distribution line under and across the public lands of the New Hampshire Transportation Authority in the city of Laconia, New Hampshire.

**Page 74**

The commission issued an order of notice on January 4, 1980, directing all interested parties to appear at public hearings at 10:00 A.M. on February 5, 1980, at the commission's Concord offices. Notices were sent to Pierre O. Caron; Public Service Company of New Hampshire; (for publication) the New Hampshire Transportation Authority; George Gilman, commissioner, Department of Resources and Economic Development (DRED); John Bridges, director, safety services; William Shaine, Legislative Utility Consumers' Council (LUCC); John Amrol, New Hampshire Department of Public Works and Highways; and the Office of the Attorney General. An affidavit of publication was received in the commission's offices on January 25, 1980.

The company's witness Norton presented a map entitled "Underground Primary Electric Service, Spinniker Cove Yacht Club, Union Avenue, Laconia, New Hampshire" as Exh 1 describing the proposed construction. A new distribution line will extend from the existing Public Service Company line on the westerly side of Union avenue in Laconia, under and across right of way of the New Hampshire Transportation Authority to a padmount transformer at the Spinniker Cove yacht club. The company estimates that the installation cost will be approximately \$10,000, and that annual revenues will be approximately \$4,000. Existing overhead cable will be removed upon completion of the project. A distance of approximately 79 feet is involved between the existing pole and the pad-mount transformer, approximately 49 feet six inches of that distance is on state property.

A letter of January 24, 1980, from George Gilman, commissioner, DRED, was read into the record stating the department as not being opposed to the petition. No objections were filed or expressed, either prior to or at the public hearing. The company noted the New Hampshire Transportation Authority's approval of the project.

The commission finds that approval for license to construct and maintain an electric distribution line under and across the public lands of the New Hampshire Transportation Authority in the city of Laconia, New Hampshire, as described herein to be in the public interest.

Our order will issue accordingly.

Order

Based on the foregoing report, which is made a part hereof; it is

Ordered, that authority be granted to the Public Service Company of New Hampshire to

construct and maintain an electric distribution line under and across the public lands of the New Hampshire Transportation Authority in the city of Laconia, New Hampshire, said installation to be as defined in petitioner's Exh 1, on Union avenue in Laconia, New Hampshire.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of February, 1980.

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NH.PUC\*02/19/80\*[78505]\*65 NH PUC 94\*Union Telephone Company

[Go to End of 78505]

### **Re Union Telephone Company**

DR 79-120, Third Supplemental Order No. 14,063

65 NH PUC 94

New Hampshire Public Utilities Commission

February 19, 1980

ORDER requiring a telephone company to file revised tariff pages superseding those canceled.

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BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 13,956, dated December 19, 1979 (64 NH PUC 434), ordered an increase in revenues for the Union Telephone Company of \$78,374; and

Whereas, commission Order No. 14,004 (65 NH PUC 30) increased this amount to \$80,066; and

Whereas, an effective date for implementing such increase was not previously specified; it is

Ordered, that Section 2, Sheet 1, 11th Revision; Section 2, Sheet 1A, Third Revision; and Section 3, Third Revised Sheet 4 of Union Telephone Company tariff, NHPUC No. 6 — Telephone, be, and hereby are, canceled effective March 1, 1980; and it is

Further ordered, that Union Telephone Company file with the commission revised tariff pages superseding those canceled above, to be accompanied by a corrected "report of proposed rate changes," said revisions to reflect a permanent revenue increase of \$80,066; and it is

Further ordered, that proportionate increases in rates of each service area be in the manner proposed in the original filing; and it is

Further ordered, that tariff revisions cited herein be, and hereby are, to become effective with all billings issued on or after March 1, 1980; and it is

Further ordered, that Union Telephone file appropriate tariff revisions on November 19, 1980, said revisions to document the second phase of the increase in the amount of \$12,391 as specified in commission Order No. 13,956 to become effective on December 19, 1980; and it is

Further ordered, that refunds directed by commission Order No. 14,004, be, and here by are, deferred, pending submission by Union Telephone Company

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of a plan, including appropriate calculations, to adjust customers' bills for the differences in revenues collected under temporary rate Order No. 13,752 ([1979] 64 NH PUC 251) between July 31, 1979, and February 29, 1980; and it is

Further ordered, that Union Telephone Company give public notice of this order and the resulting rates by publication of a summary in a newspaper widely read in the areas served. (Tariff Filing Rule 27 applies.)

By order of the Public Utilities Commission of New Hampshire this nineteenth day of February, 1980.

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NH.PUC\*02/19/80\*[78506]\*65 NH PUC 95\*Winter Termination Policy for Electric and Gas Utilities

[Go to End of 78506]

## **Re Winter Termination Policy for Electric and Gas Utilities**

DE 79-217, Third Supplemental Order No. 14,064

65 NH PUC 95

New Hampshire Public Utilities Commission

February 19, 1980

PETITION of a utility to notify the public of service termination procedures by publication in lieu of a billing insert; granted.

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SERVICE, § 220 — Service termination procedures — Notice by publication.

[N.H.] A utility was allowed to publish the provisions of the commission's termination procedures since such publication would serve the public interest and would provide adequate opportunity to notify the general public.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission's report regarding its winter termination policy for electric and gas utilities issued January 4, 1980 (65 NH PUC 4), provided (II. B. *Softer Notice and Right to Deferred Payments*) that the commission requires a billing insert to all electric and gas

consumers which details their rights on termination under both the existing and emergency regulations to be sent to residential consumers before the end of February, 1980; and

Whereas, by letter of February 6, 1980, Concord Natural Gas Corporation requests consideration of the publishing of a public notice in a local newspaper in lieu of the billing insert; and

Whereas, the company contends that since it bills its customers on a bimonthly basis, it will be unable to get the information to its customers prior to February 29, 1980, unless a separate mailing is made; and

Whereas, upon investigation the commission finds that publishing a public notice would serve the public interest and will provide adequate opportunity to notify the general public of the provisions

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of the commission's termination procedures; it is

Ordered, that Concord Natural Gas Corporation may publish a notice in the *Concord Daily Monitor* once a week for two weeks prior to the end of February, 1980.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of February, 1980.

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NH.PUC\*02/20/80\*[78508]\*65 NH PUC 97\*City of Concord

[Go to End of 78508]

### **Re City of Concord**

Intervenors: New Hampshire Transportation Authority and Legislative Utility Consumers' Council

DE 80-19, Order No. 14,067

65 NH PUC 97

New Hampshire Public Utilities Commission

February 20, 1980

PETITION for a license to install a sanitary sewer pipe; granted.

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APPEARANCES: Ronald H. Ford for the petitioner; Ignatious Good for the New Hampshire Transportation Authority; Alphonse Duval for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On January 21, 1980, the city of Concord filed with this commission a letter intended as a

petition seeking authority to install a sanitary sewer pipe beneath the railroad track in East Concord, New Hampshire, which track is currently leased by the state of New Hampshire to the Goodwin Railroad. The commission issued an order of notice on January 25, 1980, directing all interested parties to appear at public hearings at 10 A.M. on February 1, 1980, at the commission's Concord, New Hampshire, offices. Notices were sent to Ronald H. Ford, director of public works, city of Concord; Goodwin Railroad; New Hampshire Transportation Authority; George Gilman, commissioner, DRED; John Bridges, director, department of safety; William Shaine, Legislative Utility Consumers' Council; and the office of attorney general. An affidavit of publication in the *Concord Daily Monitor* on January 29, 1980, was received in the commission's offices on January 30, 1980.

Mr. Ford presented a map submitted as petitioner's Exh A showing the proposed location of a sewer pipeline. He explained that a 42-inch steel sleeve was to be installed at a depth of 16.5 feet across 250 feet of state lands under the railroad and interstate highway. Additionally, approximately 450 feet of sewer pipe is to be located along the westerly side and parallel to the railroad. The pipe will be jacked under the railroad and will present no obstruction to traffic. Mr. Ford testified that a contract has been let between the city and Levi K. Ladd, Inc., of Concord for the construction. The contractor has already received a permit from the turnpike authority and arrangements have been made with the New Hampshire Transportation Authority to provide for the inspection of the work under and around the track. Work is prepared to begin during the week of February 4, 1980. Approximately 300 feet of sewer line has already been laid along the 450-foot portion parallel to the railroad.

Mr. Ford testified that on January 14, 1980, a permit had been received from the New Hampshire Department of Public Works and Highways.

Ignatious Good, railroad planner for the New Hampshire Transportation Authority, testified in favor of the petition and indicated that his authority will grant an easement setting forth conditions

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to assure proper construction practices. Mr. Good reminded the commission that the order of notice published on January 25, 1980, incorrectly stated that the petition was filed by the city of Concord and the Goodwin Railroad. He pointed out that the Goodwin Railroad is simply a contractor for the transportation authority and that the transportation authority is operating and maintaining the railroad owned by the state of New Hampshire. We accept Mr. Good's representation.

The commission notes that no objections were filed or expressed either prior to or at the public hearing. The commission finds that approval for a license to construct and maintain the sanitary sewer pipe as described herein to be in the public interest. Our order will issue accordingly.

**Order**

Based upon the foregoing report which is made a part hereof; it is

Ordered, that authority be granted for installation of a sanitary sewer pipe along and under



state lands identified as railroad lands in East Concord, New Hampshire, to the city of Concord, New Hampshire, said installation to be as defined in the petitioner's Exh A along and in the vicinity of West Portsmouth street, Concord, New Hampshire.

By order of the Public Utilities Commission of New Hampshire this twentieth day of February, 1980.

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NH.PUC\*02/21/80\*[78504]\*65 NH PUC 76\*Gas Service, Inc.

[Go to End of 78504]

### Re Gas Service, Inc.

Intervenors: Legislative Utility Consumers' Council and Community Action Program

DR 79-129, Supplemental Order No. 14,062

65 NH PUC 76

New Hampshire Public Utilities Commission

February 21, 1980

PETITION of a gas company for basic rate relief; granted as modified.

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1. REVENUES, § 2 — Weather adjustment in test year — Evidentiary standard.

[N.H.] The commission's evidentiary standard for a weather adjustment in the test year is that any utility seeking such an adjustment must establish a correlation between gas sales and degree-day changes. p. 78.

2. REVENUES, § 2 — Test-year adjustments — Known and measurable changes.

[N.H.] The state supreme court has clearly recognized that adjustments for known and measurable changes in revenues or expenses are appropriate. p. 78.

3. REVENUES, § 2 — Test-year revenue — Reflection of future revenue.

[N.H.] The commission has recognized upward and downward revenue adjustments where evidence has shown test-year revenues not to be reflective of a utility's revenues in the future. p. 78.

4. EXPENSES, § 109 — Property taxes — Estimates.

**[N.H.]Because of the large potential for alteration of existing property taxes in either direction, the commission has found property tax estimates to be a poor candidate for inclusion in the category of known and measurable charges; as a result, the commission had adopted a policy of using the most recent actual property taxes for rate-making purposes. p. 79.**

5. EXPENSES, § 63 — Legal fees — Deduction from test year.

[N.H.] The commission removed from test-year expenses legal fees related to a stock dividend because the expense was nonrecurring. p. 79.

6. EXPENSES, § 89 — Rate case expense — Presumption of reasonableness.

[N.H.] There is a strong presumption that expenses incurred during the course of a rate case are in fact reasonable. p. 80.

7. VALUATION, § 231 — Property used for nonutility purposes — Exclusion from rate base.

[N.H.] The commission declined to make alterations to a company's rate base, revenues, or expenses based on nonutility appliance business, in part because of the lack of evidence on record; however, in all future filings the company would be required to separate revenues, expenses, and rate base associated with its nonutility appliance business from utility operations. p. 82.

8. RETURN, § 26.1 — Capital structure.

[N.H.] The commission stated that capital structure should be treated as a pool of funds with each component supporting all assets in the proportion to its contribution to total invested capital. p. 83.

9. RETURN, § 20 — Amount allowed.

[N.H.] A public utility has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. p. 86.

10. RATES, § 32 — Commission duty — Rate case.

[N.H.] The commission generally determines in a rate case how much of an increase is required by the utility, and how any increase should be spread among the different customer classes. p. 92.

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APPEARANCES: Charles Toll for Gas Service, Inc.; Gerald L. Lynch for the Legislative Utility Consumers' Council; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

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Report

I. *Procedural Hearing*

This is a proceeding for basic rate relief, which was initiated by Gas Service, Inc. (hereinafter referred to as the "company"), on June 1, 1979. On June 1, 1979, the company filed tariff pages designed to increase rates effective July 1, 1979, to produce \$727,299 of additional annual operating revenues. The commission suspended the filing by Order No. 13,697 (64 NH PUC 191) pending further investigation and decision thereon.

On October 4, 1979, the company filed its testimony and exhibits. Data requests were submitted by all parties appearing in this proceeding, which include the Legislative Utility

Consumers' Council (hereinafter referred to as "LUCC"), the Community Action Program (hereinafter referred to as "CAP"). In addition, the commission finance and economic divisions submitted data requests, testimony, and exhibits. Neither the LUCC nor CAP presented testimony, but each has supported one exhibit.

Hearings on the merits were held on November 7, 14, and 27, 1979. Briefs were submitted by the company and the LUCC.

## II. *Test-year Adjustments to Revenues and Expenses*

### A. *Time Period*

The company submitted data based on a 12-month period ending February 28, 1979 (company Exh 1). Neither the commission staff, the LUCC, nor CAP have challenged this time period for test-year purposes. Since there is no evidence to the contrary, the commission will accept the company's proposed test year for the purposes of this proceeding.

### B. *Weather Adjustment to Revenue*

The company maintains that there should be a weather-related adjustment to test-year revenues. Relying on weather data from the Blue Hill weather station in Massachusetts, the company contends that a downward revenue adjustment of \$235,197 is necessary because the test year was colder than normal. The data relied upon by the company uses fifty-two years of data from the Blue Hill station to derive the mean (average) number of annual degree-days. From this mean, the company determined a normal range or confidence level. The degree-days used related to the company's actual billing cycle as opposed to the calendar months in the test year.

Adoption of Blue Hill data is urged by the company because of the following: (a) the weather station is Class A; (b) the length of the recorded data; (c) the city of Nashua, which represents in excess of 75 per cent of the company's revenues, is located halfway between Concord and Blue Hill; (d) there has been no movement of the measuring devices.

Staff witness Traum chose to rely on weather data from the weather station located at Concord, New Hampshire. Mr. Traum used thirteen years of data and developed a confidence level similar to the company's calculation as to degree-days. Mr. Traum's method differed from the company's in one other aspect; namely, the use of degree-days for the calendar months of the test year as opposed to the degree-days that corresponded to the company's billing cycle.

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To support his reliance upon Concord data, Mr. Traum cited the following: (a) past commission precedents based on Concord data; (b) Concord's weather station is located midway between the company's service areas; (c) Blue Hills is in close proximity to a large body of salt water, a factor uncommon to the company's service areas.

The LUCC urges caution in any recognition of a downward revenue adjustment. The LUCC asserts that there is a good possibility that the degree-days in the future will be as great, or greater, than in the test year. The LUCC further argues that if a weather adjustment is granted, it should be done based on an average of the data from the two weather stations.

[1] The commission has approached weather revenue adjustments in a cautious and

conservative manner. In *Re Gas Service Inc.* (1978) 63 NH PUC 2, and *Re Concord Nat. Gas Corp.* (1977) DR 76-66, the commission clearly set forth the evidentiary standard for a weather adjustment. Any utility seeking a weather adjustment must establish a correlation between gas sales (usage) and degree-day changes.

In *Re Gas Service, Inc.* (1978) 63 NH PUC 2, the commission found "that there is a strong correlation between degree-days in Concord and gas sales in the company's three divisions." (63 NH PUC at p. 5.) Unlike *Blue Hill*, the Concord data has applicability to both remaining company service areas. In DR 77-87, the commission also found that use of a 15-year rolling average tended to level off the fluctuations that occur in data over a more extended time period. (63 NH PUC at p. 5.)

Upon review of the record, the commission remains convinced that its finding in the *Gas Service, Inc.*, case was correct. Mr. Traum's rationale for the continued reliance on data from the Concord weather station is found to contain greater merit than the arguments presented for an adoption of a new source of data.

Gas Service contends that if the commission continues its policy of using weather data from Concord, then the data should be based on all weather information available. Of particular concern is the failure of staff to reflect the most recent data for the test year. The commission agrees. Consequently, fourteen years of Concord weather data will be used for purposes of the weather adjustment calculation.

Staff witness Traum during the course of cross-examination agreed with the company that billing cycle degree-days should be used.

Staff originally proposed a reduction to test-year revenues of \$87,067. The adoption of the company's billing cycle and the additional year of data results in a revenue reduction of \$117,230.

#### *C. Other Revenue Adjustments*

[2] The company has proposed three additional revenue adjustments, which have not been challenged by either staff or intervenors. Most noteworthy is the upward revenue adjustment for growth of \$856,470. The New Hampshire supreme court has clearly recognized that adjustments for known and measurable changes in revenues or expenses is appropriate. *Public Service Co. of New Hampshire v New Hampshire* (1959) 102 NH 150, 30 PUR3d 61, 72, 153 A2d 80.

[3] The commission has recognized upward and downward revenue adjustments where evidence has shown test-year revenues not to be reflective of a utility's revenues in the future. *Re*

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*Union Teleph. Co.* (1980) 65 NH PUC 30; *Re Hampton Water Works* (1979) 64 NH PUC 55. In this proceeding, the evidence clearly demonstrates that there is substantial growth in the company's service territory due to both increases in population and the conversion from fuel oil to gas. This general trend has been adequately quantified. Consequently, the increased revenue adjustment for growth is adopted as are the other revenue adjustments proposed by the company.

#### *D. Property Tax Increase*

The company originally proposed a property tax adjustment of \$58,638, which reflected an estimate for the tax year of April 1, 1979, to March 31, 1980. This estimate was subsequently reduced to \$42,859 to reflect receipt of tax bills from ten of the 16 towns where the company owns taxable property.

[4] This commission has found property tax estimates to be a poor candidate for inclusion in the category of known and measurable charges. In two recent cases, the commission found that where the utility alleged increased property taxes, examination revealed an actual reduction from test-year levels. Re Concord Nat. Gas Corp. (1978) 63 NH PUC 304; (1978) 63 NH PUC 321); Re Union Teleph. Co. (1980) 65 NH PUC 30.

Because of the large potential for alteration of existing property taxes in either direction, the commission has adopted a policy of using the most recent actual property taxes for rate-making purposes. The commission has, through contact with the various towns, finalized the actual property taxes for this company net of the allocation to nonutility operations to \$434,740. This actual, rather than estimated, data results in a pro forma adjustment of \$36,329, or \$22,309 less than that originally proposed.

#### *E. Public Utility and Gas Pipeline Safety Assessment*

The company included in its operating expenses an estimate of \$12,304 for the public utility tax and gas pipeline safety program assessment. Subsequent to preparing its exhibits in this proceeding, the company was made aware of the actual assessment of \$23,008. This \$10,704 increase in expenses is known and certain and, therefore, the company's pro forma adjustment is granted.

#### *F. Engineering Propane Mix Study*

During the test year the company ordered a study into the feasibility of a more effective propane mix. The study included an examination into the equipment, which would be needed to complete a more effective mix. Staff questioning revealed that the study is to have long-term benefit to the company, and further that the study will not be repeated every year. Staff contends that the expense for this study, \$9,803, should be amortized over a five-year period for rate-making purposes. Gas Service in its brief indicates that it has no objection to a five-year amortization. The commission concurs with the staff recommendation, and accordingly test-year expenses will be reduced by \$7,842.

#### *G. Legal Expenses Related to Stock Dividends*

[5] During the course of the test year, the company incurred an expense of

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\$1,120 in legal fees related to a stock dividend. Company witness Mancini conceded under staff examination that the expense was nonrecurring. The staff contends that this nonrecurring expense should be stripped from test-year expenses. Both the LUCC and Gas Service agree that the expense should be removed from test-year expenses.

The commission finds that these nonrecurring expenses should be removed from test-year expenses (\$1,120).

#### H. *Hudson Take Station Expense*

The company incurred \$4,168 of expenses during the test year, which related to the cost of repairs at the Hudson take station. The LUCC contends that since no repairs are scheduled for 1980, this expense is nonrecurring and should be removed. The company contends that the expenses have not been seriously questioned, nor has there been adequate proof as to their magnitude. Staff has not taken a position as to this question. The expenses were the result of a leak on a manifold. These leaks occur with enough regularity to be classified as a continuing expense. While there is certainly a level of maintenance expenses that would be imprudent and, therefore, not recoverable from consumers, the commission finds this expense not to have exceeded the realm of reasonableness. Therefore, and commission will not accept the LUCC's contention as to this adjustment.

#### I. *Insurance Expenses*

The company has submitted Exh 4 — Schedule B, which provides for a decrease in insurance expenses of \$48,486. The LUCC contends that the decrease in expenses would be in excess of \$60,000, but for the creation of a reserve for the general liability deductible amount of \$50,000 over four years. Upon review of the evidence, the commission is satisfied that the adjustment proposed by the company and the creation of the reserve are, at this point in time, appropriate and prudent. Therefore, the commission declines to allow the proposed adjustment offered by the LUCC.

#### J. *Rate Case Expenses*

The company has offered Exh 4 — Schedule C as an estimate for its rate case expenses. This adjustment has correctly removed rate case expenses resulting from prior rate cases before the commission. The LUCC requests that additional information be provided so as to ascertain the reasonableness of this expense.

The commission will allow the adjustment shown in Exh 4 — Schedule C, but the commission will also require the company to submit a detailed breakdown of computer and other miscellaneous rate case expenses. This breakdown should list the type of expense and the purpose for which the expense was incurred. Special emphasis should be given to computer expenses.

[6] In addition, the company should submit a more detailed breakdown of legal expenses. Any contention raised by these documents can be addressed in a motion for rehearing. However, there is a strong presumption that expenses incurred during the course of a rate case are in fact reasonable.

#### K. *Weather Adjustment — Cost of Gas*

Because of the revenue reduction

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resulting from the acceptance of a weather adjustment, it is necessary to alter staff Exh A-5 and company Exh 4E. Staff Exh A-5 reflects an adjustment to the firm cost of gas in consideration of the staff weather revenue adjustment. Since the commission has adopted a

different weather revenue adjustment, staff Exh A-5 must be changed to an expense reduction of \$73,847.

Company Exh 4E reflected adjustments to labor and maintenance expenses due to the company proposed weather adjustment. Since the commission has adopted a weather adjustment which differs from that submitted by the company, these expense reductions must be altered from \$10,600 to \$5,300.

### III. *Rate Base*

#### A. *Pro Forma Adjustment Rebutted to Growth*

The company has submitted a pro forma adjustment to rate base of \$937,160. This adjustment has two components. First, there is a component related to the annualization of plant added for new customers during the test year multiplied by 50 per cent to arrive at \$374,460. The second component relates to a similar calculation for new plant added in 1979 for new customers added after the test year (\$612,700).

Gas Service contends that this adjustment is proper, given the revenue adjustment of \$856,470 for growth in revenue. Staff concurs in the company's pro forma adjustment. The LUCC did not address the issue in its brief. Consequently, the commission will accept the company's pro forma adjustment to rate base in this proceeding. The company's adjustment to revenue and depreciation expenses assures the commission that a proper match has been reached as to revenues, expenses, and rate base.

#### B. *Rate Base Exclusion — Nonutility Propane Storage*

The company allocated 21 per cent of its joint propane storage facilities to liquefied propane operations and removed it from rate base on the basis of the proportion of propane gallons used in nonutility operations to the total propane gallons used for the 1978-79 winter period, excluding the Keene operations.

Staff believes that the allocation percentage should be based on twelve months of usage rather than the company's method which focuses on winter period usage. The staff's allocation to nonutility operations would result in a 25 per cent allocation factor as compared to the company's 21 per cent factor. The LUCC did not address this issue in their brief.

The commission, upon review of the arguments, believes that it is proper to reflect twelve months of operations. This approach is more in keeping with the test-year concept. Consequently, the commission will adopt the staff position and reduce the rate base submitted by the company by \$3,000.

#### C. *Appliance Business*

There is inquiry on the record as to the treatment of Gas Service Company's appliance business. The company argues that there should not be a removal from the working capital calculation of appliance-related entries. Arguments submitted by the company focus on our decision in *Re Manchester Gas Co.* (1979) DR 78-100, the commission's chart of accounts, and legal arguments

that attempt to distinguish the company's situation from the language of *Legislative Utility Consumers' Council v Public Service Co. of New Hampshire* (1979) 119 NH — , 31 PUR4th 333, 402 A2d 626. The company argues that if the commission chooses to remove appliance components from the working calculation, then the commission must also remove the profits from the appliance business and from the revenue and expense figures submitted by the company. *Legislative Utility Consumers' Council v Public Service Co. of New Hampshire* clearly indicates that "property not devoted to the production and delivery of energy to the consumer is not includable in rate base." 31 PUR4th 333, 402 A2d 626, and A.J.G. Priest, "*Principles of Public Utility Regulation*," at p. 174 (1969). The supreme court clearly indicated that they could not envision a set of circumstances where it could be said that a utility's pursuit of an appliance business is devoted to meeting the energy needs of its consumers. See 31 PUR4th 333, 402 A2d 626. The appliance business for utilities in this state is now nonutility operations.

[7] As a consequence of this ruling by the New Hampshire supreme court, the commission must now alter its chart of accounts. However, this alteration has not occurred prior to the close of this record. Furthermore, while there is a minute amount of evidence on the record as to the alleged profits from these operations, there is no inquiry into the allocation of labor, overhead, vehicles, or any of the other components that would be necessary to determine the validity of this statement. Therefore, the commission will not in this proceeding make any alterations to the company's rate base, revenues, or expense based on the appliance business. This finding is necessitated in part because of the lack of evidence on the record. However, in all future filings, this company will be required to separate revenues, expenses, and rate base associated with its appliance business from utility operations.

#### *D. Working Capital*

The company has submitted a working capital calculation based on the balance sheet approach. (See Exh 13, Schedule B.) The commission by past precedent has established the validity of the balance sheet approach and the greater accuracy associated with this approach vis-a-vis the 45-day approach. *Re Granite State Electric Co.* (1978) 63 NH PUC 121, 28 PUR4th 240; *Re Hudson Water Co.* (1979) 64 NH PUC 37, 28 PUR4th 617; *Re Manchester Gas Co.* (1979) 64 NH PUC 95, 29 PUR4th 121.

The only issue that has been raised concerning the working capital calculation is the inclusion of the receivable related to the Seaward Construction Company. The company presently has a claim for damages to its lines incurred with the construction project of Seaward. The commission has already addressed this issue in *Re Hudson Water Co.* (1979) 64 NH PUC 37, 28 PUR4th 617, 619. Consequently, the company's inclusion of this component in working capital is allowed.

Consequently, the working capital calculation of \$332,185 submitted by the company is accepted for purposes of this proceeding.

#### *IV. Rate Base Versus Capitalization*

Staff witness Traum raised concern over the fact that the company's rate



base exceeds its capitalization. The commission shares staff's concern, but believes that there is not enough evidence on the record to make a reasoned judgment. This differential will be the subject of extensive inquiry in the next Gas Service rate filing.

#### *V. Cost of Capital*

##### *A. Introduction*

In regard to the cost of capital to Gas Service, Inc., the company has made a recommendation through witnesses M. J. Mancini (Exh 14) and W. D. Monteau (Schedules 1-25 of Exh 20A). The company's recommendation is for an overall rate of return of 11.24 per cent (Exh 14). Further, the company made an attrition recommendation of 120 basis points to be applied to the overall cost of capital. The net result of the applicant recommendation to be applied to the rate base is 12.4 per cent.

Staff witnesses K. Traum and R. Camfield addressed, respectively, the issue of the appropriate allowance for attrition of 20 basis points (p. 9 of the prefiled direct testimony) and the regression analysis employed by Monteau to generate an estimate of the cost of common equity.

##### *B. Company Recommendation*

The capital structure, as recommended by the applicant, was sampled at February 28, 1979. Therefrom, the capital structure is pro formed by the applicant to recognize the increase in long-term debt capital, elimination of short-term debt, the Keene loss, and the investment in nonutility operations.

Company witnesses Mancini and Monteau both show cost rates of long-term senior capital. Whereas Mancini has included a weighted average cost rate of 8.50 per cent to be applied to long-term debt, witness Monteau has 8.71 per cent for long-term debt.

Witnesses Mancini and Monteau, however, both have recommendations of 8.50 per cent to be applied to preferred stock.

Witness Monteau has estimated the cost of common equity capital and has made a commensurate recommendation of 14.50 — 15.50 per cent. The company, in calculating the overall rate of return, has used only the 14.50 per cent common equity recommendation.

##### *Commission Analysis*

##### *C. Capital Structure*

The commission accepts the company's capital structure plus pro formed adjustments of additional long-term debt, elimination of short-term debt, and the recognition of the Keene division loss. The company, further, has made an adjustment of both the equity and debt components of the capital structure to "back out" investment in nonutility operations.

[8] The commission disagrees with this final pro forma adjustment. The commission, rather, feels that the capital structure should be treated as a pool of funds. Each component of such pool of funds supports all assets in proportion that each component contributes to total invested capital.

#### *D. Long-term Debt Cost*

The commission has, in the past rate order regarding Gas Service, Inc. (DR 77-87), used the cost rates put forth by company witness Mancini, which

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recognized only the coupon rate of the long-term debt capital. However, in view of the fact that debt capital is, in recent times, seldom sold such that the net proceeds to the company are equivalent to the face amount, issuance costs plus any premium, and discount should be accounted for in the cost rates of all senior capital. The commission will, therefore, employ witness Monteau's weighted average cost rate for senior capital at 8.71 per cent, as shown on Schedule 24 of Exh 20A. The commission notes that flotation expenses were recognized in the rate order DR 77-49 (Re Public Service Co. of New Hampshire) and DR 79-151 (Re Hampton Water Works) and others. The fact that the company has in essence submitted two cost rates through two of its witnesses, while disturbing, still does not relieve this commission of its duty to set rates based on sound regulatory theory and precedent.

Our decision in this case should not be interpreted to stand for the position that all flotation costs will be recognized. Utilities subject to our jurisdiction are required to use all reasonable efforts to minimize flotation costs. Failure to do so will result in this commission taking action to disallow any unreasonable or imprudent financing costs.

#### *E. Preferred Stock Cost Rate*

The cost rate of the preferred stock (\$712,500) has been testified to by both company witnesses. They both agree that the cost rate is 8.50 per cent. Upon a review of evidence, the commission has not found any evidence to the contrary. Therefore, for rate-making purposes, the commission finds the cost rate for Gas Service's preferred stock to be 8.5 per cent.

#### *F. Return on Common Equity*

The company has offered the testimony of Wayne Monteau in support of its claim to a return on common equity between 14.5 per cent and 15.5 per cent. Mr. Monteau used a comparative earnings study, a discounted cash-flow study, and a market appraisal study. For his comparative earnings study Mr. Monteau analyzed and compared the company using financial information for ten gas distribution companies, nine New England gas companies, and 22 highly rated industrial companies. These 22 highly rated companies were all rated A+ by Standard & Poor's.

The commission has historically applied the criteria set forth by the United States Supreme Court. In the case of *Bluefield Water Works & Improv. Co. v West Virginia Pub. Service Commission*, 262 US 679, PUR1923D 11, 67 L Ed 1176, 43 S Ct 675, the court ruled that:

"A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient, to assure confidence in the

financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of

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return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally." (262 US 679, 692, 93, PUR1923D at pp. 20, 21.)

The court elaborated further in the *Federal Power Commission v Hope Nat. Gas Co.* (1944) 320 US 591, 51 PUR NS 193, 88 L Ed 333, 64 S Ct 281:

"The rate-making process under the (Natural Gas) Act — i.e., the fixing of 'just and reasonable' rates — involves a balancing of the investor and the consumer interests. Thus we stated in the *Natural Gas Pipeline Company* case that 'regulation does not insure that the business shall produce net revenues.' (315 US at p. 590, 42 PUR NS 129.) But such considerations aside, the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view, it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock ... . By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital ... ." (320 US 591, 603, 51 PUR NS at pp. 200, 201.)

In applying these guidelines to utilities regulated by this regulatory body, the commission has developed certain risk factors that have been demonstrated to be reliable. *Re Pennichuck Water Works* (1979) 64 NH PUC 206; *Re Public Service Co. of New Hampshire* (1978) 63 NH PUC 127. These include: (1) equity ratios and (2) coverage ratios. In the *Public Service Company* case the commission referred to equity ratios as follows:

"This measure indicated that the company has used less common equity to finance assets thereby assuming greater financial risk than other industry composites." (63 NH PUC at p. 156.)

However, applying this same criteria in the *Pennichuck* case the commission found *Pennichuck* because of its thicker equity to be less risky than other comparable water utilities. (64 NH PUC 206.)

Gas Service has historically had a thicker common equity component than the utility composites submitted by witness Monteau. Using the 13 companies submitted by witness Monteau, the commission finds an average common equity component of 44.8 per cent for 1978. This compares to Gas Service's common equity ratio of 48.7 per cent for 1978. Using a five-year average for the 13 companies (excluding *Arkansas Western Gas*) the result is 42.9 per cent. A five-year average for Gas Service's common equity ratio results in an average of 46.84 per cent. Therefore, as to this measurement of risk, the *Gas Service, Inc.*, is less risky than the 13 companies set forth by witness Monteau.

It should be noted that the commission on two occasions has rejected the argument that

Arkansas Western Gas is a comparable company to New Hampshire gas utilities. See *Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121*, and *Re Manchester Gas Co. (1974) DR 74-70*. Arkansas Western Gas is an exploration and producing company, producing 60 per cent of its own requirements and producing oil, gas, and extracted

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products for sales to others. This company is clearly noncomparable to Gas Service, Inc., or any other utility in New Hampshire.

The commission has traditionally viewed average fixed coverage ratios as a measurement of risk. *Re Public Service Co. of New Hampshire (1978) DR 77-49*. Mr. Monteau has chosen to ignore this aspect of our past decisions. However, the commission does not have the luxury of ignoring this risk measurement. From the financial records of the commission, we have been able to compile the average fixed coverage ratios after taxes for the companies used by Mr. Monteau as comparable companies. On a five-year basis, the average is 2.18 and for 1978 the average is 2.23. For Gas Service, Inc., the five-year average is 1.84 and for 1978 the figure is 2.5.

Based on the foregoing figures, Gas Service, Inc., in terms of this measurement of risk, has been traditionally more risky than the 13 companies submitted for our review by Mr. Monteau. However, this historical trend has turned around in 1978, wherein Gas Service, Inc., presently has higher fixed coverage ratio than the average of the other 13 companies. Based on the equity ratio and the fixed coverage ratio measurements of risk, the commission finds Gas Service, Inc., to be less risky than the other 13 utilities under examination.

The company has argued that market-to-book ratios are a measurement of risk. However, there is a very limited amount of share activity in Gas Service stock. (Transcript, 1-40.) Traditionally, there have been seventy-five stockholders of this company. Wherein there is only a small number of shareholders and an infrequent amount of trading of the company's stock, the commission believes that market-to-book ratios are extraordinarily artificial, and that the market price may be based on a small number of transactions between parties who are not at arm's length from one another. Therefore, the commission rejects any use of Gas Service's market price in this proceeding. Furthermore, this finding precludes any use of market-to-book ratios as a measurement of risk in this instance.

[9] Mr. Monteau uses a composite of 22 industrial companies and argues that those companies are comparable to Gas Service, Inc. These 22 companies allegedly have the highest rating from Standard & Poor's, namely, A+. The commission has rejected the comparability of these companies as recently as *Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121*. Furthermore, Mr. Monteau's method of comparing Gas Service to these 22 industrial companies violates the standards as set forth in *Bluefield*. *Bluefield* states with great clarity that a public utility has "no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures." (*Bluefield*, 262 US 679, 692, PUR1923D at p. 21.)

Company witness Monteau provided the commission with three approaches: (1) the comparable earnings approach; (2) the discounted cash-flow theory; and (3) the market appraisal

technique. The comparable earnings approach, consistent with the Bluefield and Hope decisions, is simply a matter of applying rates of return on book value equity capital of other companies of comparable risk, as a recommendation for rate making. The questions to be addressed are:

(a) "What measure of comparability is appropriate?"

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(b) "What period is appropriate to sample the book value earnings performance of the selected firms?"

Frequently, analysts will attempt to establish comparability in terms of operating characteristics or "financial risks" among firms which are perceived to be similar.

Still, the book value, or accounting, rates of return, do not act as a guide in determining the cost of capital. Book returns may significantly differ from such cost. In reviewing Schedule 5 of Exh 20a, it is clear that neither the relatively low 6.7 per cent rate of return on book value by Gas Service, Inc., in 1975 nor the 22.9 per cent book return earned by Arkansas Western Gas in 1978 is equal to the cost of capital. The 6.7 per cent is most likely below the cost of capital, and the 22.9 per cent is most likely above the cost of capital.

Differences between book returns and cost of capital will be reflected in the price at which common shares trade in a competitive market. For example, the commission's review of Schedule 5 reveals that the sample entitled "smallest companies" averaged 11.2 per cent rate of return on book value for the period 1969-78, if Arkansas Western and Manchester Gas (no data) are excluded. Turning to Schedule 7, one may observe that the market-to-book ratios for these same companies are close to unity, at 0.91. If the shares are actively traded, and if the historical returns are a proxy for future returns, this would suggest that these companies were earning book returns close to the cost of capital.

For the period 1969-78, industrials, as selected, have earned higher rates of return on book value than the gas companies, 15.7 per cent versus 10.9 per cent, as shown on Schedules 5 and 11. The internal rate of return on investment may be different, however. The commission notes that the gas companies have realized a greater rate of return on investment — internal rate of return — than the industrials, during the period 1968-78.

The discounted cash-flow theory suggests that the price of a common stock is equivalent to the future dividend stream discounted at the market cost of capital. In the derived form, the market yield (D/P) when added to investor expectations of growth (G), generates the market cost of capital. The difficulty, however, is that expectations of growth are not known.

Mr. Monteau's Schedule 20 shows the current yields of two samples of small gas companies are 9.7 per cent and 8.7 per cent. The average growth rate of earnings, dividends, and book value common equity for the first sample (New England gas companies) is 3.9 per cent, and the composite growth rate for the second sample (smallest companies) is 5.5 per cent. If the market yields above — unadjusted for flotation costs — are combined with these estimated growth rates, the results are estimated costs of 13.6 per cent and 14.2 per cent for the two samples, respectively.

The third technique employed by Mr. Monteau, market appraisal, is regression analysis to

establish a statistical relationship between rates of return earned on book value common equity and the commensurate market-to-book ratio for large samples of utilities, as shown on Schedules 21 and 22. The essence of this relationship suggests that, given a rate of return earned on book value common equity, a specific market-to-book ratio should be observed. For the applicant, Gas Service, Inc., the 11.9 per cent rate of return in 1978 would likely correspond to a market-to-book

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ratio of 0.91. (Transcript, 1-15, 16.) This compares with the actual market-to-book ratio of 0.47; Mr. Monteau recognizes the limited amount of share activity of Gas Service, Inc. (Transcript, 1-40.)

Upon review of the data and techniques offered by company witness Monteau, the commission finds the following:

(1) The comparable earnings study has little value due to the use of the 22 highly rated industrial companies.

(2) As to the DCF analysis, the commission does not feel that the adjusted dividend yield should be used. The adjusted yield is appropriate for a situation when new common equity is being sold. By substituting current yield for adjusted yield, the cost rate is within the range of 13.60 to 14.20 per cent.

(3) In a similar view, the market appraisal analysis shows rates of return of 13.76 per cent and 14.30 per cent corresponding to market-to-book ratios of unity.

In view of the above analysis, the commission finds that the market cost of capital is most likely to be within the range of 13.60 per cent to 14.30 per cent during the periods 1978 and 1979, as represented by the discounted cash-flow and market appraisal analysis. With the midpoint of that range being 13.95 per cent, the commission will establish the rate of return on common equity capital at 14.00 per cent as being just and reasonable in balancing the interests of ratepayer and investors alike. The overall cost of capital follows:

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

COST OF CAPITAL

Item

Long-term Debt

Preferred Stock

Common Equity  
Capital

Total

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\*000's omitted.

## VI. Attrition

The company seeks an attrition allowance of 1.2 per cent. The company's support is provided in the company's Exh 19. Staff witness Traum argued in his testimony that the company has experienced accretion, and further that the 0.2 per cent attrition factor allowed in Re Gas Service, Inc., (1978) 63 NH PUC 2 appeared reasonable for this proceeding.

The calculations offered by both company witness Mancini and staff witness Traum made adjustments to net utility operating income experienced during 1978. Because of our findings earlier in this opinion, the adjustments proposed by both must be altered. Both adjusted for nonrecurring items, insurance, and weather. The company's calculation arrived at an increase to net operating income of \$1,411. Staff's calculation arrived at an increase of \$25,200 to net operating income. However, applying our findings to these adjustments, the

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commission arrives at an increase in net operating income of \$20,641.

The next area of dispute is whether there should be recognition of the effect the Keene division had upon the company's earnings during the test-year period. Staff witness Traum proposes an adjustment of \$79,000 to net operating income to reflect the fact that during 1978 the Keene operations standing alone operated at \$79,000 loss. Mr. Traum reasons that since the company has now sold its Keene operations, this loss is nonrecurring and, therefore, should be removed for purposes of calculating attrition.

The company argues that the adjustment proposed by Mr. Mancini of multiplying the rate base associated with the Keene operations and the rate of return allowed in DR 77-87 will recognize the impact of the Keene operations. The company also contends that if the commission accepts the staff position, it should also consider providing recognition to the amount of expenses the company will continue to incur in Keene.

The commission finds that the staff method to reflect the Keene loss for attrition purposes is proper. While staff's position as to the Keene operations takes into account both the balance sheet and income statement aspects, the company's method fails to properly adjust the income statement. However, the commission finds merit to the company argument that approximately \$40,000 of the adjustment proposed by staff reflects ongoing expenses associated with the Keene operations. Consequently, the commission will allow the staff adjustment minus the recurring expenses, or approximately \$39,000. The calculation is as follows:

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

Nonrecurring Items	\$ 36,099
Insurance	48,486
Weather	(43,383)
	<hr/>
Total	\$ 41,282
Taxes	50%
	<hr/>
	\$ 20,641
Keene Loss	39,000
Net Addition to Actual	
Net Operating Income for	
Twelve Months Ending	

December 31, 1978	\$ 59,641	
Actual Net Utility Operating Income	685,055	
Total	<u>\$744,696</u>	
Return per DR 77-87	\$800,394	10.3%
Less Keene Division	<u>(41,200)</u>	
Required Return		
Less Keene	\$759,194	10.3%
Adjusted Return	<u>744,696</u>	10.1%
Return	\$ 14,498	
Rate Base per DR 77-87	\$7,370,820	
Attrition	.20%	

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The commission will allow an attrition factor of 0.2 per cent.

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

CALCULATION OF REVENUE INCREASE

Operating Revenues

*Revenue Reductions*

Cost of Gas - Firm

- Other

Operation & Maintenance

Depreciation

Taxes - Property and Payroll

Income Taxes - State and Federal

Total Revenue Deductions

Gas Operating Income

Appliance Rental Income

Average Rate Base

Rate of Return

Attrition

Required Util. Operating Inc.

Adj. Util. Operating Inc.



Tax Factor

Revenue Increase Required (Prior to Discussion of Rate Design)

## VII. Rate Design

### A. Elimination of Customer Classifications

The company has proposed the elimination of three classes of service in Nashua and two classes of service in Laconia. Those classes eliminated are general heating rate (GH-2 and GH-4), air-conditioning rate (AC-2 and AC-4), and the large volume rate (LV-2). The commission accepts the elimination of these customer classes.

The elimination of the GH-2 and GH-4 rates do not have any revenue impact. However, the elimination of the AC-2, AC-4, and LV-2 rates do have a revenue impact. Since these customers will not be billed under the G-2 and G-4 rates, there will be additional revenue to the company regardless of any action taken in this proceeding. The commission, to resolve this issue, has relied upon the monthly operating reports filed by the company on a regular basis, the company's tariff provisions, and the record in this case. To that extent, the commission will take administrative notice of its records involving this company as they relate to the test year. (See also transcript, at pp. 1-107, 108.)

The result of this reduction in the number of rate classes for the test year is increased revenues of approximately \$13,500. This adjustment is a conservative

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one since it is unclear that the company's growth estimate was applied to this increased level of revenues.

This adjustment reduces the rate increase granted from \$418,696 to \$405, 196.

### B. Allocation of Revenue Increase

The company has stated its objective as an attempt "to increase each division and roughly increase domestic and non-domestic classes of customers within each division the same percentage amount." (Transcript, p. 1-94.) In response to a data request, the company indicated that it had not done a cost-of-service study since the last rate case. (Transcript, p. 1-108.) Staff examination revealed that this company has never done a cost-of-service study. (Transcript, p. 1-108.) Nor has the company revealed any substantive considerations that relate to the filed rates in this proceeding. Therefore, the company has not carried its burden of proof (RSA 378:8) as to either the allocation of the revenue increase among or within rate classes.

The company states that its objective was to apply a fairly even rate increase to all customer rate classifications and also to level the usage within those classifications. Upon a review of the company's tariff sheets, the commission finds that the company's proposed rates do not affect customer classes or usage levels within those classes equally.

The accuracy of our observation can be seen by comparing the company's current tariffs with its filed tariffs in this proceeding. The following is illustrative:

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

<i>Company Division</i>	<i>Customer Class</i>	<i>Therms Usage Level</i>	<i>Percentage Increase</i>
Nashua	Residential D-2	7	16.3%
Laconia	Residential D-4	7	16.1%
Nashua	Residential D-2	25	9.2%
Laconia	Residential D-4	25	8.1%
Nashua	Residential D-2	50	7.3%
Laconia	Residential D-4	50	6.0%
Nashua	Residential D-2	100	6.2%
Laconia	Residential D-4	100	4.8%
Nashua	Residential D-2	200	5.7%
Laconia	Residential D-4	200	4.2%
Nashua	Residential D-2	300	7.1%
Laconia	Residential D-4	300	4.1%
Nashua	Commercial/ Industrial G-2	50	6.8%
Laconia	Commercial/ Industrial G-4	50	7.4%
Nashua	Commercial/ Industrial G-2	100	5.8%
Laconia	Commercial/ Industrial G-4	100	6.5%
Nashua	Commercial/ Industrial G-2	200	5.2%
Laconia	Commercial/ Industrial G-4	200	5.9%
Nashua	Commercial/ Industrial G-2	1000	5.0%
Laconia	Commercial/ Industrial G-4	1000	5.7%

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In calculating the cumulative effect of its proposed rates, the company arrived at an overall increase of 7.4 per cent. (Report of proposed rate charges, p. 1.) The breakdown provided by the company as to customer classifications indicates that rates to (a) Nashua residential customers will increase overall by 7.9 per cent; (b) Nashua commercial and industrial customers will increase overall by 6.4 per cent; (c) Laconia residential customers will increase overall by 6.6 per cent; and (d) Laconia commercial and industrial customers will increase overall by 8.1 per cent.

[10] The commission generally makes two basic determinations in a rate case: (1) how much of an increase is required by the utility (revenue requirement) and (2) how should any increase be spread among the different customer classes (rate structure). Rate structure can be further divided into two subissues: (1) the appropriate distribution of the increase among the various customer classes and (2) the appropriate rate design within each class to produce the previously determined revenue requirement. All parties to this proceeding have focused on the revenue requirement and have given little attention to rate structure.

The company has failed to perform a cost-of-service study. Such a study would be at least a starting point for beginning the process of developing a proper rate structure.

While cost-of-service studies are important, they are not the only consideration. For example, even though the cost-of-service studies may be done in a craftsmanlike manner, this does not mean that they can be blindly relied upon. Judgement and some assumptions must be made in

cost-of-service studies and, therefore, these studies are neither perfect nor always precise. In addition, cost-based principles of rate making should be tempered by social considerations. Noncost factors such as the ability to pay, ability to pass on the utility costs, and value of service, should and are taken under consideration.

Basically, while cost is important, other relevant factors must also be considered. Pennsylvania Pub. Utility Commission v Philadelphia Electric Co. (1978) 52 Pa PUC 772, 31 PUR4th 15, 85. The commission notes with approval the standard set forth by a Pennsylvania court:

"There is no requirement that rates for different classes of service must be either uniform or equal or that they must be equally profitable. Differences in rates between classes of customers based on such criteria as the quantity of electricity used, the nature of the use, the time of the use, the pattern of the use, or based on differences of conditions of service, or cost of service are not only permissible but often are desirable and even necessary to achieve reasonable efficiency and economy of operation. Rate structure, which is an essential, integral component of rate making, is not merely a mathematical exercise applying theoretical principles. Rate structure must be based on the hard economic facts of life and a complete and thorough knowledge and understanding of all the facts and circumstances which affect rates and services; and the rates must be designed to furnish the most efficient and satisfactory service at the lowest reasonable price for the greatest number of customers; i.e., the public generally." Philadelphia Suburban Transp. Co. v Pennsylvania Pub. Utility Commission (1971) 3 Pa Cmwlt 184, 196, 91 PUR3d 79, 87, 281 A2d 179, 186.

Gas service has been under curtailment

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from its major supplier for significant portions of the recent past. The same has been true of other New Hampshire gas utilities. The strong public reaction to major increases in the price of heating oil has surfaced in dramatic requests for conversion to natural gas. Given both of these factors, it is clear that usage per customer should either be stabilized or lowered. In other words, conservation is to be encouraged not only by law (see Public Utility Regulatory Policies Act — PURPA), but also by the demand and supply situation affecting this company.

Furthermore, previous decisions by this commission have applied certain standards to other gas utilities and electric utilities. Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121; Re Granite State Electric Co. (1978) 63 NH PUC 121, 28 PUR4th 240.

The commission has allowed other New Hampshire gas utilities to impose a minimum charge without any related consumption. (Manchester Gas, *supra*) Therefore, the commission will allow the rate proposed by the company as to the customer charge and will further allow the removal of the therms from the customer or minimum charge.

The commission has also been in the process of flattening out the declining blocks. Re Granite State Electric Co., *supra*, and Re Public Service Company of New Hampshire (1978) 64 NH PUC 127, and (1980) 65 NH PUC 45. Such a process properly reflects the goal of conservation, as well as cost. Consequently, the commission will allow the following adjustments:

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

Company	Therm		Present	Proposed/Accepted	
	Rate	Usage		Rate	Rate
Division	Class	Level			
Nashua	G-2	Over 5,000	.2785	.2980	.3085
Nashua	G-2	501 - 5,000	.2985	.3180	.3085
Laconia	G-4	Over 5,000	.3113	.3375	.3485
Laconia	G-4	501 - 5,000	.3313	.3575	.3485

The remainder of the revenue increase will be allocated on a per therm basis to the remaining classes and usage levels within those classes to the extent that they have not been set in the table above.

Our order will issue accordingly.

**Supplemental Order**

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

Ordered, that Section 2, Eighth Revised Pages 4 and 5 and Section 4, Seventh Revised Pages 4 and 5 of NHPUC No. 5 — Gas, of Gas Service, Inc., be, and hereby are, rejected; and it is

Further ordered, that Section 2, Eighth Revised Pages 6, 7, and 8 and Section 4, Seventh Revised Pages 6 and 7 are accepted; and it is

Further ordered, that Section 2, Ninth Revised Pages 4 and 5 and Section 4, Eighth Revised Pages 4 and 5 of said tariff is to be filed to reflect an overall increase in revenues of \$405,196 in annual basic rates effective with all current billings rendered on or after February 21, 1980; and it is

Further ordered, that such increase be spread in a manner which satisfies the

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requirements of the report among and within the various service classes; and it is

Further ordered, that Gas Service, Inc., give public notice of these changes reflected by the newly revised tariff pages through one-time publication in the *Nashua Telegraph* and the *Laconia Evening Citizen*.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of February, 1980.

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NH.PUC\*02/21/80\*[78507]\*65 NH PUC 96\*Public Service Company of New Hampshire

[Go to End of 78507]

**Re Public Service Company of New Hampshire**

DF 80-17, Supplemental Order No. 14,065

65 NH PUC 96

New Hampshire Public Utilities Commission

February 21, 1980

PETITION for authority to issue and sell common stock; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 14,058, dated February 13, 1980 (65 NH PUC 70), issued in the above entitled proceeding, authorized Public Service Company of New Hampshire to issue and sell not exceeding 2 million shares of common stock, \$5 par value, subject to further order of this commission; and

Whereas, in compliance with said Order No. 14,058, following negotiations 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 1.5 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 \$13.80 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 \$13.80 per share in cash 1.5 million shares of its common stock, \$5 par value, said stock to be sold at said price of \$13.80 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. 14,058 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 twenty-first day of February, 1980.

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NH.PUC\*02/22/80\*[78509]\*65 NH PUC 98\*Gas Service, Inc.

[Go to End of 78509]

**Re Gas Service, Inc.**

DR 80-36, Order No. 14,075

65 NH PUC 98

New Hampshire Public Utilities Commission

February 22, 1980

PETITION of a gas company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., a public utility engaged in the business of supplying gas service in the state of New Hampshire, on January 31, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 5 — Gas, covering proposed changes in the tariff terms and conditions; 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 1, First Revised Pages, 3, 5, 6, 10, 11, 13, and Third Revised Pages 9 and 19 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 twenty-second day of February, 1980.

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NH.PUC\*02/22/80\*[78510]\*65 NH PUC 99\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78510]

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

IE 14,902, Order No. 14,076

65 NH PUC 99

New Hampshire Public Utilities Commission

February 22, 1980

PETITION seeking approval of an easement agreement; granted.

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BY THE COMMISSION:

Order

Whereas, on December 27, 1979, New Hampshire Electric Cooperative, Inc., submitted to this commission, pursuant to the provisions of RSA 371:24, a plan and layout delineating the proposed electric utility route over railroad property in the town of Bartlett, New Hampshire; and

Whereas, said plan includes an offer by the town of Bartlett to the Maine Central Railroad Company of \$200 for the right of permanent easement for the utility to serve the Bartlett sanitary landfill facility; and

Whereas, since the said offer was made, the utility and railroad have reached a standard agreement on crossing fees for this type of crossing which differs from the town of Bartlett's offer; and

Whereas, by letter of January 31, 1980, New Hampshire Electric Cooperative, Inc., advised this commission that a renegotiated settlement with the Maine Central Railroad has been reached for the payment of \$100 for the right of permanent easement; and

Whereas, upon investigation and consideration, this commission finds that the agreement between the parties is consistent, reasonable, and in the public interest; it is

Ordered, that this agreement between New Hampshire Electric Cooperative, Inc., and Maine Central Railroad Company be, and hereby is, approved.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of February, 1980.

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NH.PUC\*02/26/80\*[78511]\*65 NH PUC 99\*Winter Termination Policy for Electric and Gas Utilities

[Go to End of 78511]

## Re Winter Termination Policy for Electric and Gas Utilities

DE 79-217, Fourth Supplemental Order No. 14,084

65 NH PUC 99

New Hampshire Public Utilities Commission

February 26, 1980

PETITION of a utility to notify the public of service termination procedures by publication in lieu of a billing insert; granted.

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SERVICE, § 220 — Service termination procedures — Notice by publication.

[N.H.] A utility was allowed to publish the provisions of the commission's termination procedures since such publication would serve the public interest and would provide adequate opportunity to notify the general public.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission's report regarding its winter termination policy for electric and gas

utilities issued January 4, 1980 (65 NH PUC 4), provided (II. B. *Softer Notice and Right to Deferred Payments*) that the commission requires a billing insert to all electric and gas consumers which details their rights on termination under both the existing and emergency regulations to be sent to residential consumers before the end of February, 1980; and

Whereas, by letter of February 6, 1980, New Hampshire Electric Cooperative, Inc., requests consideration of the publishing of a public notice in a local newspaper in lieu of the billing insert; and

Whereas, the New Hampshire Electric Cooperative contends that it will be unable to get the information to its customers prior to February 29, 1980, unless a separate mailing is made; and

Whereas, upon investigation the commission finds that publishing a public notice would serve the public interest and will provide adequate opportunity to notify the general public of the provisions of the commission's termination procedures; it is

Ordered, that New Hampshire Electric Cooperative, Inc. publish a notice in the *Manchester Union Leader* for two consecutive days prior to the end of February, 1980.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of February, 1980.

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NH.PUC\*02/27/80\*[78512]\*65 NH PUC 100\*Public Service Company of New Hampshire

[Go to End of 78512]

## Re Public Service Company of New Hampshire

DR 79-187, 19th Supplemental Order No. 14,086

65 NH PUC 100

New Hampshire Public Utilities Commission

February 27, 1980

ORDER denying a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Business and Industry Association has filed a motion for rehearing in connection with NH PUC Order No. 14,012 (65 NH PUC 45); and

Whereas, the commission has determined that rate structure issues shall be treated in a separate phase in this proceeding; and

Whereas, it appears that Business and Industry Association's motion is a

**Page 100**



procedural step to preserve its rights to an appeal; it is hereby

Ordered, that Business and Industry Association's motion for rehearing in connection with Order No. 14,012 is denied. The commission will permit the parties to this proceeding to have the right to challenge the cost allocations made by the commission in hearings to be held in the future on the permanent rate request. (See report issued December 21, 1979 [64 NH PUC 467].)

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of February, 1980.

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NH.PUC\*02/28/80\*[78513]\*65 NH PUC 101\*Southern New Hampshire Gas Company, Inc.

[Go to End of 78513]

### **Re Southern New Hampshire Gas Company, Inc.**

Additional petitioner: Petrolane-Southern New Hampshire Gas Company, Inc. Intervenors: Northern Utilities, Inc., and Manchester Gas Company

DE 79-190, Supplemental Order No. 14,087

65 NH PUC 101

New Hampshire Public Utilities Commission

February 28, 1980

APPLICATION of a gas company to transfer its business assets to another gas company; approved.

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1. CERTIFICATES, § 26 — Necessity of commission approval.

[N.H.] No public utility shall commence its business without first having obtained the permission and approval of the commission. p. 105.

2. FRANCHISES, § 5 — Approval by commission — Franchises.

[N.H.] The commission shall grant permission for a utility to commence business whenever it shall after due hearing find that such engaging in business, construction, privilege, or franchise would be for the public good and not otherwise. p. 105.

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APPEARANCES: Lewis Soule for Southern New Hampshire Gas Company, Inc.; Dom S. D'Ambruso for Petrolane-Southern New Hampshire Gas Company, Inc.; Franklin Hollis for Northern Utilities, Inc.; Edward R. Thornton for Manchester Gas Company.

BY THE COMMISSION:

Report

On September 12, 1979, a petition was filed to authorize the transfer of Southern New Hampshire Gas Company, Inc.'s business and assets including its gas public utility franchise works and system exercised or located in New Hampshire with certain exceptions, to a newly organized New Hampshire corporation, Petrolane-Southern

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New Hampshire Gas Company, Inc.

On September 14, 1979, an order of notice was issued providing for a public hearing to be held on October 10, 1979, at 10:00 A.M. in Concord. Said notice was ordered to be published and pursuant thereto an affidavit of publication was filed with the commission on September 24, 1979, setting forth that the notice was published in the *Manchester Union Leader* on September 24, 1979.

A request to continue the hearing date was jointly filed by the parties interested and said request was granted. October 10, 1979, was set for a public hearing which was held on that date. On November 6, 1979, the commission issued Order No. 13,897 (64 NH PUC 389); which order set forth the procedural guide lines and schedules to be followed in this proceeding.

After prefiled testimony was filed, counsel for Petrolane-Southern New Hampshire Gas Company, Inc., filed a motion to exclude and strike the testimony of Charles T. Ellis, a witness for Northern Utilities. By this Order No. 13,953, issued on December 18, 1979 (64 NH PUC 433), the commission took said motion under advisement and reserved any decision on the motion until all testimony, exhibits, and evidence was received.

Additional public hearings were held on January 9 and 10, 1980.

Petitioners' Position

The petitioners argue that Southern New Hampshire Gas Company, Inc. (hereinafter called Southern), a New Hampshire corporation currently authorized to do business in Salem and Pelham as a gas public utility and Petrolane-Southern New Hampshire Gas Company, Inc., a newly organized New Hampshire corporation (hereinafter called Petrolane), have entered into a purchase and sales contract whereby Southern will sell and transfer to Petrolane, and Petrolane will purchase and receive from Southern, all of Southern's business and assets including gas public utility franchise works and system exercised or located in New Hampshire with certain exceptions specified in the contract, for a cash price of \$120,000. Upon consummation of the sale and transfer, Southern plans to permanently discontinue all gas public utility service in New Hampshire, and Petrolane plans to provide such service. Southern offered the minutes of a special meeting of Southern's stockholders (Exh K) authorizing Southern to sell its assets; an agreement for sale of corporate assets (Exh F); a "certified copy of a corporation resolution adopted" (Exh 1), in support of its position, and Exh G as verification of Petrolane-Southern New Hampshire Gas Company, Inc.'s New Hampshire corporate standing.

Except for the intervenors noted herein, no customer or member of the general public spoke either for or against the petition.

Petitioner witness Eugene P. Hart, vice president of operations, Colonial Energy Gas System,

represented that his company (Colonial) is the parent company of Southern New Hampshire. Colonial, prior to November, 1978, was also the parent of Gas, Inc., which owned, maintained, and leased to Southern the propane storage and distribution facilities which supplied Southern's distribution system. Dalrymple Gas Company, a division of Gas, Inc., provided Southern with office and storage space and with service and maintenance capabilities.

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Colonial is undergoing major corporate reorganization. In late 1978, Colonial sold Gas, Inc., and Dalrymple Gas Company to Petrolane, Inc., of Long Beach, California. At the time of those negotiations, Petrolane requested and was given first right of first refusal for the future purchase of Southern New Hampshire Gas Company. At the time that Colonial made a final determination to sell its Southern properties, it approached Northern Utilities (TI-15) who they felt were a good prospect to buy the property. Northern's offer was made and the offer was conveyed to Petrolane who consented to buy the property with an offer of slightly more than \$13,000 over Northern's offer.

Petitioners' witnesses John P. Harrington and Alfred Merle Myers testified to the role that Dalrymple employees played in assisting the operation of Southern and to the continued dependency that Southern New Hampshire did have on Gas, Inc., and Dalrymple after their sale to Petrolane. Petrolane, in effect, now owns the tanks, the propane, the administrative real estate, and the service department expertise which are utilized in the continued operation of Southern.

**Intervenors' Position**

A witness for Northern Utilities, Inc., testified that his testimony is designed to outline the manner in which Northern Utilities will be able to meet the future gas requirements of Southern's franchise area. He testified to the extensive experience in natural gas supply within the Northern Utilities-Bay State corporate family and speaks to the likelihood that Northern-Bay State is the company most likely to receive Tennessee Gas Pipeline Company allocations for natural gas in the Salem area. Charles T. Ellis testified to the opportunity to reduce interruptible sales to current seacoast customers and to transfer those sales to the Salem franchise area. He suggests that Southern's current cost of \$6.12 per Mcf could be reduced to \$5.31 per Mcf based upon the continued use of propane. In summary, he suggests that his company is better able to serve the public interest than Petrolane.

Manchester Gas Company maintains two positions. The first deals with the equities of the transfer of the franchise for the entire towns of Salem and Pelham when Southern New Hampshire actually serves a very small section of these towns. It contends that Manchester Gas Company itself serves over 75 propane accounts in the Salem area. It compares the limited service area in Salem to a split franchise in the town of Hooksett and suggests that a similar split franchise area should be established in Salem.

Manchester's second position is that the service franchise territory should only be transferred to an existing operating gas utility in the state of New Hampshire. Robert Giordano testified to the procedures required in obtaining necessary prior approval of long-term financing for issuance of short-term debt in excess of statutory limits and to the need to make timely filings with the commission. He contends that it requires people familiar with the New Hampshire Public

Utilities Commission in the filing of tariffs, quarterly, and annual reports.

Staff addressed the fixed asset portion of rate base. Staff's position is simply that the working capital required should be similar regardless of who the owner will be. Staff's review of the exhibits

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show that as of September 30, 1979, the total net fixed assets as shown on staff Exh 2 were \$133,892. Of this amount, \$32,615 is land allocated to nonoperating property; with the balance of \$101,277 in utility property.

Mr. Summer's testimony shows that Petrolane would pay \$120,000 for these assets. He proposes to allocate \$20,000 to nonutility property and the remaining \$100,000 to utility property.

The NHPUC Chart of Accounts 1304, fixed capital adjustment (see staff Exh 1), requires the \$13,892 difference between book and purchase price of the assets be adjusted percentagewise to utility and nonutility. As shown on Exh 5 the reduction in net fixed capital gas is \$10,508, or put another way subtract \$10,508 from \$101,277 for a proper adjusted figure of \$90,769.

We view Northern's position very cautiously. Northern-Bay State's capabilities and opportunities are well-known to this commission in view of the recently concluded merger hearings. Their overall capabilities, however, are tempered by certain problems that we foresee as a result of the company's testimony. The company's confidence in its ability to receive approval for a new Tennessee pipeline delivery point in Salem is not substantiated by evidence, rather it *assumes* that a petition of the Federal Energy Regulatory Commission would be granted as necessary and in the public interest. It views an opportunity to establish the delivery point without any additional natural gas requirements as a major reason for that approval.

This last point gives the commission concern. Northern's witness, Ellis, testifies that current interruptible sales to seacoast customers would be eliminated and could be redirected to Salem. We find little evidence in this record to assure us that this would be in the public interest. If all of Northern's existing customer commitments were being fulfilled and if the present interruptible customers were not unfairly treated by the company then such redistribution might be in the public interest. We cannot overlook the fact, however, that there already exist customer restrictions on existing customers in the seacoast. New sales of gas for heating purposes are presently limited to residential customers where existing gas mains are adequate. New sales and additional sales to existing commercial and industrial customers for heating purposes are limited to 100,000 cubic feet per customer per day. New sales of gas for commercial and industrial nonheating purposes are limited to 300,000 cubic feet per customer per day. Witness Ellis testified (T2-189) " ... it is not our intention to separate out Salem and Pelham and treat them as a separate operating division." In response to staff's question of "Will there be equal opportunities for customers in each of the two divisions or would the opportunities in one area be different from the opportunities for gas in another area?" Mr. Ellis responds (T2-189) "Our intentions would be that each division would be treated equally."

The issue becomes then a question of whether it is in the public interest to make natural gas quantities available to customers of an existing franchise or whether it is in the public interest to

continue to restrict those customers' opportunities but open up and make available natural gas service in a new franchise area. We find that the company's primary responsibility is to its existing customers.

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### Findings

[1, 2] We look to the statute for specific guidance in establishing the test for transferring this franchise. Going beyond the primary approval authority of RSA 374:22 (Other Public Utilities. "No public utility shall commence its business ... without first having obtained the permission and approval of the commission"), we find the real test in RSA 374:26 (Permission. "The commission shall grant such permission whenever it shall after due hearing find that such engaging in business, construction, or exercise or right, privilege, or franchise, would be for the public good and not otherwise"). The question becomes one as to whether Petrolane has the expertise and tools necessary to serve the public interest.

The evidence in the record supports the fact that they do. We find that the company's organization is capable of serving its customers. Witness Summers testified that Petrolane is a "corporation of the state of New Hampshire in the LP gas business" (T1-132) with assets in New Hampshire having a current value of approximately \$1.5 million. Those assets include the LP gas storage tanks and equipment presently being rented to Southern. Petrolane, Inc., is, by testimony company witness Myers, a California-based corporation with 1979 revenues (Exh H) of \$1,143,983,000. Petrolane-Southern will be a wholly owned subsidiary of Petrolane, Inc. Witness Summers testifies (T1-170) that Petrolane, Inc.'s expertise, facilities, and sizable investment gives them a favorable opportunity to supply present and future propane and gas requirements and enables them, if necessary, (T1-171) to double the current allotment for the Salem area if necessary. Mr. Summers testifies (T1-172) that Petrolane, Inc., operates other enterprises around the country similar to Southern New Hampshire Gas; namely, a natural gas utility in four communities in Wyoming serving 5,500 customers, propane utilities in the states of Montana and California, and the utility in San Juan, Puerto Rico, which operates off of refinery gas. The Wyoming utility situation parallels that of the case before us (T2-7) whereby that operation was first a propane operation and was converted to natural gas. Petrolane-Southern's management and service department personnel will be comprised of individuals already familiar with the system and (T2-62) actually in the past responsible for customer service. Another Petrolane, Inc., subsidiary, Petrolane Northeast has service crews in Mennon, Massachusetts, Ware, Massachusetts, and Biddeford, Maine, to provide assistance in emergencies. The parent companies' engineering departments will provide supervision and direction relative to any expansions of the distribution system. Area contractors will be used for underground distribution construction under the supervision of existing qualified company personnel (T-2-66). An emergency crew will reside in the Salem-Pelham area (T-2-68). The company is familiar with the requirements of the Federal Pipeline Safety Act (T-2-70) and is prepared to abide by the requirements of New Hampshire statutes and commission rules and regulations (T-2-82). It expresses confidence that it will be able to maintain at least the level of service adequacy exhibited by the present company.

We find that the petitioner meets the test of being capable of exercising its franchise, and we

find that transfer of

this franchise to Petrolane-Southern will be for the public good.

The desirability and availability of natural gas for the Salem community has been made an issue by the intervenors. It is a valid issue to the extent that the commission accepts, generally, that natural gas is a desirable and cheaper energy source than is propane. None of the participants provided evidence of documented commitments for natural gas supplies in Salem although various degrees of confidence were offered that such quantities exist. Petrolane testified to actions taken by its company to date in the matter. It contends (T2-113) that it is prepared to take all reasonable steps to provide natural gas. We will hold the company to that position and our order will direct that they actively pursue all reasonable steps to provide such natural gas service and we will require that they report to this commission by February 26, 1981, as to their progress and findings.

We further find that the rate base for Petrolane be adjusted so that Account 1304, fixed capital adjustment, be booked at \$90,769.

As to the petitioner's "motion to exclude the direct testimony of Charles T. Ellis submitted in support of Northern Utilities intervention in NHPUC docket DE 79-190," we deny the motion on the grounds that the issues raised by the testimony and cross-examination were helpful in assisting the commission in properly evaluating the capabilities of the petitioners when comparing them with those intervenors.

#### Supplemental Order

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

Ordered, that Southern New Hampshire Gas Company, Inc., be, and hereby is, authorized to sell and transfer its business and assets including its gas public utility franchise, works, and system, exercised and located in the towns of Salem and Pelham to Petrolane-Southern New Hampshire Gas Company, Inc.; and it is

Further ordered, that Petrolane-Southern New Hampshire Gas Company, Inc., be, and hereby is, authorized to engage in business as a gas public utility in the territory encompassing the territory formerly served by the Southern New Hampshire Gas Company, Inc.; and it is

Further ordered, that Petrolane-Southern New Hampshire Gas Company, Inc., shall immediately file a new tariff, NHPUC No. 1 — Gas, adopting the terms, conditions, and rates of the tariff presently in force by Southern New Hampshire Gas Company, Inc.; and it is

Further ordered, that the present Southern New Hampshire Gas Company, Inc., tariff, NHPUC No. 1 — Gas, shall remain in effect pending receipt of the new tariff; and it is

Further ordered, that Petrolane-Southern New Hampshire Gas Company, Inc., shall actively pursue all reasonable steps to provide natural gas service to the customers within its Salem franchise and that they report to this commission by February 26, 1981, as to their progress and findings; and it is

Further ordered, that public notice of this order be made in a newspaper having general

circulation in the area served; and it is

Further ordered, that an adjustment to rate be made by adjusting fixed

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capital adjustment, Account 1304 to be fixed at \$90,769.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of February, 1980.

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NH.PUC\*02/29/80\*[78514]\*65 NH PUC 107\*Fuel Adjustment Charge

[Go to End of 78514]

### **Re Fuel Adjustment Charge**

Intervenors: Public Service Company of New Hampshire and Legislative Utility Consumers' Council

DR 76-46, 49th Supplemental Order No. 14,088

65 NH PUC 107

New Hampshire Public Utilities Commission

February 29, 1980

PETITION of an electric company for authority to apply a fuel adjustment charge to regular monthly billings; granted.

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RATES, § 332 — Fuel adjustment clause — Electric company.

[N.H.] The commission approved an electric company's proposed fuel adjustment charge in view of substantial increases in the company's fuel expenses; however, the amount allowed was decreased by an interest component from a nearly one million dollar rebate from the company's oil supplier.

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APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; William Shaine and Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:30A (II), the commission on February 20, 1980, held hearings on the petition of Public Service Company of New Hampshire for authority to apply a fuel adjustment charge to regular March, 1980, 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.

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 20, 1980, filed with this commission 28th, 29th, 30th, and 31st Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the estimated monthly calculation of the fuel adjustment charge for effect March 1, 1980.

The company reported a fuel cost above base of \$14,537,427 and total kilowatt-hours subject to the fuel adjustment of 546,853,000 resulting in a per kilowatt-hour charge of \$2.66 per 100 kwh rounded.

Public Service Company (hereinafter

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referred to as the company) represents that there are four major factors that have contributed to the dramatic increase in this month's proposed fuel adjustment. The factors are as follows: (1) a major increase in the price of oil; (2) a lesser amount of generation from hydroelectric sources due to the relatively snowless winter; (3) seven of the eight nuclear plants in New England were not in service in whole, or in part, during the data month; (4) an absence of any major credit to offset the other three factors.

While the company has focused its attention both in the hearing room and in the media on the increased price of oil, an equally important factor for this dramatic increase is the action taken by the Nuclear Regulatory Commission (NRC). The NRC has ordered that the nuclear plants in New England be shut down until a change can be made to comply with the "lessons learned from Three Mile Island."

The NRC order has resulted in seven of the eight nuclear plants in New England being closed for a sizable portion of the data month of January. When these base load units are out of service, oil-fired intermediate and peaking plants begin to serve as base load units. Nuclear plants do not have a fuel cost passed through the fuel adjustment clause, whereas oil-fired plants have sizable fuel costs which are recognized for fuel adjustment clause purpose.

The hardship of the NRC order is that it has forced New England utilities to close nuclear plants during the time that the electrical supply system is facing the largest demand for energy. The NRC order is characteristic of all NRC orders, either it is too early or too late. The NRC, after receiving various reports from both inside and outside its staff, has decided that certain modifications must be made to virtually every nuclear plant in the country.

A serious question remains unanswered; namely, why after all these years did the NRC arbitrarily choose January as the month to close the plants in New England? Are the modifications critical to safety? If they are, why did it take an ad hoc committee to discover the errors? If they are not critical, why were not the modifications made as the plants were removed from service for annual scheduled outages?

While the questions remain unanswered, the effects of the decision are unfortunately all too



realistic. Each of the New England public utilities commissions is faced with horrendous increases in fuel expenses.

The situation is worsened by a lack of snow, which besides crippling the region's economy, also limits the amount of hydroelectric generation. January hydroelectric generation, which is cost free as to fuel, has hit the lowest level in years. The addition of extraordinary increases in the price of oil culminates in a fuel adjustment charge unsurpassed in severity to the consumer.

The commission, after two lengthy days of hearings, has attempted to examine the charges sought in detail. The commission finds that there should be a minor adjustment relating to a rebate resulting from the last data month. Last month, pursuant to commission staff inquiry as to the absence of entitlement allowance credits, the company was successful in achieving nearly a \$1 million rebate from its oil supplier. The commission staff also inquired into the question of whether interest was not also necessary to fully compensate consumers. The company is presently seeking interest from its fuel supplier. Whether the company is successful or

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not, the commission finds that the statutory mandate of just and reasonable rates requires consumers to receive an interest component. The commission will use a 15 per cent interest factor, which results in a \$38,659 reduction in fuel expenses. Translating this adjustment into the fuel adjustment calculation, the commission arrives at a rate of \$2.65 per 100 kwh.

The commission is aware of the hardship this will be to the average consumer. However, the commission's recent record of close scrutiny of the fuel adjustment clause should not be forgotten. The following table reflects recent commission orders:

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

<i>Month Bill Rendered</i>	<i>PSNH Request</i>	<i>Commission Decision</i>
November, 1979	\$2.00	\$1.93
February, 1980	\$1.81*	\$1.70*
March, 1980	\$2.66	\$2.65

\*Both figures would have been higher absent recognition of the entitlement allowance credits which lessened the fuel adjustment charge by approximately 20 cents per 100 kwh.

The commission as continuing its investigation into the question of the magnitude of any overcollection in the fuel adjustment clause from past years. In addition, the commission has informed all parties of its concern relating to the comparably small level of credits received by PSNH from Sprague Oil during 1977-78.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that 28th, 29th, 30th, and 31st Revised Pages 17 and 18 of Public Service Company

of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of \$2.66 per hundred kilowatt-hours for the month of March, 1980, be, and hereby are, rejected; and it is

Further ordered, that Public Service Company of New Hampshire will file new tariff pages for a monthly fuel surcharge of \$2.65 per hundred kilowatt-hours for the month of March, 1980, to become effective March 1, 1980; and it is

Further ordered, that 61st Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$2.63 per hundred kilowatt-hours for the month of March, 1980, be, and hereby is, permitted to become effective March 1, 1980; and it is

Further ordered, that 56th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$2.69 per hundred kilowatt-hours for the month of March, 1980, be, and hereby is, permitted to become effective March 1, 1980; and it is

Further ordered, that 35th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of a credit of 11 cents per

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hundred kilowatt-hours for the month of March, 1980, be, and hereby is, permitted to become effective March 1, 1980; and it is

Further ordered, that Second Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$2.02 per hundred kilowatt-hours for the month of March, 1980, be, and hereby is, permitted to become effective March 1, 1980, and an additional one dollar per hundred kilowatt-hours will be deferred and charged at the rate of 50 cents per 100 kilowatt-hours added to the April and May, 1980, fuel charges as per the company's request; and it is

Further ordered, that 66th Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$2.70 per hundred kilowatt-hours for the month of March, 1980, be, and hereby is, permitted to become effective March 1, 1980; and it is

Further ordered, that 18th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$3.07 per hundred kilowatt-hours for the month of March, 1980, be, and hereby is, permitted to become effective March 1, 1980; and it is

Further ordered, that 74th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$1.47 per hundred kilowatt-hours for the month of March, 1980, be, and hereby is, permitted to become effective March 1, 1980; and it is

Further ordered, that 40th Revised Page 10-B of Woodsville Water and Light Department

tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of a credit of 15 cents per hundred kilowatt-hours for the month of March, 1980, be, and hereby is, permitted to become effective March 1, 1980.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of February, 1980.

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NH.PUC\*02/29/80\*[78515]\*65 NH PUC 110\*Conversion of Schiller Station

[Go to End of 78515]

### Re Conversion of Schiller Station

DE 79-141, Second Supplemental Order No. 14,096

65 NH PUC 110

New Hampshire Public Utilities Commission

February 29, 1980

ORDER denying a motion for continuance of proceedings.

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1. COMMISSIONS, § 11 — Duty of commission — Balance of interests.

[N.H.] The commission by law is bound to balance the needs of consumers and the utilities that serve them. p. 112.

2. RETURN, § 4 — Duty of commission — Rate of return.

[N.H.] The commission cannot attach any financial conditions to its order since the commission by law is only bound to provide a utility

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an opportunity to earn a fair rate of return. p. 112.

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BY THE COMMISSION:

Supplemental Order

The Public Service Company of New Hampshire (PSNH) filed a motion on December 14, 1979, requesting a continuance of these proceedings until the question of whether conversion of the units from oil-fired to coal-fired plants can be accomplished more readily on the federal or state level. In its presentation, PSNH stated that since Environmental Protection Agency (EPA) representatives have declared that scrubbers will not be required for the Schiller station, the company concurs in staff's position that conversion of Schiller from oil to coal would be

economical. However, the company has requested the commission to delay any conversion order until the following conditions are met:

1. A disposal area for the fly ash, which would result from the burning of coal, be found which would be acceptable to the New Hampshire Solid Waste Commission and located within a municipality willing to accept such a facility.
2. That all required permits be in effect and no longer subject to appeal. The company believes that any objections raised to conversion at permit hearings, or in other provisions, must be resolved in favor of conversion before expenditures are made.
3. Written confirmation from the Environmental Protection Agency that scrubbers will not be necessary.
4. Assurance of ability to finance the project.

Staff, while pleased with the acceptance by the company of the desirability of conversion, objects to the conditions put forth by the company. Staff's basic contention is that the company's conditions are nothing more than an attempt to assure that the plant will never be converted from oil to coal.

#### *Fly Ash*

The commission finds little merit to the company's condition of a fly ash site. While certainly a site will be necessary, it is not a proper condition to impose on a conversion order. The company's position is at best ironical given its position before this commission, as well as other regulatory bodies, that a disposal site for storage of spent nuclear fuel should not be a condition that must be met before construction is allowed to proceed at Seabrook. The company already has coal-fired units and has found suitable sites for disposal of the fly ash. In addition, the lead time on conversion allows for substantial opportunity to find a site.

#### *Required Permits*

The company's position that all permits be in effect and no longer subject to appeal is also contrary to its position taken on the construction of Seabrook. The company did not wait to begin construction, or the expenditure of funds for construction, until every last appeal right was extinguished. If they had waited, Seabrook would not be 30 per cent complete, nor would the estimated cost be anywhere near the present estimate.

In addition, this company has spent more money to date on Pilgrim 2, which to date has not received approval of its construction permit request that it

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would need to convert these three units from oil to coal.

Finally, the Department of Energy has issued a prohibition order for Schiller Station Nos. 4, 5, and 6, which prohibits the use of oil at these facilities. Such an order requires the commission to act quickly so as to preserve the availability of these units. RSA 374:1.

#### *Financial Ability*

[1, 2] The commission by law is bound to balance the needs of consumers and the utilities

that serve them. The commission by law is bound to provide an opportunity to a utility to earn a fair rate of return; nothing more, nothing less. The commission, therefore, cannot attach any financial conditions to its order.

*Scrubbers*

The record of this proceeding satisfactorily addresses the fact that scrubbers are not necessary. Therefore, the motion is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of February, 1980.

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NH.PUC\*03/04/80\*[78516]\*65 NH PUC 112\*Gas Service, Inc.

[Go to End of 78516]

**Re Gas Service, Inc.**

DR 79-129, Second Supplemental Order No. 14,106

65 NH PUC 112

New Hampshire Public Utilities Commission

March 4, 1980

PETITION of a gas company to fold into basic rates a portion of existing cost of gas adjustment; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, on February 21, 1980, this commission authorized by Supplemental Order No. 14,062 (65 NH PUC 76) an increase in rates for Gas Service, Inc., in the amount of \$405,196; and

Whereas, this rate increase resulted from a company filing which was made with this commission on June 1, 1979, and which was duly heard at public hearings at the commission's offices in Concord; and

Whereas, in the course of those hearings the company proposed to fold into basic rates a portion of the existing cost of gas adjustment, in the approximate amounts of eight cents per therm for Nashua and ten cents per therm for Laconia; and

Whereas, such fold-in results in no added burden to the customer, since a portion of a former surcharge would then be included as basic rate; and

Whereas, the policy of allowing gas utilities under this commission's jurisdiction to fold in such cost of gas adjustments in rate cases of this nature

is well documented in commission records and has been found to be in the public interest; it is

Ordered, that Gas Service, Inc., be, and hereby is, permitted to fold into basic rates an amount equal to eight cents per therm for the Nashua district and ten cents per therm for the Laconia district, decreasing the cost of gas adjustment for each by a like amount; and it is

Further ordered, that Section 2, Third Revised Pages 1 and 2, 16th Revised Page 3, and Tenth Revised Pages 4 and 5, and Section 4, Third Revised Pages 1 and 2, 16th Revised Page 3, and Ninth Revised Pages 4 and 5 of Gas Service, Inc., tariff, NHPUC No. 5 — Gas, be filed with this commission to reflect this fold-in; and it is

Further ordered, that the specified tariff pages become effective with all billings rendered on or after March 15, 1980; and it is

Further ordered, that Gas Service, give public notice of this fold-in by onetime publication of a summary of this order in a newspaper widely read in its service areas.

By order of the Public Utilities Commission of New Hampshire this fourth day of March, 1980.

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NH.PUC\*03/05/80\*[78517]\*65 NH PUC 113\*Exeter and Hampton Electric Company

[Go to End of 78517]

## **Re Exeter and Hampton Electric Company**

Additional petitioner: Boston and Maine Corporation

IE 14,910, Order No. 14,108

65 NH PUC 113

New Hampshire Public Utilities Commission

March 5, 1980

PETITION seeking approval of an agreement concerning a proposed electric utility route over railroad property; granted.

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BY THE COMMISSION:

Order

Whereas, on February 6, 1980, Exeter and Hampton Electric Company submitted to this commission, pursuant to the provisions of RSA 371:24, a plan and layout delineating the proposed 34.5-kv electric utility route over railroad property in the town of Plaistow, New Hampshire; and

Whereas, said plan includes a petition and agreement submitted to the Boston and Maine

Corporation for the establishment of appropriate charges; and

Whereas, said agreement has been returned by the Boston and Maine Corporation with charges of \$80 the first year, and \$30 per year thereafter during the continuance of this agreement; and

Whereas, Exeter and Hampton Electric Company concurs with the reasonableness of these charges; and

Whereas, upon investigation this commission finds that the agreement

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between the parties is consistent, reasonable, and in the public interest; it is

Ordered, that this agreement between Exeter and Hampton Electric Company and the Boston and Maine Corporation, be, and hereby is, approved.

By order of the Public Utilities Commission of New Hampshire this fifth day of March, 1980.

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NH.PUC\*03/06/80\*[78518]\*65 NH PUC 114\*New England Telephone and Telegraph Company

[Go to End of 78518]

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

DE 80-22, Order No. 14,111

65 NH PUC 114

New Hampshire Public Utilities Commission

March 6, 1980

PETITION of a telephone company for a license to place a submarine cable; granted.

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SERVICE, § 209 — Extension of service — Telephone.

[N.H.] A telephone company was permitted to install a submarine cable under a lake in order to provide service to inhabitants of an island, there being no objections filed or expressed during public hearing and adequate notice given to the public as to the proposed installation.

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APPEARANCES: Wayne Snow, engineering manager, for the petitioner.

BY THE COMMISSION:

Report

On January 30, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to install and maintain a submarine telephone cable under Squam Lake for approximately 320 feet from telephone pole 163/2 on the shoreline in Sandwich, New Hampshire, to telephone pole 162/3 on Hoag Island in Sandwich, New Hampshire, to provide telephone service to Hoag Island.

The commission issued an order of notice on February 4, 1980, directing all interested parties to appear at public hearing at 10:00 A.M. on March 4, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; John Coleman, New England Telephone and Telegraph Company.

An affidavit of publication was received on February 29, 1980, indicating a publication in the *Manchester Union Leader* on February 14, 1980,

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signed by Sylvia Prince and received in the commission's offices in Concord, New Hampshire on February 29, 1980.

Wayne Snow, engineering manager, described the submarine cable as being 26 pair; polyester, polyvinyl covered submarine cable presently serving four subscribers on Hoag Island.

The commission noted that permits were on file from the Department of Resources and Economic Development, special board, Permit N-410 dated November 22, 1977, signed by George McGee, Sr., with a "second permit" (N-410) 931738 dated December 28, 1979, signed by T. P. Frost; a plan Plymouth Quadrangle No. 21-7, indicating cable location on Squam Lake; cross-section Drawing No. 21-7 indicating a lake crossing 320 feet with a span of 320 plus/minus (Sandwich, New Hampshire, pole 162/2) with a span of 320 feet plus/minus (Hoag Island, New Hampshire, pole 162/3) dated November 29, 1979.

The commission noted that no objections were filed nor expressed at the public hearing; well-publicized and proper notification given to the public to the proposed installation of submarine cable in Sandwich, New Hampshire; with no objections being voiced or submitted to this submarine cable installation, the commission feels said cable would be in the public interests.

Our order will issue accordingly.

Order

Based upon the foregoing report, which is made a part hereof, it is

Ordered, that authority be granted for installation of a submarine telephone cable under Squam Lake for New England Telephone and Telegraph Company, said crossing to be approximately 320 feet from telephone pole 162/2 on shoreline in Sandwich, New Hampshire, to telephone pole 162/3 on Hoag Island in Sandwich, New Hampshire, to be installed and maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this sixth day of March,



1980.

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NH.PUC\*03/06/80\*[78519]\*65 NH PUC 115\*Granite State Electric Company

[Go to End of 78519]

**Re Granite State Electric Company**

DF 79-38, Supplemental Order No. 14,114

65 NH PUC 115

New Hampshire Public Utilities Commission

March 6, 1980

PETITION of an electric company for authority to continue an exemption as to commission authorization for issuance of securities; granted.

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SECURITY ISSUES, § 134 — Exemption from authorization requirement.

[N.H.] The commission authorized an electric company, without first obtaining the approval of the commission, to issue and renew its notes, bonds, and other evidences of indebtedness

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up to an aggregate limit and subject to an expiration debt; in addition, the company was required to file with the commission on a biannual basis a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of the securities.

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BY THE COMMISSION:

Supplemental Order

Whereas, by Order No. 13,500 of this commission dated February 27, 1979 (64 NH PUC 32), 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 time (not including any such indebtedness which is to be retired with the proceeds of any such issue or renewal) not in excess of \$2 million which exemption expired March 31, 1980, but; unless such period is extended by order of this commission; and

Whereas, Granite State Electric Company, of February 11, 1980, sought authority to continue the exemption in said Order No. 13,500 to March 31, 1981, but, to increase its authority to issue its short-term notes in an amount not to exceed \$2.5 million; and

Whereas, the aforementioned docket DF 79-38 shall be amended by this Supplemental Order

No. 14,114 so that a more orderly accounting of these exemptions be maintained; 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 issue of renewal) not in excess of 52.5 million; and it is

Further ordered, that the exemption contained herein shall expire March 31, 1981, 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 sixth day of March, 1980.

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NH.PUC\*03/10/80\*[78520]\*65 NH PUC 117\*Wentworth Cove Water System

[Go to End of 78520]

## Re Wentworth Cove Water System

Additional petitioner: Lakes Region Water Company, Inc.

DE 79-209, Order No. 14,116

65 NH PUC 117

New Hampshire Public Utilities Commission

March 10, 1980

PETITION of a water company for authority to transfer its assets; granted.

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1. SERVICE, § 231 — Right to discontinue — Operation at a loss.

[N.H.] The commission in a prior order denied authority to discontinue water service even though the water system did not produce adequate revenues to make further operation profitable; the commission instead required the company to either pursue and locate new ownership, or to retain ownership and if necessary seek rate relief. p. 117.

2. CONSOLIDATION, merger, and sale, § 19 — Transfer of assets — Water company.

[N.H.] The commission authorized a water company to transfer its assets to another water company for the sum of \$1 because the commission was of the opinion that the public good

would be served by granting the authority sought. p. 118.

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APPEARANCES: Foster Peveryly, president, for Wentworth Cove Water System; Dom S. D'Ambruoso for Lakes Region Water Company, Inc.

BY THE COMMISSION:

Report

On October 25, 1979, F & P Management Company, Inc., petitioned this commission for permission to transfer the ownership of Wentworth Cove Water System to Lakes Region Water Company, Inc., for the sum of \$1. On November 19, 1979, a supplemental petition was filed by Lakes Region seeking authority to operate as a water public utility in the area now being served by Wentworth Cove.

[1] F & P Management Co., Inc., doing business as Wentworth Cove Water Company was authorized to operate as a public utility in a limited area in the city of Laconia in case IE 14,439 and Order No. 12,112 on January 27, 1976. Subsequently, in DE 78-142, Wentworth Cove sought authority to discontinue service as a public utility on the grounds that the water system did not produce adequate revenues to make further operation profitable. In its report and Order No. 13,321 ([1978] 63 NH PUC 284), this commission denied the authority sought and spoke to two alternatives available to Wentworth Cove; i.e.,

(1) Pursue and locate new ownership which will assure continued operation of the water system; or

(2) Retain ownership of the company and if necessary seek rate relief.

Wentworth Cove did not seek rate relief, and by this instant case is seeking new ownership under alternative one.

#### *Finance*

The proposed sale price to Lakes Region is for an amount which differs from the book value of the assets being sold. The staff recommends, and the commission agrees, that the difference between the cost to Lakes Region Water Company and the original cost of that property, less the amounts credited at the time of the acquisition to accumulated provisions for depreciation

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and contributions in aid of construction, be included in Account 2304, fixed capital adjustment, as detailed in the Uniform Classification of Accounts for water utilities. There shall also be annual credit to depreciation expense, Account 2503, a sum which shall be computed by the application of the rates used in computing the annual depreciation charge to the average amounts carried during the year in Account 2304 — fixed capital adjustment for each class of depreciable property.

#### *Tariff*

Lakes Region testified that it would at this time continue the terms, conditions, and rates in

the existing tariff of Wentworth Cove, and that in the near future, it would be petitioning for rate relief in this and other areas under its franchise. Staff raised the issue of the availability rate in the Wentworth Cove tariff and questioned Lakes Region as to its position regarding such a rate. The issues in this regard are:

- (1) Payment by individuals for whom no service has been rendered; and
- (2) Collection of revenues by the utility on plant that is not providing any service to its customers.

Revised Statutes Annotated 378:27 and 28 state in part that " ... rates shall be sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service ... ." Utility plant that is built in excess of that needed by existing consumers, or that is built in speculation to supply possible future consumers, should be the subject of extensive inquiry before a proper rate base is determined. An adverse finding would eliminate an "availability rate" or charge for the availability of water in a main in front of and/or adjacent to any lot in the utility's franchised area when not actually being used. We will review the use of such a rate in any future filings by this company.

[2] At the hearing in this matter, two property owners spoke in favor of the transfer of ownership from F & P to Lakes Region and after a review of the evidence submitted, we are of the opinion that the public good will be served by granting the authority sought. Our order will issue accordingly.

#### Order

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

Ordered, that F & P Management Co., Inc., doing business as Wentworth Cove Water Company, be and hereby is authorized to transfer its assets to Lakes Region Water Company, Inc., and to discontinue operations as a public water utility; and it is

Further ordered, that Lakes Region Water Company, Inc., be and hereby is authorized to operate as a public water utility in the territory now being served by F & P Management Co., Inc., in the city of Laconia; and it is

Further ordered, that Lakes Region shall operate Wentworth Cove under the terms, conditions, and rates as are presently approved in tariff, NHPUC No. 1 — Water, Wentworth Cove Water Company, until such time as a new tariff is filed under the rules and regulations of this commission.

By order of the Public Utilities Commission of New Hampshire this tenth day of March, 1980.

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NH.PUC\*03/10/80\*[78521]\*65 NH PUC 119\*Small Energy Producers and Cogenerators

[Go to End of 78521]

## Re Small Energy Producers and Cogenerators

Intervenors: New England Power Company and Granite State Electric Company  
DE 79-208, Second Supplemental Order No. 14,118  
65 NH PUC 119  
New Hampshire Public Utilities Commission  
March 10, 1980

ORDER allowing additional testimony and exhibits to be filed.

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BY THE COMMISSION:

Supplemental Order

Whereas, both New England Power Company-Granite State Electric and commission staff have requested to file additional testimony and exhibits after the issuance of final rules by the Federal Energy Regulatory Commission as to Public Utility Regulatory Policies Act (PURPA), § 210; and

Whereas, the Federal Energy Regulatory Commission has now issued the aforementioned final rules: it is hereby

Ordered, that New England Power and commission staff will be allowed to file additional testimony by March 27, 1980; and it is

Further ordered, that the next day of hearings in this proceeding will be at 9:15 A.M. on April 4, 1980, at the offices of the public utilities commission, 8 Old Suncook road, Concord, New Hampshire; and it is

Further ordered, that the hearing day scheduled for March 14, 1980, is hereby canceled as is the testimony due date of March 12, 1980.

By order of the Public Utilities Commission of New Hampshire this tenth day of March, 1980.

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NH.PUC\*03/10/80\*[78522]\*65 NH PUC 119\*Municipal Electric Department of Wolfeboro

[Go to End of 78522]

## **Re Municipal Electric Department of Wolfeboro**

DR 80-32, Order No. 14,119

65 NH PUC 119

New Hampshire Public Utilities Commission

March 10, 1980

ORDER allowing revision of an electric company's tariff and requiring published notice.

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BY THE COMMISSION:

Order

Whereas, the Municipal Electric Department of Wolfeboro, New Hampshire, on February 11, 1980, filed with this commission Original Page 11C of tariff, NHPUC No. 5 — Electricity, providing for a new purchased power cost adjustment; and

Whereas, this purchased power cost adjustment is the approved vehicle for passing to customers an increase in wholesale power cost approved by the Federal Energy Regulatory Commission; it is

Ordered, that Original Page 11C of tariff, NHPUC No. 5 — Electricity, of the Municipal Electric Department of Wolfeboro, New Hampshire, be, and hereby is, allowed to become effective March 1, 1980; and it is

Further ordered, that the department give public notice of this filing by publication, according to Rule 27 of the commission's tariff filing rules, of a summary in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this tenth day of March, 1980.

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NH.PUC\*03/11/80\*[78523]\*65 NH PUC 120\*Mountain Springs Water Company

[Go to End of 78523]

## Re Mountain Springs Water Company

DE 6481, Fifth Supplemental Order No. 14,120

65 NH PUC 120

New Hampshire Public Utilities Commission

March 11, 1980

ORDER requiring staff to conduct an audit to determine a utility's rate base, capital structure, and rate structure.

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BY THE COMMISSION:

Supplemental Order

Whereas, this case was originally filed in June, 1973; and

Whereas, the case has not been closed due to pending matters; and

Whereas, the commission has received numerous consumer complaints alleging

discrimination, bills for standby charges, failure of the utility to keep adequate records, and the allegation that the commission must reevaluate its emergency order in light of the passage of RSA 378:30-a; and

Whereas, the Mountain Springs Water Company has failed to comply with statutory provisions requiring certain financial information to be filed with the commission; it is hereby

Ordered, that the commission will hold additional hearings on April 23 and 24, 1980, beginning at 9:15 A.M. at the offices of the public utilities commission in Concord, New Hampshire; and it is

Further ordered, that the commission staff conduct an audit of Mountain

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Springs Water Company so as to assist the commission in a determination of a proper rate base, capital structure, and rate structure.

By order of the Public Utilities Commission of New Hampshire this eleventh day of March, 1980.

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NH.PUC\*03/11/80\*[78524]\*65 NH PUC 121\*Termination of Electric and Telephone Service as to Anne McCullough

[Go to End of 78524]

## Re Termination of Electric and Telephone Service as to Anne McCullough

Intervenors: Public Service Company of New Hampshire, New England Telephone and Telegraph Company

IE 14,914, Order No. 14,121

65 NH PUC 121

New Hampshire Public Utilities Commission

March 11, 1980

ORDER authorizing telephone service termination.

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1. SERVICE, § 220 — Termination of service — Notice requirement.

[N.H.] Residential gas and electric service cannot be terminated without providing at least ten days' advance written notice and good cause. p. 123.

2. PAYMENT, § 33 — Denial of service — Nonpayment.

[N.H.] A telephone company was correct in denying service to a customer with both a

pattern of nonpayment and use of a telephone service registered under another person living in the house. p. 124.

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APPEARANCES: Coolbroth and Caron, attorneys, for Public Service Company of New Hampshire; Greene, attorney, for New England Telephone and Telegraph; Anne McCullough, pro se; John Settle, Jr., pro se.

BY THE COMMISSION:

Report

I. *Facts*

The Public Service Company of New Hampshire (PSNH), on or about February 11, 1980, notified Anne McCullough (McCullough) that service to her account, No. 31-24-22140, would be disconnected on February 19, 1980, unless a deposit was tendered in the amount of \$200 (Exh M-1). On February 14, 1980, a representative of the Public Service Company contacted a member of the commission staff requesting permission to terminate the electric service of Anne McCullough. (Staff Exh 1.)

The company represented that a John Alden Settle, Jr., a debtor of the company, was residing at the same address. The company contended the following: (1) NHPUC — 22 Electricity, Original Page 6, allows the company the right to reject any application for service made

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by or for the benefit of a former customer who is indebted to the company for electric service previously furnished to him and to the right to refuse a transfer from one member of a household to another unless all amounts due for previous service are paid. (2) Commission Rules and Regulations Prescribing Standards for Electric Utilities, III Service Provisions, 8-A-2-b-1, allows a disconnection of service without notice if (a) there exists unauthorized or fraudulent use of utility service. (See staff Exh 1.)

The commission staff member allowed the service to be terminated. The service was terminated for a short period of time when upon oral petition, the chairman allowed service to be reconnected. A subsequent investigation by commission staff member, Mattice, on February 15, 1980, resulted in a second termination. This termination was also reversed by the chairman on the condition that the \$200 security deposit requested was immediately paid in cash.

A hearing was set for February 22, 1980, so as to allow both Ms. McCullough and Public Service Company an opportunity to present their positions. This proceeding was enlarged so as to facilitate an additional dispute between New England Telephone and Telegraph Company (NET) and Ms. McCullough. This second dispute relates to an installation of telephone service to the premises of Ms. McCullough on February 7, 1980, at 11:00 A.M. and the subsequent termination of that service by NET at 4:00 P.M. on the same day.

At the hearing, testimony was tendered by New England Telephone and Anne McCullough. Statements were made by Public Service Company attorneys and John Settle, Jr.



Cross-examination was conducted by all parties.

## *II. Public Service Company's Position*

Public Service Company of New Hampshire (PSNH) seeks restoration of its right to terminate service to Anne McCullough. Public Service Company of New Hampshire alleges that neither Ms. McCullough nor Mr. Settle have the right to electric service at the property site in Westmoreland, New Hampshire. Public Service Company of New Hampshire contends that title to the property in question belongs to the Keene Savings Bank by foreclosure deed. Exhibit P-7 is offered to prove that no person is authorized to live on the property. Consequently, the company contends that there is a fraudulent procurement of service by both John Settle and Anne McCullough.

Public Service Company of New Hampshire also contends that the company has the right to discontinue service since Mr. Settle is a former customer of the company, living with Ms. McCullough, who is indebted to the company in the amount of \$1,500 (Exh M-2). Public Service Company of New Hampshire asserts that this situation is covered by its NHPUC — 22 Electricity tariff, Page 6, under the heading 2. The fraudulent use and/or procurement allegation is asserted to come under commission Rules and Regulations for Electric Utilities, Section III, 8-A-2-b-1.

## *III. New England Telephone's Position*

New England Telephone contends that there were irregularities in the application of Ms. McCullough for service. (See NET-1.) Mrs. Nuttall from New England Telephone testified as to the

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numerous outstanding bills that have arisen at the Westmoreland address. (See NET-2.) These outstanding bills total over \$4,000. The names listed on the bills include Cynthia Meyer Settle, John Alden Settle, Jr., Colin Kratky, and Laurence P. Newell.

New England Telephone, through Mrs. Nuttall, provided the commission with a list of identical numbers that were called by someone from each of these prior telephone accounts. Furthermore, Mrs. Nuttall, by NET Exh 2, stated that Mr. Settle answered the telephone listed under the name of Mr. Newell, and that Mr. Kratky stated that the service in his name had been initiated by John Settle.

New England Telephone asserts, through NET Exhs 4 and 5, that there is a relationship between Ms. McCullough and Mr. Settle, which will allow him access to any telephone in Ms. McCullough's name. Furthermore, testimony provided by the NET employee, who installed the telephone on February 7, 1980, is offered for the proposition that the telephone is located in a common and, therefore, accessible hallway.

## *IV. Staff's Position*

The commission staff involved with the case supports the contentions of both Public Service Company of New Hampshire and New England Telephone and Telegraph Company.

## *V. Ms. McCullough's Position*

Ms. McCullough asserts that she should not have been terminated by PSNH. Ms. McCullough cites the fact that she has not been delinquent in paying her bills, and that she does have employment. Further, she contends that often in the past she has paid a portion of the utility bills of previous tenants, as well as a portion of the security deposit presently held by PSNH from Mr. Newell.

Ms. McCullough asserts that the telephone is only in her apartment, and that access to the telephone is prevented by nailed doors and a long extension cord. She is willing to pay a \$200 deposit for service, or in the alternative, have a pay telephone installed.

#### VI. *Mr. Settle's Position*

Mr. Settle disputes the ownership of the Keene Savings Bank in the Westmoreland property. Mr. Settle cites litigation of his bankruptcy petition and asserts that the validity of the bank's foreclosure is still in question. Mr. Settle cites his good faith by agreeing to pay the \$1,500 owed to PSNH despite the pendency in bankruptcy of unsecured claims approaching \$2 million. Mr. Settle also contends that he is willing to pay New England Telephone for telephone charges not disputed by him. Mr. Settle contends overall that whatever the relationship between himself and the two utilities, service should not be denied Ms. McCullough.

#### VII. *Commission Analysis*

[1] The relationship between electric and gas utilities and their residential consumers as to termination of service is governed by RSA 363-B. That statute clearly requires that residential service cannot be terminated without providing: (1) at least ten days' advance written notice; and (2) good cause. Even if the allegation of fraudulent service could be proven, the lack of compliance with the

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notice provision cannot be ignored.

The disconnection by PSNH on both February 14 and 15, 1980, was a violation of the statute despite commission regulations to the contrary.

As to the question of whether a properly noticed disconnection now would be in order, the commission must again answer in the negative. It is clear that Mr. Settle owes PSNH \$1,500. Public Service Company of New Hampshire's claim will be one of the matters resolved in the bankruptcy proceeding involving Mr. Settle. Mr. Settle's agreement to pay \$1,500 is no doubt a preference that will be disallowed when the proceeding reaches its final conclusion. For our purposes, Mr. Settle's delinquency is not at issue.

Public Service Company of New Hampshire has allowed Ms. McCullough to have an account. Her name appears on the books of the company for filing purposes. At present, her account reflects a credit in excess of \$200. This hardly qualifies Ms. McCullough to be disconnected for nonpayment, or for that matter, an allegation of fraud. Public Service Company of New Hampshire's case, therefore, lies solely on its claim that Keene Savings Bank is the present owner of the property, and that Ms. McCullough, as well as Mr. Settle, are trespassers. The record reveals enough conflict on this point so as to thwart any finding that PSNH has

carried its burden of proof.

The mere fact that both Mr. Settle and Ms. McCullough continue to live at the Westmoreland premises lends credence to the argument that ownership of the property has not been established conclusively at the Keene Savings Bank.

If Ms. McCullough does not meet her bills as they come due, PSNH may follow proper disconnect proceedings. However, based on this record, the commission will allow electrical service to be continued.

The question as to telephone service is another matter. Revised Statute Annotated 363-B does not govern in matters between a telephone company and a residential consumer. The undisputed evidence reveals that Mr. Settle has used various telephones located at the premises in question despite the fact that the telephones were located in "separate apartments" under different names. The identical telephone numbers, plus the fact that Mr. Settle answered the telephones of others, supports the NET's concerns as to discontinuance of service.

The commission does not find that nailed doors, or a long extension cord, will prevent use by Mr. Settle of this telephone, especially in light of the admitted relationship between Mr. Settle and Ms. McCullough. Access to long-distance telephone service can result in a rapid compilation of charges in a very narrow time frame. The magnitude of these charges is clearly shown by NET Exh 2.

[2] The evidence offered by NET reveals both a pattern of nonpayment by Mr. Settle and a use of telephone service registered under another person living in the house. As such, the New England Telephone and Telegraph Company was entirely correct in denying telephone service to Ms. McCullough. The commission will therefore, deny Ms. McCullough and/or Mr. Settle telephone service unless a deposit satisfactory to all parties can be agreed upon.

One last issue remains, which relates to the removal by PSNH of some of its equipment located in the cellar of the

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house located on the Westmoreland property. Public Service Company of New Hampshire will be allowed to enter the premises for the sole purpose of removing its equipment. However, such equipment is to be set up nearby so as to continue service to Ms. McCullough. Furthermore, PSNH is ordered to separately meter the electrical usage in the various apartments within the house located on the property in question. No meter is to be attached to Mr. Settle's apartment due to his outstanding debt to PSNH.

The cost of the installation of the meter is to be governed by the tariffs filed with this commission. Our order will issue accordingly.

Order

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

Ordered, that pursuant to this record and restricted fully to the issues raised in this record, Public Service Company of New Hampshire (PSNH) is to maintain service to Anne McCullough; and it is

Further ordered, that PSNH separately maintain the apartments within the Westmoreland, New Hampshire, property in question in this proceeding; and it is

Further ordered, that John Settle allow PSNH to remove his equipment with the caveat that service is to be maintained for Ms. McCullough; and it is

Further ordered, that New England Telephone is not to provide telephone service to Anne McCullough unless a security deposit can be agreed upon by all parties involved.

By order of the Public Utilities Commission of New Hampshire this eleventh day of March, 1980.

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NH.PUC\*03/13/80\*[78525]\*65 NH PUC 125\*New England Power Company

[Go to End of 78525]

## Re New England Power Company

DF 80-7, Supplemental Order No. 14,128

65 NH PUC 125

New Hampshire Public Utilities Commission

March 13, 1980

ORDER authorizing a utility to issue bonds.

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SECURITY ISSUES, § 106 — Sale price and interest rates — Bonds.

[N.H.] The commission authorized a utility to issue and sell its general and refunding mortgage bonds in the amount of \$90 million at a price of 99 per cent of the principal amount, to bear interest at the rate of 9.50 per cent per annum, and to issue and pledge its first mortgage bonds in the amount of \$15 million bearing 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. 14,020 of this

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commission, dated January 29, 1980 (65 NH PUC 57), issued in the above entitled proceeding, New England Power Company was authorized to issue and sell its general and refunding mortgage bonds, Series C, in an aggregate principal amount of \$90 million maturing in

not more than three years from the date thereof, and to bear such interest rate and other terms as the 1980 series pollution control bonds to be issued and sold by the Massachusetts Industrial Finance Agency; and

Whereas, by Order No. 14,020 of this commission, dated January 29, 1980, issued in the above entitled proceeding, 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 X, in an aggregate principal amount of \$15 million bearing the same interest rate and having the same maturity as said general and refunding mortgage bonds; and

Whereas, New England Power Company, in conjunction with the Massachusetts Industrial Finance Agency, has determined that the bonds shall mature on March 15, 1983; and

Whereas, it has been determined that the 1980 series pollution control bonds will be sold at 99 per cent of the principal amount of \$90 million with interest at the rate of 9.50 per cent per annum, thus establishing a cost of money to New England Power Company for its general and refunding mortgage bonds, Series C, of 9.8934 per cent per annum to maturity; and

Whereas, it has been determined that the 1980 series pollution control bonds will bear a redemption price of 100.50 per cent of the principal amount, plus interest accrued to the redemption date, in the event that they are redeemed, in whole or in part, at the option of agency, other than pursuant to provisions for extraordinary optional redemption, during the last year prior to maturity; upon consideration; it is

Ordered, that New England Power Company be, and hereby is, authorized to issue and sell its general and refunding mortgage bonds, Series C, in the amount of \$90 million at a price of 99 per cent of the principal amount, said general and refunding bonds to bear interest at the rate of 9.50 per cent per annum, and to issue and pledge its first mortgage bonds, Series X, in the amount of \$15 million bearing the same rate of interest as said general and refunding bonds, Series C, as further security for the general and refunding bonds; and it is

Further ordered, that, in the event New England Power Company redeems any of the Series C general and refunding mortgage bonds, at its option, other than pursuant to provisions for extraordinary optional redemption, during the last year prior to maturity, such bonds shall be redeemed at 100.50 per cent of the principal amount thereof, plus interest accrued to the redemption date; and it is

Further ordered, that, except as expressly modified hereby, the authorization contained herein shall be subject to all the terms and conditions stipulated in our original order in this proceeding.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of March, 1980.

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NH.PUC\*03/14/80\*[78526]\*65 NH PUC 127\*Mountain Springs Water Company

[Go to End of 78526]

## Re Mountain Springs Water Company

DE 6481, Sixth Supplemental Order No. 14,129

65 NH PUC 127

New Hampshire Public Utilities Commission

March 14, 1980

ORDER rescheduling a water company rate hearing and requiring published notice.

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BY THE COMMISSION:

Supplemental Order

Whereas, Fifth Supplemental Order No. 14,120 (65 NH PUC 120), stated that the commission would hold additional hearings in these proceedings on April 23 and 24, 1980; and

Whereas, staff has informed the commission that to conduct a proper audit of rate base, capital structure, and rate structure it will take longer than one month; it is

Ordered, that the hearing dates set for April 23 and 24, 1980, are hereby canceled; and it is

Further ordered, that the commission will reschedule the hearing dates for June 23 and June 24, 1980, beginning at 9:15 A.M. at the offices of the public utilities commission, 8 Old Suncook road, Concord, New Hampshire; and it is

Further ordered, that Mountain Springs Water Company provide notification of these hearings in a suitable publication of circulation in its service territory.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of March, 1980.

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NH.PUC\*03/17/80\*[78527]\*65 NH PUC 127\*Conversion of Schiller Station

[Go to End of 78527]

### **Re Conversion of Schiller Station**

Intervenors: Public Service Company of New Hampshire, Community Action Program, and Legislative Utility Consumers' Council

DE 79-141, Third Supplemental Order No. 14,131

65 NH PUC 127

New Hampshire Public Utilities Commission

March 17, 1980

ORDER requiring an electric company to convert its generating plant from oil to coal generation.

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ELECTRICITY, § 3 — Conversion of generating plants — Oil to coal.

[N.H.] The commission ordered the conversion of a power station from oil generation to coal generation in order to prepare the company for any shortage of oil supplies that could potentially arise.

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APPEARANCES: Pierre Caron for Public Service Company of New Hampshire; Gerald Eaton for Community Action Program; William Shaine and Gerald Lynch for Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

I. Procedural History

The commission initiated this docket on its own motion pursuant to New Hampshire statutes RSA 378:7, 374:4, and 374:7. The motivation for the action was the commission's early recognition as to the direction of the price of oil. In addition, commission records indicated that a greater amount of oil-fired generation would result as electricity sales grow.

The commission Order No. 13,711 ([1979] 64 NH PUC 195) focused on the conversion of the four units at Schiller station to either natural gas or coal. There are four units at Schiller Nos. 3, 4, 5, and 6 with rated capacities of 28 mw, 50 mw, 50 mw, and 50 mw, respectively (staff witness Johnson testimony). Of these four units, Schiller Nos. 4 and 5 previously burned coal. Schiller No. 6 was designed to burn coal. Schiller No. 3 can be operated with either oil or natural gas. At present, all of these units are oil fired.

The commission staff conducted extensive discovery of the records of both the commission and Public Service Company of New Hampshire (PSNH). In addition, staff members have toured the facility with representatives from the Department of Energy (DOE), Environmental Protection Agency (EPA), and the State Air Resources Commission.

The commission staff's activities resulted in a concerted effort by the three aforementioned agencies to present testimony on the question of the advantages of conversion and the initial finding that scrubbers are not necessary.

Staff witnesses, Johnson, Marini, and Gertler testified as to the advantages of conversion. Extensive investigation by these staff members resulted in the following questions being addressed (a) equipment at the plant suitable for coal generation, (b) the price differential between oil and coal, (c) the greater use of Schiller station by NEPOOL and PSNH if the unit is coal versus oil, (d) railroad access to the plant for the transportation of coal, and (e) the availability of natural gas and coal.

The commission held formal hearings on September 4, October 29, and December 14, 1979. During these hearings testimony was received from Brian Hennessey from EPA, Steven Frank and Loren Farrar from DOE, Warren Harvey, George Herrick, and Shelton Wicker from PSNH,

Dennis Lunderville from the Air Resources Agency of the state of New Hampshire, and David Dixon from the Bureau of Air Quality Control for the state of Maine in addition to previously noted staff testimony.

At the December 14th hearing PSNH stated that after the declaration of the representative of EPA that scrubbers will not be required for the Schiller station, the company believed that a conversion of Unit Nos. 4, 5, and 6 would be economical and in the best interests of its customers. However, PSNH sought to have certain conditions placed in the commission order before any money was expended by PSNH on conversion. The commission rejected such conditions by Second Supplemental Order No. 14,096 (65 NH PUC 110).

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## II. Commission Analysis

The record in this proceeding mandates the conversion of Unit Nos. 4, 5, and 6 at the Schiller station to coal. This finding is supported by the following:

1. The present differential in fuel costs per M/Btu reveals that oil-fired generation is four times as expensive as coal.
2. That the present differential will increase because all predictions as to fuel prices reveal that oil will be increasing at a more rapid rate than coal.
3. That the fuel cost is an intricate component of when a unit is called into service by NEPOOL. Consequently, Schiller station will generate more electricity as a coal-fired unit than as an oil-fired unit.
4. That there is a reasonable assurance that the life of the plant will be extended with the modifications necessary for the plant to burn coal as opposed to oil.
5. The fact that the New England Power Company has converted some of its units at Brayton point from oil to coal will be of assistance to PSNH in the procurement of coal.
6. Availability of a fuel supply is more stable with coal as opposed to oil.
7. Availability of pollution control bonds and tax incentives will minimize the cash-flow constraints on PSNH.
8. The fuel adjustment clause, while having a positive effect on cash flow, has a negative effect as an incentive to the conversion of units from oil to coal.
9. The conversion of these units from oil to coal will result in a minimum of savings to consumers of \$80 million and this figure would easily double given recent fluctuations in the price of oil.
10. The financial stability of the company should be assisted by the new proposed federal assistance as to coal conversions.
11. Scrubbers are not necessary to comply with air pollution levels.

The commission recognizes that the State Air Resources Agency is continuing to examine the conversion as it relates to environmental regulations, rules, and laws. The commission will maintain this docket for receipt of this information. The efforts by the State Air Resources



Agency have been commendable to date and the public utilities commission will continue to work closely with this agency and PSNH to solve problems as they arise. However, PSNH should immediately begin purchasing the needed equipment for conversion and commence coal supply negotiations. This action by PSNH is extremely important because of the possibility of supply problems stemming from the current Mideast crisis. If the nation or the state is placed in an energy emergency, this commission will expect PSNH to be ready to burn coal at Schiller.

The question of converting Schiller No. 3 to natural gas will also be the subject of future hearings. The commission desires further endurance as to the issue involved with a conversion to natural gas of Unit No. 3.

Public Service Company of New Hampshire will file with the commission quarterly progress reports on the conversion of Schiller Unit Nos. 4, 5, and 6 to coal, and three months from today the company will also submit a conversion schedule. This will allow the commission to monitor the efforts of the company.

#### Supplemental Order

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

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Ordered, that Public Service Company of New Hampshire immediately begin converting Schiller station unit Nos. 4, 5, and 6 to coal; and it is

Further ordered, that Public Service Company of New Hampshire supply quarterly reports on the progress of such conversions; and it is

Further ordered, that three months from today, Public Service Company of New Hampshire will file with the commission a conversion schedule so as the commission can be informed as to when certain aspects of the conversion are scheduled to take place.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of March, 1980.

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NH.PUC\*03/17/80\*[78528]\*65 NH PUC 130\*Small Energy Producers and Cogenerators

[Go to End of 78528]

## **Re Small Energy Producers and Cogenerators**

DE 79-208, Third Supplemental Order No. 14,132

65 NH PUC 130

New Hampshire Public Utilities Commission

March 17, 1980

ORDER requiring an electric company to purchase power from a small power producer.

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1. ELECTRICITY, § 4 — Supplemental electric power — Purchase requirement.

[N.H.] In attempting to comply with statutory mandates encouraging the development of small scale and diversified sources of supplemental electric power, the commission ordered an electric utility to purchase power generated by a small, privately owned electric company. p. 131.

2. RATES, § 321 — Adjustment for purchases — Small power producer.

[N.H.] The commission recognized that the expense associated with electric power purchases by one electric company from another electric company, where the purchase was mandated by commission order, was properly chargeable to consumers through adjusted rates. p. 131.

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BY THE COMMISSION:

Supplemental Order

*Ruling as to Forster Site*

Edward F. Forster and his brother are co-owners of the old "Franklin Electric Light and Power Company" building and hydroelectric station located in the center of Franklin, New Hampshire. The site, which was previously owned by Public Service Company of New Hampshire (PSNH), operated as a hydroelectric site for nearly seventy years. (Exhibit 5.)

Mr. Forster has been attempting to bring the station into productive service. Towards this goal, Mr. Forster has accomplished the following: (1) an Allis Chalmers feasibility study; (2) a nearly completed federal licensing proceeding at the Federal Energy Regulatory Commission (FERC); (3) concrete discussions with a major banking institution; (4) a second feasibility study by Kleinschmidt and Dutting.

Consequently, the commission and its

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staff have been able to evaluate the assumptions and expectations behind Mr. Forster's predictions that result in a request of seven cents plus per kwh.

The commission in evaluating the Forster evidence is aware of the overriding themes of both the Limited Electrical Energy Producers Statute, (LEEPS), RSA 362-A, and the Public Utility Regulatory Policies Act (PURPA), which is to encourage the development of small scale and diversified sources of supplemental electric power. See *Re New Hampshire Electric Co-op., Inc.* (1979) 64 NH PUC 82 (DE 78-232, DE 78-233).

The commission, in attempting to comply with these statutory mandates, is cognizant of the financing problems faced by small power producers. Financial institutions are acutely aware of both the composition of regulatory commissions and the relatively brief history of these statutes. Consequently, there is a natural hesitancy to lend money without some specific guidelines and assurances. Discerning regulatory commissions are well advised to be mindful of this potential

roadblock to the development of alternate forms of energy.

The commission, mindful of this situation, indicated in its previous decision, DE 78-232, DE 78-233, its Order No. 13,869 (64 NH PUC 361), and in hearings conducted pursuant to this docket that consideration would be given to individual cases, as well as a basic minimum rate.

Our decision to pursue this bifurcated approach is supported by the recently released FERC final rules on § 210 of PURPA. In the *Federal Register*, Vol 45, No. 38, Section II, p. 12216 (February 25, 1980), the FERC stated that state commissions may proceed to implement the rules on a case-by-case basis. Furthermore, the FERC has also recognized the complexity involved in this newly developed area and the need to provide "flexibility for experimentation and accommodation of special circumstances" with regard to implementation of rates for purchases. *Federal Register*, Vol 45, No. 38, § 292.304(c), p. 12226.

Mr. Forster has testified that with the proper rate so as to achieve the ability to finance, the unit in Franklin, New Hampshire, can be operational in the spring of 1981. While the commission is considering a variety of methods to arrive at a rate equivalent to net avoided costs, the commission finds that all of the methods reveal that by the scheduled operational date, this definition will be complied with by the rate of 7.5 cents per kwh for energy and eight cents per kwh for capacity. Further support is provided by LEEPS, which does not have the net avoided cost limitation.

The commission recognizes that such a rate must be passed on to consumers so as to properly reflect the costs of energy. Consequently, when the plant begins to generate electricity, the commission will make an adjustment to the rates charged by PSNH. It is hereby

[1] Ordered, that Public Service Company will pay 7.5 cents per kwh for energy and eight cents per kwh for capacity for power produced at the Forster site in Franklin, New Hampshire, when the plant becomes operational; and it is

[2] Further ordered, that when the plant becomes operational, an adjustment to PSNH's rates will be made to reflect these increased expenses.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of March, 1980.

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NH.PUC\*03/17/80\*[78529]\*65 NH PUC 132\*Swans Falls and Rollinsford Hydro Sites

[Go to End of 78529]

## **Re Swans Falls and Rollinsford Hydro Sites**

IF 14,894, Supplemental Order No. 14,133

65 NH PUC 132

New Hampshire Public Utilities Commission

March 17, 1980

ORDER requiring compliance with a prior rate order.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission by Order No. 13,938 ([1979] 64 NH PUC 416) found that the hydrogenerating sites at Swans Falls and Rollinsford qualify under RSA 362-A:2; and

Whereas, the commission by Order No. 13,938 also found that as a consequence, the rates set by the commission in DE 78-232, DE 78-233 (64 NH PUC 82) are applicable to these sites; and

Whereas, the commission is in receipt of letters between John Lyons of Public Service Company and Robert Shaines representing Swans Falls and Rollinsford Manufacturing Company, Inc., which provide information as to the two sites; and

Whereas, the information is found to be similar, if not identical, to information already within the confines of the commission records and knowledge; and

Whereas, nothing in these letters mandates any alteration of commission Order No. 13,938; it is

Ordered, that Public Service Company of New Hampshire immediately comply with Order No. 13,938 as required by RSA 365:40; and it is

Further ordered, that anything less than full compliance with commission Order No. 13,938 will result in immediate use of RSA 365:41 and 42.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of March, 1980.

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NH.PUC\*03/17/80\*[78530]\*65 NH PUC 132\*Union Telephone Company

[Go to End of 78530]

**Re Union Telephone Company**

DR 79-120, Fourth Supplemental Order No. 14,134

65 NH PUC 132

New Hampshire Public Utilities Commission

March 17, 1980

ORDER rejecting a telephone company's revised tariff pages.

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RATES, § 245 — Tariff pages — Commission rejection.

[N.H.] The commission rejected a telephone company's proposed revised tariff pages because the rate levels that would result were in excess of those allowed by the commission in prior orders.

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BY THE COMMISSION:

## Supplemental Order

Whereas, the Union Telephone Company filed with the commission revised tariff pages on February 29, 1980; and

Whereas, the Union Telephone Company alleges that these tariff pages will comply with the commission's decision in this proceeding; and

Whereas, upon initial investigation, the commission finds that the rate levels that will result from these tariffs are in excess of that allowed by the commission by either Order No. 13,956 ([1979] 64 NH PUC 434) or 14,004 (65 NH PUC 30); it is hereby

Ordered, that the tariff sheets filed by the company are hereby rejected pending further investigation; and it is

Further ordered, that the Union Telephone Company comply with the commission's original Order No. 13,956 as to mileage charges, which eliminated all mileage charges on bills after December 19, 1979; and it is

Further ordered, that any bills sent to consumers by Union Telephone after the date of this order will be deemed to be an automatic violation of RSA 365:41 and 42; and it is

Further ordered, that the Union Telephone Company will be provided an opportunity to provide a more complete breakdown of its proposed rates; and it is

Further ordered, that alleged revenue deficiencies or overcharges between December 19, 1979, and April 30, 1980, will be the subject of a hearing at the offices of the commission at a date to be set by a further order of this commission; and it is

Further ordered, that the rates in effect, pursuant to the temporary rate order in this docket, be continued except that no mileage charges will be allowed until the commission completes its investigation as to the rates proposed by the company for December 19, 1979, forward and March 31, 1980, forward. Nor in any case will mileage charges be allowed after the commission investigation.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of March, 1980.

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NH.PUC\*03/17/80\*[78531]\*65 NH PUC 133\*Gas Service, Inc.

[Go to End of 78531]

**Re Gas Service, Inc.**

DR 79-129, Third Supplemental Order No. 14,135

65 NH PUC 133

New Hampshire Public Utilities Commission

March 17, 1980

PETITION to fold into basic rates a certain amount per therm; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Gas Service, Inc., has filed a motion for rehearing in a timely fashion; and

Whereas, a portion of the motion relates to folding into basic rates an

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amount equal to \$0.0855 per therm for the Nashua division and \$0.1027 per therm for the Laconia division; and

Whereas, this request is identical to that proposed by the company in the proceedings to which there is no objection stated; and

Whereas, the motion also requests permission to file updated data concerning the elimination of AC-2, AC-4, and LV-2 rate classifications; it is hereby

Ordered, that the fold-in requested by the company is granted; and it is

Further ordered, that the company can file exhibits to be considered on the revenue effect of the eliminations of the proposed rate classifications; and it is

Further ordered, that the rights of all parties to a rehearing are preserved until the commission can review the exhibits ordered above.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of March, 1980.

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NH.PUC\*03/17/80\*[78532]\*65 NH PUC 134\*Public Service Company of New Hampshire

[Go to End of 78532]

**Re Public Service Company of New Hampshire**

DE 80-47, Order No. 14,136

65 NH PUC 134

New Hampshire Public Utilities Commission

March 17, 1980

ORDER opening an investigation as to a utility's peak demand forecast.

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RATES, § 644 — Initiation of investigation — Right to act — Demand forecasts.

[N.H.] The commission pursuant to state law has the right to initiate its own investigation, a duty to keep informed, and the right to review, approve, reject, and develop peak demand forecasts.

-----

BY THE COMMISSION:

Order

Whereas, the Public Service Company of New Hampshire (PSNH) files with the commission a ten-year projection for peak demand growth pursuant to RSA 162-F:4V; and

Whereas, the public utilities commission, pursuant to RSA 365:19, 378:7,162 and 374 has the right to initiate its own investigation, a duty to keep informed and the right to review, approve, reject, and develop peak demand forecasts; and

Whereas, the question of peak demand has continued to be raised in various proceedings before the commission; it is

Ordered, that DE 80-47, investigation into peak demand for Public Service Company of New Hampshire, is hereby opened; and it is

Further ordered, that Public Service Company present a witness with filed testimony and exhibits as to its most recent

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peak projection for the next ten years; and it is

Further ordered, that such testimony and exhibits are to be filed no later than April 21, 1980; and it is

Further ordered, that the Legislative Utility Consumers' Council (LUCC) is also provided the opportunity to file testimony and exhibits as to its contentions as to what the peak growth rate will be for PSNH over the next ten years; and it is

Further ordered, that the LUCC will comply with the same timetable as PSNH, if it seeks to be a participant in these proceedings; and it is

Further ordered, that any other person, entity, association, or organization interested in becoming a party must file its projections as to Public Service Company's peak growth rate for the next ten years by April 21, 1980; and it is

Further ordered, that no person, entity, association, or organization will be allowed to be a party, unless such person, entity, association, or organization files testimony and exhibits demonstrating its peak projections for Public Service Company; and it is

Further ordered, that Public Service Company is to file notice of this order in the *Union Leader* and the *New Hampshire Times* as soon as possible; and it is

Further ordered, anyone who intends to participate as a party give notice to the commission of such intentions by April 1, 1980.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of March, 1980.

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NH.PUC\*03/18/80\*[78533]\*65 NH PUC 135\*New England Telephone and Telegraph Company

[Go to End of 78533]

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

Intervenors: Legislative Utility Consumers' Council, Department of Defense, General Services Administration, Volunteers Organized in Community Education, and New Hampshire Legal Assistance

DR 80-23, Order No. 14,137

65 NH PUC 135

New Hampshire Public Utilities Commission

March 18, 1980

ORDER specifying commission procedure to be utilized during the course of a telephone company rate proceeding.

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PARTIES, § 18 — Deadline for parties — Commission requirements.

[N.H.] Pursuant to a published order of notice, the commission would not accept the appearance of any party after the date specified unless the party petitioned the commission in writing and could demonstrate good cause to allow their appearance and further demonstrated that a failure to allow their appearance may be detrimental to the party and to the public in general.

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APPEARANCES: Peter Guenther and Robert Wells, of McLane, Graf, Greene, Raulerson and Middleton, for New England Telephone and Telegraph Company; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council; Jefferson N. Shaffner for the United States Department of Defense and General Services Administration; Allen Linder and Richard Aborjali for Volunteers Organized in Community Education and New Hampshire Legal Assistance.



## BY THE COMMISSION:

## Report

Procedural History: The New England Telephone and Telegraph Company, (hereinafter called NET) filed tariffs New Hampshire Public Utilities Commission 70 and 73 providing for an increased annual revenue in the amount of \$22 million or a 19 per cent increase on February 1, 1980, to take effect on March 2, 1980. As a result of said filing, DR 80-23 was opened and the proposed tariffs were suspended by Order No. 14,048 (65 NH PUC 67) pending investigations and decisions thereon.

On February 19, 1980, the commission issued an order of public notice setting a procedural hearing to be held before the commission in Concord on March 4, 1980, at 11:00 A.M. The notice was duly published and a public hearing was held at the scheduled time and place.

Appearance and Interventions: The following parties entered their appearances through their respective counsel who are listed above, and are accepted by the commission as full parties, New England Telephone and Telegraph Company, and Legislative Utility Consumers' Council, the commission also accepted the following as full intervenors in this proceeding, United States Department of Defense, General Services Administration, and Volunteers Organized in Community Education.

Pursuant to the published order of notice, the commission will not accept the appearance of any party after this date unless the party petitions the commission in writing and can demonstrate good cause to allow their appearances and further demonstrate that a failure to allow their appearance may be detrimental to the party and to the public in general.

Testimony, Exhibits, Discovery: The company, NET, has prefiled its witnesses, testimony and exhibits on February 28, 1980. The LUCC staff and intervenors shall review NET's prefiled testimony and exhibits and serve data requests by April 7, 1980; NET shall serve its responses by April 28, 1980.

Legislative Utility Consumers' Council staff and intervenors shall file their prepared written testimony and exhibits by May 19, 1980. New England Telephone and Telegraph Company shall serve LUCC staff and intervenors with data requests by May 26, 1980, and responses shall be served on NET by June 11, 1980.

Motions on Discovery: Parties who object to data request shall file a motion stating such objection within ten days from the receipt of the data request.

Parties who object to data responses shall file a motion stating such objection within five days from the receipt of the data response objected to.

Division of Staff: The following members of the staff are assigned to the categories listed below: Advisory, James Nicholson, finance, Bruce B. Ellsworth,

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engineering; Investigatory, Eugene Sullivan, finance, Kenneth Traum, finance, Edwin Lebel, finance, Edgar Stubbs, engineering, Laurence Partan, engineering, Robert Camfield, economics, Lisa Gertler, economics.

Hearings: Public hearings shall be scheduled on and after June 11, 1980, and continue into July, 1980. Dates and times shall be published in appropriate orders of notice and mailed to parties of record.

Evening public hearings shall be scheduled in municipalities designated by the commission for the purpose of receiving statements and comments from members of the public at large. Notice of evening public meetings will be by appropriate published orders of notice.

Distribution List: Attached hereto is a distribution list setting forth the number of copies of each filing to be served on parties to this proceeding. Compliance with this list is required until such time as the commission directs otherwise.

Settlement Conference: Any party may request a conference for the purpose of settling issues in this docket. Upon receipt of a request, the executive director shall schedule a conference, he thereafter shall act as the hearing examiner and report to the commission on settlements reached and the commission shall accept or reject same.

Our order will issue accordingly.

Order (Procedural Hearing)

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

Ordered, that all parties, staff, and intervenors in this proceeding shall comply with the procedures set forth in the foregoing report issued on this date and shall further comply with the rules and regulations of the commission.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of March, 1980.

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NH.PUC\*03/24/80\*[78534]\*65 NH PUC 137\*New England Power Company

[Go to End of 78534]

## **Re New England Power Company**

DF 79-33, Supplemental Order No. 14,141

65 NH PUC 137

New Hampshire Public Utilities Commission

March 24, 1980

PETITION for authority to increase the limit of an exemption privilege as to commission authorization for issuance of securities; granted.

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SECURITY ISSUES, § 134 — Exemption from regulations to issue and renew.

[N.H.] The commission increased the limit of an exemption privilege given to a utility to

issue and renew its notes such that the utility was authorized, from time to time, to issue and renew its notes, bonds, or other evidence of indebtedness without first obtaining the approval of the commission.

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BY THE COMMISSION:

Supplemental Order

Whereas, by Tenth Supplemental Order No. 13,502 (DF 79-33) (64 NH PUC 33) of this commission dated February 27, 1979, New England Power Company was granted an exemption 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 the proceeds of any such issue or renewal), not in excess of \$78 million which exemption expires March 31, 1980, unless such period is extended by order of this commission; and

Whereas, New England Power Company now requests that the exemption be increased to permit New England Power to issue and renew its notes payable up to \$143 million and that such exemption be extended to March 31, 1981, to coincide with its borrowing application being filed with the Securities and Exchange Commission; and

Whereas, this commission, after investigation and consideration, finds that said request is consistent with 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 \$143 million; and it is

Further ordered, that the exemption herein shall expire March 31, 1981, unless extended by order of this commission; and it is

Further ordered, that on January 1st in each year said New England Power Company shall file with this commission a detailed statement, duly sworn 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 twenty-fourth day of March, 1980.

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NH.PUC\*03/26/80\*[78535]\*65 NH PUC 138\*Union Telephone Company

[Go to End of 78535]

## Re Union Telephone Company

DR 79-120, Fifth Supplemental Order No. 14,147

65 NH PUC 138

New Hampshire Public Utilities Commission

March 26, 1980

ORDER amending a prior commission order regarding a telephone company's billing procedure.

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BY THE COMMISSION:

Supplemental Order

Whereas, Fourth Supplemental Order No. 14,134 (65 NH PUC 132) ordered the following: "Further ordered, that any bills sent to consumers by Union Telephone Company after the date of this order will be deemed to be an automatic violation of RSA 365:41 and 42"; and

Whereas, Fourth Supplemental Order No. 14,134 also ordered the following: "Further ordered, that rates in effect, pursuant to the temporary rate order in this docket, be continued except that no mileage charges will be allowed until the commission completes its investigation as to the rates proposed by the company for December 19, 1979, forward and March 31, 1980, forward. Nor in any case will mileage charges be allowed after the commission investigation."; and

Whereas, the two portions of Fourth Supplemental Order No. 14,134 do conflict; and

Whereas, Fourth Supplemental Order No. 14,134 should have read, Further ordered, that any bills sent to consumers by Union Telephone Company after the date of this order which include mileage charges will be deemed to be an automatic violation of RSA 365:41 and 42; and

Whereas, Union Telephone Company, on March 19, 1980, filed a motion for rehearing alleging that the commission's order deprived the company of approximately \$85,000 in monthly revenues; and

Whereas, the commission, by amending Fourth Supplemental Order No. 14,134 can eliminate the problem addressed by Union Telephone Company; it is

Ordered, that Fourth Supplemental Order No. 14,134 is amended to read as follows: "Further ordered, that any bills sent to consumers by Union Telephone Company after the date of this order which include mileage charges will be deemed to be in violation of RSA 365:41 and 42"; and it is

Further ordered, that any right that Union Telephone Company has to revenue which would have been produced by mileage charges or basic rates will be preserved and will be the subject of further orders of this commission after all parties have had an opportunity to meet and discuss the concerns of the commission as to the company, of whether or not the rates proposed by the

company accurately reflect the commission's decision in this docket.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of March, 1980.

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NH.PUC\*03/28/80\*[78536]\*65 NH PUC 140\*Public Service Company of New Hampshire

[Go to End of 78536]

## Re Public Service Company of New Hampshire

Intervenor: Legislative Utility Consumers' Council

DF 80-43, Order No. 14,150

65 NH PUC 140

New Hampshire Public Utilities Commission

March 28, 1980

PETITION for authority to issue and sell preferred stock for the purpose of financing construction; granted.

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SECURITY ISSUES, § 58 — Purposes of capitalization — Additions.

[N.H.] The commission approved the issuance of preferred stock, the proceeds of which would be used to pay off short-term notes outstanding whose proceeds were expended principally in the purchase and construction of property, to finance the purchase and construction of additional such property, and for other proper corporate purposes.

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APPEARANCES: Frederick J. Coolbroth and Ralph H. Wood for the petitioner; William L. Shaine for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this unopposed petition filed March 3, 1980, 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 not exceeding 1.2 million shares of preferred stock, \$25 par value. A duly noticed hearing was held in Concord on March 20, 1980. The hearing was recessed and continued on March 25, 1980.

### *Positions of the Parties*

#### *A. Position of Public Service Company of New Hampshire*

The company through witness Harrison stated that the proceeds of the sale of the preferred stock will be used (1) to pay off a portion of the short-term notes outstanding at the time of sale (estimated to be \$125,350,000 on April 16, 1980), the proceeds of which will have been principally 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 finance the purchase and construction of additional such property; and (c) for other proper corporate purposes. All expenses incurred in accomplishing the financing, including compensation to be paid to underwriters, will be paid from the general funds of the company.

The preferred stock will be sold through a negotiated public offering. Mr. Harrison described the terms of sale to be negotiated and explained why the company again proposed a negotiated rather than a competitive sale.

The company submitted a balance sheet as at December 31, 1979, actual and pro formed to reflect other recent financings by the company and the

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proposed sale of the preferred stock. Exhibits were also submitted showing the company's tentative 1980 financing plan; disposition of proceeds from the sale of the preferred stock; estimated expenses of the issue; and capital structure as at December 31, 1979, actual and pro formed to reflect other recent financings by the company and the proposed sale of the preferred stock. Projected financing requirements and estimated construction expenditures were outlined in testimony. A certified copy of authorizing votes of the company's board of directors was put in evidence at the hearing.

*B. Position of Legislative Utility Consumers' Council (LUCC)*

The LUCC, which introduced two exhibits relating to the new estimated cost of Seabrook station, did not object to the company's proceeding to sell the preferred stock.

*C. Commission Analysis*

Based upon all of the evidence, the commission finds that the proceeds from the proposed financing will be expended (1) 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 principally in the purchase and construction of property located within the state reasonably requisite for present and future use in the conduct of the petitioner's business; (2) to finance the purchase and construction of additional such property within the state; and (3) for other proper corporate purposes within the state, and further finds that the issue and sale of the preferred stock for the purposes described will be consistent with the public good. Our order will issue accordingly.

*Order*

Based 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 not exceeding 1.2 million shares of preferred stock, \$25 par value, for cash in accordance with the foregoing report and as set forth in its petition; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this

commission the number of shares of said preferred stock to be sold, the purchase price thereof, and dividend rate thereon, after which a supplemental order will issue approving the terms of the issue and sale of the preferred stock, including the number of shares of said preferred stock to be sold, the purchase price thereof, and dividend rate thereon; and it is

Further ordered, that the proceeds from the sale of said preferred stock shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of said company and for the other purposes stated in the report; and it is

Further ordered, that on July 1st and January 1st in each year, Public Service Company of New Hampshire 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 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-eighth day of March, 1980.

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NH.PUC\*03/31/80\*[78537]\*65 NH PUC 142\*Public Service Company of New Hampshire

[Go to End of 78537]

## **Re Public Service Company of New Hampshire**

Intervenors: Legislative Utility Consumers' Council, Community Action Program, Business and Industry Association, Department of Defense, General Services Administration, and New Hampshire People's Alliance

DR 79-187, 21st Supplemental Order No. 14,154

65 NH PUC 142

New Hampshire Public Utilities Commission

March 31, 1980

PETITION of a utility for an increase in temporary rates; granted.

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APPEARANCES: Franklin Hollis and Martin L. Gross for the petitioner; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council; Gerald Eaton for the Community Action Program; Dom S. D'Ambruoso for the Business and Industry Association; Jefferson M. Shaffner for the United States Department of Defense and General Services Administration; Gerald Cleary for the New Hampshire People's Alliance.

BY THE COMMISSION:

Report

These proceedings were initiated by Order No. 13,799 (64 NH PUC 295) of the commission issued August 29, 1979, in DR 79-107, which ordered an investigation of the revenue

requirements of Public Service Company of New Hampshire (the company). On August 31, 1979, the company filed its Tariff No. 23 providing for increased rates to become effective on October 1, 1979, which the commission suspended for investigation. The two investigations were consolidated for hearings into this DR 79-187.

On December 26, 1979, the commission issued its Eleventh Supplemental Order No. 13,962 (64 NH PUC 458) in these proceedings which authorized the company to make effective as emergency rate relief an increase of \$11,970,591 out of the \$18,456,225 increase in revenue contemplated by Tariff No. 23 by means of surcharges on billings issued on and after December 28, 1979. The company duly instituted such surcharge billings.

On March 5, 1980, the company notified the commission that it intended to place Tariff No. 23 in effect on April 1, 1980, pursuant to RSA 378:6 and submitted a bond for the commission's approval. In connection therewith, the company submitted a proposal to all parties in the proceedings and the staff of the commission which proposed that (a) instead of placing Tariff No. 23 in effect under bond, the revenue level contemplated by Tariff No. 23 be made effective as temporary rates pursuant to RSA 378:27 by increasing the surcharges authorized by our Order No. 13,962, (b) to make effective the fuel adjustment clause of Tariff No. 23 on April 1, 1980, including the proposed amortizing adjustment to recover unbilled fuel cost above base accrued under the fuel

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adjustment clause of Tariff No. 22, and (c) a conference of the parties with staff of the commission to discuss the proposal. The commission was duly notified of this proposal and directed that a hearing on temporary rates be notified for March 31, 1980, which was done.

There followed a series of conferences between the parties and members of the commission's staff with respect to the company's proposals of March 5, 1980, which also included matters of under- or overcollection of fuel cost above base under the fuel adjustment clause in Tariff No. 22 pending before the commission in DR 76-46. The results of these conferences were two agreements entitled "Settlement Agreement No. 1" and "Settlement Agreement No. 2" which were filed with the commission on March 28, 1980. These agreements were worked out by representatives of a broad spectrum of the company's customers and approved by the staff of the commission.

A duly noticed hearing on temporary rates for the company was held on March 31, 1980, at which the two settlement agreements were open for inspection and were made a part of the record in the proceedings.

Mr. Harrison testified at the hearing that it was principally the state of the financial markets and delay in the Massachusetts proceedings that required the company to slow down construction of Seabrook in order to lessen the company's outside capital financing requirements. He presented two exhibits which showed that such requirements would be reduced by approximately \$57 million for the balance of 1980. He also introduced a cost of capital exhibit which indicated that the cost of capital now invested in the company has risen significantly since May 31, 1979. He further stated that the results of operation for 1979 evidenced a decline in the earned rate of return. In conclusion he stated that under all the circumstances it was vital to the



continued construction of Seabrook and the company's financial well-being that the revenue level contemplated by Tariff No. 23 be instituted on April 1, 1980.

Based upon all the evidence and the circumstances of these proceedings, we find that it is for the public good that the revenue level of Tariff No. 23 be made effective pursuant to the settlement agreements as temporary rates pursuant to RSA 378:27, 29 and 30 as of April 1, 1980, by increasing proportionally the kilowatt-hour surcharges presently effective under our Order No. 13,962. We further find that it is in the public good that the fuel adjustment clause of Tariff No. 23 be made effective as of April 1, 1980, in place of the fuel adjustment clause in Tariff No. 22 in the manner set forth in the settlement agreements. We further find that the company should be authorized to recover its unbilled fuel costs above base in the amount and manner set forth in the settlement agreements. Our order will issue accordingly.

#### Supplemental Order

In consideration of our report issued March 31, 1980, which is made a party hereof, it is

Ordered that Public Service Company of New Hampshire be, and hereby is, authorized to make effective as temporary rates on usage on or after April 1, 1980, pursuant to RSA 378:27 subject to the provisions of RSA 378:29 and 30, a level of revenue \$6,485,417 above the level of revenue authorized under our emergency rate Order No. 13,962 by increasing

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proportionally the emergency kilowatt-hour surcharges in accordance with the report of proposed rate charge attached to the report; and it is

Further ordered that Public Service Company of New Hampshire shall file a bond pursuant to RSA 378:30 to secure the repayment to its customers of the difference 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; and it is

Further ordered that the resulting rates be documented by filing Supplement No. 10 to the Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity; and it is

Further ordered that the Public Service Company of New Hampshire be, and hereby is, authorized to make effective as of April 1, 1980, the fuel adjustment clause in Tariff No. 23 as an amendment to Tariff No. 22 in accordance with Settlement Agreement No. 1; and it is

Further ordered that Public Service Company of New Hampshire be and hereby is authorized to institute an amortizing adjustment to recover unbilled fuel cost above base in the manner and amount set forth in the settlement agreements; and it is

Further ordered that public notice be given according to tariff Filing Rule 27 of the matters herein ordered, said notice to summarize Supplement No. 10, the new fuel adjustment clause and the amortizing adjustment.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of March, 1980.

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NH.PUC\*03/31/80\*[78538]\*65 NH PUC 144\*Fuel Adjustment Charge

[Go to End of 78538]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Legislative Utility Consumers' Council, and Community Action Program

DR 76-46, 50th Supplemental Order No. 14,155

65 NH PUC 144

New Hampshire Public Utilities Commission

March 31, 1980

PETITION of an electric company for authority to apply a fuel adjustment charge; granted as modified.

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RATES, § 332 — Fuel adjustment clause — Electric company.

[N.H.] The commission authorized an electric company to institute a fuel adjustment charge that was determined to be just and reasonable.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; William Shaine and Gerald L. Lynch for the Legislative Utility Consumers' Council;

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Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-a (II), the commission on March 20, 1980, and March 25, 1980, held hearings on the petition of Public Service Company of New Hampshire (hereinafter referred to as the "company") for authority to apply a fuel adjustment charge to regular April, 1980, monthly billings to their customers and/or for authority to apply a fuel adjustment charge to regular April, May, and June, 1980, billings either pursuant to its proposed tariff, NHPUC No. 23 — Electricity, under bond or in lieu of Tariff No. 23, to apply a fuel adjustment charge pursuant to tariff, NHPUC No. 22 — Electricity, but with a three-month, forward-looking fuel adjustment charge including a fold-in of fossil energy costs based on costs during the year ending May 31, 1979.

Reference may be made to previous commission decisions in this docket for statements and explanation of the fuel adjustment clause presently in effect under tariff, NHPUC No. 22 — Electricity.

The company is a public utility engaged in the business of supplying electric service in the state of New Hampshire. On March 17, 1980, the company prefiled with this commission the

33rd Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, which comprised the estimated monthly calculation of the fuel adjustment charge for effect April 1, 1980. When NEPEX figures became known to the company it filed on March 21, 1980, the 35th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, which reflected a fuel adjustment charge of \$2.71 per 100 kwh rounded. All exhibits relating to this calculation were collectively identified as Set 1 and were marked for identification as P-1-A through P-1-I, respectively.

In addition to the foregoing, on March 17, 1980, the company prefiled with this commission the following tariff pages being identified collectively as Sets 2 and 3 respectively.

First Revised Page 15 Tariff, NHPUC No. 22 — Electricity Set 2 First Revised Page 16 Tariff, NHPUC No. 22 — Electricity Original Page 16-A Tariff, NHPUC No. 22 — Electricity 34th Revised Pages 17 and 18 Tariff, NHPUC No. 22 — Electricity Original Page 16 Tariff, NHPUC No. 23 — Electricity Set 3 Original Page 17 Tariff, NHPUC No. 23 — Electricity Original Page 18 Tariff, NHPUC No. 23 — Electricity First Revised Pages 19 and 20 Tariff, NHPUC No. 23 — Electricity

With respect to 35th Revised Pages 17 and 18 under NHPUC No. 22 — Electricity, the company reported a fuel cost above base of \$14,886,223 and total kilowatt-hours subject to the fuel adjustment of 548,750,000 resulting in a per kilowatt-hour charge of \$2.71 per 100 kwh rounded.

The company represented that it has experienced lower "lost and unaccounted for" during the data month of February, 1980, and the costs relating to the Maine Electric Power Company New Brunswick were lower. Offsetting this, however, were higher NEPEX costs and less hydro and nuclear generation.

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The company further testified that when comparing the average cost of fossil fuel between the current data month of February to the preceding data month of January, the cost of a barrel of No. 6 oil had increased again from \$20.85 to \$22.11 (before credits) and a ton of coal had increased from \$42.49 to \$42.87 (before credits).

With respect to the series of exhibits collectively identified as to Set 2, the company presented evidence folding into its base rates its net energy costs of fossil fuels based upon data for the year ending May 31, 1979. This resulted in a new base net energy cost of \$1.809427 per 100 kwh.

For the quarter commencing April 1, 1980, the company estimated its net energy cost, of fossil fuels of \$33,057,510, total New Hampshire retail sales of 1,111,016 mwh, prime sales of 1,364,600 mwh, coal handling use of 406 mwh, and construction power of 5,914 mwh. The methodology, assumptions, and input were testified to by Wyatt Brown, Ralph Johnson, James T. Rodier, and Nancy Wilber. The company utilized the Census X-11 method for seasonal adjustments to the data and relied heavily on its fuel budget program in coming up with its estimates. The company made appropriate adjustments to its fuel budget program including an adjustment to reflect the NEPEX savings shares.

The company then estimated the net energy fossil fuel cost applicable to New Hampshire

retail sales as follows:

[Equation below may extend beyond size of screen or contain distortions.]

Net Energy Cost versus New Hampshire Retail Sales  $\times$  Retail Loss

Prime Sales+Coal Handling Use+Construction Power Adjustment

\$33,057,510  $\times$  1,111,016 mwh

$\times$  1.008

1,364,600 mwh+406 mwh+5,914 mwh

The retail loss adjustment factor of 1.008 was the result of a study conducted by the company and which was testified to by Gary Lang at last month's fuel charge hearing which evidence and testimony are incorporated herein by reference. Also incorporated by reference are the exhibits associated with DR 79-187 as they relate to the fuel adjustment clause.

This being the first quarter of estimated, forward-looking fuel adjustment charges for the company, there is no need to calculate the reconciling adjustment for none is applicable for this period.

Excluding the amortizing adjustment, which is to be billed commencing in the month of June, 1980, in accordance with Settlement Agreements Nos. 1 and 2, to be hereinafter discussed, the company computed its fuel adjustment rate as follows:

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

Estimated Total Costs Subject to Adjustment	= \$ 27,004,670	= \$0.02926308 per kwh
Estimated New Hampshire	922,824,000 kwh	
Less Base Net Energy Cost (from p. 16)	0.01809427	
Fuel Adjustment Rate	\$0.01116881 per kwh	
Rounded to Nearest Fourth Decimal Position	\$0.0112 per kwh	

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In the above calculation, the company adjusted the denominator downward to reflect application of this fuel adjustment rate to service taken after April 1, 1980.

All parties to these proceedings have entered into two stipulations, both dated March 28, 1980, and entitled "Settlement Agreement No. 1" and "Settlement Agreement No. 2," respectively, and which have been (ratified, adopted, and) filed with and approved by this commission. These settlement agreements were the result of major efforts and studies and investigations by the commission's staff, the company staff, and the staff of the intervenors.

As a result of these agreements, the denominator in the above calculation of estimated New Hampshire retail sales, was increased to 1,111,016,000 kwh which has the effect of reducing the fuel adjustment rate from \$1.12 per 100 kwh to 62 cents per 100 kwh rounded. The parties

further agreed to pro rate the fuel adjustment between Set 1 and Set 2 as follows: (i) the fuel adjustment rate of \$2.71 per 100 kwh shall be applicable to bills rendered in April, 1980, for service consumed in March; and (ii) the fuel adjustment rate of 62 cents per 100 kwh shall be applicable to bills rendered in April, May, and June, 1980, excluding that portion of April, 1980, bills which are rendered for service consumed in March, 1980. The fuel adjustment rate of \$2.71 per 100 kwh shall be applicable in conjunction with tariff, NHPUC No. 22 — Electricity, and the fuel adjustment rate of 62 cents per 100 kwh shall be applicable in conjunction with tariff, NHPUC No. 22 — Electricity, as modified by Settlement Agreement No. 1 and Settlement Agreement No. 2 and consistent with commission Order No. 14,154 (65 NH PUC 142) pursuant to the temporary rate hearing held on March 31, 1980.

Because of Settlement Agreement No. 1 and Settlement Agreement No. 2, which are incorporated herein by reference it is not necessary that the commission make any findings in connection with the series of exhibits identified as Set No. 3 in these proceedings for the issues raised thereby have become moot.

Based upon all the testimony and evidence in the record of this proceeding and the aforesaid settlement agreements, the commission finds that the proposed fuel adjustment charge for service taken in March, 1980, and to be filed in April, 1980, of \$2.71 per 100 kwh to be just and reasonable and the commission rejects the proposed fuel adjustment charge for service in April, May, and June, excluding that portion of April, 1980, bills which are rendered for service consumed in March, 1980, of \$1.12 per 100 kwh and the company is hereby ordered to file tariff pages reflecting a charge of 62 cents per 100 kwh fuel adjustment charge as aforesaid.

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 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for a monthly fuel surcharge of \$2.53 per 100 kwh for the month of April, 1980, be, and hereby are, rejected; and it is

Further ordered, that 35th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for a monthly fuel surcharge of \$2.71 per 100

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kwh for service taken in the month of March, 1980, and to be billed in April, 1980, be, and hereby is, permitted to become effective April 1, 1980; and it is

Further ordered, that 34th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, and Original Pages 16, 17, and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 23, and 1st Revised Pages 19 and 20 of Public Service Company tariff; NHPUC No. 23 providing for a quarterly estimated fuel surcharge of \$1.12 per 100 kwh for service billed in April, May, and June, 1980; excluding that portion of April, 1980, bills which were rendered for service consumed in March, 1980, be, and hereby are, rejected; and it is

Further ordered, that First Revised Pages 15 and 16 and Original Page 16-A of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for a quarterly estimated fuel adjustment clause, be, and hereby are, accepted; and it is

Further ordered, that Public Service Company of New Hampshire will file new tariff pages for an estimated quarterly fuel surcharge of 62 cents per 100 kwh for service billed in April, May, and June, 1980, excluding that portion of April, 1980, bills which are rendered for service consumed in March, 1980, to become effective April 1, 1980; and it is

Further ordered, that 62nd Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$2.72 per hundred kilowatt-hours for the month of April, 1980, be, and hereby is, permitted to become effective April 1, 1980; and it is

Further ordered, that 57th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 Electricity, providing for the monthly fuel surcharge of \$2.79 per hundred kilowatt-hours for the month of April, 1980, be, and hereby is, permitted to become effective April 1, 1980; and it is

Further ordered, that 36th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 76 cents per hundred kilowatt-hours for the month of April, 1980, be, and hereby is, permitted to become effective April 1, 1980; and it is

Further ordered, that Third Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$2.87 per hundred kilowatt-hours for the month of April, 1980, be, and hereby is, permitted to become effective April 1, 1980. The additional \$1 per hundred kilowatt-hours which had been previously deferred and was to be added at the rate of 50 cents per 100 kilowatt-hours to the April and May, 1980 fuel charges as per the company's request has again been deferred to the months of May and June, 1980; and it is

Further ordered, that 67th Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$2.77 per hundred kilowatt-hours for the month of April, 1980, be, and hereby is, permitted to become effective April 1, 1980; and it is

Further ordered, that 19th Revised Page 11 of the Municipal Electric Department of Wolfboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$2.86 per hundred kilowatt-hours for the month of April, 1980, be, and hereby is,

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permitted to become effective April 1, 1980; and it is

Further ordered, that 75th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$1.51 per hundred kilowatt-hours for the month of April, 1980, be, and hereby is, permitted to become effective April 1, 1980; and it is

Further ordered, that 41st Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 74 cents per hundred kilowatt-hours for the month of April, 1980, be, and hereby is, permitted to become effective April 1, 1980.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of March, 1980.

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NH.PUC\*04/01/80\*[78539]\*65 NH PUC 149\*Hampton Water Works

[Go to End of 78539]

### **Re Hampton Water Works**

DR 79-51, Third Supplemental Order No. 14,156

65 NH PUC 149

New Hampshire Public Utilities Commission

April 1, 1980

ORDER requiring a water company to undertake a cost-of-service study.

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BY THE COMMISSION:

Supplemental Order

Whereas, during the proceedings in this case, testimony was given that Hampton Water Works had no cost study to support the design of its metered rate schedule; and

Whereas, during these proceedings, testimony was given (T. 286) as to the need and desirability for such a study, and in its report (p. 10, Section II, c.), the commission spoke to its future requirements; it is

Ordered, that Hampton shall undertake a cost-of-service study which shall be filed with this commission with ample time for review before any further request for revenue adjustments not already authorized in Order No. 13,895 ([1979] 64 NH PUC 374).

By order of the Public Utilities Commission of New Hampshire this first day of April, 1980.

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NH.PUC\*04/04/80\*[78540]\*65 NH PUC 150\*Public Service Company of New Hampshire

[Go to End of 78540]

### **Re Public Service Company of New Hampshire**

Intervenors: Towns of Hampton and North Hampton et al.

DE 79-205, Order No. 14,161

65 NH PUC 150

New Hampshire Public Utilities Commission

April 4, 1980

PETITION for exemption from town zoning ordinances; granted.

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1. ZONING — Power and restrictions — Towns and utility companies.

[N.H.] With regard to zoning issues, the commission stated that the rights of towns to regulate transmission lines is extremely narrow in scope, that there is no requirement imposed on any utility to exhaust local administrative procedures, and that there is no requirement to the utility to apply to local authorities before it may petition for exemption from local zoning ordinances. p. 156.

2. ZONING — Procedure for zoning input.

[N.H.] In a zoning proceeding concerning location of transmission lines, the commission stated that local communities will and must be given input into the site evaluation committee's decision-making process; however, once a decision has been made and the appeal time has lapsed, local authorities cannot erode the decision by local action. p. 157.

3. ZONING — Deviation from zoning ordinances — Criteria to be used.

[N.H.] The commission adopted a two-step approach to be used in analyzing a proposed deviation from zoning ordinances, whereby two issues are addressed: (a) Is the projected deviation from the zoning ordinance necessary for the convenience and welfare of the public in connection with the service provided by the utility to warrant its authorization? and (b) If so, can the impact of the discordancy on the locality be lessened by imposition of reasonable conditions designed to preserve aesthetic and other relevant zoning considerations? p. 157.

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APPEARANCES: Eaton W. Tarbell, Jr., and Frederick J. Coolbroth for Public Service Company of New Hampshire; Edward J. McDermott for the town of North Hampton; David Carlino, pro se; Arthur J. Moody, pro se; Representative Louisa K. Woodman, pro se.

BY THE COMMISSION:

Report

I. Procedural History

This proceeding was initiated by Public Service Company of New Hampshire (PSNH) pursuant to RSA 31:62 for exemption from zoning ordinances currently in effect in the towns of Hampton and North Hampton. The proceeding was initiated by PSNH on October 10, 1979. On October 15, 1979, an order of notice was issued providing for a hearing on November 15, 1979, together with publication.



The aforementioned hearing was held on November 15, 1979. Appearances and testimony were entered by PSNH; Representative Louisa Woodman from the towns of Hampton and Hampton Falls, who is also a member of the town of Hampton planning board; Attorney Edward A. McDermott, who represents the town of Hampton; and David Carlino and Arthur Moody, citizens of the town of Hampton.

On December 5, 1979, both the town

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of North Hampton and PSNH filed memorandums of law supporting their respective positions.

In the memorandum of law filed by the town of North Hampton, a request was made to have the commission delay its decision until a determination was made by the New Hampshire supreme court on the question of a town's right to enforce zoning ordinances (underground transmission lines mandated) against a public utility.

Since supreme court Docket No. 79-322 was already under consideration, the commission believed that there existed compelling pragmatic as well as theoretical reasons for awaiting the outcome of *Public Service Co. of New Hampshire v Town of Hampton — NH —*, 411 A2d 164.

## II. Relevant Statutes

"31:62 *Purposes in View*. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fires, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality. A regulation made under this subdivision shall not apply to existing structures nor to the existing use of any building, but it shall apply to any alteration of a building for use for a purpose or in a manner substantially different from the use to which it was put before alteration. Structures used or to be used by a public utility may be exempted from the operation of any regulation made under this subdivision, if upon petition of such utility the public utilities commission shall after a public hearing decide that the present or proposed situation of the structure in question is reasonably necessary for the convenience or welfare of the public."

"162-F:1 *Declaration of Purpose*. The legislature finds that the present and predicted growth in electric power demands in the state of New Hampshire requires the development of a procedure for the selection and utilization of sites for generating facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites and the routing of associated transmission lines will have a significant impact upon the welfare of the population, the location and growth of industry, and the use of the natural resources of the state. The legislature, accordingly, finds that the public interest requires that it is

essential to maintain a balance between the environment and the need for new power sources; that electric power supplies must be constructed on a timely basis; that in order to avoid undue delay in construction of needed facilities and to provide full and timely considerations of environmental consequences, all electric entities in the state should be required to engage in adequate long-range planning and provide full and complete disclosure to the public of such plans; that a certifying body be established for the preconstruction review of bulk power supply facility sites and all related bulk

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power supply facilities; that the siting of bulk power plants and high-voltage transmission lines should be treated as a significant aspect of land-use planning in which all environmental, economic, and technical issues should be resolved in an integrated fashion; that existing laws do not provide an adequate procedure for the coordination of reviews to assure protection of environmental values and certifying the construction, operation or maintenance of bulk power supply facilities so as to assure the state an adequate and reliable supply of electric power in conformance with sound environmental utilization; and that existing laws do not provide adequate public voice in the decision on the location of bulk power supply facilities at a specific site. The legislature, therefore, hereby establishes a procedure for the planning, siting, and construction of bulk power supply facilities.

... .

"162-F:7 *Public Hearing; Studies; Rules*. Upon receipt of an application for a certificate of site and facility, pursuant to RSA 362-F:6, the site evaluation committee and the commission shall hold a joint public hearing in the county in which the proposed facility is to be located within sixty days and shall publish a public notice not less than twenty-one days before said hearing in each newspaper having a regular circulation in the affected area describing the location of the proposed facilities.

"I. Such public hearing shall be a joint hearing with such other agencies as have jurisdiction over the subject matter and be deemed to satisfy all initial requirements for public hearings under statutes requiring permits relative to environmental impact. The initial session of the joint hearing within the county of the site location shall be for public information on the proposed facilities with the applicant presenting the information to the site committee and to the public and with only site committee members asking questions for clarification of the development. Subsequent sessions of the hearing shall be in the nature of adversary proceedings. The site evaluation committee and the commission shall hold the initial public hearing in the county in which the proposed facility is to be located. Every fourth subsequent public hearing on an application shall be held in the county in which the proposed facility is to be located and all other hearings may be held in Concord, New Hampshire, provided there is adequate notice as to the time and place of the hearing.

"II. The site evaluation committee and the commission shall consider and weigh all evidence presented at public hearings and shall consider and weigh written information and reports submitted to it by members of the public before, during, and subsequent to public hearings. The committee and the commission shall grant free access to records and reports in its files to

members of the public during normal working hours and shall permit copies of such records and reports to be made by interested members of the public at their expense.

"III. The site evaluation committee and the commission shall require such information from applicant utilities as it deems necessary to accompany applications for certificates of site and facility and to assist the conduct of hearings and any investigation or studies as it may undertake.

"IV. No additional application shall be required of an applicant to satisfy the

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permit application requirements of individual agencies and departments of the state, and applications shall contain sufficient information to satisfy the requirements of individual agencies and departments having jurisdiction over the proposed construction.

"V. The site evaluation committee and the commission shall jointly conduct such reasonable studies and investigations as they deem necessary or appropriate to carry out the purposes of this chapter and may employ a consultant or consultants, legal counsel, and other staff in furtherance of the duties imposed by this chapter, the cost of which shall be borne by the applicants in such amount as may be approved by the commission.

"VI. The site evaluation committee and the commission shall jointly issue such rules and regulations, after public notice and hearing, as may from time to time be required to carry out the provisions of this chapter.

"VII. Exemption. For a period of four years from the date of this chapter bulk power supply facilities owned or owned upon amortization by a municipality and located entirely within the geographical limits of the municipality shall be exempt from the provisions of this chapter.

"162-F:8 *Findings*

"I. The site evaluation committee, after having considered available alternatives and the environmental impact of the site or route, must find that the site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal legislative bodies and will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and the public health and safety, and shall send its findings to the commission within fourteen months of the filing of an application for a certificate of site and facility. The commission shall issue or deny a certificate and shall be bound by the findings of the site evaluation committee. In its decision, the commission must find that the construction of the facility:

"(a) Will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal legislative bodies;

"(b) Is required to meet the present and future demand for electric power;

"(c) Will not adversely affect system stability and reliability and economic factors; and

"(d) Will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and the public health and safety.

"II. Findings by the site evaluation committee to the public utilities commission shall be made after a vote of the committee. A majority vote of the committee shall be conclusive on all questions of siting, land use, air and water quality. The commission shall grant a certificate only after it has reasonable assurance that all applicable state standards and requirements shall be met by the applicant and that the commission shall incorporate in its certificate such lawful terms as may be supplied to it by the site evaluation committee and those state agencies having permit or license granting responsibilities under state law.

"III. In the consideration of applications

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for certificates of site and facility, the site evaluation committee and the commission shall assure full public review and adequate consideration of all environmental values and other relevant factors bearing on whether the objectives of this chapter would be best served by the issuance of the certificate. The site evaluation committee and the commission may consult with interested regional agencies of border states in the issuance of such certificates.

"IV. A certificate of site and facility shall either be issued or denied by the commission within sixteen months of the date of the application being submitted and may contain such reasonable terms and conditions as it deems necessary. Such certificates, when issued, shall be final and subject only to judicial review."

III. Positions of the Parties

A. *PSNH Position*

Public Service Company of New Hampshire contends that the zoning ordinances of the towns of Hampton and North Hampton "appear to impose requirements and impose procedures" which "could lead to the imposition of conditions" inconsistent with the commission's previous orders in relation to the siting of the Seabrook transmission lines.

The primary argument offered by PSNH relates to RSA 162-F. This statute, which sets forth the precedence for certification of a bulk power plant, is pictured as a one-stop procedure by PSNH. It is PSNH's position that the commission should formally exempt the Seabrook transmission lines from requirements of the zoning ordinance of these towns. Public Service Company of New Hampshire suggests that this finding is the only conclusion that can be reached if the certificate is to have value.

Public Service Company of New Hampshire contends that the statutory scheme makes little sense if localities may obstruct an administrative process simply by enforcing zoning ordinances which conflict with the findings reached through a detailed administrative process. Reference is made to *Parker-Young Co. v New Hampshire*, 83 NH 551, PUR1929E 160, 145 A2d 786. The company views state authority as paramount to local authority and that once it is exercised, conflicting local authority is preempted.

The second argument put forth by PSNH relates to the previous findings of the PUC and the site evaluation committee, which found that the course, height, width, and type of structure would not have an unreasonable adverse effect on aesthetic historic sites, air and water quality,

the environment, and the public health and safety.

Public Service Company of New Hampshire relies upon past and recent findings of the site evaluation committee and the public utilities commission as to the necessity of the Seabrook plant and the associated transmission lines. Reference is made to *Society for the Protection of New Hampshire Forests v Site Evaluation Committee* (1975) 115 NH 163. That case recognizes the "complex factual determinations" in the certification process. Such determinations are argued to be of a larger scope than a zoning ordinance.

A third argument advanced by PSNH focuses on the absence of any requirement for exhaustion of local administrative remedies. This argument is developed by reference to the New

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Hampshire statutes compared to other state site certification statutes and judicial interpretation of those statutes. Public Service Company of New Hampshire contends that a requirement to pursue local administrative action would be a futility.

*B. North Hampton Position*

North Hampton's first contention relates to the standards to be applied by this commission pursuant to RSA 31:62 and RSA 162-F:8. The town of North Hampton, after reciting portions of both statutes, asserts that the legislation expressed differing standards governing the subject of power plant sites and public utilities generally.

Second, North Hampton focuses on the language that appears in the certificate, which although authorizes the certificate, allows it to be amended from time to time. This assertion is quickly supplemented by a third argument that the certificate is made subject to judicial review, and there is a statutory authority to revoke or suspend any such certificate. This is offered in contrast to the PSNH assertion that the certificate once given is paramount and the final word. North Hampton contends that the legislative intent was not to create a procedure which would result in an ironclad guaranty.

The third and largely primary argument offered by North Hampton relates to the issue relating to the interaction of governmental units and the power of a state agency, the public utilities commission in this instance, to override local rules, regulations, and ordinances. North Hampton cites the PSNH petition, which prays for a total exemption, not just the specific sections recited by the petition as controlling. The town of

North Hampton contends that the request by PSNH is an attempt to free the construction of transmission lines from any local input, ordinances, rules, or regulations.

North Hampton's next contention relates to its request that this commission suspend action until the supreme court has acted. North Hampton believes that the decision in that proceeding has substantial bearing on the question of a state agency's power to exempt a public utility from home rule.

Another focus of North Hampton's involvement relates to its contention that a utility must exhaust existing local channels prior to seeking the commission's decision on preempting local rules, regulations, and ordinances.

Finally, North Hampton rests its final contention on the proposition that town control and regulation of wetlands and transmission lines are outside the scope of permissible statutory exemption procedures.

*C. Representative Louisa Woodman's Position*

Representative Louisa Woodman of Hampton appeared before the commission to express the views of the people living in Rockingham county, District 12. Representative Woodman is also a member of the Hampton planning board and represented that board in these proceedings.

Representative Woodman's presentation had its primary emphasis on the relationship, if any, between RSA 31:62 and 36:19(a). Her contention is that any exemption granted under RSA 31:62 does not exempt PSNH from the provisions of RSA 36:19(a); RSA 36:19(a) governs site plan reviews for nonresidential development.

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Representative Woodman asserts that only through recognition of RSA 36:19(a) can the local interests be addressed.

*D. David Carlino's Position*

David Carlino is a resident of North Hampton and concerned that the passage of the cables would violate the zoning ordinance since they would be aboveground. Mr. Carlino requests that the commission honor the town's ordinances requiring underground placement of transmission lines.

*E. Arthur F. Moody's Position*

Arthur J. Moody is a resident of Hampton. Mr. Moody believes that the commission should require PSNH to exhaust all local administrative procedures. Mr. Moody stated that such compliance is not burdensome on the company, and that local procedures could be complied with on an expedited time schedule. Reference to other towns and other utilities were also highlighted by Mr. Moody.

*IV. Commission Analysis*

The supreme court decision in *New Hampshire Pub. Service Co. v Town of Hampton*, (1980) — NH —, 411 A2d 164, resolved many of the major issues in this case. The following passage is illustrative:

"We regard it as inconceivable that the legislature, after setting up elaborate procedures and requiring consideration of every imaginable interest, intended to leave the regulation of transmission lines siting to the whim of individual towns. Towns are merely subdivisions of the state and have only such powers as are expressly or impliedly granted to them by the legislature. *Lavallee v Britt* (1978) 118 NH 131, 383 A2d 709; *City of Dover v Wentworth-Douglas Hospital Trustees* (1974) 114 NH 123, 316 A2d 183. Whatever power towns may have to regulate the location of transmission lines within their borders, that power cannot be exercised in a way that is inconsistent with state law. *Lavallee v Britt*, *supra*; see *New Hampshire v Hutchins* (1977) 117 NH 924, 380 A2d 257

" ... that all matters regarding the construction of bulk power plants and transmission lines covered by the statute be determined in one integrated and coordinated procedure by the site evaluation committee whose findings are conclusive. See *New Hampshire v Boisvert*, *supra* [117 NH] at p. 292, 371 A2d at p. 1183. By enacting RSA Chap 162-F, the legislature has preempted any power that the defendant towns might have had with respect to transmission lines embraced by the statute, and the actions by the defendant towns with regard to transmission lines is of no effect. *Id*; see *New Hampshire v Hutchins* (1977) 117 NH 924, 380 A2d 257." (411 A2d at p. 166.)

[1] This passage establishes the following: (1) the rights of towns to regulate transmission lines is, at best, extremely narrow in scope; (2) that there is no requirement imposed on PSNH, or any other utility, to exhaust local administrative procedures; (3) that there is no requirement to the utility to even apply to the local authorities before it may petition for exemption from local zoning ordinances. Therefore, RSA 31:62 has been interpreted in conformity with interpretations given by the Massachusetts and New Jersey courts as to their individual statutes, which are

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similar to the New Hampshire statute. (See *Town of Framingham v Massachusetts Dept. of Pub. Utilities* (1969) — Mass — , 244 NE2d 281; *Re Hacken-sack Water Co.* (1956) 41 NJ Super 408, 15 PUR3d 344, 125 A2d 281.

Consequently, the positions offered by intervenors to this proceeding as they relate to exhaustion of local administrative remedies is rejected.

The supreme court has also upheld PSNH's contention that RSA 162-F establishes a comprehensive administrative procedure for determining siting and construction methods of bulk power supply facilities and corresponding transmission lines. The following passage demonstrates the validity of this finding:

"A fair reading of RSA Chap 162-F reveals a legislative intent to achieve comprehensive review of power plants and facilities site selection. The statutory scheme envisions that all interests be considered and all regulatory agencies combine for the twin purposes of avoiding undue delay and resolving all issues 'in an integrated fashion.' By specifically requiring consideration of the views of municipal planning commissions and legislative bodies, the legislature assured that their concerns would be considered in the comprehensive site evaluation. Thus, the committee protects the 'public health and safety' of the residents of the various towns with respect to the siting of power plants and transmission lines falling under the statute." (411 A2d at p. 166.)

[2] The effect of this passage is to simply state that local communities will and must be given input into the site evaluation committee's decision-making process. However, once a decision has been made and the appeal time has lapsed, local authorities cannot erode the decision by local action.

Therefore, it is clear after this decision that local requirements immediately yield to the findings of the site evaluation committee after it renders its findings.

[3] The remaining question to be answered is what criteria must be adopted by this

commission involving proceedings related to RSA 31:62. The commission, upon review of the pertinent case law, believes the approach used by the New Jersey commission to be suitable given the similarity between NHRSA 31:62 and NJSA 40:55-50. The New Jersey statute has been interpreted to allow a public utility to bypass the municipal zoning authorities and petition the public utilities board directly. See: *Re Jersey Central Power & Light Co.* (1974) 130 NJ Super 394, 327 A2d 437, 439; *Re Monmouth Consol. Water Co.* (1966) 47 NJ Super 251, 257, 258, 220 A2d 189. However, the hearing before the board on the utility's petition to establish a use contrary to a local zoning ordinance is *not* to be simply a pro forma approval of management's decision. *Re Hackensack Water Co.* (1956) 41 NJ Super 408, 419, 15 PUR3d 344, 125 A2d 281; *Re Monmouth Consol. Water Co.* (1966) 47 NJ Super 251, 259, 260, 220 A2d 189, 193; *Re Jersey Central Power & Light Co.* (1974) 130 NJ Super 394, 327 A2d 437. Our New Jersey counterpart must respond to at least two broad issues: "(a) Is the projected deviation from the zoning ordinance necessary for the convenience and welfare of the public in connection with the service provided by the utility to warrant its authorization; *and* (b) If so, can the impact of the discordancy on the locality be lessened by imposition of reasonable conditions designed to preserve aesthetic and other relevant

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zoning considerations?" *Re Monmouth Consol. Water Co.* (1966) 47 NJ 251, 259, 220 A2d 189, 193. The New Jersey board is to weigh all these factors and "while no controlling weight should be given to purely local considerations *they should not be ignored.*"

The commission adopts this two-step approach. We believe this approach will allow for consideration of the local interests discussed by Representative Woodman in her testimony. A perfect example of local considerations that might not be addressed in the site evaluation committee report because of the limited impact would be Representative Woodman's testimony as to a line of trees on the edge of a right of way, which can deeply affect abutters.

Applying our criteria to the facts in this case, the commission finds that both steps have been satisfied. Consequently, the company's request for exemption will be granted. However, the commission is concerned that there has been a gap between discussions among town zoning and planning personnel and the company. Such a situation does not foster reasoned, as well as reasonable, input into proceedings under RSA 31:62. Therefore, PSNH is instructed to provide its best estimate as to the approximate route to the planning and zoning authorities of Hampton and North Hampton within thirty days of the date of this order.

The commission will, in the foreseeable future, adopt a rule setting forth a time period for notice to local authorities *prior* to seeking a decision from the commission pursuant to RSA 31:62.

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's (PSNH) request for exemption from the zoning ordinances of the towns of Hampton and North Hampton is granted; and it is



Further ordered, that PSNH provide its best estimate as to the approximate route of the transmission line both the planning and zoning authorities of Hampton and North Hampton within thirty days from the date of this order.

By order of the Public Utilities Commission of New Hampshire this fourth day of April, 1980.

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NH.PUC\*04/07/80\*[78541]\*65 NH PUC 158\*Conversion of Schiller Station

[Go to End of 78541]

### **Re Conversion of Schiller Station**

DE 79-141, Fourth Supplemental Order No. 14,171

65 NH PUC 158

New Hampshire Public Utilities Commission

April 7, 1980

ORDER denying a motion for rehearing.

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RATES, § 303 — Fuel adjustment clause — Purpose.

[N.H.] The fuel adjustment clause acts as a device that preserves the cash flow of the company, allowing immediate recovery of prudently incurred fuel costs; it was never

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designed to relieve the company or the commission from its obligation to minimize the fuel costs passed on to consumers.

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BY THE COMMISSION:

Supplemental Order

On April 4, 1980, Public Service Company of New Hampshire (PSNH) filed a motion for rehearing as to commission Order No. 14,131 (65 NH PUC 127) in the above captioned proceeding. The grounds for the motion for rehearing are restatements of positions already considered and rejected by the commission.

The record in this proceeding reveals substantial economic factors, which mandate the conversion of Schiller Nos. 4, 5, and 6. Factors that, but for the fuel adjustment charge, would have led PSNH to convert the plants on its own. (Transcript — September 4, 1979, p. 56, 57 afternoon session.) However, rising fuel costs do have a direct effect on consumers. Prudent

regulation requires minimizing these fuel costs.

Public Service Company of New Hampshire's assertions of financial problems fail to recognize other factors at work, which will minimize the cost to the company. For example, the Congress is preparing to provide financing for conversions of oil-fired plants to coal. Special emphasis is to be given plants that previously burned coal. Schiller is one of the plants so listed on the Presidential Commission's Report on Coal.

The supreme court ordered this commission to provide a mechanism to PSNH, which would allow the recovery of fuel costs during times of rapid fuel escalation. This mechanism, the fuel adjustment clause, acts as a device that preserves the cash flow of the company. Recent alterations to this clause have allowed for immediate recovery of prudently incurred fuel costs. However, this mechanism was never designed to relieve the company, or this commission, from its obligations to minimize the fuel costs passed on to consumers. The conversion of Schiller from oil to coal will significantly reduce the fuel costs passed on to consumers in the years ahead. Estimates of the increase in oil prices over the next ten years used in this proceeding have been revised by both the company and staff in subsequent proceedings. The commission, in its initial decision, relied upon figures which indicated an \$80 million savings if the conversion was implemented. This figure is now conservative when revised oil price increases are considered. The commission believes that the savings to consumers will now approach \$100 million.

Public Service Company of New Hampshire has failed to sustain its burden of proof as to why this commission should reexamine issues and positions already considered. Contrary to the company's assertion, recent developments accentuate rather than detract from the need to convert these units. Accordingly, the motion for rehearing is denied.

By order of the Public Utilities Commission of New Hampshire this seventh day of April, 1980.

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NH.PUC\*04/08/80\*[78542]\*65 NH PUC 160\*Winter Termination Policy for Electric and Gas Utilities

[Go to End of 78542]

## **Re Winter Termination Policy for Electric and Gas Utilities**

DE 79-217, Fifth Supplemental Order No. 14,172

65 NH PUC 160

New Hampshire Public Utilities Commission

April 8, 1980

ORDER stipulating payment and notice provisions of the commission's winter termination policy.

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SERVICE, § 220 — Termination notice — Required information.

[N.H.] Termination notices were required to contain or include information which would make consumers aware of their right of appeal to the commission, their right to postpone termination if a medical emergency exists, and their right to pay arrearages on a deferred basis.

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BY THE COMMISSION:

Supplemental Order

Whereas, by order of this commission on January 7, 1980, winter emergency termination procedures were established to allow more liberal payment of utility bills until April 1, 1980; and

Whereas, those procedures provided that customer service would not be terminated if arrearages were maintained at a level of 5125 or less; and

Whereas, those procedures ceased to be effective on April 1, 1980; and

Whereas, those procedures provided that arrearages on April 1, 1980, shall be allowed to be repaid in a maximum of five equal monthly installments, the last of which shall be due on or before September 1, 1980, and which shall be due in addition to the normal payment of current bills are accumulating through the summer in accordance with existing commission rules; it is

Ordered, that this commission hereby promulgates instructions for a new notice on a permanent basis; and it is

Further ordered, that effective immediately all customers who qualified for, and complied with, the provisions of those winter termination procedures shall be advised as to their opportunities to make payment of the arrearage in a maximum of five equal monthly installments the last of which shall be due on or before September 1, 1980, and which shall be due in addition to the normal payment of current bills accumulating through the summer in accordance with existing commission rules; and it is

Further ordered, that effective immediately all gas and electric companies take such actions as are necessary to provide a written reminder of those opportunities; and it is

Further ordered, that effective immediately, termination notices shall contain or include information which will make consumers aware of:

1. Their right of appeal to the commission;
2. Their right to postpone termination if a medical emergency exists;
3. Their right to pay arrearages on a deferred basis; and it is

Further ordered, that information regarding customer termination procedures shall be available at all offices

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of all companies where consumer payments are received.

By order of the Public Utilities Commission of New Hampshire this eighth day of April, 1980.

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NH.PUC\*04/08/80\*[78543]\*65 NH PUC 161\*Public Service Company of New Hampshire

[Go to End of 78543]

## Re Public Service Company of New Hampshire

DF 80-43, Supplemental Order No. 14,174

65 NH PUC 161

New Hampshire Public Utilities Commission

April 8, 1980

PETITION for authority to issue and sell preferred stock; granted.

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SECURITY ISSUES, § 108 — Sale price and interest rate; par value — Preferred stock.

[N.H.] The commission approved the sale of 1.2 million shares of \$25 par value 17 per cent preferred stock to be sold at a price of \$25 per share either to the public, through an offering by underwriters on behalf of the company, or to underwriters who will make a public offering, finding that the terms of the sale were consistent with the public good.

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 14,150, dated March 28, 1980 (65 NH PUC 140), issued in the above entitled proceeding, authorized Public Service Company of New Hampshire, inter alia, to issue and sell not exceeding 1.2 million shares of preferred stock, \$25 par value, subject to further order of this commission; and

Whereas, in compliance with said Order No. 14,150, following negotiation with underwriters, the company has submitted to this commission the details concerning the number of shares of preferred stock to be sold, and the price, dividend rate, and other terms thereof, which contemplate the issue and sale of 1.2 million shares of a new series of its preferred stock, \$25 par value, designated "sinking-fund preferred stock 17 per cent dividend series, \$25 par value," either to the public, through an offering by underwriters on behalf of the company, or to underwriters who will make a public offering thereof, or both; said preferred stock to be sold bearing a dividend rate of 17 per cent per year, at a price to the company of \$25 per share, and to provide for a mandatory sinking fund under which 60,000 shares will be redeemed annually beginning May 15, 1985, and for optional redemption of an additional 60,000 shares on each mandatory sinking-fund redemption date with compensation to the underwriters in the aggregate amount of \$1,440,000 all as set forth in the underwriting agreement between the company and the underwriters,

a copy of which is to be filed with the commission; and

Whereas, after due consideration, it appears that the issue and sale of said preferred stock upon the terms, conditions, and 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 \$25 per share in cash 1.2 million shares of its sinking-fund preferred stock 17 per cent dividend series, \$25 par value, as hereinabove set forth, with compensation to the underwriters in the aggregate amount of \$1,440,000; and said stock to be sold at a said price of \$25 per share either to the public, through an offering by underwriters on behalf of the company, or to underwriters who will make a public offering thereof, or both, all 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. 14,150 of this commission are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this eighth day of April, 1980.

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NH.PUC\*04/10/80\*[78544]\*65 NH PUC 162\*Public Service Company of New Hampshire

[Go to End of 78544]

## Re Public Service Company of New Hampshire

Intervenors: Community Action Program, Legislative Utility Consumers' Council, Department of Defense, General Services Administration, Business and Industry Association, and New Hampshire People's Alliance

DR 79-187, 22nd Supplemental Order No. 14,175

65 NH PUC 162

New Hampshire Public Utilities Commission

April 10, 1980

ORDER requiring a utility to refund to its customers rates associated with the inclusion of construction work in progress in rate base.

1. VALUATION, § 224 — Construction work in progress — Exclusion from rate base.

[N.H.] State law precludes the inclusion of construction work in progress in rate base, and also precludes utility rates or charges to be based on construction work in progress. p. 163.

2. REPARATION, § 15 — Refund of rates — Violation of state law.

[N.H.] The commission ordered a utility to refund to its customers the portion of rates associated with the inclusion of construction work in progress in rate base because such inclusion was prohibited by state law. p. 165.

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APPEARANCES: Gerald Eaton for the Community Action Program; Philip

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Ayers, Martin Gross, and Franklin Hollis for Public Service Company of New Hampshire; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council; Jefferson M. Shaffner for the United States Department of Defense and General Services Administration; Dom S. D'Ambruoso for the Business and Industry Association; Gerald Cleary for the Peoples' Alliance.

BY THE COMMISSION:

Report

I. Procedural History

[1] These proceedings were initiated by Order No. 13,617, of the commission issued May 8, 1979 (64 NH PUC 124). The commission initiated the docket as a result of the enactment of RSA 378:30(a). This statute precludes the inclusion of construction work in progress (CWIP) in the rate base. The statute also precludes utility rates or charges to be based on construction work in progress.

Order No. 13,617 provided the Public Service Company of New Hampshire with two options: file a new tariff implementing RSA 378:30(a), or show why the commission should not issue an order eliminating from the company's existing rates that portion of the rates based on construction work in progress or associated therewith as of May 7, 1979.

The Public Service Company of New Hampshire (hereinafter referred to as "PSNH" or the "company") chose the second option. Hearings were subsequently held. On August 29, 1979, the commission rendered an initial decision which established that the statute is extremely clear; as of May 7, 1979, rates and charges based on the inclusion of CWIP in rate base are no longer allowed; RSA 378:30(a) applies prospectively to all rates or charges submitted by any utility after May 7, 1979. As of May 7, 1979, rates and charges collected from ratepayers in Public Service Company's service territory reflected the inclusion of CWIP in rate base ([1979] 64 NH PUC 295).

The above mentioned decision ordered that PSNH shall no Longer include an amount for CWIP in the rate base. It also set further hearings to establish just and reasonable rates (DR 79-107). Public Service Company of New Hampshire had pending a request for an interim increase for \$8.8 million (DR 79-166). The two proceedings were consolidated. Shortly thereafter, PSNH withdrew the interim rate increase request and instead filed a request for a permanent increase of \$18,499,170 on August 31, 1979 (DR 79-187). The commission by Supplemental Order No. 13,811 (64 NH PUC 313) suspended the filing and the associated tariff

on September 5, 1979. On the same day, the commission issued Order No. 13,810 (64 NH PUC 312) consolidating DR 79-107 and DR 79-187.

The commission has investigated the concerns of the parties for twenty-seven hearing days thus far. The record consists of transcripts, exhibits, testimony, discovery, and motions. The company has completed its basic case. All intervenors have had an opportunity to cross-examine each of the company's witnesses. In addition, the various intervenors have provided testimony on areas they believe relevant to the commission's decision. Cross-examination of these witnesses by all parties has been completed. Finally, the commission staff presented the results of its investigation

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and has been questioned by all parties to the proceedings.

*II. Time Period Involved*

The focus of this investigation into CWIP-related refunds involves the time period from May 7, 1979, to December 28, 1979. May 7th is the date RSA 378:30(a) became effective and December 28th is the effective date of the emergency rate order in DR 79-187, Order No. 13,962 ([1979] 64 NH PUC 458).

*III. Positions of the Parties*

Public Service Company of New Hampshire has taken the position that consumers are not entitled to CWIP-related refunds. The Community Action Program (CAP) has adopted the position that refunds are mandated by the passage of RSA 378:30(a). Community Action Program's request for refunds was initially denied pending investigation. Community Action Program subsequently appealed that denial to the New Hampshire Supreme Court. The court dismissed the appeal without prejudice pending the commission's decision. The Legislative Utility Consumers' Council (LUCC) agrees with CAP's request for refunds.

*IV. Commission Analysis*

The commission's pursuit of the difficult balance between the interests of the utility in question and the interests of its ratepayers has not been easy.

This results from the development of issues and subissues in this portion of the proceeding as well as DR 79-187. However, the commission has attempted to arrive at a decision which reflects the standard of just and reasonable rate making.

*A. AFUDC versus CWIP*

The company, upon receipt of the commission's Report and Order No. 13,799 ([1979] 64 NH PUC 295), began accruing AFUDC on the construction work in progress allowed in the company's rates by the final report and order in DR 77-49 (1978, Transcript pp. 8-136). The company then restated its monthly income statements which are filed with the commission. As a result of this restatement, AFUDC was increased by approximately \$1,962,000 for the months of May, June, and July of 1979. The continuation of this practice through most of December further increased AFUDC for the time period in question in this docket. The commission did not authorize this practice.

The commission did not initially order any changes in the revenue received by the company after the enactment of RSA 378:30(a). The company was receiving revenue based on rates originally justified by the inclusion of CWIP in rate base. At the same time the company accrued AFUDC on the investment. While the accrual of AFUDC does not affect consumers today, the accrued AFUDC is included in rate base after the associated plant is operational. Therefore, if this situation was left unchanged, the ratepayers of PSNH would ultimately pay twice for financing costs associated with a portion of the plant included in rate base as CWIP pursuant to the commission's earlier decision in DR 77-49 (1978).

Such a situation clearly contravenes the statutory mandate of just and reasonable rates. Furthermore, it is directly contrary to sound regulation. In

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the decision in DR 77-49, the commission allowed the inclusion of CWIP in rate base coupled with a concurrent discontinuance of AFUDC accounting treatment for those amounts (Re Public Service Co. of New Hampshire [1978] 63 NH PUC 127). If PSNH is allowed to continue to collect rates originally based on the inclusion of construction work in progress in the rate base and to accrue AFUDC on this portion, the company receives payment through both methods of accounting for the costs of financing construction, and the consumer pays twice for financing the same property. It is reasonable and necessary for the commission to act to correct this situation.

**B. RSA 378:30(a)**

The commission initially found that the passage of RSA 378:30(a) directly affected the rates of PSNH customers as of May 7, 1979. (Order No. 13,617 [64 NH PUC 124], Report and Order No. 13,799 [64 NH PUC 295], Hearing June 5, 1979, Transcript) The commission found that "rates or charges based on the inclusion of CWIP in rate base are no longer allowed by state law." (64 NH PUC at p. 301.) The commission also found that the existing rates as of May 7, 1979, were based on the inclusion of CWIP in rate base. (64 NH PUC 124 and 64 NH PUC 295.) The commission now finds that the rates charged PSNH consumers during the time period of May 7, 1979, through December 28, 1979, were in part based on the inclusion of CWIP in rate base. Consequently, RSA 378:30(a) and RSA 374:2 come into play.

[2] The commission also finds that the effect of its previous orders, together with this decision, are as follows: The question of CWIP refunds for the time period May 7, 1979, to December 28, 1979, is a narrow legal question. (June 5, 1979, Transcript, p. 20 and the striking of Mr. Harrison's and Mr. Frain's testimony, p. 29) The rates collected during the May 7, 1979, to December 28, 1979, time period were based on CWIP. Since the rates during that time period were based on CWIP, the portion of those rates associated with the inclusion of CWIP in the rate base must be refunded by operation of RSA 378:30(a). The refund period stops as of December 28, 1979. As of that date, this commission's emergency rate order set a new just and reasonable rate that was not based on the inclusion of CWIP in rate base.

In this regard, the commission also finds that for purposes of a final decision a capital structure as of April 30, 1980, and the associated cost rates thereto is appropriate for rate making. The commission also finds that the cost rate for common exceeds that of recent



preferred stock issues at this time. Because of the rapid fluctuations in the market rates, periodic adjustments to rates on an expedited basis will be made to reflect changes in cost rates resulting from new issuances of permanent capital up to the time of divestiture. The question of rates based on the inclusion of CWIP in rate base is a question solely within the confines of May 7, 1979, to December 28, 1979. All parties have agreed that this time period is the focal point of refunds. Any rates collected prior to the enactment of RSA 378:30(a) are not in issue. Nor has any party suggested that rates after December 28, 1979, are based on the inclusion of construction work in progress in rate base.

The commission's action by this decision takes recognition of the different time periods involved and thereby sets

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rates as of the time period, May 7 — December 28, 1979, which is in compliance with all statutory requirements governing utility rates.

*Calculation of Refunds*

To quantify the decision to grant CWIP refunds, the commission believes the following procedure to be the most equitable and precise.

First, the commission allowed a rate increase in DR 77-49 of \$30,134,232. This figure was later reduced by \$748,688 to reflect the elderly customer discount, which prevented CWIP from being passed on to qualifying elderly customers of PSNH. The CWIP-related portion of the aforementioned rate increase was \$18,066,541 minus the \$748,688, or \$17,317,853 on an annual basis.

The next step is to arrive at a figure that represents the percentage of New Hampshire retail basic rates associated with CWIP. The equation is:

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

CWIP-Related	New Hampshire CWIP Basic Revenues - (Elderly Revenue Lost)
Per cent of New	= (Test Year Basic Revenues + Total Rate Inc. Granted) (DR
77-49)	
Base Rates	- Elderly Prevenue Lost
	= \$ 18,066,541 - \$ 748,688
	<hr style="width: 50%; margin-left: 0;"/>
	\$119,370,729 + \$30,134,232 - \$748,688
	= \$ 17,317,853
	<hr style="width: 50%; margin-left: 0;"/>
	\$148,756,273 = 11.6417632%

Since the period of inquiry is May 7, 1979, to December 28, 1979, it is necessary to adjust the annualized figure of CWIP revenue as of the last test year by two factors. The first relates to the fact that refunds are owed only for a portion of the year, May 7, 1979, to December 28, 1979. The second adjustment is to reflect growth in sales since the test period used in DR 77-49.

To perform these adjustments, the commission will use the New Hampshire jurisdictional base revenues for May 7, 1979, through December 28, 1979, or 597,075,030. This figure will be multiplied by the percentage of CWIP-related base rates as previously calculated (11.6417632

per cent). The result is \$11,301,245.

This figure will be used for purposes of refunding CWIP-related rates to consumers. The company will show this as a "CWIP credit" on all bills rendered after June 1, 1980. The commission will flow this refund back to consumers based over a 36-month period. Sometime during this 36-month period, approvals are expected from various regulatory agencies so that the divestiture by PSNH of portions of the Seabrook project may proceed. When these approvals are given, the commission will accelerate the refund schedule by cutting the time period remaining in half and thereby doubling the remaining refund to be distributed each month. The 36-month time frame is chosen to correspond to the agreement by the parties to allow PSNH to recover un-recovered fuel costs over a 36-month time frame.

The refund by classes is calculated in accordance with the allocation of the rate increase granted in DR 77-49. The table below demonstrates the percentage and amounts to each customer class.

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

Residential	42.7318%	\$4,829,225
Commercial	17.8886	2,021,635
Industrial (GV)	26.6184	3,008,211
Industrial (TR)	9.2317	1,043,297
Outdoor Lighting	3.5295	398,877
	100%	\$11,301,245

Public Service Company is instructed to file tariffs to refund the above amounts to the respective customer classes. Public Service Company is also instructed to file a statement with the commission on whether these refunds can be distributed only to customers taking service during the May 7, 1979, to December 28, 1979, time period. Our order will issue accordingly.

**Supplemental Order**

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

Ordered, that Public Service Company of New Hampshire (PSNH) is to refund \$11,301,245 to its customers; and it is

Further ordered, that this refund is to be a credit on bills rendered on or after June 1, 1980; and it is

Further ordered, that the refund be spread over a 36-month period; and it is

Further ordered, that when regulatory approval for the divestiture is received, PSNH will cut this time period in half and double the rate refunded; and it is

Further ordered, that as nearly as possible the amounts shown on p. 8 of the report should be refunded to each customer class; and it is

Further ordered, that PSNH file tariffs with this commission implementing the aforementioned refunds; and it is

Further ordered, that during the time period of the refunds, the refund portion of the bill will

be designated as "CWIP credit."

By order of the Public Utilities Commission of New Hampshire this tenth day of April, 1980.

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NH.PUC\*04/11/80\*[78545]\*65 NH PUC 167\*Public Service Company of New Hampshire

[Go to End of 78545]

## Re Public Service Company of New Hampshire

DR 79-187, 23rd Supplemental Order No. 14,176

65 NH PUC 167

New Hampshire Public Utilities Commission

April 11, 1980

ORDER serving notice that a final decision regarding emergency rates would be issued by a specified date.

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APPEARANCES: As noted previously.

BY THE COMMISSION:

Report

The commission, on December 28,

**Page 167**

1979, issued an order finding that a financial emergency existed for Public Service Company of New Hampshire, a portion of that required rate increase was put into effect under bond subject to refund as of that date. On March 31, 1980, the commission accepted a settlement agreement whereby the rates of Public Service Company of New Hampshire reflected the entire rate increase requested pending the final decision in this case. Again, these rates remain subject to refund and are under bond. The commission believes that it is unjust and unreasonable to have both the company and its customers operating in a situation where rates are under bond and subject to refund.

By this report and order the commission is serving notice to all parties that a final decision will be tendered in this case by May 23, 1980. All parties are also placed on notice that the briefing schedule detailed in the order will be the briefing schedule used by the commission. Our order will issue accordingly.

Supplemental Order

Whereas, all parties have had an opportunity to present testimony and cross-examine all of the testimony of all other parties; and

Whereas, the commission believes that a final order in this proceeding must be rendered

under an expedited time schedule so as to protect the interest of both consumers and Public Service Company of New Hampshire; and

Whereas, the commission has already announced to the parties that it will issue a final order before the end of May, 1980; it is hereby

Ordered, that all parties to this proceeding will be required to submit briefs in this proceeding no later than April 30, 1980; and it is

Further ordered, that any reply briefs are to be filed by May 5, 1980; and it is

Further ordered, that the commission will render a final decision in this docket by May 23, 1980.

By order of the Public Utilities Commission of New Hampshire this eleventh day of April, 1980.

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NH.PUC\*04/14/80\*[78546]\*65 NH PUC 168\*New England Telephone and Telegraph Company

[Go to End of 78546]

## Re New England Telephone and Telegraph Company

DE 80-38, Order No. 14,177

65 NH PUC 168

New Hampshire Public Utilities Commission

April 14, 1980

PETITION for a license to install a temporary submarine telephone cable; granted.

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TELEPHONES, § 2 — Temporary submarine telephone cable.

[N.H.] The commission authorized the installation of a temporary submarine telephone cable to be used until a permanent cable was installed; the commission noted that no objections were filed or expressed and that the cable would be in the public interest.

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APPEARANCES: Wayne Snow, engineering manager, for the petitioner.

BY THE COMMISSION:

Report

On February 22, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to install and maintain a submarine telephone cable

under Winnepesaukee river for approximately 159 feet from telephone pole 300/2 on the shoreline in Laconia, New Hampshire (Messer street), to telephone pole 253/1 on Riverside court, Laconia, New Hampshire, approximately 125 feet north of Church Street bridge, Laconia, New Hampshire.

The commission issued an order of notice on February 29, 1980, directing all interested parties to appear at a public hearing at 9:00 A.M. on April 9, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; John Coleman, New England Telephone and Telegraph Company.

An affidavit of publication was received on March 27, 1980, indicating a publication in the *Manchester Union Leader* on March 19, 1980, signed by Sylvia Prince and received in the commission's offices in Concord, New Hampshire, on March 27, 1980.

Wayne Snow, engineering manager, described the submarine cable as being 300 pair, polyester, polyvinyl covered submarine cable, TV (coaxial cable) 25 pair fire department cable. This installation would be on a temporary basis until new cables are installed on the new Church Street bridge and to be removed when the new cables are operating. This also includes supplementary license for a permanent installation on Church Street bridge after completion of the bridge construction.

The commission noted that permits were on file from the Department of Resources and Economic Development, special board, Permit L-541 dated January 29, 1980, signed by George McGee, Sr., with the same Permit L-541 issued to Laconia fire department, New England Telephone, and Community TV Corporation. A plan Winnepesaukee Quadrangle No. 29-67, indicating cable location on Winnepesaukee river; cross-section Drawing 26-67 indicating a river crossing 159 feet with a span of 159 feet plus/minus, Laconia, New Hampshire, pole 300/2 with a span of 159 feet plus/minus, Laconia, New Hampshire; pole 253/1 dated February 4, 1980.

The commission noted that no objections were filed nor expressed at the public hearing; well publicized and proper notification given to the public to the proposed installation of submarine cable in Laconia, New Hampshire; with no objections being voiced or submitted to this submarine cable installation, the commission feels said cable would be in the public interests. Our order will issue accordingly.

#### Order

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

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Ordered, that authority be granted for installation of a submarine telephone cable under Winnepesaukee river for New England Telephone and Telegraph Company, said crossing to be approximately 159 feet from the telephone pole 200/2 on the shoreline in Laconia, New Hampshire (Messer street), to telephone pole 253/1 Riverside court, Laconia, New Hampshire, to be installed and maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of April, 1980.

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NH.PUC\*04/18/80\*[78547]\*65 NH PUC 170\*Institutional Investor Trust

[Go to End of 78547]

### Re Institutional Investor Trust

Additional petitioner: Rosebrook Water Company, Inc.

DE 80-27, Order No. 14,183

65 NH PUC 170

New Hampshire Public Utilities Commission

April 18, 1980

PETITION for authority to transfer a waterworks system and operate same; granted.

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CERTIFICATES, § 125 — Authority to operate — Water utility.

[N.H.] The commission approved the petition of a water company requesting authority to operate a water utility in a municipality, such operation being within the public interest.

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APPEARANCES: Eaton Tarbell and Peter F. Imse for the applicant.

BY THE COMMISSION:

Report

On February 4, 1980, Institutional Investor Trust, successor to Bretton Woods Water Company, Inc., petitioned this commission to transfer the ownership of Bretton Woods Water Company, Inc., to Rosebrook Water Company, Inc., and to discontinue operations as a public utility. Said petition requested authority for Rosebrook Water Company, Inc., to operate as a public utility in the service area previously served by Bretton Woods Water Company.

The testimony set forth that the Bretton Woods Water Company, Inc., has been defunct since December, 1974. Institutional Investor Trust took possession of all the utility's assets under the terms of its mortgage and subsequently by foreclosure sale, acquiring all property thereof. In addition, they received a transfer from a trustee in bankruptcy all rights in the property for the purpose of facilitating the operations of the franchise granted to the now defunct company.

Exhibits were introduced showing

ownership (deeds) to the property, maps depicting the service distribution system, and financial statements of its company, Rosebrook Water Company, Inc.

The company intends to continue the last tariff approved by the commission until such time as a petition for additional revenues and rates are filed.

The commission staff was concerned with the books of accounts kept by the company and the rates being collected. These matters are reserved for future proceedings.

Upon consideration of all the testimony and evidence submitted, the commission is of the opinion that the public interest requires granting of authority to the Rosebrook Water Company, Inc., to operate a public utility in the town of Carroll that was previously granted to Bretton Woods Water Company, Inc. The commission further approves the transfer of the waterworks and system to Rosebrook Water Company, Inc.

The Bretton Woods Water Company, Inc., shall hereafter discontinue any operations as a public utility. Our order will issue accordingly.

#### Order

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

Ordered, that Bretton Woods Water Company, Inc., or its successor Institutional Investors Trust, be and hereby is authorized to transfer its assets to Rosebrook Water Company, Inc., and to discontinue operations as a public water utility, and it is

Further ordered, that Rosebrook Water Company, Inc., be, and hereby is, authorized to operate as a public water utility in the territory now being served by Bretton Woods Water Company, Inc., in the town of Carroll; and it is

Further ordered, that Rosebrook Water Company, Inc., shall file a tariff supplement to adopt the existing tariff of Bretton Woods in accordance with Rule 30 a. 3 and 30 b. of this commission's tariff filing rules, to become effective on the date filed.

Such supplement shall also bear the notation "authorized by New Hampshire Public Utilities Commission Order No. 14,183 in case number DE 80-27, dated April 18, 1980."

By order of the Public Utilities Commission of New Hampshire this eighteenth day of April, 1980.

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NH.PUC\*04/18/80\*[78548]\*65 NH PUC 171\*Institutional Investor Trust

[Go to End of 78548]

### **Re Institutional Investor Trust**

Additional petitioner: Bretton Woods Telephone Company

DE 80-28, Order No. 14,184

65 NH PUC 171

## New Hampshire Public Utilities Commission

April 18, 1980

PETITION for authority to transfer a telephone system and operate same; granted.

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CERTIFICATES, § 123 — Authority to operate — Telephone company.

**[N.H.]The commission approved the petition of a telephone company requesting authority to operate within a municipality, such operation being within the public interest.**

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APPEARANCES: Eaton Tarbell and Peter F. Imse for the applicant.

BY THE COMMISSION:

Report

On February 4, 1980, Institutional Investor Trust, successor to Bretton Woods Telephone Company, petitioned this commission to transfer the ownership of Bretton Woods Telephone Company to Bretton Woods Telephone Company, Inc., and to discontinue operations as a public utility in the service area previously serviced by Bretton Woods Telephone Company.

The testimony set forth that the Bretton Woods Telephone Company has been defunct since December, 1974. Institutional Investor Trust took possession of all the utility's assets under the terms of its mortgage and subsequently by foreclosure sale, acquiring all property thereof. In addition they received a transfer from a trustee in bankruptcy, all rights in the property for the purpose of facilitating the operations of the telephone franchise granted to the now defunct company.

Exhibits were introduced showing ownership (deeds and bills of sale) to the property, maps depicting the service area, and financial statements of the company, Bretton Woods Telephone Company, Inc.

The company intends to continue the last tariff approved by the commission until such time as a petition for additional revenues and rates are filed.

The commission staff was concerned with the books of accounts kept by the company and the rates being collected. These matters are reserved for future proceedings.

Upon consideration of all the testimony and evidence submitted, the commission is of the opinion that the public interest requires granting of authority to the Bretton Woods Telephone Company, Inc., to operate a public utility in the town of Carroll that was previously granted to Bretton Woods Telephone Company. The commission further approves the transfer of the telephone works and system to Bretton Woods Telephone Company, Inc.

The Bretton Woods Telephone Company shall hereafter discontinue any operations as a public utility. Our order will issue accordingly.



Order

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

Ordered, that Bretton Woods Telephone Company or its successor Institutional Investors Trust, be, and hereby is, authorized to transfer its assets to Bretton Woods Telephone Company, Inc., and to discontinue operations as a public telephone utility, and it is

Further ordered, that Bretton Woods Telephone Company, Inc., be, and hereby is, authorized to operate as a public telephone utility in the territory now being served by Bretton Woods Telephone Company in the town of Carroll; and it is

Further ordered, that Bretton Woods Telephone Company, Inc., shall file a tariff supplement to adopt the existing tariff of Bretton Woods in accordance with Rule 30 a. 3 and 30 b. of this commission's

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tariff filing rules, to become effective on the date filed.

Such supplement shall also bear the notation "authorized by New Hampshire Public Utilities Commission Order No. 14,184 in case number DE 80-28, dated April 18, 1980."

By order of the Public Utilities Commission of New Hampshire this eighteenth day of April, 1980.

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NH.PUC\*04/21/80\*[78549]\*65 NH PUC 173\*Northern Utilities, Inc.

[Go to End of 78549]

**Re Northern Utilities, Inc.**

DR 80-93, Order No. 14,191

65 NH PUC 173

New Hampshire Public Utilities Commission

April 21, 1980

PETITION of a gas company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Northern Utilities, Inc., a public utility engaged in the business of supplying gas service in the state of New Hampshire, on April 8, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Gas, relative to main extensions and services; 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 10 and Second Revised Page 11 of tariff, NHPUC No. 6 — Gas, of Northern Utilities, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of April, 1980.

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NH.PUC\*04/23/80\*[78550]\*65 NH PUC 173\*New England Telephone and Telegraph Company

[Go to End of 78550]

## Re New England Telephone and Telegraph Company

DE 80-39, Order No. 14,193

65 NH PUC 173

New Hampshire Public Utilities Commission

April 23, 1980

PETITION for a license to install an aerial cable; granted.

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TELEPHONES, § 2 — Installation of an aerial telephone cable.

[N.H.] The commission authorized the installation of an aerial telephone cable; the commission noted that no objections were filed or expressed and that the aerial cable would be in the public interest.

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APPEARANCES: Wayne Snow, engineering manager, for the petitioner.

BY THE COMMISSION:

Report

On February 28, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to install and maintain an aerial telephone cable over Baker river for approximately 275 feet from telephone pole 12/47 on the shoreline in Warren, New Hampshire, to telephone pole 121/1 on private property of Kenneth Bolduc, Warren, New Hampshire, to provide telephone service to Kenneth Bolduc.

The commission issued an order of notice on February 29, 1980, directing all interested

parties to appear at a public hearing at 10:00 A.M. on April 9, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; John R. Sweeney, Aeronautics Commission; John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; and John Coleman, New England Telephone and Telegraph Company.

An affidavit of publication was received on March 27, 1980, indicating a publication in the Manchester Union Leader on March 19, 1980.

Wayne Snow, engineering manager, described the aerial cable as being 25 pair, 24 gauge polyethelene aerial three-quarter-inch cable to serve on private property of Kenneth Bolduc in Warren, New Hampshire.

The commission noted that a permit was on file from the New Hampshire Aeronautics Commission signed by Gordon Bunker. A plan Rumney quadrangle indicating cable location on state Highway No. 118; cross-section Drawing 20-1 indicating a river crossing 275 feet plus/minus Warren, New Hampshire, pole 12/47 with a span of 275 feet plus/minus Warren, New Hampshire, pole 121/1 dated February 13, 1980.

The commission noted that no objections were filed nor expressed at the public hearing; well publicized and proper notification given to the public to the proposed installation of aerial cable in Warren, New Hampshire; with no objections being voiced or submitted to this aerial cable installation the commission feels said cable would be in the public interests. Our order will issue accordingly.

#### Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that authority be granted for installation of aerial telephone cable over Baker river for New England Telephone and Telegraph Company, said crossing to be approximately 275 feet from telephone pole 12/47 on shoreline in Warren, New Hampshire, to telephone pole 121/1 Warren, New Hampshire, on private property of Kenneth Bolduc, to be installed and main

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tained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of April, 1980.

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NH.PUC\*04/23/80\*[78551]\*65 NH PUC 175\*Concord Steam Corporation

[Go to End of 78551]

## **Re Concord Steam Corporation**

DR 80-2, Supplemental Order No. 14,194

65 NH PUC 175

New Hampshire Public Utilities Commission

April 23, 1980

ORDER accepting the withdrawal of proposed tariff revisions.

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BY THE COMMISSION:

Supplemental Order

Whereas, Concord Steam Corporation, a public utility engaged in the business of supplying steam service in the state of New Hampshire, on December 27, 1979, filed with this commission certain revisions to its tariff, NHPUC No. 2 — Steam, providing for an increase in rates; and

Whereas, said filing was suspended by commission Order No. 13,997, dated January 18, 1980 (65 NH PUC 29); and

Whereas, by letter from its counsel, Charles F. Leahy, dated March 21, 1980, Concord Steam Corporation has withdrawn said filing; it is

Ordered, that the withdrawal of Second Revised Page 11 of Concord Steam Corporation tariff, NHPUC No. 2 — Steam, be, and hereby is, accepted.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of April, 1980.

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NH.PUC\*04/23/80\*[78552]\*65 NH PUC 175\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78552]

## Re New Hampshire Electric Cooperative, Inc.

IR 14,921, Order No. 14,195

65 NH PUC 175

New Hampshire Public Utilities Commission

April 23, 1980

PETITION of an electric company for approval of a service 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.

68 with Keewaydin Shores, Inc., 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 twenty-third day of April, 1980.

=====

NH.PUC\*04/23/80\*[78553]\*65 NH PUC 176\*Manchester Gas Company

[Go to End of 78553]

### **Re Manchester Gas Company**

IR 14,922, Order No. 14,196

65 NH PUC 176

New Hampshire Public Utilities Commission

April 23, 1980

PETITION of a gas company for approval of a service contract; granted.

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BY THE COMMISSION:

Order

Whereas, Manchester Gas Company, a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 20 with American Hoechst Corporation, effective upon order of this commission, for gas 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 April, 1980.

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NH.PUC\*04/23/80\*[78554]\*65 NH PUC 177\*Connecticut Valley Electric Company, Inc.

[Go to End of 78554]

## Re Connecticut Valley Electric Company, Inc.

Additional petitioner: New Hampshire Electric Cooperative, Inc.

IE 14,924, Order No. 14,197

65 NH PUC 177

New Hampshire Public Utilities Commission

April 23, 1980

PETITION for authority to change the service territory in a limited area; granted.

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1. SERVICE, § 252 — Discontinuance of service — Substitution by another company.

[N.H.] The commission authorized an electric company to discontinue service to a customer due to the cost involved in rebuilding the old existing line and the fact that an electric cooperative was willing to extend service to the customer. p. 177.

2. SERVICE, § 198 — Extension — Electric company.

[N.H.] The commission authorized an electric cooperative to extend service to a customer whose service was to be discontinued due to the cost of rebuilding the customer's existing line. p. 177.

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BY THE COMMISSION:

Order

Whereas, Connecticut Valley Electric Company, Inc. (hereinafter called Connecticut), a corporation duly organized under the laws of this state and operating therein as an electric public utility under the jurisdiction of this commission, by petition filed March 25, 1980, seeks authority pursuant to Chap 374 RSA, to discontinue electric service in a limited area in Orford to one customer, located on Route 25A; and

Whereas, to continue service to this customer would require rebuilding approximately 2,350 feet of line; and

Whereas, New Hampshire Electric Cooperative, Inc. (hereinafter called the cooperative), a corporation duly organized under the laws of this state and operating therein as an electric public utility under the jurisdiction of this commission, now is providing electric service in the town of Orford, with lines being operated on Route 25A within approximately 150 feet of this customer; and

Whereas, the cooperative, by petition filed March 31, 1980, seeks authority to serve this one customer on Route 25A in the town of Orford, contingent on approval to Connecticut to discontinue service to this customer; and

Whereas, the one customer involved — namely, George J. Schwarz — has signified in writing that he has no objection to the proposed transfer of service, such assent being on file with

this commission; and

Whereas, the commission finds it to be in the public interest that the transfer of customer service take place on the evidence that service can be rendered by the relatively less costly extension of 150 feet of new line as opposed to the substantially more costly rebuilding of approximately 2,350 feet of old existing line; it is

[1, 2] Ordered, that pursuant to the provisions of Chap 374, RSA, Connecticut be, and hereby is, authorized to discontinue electric service; and the cooperative, be, and hereby is,

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authorized to extend electric service, to the above named customer on Route 25A in the town of Orford, effective with the date of this order, such authorization to provide service being granted without hearing, as provided by RSA 374:26 when all interested parties are in agreement; and it is

Further ordered, that each company, Connecticut and the cooperative, file a map of the town of Orford reflecting the above change in service territories, as required by RSA 374:22B, such maps to be filed in due time as a part of the ongoing commission cases (DE 79-216 — Connecticut, and DE 78-105 — cooperative) to obtain compliance with RSA 374 as amended by Chap 304 of the 1977 Session Laws.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of April, 1980.

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NH.PUC\*04/23/80\*[78555]\*65 NH PUC 178\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78555]

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

Additional petitioner: Public Service Company of New Hampshire

IE 14,898, Order No. 14,198

65 NH PUC 178

New Hampshire Public Utilities Commission

April 23, 1980

PETITION for authority to transfer service in a limited area; granted.

-----

SERVICE, § 252 — Transfer of electric service.

[N.H.] The commission authorized the transfer of customer service from an electric cooperative to an electric company because improved service could be rendered through the construction of a new and substantially shorter service tap than by rehabilitation of the existing

facility over difficult terrain.

-----

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc. (hereinafter called the cooperative), a corporation duly organized under the laws of this state, and operating therein as an electric public utility, under the jurisdiction of this commission, by petition filed January 8, 1980, seeks authority pursuant to Chap 374, RSA, to discontinue electric service in a limited area in Fremont to six customers located on Beede Hill road; and

Whereas, a problem exists of maintaining continuity and restoration of service during winter storms because of a long cross-country service tap of approximately 8,000 feet through swamp and other difficult terrain; and

Whereas, Public Service Company of New Hampshire (hereinafter called Public Service), a corporation duly organized under the laws of this state, and operating therein as an electric public utility, under the jurisdiction of

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this commission, now is providing electric service in the town of Fremont, with lines terminating substantially nearer to these customers than the origin of the service tap to be discontinued by the cooperative; and

Whereas, Public Service, by petition filed January 14, 1980, seeks authority to serve these six customers on Beede Hill road in the town of Fremont contingent on the approval to the cooperative to discontinue service to these customers; and

Whereas, the six customers involved — namely, Dr. Stuart Langton, Alan McRae, Dana Gould, John L. Gieroch, Alfred F. Bevilacque, and Elizabeth Bloomquist — have signified in writing that they have no objection to the proposed transfer of service, such assent to the transfer being on file with this commission; and

Whereas, both companies, the cooperative and Public Service, have reached a reasonable agreement as to the rearrangement of distribution facilities and customers' metering facilities, as evidenced by a letter agreement of November 29, 1979, a copy of which has been filed with this commission; and

Whereas, the commission finds it to be in the public interest that the transfer of customer service take place on the evidence that improved service can be rendered through the construction of a new and substantially shorter service tap than by the rehabilitation of an existing facility over difficult terrain; it is

Ordered, that, pursuant to the provisions of Chap 374, RSA, the cooperative, be, and hereby is, authorized to discontinue electric service to the above named customers on Beede Hill road in the town of Fremont, effective January 21, 1980; such authorization to provide service being granted without hearing, as provided by RSA 374:26 when all interested parties are in



agreement; and it is

Further ordered, that each company, the cooperative and Public Service, file a map of the town of Fremont reflecting the above change in service territories, as required by RSA 374:22B, such maps to be filed in due time as a part of the ongoing commission cases (DE 78-105 — cooperative, and DE 78-106 — Public Service) to obtain compliance with RSA 374 as amended by Chap 304 of the 1977 Session Laws.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of April, 1980.

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NH.PUC\*04/23/80\*[78556]\*65 NH PUC 179\*Connecticut Valley Electric Company, Inc.

[Go to End of 78556]

### Re Connecticut Valley Electric Company, Inc.

DR 80-92, Order No. 14,199

65 NH PUC 179

New Hampshire Public Utilities Commission

April 23, 1980

PETITION of an electric company to revise its tariff; 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 April 14, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 4 — Electricity, providing for increased rates in the amount of \$219,130 (3.7 per cent), effective May 15, 1980; 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 19.1 and 19.2; Third Revised Pages 19, 21, 25, 28, and 32; and Fourth Revised Pages 20, 23, 24, 30, and 31 of tariff, NHPUC No. 4 — Electricity, of Connecticut Valley Electric Company, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of April, 1980.

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NH.PUC\*04/25/80\*[78557]\*65 NH PUC 180\*Connecticut Valley Electric Company, Inc.

[Go to End of 78557]

## Re Connecticut Valley Electric Company, Inc.

Additional petitioner: New Hampshire Electric Cooperative, Inc.

IE 14,919, Order No. 14,201

65 NH PUC 180

New Hampshire Public Utilities Commission

April 25, 1980

PETITION for authority to extend lines and service; granted.

-----

SERVICE, § 198 — Extension of lines and service — Electric company.

[N.H.] The commission authorized an electric company to extend its lines and service in order to provide an industrial customer with prompt, reliable, and economic electric service.

BY THE COMMISSION:

Order

Whereas, Connecticut Valley Electric Company, Inc. (hereinafter called Connecticut), and New Hampshire Electric Cooperative, Inc. (hereinafter called the cooperative), corporations duly organized under the laws of this state and operating therein as electric public utilities under jurisdiction of this commission, by joint petition filed March 25, 1980, seek authority pursuant to Chap 374, RSA, for Connecticut to provide industrial service to a newly constructed plant, Mal Tool and Engineering (hereinafter called Mal Tool), located in North Charlestown in the service territory of the cooperative; and

Whereas, Mal Tool requires three-phase

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service for a connected load of approximately 775 kw, neither of which requirements the cooperative has readily available, and therefore has waived its right to serve Mal Tool in favor of Connecticut providing this service; and

Whereas, Mal Tool has orally in conference indicated its willingness to take and pay for such service under the terms of Connecticut's standard line extension terms on file as a part of its tariff with this commission; and

Whereas, both Connecticut and the cooperative have entered into preliminary discussion leading to the exchange of an equitable number of customers whereby some fifty customers of

the cooperative in the North Charlestown area could eventually be served by Connecticut, thus unifying service in this area; the completion of such arrangements being too time consuming to be required prior to rendering service to Mal Tool; and

Whereas, investigation by the commission of all alternatives of providing prompt, reliable, and economic electric service to Mal Tool discloses that the extension of three-phase facilities presently leading out of Connecticut's Maple Street substation in Claremont to be the best solution to this problem, and therefore in the public interest; it is

Ordered, that permission be, and hereby is, granted to Connecticut to extend its electric service to one customer, Mal Tool, located in North Charlestown approximately one mile south of the Claremont-Charlestown town line on the west side of Route 12A in the present service territory of the cooperative, such service to be provided under the terms of the line extension tariff on file with this commission, such authorization to provide service being granted without hearing, as provided by RSA 374:26, when all interested parties are in agreement; and it is

Further ordered, that both Connecticut and the cooperative shall actively pursue the exchange of customers which will eventually result in the unification of electric service under Connecticut in the North Charlestown area north of and including the Mal Tool plant presently the service territory of the cooperative, subject to the approval of this commission under the provisions of Chap 374, RSA; and it is

Further ordered, that each utility file a new or revised map of the town of Charlestown reflecting the first authorization above, such maps to be filed in due time as a part of the ongoing commission cases (DE 78-105 — the cooperative and DE 79-216 — Connecticut) to obtain compliance with Chap 374, RSA, as amended by Chap 304 of the 1977 Session Laws.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of April, 1980.

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NH.PUC\*04/25/80\*[78559]\*65 NH PUC 184\*Union Telephone Company

[Go to End of 78559]

## **Re Union Telephone Company**

Intervenor: Legislative Utility Consumers' Council

DR 79-120, Sixth Supplemental Order No. 14,204

65 NH PUC 184

New Hampshire Public Utilities Commission

April 25, 1980

ORDER requiring a telephone company to file revised tariff pages and denying a request to consider additional expense items.

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1. RATES, § 179 — Commission orders — Calculation of rates.

[N.H.] The commission required a telephone company to file revised tariff pages because a mileage revenue figure in excess of that used by the commission in calculating the required rate increase was utilized; the commission stated that the same figure that was used for calculating a required rate increase must also be used in calculating the adjustment to local service revenues for the replacement of mileage charges. p. 185.

2. RATES, § 120.1 — Consideration of additional items — Test-year concept.

[N.H.] The commission refused a telephone company's belated request for additional consideration of six expense items which the company alleged should be taken into account in arriving at a proper rate increase because such a request would do a disservice to the test-year concept since the expenses involved went significantly beyond the test year. p. 186.

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APPEARANCES: Dom S. D Ambruoso for Union Telephone Company; Harold T. Judd and Gerald L. Lynch for the Legislative Utility Consumers' Council;

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Representative Jane Sanders, pro se.

BY THE COMMISSION:

Report

The commission is in receipt of revised tariff pages that Union Telephone Company asserts are in conformity with commission Order No. 14,063 (65 NH PUC 94). The commission has reviewed the tariff sheets and accompanying work papers in intricate detail. These revised tariff sheets are designed to collect basic and local service revenues in the amount of \$369 507. This calculation is arrived at by the use of three other calculations, which together culminate a \$369,507 total. The first subcalculation is an annualization of revenues for basic service if rates had not been altered (\$228,364). The second component is the rate increase granted, \$80,066. The third calculation is an annualization of the mileage charges as of December 31, 1979, which leads to a total of \$61,077.

The commission originally denied implementation of the tariff sheets, which resulted from this calculation because of perceived problems with the calculations. Upon a thorough review of Union Telephone's submission, the commission finds its concerns to be well founded. The major error the commission finds relates to the question of mileage revenues. In determining the rate increase to be allowed in this proceeding, the commission implicitly used a figure for mileage revenues in the test year. The commission stated in its Order No. 13,956 ([1979] 64 NH PUC 434) that while mileage charges are eliminated because of their absence of evidentiary support, these revenues could still be collected through the basic rates from all customers. To clarify, the commission makes a determination as to revenues and then determines the proper allocation of this revenue to the various customer classes. Mileage charges are a question of rate structure as opposed to a question of an appropriate level of revenues.

[1] The calculations submitted by the company in response to our Order No. 14,063 included a mileage revenue figure in excess of that used by the commission in calculating the required rate increase. Such a mixture of numbers is not within proper rate-making goals. The same figure that is used for calculating a required rate increase must also be used in calculating the adjustment to local service revenues for the replacement of mileage charges. Use of two different figures creates both a mathematical inconsistency and higher than allowed revenues for the company.

The commission believes the proper level of basic revenues can be calculated using the following formula:

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

Required Net Operating Income	\$216,694
<i>Plus:</i>	
Pro Formed Expenses	680,304
<i>Less:</i> Original FIT & NHBPT (adjusted)	(36,633)
<i>Plus:</i> New FIT and NHBPT	73,318
Total	<u>\$933,683</u>
<i>Less:</i>	
Revenue Other than Local	(541,297)
Balance Local Service Revenue	<u>\$392,386</u>
<i>Less:</i> Vertical Revenue	31,792
Basic Service Revenue	<u>\$360,594</u>
Union Telephone's Submission	369,507
<i>Less:</i>	
Commission Finding	<u>360,594</u>
Potential Overcharge	\$ 8,913

Recognition of New Hampshire Business Profits Tax and federal corporate tax.

[2] The commission, therefore, orders Union Telephone Company to file revised tariff pages to recover approximately \$360,594 in basic service revenues as well as a plan to recover any lost revenues through a one-time charge. Union Telephone has made a belated request for additional consideration of six items, which it alleges should be taken into account in arriving at a proper rate increase. The commission finds no merit to the company's assertions. The commission believes its allowance of an attrition factor compensates the company for these factors, as well as others. Furthermore, the request by the company would do a disservice to the test-year concept, since these expenses go significantly beyond the test year. Finally, the commission believes that procedurally no further adjustments to the allowed rate increase can occur, because the proposed adjustments were not filed in a timely manner.

Our order will issue accordingly.

#### Supplemental Order

Whereas, Union Telephone Company filed tariff sheets designed to collect \$369,507 in basic service revenues; and

Whereas, the public utilities commission has reviewed the proposed tariffs in elaborate detail; and

Whereas, upon completion of that investigation the commission finds that only \$355,701 should be collected in base service revenues in accordance with our previous orders in this docket; it is hereby

Ordered, that Union Telephone Company file revised tariff pages designed to collect \$355,701 in base service revenues; and it as

Further ordered, that these filed tariff pages are to be filed before April 30, 1980; and it is

Further ordered, that if the time period given "April 30, 1980," can not be complied with then commission's Fifth Supplemental Order No. 14,147 (65 NH PUC 138) and Fourth Supplemental Order No. 14,134 (65 NH PUC 131) will continue in effect with the appropriate safeguard for the month of March and April being reserved for collection as a surcharge on bills rendered on or after May 31, 1980.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of April, 1980.

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NH.PUC\*04/30/80\*[78561]\*65 NH PUC 187\*Concord Natural Gas Corporation

[Go to End of 78561]

## Re Concord Natural Gas Corporation

Additional petitioners: Gas Service, Inc., Keene Gas Corporation, Manchester Gas Company, and Northern Utilities, Inc., Allied Gas Division

DR 80-72 et al. Order No. 14,206

65 NH PUC 187

New Hampshire Public Utilities Commission

April 30, 1980

PETITION of gas companies to include cost of gas adjustments in their tariffs; granted.

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1. REPARATION, § 42 — Overcollected revenues — Interest.

[N.H.] The commission required 8 per cent interest on any overcollected revenues; however, for future winter and summer periods the commission would give further consideration to increasing the interest rate to one closer to the prime rate. p. 188.

2. RATES, § 380 — Summer cost of gas adjustment.

[N.H.] The commission approved the proposed cost of gas adjustments of gas companies

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noting that the adjustments took into account over — and undercollection during the previous summer period. p. 188.

### 3. RATES, § 243 — Cost of gas adjustments — Notice requirement.

[N.H.] In approving the proposed cost of gas adjustments of several gas companies, the commission required that public notice of the adjustment be given by one-time publication in newspapers having general circulation in the territories served. p. 189

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APPEARANCES: Eaton W. Tarbell for Northern Utilities, Inc.; Charles H. Toll, Jr., for Concord Natural Gas Corporation and Gas Service, Inc.; James E. Hood for Manchester Gas Company; Gerald Eaton for the Community Action Program; Kenneth Wood for the Keene Gas Corporation.

### BY THE COMMISSION:

#### Report

In conformance with commission tariff filing rules and cost of gas adjustment terms outlined in the individual tariffs of each of the named companies, proposed cost of gas adjustments for the summer period, May 1, 1980, through October 31, 1980, were filed for commission consideration. Companies proposed cost of gas adjustments are as follows:

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

Concord Natural Gas Corporation	\$0.1077/therm
Gas Service, Incorporated, Nashua	0.1337
Laconia	0.1624
Keene Gas Corporation	0.1775
Manchester Gas Company	0.1457
Northern Utilities, Inc. (Allied Gas)	0.1847

A duly noticed public hearing was held at the offices of the commission on April 22, 1980, at which time a witness for each company discussed the components of its cost of gas adjustment.

Testimony and cross-examination of company witnesses revealed that methods of forecasting costs of natural gas and peak-shaving gas were comparative to those approved previously by the commission. Impacting the cost of gas adjustment was:

- (1) A 20-cent projected increase in commodity charge from Tennessee Gas Pipeline.
- (2) A two-cent increase in price per gallon of propane gas, during the period.

Also included are adjustments for over — and undercollection during the previous summer period.

[1] Neutralizing some of these increases and adjustments are credits for the Tennessee Gas Pipeline refund allocated to the summer period. (Note that the commission requires 8 per cent interest on any overcollected revenues. For future winter and summer periods the commission will give further consideration to increasing the interest rate to a rate closer to the prime rate.)

The commission has found no cause to dispute the projected costs or projected sales. In the

future the commission will give further consideration to the distribution of storage costs between summer and winter periods.

[2] The commission will allow the cost of gas adjustments as presented to go into effect as proposed. Our order will issue accordingly.

The commission in its previous orders noted some concerns regarding the accuracy of the companies' forecasts of the previous summer period. For the past summer period the commission notes that a majority of the companies under-collected.

Our order will issue accordingly.

Order

Upon consideration of the foregoing

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report, which is made a part hereof; it is

Ordered, that 16th Revised Page 21 and 14th Revised Page 21-A of Concord Natural Gas Corporation, tariff, NHPUC No. 13 — Gas, providing for a cost of gas adjustment of \$0.1077 per therm for the period May 1, 1980, through October 31, 1980, be, and hereby are, approved; and it is

Further ordered, that Section 2, 16th Revised Page 3; and Section 4, 15th Revised Page 3 of Gas Service, Inc., tariff, NHPUC No. 5 — Gas, providing for cost of gas adjustment of \$0.1337 per therm for Nashua; and \$0.1624 per therm for Laconia for the period May 1, 1980, through October 31, 1980, be, and hereby are, approved; and it is

Further ordered, that 17th Revised Page 20 of Manchester Gas Company, tariff, NHPUC No. 12 — Gas, providing for a cost of gas adjustment of \$0.1457 per therm for the period May 1, 1980, through October 31, 1980, be, and hereby is, approved; and it is

Further ordered, that 16th Revised Page 22A of Northern Utilities, Inc., Allied Gas Division, tariff, NHPUC No. 6 — Gas, filed in lieu of 15th Revised Page 22A, withdrawn, providing for a cost of gas adjustment of \$0.1847 per therm for the period May 1, 1980, through October 31, 1980, be, and hereby is, approved; and it is

Further ordered, that First Revised Page 27 of Keene Gas Corporation, tariff, NHPUC No. 1 — Gas, providing for a cost of gas adjustment of \$0.1775 per therm for the period May 1, 1980, through October 31, 1980, be, and hereby is, approved; and it is

Further ordered, that revised tariff pages approved by this order become effective with all billings issued on and after May 1, 1980; and it is

[3] Further ordered, that public notice of this cost of gas adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 1980.

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NH.PUC\*04/30/80\*[78562]\*65 NH PUC 189\*Public Service Company of New Hampshire

[Go to End of 78562]

**Re Public Service Company of New Hampshire**

DR 79-187, 24th Supplemental Order No. 14,207

65 NH PUC 189

New Hampshire Public Utilities Commission

April 30, 1980

ORDER extending the time limit to submit briefs.

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BY THE COMMISSION:

Supplemental Order

Whereas, 23rd Supplemental Order No. 14,176 (65 NH PUC 167) ordered all parties to submit briefs no later than April 30, 1980, reply briefs by May 5, 1980, and a final decision to be rendered

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by the commission by May 23, 1980; and

Whereas, one of the counsel for the Legislative Utility Consumers' Council (LUCC) is about to become a father; and

Whereas, the date of this event is likely to occur within the immediate future and could lead to a disruption in the work schedule by the LUCC to write a reply brief; it is hereby

Ordered, that all parties will have until May 9, 1980, to file reply briefs and that the commission will tender a decision no later than May 27, 1980.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 1980.

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NH.PUC\*04/30/80\*[78563]\*65 NH PUC 190\*Public Service Company of New Hampshire

[Go to End of 78563]

**Re Public Service Company of New Hampshire**

Additional petitioner: New Hampshire Energy Coalition

DE 80-47, Supplemental Order No. 14,208

65 NH PUC 190

New Hampshire Public Utilities Commission

April 30, 1980

ORDER extending the filing deadline for testimony and exhibits.  
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PROCEDURE, § 23 — Insufficient notice — Filing extension.

[N.H.] The commission extended the time for filing testimony and other exhibits because of a defect in required public notice that was caused by circumstances beyond the control of any party or the commission.

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BY THE COMMISSION:

Supplemental Order

On March 17, 1980, the commission initiated this docket by its Order No. 14,136 (65 NH PUC 134). At that time, the commission set forth specific guidelines as to the limits and the requirements to qualify as a participant in these proceedings. Public Service Company of New Hampshire (PSNH) and the New Hampshire Energy Coalition (NHEC) both complied with these requirements and will be granted full party status.

The Governor's Council on Energy (GCE) also filed a letter of appearance by April 1, 1980. The Legislative Utility Consumers' Council (LUCC) filed a petition to intervene April 1, 1980, or ten days after the procedural deadline. The late-filed petition also included a motion to expand the scope of the proceeding to include an examination of the electric supply situation and " ... replacement for conversion of current oil-fired generating plants." In addition, the LUCC included a " motion for clarification and/or objection." The thrust of this motion is a request to allow the

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LUCC to participate even though it has "no present plan to offer testimony or exhibits with regard to DE 80-47."

The LUCC has followed these initial requests with a set of data requests followed by a "motion to compel" and a "motion for extension of time."

The commission originally ordered that notice of this docket appear in both the *Union Leader* and the *New Hampshire Times* so as to provide notification of the April 1, 1980, deadline. Due to circumstances beyond the control of any party or the commission, one of these notices did not appear until April 2, 1980. Consequently, the commission will extend the time for filing testimony and/or exhibits from the original April 21, 1980, deadline to May 9, 1980. The GCE and the LUCC will have until this date an opportunity to comply with the commission's original requirement of filing testimony and/or exhibits. Failure to file will result in exclusion of

these governmental entities for the remainder of the docket.

Regardless of the subsequent action or inaction by GCE or the LUCC, the commission will not extend the scope of *this* investigation into supply questions or the "replacement for conversion of current oil-fired generating plants." These issues present the addition of complex issues to an already weighty undertaking. The LUCC, or any other group, individual, or organization, is entitled to initiate a docket where the burden is, of course, on the petitioner. However, the commission declines to broaden the scope of this proceeding. Therefore, the LUCC's motion is denied.

The commission also believes that there is merit to requiring that all participants have exhibits supported by testimony. This allows the commission to have serious presentations as to this complex area of prediction. Consequently, the LUCC's "motion for clarification and/or objection" is also denied. Since the LUCC is not as of yet a party, its other motion to compel answers to data requests and for extension of time are also denied. The LUCC's motion to intervene is held pending the passage of time until May 9, 1980.

The NHEC raises a concern that the commission should address a "conservation scenario," as well as a peak forecast assuming no change in the rate structure. The commission finds validity to this concern and will entertain additional testimony and exhibits on a conservation scenario after a completion of our review of the Public Utility Regulatory Policies Act (PURPA) standards.

Based on the foregoing; it is

Ordered, that PSNH and NHEC are recognized as full parties; and it is

Further ordered, that the motions filed by the LUCC are denied; and it is

Further ordered, that GEC and the LUCC have until May 9, 1980, to file testimony and exhibits concerning their estimates as to peak growth for PSNH.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 1980.

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NH.PUC\*05/06/80\*[78564]\*65 NH PUC 192\*Granite State Electric Company

[Go to End of 78564]

## **Re Granite State Electric Company**

DR 79-228, Order No. 14,211

65 NH PUC 192

New Hampshire Public Utilities Commission

May 6, 1980

PETITION of an electric company to increase its purchased power cost adjustment; denied.

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1. RATES, § 186 — Proposed rates — Burden of proof.

[N.H.] Any utility has the burden of proof to demonstrate that its proposed increase in rates or charges is just and reasonable and supported by way of substantial evidence; the mere filing of schedules and testimony is insufficient to meet this burden. p. 193.

2. DEFINITIONS — Pancaking.

[N.H.] In utility regulation, the process of filing additional rate cases while others are still pending is termed "pancaking," and results in a situation whereby a company receives annual rate increases subject to refunds that begin to compound in their effect on consumers. p. 193.

3. RATES, § 32 — Power to refuse to investigate — Rate matters.

[N.H.] The commission has the statutory power to refuse to investigate any rate matter which it has investigated within a period of two years. p. 194.

4. REPARATION, § 17 — Refunds for past overcharge — Rate decisions.

[N.H.] In rate proceedings where the amount owed consumers for past overcharges is larger in amount than the increase sought, reasonableness requires that refunds be dispersed prior to consideration of any new filing; the public interest supports and mandates the rapid disbursement of refunds. p. 194.

5. COMMISSIONS, § 11 — Commission authority — Protection of public interest.

[N.H.] The authority given a public utility commission is for the protection of the public interest as distinguished from the private interests of utility companies. p. 195.

6. RATES, § 32 — Commission duty — Reasonable rates.

[N.H.] In protecting the consumer, the commission's primary mission is to assure the lowest possible reasonable rates consistent with the maintenance of adequate service. p. 194.

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APPEARANCES: Philip H. R. Cahill and William Hayes for Granite State Electric Company.

BY THE COMMISSION:

Report

Granite State Electric (GSE) filed a request to increase its purchase power cost adjustment (PPCA) by \$1,265,000 on November 30, 1979. The revision to its tariff, NHPUC No. 8, was designed to become effective on January 1, 1980. The commission suspended the filing pursuant to Order No. 13,947 dated December 14, 1979 (64 NH PUC 432), pending investigation and decision thereon.

The filing corresponds to rate increase request made by GSE's sister subsidiary, New England Power Company (NEP), before the Federal Energy Regulatory Commission (FERC). The NEP filing, which includes increases in the allowed return on common equity, coal conversion costs, expenses, and rate base, has been the subject of numerous FERC orders.

These orders have resulted in numerous changes to NEP's and correspondingly GSE's filings.

The reasons

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for these orders will be discussed, *infra*.

The commission conducted two days of hearings, March 27 and April 30, 1980. No other group, entity, or person appeared, except for Granite State Electric. The Granite State Electric presentation consisted of Mr. McDade's prefiled testimony, a few exhibits, and later, pursuant to commission inquiries, a panel of four other New England Power-Granite State personnel. The commission sought answers to 13 questions in writing and received 11 answers. The commission raised other questions at the two hearings as well. No briefs were submitted.

### I. Relationship between NEP and GSE

The New England Electric System is the parent company of both New England Power Company and Granite State Electric Company. In addition, there are two other relevant subsidiaries, Massachusetts Electric and Narragansett Electric. New England Power Company is the subsidiary responsible for the generation of power for the three distributing companies, Granite State, Massachusetts Electric, and Narragansett Electric Companies. New England Power Company's W-2 filing before FERC to increase its return on equity, rate base, expenses, etc. is the cause for Granite State Electric's request in this proceeding.

### II. Burden of Proof

[1] Any utility appearing before this commission has the burden of proof to demonstrate that its proposed increase in rates or charges is just and reasonable. NHRSA 378:8. The mere filing of schedules and testimony in support of the rate increase is insufficient to meet this burden. A company must support its application by way of substantial evidence. *Re Gas Co. of New Mexico* (NM 1978) 28 PUR4th 20, 23.

### III. Previous NEP Filings

The New England Power Company has been one of the most litigious parties before the FERC. The following table taken from staff Exh 1 is illustrative:

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

NEP Rate Case	Date Filed	Effective Date	PPCA Eff. Date
R-7	June 1, 1973	Jan. 1, 1974	Jan. 1, 1974
R-8	Feb. 26, 1974	May 15, 1974	May 15, 1974
R-9	Nov. 29, 1974	June 1, 1975	June 1, 1975
R-10	Nov. 28, 1975	Mar. 1, 1976	Mar. 1, 1976
R-11	Dec. 6, 1976	Feb. 1, 1977	Feb. 1, 1977
R-12	Dec. 1, 1977	June 1, 1978	June 1, 1978
W-1	Dec. 1, 1978	July 1, 1979	Oct. 1, 1979
W-2	Nov. 30, 1979	Jan. 2, 1980	

This filing.

[2] In utility regulation, this process of filing additional cases while others are still pending is termed "pancaking." As the above table indicates, NEP has compiled a hefty stack.

The result of this procedure is to create a situation whereby NEP receives annual increases subject to refunds that begin to compound in their effect on consumers. New England Power

Company's

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R-10 rate, effective March 1, 1976, was recently the subject of a final order from the FERC. See *Re New England Power Co. Opinion 49-A*, Docket Nos. ER76-304 et al. March 26, 1980. The aforementioned order requires NEP to refund in excess of \$20 million. While interest is included in this amount, there is not an adjustment for the value of money; nor is it probable that those who overpaid will ever be totally compensated.

[3] Obviously, this procedure of pan-caking makes it extremely difficult for FERC or state commissions to adequately discover, much less address, the various issues inherent in each proceeding. However, this commission does have the statutory power to refuse to investigate any rate matter, which it has investigated within a period of two years. NHRSA 378:7. The commission has reviewed Granite State Electric's PPCA twice within the last two years. See *Re Granite State Electric Co. (1978) 63 NH PUC 74*; *Re Granite State Electric Co. (1979) 64 NH PUC 333*. Consequently, the commission rejects the GSE filing pursuant to RSA 378:7.

#### IV. FERC Decision as to R-10

The commission staff raised the issue of the aforementioned FERC order concerning the disposition of the NEP R-10 rate filing. While GSE witnesses were acutely aware of the proposed changes in the amount sought by NEP in its present W-2 filing, there was a general unawareness as to the magnitude of the refund order relating to R-10. Granite State Electric Company witness McDade conceded that on a New England Power System basis, the refund was in excess of \$20 million. In addition, Mr. McDade was also aware of another order that required refunds in excess of \$600,000 on a system basis. When asked if GSE had sought the refunds from NEP, witness McDade answered that it had not.

The failure of GSE to seek the refunds owed to GSE consumers and the failure of NEP to tender such refunds is against the specific findings made by FERC in *Re New England Power Co. Opinion No. 49-A*, Docket Nos. ER76-304 et al. March 26, 1980.

This commission notes with approval the language of the FERC:

"Further, NEP's assertion that its customers will not be harmed because they will eventually get their refunds overlooks the fact that the protection afforded by refunds may be inadequate to fully protect the consumers' interest, *Federal Power Commission v Hunt (1964) 376 US 515, 524, 525, 53 PUR3d 1, 11 L Ed 2d 878, 84 S Ct 861*. Moreover, delayed refunds may not totally compensate customers for the actual cost of money later refunded, and delay diminishes the possibility that those who paid these excessive rates would be those who ultimately receive the refunds. *Federal Power Commission v Tennessee Gas Transmission Co. (1962) 371 US 145, 154, 46 PUR3d 347, 9 L Ed 2d 199, 83 S Ct 211*. The Tennessee Gas case held, citing *Atlantic Refining Co. v New York Pub. Service Commission (1959) 360 US 378, 388, 29 PUR3d 70, 3 L Ed 2d 1312, 79 S Ct 1246*, *prompt* refunds were required 'to afford consumers a complete, permanent and effective bond of protection from excessive rates and charges.' "

[4-6] The commission believes that in proceedings where the amount owed consumers is larger in amount than the increase sought, and where further, consumers have been deprived

from using

these funds for four years, reasonableness requires that refunds be dispersed prior to any consideration of any new filing. The public interest supports and mandates the rapid disbursement of refunds. The authority given a public utility commission is for the protection of the public interest as distinguished from the private interests of utility companies. *Federal Power Commission v Sierra Pacific Power Co.* (1956) 350 US 348, 12 PUR3d 122, 100 L Ed 388, 76 S Ct 368. In protecting the consumer, this commission's primary mission is to assure the lowest possible reasonable rates consistent with the maintenance of adequate service. *Federal Power Commission v Hope Nat. Gas Co.* (1944) 320 US 591, 611, 51 PUR NS 193, 88 L Ed 333, 64 S Ct 281.

This commission requires the utilities under its jurisdiction to seek refunds to which its customers are entitled. If a utility fails to seek these refunds or is slow in its pursuit, this commission has ordered refunds regardless of whether the utility eventually receives the refunds. See: *Re Public Service Co. of New Hampshire*, DR 76-46, Sept., 1976; *Re Public Service Co. of New Hampshire* (1979) 64 NH PUC 367; and *Re Public Service Co. of New Hampshire* (1980) 65 NH PUC 107.

Therefore, the commission rejects any consideration of the proposed increase of 0.062 per kwh (\$240,746), and instead orders refunds in that amount to be applied to all bills rendered on or after June 1, 1980. Upon receipt from Granite State of the exact amount NEP is required to refund, the commission will make any necessary adjustments. This result is mandated if the commission is to comply with the just and reasonable standard of RSA 378:7.

#### *V. Present NEP W-2 Filing*

The filing originally submitted by Granite State Electric was to increase the total surcharge from 0.747 cents per kwh to 1.070 cents per kwh, or \$1.62 to a 500-kwh bill. This filing related to the W-2 filing made by NEP at the Federal Energy Regulatory Commission. A significant portion of the increase related to the assertion by NEP that it would have Salem Harbor operating on coal for the entire 1980 calendar year. This representation was made before FERC in ER80-66, ER80-67, and ER80-68, before the Rhode Island Public Utilities Commission in Docket No. 1469, and before this commission in this docket. When the FERC and the state public utilities commissions gradually became aware that Salem Harbor had not been converted to coal, the effective date as to these costs was gradually moved back. As of May 5, 1980, NEP finally filed with the FERC to remove the request from its filing. The commission is deeply disturbed by the initial representations that the burning of coal at Salem was imminent and then to be informed at our April 30, 1980, hearing that Salem may never be converted. This issue alone has raised substantial skepticism as to the validity of the W-2 filing. Furthermore, this issue has resulted in five distinct filings — W-2, W-2-A, W-2-B, W-2-C, W-2-D. Since this docket was initiated pursuant to W-2 and the company is now seeking a different filing (W-2-D), the commission believes that procedural due process requires GSE to file for a new docket so as to provide proper notice to its customers.

Even if this commission could assume, which it cannot absent factual support on the record,

that W-2-D is W-2 without recognizing any costs associated

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with Salem Harbor, there are disturbing shortcomings to GSE and, for that matter, NEP's presentation. Furthermore, there are significant questions unanswered, which together fail to satisfy GSE's burden of proof according to RSA 378:8.

Inquiries by staff and commission revealed a marked unfamiliarity with the exhibits and their contents. For example, a portion of the requested increase is for conversion costs, which NEP-GSE treat as expenses. Yet there remains a substantial unanswered question as to why these costs were not capitalized and added to plant. The FERC chart of accounts, which both FERC and this commission use, has specific instructions on tests to be used for determination of the character of an incurred cost (expensed or capitalized).

On pp. 101-113 of Electric Plant Instructions of the FERC chart of accounts appears the following:

"(3) When a minor item of depreciable property is replaced independently of the retirement unit of which it is a part, the cost of replacement shall be charged to the maintenance account appropriate for the item, except that if the replacement effects a *substantial betterment* (the primary aim of which is to *make the property affected more useful, more efficient, of greater durability*, or of greater capacity), the excess cost of the replacement over the estimated cost at current prices of replacing without betterment shall be charged to the appropriate electric *plant* account." (Emphasis supplied.)

This passage clearly indicates that the costs listed as expenses should be capitalized. Other passages in the Electric Plant Instructions provide further support for this finding. Granite State Electric Company was asked to supply an auditor's statement that the procedure used was proper accounting. No such statement was offered.

Another disturbing aspect of the GSE's presentation is the use of estimated 1980 data to arrive at the revenue increase, but actual 1979 kwh sales to determine the increase per kwh. Since GSE predicts sales growth for 1980, the formula proposed by GSE will overrecover even assuming that each dollar of the proposed increase is valid.

There is a second disturbing factor concerning GSE's estimation procedure. Estimates as to monthly additions to plant were originally made for each of the thirteen months starting in December, 1979, and going through December, 1980. (See staff Exh 2.) However, staff Exh 1 indicates that through the first three months of this time period, actual additions have been approximately one-half the estimates.

Another significant question posed by NEP-GSE filing is the capital structure used and the cost rates assumed.

Specifically, NEP is requesting a 14.5 per cent return on equity. Without reaching the merits of the request, the commission makes the following observations. First, if the conversion of Salem Harbor has been placed on hold, the construction program, the coverage ratios, the planned financings, and the investor risks have all changed from the original filing. As far as the commission can determine from the sparse presentation of evidence, there has not been any



recognition of this change in the proposed rate of return calculation. Second, the New England Electric System (NEES) earned in excess of 13.5 per cent on common equity for 1979. Since NEES is used as a proxy for determining the proper return on common equity to be used in all subsidiary rate cases, and

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where, further, none of the state commissions or FERC have previously allowed a NEES return on common equity in excess of 13.5 per cent, it is impossible to state that NEES, NEP, or GSE have been denied fairness by dismissal of this petition.

The commission also finds that the lack of familiarity with the exhibits, coupled with the failure to adequately address the numbers behind the exhibits, results in GSE failing to carry its burden of proof pursuant to RSA 378:8. Therefore, this is another separate and distinct reason for rejecting the filings made by GSE, which has requested a cumulative increase from \$971,284 to \$1,246,974, depending on the filing.

While there are certainly other areas of inquiry at issue in this proceeding, the commission finds that the proposed increase must be rejected and refunds ordered in an initial amount of \$240,746. One such additional area is certainly the failure of GSE to assign any increase to certain customer classes. On its face, this is a direct violation of RSA 378:10. Our order will issue accordingly.

Order

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

Ordered, that all revised tariff sheets filed pursuant to this docket are hereby rejected; and it is

Further ordered, that Granite State Electric is instructed to file revised tariff pages to reflect refunds of \$240,746 on an annual basis to be distributed on a per kwh basis to be applied to all bills rendered on or after June 1, 1980; and it is

Further ordered, that Granite State Electric is to report to the commission on any adjustment to this credit pursuant to a determination of the exact amount of refunds associated with the New England Power Company's R-10 filing.

By order of the Public Utilities Commission of New Hampshire this sixth day of May, 1980.

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NH.PUC\*05/07/80\*[78565]\*65 NH PUC 197\*Manchester Gas Company

[Go to End of 78565]

## Re Manchester Gas Company

IR 14,927, Order No. 14,214

65 NH PUC 197

New Hampshire Public Utilities Commission

May 7, 1980

PETITION of a gas company for approval of a service contract; granted.

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BY THE COMMISSION:

Order

Whereas, Manchester Gas Company, a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 19 with Manchester Knitted Fashions, Inc., effective upon order of the commission, for gas service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the

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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 of this order.

By order of the Public Utilities Commission of New Hampshire this seventh day of May, 1980.

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NH.PUC\*05/08/80\*[78566]\*65 NH PUC 198\*New England Telephone and Telegraph Company

[Go to End of 78566]

**Re New England Telephone and Telegraph Company**

Intervenor: Legislative Utility Consumers' Council

DF 80-63, Order No. 14,215

65 NH PUC 198

New Hampshire Public Utilities Commission

May 8, 1980

PETITION of a telephone company for authority to issue debt securities; granted.

SECURITY ISSUES, § 80 — Purposes of capitalization — Repayment of outstanding obligations.

[N.H.] The commission authorized a telephone company to issue and sell debt securities up to an aggregate amount of \$300 million, the proceeds to be used to repay unsecured short-term obligations outstanding, and any remaining balance to be used for lawful corporation purposes.

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APPEARANCES: Peter Guenther for the petitioner; Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this unopposed petition, filed March 12, 1980, New England Telephone and Telegraph Company seeks authority, pursuant to RSA 369, insofar as the proceeds of same pertain to property or expenditures of said company in this state, to issue and sell its debt securities, up to an aggregate principal amount of \$300 million.

At the hearing on the petition held, following due notice, in Concord on May 7, 1980, the petitioner submitted that it is a corporation duly organized under the laws of the state of New York, engaged in the telephone and telegraph business in and between the states of Maine, New Hampshire, Massachusetts, Rhode Island, and Vermont, and, by means of interconnection with the facilities of other telephone companies, furnishing telephone service between said states and other places outside thereof. It has been operating as a telephone public utility throughout New Hampshire prior to, on, and since June 1, 1911. Petitioner is duly qualified under the statutes of this state; and is presently authorized to do business therein, and in respect to such operations is subject to the jurisdiction of this commission.

The authorization sought herein was filed pursuant to proper resolutions of the board of directors, certified copies of which have been filed herein.

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The petitioner proposes to issue and sell, at a negotiated sale, an aggregate principal amount of \$300 million of 37-year debentures maturing in the year 2017. These will be sold on negotiated terms of sale to a responsible buyer. The debentures will be issued pursuant to the terms of an indenture between New England Telephone and Telegraph Company and State Street Bank and Trust Company, trustee. The form of indenture under which the proposed debentures are to be issued will be in substantially the form of the indenture submitted as Exh 2 in these proceedings.

The outstanding securities of the petitioner, as of December 31, 1979, were as follows:

1. Amount and kind of stock outstanding Common — 53,252,452 Preferred — None
2. Terms of Preference of preferred stock: None (see above)
3. Amount of funded debt outstanding and data pertaining thereto:

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

	<i>Amount in Thousands</i>	<i>Date of Issue</i>	<i>Date of Maturity</i>	<i>Date of Callable</i>	
Thirty-five-year 3% Debentures	\$ 40,000	10-1-47	10-1-82	30 days'	notice
Thirty-four-year 3.125% Debentures	30,000	12-15-54	12-15-88	30 days'	notice
Thirty-six-year 3.25%					

Debentures	30,000	11-15-55	11-15-91	30 days' notice
Thirty-five-year 4%				
Debentures	45,000	4-1-58	4-1-93	30 days' notice
Thirty-eight-year 4.625%				
Debentures	45,000	4-1-61	4-1-99	30 days' notice
Forty-year 4.5%				
Debentures	50,000	7-1-62	7-1-02	30 days' notice
Forty-year 4.625%				
Debentures	60,000	7-1-65	7-1-05	30 days' notice
Thirty-nine-year 6.125%				
Debentures	100,000	10-1-67	10-1-06	30 days' notice
Forty-year 6.375%				
Debentures	125,000	9-1-68	9-1-08	30 days' notice
Thirty-nine-year 8.625%				
Debentures	175,000	9-1-70	9-1-09	On or after 9-1-75 on 30 days' notice
Thirty-three-year 8.2%				
Debentures	200,000	6-1-71	6-1-04	On or after 6-1-76 on 30 days' notice
Thirty-five-year 7.375%				
Debentures	200,000	10-15-72	10-15-07	On or after 10-15-77 on 30 days' notice
Thirty-year 8%				
Debentures	170,000	11-15-73	11-15-03	On or after 11-15-78 on 30 days' notice
Thirty-five-year 9.50%				
Debentures	54,965*	6-1-75	6-1-10	On or after 6-1-80 on 30 days' notice
Three-year 8.75% Notes	100,000	6-15-78	6-15-81	Noncallable
Total Funded Debt	<u>\$1,424,965</u>			

February, 1977, offer to purchase retired \$120,035,000 of original \$175 million.

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As of December 31, 1979, the petitioner has outstanding unsecured short-term obligations in the aggregate amount of \$288.8 million the proceeds of which have been used for corporate purposes in the five states in which it operates.

It is estimated, unless refunded or repaid from the proceeds of the present issue of debentures, or other permanent securities, the amount of such outstanding short-term obligations would be increased to approximately \$390 million by May 31, 1980.

The following pro forma balance sheet, before and after the completion of the financing proposed herein, was submitted to be as follows:

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

JUNE 30, 1980 (ESTIMATED)  
(Thousands of Dollars)

#### Assets

Telephone plant in service  
Telephone plant under construction  
Property held for future telephone use

Total Telephone Plant  
Less: Depreciation and amortization reserves

*Total Telephone Plant Less Reserves  
Miscellaneous physical property  
Current assets  
Prepaid accounts and deferred charges*

*Total Assets  
Liabilities  
Current and accrued liabilities  
Deferred credits*

*Total Current and Accrued Liabilities  
and Deferred Credits  
Capital stock  
Premium on capital stock  
Funded debt  
Temporary obligations*

*Total Capital Obligations and Premium  
Retained earnings*

*Total Liabilities  
Net Investment  
Total Capital Obligations, Premiums,  
and Retained Earnings*

The company represents that from time to time it has made expenditures in the states Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont for the acquisition of property, the construction, completion, extension, and improvement of its facilities in said states, and for the improvement and maintenance of telephone service, all of which expenditures have been necessary and requisite for present or future use in conducting its business. In order to meet these continuing expenditures, the company has obtained new moneys temporarily by means of unsecured short-term obligations, or has expended from its treasury, moneys other than moneys obtained from the issuance of securities.

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The company submits that the proceeds of the sale of the debentures proposed herein will be used to repay unsecured short-term obligations outstanding at the time said proceeds are available, the balance, if any, of such proceeds to be used for lawful corporation purposes as need therefor arises.

Upon consideration of the evidence submitted, this commission is satisfied that the issuance and sale of the debentures proposed herein 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 New England Telephone and Telegraph Company be, and hereby is, authorized, insofar as said issue pertains to property or expenditures in the state of New Hampshire, to issue and sell for cash its 37-year debentures maturing in the year 2017, in the aggregate principal amount of \$300 million; and it is

Further ordered, that New England Telephone and Telegraph Company shall submit to this commission the purchase price and rate of interest of said debentures offered by a responsible

buyer. Following the required submission, a supplemental order will issue establishing the price and interest rate at which said debentures shall be sold; and it is

Further ordered, that the proceeds from the sale of said debentures shall be used for the purpose of discharging and repaying outstanding short-term obligations of the company, and the balance, if any, for other lawful 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 the conclusion of the issue of the debentures herein authorized, a detailed statement, duly verified by an officer, showing the disposition of the proceeds of the securities authorized herein, and thereafter a similar statement as of January 1st and July 1st in each year, until the disposition of the whole of the proceeds thereof shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this eighth day of May, 1980.

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NH.PUC\*05/08/80\*[78567]\*65 NH PUC 201\*New England Telephone and Telegraph Company

[Go to End of 78567]

### Re New England Telephone and Telegraph Company

DR 80-23, Second Supplemental Order No. 14,216

65 NH PUC 201

New Hampshire Public Utilities Commission

May 8, 1980

ORDER granting a motion to compel a response to data requests.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Legislative Utility Consumers' Council has filed a "motion to compel" a response to data requests 25, 231, and 243, 244, 245, and 268; and

Whereas, both the Legislative Utility Consumers' Council and New England Telephone and Telegraph Company requested an opportunity to be heard orally; and

Whereas, the commission recently provided that opportunity; and

Whereas, at that hearing the Legislative Utility Consumers' Council focused the request solely on Question No. 231; and

Whereas, the commission agreed with the Legislative Utility Consumers' Council to

Question No. 231; it is hereby

Ordered, that the Legislative Utility Consumers' Council "motion to compel" a response to Question No. 231 is granted.

By order of the Public Utilities Commission of New Hampshire this eighth day of May, 1980.

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NH.PUC\*05/09/80\*[78568]\*65 NH PUC 202\*Public Service Company of New Hampshire

[Go to End of 78568]

### **Re Public Service Company of New Hampshire**

DR 79-187, 25th Supplemental Order No. 14,219

65 NH PUC 202

New Hampshire Public Utilities Commission

May 9, 1980

ORDER granting a motion to preserve briefing rights.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Legislative Utility Consumers' Council filed a "motion to preserve briefing rights by the Legislative Utility Consumers' Council" on April 30, 1980; and

Whereas, the Legislative Utility Consumers' Council is concerned with two items of information that were not supplied until April 30, 1980; and

Whereas, the Legislative Utility Consumers' Council has not had an adequate opportunity to review this documentation; it is hereby

Ordered, that the Legislative Utility Consumers' Council motion to preserve briefing rights is granted.

By order of the Public Utilities Commission of New Hampshire this ninth day of May, 1980.

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NH.PUC\*05/09/80\*[78569]\*65 NH PUC 203\*Public Service Company of New Hampshire

[Go to End of 78569]

### **Re Public Service Company of New Hampshire**

DR 79-187, 26th Supplemental Order No. 14,220

65 NH PUC 203

New Hampshire Public Utilities Commission

May 9, 1980

ORDER granting a request for extension of time to file testimony.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Legislative Utility Consumers' Council (LUCC) has filed a "motion for extension of time" so as to file Mr. VonOhlsen's testimony; and

Whereas, the LUCC had valid reasons for requesting such an extension; it is hereby

Ordered, that the request for extension is formally approved.

By order of the Public Utilities Commission of New Hampshire this ninth day of May, 1980.

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NH.PUC\*05/09/80\*[78570]\*65 NH PUC 203\*Union Telephone Company

[Go to End of 78570]

**Re Union Telephone Company**

DR, 79-120, Eighth Supplemental Order No. 14.221

65 NH PUC 203

New Hampshire Public Utilities Commission

May 9, 1980

ORDER denying a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Union Telephone Company has filed a motion for rehearing as to commission Sixth Supplemental Order No. 14,204 (65 NH PUC 184); and

Whereas, the Union Telephone Company's grounds for its motion are unsupported in that the revenue level approved by the commission has not varied from Order No. 14,004 (65 NH PUC 30); it is hereby

Ordered, that Union Telephone Company's motion for rehearing as to the commission's Sixth Supplemental Order No. 14,204 is hereby denied.

By order of the Public Utilities Commission of New Hampshire this ninth day of May, 1980.

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NH.PUC\*05/09/80\*[78571]\*65 NH PUC 204\*Union Telephone Company



[Go to End of 78571]

**Re Union Telephone Company**

DR 79-120, Ninth Supplemental Order No. 14,223

65 NH PUC 204

New Hampshire Public Utilities Commission

May 9, 1980

ORDER denying a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Union Telephone Company has filed a motion for rehearing as to commission Seventh Supplemental Order No. 14,205 (65 NH PUC 187); and

Whereas, the rationale behind the commission's Seventh Supplemental Order is clearly stated in the report as well as the methodology used; and

Whereas, the methodology used is standard accounting procedure; it is hereby Ordered, that the motion for rehearing is denied.

By order of the Public Utilities Commission of New Hampshire this ninth day of May, 1980.

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NH.PUC\*05/09/80\*[78572]\*65 NH PUC 204\*Winter Termination Policy for Electric and Gas Utilities

[Go to End of 78572]

**Re Winter Termination Policy for Electric and Gas Utilities**

DE 79-217, Sixth Supplemental Order No. 14,224

65 NH PUC 204

New Hampshire Public Utilities Commission

May 9, 1980

ORDER denying a motion to dismiss.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Community Action Program (CAP) has filed a letter of complaint with this

commission against Manchester Gas Company (MGC) alleging violations of our rules and regulations concerning termination on April 3, 1980; and

Whereas, the Manchester Gas Company filed a "motion to dismiss or to continue" on May 8, 1980; and

Whereas, the commission has scheduled a public hearing for May 14, 1980, at 10:00 A.M.; it is hereby

Ordered, that upon consideration of the allegations and arguments offered in the motion to dismiss, the motion is denied.

By order of the Public Utilities Commission of New Hampshire this ninth day of May, 1980.

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NH.PUC\*05/09/80\*[78573]\*65 NH PUC 205\*Public Service Company of New Hampshire

[Go to End of 78573]

**Re Public Service Company of New Hampshire**

DR 79-187, 27th Supplemental Order No. 14,226

65 NH PUC 205

New Hampshire Public Utilities Commission

May 9, 1980

ORDER granting a motion to strike identification and to admit exhibits.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, the Legislative Utility Consumers' Council filed a "motion to strike identification and to admit exhibits" on May 5, 1980; and

Whereas, the aforementioned motion refers to LUCC Exhs 1 through 30, and all attachments and schedules thereto; and

Whereas, upon consideration of the various objections raised by all parties; it is hereby

Ordered, that the motion is granted.

By order of the Public Utilities Commission of New Hampshire this ninth day of May, 1980.

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NH.PUC\*05/09/80\*[78574]\*65 NH PUC 205\*Public Service Company of New Hampshire

[Go to End of 78574]

**Re Public Service Company of New Hampshire**

DR 79-187, 28th Supplemental Order No. 14,227

65 NH PUC 205

New Hampshire Public Utilities Commission

May 9, 1980

ORDER denying a motion for rehearing.

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RETURN, § 26.4 — Cost rate for common equity — Methodology.

[N.H.] The commission looks at the factors that develop a methodology, such as stock market prices, prime interest rates, and alternative investment opportunities, as well as the methodology itself in determining a proper cost rate for common equity.

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BY THE COMMISSION:

Disposition of a Motion

The Department of Defense and the federal executive agencies (hereinafter referred to as DOD) filed a motion for rehearing dated April 30, 1980, as to the commission's 22nd Supplemental Order No. 14,175 (65 NH PUC 162). The motion was received by the commission on May 5, 1980.

The DOD motion for rehearing

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relates to a passage appearing on pp. 5 and 6 of that aforementioned order (65 NH PUC at p. 165). The DOD stated six reasons for its motion. The first assertion is that the passage is irrelevant. The commission determines relevancy within its orders. The second assertion is that there is no evidence in the record of DR 79-187 which relates common and preferred. The third assertion is that the words "recent preferred stock issue" are ambiguous. The fourth and fifth offered grounds focus on RSA 363:17-b as to the position of each party and the commission's reasoning in arriving at a determination. The DOD's sixth and last assertion objects to the commission's language because briefs and reply briefs were yet to be filed. Revised Statute Annotated 363:17-b applies to final orders of this commission. The commission language cited by DOD makes a specific distinction between the finding for purposes of a final decision that a capital structure as of April 30, 1980, is appropriate. The next sentence, however, is specifically limited by the words "at this time." Nor does that sentence make the reference to a final decision as does the preceding sentence. The commission looks at the factors that develop a methodology as well as the methodology itself in determining a proper cost rate for common equity. Such factor as stock market prices, prime interest rates, alternate investment opportunities, etc., all have been used in testimony before this commission. Dramatic changes in any of these factors or an unsettled economy or portion thereof can lead to rapid fluctuations in the cost rate for common equity. During the pendency of this case these factors, as well as others, have been

more volatile than at any other time in modern utility regulation history. Or to rephrase, if this commission made a finding as to return on common equity every quarter since this case began, the range of those findings would have been exceptionally broad using any methods advocated by witnesses in this proceeding. It is worth noting that DOD's own witness dramatically altered his recommendation to the commission based on updated financial information without prior notification to the commission or the parties.

During the public hearing of April 30, 1980, in Portsmouth, and the only one attended by counsel for the DOD, the commission was asked the specific question whether due to the public input the commission could arrive at a conclusion of less than 17 per cent return on equity? The commission responded in the affirmative. (Trans. March 30, 1980, at p. 26.)

As the DOD's concern related to the commission's failure to have briefs and reply briefs, the commission would note that briefs are not evidence. Furthermore, the commission has now received the initial briefs from all parties and will have the advantage of these arguments in arriving at its conclusion as to common equity. That conclusion will thoroughly discuss the positions of the parties, and pursuant to the commission's usual practice will delineate our reasoning in intricate detail.

Public Service Company of New Hampshire (PSNH) filed a response to the DOD's motion. In that response, PSNH raises the question whether or not the DOD has filed within the statutory time frame. The commission will accept the representation of counsel for the DOD that the motion was mailed on April 30, 1980.

Since the DOD has failed to properly interpret our order and where further the DOD grounds for rehearing are

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either premature, unrelated to the actual passage, unsupported, irrelevant, or rendered moot (as shown by the transcript itself on p. 26 of the hearing held on April 30, 1980) the motion for rehearing is denied.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that the motion for rehearing filed by the Department of Defense is denied.

By order of the Public Utilities Commission of New Hampshire this ninth day of May, 1980.

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NH.PUC\*05/12/80\*[78575]\*65 NH PUC 207\*Public Service Company of New Hampshire

[Go to End of 78575]

## Re Public Service Company of New Hampshire

Intervenor: Legislative Utility Consumers' Council

DR 79-187, 29th Supplemental Order No. 14,228

65 NH PUC 207

New Hampshire Public Utilities Commission

May 12, 1980

ORDER as to the disposition of a motion to strike identification and admit exhibits.

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BY THE COMMISSION:

Disposition of a Motion

The Public Service Company of New Hampshire (PSNH) filed a "motion to strike identification and admit exhibits," which relates to its Exh P-1 through P-39 and all subsidiary exhibits and schedules. The aforementioned motion was filed on April 30, 1980. On May 5, 1980, counsel for the Legislative Utility Consumers' Council (LUCC) filed an objection to the admission of certain PSNH exhibits, which had previously been marked for identification. The objected exhibits and attachments are as follows: P-31 and attachments C p. 1-7, attachment D pp. 1 and 2, attachment E, attachment F pp. 1-19; P-32 and attachments A and B; P-34 and attachments A through J; P-35 and attachment I, and detail sheets to attachment I; P-36; and P-37 and attachments K and L.

Pursuant to commission decisions throughout this docket and, in particular, the transcript associated with the hearing held on April 15, 1980, the commission grants the PSNH motion as to P-1 through P-30, P-31 attachments A, G, and F pp. 13, 14, and 18 of 19, P-32, P-33, P-35 attachment I only as to lines 5 and 6 on p. 2 of 3, P-36, P-38, and P-39. Public Service Company of New Hampshire's motion as to the other

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exhibits or portions thereof is denied. Our order will issue accordingly.

Supplemental Order

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

Ordered, that Exhs P-1 through P-30, P-32, P-33, P-36, P-38, P-39, P-31 attachments A, G, and F pp. 13, 14, 18 of 19, P-35 attachment I only as to lines 5 and 6 of p. 2 of 3 are allowed into evidence; and it is

Further ordered, that all other PSNH exhibits will not be allowed into evidence; and it is

Further ordered, that the LUCC's motion to strike segments of the prefiled testimony of William Q. Harty, Elroy L. Littlefield, James T. Rodier, Eugene Meyer, Charles F. Phillips, Jr., and Robert J. Harrison as filed with the commission on October 23 and 24, 1979, are denied.

By order of the Public Utilities Commission of New Hampshire this twelfth day of May, 1980.

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NH.PUC\*05/12/80\*[78576]\*65 NH PUC 208\*Public Service Company of New Hampshire

[Go to End of 78576]

## **Re Public Service Company of New Hampshire**

Intervenor: Legislative Utility Consumers' Council

DR 79-187, 30th Supplemental Order No. 14,230

65 NH PUC 208

New Hampshire Public Utilities Commission

May 12, 1980

ORDER denying a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Disposition of a Motion

Whereas, on April 30, 1980, Legislative Utility Consumers' Council (LUCC) filed a motion for a rehearing with regard to the commission's 22nd Supplemental Order No. 14,175 (65 NH PUC 162); and

Whereas, the requirements for the aforementioned motion are similar to those asserted by the Department of Defense and resolved by the commission in 28th Supplemental Order No. 14,227 (65 NH PUC 205); and

Whereas, none of the commission's decisions in this docket are or can be perceived as rule making. The LUCC is referred to the commission's 28th Supplemental Order No. 14,227 which is incorporated by reference; and it is hereby

Ordered, that the LUCC motion is denied.

By order of the Public Utilities Commission of New Hampshire this twelfth day of May, 1980.

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NH.PUC\*05/13/80\*[78577]\*65 NH PUC 209\*Exeter and Hampton Electric Company

[Go to End of 78577]

## **Re Exeter and Hampton Electric Company**

Intervenor: Legislative Utility Consumers' Council

DR 79-91, Second Supplemental Order No. 14,231

65 NH PUC 209

## New Hampshire Public Utilities Commission

May 13, 1980

PETITION of an electric company for an increase in rates; granted as modified.

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1. VALUATION, § 290 — Working capital calculation — Forty-five-day rule.

[N.H.] The commission found the 45-day approach to be an unsatisfactory tool in reflecting the modern working capital requirement of utilities because it underestimates the working capital requirements for some utilities and grossly overestimates the requirements of others. p. 211.

2. VALUATION, § 290 — Working capital calculations — Balance sheet approach.

[N.H.] The commission stated that the balance sheet method of calculating working capital provides the advantages of actual data recorded monthly on the company's balance sheet, a true match between rate base and all sources of capital, and computation ease. p. 211.

3. VALUATION, § 296 — Working capital allowance — Fuel expense.

[N.H.] The commission allowed an electric company no working capital recognition of unrecovered fuel costs due to the commission's adoption of a method designed to allow the company to begin collecting the costs. p. 211.

4. VALUATION, § 226 — Nonutility property — Exclusion from rate base.

[N.H.] The commission excluded from an electric company's rate base a plant primarily used as a warehouse for major appliances and the housing of appliance repair personnel because the plant was clearly nonutility in character, and because the plant had been sold. p. 212.

5. RETURN, § 16 — Right to earn return.

[N.H.] A public utility has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. p. 217.

6. RETURN, § 22 — Factors affecting reasonableness.

[N.H.] A company without any generation of its own, without pressure for expansion of generation needs, with high quality earnings free of the noncash-flow element of earnings associated with allowance for funds used during construction, would be able to maintain its financial health with a somewhat lower rate of return than most public utilities. p. 217.

7. DEFINITIONS, — Attrition.

[N.H.] Attrition is defined as a decline in the rate of return earned over successive periods of time which occurs when revenues fail to increase fast enough to keep pace with increases in expenses and growth in rate base. p. 219

8. EXPENSES, § 9 — Pro forma expense adjustments — Known and measurable.

[N.H.] The criteria for evaluation of pro forma test-year expense adjustments is that they must be for known and measurable changes. p. 222.

9. EXPENSES, § 52 — Expenses of nonutility property — Elimination from test year.

[N.H.] The commission excluded from test-year expenses the expenses associated with the maintenance of a building that was utilized for nonutility purposes. p. 222.

10. EXPENSES, § 92 — Cost-of-service studies — Characterization as rate case expense.

[N.H.] The commission deleted from test-year expenses the cost associated with an electric company's cost-of-service study; rather the expense of the study was recognized as rate case expense to be amortized over a three-year period. p. 224.

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APPEARANCES: Franklin Hollis and Martin Gross for Exeter and Hampton Electric Company; Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

I. Procedural History

The Exeter and Hampton Electric Company (the "company") initiated this proceeding by filing its Tariff No. 13 containing increased rates on April 13, 1979, with a proposed effective date of May 14, 1979. By Order No. 13,588 issued on April 17, 1979 (64 NH PUC 82), the commission suspended said rates for investigation and decision thereon. Hearings commenced September 24, 1979.

Tariff No. 13 was designed to increase annual electric revenues by \$502,965. During the course of these proceedings, the company increased its request to \$611,123 (company Exh I). Subsequent to the close of the evidence, the company in its trial brief argues that the evidence supports an increase of \$728,949.

The company filed a petition for temporary rates pursuant to RSA 378:27. A hearing was held on this petition on November 19, 1979. The commission issued Supplemental Order No. 13,918 (64 NH PUC 399) making the company's existing rates effective as temporary rates as of November 29, 1979.

II. Rate Base

A. *Working Capital*

The company seeks to use the 45-day convention often referred to as the FPC formula. Company witness Gilmore submitted exhibits, which purport to support the company's claim to a working capital allowance of \$1,007,598. To arrive at this figure, witness Gilmore recognized the following factors: (1) forty-five days of operating and maintenance expenses less purchased power costs, less a provision for uncollectible accounts, plus an adjustment to reflect expense pro formas, \$235,458; (2) less 2.5 per cent of the federal income tax expenses, (\$1,744); (3) plus a 13-month average for materials and supplies, \$135,520 and prepayments, \$60,874; (4) plus unrecovered fuel costs through December 31, 1978, \$577,490.

The company in brief takes issues with the commission's previous acceptance of the balance



sheet approach and the staff's application of that approach in this proceeding. The company does acknowledge that it was aware of the commission's previous use of the balance sheet approach in other electric and gas utility proceedings.

The focus of the company's concern as to working capital is staff witness Eugene Sullivan. Mr. Sullivan provided the commission with the calculation of the company's working capital using the balance sheet approach approved by the commission in past decisions, \$276,179. Staff witness Sullivan also used a thirteen-month average for determining the working capital component related to the excess of fuel charges paid by the company for purchased power over the amount which has been billed to customers, \$527,485. Together these figures result in a working capital allowance of \$803,664.

Both Mr. Gilmore and Mr. Sullivan recommend that the commission allow the company to begin recovering its unrecovered fuel cost above base. Furthermore,

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both acknowledge that a recovery of this lockup will result in a removal of this component from a proper working capital allowance.

The Legislative Utility Consumers' Council (hereinafter referred to as LUCC) supports the balance sheet approach and refers the commission's attention to Re Concord Electric Co. (1978) 63 NH PUC 240. In addition, the LUCC requests that the commission use the \$664,841 Exeter and Hampton liability (as to a refund received from Public Service Company of New Hampshire) as an offset to unrecovered fuel costs. The LUCC urges that a reasonable interest rate in excess of 10 per cent be applied to this figure to further offset unrecovered fuel charges.

**Commission Analysis**

[1] This commission has rejected the 45-day approach offered by the company in this proceeding. Re Granite State Electric Co. (1978) 63 NH PUC 121, 28 PUR4th 240; Re Hudson Water Co. (1979) 64 NH PUC 35, 28 PUR4th 617; Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121. The commission has found the 45-day approach to be an unsatisfactory tool in reflecting the modern working capital requirements of utilities. In these recent cases, the commission has found that while the 45-day rule underestimates the working capital requirements for some utilities, Re Hudson Water Co. (1979) 64 NH PUC 35, 28 PUR4th 617, it can also grossly overestimate the working capital requirements of others. See Re Granite State Electric Co. (1978) 63 NH PUC 121, 28 PUR4th 240; Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121.

Those commissions, who routinely accepted the 45-day rule, are either in the process of reexamination. Re Carolina Power & Light Co. (FERC 1979) 28 PUR4th 500, 502, Opinion No. 19-A, or have made significant inroads into the general rule. Re United Illum. Co. (Cone 1978) 27 PUR4th 386, 405. Re Intermountain Gas Co. (Idaho 1976) 18 PUR4th 79, 82, 83.

[2, 3] Staff's recommendation as to working capital is an application of the criteria developed by witness Trawicki in Re Granite State Electric Co. (1978) 63 NH PUC 121, 28 PUR4th 240. Applications of these same criteria have been used in Re Hudson Water Co. (1979) 64 NH PUC 35, 28 PUR4th 617 and Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121; Re

Concord Nat. Gas Corp. (1978) 63 NH PUC 303; (1978) 63 NH PUC 321; Re Concord Electric Co. (1978) 63 NH PUC 197; (1978) 63 NH PUC 240; (1978) 63 NH PUC 251. The balance sheet approach has the following advantages: (1) actual data recorded monthly on the company's balance sheet; (2) provides a true match between rate base and all sources of capital, because consideration is given to all items on the balance sheet; (3) computation ease. Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121, 124. The 45-day formula provides only computational ease. The commission is not persuaded by the company's arguments as to the 45-day formula. Consequently, the commission will adopt a working capital allowance of \$276,179. There will be no working capital recognition of unrecovered fuel costs due to the commission's adoption of a method designed to allow Exeter to begin collecting these costs (as discussed, *infra*). Consequently, any recognition for working capital calculations would be against the principle of just

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and reasonable ratemaking due to the absence of this factor in the future.

*B. South Street Service Building*

Staff witness Sullivan testified that his examination of Exeter and Hampton revealed a disposition of a parcel of land known as the South Street Service Building as of December, 1978. Mr. Sullivan contends that proper rate-making principles require the removal of the 13th-month average of this investment from rate base. Mr. Sullivan offers a second reason for exclusion of this property from rate base: nonutility plant. Noting that the plant was primarily used as a warehouse for major appliances and the housing of appliance repair personnel, Mr. Sullivan contends that appliance operations are nonutility operations.

Exeter generally agrees with staff's proposed adjustment. However, its agreement is tied to certain pro forma expense adjustments. Legislative Utility Consumers' Council also supports the adjustment.

Commission Analysis

[4] There is no dispute over the fact that the plant has been sold, and, therefore, it is no longer in rate base. Furthermore, the plant was associated with Exeter's appliance business, which is clearly nonutility in character. *Legislative Utility Consumers' Council v Public Service Co. of New Hampshire* (1979) — NH —, 31 PUR4th 333, 349, 402 A2d 626. In that case, the supreme court stated that they could not envision any set of circumstances where it could be said that a company's pursuit of an appliance business could be viewed as meeting the energy needs of its customers. (31 PUR4th at p. 349.)

Since the plant was nonutility in character, the plant should not be included in a calculation destined to arrive at a just and reasonable rate base. The fact that the plant has also been sold is another valid reason for the exclusion of the plant from the rate base calculation.

*C. Rate Base Calculation*

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

	<i>Exeter &amp; HamptonStaff</i>	<i>Commission</i>
Gross Plant	\$16,053,157	\$16,027,004 16,027,004

Less:			
Depreciation Reserves	4,101,001	4,086,382	4,086,382
Customer Deposits	119,292	119,292	119,292
Deferred Federal Income Taxes	213,195	213,195	213,195
Plus:			
Working Capital	1,007,598	276,179	276,179
Rate Base	<u>\$12,627,267</u>	<u>\$11,884,314</u>	<u>\$11,884,314</u>

The commission, therefore, accepts \$11,884,314 as a proper rate base in this proceeding. This rate base figure, which excludes nonutility plant and uses a 13-month average for utility plant, is consistent with other decisions rendered by this commission.

### III. Rate of Return

#### A. *Costs of Long-term Debt and Preferred Stock*

Exeter and Hampton Electric Company proposed that the commission use

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for the costs of long-term debt and preferred stock their embedded costs of 7.65 per cent and 7.77 per cent, respectively. Staff suggested that the proper cost rates were 7.67 per cent and 7.78 per cent, respectively; the differences being attributable to rounding. The company has accepted staff's calculations as to these cost rates. Since these figures are uncontested and upon a review, reasonable, they will be adopted for purposes of calculation in this proceeding.

#### B. *Cost of Common Equity*

The cost of fixed charge capital is relatively easy to determine with arithmetical certainty. Measuring the cost of common equity is a more difficult task. Methodologies abound and each requires judgement as to its validity and its application to a particular case. This is due to the fact that the return to the common is based on an attempt to infer what return investors require so as to make their capital available to the utility.

Company witness Monteau used three methods to arrive at his recommendation of 14.75 per cent to 16.5 per cent, or a midpoint of 15.6 per cent.

The first approach used by witness Monteau was a "comparative earnings" study. This study looked at the capitalization, earnings, of two groups of electric companies and a group of 22 highly rated industrial companies and the returns realized by common stock investors in those companies. Mr. Monteau contends that these companies offer investment opportunities that are competitive or comparable with Exeter and Hampton.

The first group of electric companies examined by Mr. Monteau were selected from the C. A. Turner sheets and consist of the 12 smallest electric companies that appear in the publication entitled, "Public Utility Common Stocks." The second group of electrics consists of a group of 13 New England electric companies. The 22 industrial companies are drawn from the Standard & Poor's list of A+ companies. Mr. Monteau contends that these 22 A+ companies are comparable to utilities.

The next step in Mr. Monteau's analysis is a comparison of these various groups with Exeter and Hampton as to return earned on common equity in 1978. This analysis is followed by

comparisons between the composites and Exeter and Hampton as to certain "risk factors." Mr. Monteau chose to use the following: (a) common equity ratios; (b) market-to-book ratios; and (c) coverage ratios. Mr. Monteau concluded that this analysis demonstrated a 14.75 per cent return requirement.

Mr. Monteau's second approach was use of a discounted cash-flow (DCF) analysis. In this approach Mr. Monteau relied on market data for three months adjusted by an allowance of 7.50 per cent for flotation costs and market pressure. To this, Mr. Monteau added his estimate for growth which was based on use of financial measures for companies that Mr. Monteau believed were comparable to Exeter-Hampton. The result reached by Mr. Monteau's DCF analysis was 16.43 per cent.

Mr. Monteau's third approach was a market appraisal study. Mr. Monteau's market appraisal approach relies on the assertion of a statistical relationship between market to book ratios and returns on common equity. Supporting this contention Mr. Monteau relies upon data for 181 utilities taken from the Turner sheet. In addition, Monteau sought to demonstrate a strong

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relationship between market to book ratios and current dividends. These relationships were considered together with nonquantified risks which according to Mr. Monteau were reviewed by investors. The results of Mr. Monteau's appraisal led to a range of 15.5 per cent to 16.5 per cent.

Through the use of these three methods a range of 14.75 per cent to 16.50 per cent was derived. Exeter-Hampton requests the approximate midpoint of this range, a 15.6 per cent.

Staff witness Robert Camfield offered the commission the results of his analysis concerning the proper cost rate for Exeter-Hampton common equity. After discussing the histories of the capital asset pricing model (CAPM) and the discounted cash-flow model (DCF), Mr. Camfield chose to use the DCF approach.

Mr. Camfield used two industry composites for purposes of comparisons with Exeter-Hampton. The first sample is a group of selected gas utilities. Dividend yields of these companies were regressed upon alternative weighting schemes of growth in earnings and dividends along with inflation and risk proxies. Mr. Camfield found a sound statistical "fit." A second sample of 18 small electric utilities was chosen for the purpose of comparison with Exeter-Hampton. This group was also used in developing additional statistical "fits."

Five cost rate estimates were generated from the estimated equations as shown on Mr. Camfield's Schedule V, p. 1. Two of the aforementioned estimates are the weighted average estimated costs of the respective sample. Mr. Camfield's other three estimates are generated by imputing a dividend yield and therefore a market price for the company.

Mr. Camfield has chosen to adjust all of his five estimates to reflect the fact that dividends are paid quarterly. Adjustment for market pressure and flotation costs are rejected by Mr. Camfield as being unclear or speculative. Referring to changes in the market price during times of new stock issuance, Mr. Camfield states that the movement is directly related to movements in the market generally as opposed to any factor associated with the stock issuance itself. Mr. Camfield finds that recognition of these costs is inviting windfall earnings for the duration of

time when such capital, if in fact they do exist, are not incurred.

The results of Mr. Camfield's analysis is a range of 13.5 per cent to 14.0 per cent return on common equity. Finally, Mr. Camfield does not place weight on the NASDAQ market price offered by Exeter-Hampton. The rationale is that Exeter has insufficient depth in the capital markets.

While the LUCC has not offered an affirmative case in this proceeding, the LUCC disputes the request of Exeter-Hampton for a return on common equity between 14.75 to 16.50. The LUCC encourages the commission to focus its attention on factors previously adopted for purposes of risk measurement. In particular, the LUCC focuses on Exeter-Hampton's equity ratio and interest average ratios. The LUCC especially questions the use of NASDAQ data in arriving at a market to book ratio. The LUCC urges the commission to allow a return on common equity in the range of 13.5 per cent to 14 per cent.

#### Commission Analysis

The commission has historically applied the criteria set forth by the United

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States Supreme Court. In the case of *Bluefield Water Works & Improv. Co. v West Virginia Pub. Service Commission* 262 US 679, PUR1923D 11, 67 L Ed 1176, 43 S Ct 675, the court ruled that

"A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally." (262 US 679, 692, 693, PUR1923D at pp. 20, 21.)

The court elaborated further in the *Federal Power Commission v Hope Nat. Gas Co.* (1944) 320 US 591, 51 PUR NS 193, 88 L Ed 333, 64 S Ct 281:

"The rate-making process under the (Natural Gas) Act — i.e., the fixing of 'just and reasonable' involves a balancing of the investor and the consumer interests. Thus we stated in the *Natural Gas Pipeline Co. of America* case that "regulation does not insure that the business shall produce net revenues." (315 US at p. 590, 42 PUR NS 129.) But such considerations aside, the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view, it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock ... . By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises

having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital ... ." (320 US 591, 603, 51 PUR NS at pp. 200, 201.)

In applying these guidelines to utilities regulated by this regulatory body, the commission has developed certain risk factors that have been demonstrated to be reliable. Re Pennichuck Water Works (1979) 64 NH PUC 206; Re Public Service Co. of New Hampshire (1978) 63 NH PUC 127. These include: (1) equity ratios and (2) coverage ratios. In the Public Service Co. case the commission referred to equity ratios as follows:

"This measure indicated that the company has used less common equity to finance assets thereby assuming greater financial risk than other industry composites." (63 NH PUC at p. 156.)

However, applying this same criteria in the Pennichuck case the commission found Pennichuck because of its thicker equity to be less risky than other comparable water utilities. (64 NH PUC 206.)

Since the last commission decision involving Exeter-Hampton, the company has consistently had a thicker common equity component than the utility composites

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submitted by witness Monteau. See Exh C — Schedule 3, at p. 4 of 4. On the basis of a four- or five-year average basis Exeter-Hampton has maintained a higher percentage of common equity in its capital structure. Therefore, as to this measurement of risks, the commission finds Exeter-Hampton Electric to be less risky than either of the industry composites offered by witness Monteau.

As to the use of fixed coverage ratios, the presentation by Exeter-Hampton witness Monteau is deficient. There is no comparison offered between the coverage ratios of Exeter-Hampton Electric and the companies offered as "comparable." Rather as is Re Gas Service Inc. (1980) 65 NH PUC 76, witness Monteau has chosen "to ignore this aspect of our past decisions." (65 NH PUC at pp. 85 and 86.)

Exeter-Hampton has argued that market-to-book ratios are a measurement of risk. Under the proper circumstances, this would be a valid assertion. However, the commission finds that Exeter-Hampton is similar to Gas Service and Pennichuck Water Co. in that the market price cited does not truly represent the price in the market place. The evidence in this proceeding reveals that very few shares are traded during the course of a year. Annual reports routinely filed with the commission give further support to this finding.

In Pennichuck the commission stated that where insignificant trading occurs in a company's stock during the course of a year, any comparison between price and book value is not of substance. (64 NH PUC 206.)

In Gas Service the commission noted that where there are a small number of shareholders and an infrequent amount of trading, market-to-book ratios are extraordinarily artificial and precludes use of a market-to-book ratio as a measurement of risk (65 NH PUC at p. 86).

While Exeter-Hampton common stock is traded with a greater degree of regularity than

Pennichuck or Gas Service common stock, the difference is a matter of degree rather than kind. Staff Exh 7 does not reveal the number of actual transactions. However, it does reveal a failure of bid and ask prices to correspond to one another. Furthermore, there are a substantial number of "no offer" situations, clearly indicating an absence of a transaction.

Exeter-Hampton also carries conspicuous disclaimers in its annual reports to stockholders. After the price range of the stock is listed in the annual report the following passage appears:

"The common stock of the company is traded in the over-the-counter market. The above bid prices represent interdealer quotations without markups, markdowns, or commissions and do not necessarily reflect actual transactions. Furthermore, because of the relatively small number of shareholders and the infrequency of trading, such quotations are not necessarily indicative of the market."

Since the aforementioned note is referred to within the financial statement as an "integral part of the statement," the commission cannot easily dismiss this language.

Therefore, the commission rejects the use of market-to-book ratios as a measurement of risk for Exeter-Hampton Electric.

Exeter-Hampton Electric witness Monteau also cited the commission's attention to return on average common equity actually earned. Over the past three years (1976-78) Exeter-Hampton Electric has averaged a 14.4 per cent

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return on common equity which is in excess of the return on common equity allowed by the commission in Exeter-Hampton DR 74-195 (1975) (approximately 13.60 per cent). Staff witness Camfield observed this factor when he stated that Exeter-Hampton had earned approximately its cost of common equity capital in the past 1974 period. His observation is conservative.

The fact that during the most recent time period, Exeter-Hampton earned in excess of its allowed rate of return is further evidence of the relatively low amount of risk associated with this utility and further supports the commission's finding as to artificial nature of the company's market price.

Mr. Monteau admitted that Exeter-Hampton Electric was less risky than his New England electric comparison companies. (Transcript pp. 1-85-86.) A review of recent decisions involving the New England electric companies used by Mr. Monteau is illustrative as to the lack of merit in the company's proposal for a return on common equity in the range of 14.75 per cent to 16.50 per cent.

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

<i>Utility</i>	<i>Common Equity Return Allowed</i>	<i>Legal Citation</i>
Bangor-Hydro Electric	13.04%	16 PUR4th 244 (1977)
Boston Edison	13.60	MDPU 1979
Central Maine Power	12.50	20 PUR4th 388 (1979)
Eastern Utilities Association	12.50	14 PUR4th 186 (1977)
Fitchburg Gas and Electric	13.00	MDPU 19,084 (1977)
Maine Public Service	13.25	15 PUR4th 455 (1976)
NEES (NEPCO)	13.50	20 PUR4th 428 (1977)
Newport Electric	12.75	31 PUR4th 540 (1979)

Northeast Utilities	14.10	30 PUR4th 67 (1979)
Public Service Company N.H.	14.00	DR 77-49 (1978)
United Illuminating	13.30	27 PUR4th 386 (1978)

These regulatory decisions for Mr. Monteau's comparable companies clearly indicate that his range of 14.75 to 16.50 per cent is inflated and that his analysis does not properly recognize the factors found to be convincing to the various regulatory commissions.

[5] Mr. Monteau's method of using 22 A+ companies has already been rejected by this commission in *Re Manchester Gas Co.* (1979) 64 NH PUC 95, 29 PUR4th 121, 128, and *Re Gas Service, Inc.* (1980) 65 NH PUC at p. 86. In the latter decision the commission found the comparison between a small New Hampshire utility and 22 industrial companies with an A+ rating to violate the Bluefield standards. As the commission noted

"Bluefield states with great clarity that a public utility has no 'constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures.' Bluefield, 262 US 679, 692, PUR1923D at p. 21." (65 NH PUC at p. 86.)

The commission has recognized other factors as measurements of risk in particular the quality of earnings and the existence or absence of a major construction program. *Re Public Service Co. of New Hampshire* (1978) 63 NH PUC 127, and *Re Pennichuck Water Works* (1979) 64 NH PUC 206. As to both of these measurements of risk, Exeter-Hampton Electric is significantly less risky than the comparable companies offered by Exeter-Hampton.

[6] The commission notes with approval

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the language of the Massachusetts Department of Public Utilities in *Re Massachusetts Electric Co.* (1975) 12 PUR4th 65, 77, and *Re Brockton Edison Co.* (1976) 14 PUR4th 186, 193. In the Massachusetts Electric decision, that commission found that a company without any generation of its own, without pressure for expansion of generation needs, with high quality earnings free of the noncash-flow element of earnings associated with AFUDC would "be able to maintain its financial health with a somewhat lower rate of return than most public utilities." (12 PUR4th at p. 77.)

This rationale, which was initially used in that case involving a wholly owned subsidiary, was later applied to a situation similar to Exeter-Hampton Electric in *Re Brockton Edison Co.* (Mass 1976) 14 PUR4th 186, 193. The reasoning is persuasive and the commission so finds.

If it be asked why the public does not require every company in the country to place itself in a similarly favored position, the answer is that the company's customers merely pay in a different way from those of other utilities. Exeter-Hampton Electric does indeed pay for generating costs but it does so through its rates to Public Service Company of New Hampshire from which it buys its power. While Exeter-Hampton Electric Company's earnings are free of the noncash-flow element of AFUDC associated with construction of generation facilities, its ratepayers pay for this risk element through their purchase power adjustment.

Both independently and together the aforementioned findings mandate a rejection of Exeter-Hampton request for a finding of return on common equity in excess of 13.6 per cent



found in *Re Exeter and Hampton Electric Co.* (1975) DR 74-195. Exeter-Hampton has not carried its burden of proof pursuant to RSA 378:8. Furthermore, by application of the commission's previous decisions, as to measurement of risk together with analysis of the evidence in this case, the commission finds that the proper return on common equity for this company has an upper limit of 13.6 per cent.

Witness Monteau performed an analysis of the company's financial statistics over its most recent past. He also observed that the company was less risky now than at the beginning of the study period. (Transcript p. 1-84.) An examination of the data reveals a thicker equity ratio and a higher earned return on common equity at present as compared to the situation when the company last appeared before the commission. Consequently, the commission finds a proper return on common equity to be 13.5 per cent.

Further support for this finding is provided by the analysis performed by Staff Chief Economist Robert Camfield. His analysis arrived at a range beginning at 13.5 per cent with an upper limit of 14.0 per cent.

Mr. Camfield's analysis does not have the inherent weakness of relying on artificial market prices. His DCF calculation is performed using the proper methodology associated with this economic doctrine. His analysis properly recognizes that market pressure and flotation costs are not always proper adjustments in arriving at a reasonable cost of common equity. He recognizes that for utilities such as Exeter-Hampton who rarely go into the market place for new issuances, an adjustment for market pressure and for flotation costs is not justified. Mr. Camfield's analysis revealed that market pressure

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can be positive or negative and general market factors rather than the issuance of common stock can affect the price of that stock.

The commission finds Mr. Camfield's range to be acceptable for rate making and based on the evidence will select the lowpoint of that range, 13.5 per cent as a proper return on common equity in this proceeding.

#### *C. Attrition*

[7] Exeter-Hampton relies on the testimony of Mr. Gilmore to support its claim for an attrition factor of one per cent. Mr. Gilmore defined attrition as a decline in the rate of return earned over successive periods of time regardless of cause. Mr. Gilmore also stated that attrition occurs when revenues fail to increase fast enough to keep pace with increases in expenses and growth in rate base. Exeter-Hampton, in brief, asserts that no one took issue with this definition and, consequently, the commission must accept this definition for making its determination as to a proper attrition adjustment.

Mr. Gilmore contends that the commission should adopt deterioration in the return on rate base as its measurement of attrition. Focus by staff on the amount actually earned on common equity is rejected by Exeter-Hampton as a proper tool for determination of an attrition allowance.

Staff economist, Robert Camfield, contends that based on his analysis no attrition allowance should be granted or, alternatively, the commission should employ a process which indexes

certain components of the total cost of service. Mr. Camfield noted that Exeter-Hampton had historically experienced substantial sales growth. Mr. Camfield noted, and Mr. Gilmore agreed, that Exeter-Hampton had earned a total inverted capital in excess of the previously authorized rate of return of 9.40 per cent.

Mr. Camfield rejects the concept of an add-on for attrition as being front loading. By this criticism, Mr. Camfield offers that attrition factors so construed tend to highly inflate the return to the company during the first year rates are in effect. Mr. Camfield finds such a process to be detrimental to both consumers and the company. If an attrition factor is to be awarded, Mr. Camfield finds greater balance associated with an indexing approach whereby the cost of service components most likely to result in attrition are adjusted more frequently than permanent rate increase requests.

Mr. Camfield also focuses his attention on the job development investment tax credit (JDITC) and finds the credit to be an offset to attrition with a true economic cost of zero.

The Lucc did not offer a specific position on attrition. However, the Lucc did urge the commission to seek a revenue ruling from the Internal Revenue Service on the question raised by staff economist Camfield.

#### Commission Analysis

The New Hampshire supreme court has provided guidelines for the commission to use in addressing the question of attrition. In its landmark decision, *New England Teleph. & Teleg. Co. v New Hampshire* (1973) 113 NH 92, 98 PUR3d 253, 302 A2d 814, the court defined attrition as follows:

" 'An erosion in earning power of a revenue-producing investment. This erosion is a complex phenomenon, the result of operating expenses or plant investment,

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or both, increasing more rapidly than revenues. If attrition occurs, the result would be that the rate of return realized in the future would be below that which rates were designed to produce.' This effect is apt to occur in a period of comparatively high construction costs when 'new plant is being added, which ... is relatively expensive per telephone station. As the high cost plant comes into service, it tends to increase the applicable rate base at a more rapid pace than the resultant earnings, and the rate of return decreases accordingly.' See *New England Teleph. & Teleg. Co. v Massachusetts Dept. of Pub. Utilities* (1954) 331 Mass 604, 622, 6 PUR3d 65, 77, 78, 121 NE2d 896, 906." (98 PUR3d at p. 257.)

The court went on to state that if the existence of attrition can be established by a company, the commission must evaluate the impact of this factor on the earnings of the utility and make an appropriate allowance. (92 NH at p. 97, 98 PUR3d at p. 257.) The court concluded its discussion by citing various ways generally used to offset attrition. In addition, the commission has set forth other methods to handle attrition. *Re Pennichuck Water Co.* (1979) 64 NH PUC 206; *Re Concord Electric Co.* (1978) 63 NH PUC 240.

In the Pennichuck decision, the commission allowed that utility a secondary phase increase. In doing so, the commission recognized growth in plant, which the supreme court recognized as

one of the variables affecting the overall return of the company. This approach benefited the consumer by spreading the rate increase thereby minimizing its inflationary aspects.

In the Concord Electric case, the commission ruled that numerous pro forma adjustments made in a company's filing have the effect of offsetting or delaying the onset of attrition. This mitigation of attrition through pro forma adjustments was also recognized in Pennichuck.

Before analyzing the arguments of the parties, it is necessary to examine one additional supreme court decision. *Legislative Utility Consumers' Council v Granite State Electric Co.* (1979) 119 NH —, 402 A2d644. In that case, the court clearly stated that when an attrition allowance is granted, it must be supported by findings of fact. Consequently, the area of attrition must be recognized if proven by the company, and such proof must support the adjustment actually requested. To put it another way, not only must a company prove attrition, but it must also carry the burden as to quantifying the adjustment. *Re Hampton Water Works* (1979) 64 NH PUC 374, 378-380.

In applying the aforementioned criteria to Exeter-Hampton, certain factors must be recognized. First, Exeter-Hampton has not, and will not, be involved in major construction projects. Its rate base has not grown substantially since the last rate case before this commission, nor does it appear that major rate base growth is likely.

Revenues have grown at a fairly consistent rate and have for the major portion of the last few years outpaced the growth in expenses and rate base as noted by Mr. Camfield. Since Exeter-Hampton buys all of its power requirements from Public Service Company (PSNH), it is clear that the higher costs associated with the construction of new plant do not have an effect on the earnings of the petitioner.

Exeter-Hampton, as previously noted, has an actual earned rate of return on common equity in excess of that allowed by this commission in DR 74-195

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(1975). In that proceeding, the commission found 13.6 per cent to be the allowed return on common equity for this company. In the three years following 1975, this company has averaged an earned return on common equity of 14.4 per cent. On the basis of a return on common equity, no attrition factor can be justified.

The staff concern as to the rate of return earned on invested capital also demonstrates that an attrition factor is not justified. Exhibit C submitted by Mr. Monteau reveals that over the 1976 to 1978 period, the rate of return earned on invested capital exceeds the authorized rate of return in DR 74-195. (See Schedule 2, line 3, and Schedule 1, line 21.)

Both Mr. Gilmore and Mr. Camfield agreed that the total capital invested in the firm understates the actual rate of return earned upon capital invested in utility operations.

The company's evidence as to attrition on the rate of return earned on rate base understates the actual rate of return. The company has calculated rate base based on its own working capital calculation. The commission's finding that the company's methodology inflates the working capital component results in an increase in the rate of return when it is applied to a proper rate base. The result is that the actual rate of return on a proper rate base over the past three years is

above that authorized in DR 74-195.

The company's own calculation of rate of return on rate base does not support its request for an attrition factor of one per cent. Nor does the company's own calculation give support to its contention that the previous allowance of a 0.20 per cent attrition factor, plus adjustments to 1974 net operating income, failed to provide protection against attrition for a full year after the last rate case.

The rate of return earned on the company's calculation of rate base for the three years following the approximate anniversary of the commission's last Exeter-Hampton decision for twelve months ended (a) May, 1976 was 9.29 per cent; (b) May, 1977, was 9.01 per cent; and (c) May, 1978, was 9.30 per cent. These figures when averaged and compared to the 9.40 per cent authorized rate of return would reveal an upper limit of 0.20 per cent. However, as has been previously stated, use of a proper rate base results in the rate of return exceeding the previously authorized rate of return. Further support for this finding is provided by the actual earned return on common equity and capital invested.

The company has made a substantial number of pro forma adjustments to test-year net operating income, which will help offset any attrition in the foreseeable future. Many of the factors that are proposed as pro forma adjustments are areas of emphasis in Mr. Camfield's indexing proposal. As such, they lend credence to Mr. Camfield's suggestion. However, since the commission finds that no attrition factor is justified, the question of indexing will remain to be decided in another case.

As to the question of the JDITC, the commission again agrees with Mr. Camfield that from an economic standpoint, there is no cost. Re Hampton Water Works (1979) 64 NH PUC 374. The commission believes that due to the extreme importance of this question, as well as its legal complexity, the question should be certified to the supreme court for determination. The commission will certify this question in the foreseeable

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future, but it will not hold this case for an outcome of that decision.

For the aforementioned reasons, both independently and together, the commission finds that there should not be an attrition allowance. Exeter and Hampton has not satisfied the commission's criteria for an award of attrition.

### Summary

The commission adopts staff Exh 3A — Schedule I, p. 1 of 2 for determination of the overall cost of capital for Exeter-Hampton Electric. The following table results from the aforementioned finding:

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

<i>Component</i>	<i>Component Ratio</i>	<i>Cost Rate</i>	<i>Weighted Cost Rate</i>
Common Equity	0.3724	13.50%	5.03%
Preferred Stock	0.1234	7.77	0.96
Long-term Debt	0.5042	7.67	3.87

1.0000

9.86%

The cost of capital is found to be 9.86 per cent.

#### IV. Test-year Expenses

##### A. *General Methodology*

[8] Exeter and Hampton Electric submitted its expenses based on test year ended December 31, 1978. The company then proposed a series of adjustments to these expenses by offering certain pro forma adjustments. The criteria for evaluation of these adjustments is that they must be for known and measurable changes. Re Union Teleph. Co. (1979) 64 NH PUC 434. Various questions were raised by the parties, the staff, and the commission involving both the test-year expenses and the proposed pro forma adjustments. Each will be discussed separately.

##### B. *South Street Expenses*

[9] Staff finance director, Eugene Sullivan, challenged the inclusion of the South Street building in rate base, as well as the above-the-line expenses associated with the maintenance of that nonutility building. Consistency mandates that all expenses associated with this nonutility operation belong below the line. Property taxes, water, and sewage costs were the only expenses associated with this building that were placed above the line. Since these expenses are both nonrecurring and non-utility, the commission will eliminate these expenses, which total \$3,213 (Exh K).

##### C. *Wage Expenses Associated With South Street Building*

The company testified that there were seven employees which were to "varying degrees" involved in appliance operations when the building was closed. The company testified that a total of \$14,458 in payroll expenses were recorded below the line during the test year. The company contends that since these employees are now performing activities associated with utility operations, these costs should be reclassified as payroll costs above the line. The company applies its operating and maintenance factor of 65.71 per cent to result its proposed adjustment of 65.71 per cent to arrive at a proposed pro forma adjustment of \$9,500 before consideration of the tax effects.

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The commission notes that the expenses used by the company to calculate this adjustment represent recognition of the seven employees' expenses in 1978. Since only six of the employees were retained by the company, the seventh and discontinued employee's payroll expense should be removed as nonearning. The employee received in 1978 seven weeks of pay (including severance). At \$3.49 per hour for forty hours a week, this requires a downward adjustment of \$977 before any application of an operating and maintenance factor can be considered.

According to company witnesses Gilmore and Dalton, two of the remaining six employees filled vacancies created by a "sudden disability retirement" and a retirement of a pole inspector. (See Exh K.) These two salaries which would have been booked at least in part below the line are nonrecurring as well. These two members of personnel took over as salaried utility employees from other salaried utility personnel. To use their respective 1978 below-the-line

payroll expenses in calculating an adjustment to now be placed above the line is double counting. The evidence does not reveal the amount of these individual salaries, nor the length of time in which their salaries were recorded below the line during the 1978 test year. However, since Exeter-Hampton has the burden of proof generally (RSA 378 :8) and also must prove the expense pro forma and quantify the pro forma, the commission finds that the company has failed to carry its burden of proof as to this proposed adjustment to test-year expenses.

#### *D. Federal Income Tax Rate Change*

The company has filed an adjustment to test-year net utility operating income to reflect the change in the federal income tax rate. The proposed upward adjustment of \$12,918 to net utility operating income is accepted as a known and measurable change.

#### *E. Interest on Customer Deposits*

The company proposes a downward adjustment to net utility operating income to reflect the interest on customer deposits. The proposed adjustment is \$7,158. Staff finance director, Eugene Sullivan, believes the adjustment to be erroneous. (Staff Exh 2.) Mr. Sullivan notes that the tax effect has previously been calculated in the taxes included in operating expenses above the line. When the tax effect is not considered in this adjustment and the total amount is included in the revenue deficiency and carried forward to Exh B to calculate the required increases in revenues, Mr. Sullivan asserts that the taxes on customer deposits are in effect double counted. Mr. Sullivan suggests that it is more proper for the \$7,158 adjustment to be reduced by the tax savings already applied albeit at the new combined tax rate of 48.503 per cent. Such a finding would reduce the adjustment by \$3,472 to arrive at a \$3,686 figure. The commission accepts the adjustment proposed by staff and accepts their rationale.

#### *F. Adjustments to Test Year — Tax Expenses*

Mr. Sullivan also proposed adjustments to 1978 federal income and state franchise taxes to remove lingering accruals from past years. In the case of federal income taxes, a reduction is suggested because \$3,301 of the test-year expenses relate to a prior year. As to

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state franchise taxes, Mr. Sullivan suggests that there be an increase in test-year expenses of \$1,525 so as to remove a previous year's credit. The net effect of these two adjustments is to reduce test-year expenses by \$1,776.

The company contests these adjustments on the basis that in any given year these adjustments can fall one way or the other. Upon consideration, the commission finds Mr. Sullivan's proposal honors the principles of the test year to a greater extent than does the company's position. Consequently, the commission will adjust test-year expenses downwards by \$1,776.

#### *G. Consultant Expenses*

Mr. Sullivan proposed a reduction in test-year operating expenses to reflect a removal of consultant services that are no longer required. The consultant, a former vice president and general manager, no longer is employed as a consultant and, consequently, the expense is

nonrecurring. The company agrees with staffs proposed adjustment. Therefore, the commission will reduce test-year expenses by \$1,250.

#### *H. Gilbert-Commonwealth — Cost-of-Service Study*

The company incurred an expense of \$15,055 during the test year for Gilbert-Commonwealth to perform a cost-of-service study. The study was subsequently used in this rate case. The company maintains that although 1978 is an atypical year, the company has incurred expenses associated with Gilbert-Commonwealth over seven of the past eight years. These expenses for various services have ranged from \$718 in 1974 to \$15,055 during the test year.

Mr. Sullivan contends that the expense should be eliminated from test-year expenses as nonrecurring. The company paid a portion of \$15,055 to Gilbert-Commonwealth and a portion to Concord Electric. Exeter is working together with Concord Electric in using Gilbert-Commonwealth services. The Commission in *Re Concord Electric Co. (1978) 63 NH PUC 240*, removed expenses for a Gilbert cost-of-service study from test-year expenses and allowed that company to recover those expenses as rate case expenses.

Upon consideration, the commission finds that these expenses are in fact rate case expenses, and, therefore, should be amortized over a three-year period. This recognition will eventually adjust rates so as to provide an amortization effect similar to the commission's action in *Re Gas Service, Inc. (1980) 65 NH PUC 76*. Cost-of-service studies should be done on a regular basis, but not every year with a company of this proportion. Further support for this treatment is the historical data provided by the company and Mr. Gilmores testimony that they will incur \$5,000 in expenses associated with this study for 1980 and thereafter.

[10] When the company files its rate case expenses, the commission requests the company to delineate this \$15,055 item of expense. The commission will then update this order to amortize these expenses over a three-year period. However, these expenses should be removed from the test year.

#### *I. PUC Assessment*

The company received its most recent PUC assessment for the costs of the commission and its staff. These expenses are proper for rate making. There was a \$6,230 increase over the level of expenses

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included in the test year. The commission will allow a pro forma adjustment for this expense of \$6,230.

#### *J. Charitable Contributions*

The company proposed to bring charitable contributions from "below the line" to "above the line." This would increase test-year expenses by \$8,740. The company cites previous decisions of this commission supporting this treatment. The commission agrees that this has been its standard practice and will, therefore, allow the proposed adjustment. *Re Public Service Co. of New Hampshire (1978) 63 NH PUC 127*.

#### *K. Wiring Allowances*

The company also proposes a reduction in test-year expenses associated with wiring allowances. The proposed reduction conforms to past commission decision, and the proposed reduction in test-year expenses of \$5,054 is granted.

#### L. Payroll and FICA Adjustment

Exeter proposes an adjustment to payroll expenses of \$44,608. This pro forma adjustment takes recognition of wage increases that occurred at the *end* of the test year. These expenses have traditionally been viewed by this commission as known and measurable changes. Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121; Re Concord Electric Co. (1978) 63 NH PUC 240. In arriving at the pro forma adjustment, the company made the proper adjustment to capitalize a portion of these expenses (34.29 per cent). The commission accepts the company's pro forma adjustment to payroll.

In similar fashion, the company made an adjustment for increased FICA taxes. Adjustments for increased FICA taxes have also been traditionally recognized by this commission. Consequently, the commission accepts the pro forma adjustment of \$6,004.

#### M. Pension Costs

The company has sought to recover increased pension costs. The pro forma adjustment sought by the company properly capitalizes a portion of these expenses (38.44 per cent). Again, the commission has traditionally accepted increased pension costs as known and measurable changes. Consequently, the commission accepts the company's pro forma adjustment of \$7,419.

#### N. Blue Cross-Blue Shield Adjustment

The company seeks to have a pro forma adjustment of \$2,152 for increased Blue Cross-Blue Shield expenses. The company rejects any capitalization of these expenses, as they *may* not be able to have this accounting treatment approved by the Internal Revenue Service.

Staff inquired as to why a portion of these expenses should not be capitalized. Upon review, the commission cannot find any valid reason to distinguish Blue Cross-Blue Shield benefits from wages, FICA taxes, and pension costs. Consequently, the commission will apply a 34.29 per cent capitalization factor to these expenses. The result is a \$21,903 downward adjustment in test-year expenses.

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

Net Utility Operating Income Per Books		\$ 1,130,527
Increase in NOI – Change in 1979 Tax Rate	12,918	
Net Utility Operating Income as Adjusted		\$ 1,143,445
Less: Recognition of Interest on Deposits		3,686
Adjusted Net Utility Operating Income		\$ 1,139,759
Pro Forma Adjustment To Expenses		
South Street Expenses	(\$ 3,213)	
Tax Expenses – Out of Year	( 1,776)	
Consultant Expenses	( 1,250)	
Cost-of-service Study	( 15,055)	
PUC Assessment	6,230	
Charitable Contributions	8,740	



Wiring Allowances	( 5,054)	
Payroll and FICA	50,612	
Pension Costs	7,419	
Blue Cross-Blue Shield	( 21,903)	
Pro Forma Adjustments	\$24,750	
Tax Adjusted (X 48.503 per cent)	\$12,004	(12,004)
Depreciation Adjustment		(14,036)
Pro Formed Net Utility Operating Income		\$ 1,113,719
Rate Base		\$11,884,314
Required Rate of Return		9.86%
Required Net Utility Operating Income		\$ 1,171,793
Net Utility Operating Income – Test Year		
Pro Formed		\$ 1,113,719
Required Increase In Net Utility Operating Income	\$ 58,074	
Required Increase In Revenues to provide a Return of 9.86 per cent on rate base		\$ 112,772

## V. Unrecovered Fuel Costs and Refunds

The commission allowed Exeter and Hampton Electric to raise the question of recovering unrecovered fuel costs or the "Lockup." The commission is also mindful that Exeter-Hampton is holding refunds for its consumers related to orders of the FERC and this commission. Upon a review of the record, the commission finds that the staff's recommendation that both adjustments be netted of one another to be sound.

The commission finds that Exeter-Hampton should be allowed to recover its unbilled fuel costs above base. At the present time, the commission believes this recovery should be spread out over thirty-six months. In addition, the commission finds that these unrecovered fuel costs should be offset by the refunds presently being held by Exeter-Hampton together with a reasonable interest rate.

The commission will hold a one-day hearing in June to receive from the company its present unrecovered fuel costs above base. The commission will evaluate the present unrecovered fuel cost amount to see whether or not it is abnormally high or low due to seasonal variation, generation mix, or usage. The commission will also require the company to provide the exact amount of the refunds owed consumers and the interest rate applied. The commission will evaluate the interest rate as to its reasonableness. The commission will be sure that a reasonable interest rate is applied to these refunds.

If all the information is satisfactorily presented, the commission would order the rates to begin reflecting the adjustments

for unrecovered fuel costs and refunds with interest on all meter readings on or after June 15, 1980.

## VI. Rate Design

The company offered its rate schedules based on Mr. Davis analysis of Mr. Normand's cost-of-service study. The basic thrust of Mr. Davis' allocation is to increase residential revenues

by approximately 7.5 per cent, general service revenues by 1.2 per cent and to leave all other classes of customers free of any increase. A closer examination of the proposed increase reveals that the overall theme is to increase the effect of the declining block. To state it more distinctly, the company is attempting to allocate its rates to place a larger percentage share of the increase on the small user of electricity while providing the larger user with little, if any, increase.

To demonstrate the effect of the company's proposal, the commission has applied the percentage increase requested by the company to the various usage levels.

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

Monthly kwh Residential	Without Heat	With Heat
	Per Cent Increase	Per Cent Increase
20	62.8	62.8
30	50.9	50.9
40	41.7	41.7
50	34.8	34.8
100	22.2	22.2
250	12.1	12.1
500	7.0	7.0
1000		3.9
2000		2.0
3000		1.4

Industrial - 0%; Streetlighting - 0%; General Service - 1.2%.

Even if the company had conducted a valid cost of service study, which it has not, the commission would never allow such a marked increase within the context of one year. The rate design proposed by the company is directly contrary to the national goal set by Congress of encouraging conservation. Public Utility Regulatory Policies Act of 1978. Another national goal set forth in that act is the encouragement of efficiency. With additions to plant being extraordinarily more expensive than present plant, efficiency is not reached through encouragement of greater electrical usage. Furthermore, as the commission indicated in its emergency order (DR 79-187), increased usage in New England will be met with increased oil generation for the next four years. Since oil is rapidly escalating in price, encouragement of electrical usage by accentuating the declining block is directly contrary to the national goals of equity, efficiency, and conservation as cited in Public Utility Regulatory Policies Act (PURPA).

The company's filing is directly contrary to previous decisions by this commission. In recent decisions, the commission has been in the process of flattening the rate structure. See Re Gas

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Service, Inc. (1980) 65 NH PUC 76; Re Granite State Electric Co. (1978) 63 NH PUC 121, 28 PUR4th 240; Re Public Service Co. of New Hampshire (1978) 63 NH PUC 127; Re New Hampshire Electric Co-op., Inc. (1979) 64 NH PUC 111. In Granite State Electric, <sup>2</sup>supra/f1, the commission stated that the increase should be allocated to the trailing blocks of usage so as to place the burden on those contributing to the system peak and to discourage unneeded consumption. (28 PUR4th at p. 246.)

The company's cost-of-service study does not rescue the company from its noncompliance

with our previous decisions. A major allocation in its cost of service is for purchased power (84 per cent). (Transcript, April 15 — p. 35.) Yet the purchase power expenses are allocated on the basis of demand and energy allocations worked out between Exeter and its supplier, PSNH. (Transcript, April 15 — pp. 12-13.) This is a negotiated agreement in which Exeter sought to place a higher portion of the increased purchased power costs on the demand as opposed to energy when it negotiated with PSNH. It was successful in arriving at this conclusion with PSNH, but this is not supportive for cost-of-service principles.

The commission also rejects the reliance on data which reflects only a portion of the system. (Transcript, April 15 — p. 23.) The company has not adequately demonstrated that the part of the system is reflective of the whole system.

The commission also rejects the use of data from unspecified companies and their application to Exeter. Such a process precludes our review. The commission also finds that at least 25 per cent of the administrative costs should be allocated on the basis of energy. Cost-of-service studies can be extremely subjective. These judgements and assumptions are neither perfect nor precise (Re Gas Service, Inc. [1980] 65 NH PUC 76, 92.) The commission has adopted the rationale of the Pennsylvania commonwealth court ([1971] 3 Pa Cmwlt 184, 91 PUR3d 79, 281 A2d 179) in its Gas Service decision. Those considerations are taken into account here as well.

The commission finds that all customer classes of this company should have the same percentage increase applied to existing revenues (as of the test year). Further, the commission will require the company to place the allowed increase on the two existing customer blocks, which reflect the greatest amount of energy usage. The company is to design these rates so as to take these two trailing blocks, apply the increase, and consolidate the two blocks into one. This process is to be done for each customer class. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that all tariff sheets filed by Exeter and Hampton Electric Company in this docket are hereby rejected; and it is

Further ordered, that all requests for findings of fact are hereby rejected; and it is

Further ordered, that Exeter and Hampton Electric Company file revised tariff sheets to reflect an increase in basic revenues \$112,772.00; and it is

Further ordered, that Exeter and Hampton Electric Company file with the commission the information requested in the report concerning refunds

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and unrecovered fuel costs before June 3, 1980; and it is

Further ordered, that the new tariffs filed to recover the of \$112,772.00 increase be in compliance of the rate design methodology set forth by the commission in the report.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of May, 1980.

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NH.PUC\*05/13/80\*[78578]\*65 NH PUC 229\*Small Energy Producers and Cogenerators

[Go to End of 78578]

## Re Small Energy Producers and Cogenerators

DR 79-208, Order No. 14,232

65 NH PUC 229

New Hampshire Public Utilities Commission

May 13, 1980

ORDER denying an extension of time for submission of memoranda of law.

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BY THE COMMISSION:

Order

By motion filed May 9, 1980, the LUCC seeks an extension of time for submission of memoranda of law.

The public hearing concluded on March 4, 1980, and April 25, 1980, was scheduled for submission of memorandums to be filed. Pursuant to a request by the LUCC to extend the date for submission of memoranda, the commission rescheduled the date to May 9, 1980.

On May 9, 1980, the LUCC filed a new motion, now before the commission being a verbatim copy of the prior motion. Their motion states they have not, as yet, taken a position as to the significant substantive issues in this case.

Under the circumstances, the commission finds that good cause has not been demonstrated to permit a further extension of time. Fairness to other parties under similar constraints dictate a denial of the motion.

It is hereby ordered that the LUCC motion to extend the time for submission of memoranda of law is hereby denied.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of May, 1980.

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NH.PUC\*05/14/80\*[78579]\*65 NH PUC 229\*New England Telephone and Telegraph Company

[Go to End of 78579]

## Re New England Telephone and Telegraph Company

DR 80-23, Third Supplemental Order No. 14,233

65 NH PUC 229

New Hampshire Public Utilities Commission

May 14, 1980

ORDER reassigning commission personnel.

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**Page 229**

BY THE COMMISSION:

Supplemental Order

Whereas, the commission's calendar requires reassignment of personnel and it is now determined that the following reassignment of personnel is necessary; it is hereby

Ordered, that Kenneth Traum be assigned to the advisory staff and his prior assignment to the investigatory staff is set aside and vacated.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of May, 1980.

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NH.PUC\*05/14/80\*[78580]\*65 NH PUC 230\*Exeter and Hampton Electric Company

[Go to End of 78580]

**Re Exeter and Hampton Electric Company**

DR 79-91, Third Supplemental Order No. 14,234

65 NH PUC 230

New Hampshire Public Utilities Commission

May 14, 1980

ORDER requiring an electric company to file tariff sheets to recover revenue by surcharge.

BY THE COMMISSION:

Supplemental Order

Whereas, the commission, by Supplemental Order No. 13,918 (64 NH PUC 399), made existing rates temporary on all bills rendered on or after November 29, 1979; and

Whereas, by Second Supplemental Order No. 14,231 (65 NH PUC 209) the commission has determined that an increase should be granted of \$112,772; and

Whereas, pursuant to state statute the company has the right to collect by way of a surcharge the revenues lost for the time period between the temporary rate order and the permanent rate order; it is hereby

Ordered, that Exeter and Hampton Electric Company file with the commission on or before

June 1, 1980, tariff sheets to recover this revenue by surcharge; and it is

Further ordered, that the effective date of Second Supplemental Order No. 14,231 is on all bills rendered on or after May 13, 1980 (the date of the order).

By order of the Public Utilities Commission of New Hampshire this fourteenth day of May, 1980.

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NH.PUC\*05/15/80\*[78558]\*65 NH PUC 182\*Fuel Adjustment Charge

[Go to End of 78558]

### Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Legislative Utility Consumers' Council, and Community Action Program.

DR 80-46, Order No. 14,202

65 NH PUC 182

New Hampshire Public Utilities Commission

May 15, 1980

PETITION of an electric company for authority to apply a fuel adjustment charge to regular monthly billings; granted.

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RATES, § 332 — Fuel adjustment charge — Electric company.

[N.H.] The commission approved an electric company's proposed fuel adjustment charge, which included a fold-in of fossil energy costs, said charge being just and reasonable.

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APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Gerald L. Lynch for the Legislative Utility Consumers' Council; Gerald Eaton for Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-a (II), the commission on April 23, 1980, held a hearing on the petition of Public Service Company of New Hampshire (hereinafter referred to as the "company") for authority to apply a fuel adjustment charge to regular May, 1980, monthly billings to their customers at the rate determined in NHPUC Order No. 14,155 (65 NH PUC 144) for regular April, May, and June, 1980, billings pursuant to its tariff, NHPUC No. 22 — Electricity, under bond, which is a three-month forward-looking fuel adjustment charge including a fold-in of fossil energy costs based on costs during the year ending May 31, 1979.

Reference may be made to commission Order No. 14,155 for statements and explanation of the fuel adjustment clause presently in effect.

The company is a public utility engaged in the business of supplying electric service in the state of New Hampshire. On April 22, 1980, the company prefiled with the commission, pages calculated in a similar fashion to pp. 17 and 18 of its tariff, NHPUC No. 22 — electricity, for illustrative purposes only.

The illustrative monthly calculation of the fuel adjustment charge reflected a fuel adjustment charge of \$2.50 per 100 kwh rounded. All exhibits relating to this calculation were collectively marked for identification as P-1 through P-9, respectively.

With respect to the illustrative pages calculated in similar fashion to pp. 17 and 18 under NHPUC No. 22 — Electricity, the company reported a fuel cost above base of \$12,902,682 and total kilowatt-hours subject to the fuel adjustment of 516,850,000 resulting in an illustrative per kilowatt-hour charge of \$2.50 per 100 kwh rounded.

The company represented that this illustrative figure was 21 cents lower than the similar figure for the data month of February, 1980, due to lower costs from Maine Electric Power Company — New Brunswick, more hydroelectric generation,

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more nuclear generation, lower loads, and less expensive purchased power from NEPEX.

Per NHPUC Order No. 14,155 the fuel adjustment rate of 62 cents per 100 kwh shall be applicable to bills rendered in May, 1980. The rate of 62 cents per 100 kwh shall be applicable in conjunction with tariff, NHPUC No. 22 — Electricity, as modified by Settlement Agreement No. 1 and Settlement Agreement No. 2 and consistent with commission Order No. 14,154 (65 NH PUC 142) pursuant to the temporary rate hearing held on March 31, 1980, and commission Order No. 14,155.

Based upon all the testimony and evidence in the record of this proceeding and the aforesaid orders, the commission finds that the proposed fuel adjustment charge for service taken in April, 1980, and to be filed in May, 1980, of 62 cents per 100 kwh to be 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 36th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for a quarterly estimated fuel adjustment clause, of 62 cents per 100 kwh, be, and hereby is, accepted for the month of May, 1980; and it is

Further ordered, that 63rd Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$2.92 per hundred kilowatt-hours for the month of May, 1980, be, and hereby is, permitted to become effective May 1, 1980; and it is

Further ordered, that Concord Electric Company's proposal for a revision in its fuel clause

will be suspended until next month's regularly scheduled fuel clause hearing at which time the company's testimony will be heard and revised; and it is

Further ordered, that 58th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$2.74 per hundred kilowatt-hours for the month of May, 1980, be, and hereby is, permitted to become effective May 1, 1980; and it is

Further ordered, that 37th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.10 per hundred kilowatt-hours for the month of May, 1980, be, and hereby is, permitted to become effective May 1, 1980; and it is

Further ordered, that Fourth Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$2.69 per hundred kilowatt-hours for the month of May, 1980, be, and hereby is, permitted to become effective May 1, 1980. The additional \$1 per hundred kilowatt-hours which had been previously deferred and was to be added at the rate of 50 cents per hundred kilowatt-hours to the months of May and June, 1980, fuel charges as per the company's request has been billed 25 cents in the month of May, 50 cents in June, and 25 cents in July 1980. In addition a Public Service Company of New Hampshire refund of \$60,000 has been flown through this month's charge at the company's request; and it is

Further ordered, that 68th Revised Page 15-A of Granite State Electric

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Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$2.66 per hundred kilowatt-hours for the month of May, 1980, be, and hereby is, permitted to become effective May 1, 1980; and it is

Further ordered, that 20th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$2.86 per hundred kilowatt-hours for the month of May, 1980, be, and hereby is, permitted to become effective May 1, 1980; and it is

Further ordered, that 76th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$1.63 per hundred kilowatt-hours for the month of May, 1980, be, and hereby is, permitted to become effective May 1, 1980; and it is

Further ordered, that 42nd Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of \$1.19 per hundred kilowatt-hours for the month of May, 1980, be, and hereby is, permitted to become effective May 1, 1980.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of May, 1980.

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NH.PUC\*05/19/80\*[78581]\*65 NH PUC 231\*Northern Utilities, Inc.

[Go to End of 78581]

**Re Northern Utilities, Inc.**

DR 80-104, Order No. 14,238

65 NH PUC 231

New Hampshire Public Utilities Commission

May 19, 1980

PETITION of a gas company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Northern Utilities, Inc., a public utility engaged in the business of supplying gas service in the state of New Hampshire, on April 22, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Gas, providing for increased rates designed to increase the company's annual base revenues in the amount of \$394,446 (5.3 per cent), effective May 22, 1980; 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 Fifth Revised Page 31, Seventh Revised Page 30, Ninth Revised Page 32, 11th Revised Page 27, 12th Revised Page 25, and 13th Revised Page 23 of tariff, NHPUC No. 6 — Gas, of Northern Utilities, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of May, 1980.

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NH.PUC\*05/19/80\*[78582]\*65 NH PUC 231\*New England Telephone and Telegraph Company

[Go to End of 78582]

**Re New England Telephone and Telegraph Company**

DF 80-63, Supplemental Order No. 14,242

65 NH PUC 231

New Hampshire Public Utilities Commission

May 19, 1980

PETITION for authority to issue debt securities; granted.

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SECURITY ISSUES, § 106 — Sale price and interest rate — Debentures.

[N.H.] The commission authorized a telephone company to issue 37-year debentures at a purchase price of 99.125 per cent of the principal amount and bearing an interest rate of 12.2 per cent per annum.

BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 14,215, dated May 8, 1980 (65 NH PUC 198), issued in the above entitled proceeding

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authorized New England Telephone and Telegraph Company to issue and sell its 37-year debentures maturing in the year 2017 in an aggregate principal amount of \$300 million insofar as this issue pertains to property or expenditures in the state of New Hampshire; and

Whereas, subsequent to said order, New England Telephone and Telegraph Company has established that the debentures to be issued will be due in May 15, 2017; and

Whereas, in compliance with said order, New England Telephone and Telegraph Company has secured offerings of responsible buyers for the purchase of the \$300 million principal amount of 37-year debentures, due May 15, 2017, and has submitted such offerings to this commission; and

Whereas, the said offerings are at a purchase price of 99.125 per cent of the principal amount, plus interest from May 15, 1980, to the date of delivery, for debentures bearing interest at the rate of 12.20 per cent per annum, thereby establishing a cost of money to the company of 12.31 per cent per annum to maturity; upon consideration; it is

Ordered, that New England Telephone and Telegraph Company be, and hereby is, authorized to issue and sell its 37-year debentures in the principal amount of \$300 million at a price of 99.125 per cent of the principal amount, plus accrued interest from May 15, 1980, said debentures bearing interest at the rate of 12.20 per cent per annum.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of May, 1980.

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NH.PUC\*05/22/80\*[78583]\*65 NH PUC 232\*Public Service Company of New Hampshire

[Go to End of 78583]

**Re Public Service Company of New Hampshire**

DR 79-187, 31st Supplemental Order No. 14,247

65 NH PUC 232

New Hampshire Public Utilities Commission

May 22, 1980

ORDER granting a motion to strike the identification designation from exhibits and move their admission into evidence.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Department of Defense (DOD) on May 13, 1980, filed a motion to strike the identification designation from DOD exhibits and move their admission into evidence; and

Whereas, there has been no objection filed by any party; it is hereby

Ordered, that the DOD motion is granted, and the commission will accept these exhibits as full exhibits.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of May, 1980.

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NH.PUC\*05/22/80\*[78584]\*65 NH PUC 233\*Public Service Company of New Hampshire

[Go to End of 78584]

**Re Public Service Company of New Hampshire**

DR 79-187, 32nd Supplemental Order No. 14,248

65 NH PUC 233

New Hampshire Public Utilities Commission

May 22, 1980

ORDER granting a motion to strike identification designation from exhibits and move their admission into evidence as full exhibits.

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BY THE COMMISSION:

Supplemental Order

Whereas, the PUC staff filed a motion to strike identification designation from the staff exhibits and move their admission into evidence as full exhibits; and

Whereas, there has been no objection filed by any party; it is hereby

Ordered, that the staff motion is granted and all staff exhibits will be accepted as full exhibits; and it is

Further ordered, that all exhibits designated as commission exhibits will also have the identification stricken and accepted into the record as full exhibits.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of May, 1980.

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NH.PUC\*05/26/80\*[78585]\*65 NH PUC 233\*Fuel Adjustment Charge

[Go to End of 78585]

### Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Legislative Utility Consumers' Council, and Community Action Program

DR 80-46, Supplemental Order No. 14,250

65 NH PUC 233

New Hampshire Public Utilities Commission

May 26, 1980

PETITION of an electric company for authority to apply a fuel adjustment charge to regular monthly billings; granted.

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RATES, § 332 — Fuel adjustment charge — Electric company.

[N.H.] The commission approved an electric company's proposed fuel adjustment charge, stating that the proposed charge was just and reasonable.

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APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Gerald L. Lynch for the Legislative Utility Consumers' Council; Gerald Eaton for Community Action Program.

BY THE COMMISSION:

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Report

Pursuant to RSA 378:3-a (II), the commission on May 20, 1980, held a hearing on the petition of Public Service Company of New Hampshire (hereinafter referred to as the "company") for authority to apply a fuel adjustment charge to regular June, 1980, monthly

billings to their customers at the rate determined in NHPUC Order No. 14, 155 (65 NH PUC 144) for regular April, May, and June, 1980, billings pursuant to its tariff, NHPUC No. 22 — Electricity, which is a three-month forward-looking fuel adjustment charge including a fold-in of fossil energy costs based on costs during the year ending May 31, 1979.

Reference may be made to commission Order No. 14,155 for statements and explanation of the fuel adjustment clause presently in effect.

The company is a public utility engaged in the business of supplying electric service in the state of New Hampshire. On May 19, 1980, the company prefiled with the commission, pages calculated in a similar fashion to pp. 17 and 18 of its tariff, NHPUC No. 22 — Electricity, for illustrative purposes only. On May 23, 1980, the company filed revised pages.

The revised illustrative monthly calculation of the fuel adjustment charge reflected a fuel adjustment charge of \$2.12 per 100 kwh rounded for June, 1980, and a corrected illustrative calculation for May, 1980, of \$2.39 per 100 kwh rounded.

Exhibits relating to this calculation were collectively marked for identification as P-1 through P-15, respectively.

With respect to the illustrative pages calculated in similar fashion to pp. 17 and 18 under NHPUC No. 22 — Electricity, the company reported a fuel cost above base of \$9,617,664 and total kilowatt-hours subject to the fuel adjustment of 454,179,000 resulting in an illustrative per kilowatt-hour charge of \$2.12 per 100 kwh rounded.

The company represented that this illustrative figure was lower than the similar figure for the data month of March, 1980, due to lower oil costs, more hydroelectric generation, more nuclear generation, lower loads, and less expensive purchased power from NEPEX.

Per Art III of Settlement Agreement No. 2 in dockets DR 76-46 and DR 79-187, the 36-month period over which the company will be entitled to collect the fuel adjustment charge under collection begins June 1, 1980.

The amount to be amortized is approximately \$18.7 million. Of this amount the amortizing adjustment for the quarterly period ending June 30, 1980, is \$1,558,443. This amount would have been added to the company's estimated net energy cost per kwh for the quarterly period ending June 30, 1980, of 62 cents per 100 kwh; except that the energy costs to the company have dropped below the level estimated for the quarterly period ending June 30, 1980. The company corrected for that and to reflect the New Hampshire retail portion of a leasing and maintenance and freight cost adjustment.

Taking the above figures into account, the company has recalculated its proposed June, 1980, fuel adjustment rate to be 62 cents per 100 kwh.

Based upon all the testimony and evidence in the record of this proceeding and the aforesaid orders, the commission finds that the proposed fuel adjustment charge for service taken in May, 1980, plus the previously noted amortizing

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adjustment which are proposed to be billed in June, 1980, of 62 cents per 100 kwh is just and

reasonable. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that 40th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for a quarterly estimated fuel adjustment clause, of 62 cents per 100 kwh, be, and hereby is, accepted for the month of June, 1980; and it is

Further ordered, that 64th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$2 per hundred kilowatt-hours for the month of June, 1980, be, and hereby is, permitted to become effective June 1, 1980; and it is

Further ordered, that 59th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$2 per 0 hundred kilowatt-hours for the month of June, 1980, be, and hereby is, permitted to become effective June 1, 1980; and it is

Further ordered, that 38th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 51 cents per hundred kilowatt-hours for the month of June, 1980, be, and hereby is, permitted to become effective June 1, 1980; and it is

Further ordered, that Fifth Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$2.09 per hundred kilowatt-hours for the month of June, 1980, be, and hereby is, permitted to become effective June 1, 1980. This amount includes 50 cents per hundred kilowatt-hours which had been previously deferred and was previously ordered to be billed at the rate of 50 cents per 100 kilowatt-hours in June and an additional 25 cents in July, 1980; and it is

Further ordered, that 69th Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$2.24 per hundred kilowatt-hours for the month of June, 1980, be, and hereby is, permitted to become effective June 1, 1980; and it is

Further ordered, that 21st Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of 52.13 per hundred kilowatt-hours for the month of June, 1980, be, and hereby is, permitted to become effective June 1, 1980; and it is

Further ordered, that 77th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 95 cents per hundred kilowatt-hours for the month of June, 1980, be, and hereby is, permitted to become effective June 1, 1980; and it is

Further ordered, that 43rd Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 52 cents per hundred kilowatt-hours for the month of June, 1980, be, and hereby is, permitted to become effective June 1, 1980.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of May, 1980.

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NH.PUC\*05/27/80\*[78586]\*65 NH PUC 236\*Gas Service, Inc.

[Go to End of 78586]

### **Re Gas Service, Inc.**

DR 79-129, Fourth Supplemental Order No. 14,251

65 NH PUC 236

New Hampshire Public Utilities Commission

May 27, 1980

ORDER authorizing a gas company to revise its rate structure.

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BY THE COMMISSION:

Supplemental Order

Whereas, on March 17, 1980, the commission allowed Gas Service, Inc., to file exhibits for consideration regarding the revenue effect of the eliminations of the proposed rate classifications; and

Whereas, on May 8, 1980, the company complied; and

Whereas, upon investigation and review the commission is now convinced that elimination of the company's AC and LV rates will not result in a revenue increase as originally believed; it is

Ordered, that the company file tariff pages in accord with a revenue increase of \$418,696 in annual basic rates effective with all current billings rendered on or after February 21, 1980; and it is

Further ordered, that the company file a plan to collect the underbillings from February 21, 1980, to date; and it is

Further ordered, that the company file revised tariff pages reflecting the increase of \$13,500 and apply the increase, to the extent possible, towards increasing the rate per therm in the last block of the D-2 and D-4 classifications to the same level as the respective prior blocks.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of May, 1980.

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NH.PUC\*05/27/80\*[78587]\*65 NH PUC 236\*Gas Service Inc.

[Go to End of 78587]

**Re Gas Service Inc.**

IR 14,929, Order No. 14,252

65 NH PUC 236

New Hampshire Public Utilities Commission

May 27, 1980

PETITION of a gas company for approval of a service contract; granted.

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BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 29 with W. R. Grace and Company, organic chemicals division, effective as of the date of this order, for gas 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 May, 1980.

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NH.PUC\*05/27/80\*[78588]\*65 NH PUC 237\*Fuel Adjustment Charge

[Go to End of 78588]

**Re Fuel Adjustment Charge**

Intervenors: Public Service Company of New Hampshire

DR 76-46, 51st Supplemental Order No. 14,253

65 NH PUC 237

New Hampshire Public Utilities Commission

May 27, 1980

ORDER approving revised tariff pages correcting supporting data errors.

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BY THE COMMISSION:

Supplemental Order



Whereas, on April 22, 1980, Public Service Company of New Hampshire filed with the commission 37th Revised Pages 17 and 18 to tariff, NHPUC No. 22 — Electricity; and

Whereas, said pages correct errors appearing in the supporting data for the April, 1980, fuel adjustment charge; and

Whereas, said errors do not affect the amount of the fuel adjustment charge for April, 1980, but merely make administrative correction to the records; it is

Ordered, that 37th Revised Pages 17 and 18 to tariff, NHPUC No. 22 — Electricity, of Public Service Company of New Hampshire, be, and hereby are, approved for effect as of April 1, 1980, in lieu of 35th Revised Pages 17 and 18 filed earlier.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of May, 1980.

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NH.PUC\*05/27/80\*[78589]\*65 NH PUC 237\*Concord Electric Company

[Go to End of 78589]

## **Re Concord Electric Company**

DF 80-78, Order No. 14,254

65 NH PUC 237

New Hampshire Public Utilities Commission

May 27, 1980

PETITION of an electric company for authority to issue and sell short-term notes; granted.

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SECURITY ISSUES, § 38 — Necessity of commission authorization — Exceeding authorized shares.

[N.H.] The commission required an electric company to obtain authorization before incurring short-term indebtedness in excess of an amount previously approved by the commission.

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BY THE COMMISSION:

Order

Whereas, Concord Electric Company on April 4, 1980; filed a petition with this commission for authority to issue and sell short-term notes in an aggregate amount of \$3 million at an interest rate to be negotiated with its banks which will relieve the company of any obligation to maintain compensating balances and at such negotiated rates above the prime rate which will result in a

lesser total interest cost; and

Whereas, at a hearing held on May 22, 1980, the company presented testimony and exhibits showing the construction forecasts for the years 1980 and 1981, respectively, and the estimated capitalization structure and rates as of December 31, 1980; and

Whereas, under the applicable rules and regulations of this commission the company would be authorized to issue short-term debt in the amount of

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\$1,110,000 based on the net fixed capital as of December 31, 1979, and the notes payable as of March 31, 1980, were \$900,000; and

Whereas, the company has planned to finance during 1980 and convert its short-term borrowings to senior capital; and

Whereas, the company has deferred those plans due to the high cost of money, unstable market conditions, and, in certain instances, lack of available capital, and has maintained only necessary capital expenditures by deferring approximately \$625,000 into future; it is

Ordered, that Concord Electric Company be, and hereby is, authorized from the date of this order 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 of \$3 million to bear interest at a negotiated rate above the prime rate which will relieve the company of the obligation to maintain compensatory balances and result in a lesser total interest cost; and it is

Further ordered, that Concord Electric Company first obtain approval of this commission before incurring short-term indebtedness in excess of the amount allowed by the terms of Supplemental Order No. 7446 and the time constraints of RSA 369:7; and it is

Further ordered, that on or before January 1st and July 1st in each year, Concord Electric Company shall file with this commission a detailed statement, duly sworn 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 fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of May, 1980.

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NH.PUC\*05/27/80\*[78590]\*65 NH PUC 238\*Exeter and Hampton Electric Company

[Go to End of 78590]

## **Re Exeter and Hampton Electric Company**

DF 80-77, Order No. 14,255

65 NH PUC 238

New Hampshire Public Utilities Commission

May 27, 1980

PETITION of an electric company for authority to issue and sell short-term notes; granted.

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SECURITY ISSUES, § 38 — Necessity of commission authorization — Exceeding authorized shares.

[N.H.] The commission required an electric company to obtain authorization before incurring short-term indebtedness in excess of an amount previously approved by the commission.

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BY THE COMMISSION:

Order

Whereas, on April 3, 1980, Exeter and Hampton Electric Company filed a petition for authority to issue and sell and renew notes payable less than twelve months from the date of issue in an aggregate amount of \$2.5 million and

Whereas, at a hearing held at this commission on May 22, 1980, the company presented testimony and exhibits showing the projected construction costs for the years 1980 and 1981, respectively, and the estimated pro forma capitalization as of December 31, 1980; and

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Whereas, as of February 29, 1980, the company was authorized to issue short-term notes in the amount of \$1,294,000 and as of March 26, 1980, the short-term indebtedness had risen to \$1,152,000; and

Whereas, in addition to the forecasted construction costs the company will be required to redeem its Series B 3.75 per cent bonds on January 15, 1981, in the amount of \$390,000; and

Whereas, the commission has found that the issuance of such short-term indebtedness is consistent with the public good, and will allow the company the flexibility to secure permanent financing when the current financial market situation stabilizes; it is

Ordered, that Exeter and Hampton Electric Company be, and hereby is, authorized from the date of this order 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, said note, or notes, to bear interest at the most economical rates the company can obtain; 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 the time constraints of RSA 369:7; 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 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 twenty-seventh day of May, 1980.

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NH.PUC\*05/29/80\*[78592]\*65 NH PUC 243\*Granite State Electric Company

[Go to End of 78592]

## Re Granite State Electric Company

DR 79-228, Supplemental Order No. 14,258

65 NH PUC 243

New Hampshire Public Utilities Commission

May 29, 1980

ORDER denying an electric company's motion for rehearing.

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### BY THE COMMISSION:

#### Disposition of a Motion

Granite State Electric Company (GSE) has filed a motion for rehearing as to commission report and Order No. 14,211 (65 NH PUC 192). The motion for rehearing was timely filed and therefore the motion is properly before the commission. Granite State Electric Company's major contention revolves upon its reliance on *Narragansett Electric Co. v Burke* (1977) — RI —, 23 PUR4th 509, 381 A2d 1358. While the commission is not bound by Rhode Island law, a careful reading of that case does not mandate any disturbance of our result.

Ironically, that case involved the New England Power Company R-10 rate which is the subject of refunds mandated by Order No. 14,211. The Rhode Island commission had significant difficulty with the NEPCO R-10 filing. A review of the commission decision in that case clearly indicates that the Rhode Island commission found that a major portion of the R-10 rate could not be justified. Nearly four years later the Federal Energy Regulatory Commission has agreed and ordered in excess of \$20 million to be refunded.

The commission has taken recognition of the FERC's decision in refusing GSE's request to increase its purchase power adjustment. Each of the filings listed in our original report (65 NH PUC at p. 193) alter the purchase power adjustment. These increases cannot be viewed as separate cases, basically because it is the culmination of these rates that result in the purchased power cost adjustment clause submitted to consumers.

The language of *Narragansett* does not prevent the action taken by the commission. The

following passage from that decision is illustrative (23 PUR4th at p. 514):

"The PUC, under the purchased power cost adjustment clause, may choose to adjust Narragansett's existing retail rates to reflect the changed cost of interstate power, but it need not do so. The purchased power cost adjustment provisions specify that the operation of the clause is subject to 'all powers of suspension, investigation, and other regulatory authority' of the PUC. The commission, therefore, may treat the proposed rate increase as it treats other filings for charged rates under § 39-3-11 and investigate the overall financial structure of Narragansett to determine whether the company has experienced savings in other areas which might offset the increased price for power. The manner in which a fuel adjustment matter where there is broad latitude for the exercise of sound discretion. *Narragansett Electric Co. v Kennelly* (1958) 88 RI 56, 85, 25 PUR3d 54, 143 A2d 709, 726. Therefore, we do not order the PUC automatically to adjust the retail rates in accordance with the purchased power cost adjustment clause."

This passage clearly provides support for the commission's use of RSA 378:7. The language allows for consideration of other factors that may offset any increase in the purchased power cost adjustment clause. The commission, in its original report and order, noted that there was a significant other factor that GSE was not pursuing, namely, refunds. Refunds are owed to consumers based on final FERC decisions involving not only the R-10 but also the R-8 rate which is significantly more ancient (1974). Finally, the commission takes administrative notice of a recent FERC

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order in FERC Docket Nos. ER77-97, ER77-95, ER78-78, and ER78-79 (R-11 and R-12) which refers to a deferring of briefing dates in R-12 and a request that a FERC decision on R-11 be held in abeyance due to a settlement between the intervenors and NEPCO. (April 28, 1980). This raises the probability of further refunds. Our recognition of two final FERC orders requiring refunds together with the potential for further refunds clearly demonstrates the reasonableness of our order.

Granite State Electric Company's reasoning for not requesting refunds from its sister subsidiary is unclear. However, the reasoning does not lay a proper foundation for alteration of our order.

Granite State Electric Company asserts that our use of RSA 378:7 is improper. Granite State Electric Company likens its purchased power cost adjustment clause to fuel adjustment clauses of utilities such as Public Service Company of New Hampshire. The analogy is incorrect. Granite State Electric Company has a clause that varies from month to month that reflects the increases in the price of fuel. However, the PPCA changes due to requests by NEPCO for changes in its recognized rate base, rate of return, and expenses. Therefore, the correct analogy is a comparison between rate increases. The commission's finding of eight requests in six years clearly mandates the consideration of RSA 378:7.

Granite State Electric Company raises, for our consideration, the fact that W-1 was a reduction rather than an increase. The commission would note that as originally filed, the NEPCO W-1 request was an increase. However, the rate reduction occurred because of settlement.

Granite State also takes issue with the commission's finding as to rate discrimination. Reference is made to previous purchase power cost adjustment approvals by this commission. The commission would note that the failure of the commission to address the issue in previous decisions fails to sanction a discovery of discrimination in this proceeding.

The commission has evaluated the other arguments raised by Granite State Electric and finds no merit in their contentions. Therefore, the motion for rehearing 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 the motion for rehearing is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of May, 1980.

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NH.PUC\*05/30/80\*[78591]\*65 NH PUC 239\*Public Service Company of New Hampshire

[Go to End of 78591]

**Re Public Service Company of New Hampshire**

Intervenors: Community Action Program, Legislative Utility Consumers' Council

DR 79-187, 33rd Supplemental Order No. 14,256

65 NH PUC 239

New Hampshire Public Utilities Commission

May 30, 1980

ORDER denying a motion for rehearing.

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1. RETURN, § 19 — Guarantee of return.

[N.H.] The commission noted that a public utility is entitled to an opportunity and not a guarantee of a fair rate of return. p. 241.

2. REPARATION, § 41 — Period of reparation — Balance of interests.

[N.H.] The commission stated that a 36-month refund period for unlawfully collected revenues balanced the interests of all parties. p. 242.

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BY THE COMMISSION:

Supplemental Order

Public Service Company of New Hampshire (PSNH) and Community Action Program (CAP) have filed motions for rehearing as to commission report and Order No. 14,175 (65 NH PUC 162). The Legislative Utility Consumers'

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Council (LUCC) has filed a response to PSNH's motion for rehearing. Public Service Company of New Hampshire has also filed a response to CAP's motion for rehearing. Community Action Program filed a memorandum in support of its motion. The major focus of these filings relates to the commission's determination that PSNH should begin paying back refunds to consumers for rates based on the inclusion of construction work in progress (CWIP) in rate base. The commission ordered that \$11,301,245 in refunds should be returned to customers on all bills rendered on or after June 1, 1980. The refund was to be labeled by the words "CWIP Credit."

The first contention of PSNH is that the commission has deviated from its report and Order No. 13,799 of August 29, 1979 (64 NH PUC 295). Public Service Company of New Hampshire states that the aforementioned order allowed PSNH an opportunity to show why its rates from May 7, 1979, should be as high or higher than those which would have been in effect as of May 7th without CWIP in rate base. Therefore, PSNH concludes that the commission and report and Order No. 14,175 foreclosed the company from the opportunity granted in Order No. 13,799. The commission does not agree.

To the extent that Order No. 13,799 allowed PSNH an opportunity to present testimony and exhibits on this question, that opportunity was clearly open to PSNH during the 20-plus hearing days involved in the presentation of their basic case. The commission's first order in this consolidated proceeding clearly placed the burden on PSNH to show why the rates should not be reduced to reflect the passage of RSA 378:30-a. Furthermore, as noted in report and Order No. 14,175, the commission had stated that the question was a narrow question of law on at least two occasions during the hearing held prior to the issuance of its report and Order No. 13,799.

Public Service Company of New Hampshire's second contention is that they relied upon report and Order No. 13,799 in making a determination not to apply for rehearing as to that order. The commission would note that PSNH's rights to appeal the refund order have never been lost. Their rights remain preserved and the commission so finds. In addition, nothing in report and Order No. 13,799 precluded the possibility of refunds.

Public Service Company of New Hampshire next raises the question that Order No. 14,175 conflicts with Order No. 13,942 ([1979] 64 NH PUC 422). The commission does not agree. There has been a review of the revenues, expenses and rate base prior to our decision to which PSNH was an active party.

The thrust of the remaining PSNH contentions related to an alleged denial of an opportunity to present evidence on this issue, an alleged failure to comply with RSA 363:17-bIII, an alleged reversal as to whether this is a question of law or fact, and an alleged denial of PSNH's opportunity to earn a fair rate of return. The commission will readily admit to difficulty in determining whether this is a question of law or fact, or both. While the commission clearly stated that the question was one of law not fact, the commission provided PSNH an opportunity

to present their financial situation. Although PSNH presented testimony and exhibits, absent from their presentation was a monthly account of the New Hampshire jurisdictional

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rate of return. While staff Exhs 40 and 40-A were entered into evidence, the data appearing on the aforementioned exhibits were "as adjusted" rather than "per books."

To demonstrate the difference between "as adjusted" and "per books," the commission finds a comparison between commission Exh 1 and staff Exh 40-A to be appropriate. Staff Exh 40-A is the jurisdictional separation study offered by PSNH. The study includes PSNH's pro-forma adjustments to expenses beyond twelve months ending May 31, 1979. Many of these pro-forma adjustments extend a full year beyond the test-year period or "adjusted." Commission Exh 1 is PSNH's cost-of-service study per books or unadjusted. Public Service Company of New Hampshire is required to submit this actual information to the Federal Energy Regulatory Commission (FERC).

Staff Exh 40-A provides an adjusted overall company rate of return of 9.473 per cent. Commission Exh 1 reveals an actual overall company rate of return of 12.737 per cent. Staff Exh 40-A also arrives at an adjusted rate of return solely for the New Hampshire retail jurisdiction of 10.03 per cent. Commission Exh 1 reveals a 13.075 per cent rate of return for all jurisdictions other than resale. Since PSNH is losing money in its Vermont jurisdiction and barely breaking even in Maine, the New Hampshire jurisdictional actual rate of return for twelve months ending May 31, 1979, exceeds 13.075 per cent. While differences in calculation of rate base explains a small portion of this differential, the major factor is adjusted versus actual. A 13.1 per cent + overall rate of return is in excess of that allowed in DR 77-49 or a reasonable level as of May 31, 1979.

The commission staff requested updates as to the overall rate of return earned solely within the New Hampshire jurisdiction. However, due to a variety of factors, PSNH did not make the additional information available. Staff witness Sullivan presented calculations as to the actual overall rate of return earned by PSNH as an entirety for 12-month periods ending in the months of May through October, 1979. These figures do not segregate the New Hampshire retail jurisdiction. While the absence of regulatory relief in the other jurisdictions clearly establishes the New Hampshire rate of return in excess of the companywide figures submitted by Mr. Sullivan, the magnitude of the excess has not been demonstrated.

It is sufficient to summarize by stating that an effort was made to discover the PSNH retail jurisdictional situation on a monthly basis between May and December, 1979. This effort was unsuccessful due to the use of adjusted figures by PSNH and a general failure of the remaining parties to address the situation. The commission finds that PSNH as well as all the other parties were provided a sufficient opportunity to present any relevant information on the question of refunds during the hearings that encompassed the direct case of each party. This commission was forced to act when confronted with PSNH's rebuttal, which consisted of further adjusted figures, and no input from the other parties.

[1] As to PSNH's other arguments, the commission would note that PSNH is entitled to an opportunity and not a guarantee of a fair rate of return. Upon a review of the record, the



commission finds that its actions have not violated this rate-making standard. Furthermore, the commission finds that it has complied

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with RSA 363: 17-b III. Public Service Company of New Hampshire's argument as to the differential between accrued AFUDC and the ordered refund level miscasts the issue. The company's rates during the time period in question were based on the inclusion of CWIP in rate base. By accruing the AFUDC and collecting the same level of rates there would be a double counting to consumers over the life of the plants in question. Finally, upon a review of all the arguments raised in PSNH's motion for rehearing, the commission remains convinced that its order was proper and therefore the motion for rehearing is denied.

The LUCC concurs with PSNH in requesting this commission to allow that all parties have the opportunity to address the calculation for refunds. The commission has already provided the parties an opportunity consisting of six months. The parties chose not to present testimony and exhibits on their respective calculations. Consequently, the commission does not find merit in allowing a second opportunity. The commission would remind the parties that this commission must address the rates sought to be charged in other service areas such as Granite State Electric and Mountain Springs. The commission does not have the opportunity to selectively avoid certain cases. This case has already taken an inordinate amount of time which has adversely impacted on the rights of other New Hampshire utilities and their customers. Therefore, the LUCC's request is denied.

Legislative Utility Consumers' Council refers to a petition that was sent to the commission but not pursuant to DR79-187. The petition bore no case label, and was only sent to CAP and PSNH. The commission was not aware of the petition nor was it considered in resolving the question of CWIP related refunds.

Upon examination of the petition, the commission finds the petition to be duplicative of prior commission action and also to indicate a mistaken impression as to utility accounting. The petition states that the commission should institute proceedings to refund any unlawfully collected CWIP revenues. Yet the commission had specifically designated this issue for resolution in this consolidated docket. The petition also requests refunds for accumulated AFUDC. Since at the present time accumulated AFUDC is merely an accounting entry and not a cash item, the request is dubious at best. Finally, the commission notes that unlike CAP, the LUCC failed to take any appeal from our previous orders that held any refunds in abeyance. The commission did not consider the LUCC's petition in reaching our decision in Order No. 14,175 and for the reasons stated will not avail itself of an opportunity on rehearing.

[2] Community Action Program raises concern as to the 36-month refund period, interest and certain language that appeared in report and Order No. 14,175. The commission finds that the time period used for the distribution of refunds to balance the interests of all parties. This commission firmly believes that this time period will be shortened by the completion of the divestiture and therefore will not alter the time period. The commission did not receive any input from the parties as to interest until it issued its Order No. 14,175. The commission will give consideration to interest if the divestiture is not forthcoming. However, if the divestiture

proceeds forward prior to the end of October,

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1980, the commission will not add interest to the amount to be refunded.

Community Action Program asserted that the commission had made a final decision as to return on common equity. However, as CAP is fully aware the commission stated that finding "at this time." Furthermore, CAP is also aware that the commission clearly indicated at the Portsmouth public hearing that the question was not finally decided and that public input could make a difference. Community Action Program is also aware or should be that the prime rate had reached 20 per cent at the time of the order. Finally, CAP also knows that briefs are not evidence. The claimed wrong by CAP plainly doesn't exist.

Community Action Program also raises concerns as to commission language relating to changes in cost rates for new issuances of permanent capital. First, the commission would note that PSNH was found to be in a financial emergency. Consequently, the commission has an obligation to explore long-term answers rather than a short-term fix. The commission also has a second concern, namely whether the cost rates used in the rate of return calculation were extraordinary, either too high or too low. The time period ending April 10, 1980, was filled with an extraordinary volatile money market. There was and may still be a risk that the interests of consumers or investors may be unreasonably harmed by the adoption of a rate of return at any given point of time.

The commission's language is a double edged sword in that the interests of either investors or consumers could be altered due to changed money market conditions. The commission continues to examine this option solely because of its experience that never before have money markets risen or dropped as rapidly as occurred prior to Order No. 14,175 or after. While the commission will consider CAP's arguments, their motion for rehearing as to this aspect is denied.

Community Action Program asserts that it disagrees with the commission's finding that the rates after December 28, 1979, were collected lawfully. The commission has rejected any argument that rates after December 28, 1979, were based on the inclusion of CWIP in rate base and will do so again.

Therefore upon consideration of the analysis above, it is hereby

Ordered, that the motions for rehearing filed by PSNH, CAP, and LUCC are denied.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of May, 1980.

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NH.PUC\*06/02/80\*[78560]\*65 NH PUC 187\*Union Telephone Company

[Go to End of 78560]

## **Re Union Telephone Company**

DR 79-120, Seventh Supplemental Order No. 14,205

65 NH PUC 187

New Hampshire Public Utilities Commission

June 2, 1980

ORDER rejecting a telephone company's revised tariff sheet.

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BY THE COMMISSION:

Revised Supplemental Order

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

Ordered, that Union Telephone Company's revised tariff sheets designed to collect \$369,507 are hereby rejected; and it is

Further ordered, that the Union Telephone Company shall file revised tariff sheets designed to collect basic service revenues in the amount of \$360,594; and it is

Further ordered, that Union Telephone Company file with the commission a plan designed to recover any lost revenues, which it believes it is entitled to, which have not as of yet been passed on to consumers because of commission orders; and it is

Further ordered, that all other requested adjustments to the figure found by the commission as a proper rate increase are hereby rejected.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1980.

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NH.PUC\*06/02/80\*[78593]\*65 NH PUC 246\*Granite State Electric Company

[Go to End of 78593]

## Re Granite State Electric Company

DR 80-118, Order No. 14,259

65 NH PUC 246

New Hampshire Public Utilities Commission

June 2, 1980

PETITION of an electric company to revise its tariff; 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 May 20, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 8 — Electricity — i.e., purchased power cost adjustment No. W-2 (D) — filed for effect June 1, 1980; 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 Fourth Revised Page 16-H and Seventh Revised Page 40 (PPCA No. W-2(D)), 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 June, 1980.

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NH.PUC\*06/02/80\*[78594]\*65 NH PUC 246\*Connecticut Valley Electric Company, Inc.

[Go to End of 78594]

## **Re Connecticut Valley Electric Company, Inc.**

Intervenor: Legislative Utility Consumers' Council

DR 80-92, Order No. 14,260

65 NH PUC 246

New Hampshire Public Utilities Commission

June 2, 1980

PETITION of an electric company to charge temporary rates; granted.

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APPEARANCES: Donald L. Rushford for Connecticut Valley Electric Company, Inc.; William L. Shaine for Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On April 24, 1980, Connecticut

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Valley Electric Company, Inc. (herein referred to as the company), filed a motion to make its existing rates temporary as of April 11, 1980. On May 6, 1980, the commission ordered that notice to the public be given indicating that a hearing would be held at the offices of the commission on May 23, 1980. Such notice was to be given no later than May 13, 1980. On May 12, 1980, such notice appeared in the *Valley News*.

At the hearing, the company requested that their present rates be increased by \$162,626 and that this amount be allowed as temporary rates. There was no objection to this request by any party to the proceeding. The commission will accept the company's request.

The company at the hearing requested that the temporary rate become effective as soon as possible after the hearing. There was no objection to this request by any party to this proceeding.

The commission, therefore, will allow temporary rates to be made effective on all bills issued or rendered on or after the effective date of this order.

Our order will be issued accordingly.

Order

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

Ordered, that temporary rates allowed in this report be effective on June 2, 1980, and it is

Further ordered, that the company file revised tariff pages to implement the temporary rates authorized by this report, and that the increase be allocated proportionately to each class of customer, and it is

Further ordered, that one-time public notice of such temporary rate authorization be given through publication in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1980.

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NH.PUC\*06/02/80\*[78595]\*65 NH PUC 247\*Union Telephone Company

[Go to End of 78595]

## **Re Union Telephone Company**

DR 79-120, Tenth Supplemental Order No. 14,261

65 NH PUC 247

New Hampshire Public Utilities Commission

June 2, 1980

ORDER accepting filed tariff sheets on less than statutory notice.

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BY THE COMMISSION:

Supplemental Order

Whereas, on June 2, 1980, the Union Telephone Company filed revised tariff sheets in compliance with our previous orders; and

Whereas, upon review of said filings, the commission finds them in compliance with our previous orders, both as to revenue and design; therefore, it is

Ordered, that the tariff sheets as filed are accepted on less than statutory notice for all telephone service provided during the month of May, 1980.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1980.

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NH.PUC\*06/02/80\*[78596]\*65 NH PUC 248\*Public Service Company of New Hampshire

[Go to End of 78596]

## Re Public Service Company of New Hampshire

DR 79-187, 34th Supplemental Order No. 14,262

65 NH PUC 248

New Hampshire Public Utilities Commission

June 2, 1980

ORDER as to the proper method to be used in the dispersal of refunds.

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1. REPARATION, § 43.1 — Refund order — New customers.

[N.H.] The commission requested that a utility make every effort to insure that new customers did not share in a refund order designed to compensate customers for payment of rates which in part were derived from the inclusion of construction work in progress in rate base, because new customers had never paid such rates. p. 248.

2. REPARATION, § 43.1 — Refund order — Actual customers.

[N.H.] The commission did not require a utility to refund overcollections to the actual customers that paid them because the refund related to eight months of overcollections; thus, there was no economic or equitable avenue to refund actual dollars to actual customers. p. 248.

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APPEARANCES: As noted previously.

BY THE COMMISSION:

Report

The Public Service Company of New Hampshire (PSNH) has sought the commission's guidance as to the proper method to be used in the dispersal of refunds. Public Service Company of New Hampshire has raised two concerns. The first concern relates to its customers who, because of age, were never charged CWIP. The second concern raised relates to the difficulties

that would be experienced in attempting to get the actual dollars overpaid returned to the actual customers.

[1, 2] The reasoning behind the refund order was to compensate customers for payment of rates which in part were derived from the inclusion of CWIP in rate base. Those customers that paid rates that were not in any way based on CWIP should not receive refunds. Upon a review of PSNH's experience with the Nelson refund as well as the fact that this refund relates to eight months of overcollections as compared to the one month involved in the Nelson decision, the commission finds that there is no economic or equitable avenue to refund actual dollars to actual customers.

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While both PSNH and the commission attempted to arrive at equity in the Nelson refund, the total processing costs as well as the remaining unrefunded dollars provides substantial support for altering the refund mechanism in this case. Therefore, the commission will require PSNH to begin refunding to customers on PSNH's system as of June 1, 1980. The commission would request PSNH to attempt to insure that customers added to their system after June 1, 1980, do not receive any refunds. If this computer mechanism does not exist within the company, then obviously these customers will also receive refunds. However, the commission requests that PSNH make every effort to insure that new customers do not share in the refund. Our order will issue accordingly.

Supplemental Order

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

Ordered, that Public Service Company of New Hampshire comply with the refund dispersal directions in the aforementioned report.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1980.

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NH.PUC\*06/02/80\*[78624]\*65 NH PUC 329\*Public Service Company of New Hampshire

[Go to End of 78624]

## Re Public Service Company of New Hampshire

DE 80-55, Order No. 14,322

65 NH PUC 329

New Hampshire Public Utilities Commission

June 2, 1980

PETITION by electric company for authority to acquire an easement over private land to be used for transmission lines, and to determine a fair and reasonable price to be paid for the easement; damages fixed and awarded.

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EMINENT DOMAIN, § 8 — Acquisition of easement — Award of damages.

[N.H.] An award of damages for an electric company's acquisition of an easement for the construction of transmission lines was based upon the testimony of the company's witness rather than upon the testimony of the landowner's witness.

APPEARANCES: Eaton W. Tarbell, Jr., for the Public Service Company of New Hampshire; H. Alfred Cassassa for Howard C. Page, Jr., and Lois A. Page.

BY THE COMMISSION:

Report

The Public Service Company of New Hampshire, a public utility engaged in the supply of electricity in the state of New Hampshire, pursuant to provisions of RSA 371, petitioned the Public Utilities Commission of New Hampshire for permission to acquire perpetual rights and easements to certain lands in the town of Hampton, New Hampshire, owned by Howard C., Jr., and Lois A. Page, said lands to be used in conjunction with transmission lines emanating from the Seabrook nuclear power station with transmission lines emanating to be paid for same. The petition was filed on March 6, 1980, with a duly noticed public hearing scheduled May 13, 1980, at 1:00 P.M., subsequently adjourned until May 21, 1980, at 10:00 A.M..

The petitioner prayed that the commission recognize that the necessity for the taking had been predetermined by prior approvals under RSA 162-F et al. It further sought that the commission determine a fair and reasonable price to be paid said easement.

The question of necessity was resolved early in the proceeding with a ruling from the commission that issue of the certificate of site and facility plus approval by the Nuclear Regulatory Commission preclude further challenge. The matter of value was the only item remaining; and, to this end the petitioner presented two witnesses as did counsel for the landowners.

Petitioner's witness, Harry R. Murray, a registered land surveyor, provided the commission with maps and plans on which the subject property was isolated. These were entered as Exhs P-1 and P-2 respectively. Mr. Murray testified that the Page property comprised 27.652 acres and is currently encumbered by an existing Exeter & Hampton Electric Company easement for a transmission line. The taking of the Public Service Company was identified as a strip paralleling that of the Exeter

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& Hampton Electric Company right of way to the northeast, comprising 3.847 acres within a strip 135 feet wide and approximately 1,230 feet long at its centerline.

For its second witness, the Public Service Company presented David F. Colt, a real estate appraiser. Mr. Colt introduced a series of photographs of the Page property, indicating his position when taking the photograph on Exh P2, the plan of the property. Mr. Colt testified that the house had been located formerly near the barn and other outbuildings, but had been relocated



to a new foundation and extensively remodeled. Exhibits P-8 and P-9 were photographs taken before the move, other exhibits showed the house after the move. The Colt testimony further revealed that the renovated house was an overimprovement, which he defined as having required a much larger investment than could be recovered upon sale. He valued the complete property at \$275,000 before the taking and \$244,000 after the taking, with resulting damages of \$31,000 (\$17,000 for land and \$14,000 for the Page home).

Under cross-examination by Mr. Cassassa, Mr. Colt revealed that the property was zoned "general." This zoning was further described as property on which a multitude of uses was permitted. (T75). It was also brought out that there was adequate frontage along Drakeside road for a potential subdivision of about seven to eight lots, each an estimated value of \$15,000 to \$20,000. Mr. Colt indicated that he felt the powerline would be no deferent to the sale of such lots.

Landowner Howard C. Page, Jr., testified on his own behalf, presenting a chronology of events since he negotiated purchase of the property in 1976. He presented several exhibits, including house plans, sketches of business property, and site plans.

When questioned about the earlier statement that the house had been overimproved, Mr. Page indicated that all improvements were made for his personal benefit. He denied knowledge of the pending transmission line before relocating his home, and felt it diminished the value of not only his house lot, but also the remaining property.

Also appearing for the landowner was Albert Ross, a realtor, who testified that he had also appraised the Page property. He indicated he had been in residential real estate for fifteen years, but had no special qualifications as an appraiser. Mr. Ross indicated his appraisal of the property set its present value at \$330,000, comprising \$65,000 for the so-called commercial property on which Mr. Page's business is located, \$175,000 for the house and three acres of land, and \$90,000 for the remaining property (subdivided in six lots). After the taking he valued the property at \$235,000, indicating damages to the "commercial" property at \$20,000, the house and three acres at \$45,000, and the remaining land at \$30,000. His damages total \$95,000. Mr. Ross indicated his fifteen years experience had proven that powerlines and mobile homes diminished the value of a property. He further indicated that he was unaware of the existing Exeter & Hampton transmission line encumbering the property he envisioned as a six-unit subdivision. Testimony and cross-examination revealed Mr. Ross based his appraisal upon intuitive judgement based upon fifteen years experience as a realtor rather than upon comparables.

The commission rejects the appraisals

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by Mr. Ross. His appraisals before and after the taking were opinions with no sound bases such as comparables. Testimony of all parties agreed that powerlines and mobile homes could degrade the value of the property, yet the Page property is already encumbered by powerlines and has zoning which allows most any use, such as mobile homes. With these facts well known before the relocation of the Page home, the commission agrees that investment of large amounts of money in the relocation and remodeling of the Page home was risky and a definite

overimprovement, as defined by Mr. Colt. Mr. Page's testimony did indicate, however, that his plans for the relocation and remodeling were well underway when he learned of the proposed PSNH transmission line. Because of this, we will accept Mr. Colt's severance damage figure of \$14,000. For damages to land, we will apply Mr. Colt's value of \$4,300 per acre to the area involved in the taking, 3.847 acres or \$16,542, rounded to \$17,000. Total damages awarded are therefore \$31,000. Our order will issue accordingly.

Order

Based upon 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 take, pursuant to RSA 371, property described in its petition which is in the commission files on this matter; and it is

Further ordered, that Public Service Company of New Hampshire pay damages for said taking in the amount of \$31,000 to Howard C. Page, Jr., and Lois A. Page; and it is

Further ordered, that the taking granted herein is perpetual right and easement as presented in the company's petition.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1980.

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NH.PUC\*06/04/80\*[78597]\*65 NH PUC 249\*Manchester Gas Company

[Go to End of 78597]

**Re Manchester Gas Company**

DF 80-123, Order No. 14,269

65 NH PUC 249

New Hampshire Public Utilities Commission

June 4, 1980

PETITION of a gas company to issue a stock dividend; granted.

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SECURITY ISSUES, § 73 — Stock dividend.

[N.H.] The commission authorized a gas company to declare and issue a stock dividend of three shares for each 100 shares of par value common stock presently outstanding, such dividend being consistent with the public good and in conformity with applicable statute.

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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 May 27, 1980, represents that as of April 30, 1980, the common stockholders' equity in the company was as follows:

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

400,000 shares \$5 par value authorized	
242,568 shares \$5 par value issued	\$1,212,840
Capital surplus	425,446
Retained earnings	2,329,597
Total common equity	<u>\$3,967,883</u>

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Whereas, the company proposes to issue no more than 7,277 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 90 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 \$9 per share, the quoted bid price as of the declaration date, May 27, 1980; and

Whereas, the company proposes that the record date for payment of this stock dividend will be the later of June 17, 1980, 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

Whereas, in support of its petition, the company has appended to its petition certain financial statements, consisting of current balance sheet and current income statement items showing adjustments for financing, both of which are dated as of April 30, 1980, 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 Manchester Gas Company held on March 26, 1980; 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 provision 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 \$9 per common share;

and it is

Further ordered, that within thirty days after the 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 fourth day of June, 1980.

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NH.PUC\*06/09/80\*[78598]\*65 NH PUC 251\*Public Service Company of New Hampshire

[Go to End of 78598]

## Re Public Service Company of New Hampshire

Intervenors: Community Action Program, Legislative Utility Consumer's Council, Department of Defense, General Services Administration, Business and Industry Association, and New Hampshire People's Alliance

DR 79-187, 35th Supplemental Order No. 14,271

65 NH PUC 251

New Hampshire Public Utilities Commission

June 9, 1980

PETITION of an electric company to increase rates; granted as modified.

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1. RATES, § 247 — Failure of commission to act — Applicable rates.

[N.H.] A utility may place its proposed rates into effect subject to refund if the commission fails to act within six months on the utility's application. p. 253.

2. EXPENSES, § 26 — Advertising expense — Test of reasonableness.

[N.H.] The standard for the allowance of advertising expenses has been whether they are fair and reasonable under all circumstances. p. 258.

3. EXPENSES, § 26 — Advertising expense — Implication as to unreasonableness.

[N.H.] The commission excluded from the test-year expenses of an electric utility the expense associated with an advertisement that contained the word "blackout," stating that such a word carried an implied threat that was outside the standard of reasonableness. p. 258.

4. EXPENSES, § 48 — Dues — Excluded as nonrecurring.

[N.H.] The commission excluded from test-year expenses dues paid to a research institute, since the expense was nonrecurring. p. 259.

5. EXPENSES, § 11 — Nonestablished expenses — Removal from test year.

[N.H.] In support of the test-year concept, the commission disallowed a utility's contention that possible, future, and nonestablished expenses should offset established and currently recognized nonrecurring charges. p. 260.

6. EXPENSES, § 26 — Consumer education expenses — Allowance as reasonable.

[N.H.] The commission stated that expenses associated with a company-operated educational center, the purpose of which was to educate consumers as to the safety of a nuclear power plant and to stress the benefits of reduced reliance on foreign oil, were includable in test-year expenses as just and reasonable. p. 261.

7. EXPENSES, § 99 — Pro forma wage adjustments — Emergency conditions.

[N.H.] The commission normally would not allow substantial pro forma adjustments that were significantly removed from the test year; however, recognizing that the existence of a financial emergency required deviations from the norm, the commission allowed the pro forma adjustment to wage expense requested by a utility. p. 261.

8. EXPENSES, § 114 — Tax normalization — Interests of investor and consumer.

[N.H.] The commission allowed a utility full normalization of interperiod tax-saving differences related to depreciation and certain costs capitalized on books but expensed for tax purposes, noting that the overwhelming majority of jurisdictions had performed their obligation to balance the interests of investor and consumer by allowing tax normalization; the commission stated that normalization would contribute to the financial stability of companies and improve fixed charge coverages thereby resulting in establishment of a lower return on common equity, and would increase cash flow resulting in a reduction in external financing requirements. p. 265.

9. EXPENSES, § 88 — Lobbying expenditures.

[N.H.] It is a well established regulatory principle that utility expenditures associated with lobbying

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activities should be treated below the line and, therefore, not charged to consumers. p. 265.

10. VALUATION, § 25 — Date of valuation — 13-month average method.

[N.H.] The commission accepted the 13-month average method in calculating rate base rather than a 12-month calculation because the 13-month method provided a better match to test-year income and expenses, thus doing greater honor to the test-year concept. p. 269.

11. VALUATION, § 213 — Property held for future use — Rate base.

[N.H.] In determining whether property held for future use should be included in rate base, the commission found that the record supported a concern over whether any given parcel was bought for speculation, that a case-by-case, parcel-by-parcel approach adequately balanced the concern of ratepayers and stockholders, and that a utility must demonstrate a definite plan for actual use within a reasonable time. p. 271.

12. VALUATION, § 293 — Working capital allowance — Calculation.

[N.H.] The commission adopted the lead-lag method of determining working capital allowance in light of the commission's determination that the 45-day rule tended to underestimate the working capital requirements for some utilities while grossly overestimating the working capital of other utilities. p. 273.

13. RETURN, § 35 — Attrition allowance.

[N.H.] The commission approved a 0.2 per cent attrition factor to a utility's rate of return, noting that there were compelling reasons to examine a departure from flat attrition factors, but reserving the question for a rule-making proceeding in the foreseeable future. p. 284.

14. RATES, § 351 — Rate design — Residential rates.

[N.H.] The commission required an electric company to standardize the rates charged residential ratepayers by flattening the residential rates in lieu of charging declining block rates which fail to provide proper economic benefits for the recognition of conservation. p. 288.

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APPEARANCES: Philip Ayers, Martin Gross, and Franklin Hollis for Public Service Company of New Hampshire; Gerald Eaton for Community Action Program; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council; Jefferson M. Shaffner for the United States Department of Defense and General Services Administration; Dom S. D'Ambruoso for the Business and Industry Association; Gerald Cleary for the New Hampshire People's Alliance.

Before Love (dissenting), chairman.

BY THE COMMISSION:

Report

*I. Procedural History*

These proceedings were initiated by Order No. 13,617 of the commission issued May 8, 1979 (64 NH PUC 124). This order established docket DR 79-107 and was necessary because of the enactment of RSA 378:30(a). Order No. 13,617 provided the Public Service Company of New Hampshire with two options: file a new tariff implementing RSA 378:30(a) or show why the commission should not issue an order eliminating from the company's existing rates that portion of the rates based on the inclusion of construction work in progress (CWIP) as of May 7, 1979.

The Public Service Company of New Hampshire (hereinafter referred to as "PSNH" or the "company") chose the second option and hearings were subsequently held. Briefs were submitted by the various parties. On August 15, 1979, PSNH filed for an interim rate increase in the amount of \$8.8 million effective September 6, 1979. By Order No. 13,790 ([1979] 64 NH PUC 290) this request was suspended.

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Subsequent to the filing for the interim rate increase (DR 79-166), the commission rendered an initial decision which found that RSA 378:30-a was clear in that it mandated removal of CWIP from rate base. Report and Order No. 13,799 ([1979] 64 NH PUC 295). The

aforementioned decision also required additional hearings to establish just and reasonable rates. Since PSNH had pending a rate increase request (DR 79-166), the two dockets were consolidated. Shortly thereafter, PSNH withdrew the interim rate increase request and in place thereof filed a request for a permanent increase of \$18,499,170 (August 31, 1979). This new filing was given docket DR 79-187. On September 5, 1979, the commission consolidated DR 79-107 and DR 79-187 into the latter by Order No. 13,810 (64 NH PUC 312). By Supplemental Order No. 13,811 ([1979] 64 NH PUC 313), the commission suspended the permanent increase and associated tariffs.

The commission held a procedural hearing on September 5, 1979. In Report and Order No. 13,840 ([1979] 64 NH PUC 336), the commission set forth the initial procedural guidelines for this proceeding. Pursuant to that order, PSNH filed testimony on October 1, 1979. Subsequent to that filing, extensive discovery was performed by the commission staff. Discovery was also undertaken by the various parties to the proceeding.

On November 27, 1979, PSNH filed an application for authority to alter existing rates based on the assertion of a financial emergency. The requested emergency increase, \$11,970,591 was scheduled as the subject of hearings beginning December 11, 1979, and continuing through December 14, 1979.

Testimony was received from three PSNH witnesses and one witness from the Legislative Utility Consumers' Council (hereinafter referred to as "LUCC"). On December 21, 1979, the commission found that an emergency did exist and allowed the requested rate increase to become effective on December 28, 1979, subject to refund and under protection of bond.

[1] If the commission fails to act within six months, RSA 378:6 allows a utility to place its rates into effect subject to refund. Cognizant of this statute, but also aware of the commission's previous decision on rate design (associated with the emergency increase), PSNH requested an agreement by all parties to temporary rates reflecting the entire revenue request, but in conformance with the rate design used by the commission in the emergency rate decision. All parties agreed, and the rates were changed effective with usage on or after April 1, 1980. All parties reserved their rights to challenge the design of the rates, both as to allocations between and within customer classifications.

Hearings were held throughout early 1980. During these hearings, PSNH discovered a calculation error in its allocation costs between jurisdictions. This error resulted in a revised request of \$19,319,622.

On April 10, 1980, the commission ordered that PSNH should begin to refund \$11,301,245, which the commission found to be based on the inclusion of CWIP in rate base. Report and 22nd Supplemental Order No. 14,175 (65 NH PUC 162).

The commission, during the pendency of this case, has received the benefit of testimony and argument from the various parties totaling nearly 5,000 pages of transcript. Thirty-two hearings were held at the commission. In addition

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public input was received at five meetings held through the state. The various parties

submitted approximately 125 exhibits, of which the majority are associated with research and analyses performed by the commission staff. Briefs were submitted on April 30, 1980, and reply briefs followed on May 9, 1980.

This case has severely taxed the regulatory system in New Hampshire, both in terms of time spent as well as the complexity of the issues involved. While parties to regulatory proceedings often complain of either regulatory lag or procedural unfairness, neither claim can be asserted as to this record. The magnitude of the testimony and exhibits clearly demonstrates a concern for exploring as many issues as was humanly possible. As to the question of regulatory lag, the commission would note that twenty-eight hearing days encompassing nearly 4,400 pages of transcript transpired before the bonding date. This compares favorably to the eight hearing days encompassing 923 pages of transcript held prior to the bonding date in DR 77-49 ([1978] 63 NH PUC 127), the last time PSNH sought a basic rate increase.

## II. *Extraordinary Factors*

This proceeding presents the commission with extraordinary and unique factors resulting from the chaotic money markets. Never in modern history has the prime rate fluctuated as rampantly and as quickly as has occurred during the pendency of this case. The following table delineates the prime rate being charged as of the date of selected commission orders and is illustrative:

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

<i>Commission Action</i>	<i>Date</i>	<i>Prime Rate</i>
Suspension of Increase	September 5, 1979	12.25%
Emergency Rate Order	December 21, 1979	15.25
Refund Rate Order	April 10, 1980	20.00
Permanent Rate Decision	June 7, 1980	13.00

The volatility of the market places unparalleled difficulty in setting just and reasonable rates, both for now and for the foreseeable future. *Chicopee Mfg. Co. v Public Service Co. of New Hampshire* (1953) 98 NH 5, 11, 98 PUR NS 187, 93 A2d 820. Whether the present financial situation is an aberration, a precursor of future events, or a time period that will be affectionately remembered as the "good old days" is difficult, if not impossible, to foretell.

## III. *Financial Emergency — Long Term Versus Short Term*

The commission by Order No. 13,962 ([1979] 64 NH PUC 458) found PSNH to be in a financial emergency. In the history of regulation before this commission, findings as to financial emergencies have been rare. Any doubt as to the commission's perception of a financial emergency was eliminated when PSNH's bond rating was lowered to speculative. Such a condition effectively precludes PSNH from low-cost financing, and during time periods of extraordinary interest rates, this financial rating acts as an almost insurmountable barrier to debt financing. Therefore, the commission finds that events after the emergency rate order have demonstrated the accuracy of the commission's finding.

In responding to the various issues raised by the parties to this proceeding, the commission has determined that it is necessary to look at the broader picture. Whether the requested level of



revenues in this proceeding are granted in whole or in part, the result will not be a panacea to the financial ills of this company. Just as the rates established in DR 77-49, the rates granted can only last PSNH a limited number of months. There are significant other factors that must now be addressed given the finding of a financial emergency. To place our concern into the vernacular, it is the commission's obligation to attempt a development of a long-term solution as opposed to a "quick fix." The commission will not, nor cannot, allow PSNH to wander from one financial emergency to another. Rather, the commission throughout this order will order steps designed to alleviate a portion of the financial emergency and to provide a greater degree of financial flexibility.

The importance of providing financial flexibility to PSNH is necessary for both the interests of consumers and the company. At the present, PSNH must continually enter the market for permanent capital. A greater degree of flexibility will allow PSNH to be more selective on the timing of these placements. Given the volatility of the financial markets, this goal is one of necessity rather than nicety.

#### IV. *Test-year Expenses*

##### A. Time Period

Public Service Company of New Hampshire initially filed testimony and exhibits supporting use of a test year ending May 31, 1979. Significant pro forma adjustments, both in magnitude and in number, have been proposed by PSNH. During the waning days of this proceeding, testimony and exhibits were offered by PSNH which sought to update the test year to twelve months ending December 31, 1979. The commission refused to accept these exhibits into evidence primarily because acceptance would have severely compromised the rights of the other parties, as well as being a denial of procedural due process. While an updating of a test-year period is not foreclosed at this commission, *Re Union Teleph. Co. (1979) 64 NH PUC 165*, compelling reasons must exist before this commission allows the target to become mobile.

##### B. Property Taxes

The company submitted a pro forma adjustment, which provided its best estimate as to property taxes for a tax year ending March 31, 1980. Development of this pro forma was achieved through the use of an estimate for property taxes on company-owned property, which was then added to an estimate for the real estate taxes on the leased properties. Together the two estimates combined to arrive at a total of \$13,317,360 on a companywide basis.

Staff, in evaluating this estimate, produced staff Exh 28, which provided an updated figure based on actual property tax bills. This new figure, \$13,200,802, was later revised by PSNH to \$13,199,984, which incorporated actual tax bills for a portion of the lingering estimates. Pursuant to commission inquiry, the aforementioned figures were compared with PSNH's 1979 annual report to the commission. (Transcript, pp. 29-84.)

Before performing an analysis to determine the proper property taxes for

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deriving net operating income, the commission finds it necessary to illustrate the dramatic increase that has occurred in this one expense since the last rate case. Solely focusing on

property taxes associated with PSNH's property, property taxes have increased in *excess of \$2 million*, or approximately 20 per cent.

Staff Exh 22, which focuses on the major property tax bills, provides greater insight into the magnitude of the problem.

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

City or Town	Dollar Increase Since DR 77-49	Per Cent Increase Since DR
Dover	42,959	21
Franklin	77,412	45
Hooksett	43,252	44
Hudson	55,617	40
Laconia	22,562	18
Manchester	223,122	19
Nashua	163,703	45
Newington	144,276	26
Somersworth	20,920	26

These dramatic increases result in three immediate consequences for PSNH and its customers.

First, these increases, together with other factors, shorten the time period between rate increase requests. Second, these extraordinary jumps in property taxes increase the magnitude of the increase. This occurs not only from the taxes themselves, but also from the associated legal fees spent in attempting to challenge these dramatic increases. Finally, by placing unreasonable increases on PSNH in lieu of a more equitable distribution among all local taxpayers, these town officials are choosing to worsen the financial situation of the average residential consumer-ratepayer. While electricity costs are a cost of doing business for industrial and commercial customers and therefore deductible for tax purposes, the residential customer-taxpayer pays his or her electric bill out of income after taxes. In lieu of paying an electric rate based in part on an unreasonable portion of property taxes, if the residential consumer-taxpayer paid a reasonable property tax bill for his or her property there would be an additional tax deduction available. The commission, by this analysis, does not suggest nor advocate an absence of property taxes for utilities. Rather, the commission is merely indicating that unreasonable levels of taxes are being leveled on PSNH, which is then forced to be a tax collector for the cities and towns. This process is ingenious in that it places the company and eventually this commission in the role of heavies while still allowing the same local officials an opportunity to decry the increase in electric rates.

The figure of \$13,199,984 offered by PSNH is primarily actual; however, there exists a few remaining estimates within that figure. As was previously noted, the commission inquired concerning the differential between this figure and the \$13,059,081 that appeared in the 1979 annual report. Further inquiry by the commission revealed that a portion of these taxes related to property in Massachusetts. If this property is associated with the construction of Pilgrim II, then the amount

should be capitalized and not placed in test-year expenses. If these taxes relate to property

not related to Pilgrim II, there has not been a demonstration that the property is used and useful. Consequently, the commission will adopt the figure of \$13,021,581, which is the result of the calculation using the figures in the annual report minus the taxes associated with the Massachusetts property. The commission will, therefore, deduct \$178,403 from the calculations offered by the company in arriving at a proper test-year property tax calculation.

Because our analysis reveals a continuing effort by the cities and towns to dramatically increase PSNH property taxes and, further, due to our finding of financial emergency, the commission will allow a secondary increase as of April 1, 1981, based on any increased property expenses incurred between March 31, 1980, and March 31, 1981. The only condition applied to this grant is that PSNH continue its legal efforts to challenge property taxes found by management to be unreasonable.

### C. State Franchise Tax

The state of New Hampshire (state) has also demonstrated a degree of genius in the method employed to calculate the New Hampshire franchise tax. Since the passage of the statute enacting the franchise tax, PSNH as well as other New Hampshire utilities have been required by the state to treat allowance for funds used during construction (AFUDC) as income for purposes of calculating the level of franchise tax owed the state.

Public Service Company of New Hampshire has demonstrated the magnitude of this decision by the following table, which is reproduced from Exh P-27:

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

	Actual Franchise Taxes Charged to Expenses	Franchise Taxes Reflecting no AFUDC	Difference
1975	\$1,452,599	\$1,284,291	\$ 168,308
1976	1,409,272	1,078,182	331,090
1977	1,485,084	806,792	678,292
1978	2,481,974	1,629,981	851,993
1979	2,954,037	891,709	2,062,328

The table demonstrates that whereas in the past the difference was comparatively inconsequential, this situation is rapidly changing to that of monumental proportion. The commission is acutely aware that this differential will continue to dramatically increase given PSNH's plans for the future. While this factor is presently significant, the acceptance by the state of this treatment for AFUDC will necessitate larger increases in the future.

The testimony in this docket reveals that AFUDC is an accounting entry and not actual cash revenue. Mr. Harrison properly characterized AFUDC as a promise to pay in the future. Yet the decision by the state to impose a tax on AFUDC income results in a double collection from ratepayers. First, during the construction period when such allowances are included as income and again when the plant becomes operational, a return is earned on the plant. When the plant becomes operational and is placed in rate base, the accumulated AFUDC is also placed in rate base, which is then multiplied by

a return which is then subject to the New Hampshire franchise tax.

The effect of this double collection from ratepayers has been challenged by PSNH. The commission applauds Public Service Company for this attempt to minimize the costs of electricity to its ratepayers. The commission would hope that the various intervenors would assist PSNH in this venture. The commission itself believes that the question of whether or not AFUDC income should be subject to the state franchise tax should be certified to the supreme court. The commission will on its own motion certify this question to the supreme court, together with a technical appendix explaining AFUDC in detail.

For the purposes of this rate case, the most recent figure for the state franchise tax is \$2,954,037. This figure will be adopted for purposes of this decision. Correspondence to the commission and circulated to all parties reveals that PSNH estimates that the 1980 bill will be in excess of \$3.5 million. After resolution of the aforementioned question by the supreme court, the commission will give consideration to recognition of this expense.

#### D. Advertising Expenses

The LUCC challenges certain advertising expenses associated with Edison Electric Institute (EEI) advertisements and certain PSNH radio advertisements. The total level of test-year expenses associated with these two sets of advertisements is \$62,932. The LUCC challenges the entire level of EEI advertisements (\$32,132) and one-third of the radio advertisements (\$10,472). The basis of the challenge is rooted in the PURPA standard § 113b(5). Specifically, the LUCC argues that the advertisements in question are political in nature, in that they foster the image of PSNH and advocate a position on nuclear power.

In response, PSNH cites our attention to commission docket DR 79-63 on utility advertising. This docket is a rule-making proceeding, and PSNH raises the issue that new standards should await its completion, or otherwise the commission will violate the Administrative Procedures Act (RSA 541-A). Public Service Company of New Hampshire further contends that all advertising falls into three categories — political, promotional, and institutional. The advertising in question is viewed by PSNH as institutional in nature and, therefore, allowable as a test-year expense.

[2] The standard in this state for the allowance of advertising expenses has been whether they are fair and reasonable under all circumstances. *Re Public Service Co. of New Hampshire*, 63 NH PUC at pp. 133, 134. As was stated in the aforementioned docket, this commission has not established any specific standard other than the general test of just and reasonable. Docket DR 79-63 is an attempt to remedy this situation. Therefore, the commission will apply the general standard until the commission completes its deliberations in DR 79-63.

[3] The two radio advertisements placed into question by the LUCC have been marked as LUCC Exhs 28 and 29. Subjecting these advertisements to the general just and reasonable standard, the commission finds that only LUCC Exh 29 should be excluded from test-year expenses. This advertisement contains the word "blackouts." As such, there is an implication of a threat that the commission finds outside the standard of reasonableness. Therefore, the

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commission will exclude one-half of the contested radio expenses, or \$5,472, from test-year

expenses.

The EEI advertisements certainly advocate an energy viewpoint. However, similar advertisements have been allowed in test-year expenses previously (63 NH PUC 127). Absent a rule-making proceeding, the commission cannot find that these advertisements contravene the general standard of just and reasonable. Therefore, these expenses will be allowed as a test-year expense.

#### E. Electric Power Research Institute Dues

[4] Test-year expenses included fees paid to the Electric Power Research Institute (EPRI) of \$535,102. Staff witness Sullivan, in his testimony, suggested that these dues should be removed from expenses as nonrecurring. Mr. Sullivan's conclusion was based on PSNH testimony, that due to its financial emergency, dues would not be paid for 1980. The LUCC is in accord with the recommendation of Mr. Sullivan. Public Service Company of New Hampshire counters these suggestions by relying on the testimony of Mr. Adams. Mr. Adams stated that EPRI would probably be paid after the divestiture. Upon a review of the contentions made by the various parties, the commission finds the expense to be nonrecurring. Therefore, the commission will remove \$535,102 from the test-year expenses.

#### F. Cresap, McCormick and Pagent, Inc., Expenses

Three years ago this commission ordered an outside audit of PSNH. The cost of this audit has been amortized over the past three years. The amount in the test year is \$119,084 or the remainder of the \$273,000 + total cost. Staff Finance Director Sullivan recommended the removal of this expense based on its nonrecurring nature. The LUCC supports the removal of this expense. Public Service Company of New Hampshire argues that there is no assurance that the commission will not order similar audits in the future. The LUCC counters this argument with a citation from the transcript that Mr. Sullivan, although personally agreeing that another audit was possible, still remained firm on his recommendation for removal from test-year expenses.

Public Service Company of New Hampshire also asserts that other expenses can arise that would replace the expense incurred for Cresap, McCormick and Pagent, Inc. An ice storm was offered as an example of an unforeseeable expense that could impact upon a utility's earned rate of return. It is PSNH's position that a removal of all nonrecurring expenses will leave PSNH with no protection against an unexpected increase in a particular expense or an unanticipated expense.

The commission has steadfastly adhered to the test-year concept enunciated by the supreme court in *Public Service Co. of New Hampshire v New Hampshire* (1959) 102 NH 150, 30 PUR3d 61, 150 A2d 80. In that case the court stated the concept as follows (102 NH at pp. 162, 163, 30 PUR3d at p. 72):

"The test year is designed to produce an index to the deficiencies and earnings which the companies will probably encounter in the immediate future as indicated by actual operations in the known and recent past. To the extent that test-year figures can be accurately pro formed to reflect established and

current changes in revenues or expenses, modification of test-year figures is considered appropriate."

[5] This test clearly recognizes that any adjustments to the test year must be known and measurable. Public Service Company of New Hampshire's position that possible, future, and nonestablished expenses should offset established and currently recognized nonrecurring charges cannot be sustained. The supreme court in *Public Service Co. of New Hampshire v New Hampshire*, *supra*, supports this finding by its language which is as follows:

" 'If the commission adjusts the results of the test year to meet facts i.e., the wage increase ... it is on firm ground. To do more ... would destroy or seriously weaken the effectiveness of the test year, a valued and respected tool in rate making.' *Central Maine Power Co. v Maine Pub. Utilities Commission* (1957) 153 Me 228, 242, 243, 21 PUR3d 321, 136 A2d 726." (As approved 102 NH at p. 163, 30 PUR3d at p. 72.)

Therefore, the commission will remove this expense, \$119,084, from test-year expenses.

#### G. Charitable Donations

Public Service Company of New Hampshire requests that it be allowed to restate income statements so as to reflect \$50,050 of charitable contributions "above the line." The commission has traditionally recognized charitable contributions as proper expenses for rate making and will therefore allow PSNH's proposed adjustment. Re *Public Service Co. of New Hampshire* (1978) 63 NH PUC 127; Re *Exeter & Hampton Electric Co.* (1980) 65 NH PUC 209.

#### H. Yankee Atomic Electric Consulting Fee

The LUCC contends that PSNH's test-year expenses should be reduced by \$3,962. This figure relates to the expenses for services provided by Yankee Atomic Electric. Legislative Utility Consumers' Council offers as support for their contention the response of Mr. Littlefield who indicated that in the future this expense will be capitalized. The commission agrees with LUCC's contention and will therefore reduce test-year expenses by \$3,962.

#### I. Seabrook Education Center Expenses

Staff witness Sullivan and the LUCC have requested the commission to remove expenses relating to the Seabrook Education Center from test-year expenses. The requested reduction is \$45,514 which is the cost of operating and maintaining the center during the test year. Staff witness Sullivan bases his conclusion on the premise that the center is promotional advertising. The LUCC asserts that the center exists to transmit a message about nuclear power and that the center does not lower the cost of providing electricity or assist in the production of energy.

Public Service Company of New Hampshire asserts that one reason for the existence of the center is to educate consumers as to the safety of the plant and to stress the benefits of reduced reliance on foreign oil.

The staff has not had an opportunity to visit the education center. The LUCC's contention is weakened by their position in this proceeding as well as others that PSNH should own a larger share of Seabrook so as to offset the use of imported oil.

[6] Upon a review of the arguments presented and on the basis of this record the commission finds the expenses to be within the limits of just and reasonable expenses.

#### J. Payroll Expense

Public Service Company of New Hampshire has proposed a pro forma adjustment of \$3,467,571 to reflect increases in payroll expense after May 31, 1979. This figure has three components: (1) an annualized \$1,500,539 increase in base payroll as of May 31, 1979, resulting from pay increases, additional employees, and promotions which took place during the test period, but were not reflected in test-year expenses; (2) a 7.5 per cent increase in operating payroll effective June 1, 1979, not reflected in the test period which equates to a \$1,020,703 increase; and (3) a \$365,994 increase which represents an average increase of 3.75 per cent in management payroll expenses occurring after the test year. Wage increases trigger certain additional costs in pension, insurance, and payroll costs. Public Service Company of New Hampshire has requested \$580,335 for these costs.

The cumulative total of this adjustment does not reflect either increased employees or a 7.9 per cent increase effective May 31, 1980. However, Exh P-31, Attachment F, p. 14 quantifies this latter increase as of May 31, 1980. In brief, PSNH requests that this adjustment be allowed by the commission as well.

No objections were raised by any of the other parties to these pro forma adjustments to wages which have been traditionally viewed by this commission as known and measurable changes. Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121; Re Concord Electric Co. (1978) 63 NH PUC 197; Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209. The wage pro forma as shown on P-5-E, p. 16 of 22, will be allowed as a known and measurable change.

The pro forma adjustment on P-31, Attachment F, p. 14 is an annualized figure and, therefore, would cover wage expenses and associated benefits through June 1, 1981. If recognition were made immediately, the revenue to cover these expenses would be collected at a faster rate than the expenses would be incurred. This, at a minimum, would require a reduction in the working capital allowance.

[7] Normally, this commission would not allow substantial pro forma adjustments this far removed from the test year. However, the existence of a financial emergency requires certain deviations from the norm. The commission will allow a full recognition of these increased wage expenses effective with all bills rendered on or after January 1, 1981. Complete matching of revenue and expenses would require recognition of this expense as of December 1, 1980. Due to the likelihood of increased sales, the commission will move the date back to January 1, 1981.

Therefore, the pro forma adjustment requested by PSNH on P-5-E is allowed. The entire 7.9 per cent wage increase negotiated as of June 1, 1980, will be reflected in PSNH's tariffs by a secondary adjustment as of January 1, 1981.

#### K. Distribution Plant Depreciation Rate

Public Service Company of New Hampshire engaged the firm of Gilbert

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Associates to examine the validity of its 3 per cent depreciation rate for distribution plant. An extensive study was performed by Gilbert, which culminated in the testimony and exhibits of Mr. Aikman. From his study, Mr. Aikman makes a recommendation that the present rate of depreciation is not an equitable level and that a proper rate is 3.98 per cent. This recommendation results in a reduction in test-year operating income of \$1,196,865.

Staff witness Sullivan agreed with PSNH's proposed adjustment except as to one aspect. Mr. Sullivan noted that PSNH had been expensing the cost of removal of certain items of distribution plant and that the 3.98 per cent rate also recognized these costs. Such a situation would result in a duplication of expenses to the consumer. The focus of staff's finding as to duplication related to the removal of meters and transformers. The expense in the test year for these removal costs was \$43,519. The removal of this expense would increase net operating income after the resulting increase in income taxes by \$22,411. Upon reflection of staff's input, PSNH agreed as to the validity of the concern.

The LUCC requests that the commission totally disallow the increased depreciation rate. The LUCC rests its contention upon the following: (1) the change is merely another attempt to have current consumers pay for construction at Seabrook in violation of RSA 378:30-a; (2) the company has failed to provide sufficient information for the commission to utilize in determining whether the proposed change is just and reasonable.

The LUCC's contention as to RSA 378:30-a cannot be sustained. Mr. Aikman's findings revealed that the present depreciation rate was not fully covering the loss not restored by maintenance from all factors that cause the ultimate retirement of property. Public Service Company of New Hampshire's evidence relates to existing property that is presently used and useful. No portion of the increased depreciation expenses relates to construction since one cannot depreciate what is not completed. Nor does the proposed adjustment seek to recover any previous or any past deficiency. Rather, the company's proposal as adjusted by staff is offered to comply with the right to a reasonable depreciation expense as established in *New Hampshire v Hampton Water Works Co.* (1941) 91 NH 279, 38 PUR NS 72, 18 A2d 765. Legislative Utility Consumers' Council appears to be stating that if recognition of a reasonable expense provides an additional benefit, it is a violation of RSA 378:30-a to provide recognition of the reasonable expense for rate-making purposes. The argument is fallacious. Revised Statute Annotated 378:30-a does not have any relationship to a reasonable depreciation rate on property presently in existence.

Legislative Utility Consumers' Council second argument as to the failure of PSNH to carry its burden of proof is unsupported by the record. The mere fact that PSNH did not incur a cost to examine all of its depreciation rates is of little consequence in determining the validity of the depreciation rate examined; namely, distribution plant.

Another aspect of LUCC's contention as to burden of proof relates to the alleged failure of Mr. Aikman to personally inspect all of PSNH's distribution plant. Mr. Aikman visited a number of PSNH's locations consisting of distribution plant. The failure to visit and inspect all of the distribution plant



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is an unnecessarily rigid requirement, which the commission refuses to accept. Legislative Utility Consumers' Council also raises the question as to what other product mix is available from different manufacturers. The question miscasts the issue, in that the commission is concerned with existing plant, not what hypothetically might exist. If there are savings to be made on PSNH's product mix for distribution plant, then LUCC should come forth with evidence showing the available savings.

Upon consideration of the arguments raised, the commission will accept the pro forma depreciation expense as adjusted by staff.

#### L. Normalization

Public Service Company of New Hampshire seeks to adopt full normalization of interperiod tax-timing differences related to depreciation and certain costs capitalized on books but expensed for tax purposes. The monetary effect of this proposal is to reduce test period net operating income by \$3,655,122 on a companywide basis. On a jurisdictional basis and after making appropriate adjustments for federal income taxes, the proposal results in a jurisdictional revenue requirement of approximately \$6,120,118. This figure applies to the requirement and would fluctuate according to the revenue requirement granted.

As a result of prior rulings by this commission, PSNH is presently a partially normalized company (approximately 60 per cent). At present, of the 117 electric utilities shown in commission Exh 7, 86 are permitted full normalization, 18 others like PSNH are permitted partial normalization, and 12 are required to "flow through." The request to proceed to full normalization involves the provision of deferred taxes for two additional items. First, the excess of depreciation permitted by the guideline life system over book depreciation (straight line). Second, the taxes, pension costs, and other expenses capitalized on the books and expensed for tax purposes. In addition, PSNH's proposal includes a deficiency adjustment to be amortized over the next twenty-nine years. These three items produce a pro forma increase adjustment to test-year expense totaling \$3,832,760 to move PSNH from partial to full normalization. Public Service Company of New Hampshire asserts that no evidence has been presented challenging the accuracy of this figure. Rather, PSNH casts the issue in terms of whether or not this adjustment should be made as a matter of regulatory policy.

Public Service Company of New Hampshire begins its argument with citation to previous decisions by this commission on the question of normalization. This review leads PSNH to the conclusion that the commission's existing regulatory policy permits full normalization for rate-making purposes. Public Service Company of New Hampshire first directs the commission's attention to the settlement of PSNH's 1971-74 rate case where in 1975, the commission approved a settlement which included as one of its terms an allowance of partial normalization.

Staff Exh 26, a commission accounting circular; is the next point of reference. This accounting circular, promulgated in mid-1970, provides utilities the option of tax benefits resulting from the use of liberalized depreciation. The commission in the accounting circular (staff Exh 26) reserved

the right to reconsider the matter in the future in the event of changes in federal or New Hampshire law, or the Internal Revenue Code affecting liberalized depreciation. Public Service Company of New Hampshire asserts that no such changes have occurred.

Further support for full normalization, according to PSNH, is found in our decision involving Re Hudson Water Co. (1979) 64 NH PUC 35, 28 PUR4th 617, 620. In that proceeding, the commission allowed Hudson Water to fully normalize. The commission stated that (28 PUR4th at p. 620):

"It is felt that the company should be afforded equal treatment with other companies who have been allowed to normalize the effects of accelerated depreciation."

Turning to the record, PSNH finds the first and foremost reason for adoption of full normalization is proper matching of costs and revenues. Public Service Company of New Hampshire contends that without normalization through deferred taxes, those who happen to be ratepayers in the later years of an asset's life would get the benefit of higher tax reductions for depreciation (and thereby lower tax costs) in the early years of an asset's life while those who happen to be ratepayers in the later years would be the subject of higher tax costs resulting from reduced tax deductions for depreciation.

Mr. Wakefield, who appeared for PSNH as its chief proponent of normalization, contended that the failure to adopt full normalization results in customers not being charged the true cost of service. Based on this testimony, PSNH asserts that flow-through accounting as a regulatory device is not consistent with conservation-directed rate regulation, in that underpricing electricity under flow-through accounting sends false signals to energy consumers. Public Service Company of New Hampshire concludes its argument by noting that whatever may have been the justification for depressing rates through flow-through accounting when regulators were seeking to encourage demand, that justification no longer exists under present circumstances where there is a vital interest in encouraging consumers to use realistically the energy presently available.

Public Service Company of New Hampshire maintains that normalization will be viewed as a positive sign by the investment community, which will have a favorable impact on the rate of return. This would occur because normalization would lower one of the risk measurements and consequently lower the cost of common equity.

Staff takes issue with certain aspects of PSNH's presentation. Mr. Sullivan suggests that PSNH be allowed full normalization prospectively. This suggestion would forestall resolution of this issue until the next PSNH rate case. Mr. Sullivan did not attempt to evaluate the merits of flow through or normalization, but rather expressed concern over the validity of the deficiency adjustment.

The LUCG objects to PSNH's request for full normalization. The LUCG cites our attention to various noted authorities and their discussion of normalization. The thrust of the comments cited is to put forward the concept that nationwide electric rates would be lower if they were based on flow through vis-a-vis normalization. A major concern of the LUCG is when will the "turnaround point" occur when the depreciation expense, tax reduction calculated under an accelerated depreciation method is less than that which is provided under the

straight-line method. According to the LUCC, the failure to demonstrate when the accounting turnaround will occur or its probable occurrence should result in a commission decision denying the adjustment.

The LUCC objects to the focus on a single asset as to the turnaround period since a more realistic situation is various assets of varying lives. The LUCC relies on the proposition that if rate base continues to grow, consumers are better off with flow through. The growth in assets, together with their differing lives, is used as evidence by the LUCC that cost-of-service principles are not served by normalization. Questioning by LUCC counsel raised concerns that the company will be required to collect double for deferred taxes. The LUCC joins staff witness Sullivan as to his concern over the "deficiency adjustment." Finally, the LUCC contends that adoption of normalization shifts a portion of the risk relating to operations. In its reply brief, the LUCC asserts that the commission cannot rely upon its reasoning in Hudson Water without violating RSA 378:30-a.

[8] The commission has allowed New Hampshire utilities to normalize since the advent of the accounting circular (staff Exh 26). The commission adopted full normalization for Hudson Water Company. (28 PUR4th at p. 620.)

The overwhelming majority of jurisdictions have performed their obligation to balance the interests of investor and consumer by allowing tax normalization. Normalization will contribute to the financial stability of companies and improve fixed charge coverages which will thereby necessitate in the establishment of a lower return on common equity. Federal Energy Regulatory Commission Order No. 530; Re Boston Edison Co. (FPC 1977) 21 PUR4th 113, Opinion No. 809; Re New England Power Co. Opinion No. 49-A, Docket Nos. ER76-304 et al. March 26, 1980.

An additional benefit will consist of increased cash flow reducing external financing requirements. Reduced entries into the money markets carries greater flexibility which will allow PSNH to be in a better position to take advantage of lower cost financings which will be of benefit to its ratepayers.

#### M. Public Utility Tax Assessment

Public Service Company of New Hampshire has requested a pro forma adjustment for an increase in the public utility tax assessment. Recognition of similar pro forma adjustments is standard practice before the commission. Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209. Therefore the pro forma adjustment will be allowed.

#### N. Industry Association Dues

Staff Exh 35 is a breakdown of the various industry association dues. Staff inquired as to the general knowledge of company witness Littlefield. Mr. Littlefield stated that he did not know whether or not any of the organizations listed engaged in lobbying activities. This statement was made despite an allocation made by PSNH to Account 426.4, below the line, for two of the associations.

[9] A review of PSNH's 1979 annual report to the commission reveals that there is an allocation of \$554 for lobbying activities conducted by the Edison Electric Institute (EEI). The record reveals that lobbying activities were also conducted by the Business and Industry

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Association (BIA). The commission is also aware that the Atomic Industrial Forum (AIF) conducts numerous lobbying activities. Consequently, the commission will remove 5 per cent from test-year expenses, the \$554 associated with EEI, 5 per cent of the BIA dues, and 10 per cent of the AIF dues — a downward adjustment in test-year expenses of \$2,433. It is a well established regulatory principle that utility expenditures associated with lobbying activities should be treated below the line and, therefore, not charged to consumers. Re Southwestern Bell Teleph. Co. (Ark 1979) 27 PUR4th 493; Re Georgia Power Co. (Ga 1979) 30 PUR4th 409; Re Central Vermont Pub. Service Corp. (Vt 1978) 28 PUR4th 469; Re Montana-Dakota Utilities Co. (F-3240) Dec. 28 1978 (SD).

O. Properties Inc.

The commission raised certain questions as to the allocations of expenses between PSNH and its nonutility subsidiary, Properties Inc. None of the parties with the exception of PSNH have addressed the issues associated with this relationship. The commission believes the record is inadequate to evaluate any proposed adjustments. However, the commission will reserve an option to examine these relationships in greater detail in the future.

P. Deferred Taxes — Debt Portion AFUDC

The company has requested a pro forma adjustment to deferred taxes to reflect to the change in the tax rate from 48 to 46 per cent. The pro forma adjustment is for \$384,961, and it is allowed.

Q. Corporate Tax Rate Change

Public Service Company of New Hampshire has properly adjusted its corporate federal income taxes to reflect the change in the rate from 48 to 46 per cent. The pro forma is based on a known and measurable change and therefore is granted.

R. Seabrook Advertising

All parties have agreed that the Seabrook advertising expenses that were ordered by the FERC to be expenses rather than capitalized are nonrecurring and therefore will be removed from test-year expenses.

S. Annualized Interest Expense

Staff economist, Robert Camfield, recommends that the commission should give recognition to increased interest costs, which reduce the future income tax liability and thereby increase net operating income. In staff Exh 54, Schedule III, Mr. Camfield annualized estimated interest costs as of September 30, 1979, which resulted in a figure in excess of the test year of \$6,160,194. This recognition would result in an increase in net operating income of \$1,478,590.

Public Service Company of New Hampshire requests us to reject Mr. Camfield's proposal.

The first argument is that the request is out of date based on the commission's decision to use a capital structure at April 30, 1980, for rate-making purposes. Secondly, PSNH relies on Mr. Littlefield's rebuttal testimony; other adjustments to the income statement would be required which would negate the effect of Mr. Camfield's pro forma. The evidence is

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not in the record to make an adjustment as of April 30, 1980. Therefore, the commission will not accept any pro forma.

#### *V. Revenue Adjustments*

##### *A. Wheeling Charges*

The company initially cited a downward adjustment in revenue for an estimated reduction in revenue from wheeling charges. Public Service Company of New Hampshire, upon review of this pro forma of \$141,200, has removed its request for rate treatment. Consequently, adjusted net operating income will be increased by \$72,714 for rate-making purposes.

##### *B. VELCO Revenue Adjustment*

Staff initially proposed an increase in revenue and consequently in net operating income on account of decreased sales from Merrimack II to VELCO. On cross-examination it was established that the downtime of the Merrimack II generating station results in an equal reduction in revenues and expenses. As such, the adjustment to net operating income cannot be made.

##### *C. Revenue Adjustment — Seabrook Advances*

The LUCC requests that the \$247,274 of prepaid interest on advances from Seabrook participants and \$100,413 of interest on advances that was not prepaid should be combined into a pro forma revenue adjustment. These costs were booked to Account 431.3, other interest, which is a "below-the-line" account. The LUCC asserts that if the commission does not make a pro forma revenue adjustment based on this "below-the-line" interest account, the commission will be violating RSA 378:30-a.

Public Service Company of New Hampshire responds by indicating the 431.3 account, other interest, is one of a series of accounts: 427 "interest on long-term debt," 431.1 "interest on short-term debt," 431.2 "interest on customer deposits." So analyzed, PSNH states that the absurdity of the LUCC is apparent. It is indeed. Payments of interest are below the line and therefore not applicable to ratepayers. The proper adjustment for the prepaid interest advances is through an adjustment to working capital as has been advocated by Mr. Sullivan. The LUCC's use of below-the-line interest accounts together with revenue adjustments and RSA 378:30a suggests that they are bordering upon logastellus. The pro forma adjustment is denied.

##### *D. 345-kv Revenues*

The company has requested recognition of decreasing revenues associated with use of its 345-kv lines. While staff conducted inquiry as to this adjustment, no irregularity was discovered. Consequently, a revenue reduction will be allowed of \$277,548.

##### *E. Wholesale Revenue Increase*

Public Service Company of New Hampshire has requested a revenue increase to reflect rates that went into effect for wholesale customers. The commission finds that a revenue adjustment should be made to reflect wholesale filings.

#### F. Customer Class Change

Public Service Company of New

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Hampshire has had in existence a number of Rate GR customers who were grandfathered under the GR rate that is now being transferred to the proper rate for their level of usage, Rate TR. This change results in PSNH receiving more revenues from these customers. Where customers are changed from one rate to another, proper rate making dictates a revenue adjustment. The proposal by PSNH of \$459,939 is accepted.

#### G. Peak-load Pricing Experiment

In compliance with a commission order in DR 75-20, PSNH conducted a one-year peak-load pricing experiment for Rate Classes D, G, and GV. Due to the pay either bill option required in the bill, there was a nonrecurring revenue reduction for the test year of \$120,094. Since the experiment has concluded, it is necessary to restore this revenue through a pro forma revenue increase of \$120,094.

#### H. Elderly Customer Discount

Pursuant to a commission order in DR 77-49, PSNH was required to place into effect an elderly customer discount. The order was not in effect for the entire twelve months of the test period and necessitates allowance of a revenue reduction of \$232,466.

#### I. Residential Service Optional Seasonal Rate

Public Service Company of New Hampshire's residential service optional seasonal rate was not operable the entire time period of the test year. To reflect this, a downward adjustment in revenue is necessary of \$29,634.

### VI. Rate Base

#### A. Use of 12- Versus 13-month Averages

Public Service Company of New Hampshire filed its rate base calculation to reflect 12-month averages. For support of this method the company cites the commission's attention to our decision in DR 77-49, PSNH's previous rate case. Staff witness Sullivan presented testimony based on 13 monthly averages from May 31, 1978, to May 31, 1979. Mr. Sullivan's rationale for use of this method was to properly match revenues and expenses with rate base. To achieve this goal, Mr. Sullivan stated that it was necessary to use the balance sheet amounts which commence with the beginning of the test period and consider each month through the end of the period.

Mr. Sullivan cites our attention to past decisions of this commission where the 13-month average was used. Re Concord Electric Co. (1978) 64 NH PUC 197; Re New Hampshire Electric Co-op., Inc. (1979) DR 78-124; Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209; Re

Union Teleph. Co. (1979) 64 NH PUC 934. In Union Telephone this commission stated the following (64 NH PUC at p. 443):

"The most accurate method for calculating rate base is an average of the 13 monthly balances for an historical test year. This approach provides for the most accurate matching of revenues, expenses, and investments."

Public Service Company of New Hampshire concedes that the 13-month average provides a better match to test-year income and expenses. However, PSNH contends that pursuant to Order No. 14,175 (65 NH PUC 162) it is clear

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that this decision will not adhere to strict test-year concepts. The LUCC supports use of a 13-month average as opposed to PSNH's 12-month average.

[10] The commission has attempted to establish a degree of uniformity in its decisions as to the various components that together culminate in a determination of the required revenue level. Mr. Sullivan noted the commission has consistently applied the 13-month average method to other New Hampshire utilities. The premise for acceptance of this method arises from our experience that this method does greater honor to the test-year concept. The commission finds that even whereas here there exists an emergency situation, just and reasonable rate making requires an adherence to fundamental test-year principles as a starting point. Therefore, the commission will adopt Mr. Sullivan's recommendations.

**B. Customer Deposits and Interest Thereon**

Mr. Sullivan noted that PSNH in making its rate base deduction for customer deposits failed to provide recognition of accumulated interest earned by customers on their deposits. Interest earned by customers and held by a utility is a source of funds which properly should be deducted from rate base. A utility receives a tax benefit from the interest expense for purposes of the income tax calculation.

Public Service Company of New Hampshire originally submitted a rate base deduction of \$773,632. Staff's proposal would reduce rate base by \$873,893. The commission finds it proper to deduct from rate base both customer deposits and the interest earned thereon.

**C. Customer Advances**

Public Service Company of New Hampshire failed to make a rate base deduction for the average level of customer advances. Staff raised the issue that customer advances, like customer deposits, must be deducted from rate base. To do otherwise would result in a utility earning a return on customer contributed funds. Public Service Company of New Hampshire has agreed with staff's position in brief. *Legislative Utility Consumers' Council v Granite State Electric Co.* (1979) 119 NH —, 402 A2d 644, requires the removal of both customer deposits and customer advances from rate base, and the commission so holds.

**D. Seabrook Information Center**

Both staff and the LUCC have requested removal of the investment from rate base. The arguments presented, as well as PSNH's responses, are identical to those taken under

consideration in resolving questions related to test-year expenses. The commission finds against the staff and LUCC position and will allow the inclusion in rate base.

#### E. Plant Held for Future Use

Public Service Company of New Hampshire proposes that plant held for future use be included in rate base in the amount of \$1,506,591. Staff has included the adjustment in their testimony and exhibits on rate base. The LUCC advocates either a partial or complete denial of this inclusion. Of particular concern to the LUCC is the failure of the commission in the past to set a standard for the inclusion of plant held for future use. The LUCC also expresses concern

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over failure of PSNH to project in-service dates for the various property holdings listed in this account. Finally, LUCC focuses attention on sales of property previously allowed in rate base and the inequities to the consumer that have resulted.

Plant held for future use has been required to be included by decision of our supreme court. *Public Service Co. of New Hampshire v New Hampshire* (1973), 113 NH 497, 505, 506, 2 PUR4th 59, 311 A2d 513. However, the amount of the inclusion is a question of fact. There does not appear to have been any previous challenge to PSNH's plant held for future use. A review of the record reveals substantial merit to LUCC's concerns.

In DR 77-49 (63 NH PUC 127), the commission included \$1,535,109 in rate base. This was the figure submitted by PSNH as of April 30, 1977. In December, 1977, pieces of property in this account were sold for \$22,500. This fact was not brought to the commission's attention and rates were based on the original April, 1977, figure.

The record reveals a similar disposal as of December 31, 1979, in the amount of \$5,000. This known and measurable change will be made thereby reducing PSNH's submission by \$5,000. The record also reveals that three of the properties, included in this account, do not have any planned in-service dates. In addition, PSNH's "long-range plans for bulk power supply facilities" regularly filed with this commission reveals that these sites have consistently been designated as having undetermined starting dates for construction.

Property held for future use has been the subject of inquiry in other jurisdictions. Three general standards have emerged. The first approach is a total exclusion based on a strict interpretation of used and useful. *Boston Edison Co. v Massachusetts Dept. of Pub. Utilities* (1978) — Mass — , 375 NE2d 305, *Re Utah Power & Light Co.* (Idaho 1979) 29 PUR4th 399. The second approach is to allow the total inclusion on the basis that management and not the commission should make the decision whether a local real estate market is such that a prudent business person would acquire sites sooner rather than later. *Re Arkansas Louisiana Gas Co.* (Ark 1972) 96 PUR3d 209, 219.

A growing number of jurisdictions have adopted a third approach whereby the commissions scrutinize property held for future use to determine if such acquisitions are prudent and for the benefit of consumers. The Virginia State Corporation Commission acknowledges that it is often necessary for a utility to acquire property in advance of scheduled construction, but before that commission allows undeveloped property in rate base, there must be a demonstration that the



property is a part of a definite plan for future development. Recently the Virginia commission excluded the value of all property upon which construction was not scheduled to commence within two years. *Re Appalachian Power Co.* (Va 1979) 30 PUR4th 54.

The Pennsylvania PUC allows the inclusion of property held for future use in rate base where definite plans are available within a reasonable time. A reasonable time has been held to be as long as ten years. *Pennsylvania Pub. Utility Commission v Philadelphia Electric Co.* (1978) 31 PUR4th 15.

The South Carolina supreme court has held that although the South Carolina commission had consistently excluded property held for future use

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from rate base, the better rule of law would require a factual determination regarding such parcels of property rather than arbitrarily excluding all such property from rate base. *Southern Bell Teleph. & Teleg. Co. v South Carolina Pub. Service Commission* (1978) — SC —, 25 PUR4th 1, 244 SE2d 278. Of particular concern to the South Carolina supreme court was whether the property was in fact bought for a definable future use or speculation. The South Carolina commission has followed a case-by-case, parcel-by-parcel approach in its recent decisions. *Re Southern Bell Teleph. & Teleg. Co.* (SC 1979) 30 PUR4th 263.

[11] The commission finds that the record supports the concern over whether any given parcel is bought for speculation. Furthermore, the commission believes that a case-by-case, parcel-by-parcel approach adequately balances the concern of ratepayers and stockholders. Finally, prior to any consideration of the merits involving a given piece of property, the commission believes a utility must demonstrate a definite plan for actual use within a reasonable time.

Public Service Company of New Hampshire has failed to demonstrate any definite plans or dates for use of three parcels of land totaling \$1,302,710. Therefore, the commission will disallow this portion of the inclusion in rate base. Together with the sold parcel referred to earlier an inclusion of \$198,881 will be allowed for plant held for future use.

#### F. Accumulated Deferred Income Taxes

In computing the rate base in its original testimony, the company deducted \$13,124,825 on account of average accumulated deferred taxes on income. The aforementioned figure was arrived at by use of a 12-month average for a total of \$16,173,537 and multiplying by 81.15 per cent. Staff disagrees with this proposal and substitutes their own recommendation so that the full amount of the deferred taxes based upon a 13-month average, or \$15,947,870, should be deducted from rate base.

Public Service Company of New Hampshire responded to staff's contention by revising their position by lowering their rate base deduction to \$9,832,081. In brief, PSNH contends that such a deduction includes all deferred taxes except those resulting from normalizing the income statement for the impact on income taxes of the interest component of AFUDC applied to major construction projects. This proposal would increase rate base by \$3,292,744 compared to PSNH's original proposal.

To support its contention PSNH relies upon Mr. Littlefield's analysis that if PSNH cannot include CWIP in rate base then customers cannot receive benefit from deferred taxes associated with AFUDC interest and related to construction.

Staff offers to the commission two approaches. The first is to deduct the full amount of deferred taxes from rate base or in the alternative to place the full amount of deferred taxes in the capital structures at zero cost. Staff contends that recognition must be given to the entire amount of deferred taxes if the balance between ratepayers and the company is to be maintained.

Legislative Utility Consumer's Council and CAP support the full amount of exclusion from rate base. Neither LUCC, CAP, or PSNH disputed or addressed staff's alternative proposal of including

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the full amount of deferred taxes at zero cost in the capital structure.

Upon a review of the record as well as the case law in this area, the commission will adopt the staff alternative of placing the full amount of deferred taxes in the capital structure at zero cost and thereby rendering the rate base exclusion question moot.

**G. Androscoggin Reservoir Company**

Public Service Company of New Hampshire has included in rate base its \$50,000 investment in the Androscoggin Reservoir Company. Upon review of the evidence and briefs the commission finds no challenge to the inclusion. The commission will allow the inclusion in rate base.

**H. Working Capital**

Public Service Company of New Hampshire has submitted two working capital allowance calculations for the commission's consideration. One method is the "45-day" approach. The second method is a "lead-lag" study preferred by PSNH witness Price. The results of the two studies lead to an initial working capital allowance of \$33,513,336 under the 45-day method and a \$45,394,993 working capital allowance under the lead-lag method.

The major difference between the two figures is a recognition by Mr. Price of the unrecovered fuel costs above base. This major difference has been addressed by PSNH in brief by their request for an inclusion of \$10 million in rate base to reflect the unrecovered fuel costs. This would narrow the difference between the two approaches to \$1,881,657.

Certain issues have been raised to PSNH's two methods. The first issue involves the inclusion in "prepayments" of interest in sums paid to the company by other participants in Seabrook in advance of the dates they would become due under the joint ownership agreement. Staff Finance Director Sullivan contended that since these prepayments were nonrecurring there must be a removal from prepayments of \$27,709. This calculation was based on a 13-month average. Public Service Company of New Hampshire agrees with staff's proposal but argues for the 12-month average of \$12,974. Since the commission has already acknowledged the superiority of the 13-month average approach, staff's figure will be adopted.

Staff and PSNH are in disagreement as to the proper working capital allowance for oil

inventories at its Newington and Schiller stations. Staff proposed a 13-month average of \$6,310,692. Public Service Company of New Hampshire proposed its 12-month average of \$7,572,812. Both of these adjustments were based on a cost of oil per barrel of \$17.39 (Exh P-31 Attachment F). Public Service Company of New Hampshire updated its information to reflect the cost of oil per barrel as of December, 1979, at \$22.82. A recognition of this increased price would result in a \$2,474,766 addition to rate base over that originally proposed.

The dramatic increase in the price of oil is a known and measurable charge which under these financial emergency conditions should be recognized for rate-making purposes. The magnitude of this increase plays a significant role in the increase of electricity prices experienced by consumers during early 1980. An examination of the May fuel adjustment hearings reveals a tapering off in the rise and an actual reduction in price. Re

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Fuel Adjustment Charge (1980) 65 NH PUC 182. The price as of April 30, 1980, was \$20.39 a barrel.

Mr. Harty testified in that proceeding that if PSNH had to replace the oil in its inventories, the oil would cost \$18.31 a barrel. (May 20, 1980, p. 77, DR 80-46.) Since that time further increases in the price of oil have been announced. Therefore the commission will use \$20.11 a barrel as a midpoint and thereby allow only an additional adjustment of \$1,237,383.

Questions have arisen as to proper working capital treatment for recovery of the lockup (unrecovered fuel costs above base) and the CWIP related refunds ordered by the commission. Public Service Company of New Hampshire requests that there be a \$10 million adjustment to its 45-day working capital approach to recognize Mr. Littlefield's estimate of \$20 million of the Settlement Agreement No. 2. The LUCC contends there should be a 50 per cent adjustment to working capital to reflect the fact that interest has not been added to the \$11,260,605 refund figure. The LUCC's proposal would reduce working capital by \$5,630,303. Public Service Company of New Hampshire disputes LUCC's adjustment and the LUCC disputes PSNH's adjustment.

Upon review the commission finds both adjustments to be valid. However, the parties have been sloppy with their calculations. Public Service Company of New Hampshire's lockup amounted to \$18,701,316 not Mr. Littlefield's estimate of \$20 million, commission Report and Order No. 14,250 (65 NH PUC 233). Likewise LUCC understates the amount of the refund in that commission Report and Order No. 14, 175 (65 NH PUC 162) establishes the refund as \$11,301,245 or \$40,640 more than the figure cited by the LUCC. Since both adjustments are being made under presently known circumstances, over a three-year period, one-third of each should be included in the working capital calculation.

The final issue to be determined under this section is whether to accept the 45-day methodology or the lead-lag approach offered by witnesses Price and Von Ohlsen. The commission has historically faced decisions on working capital requirements. The commission has found the 45-day approach to be an unsatisfactory tool in reflecting the modern working capital requirements of utilities. Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209.

[12] In recent cases the commission has found that while the 45-day rule underestimates the

working capital requirements for some utilities, Re Hudson Water Co. (1979) 64 NH PUC 35, 28 PUR4th 617, it can also grossly overestimate the working capital of others. See Re Granite State Electric Co. (1978) 63 NH PUC 121, 28 PUR4th 240; Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121.

Consequently the commission rejects the 45-day rule offerings in these proceedings. The commission will accept Mr. Price's lead-lag calculation adjusted for the findings as prepayments, lockup, CWIP refunds, and oil inventory previously discussed. A review of Mr. Von Ohlsen's lead-lag study reveals problems particularly in the calculations as to the lag in fuel expense. The cross-examination of Mr. Price was generally insufficient in probing the correctness of the methodology used. While for purposes of this proceeding, PSNH through testimony of Mr. Price has carried its burden of proof, this finding will not

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prevent closer scrutiny and alteration in the future.

The commission believes one last observation and finding is necessary. The allowance in the working capital calculation for PSNH of unrecovered fuel costs is to reflect the recovery of these costs over three years. Recovery over one year would not justify inclusion in working capital.

Similarly, if the commission had awarded interest on the refunds and shortened the time period, there would not be a working capital deduction.

#### I. Construction Work in Progress

Pursuant to RSA 378-30-(a), \$111,258,428 is removed from rate base which was previously allowed into rate base by commission decision. Nor is the \$484,086,128 of construction work in progress as of December 31, 1979, or the associated AFUDC allowed into rate base. Revised Statute Annotated 378-30-a establishes that rate base cannot reflect the inclusion of CWIP in rate base. All parties, PSNH, LUCC, CAP, and DOD as well as staff have reflected this in their calculations. No party has attempted to include any CWIP in rate base.

#### J. Wyman No. 4

A pro forma adjustment has been made by both Mr. Sullivan and PSNH to reflect Wyman No. 4. The adjustment \$2,398,400 is allowed.

#### K. Rate Base Calculation

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

##### *Gross Rate Base*

Electric Plant in Service  
Plant Held for Future Use

Total

##### *Reserves and Customer Deposits*

Reserves for Depreciation  
Customer Deposits  
Accumulated ITC  
Customer Advances

Total

Net Investment in Plant  
Working Capital  
Androscoggin Reservoir Company  
  
Rate Base

The commission will allow a rate base of \$402,607,918 for purposes of this proceeding. Accumulated deferred income taxes will be included in full at a zero cost rate in the capital structure.

## VII. *Cost of Capital*

### A. General Considerations

The commission, faced with a volatile market has ordered that the capital structure be updated to April 30, 1980. The capital structure originally submitted by the company was as of May 31,

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1979, together with certain pro formas. Significant placements of permanent capital between May 31, 1979, and April 10, 1980, together with a finding of financial emergency pursuant to RSA 378:9 necessitated updating the capital structure. Over the past six months prime interest rates climbed to previously unreachable peaks and then proceeded to plummet at an extraordinary pace. The commission will use the most recent prime interest rate when calculating the cost rates for the term loan and short-term debt. Due to the finding of an emergency and the volatility of the money markets, use of the most recent data will allow the commission to discharge its duty to set rates that are just and reasonable both for the present and for a reasonable time into the future.

### B. Interpretation of RSA 378:30-a

The LUCC and CAP have requested a finding that would remove certain issuances of long-term debt, preferred stock, short-term debt, and the term loan from consideration in determining a proper capital structure and an overall rate of return. The challenge to these existing issuances covers any issuance since 1974 and is based on a legal interpretation of RSA 378:30-a offered by counsel for the LUCC and joined in brief by counsel for CAP. The argument simply stated is that certain recent debt offerings have been entirely for construction purposes and should not be included in the overall rate of return calculations based on the language of RSA 378:30-a.

In support of their legal argument, LUCC and CAP rely on the testimony of LUCC witness Williamson, which in brief the two parties cite as endorsing this interpretation. However, the record is abundantly clear that Professor Williamson neither accepted nor rejected this interpretation but rather removed the issuances pursuant to a request of LUCC counsel.

The LUCC has consistently offered this interpretation since the beginning of these proceedings. Yet despite appearances before this commission in numerous proceedings involving

other utilities, the LUCC has failed to raise much less argue this legal interpretation. *Re Exeter & Hampton Electric Co.* (1980) 65 NH PUC 209; *Re Gas Service, Inc.* (1980) 65 NH PUC 76; *Re Union Teleph. Co.* (1980) 65 NH PUC 30; *Re New Hampshire Electric Co-op., Inc.* (1980) 65 NH PUC 16; *Re Hampton Water Works* (1979) 64 NH PUC 374; *Re Pennichuck Water Works Co.* (1979) 64 NH PUC 206. Each of these cases was heard, briefed, and decided after the passage of RSA 378:30-a. Furthermore, some of these cases were being heard, briefed, and decided during the time period in which this case has been before the commission.

While Professor Williamson did not accept or reject the LUCC counsel's interpretation of the statute on December 13, 1979, when he testified in the emergency rate proceedings or on March 10, 1980, in the permanent rate proceeding, it is noteworthy that on December 11, 1979, (or two days prior his testimony in the emergency proceeding), Professor Williamson testified as to an overall rate of return for the *Re New Hampshire Electric Co-op., Inc.*, DR 79-178. In his prefiled testimony as well as in cross-examination thereafter neither Professor Williamson nor the LUCC raised any concern as to RSA 378:30-a. Therefore, the reliance placed by the LUCC on

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Professor Williamson is unsupported by either this record or the testimony and exhibits of Professor Williamson in other proceedings. The record also reveals agreement among PSNH's witnesses and Professor Williamson that one can simply not trace dollars. There is thus no record support for the LUCC's contention.

The LUCC asserts that the commission is not complying with all of the language of RSA 378:30-a. The LUCC concedes that the commission has removed all construction work in progress from rate base. The commission has also complied with any other concerns that can be drawn from the language of RSA 378:30-a even based on LUCC's interpretation. In *Re Pennichuck Water Works Co.* (1979) 64 PUC 206, the commission removed an expense that should have been capitalized and placed into rate base when a particular project was completed and therefore used and useful. In this proceeding, the commission has reiterated that the financing costs associated with projects under construction are being accumulated for inclusion in rate base only upon completion of the project. Therefore the commission does not find either evidentiary or legal support for the LUCC's contention.

An exhaustive search of regulatory decisions involving states that preclude the inclusion of CWIP in rate base by statute (Missouri and Oregon) or by decision (Rhode Island, Massachusetts, etc.) reveals not one decision in support of LUCC's contention. Nor was any offered by the LUCC.

**C. Cost Rate — Short-term Debt**

The short-term debt cost rate for PSNH is tied to the prime interest rate. It is unmistakably clear that this cost rate has fluctuated considerably during the presentation of this case. The most recent prime rate is 13 per cent. Since it appears PSNH borrows at the equivalent of 108 per cent of prime, the commission will use a cost rate of 14.04 per cent.

**D. Cost Rate — Long-term Debt**

The company has evidence from both PSNH and staff economist Camfield on the proper cost

rates for long-term debt. The differences per each issuance differ in infinitesimal amounts. While some are higher others are lower. Upon review, the commission will accept PSNH's calculations together with PSNH's cost rate for its most recent issue of general and refunding bonds.

#### E. Deferred Taxes

Staff presentations by Mr. Camfield and Mr. Sullivan suggested that either the full amount of accumulated deferred income taxes should be deducted from rate base or alternatively placed within the capital structure at zero cost. The basis for this second alternative is that these funds are interest free to the company and therefore should be recognized zero cost in the capital structure.

A substantial number of jurisdictions place the full amount of deferred taxes into the capital structure at zero cost. Re Arkansas-Oklahoma Gas Corp. (Ark 1978) 26 PUR4th 473, 485; Re Southwestern Bell Teleph. Co. (Ark 1979) 27 PUR4th 493, 502; Re Intermountain Gas Co. (Idaho 1979) 30 PUR4th 231, 242, 243; Re Southwestern Bell Teleph. Co. (Ken 1979) 28 PUR4th 519, 544; Re Michigan Power Co. (Mich 1979) 28 PUR4th 586, 590-592;

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Re Michigan Power Co. (Mich 1978) 27 PUR4th 323, 237; Re Roanoke Gas Co. (Va 1978) 26 PUR4th 117, 119-121.

As witness Camfield notes, an additional benefit of treating deferred income taxes in the capital structure results in an appropriate reduction in AFUDC cost rate. Through recognition in the capital structure, at zero cost, the commission will reflect the entire amount of these deferred taxes at zero cost thereby lowering the overall rate of return. The inclusion in the capital structure will now also require PSNH to include this component in their AFUDC cost rate thereby providing the additional benefit of a lesser inclusion in rate base in the future. The commission will accept Mr. Camfield's rate-making alternative and place the entire amount of deferred taxes, \$25,744,000 plus the \$3,346,886<sup>1</sup> in capital structure at a zero cost rate.

#### F. Cost of Common Equity

Public Service Company of New Hampshire has requested a return on common equity of 18 per cent. To support this request PSNH relies upon the testimony of Eugene Meyer, William Harty, and Charles Phillips.

Mr. Meyer embarked upon a review of the estimates that he believed a prospective investor would make in formulating a decision to invest in PSNH's common shares. Employment of this method necessitated a rejection of any attempt to estimate investor expectations through use of various economic approaches, such as a DCF, CAPM, or comparable earnings analysis. Witness Meyer stated that he had more confidence in this approach based on his experience as an investment banker, which included observation of investor expectations.

The methodology used by witness Meyer begins with use of PSNH's book value as of July 31, 1979, of \$21.96. Witness Meyer contends that a proper return on equity should provide for a dividend equal to 10 per cent of book value. Incorporating this judgement into his methodology, Mr. Meyer proceeded to perform the requisite multiplication to arrive at a desired dividend of \$2.20 per share. This figure was then divided by the selected payout ratio of 55 per cent to arrive

at a figure for earnings per share of \$4. This figure was then divided by PSNH's book value to arrive at his recommendation of 18.2 per cent.

Mr. Meyer discussed the risk measurements used by large lending institutions and rating agencies in their credit analysis and in the case of rating agencies, their ratings. The following factors were mentioned by witness Meyer. First, growth in demand for the product (electricity) which results in a high level of construction expenditures is viewed as a *negative* in credit analysis. Second, the higher the amount of construction there is a corresponding higher level of risk (negative). Third, the quality of earnings and cash flow are viewed as risk measurements. Large amounts of AFUDC, low depreciation rates, and use of flow-through accounting for rate-making purposes all are viewed as requiring more external financing and thereby increase risk. Fourth, regulatory lag in making decisions and regulatory policy that fails to recognize the cost of capital or allows flow-through accounting

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increases risk. Fifth, fuel mix is important. From a credit standpoint hydro is first or the most positive, coal is second, followed by oil and then by gas. Nuclear is last.

Mr. Harty's analysis consisted of a review of the financial problems facing PSNH. Specifically addressed by Mr. Harty were the high level of AFUDC, the lack of flexibility in financing and the inordinate delay in completing the divestiture of PSNH's shares in Seabrook. No specific method or calculation was used by Mr. Harty in arriving at his acceptance of an 18 per cent return on common equity. Rather, his concerns were those properly of a co-agent bank involved with the financial concerns of PSNH.

Dr. Phillips offered testimony based on use of a comparable earnings approach. Implementation of the comparable earnings approach requires an examination of earnings on book common equity for enterprises that have comparable risks. In addition, Dr. Phillips contends that this approach can also include an examination of enterprises that do not have comparable risks if suitable allowances are made for those risk differentials. Comparability is not defined as identical, but rather similar.

To satisfy the comparability criteria, Dr. Phillips asserts that comparisons must be made with unregulated firms. The first justification for this assertion is Dr. Phillips' observation that public utilities must compete with both regulated and nonregulated enterprises. Secondly, Dr. Phillips asserts that use of regulated firms involves problems of circularity. Finally, since Dr. Phillips asserts that many utilities have failed to earn the authorized return, comparisons with actual or earned rates of return are misleading. At a minimum, Dr. Phillips would urge comparisons to be made only to commission decisions as to the authorized rate of return.

Dr. Phillips proceeded to compare Moody's 24 Utilities and the Standard & Poor's 400 Industrials. His comparison arrived at the conclusion that there is an ever increasing spread between industrial and utility earnings. Risk factors relied upon by Dr. Phillips include price-earnings ratios and market-to-book ratios. Dr. Phillips concludes that investors have reappraised the equity risk of electric utilities and have found increasing risk.

From this analysis, Dr. Phillips examines factors of concern to investors, which include capital structure, interest coverages, dividends, inflation, capital requirements, regulatory



environment, fuel mix, and relates each in varying degrees to PSNH.

Dr. Phillips' conclusion is that the opportunity cost of common equity capital is at least 15 per cent. Relying on recent bond issues, and the spread between the cost of those issues and the cost rate for common equity together with a general rise in the corporate earnings, Dr. Phillips finds a 16 per cent return to be proper.

If PSNH is required to continue ownership in Seabrook at 50 per cent, Dr. Phillips adopts the 18 per cent return on common equity arrived at by witnesses Meyer and Harty.

Professor Williamson was offered by the Lucc for the purposes of establishing the Lucc's position on a proper cost rate for common equity. The approach advocated by Professor Williamson is the discounted cash-flow approach or DCF. This approach uses a utility's annual dividend rate divided by the utility's stock price to which is added

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an estimate of the dividend growth expected by investors.

Professor Williamson's use of this model consisted of a spot price for PSNH stock early in 1980. His growth rate is based on earnings growth rates as compared to dividend growth rates. From this analysis, Professor Williamson arrived at an initial range of 15.5 per cent to 17.5 per cent, or a mid-point of 16.5 per cent. Cost of issuance and market pressure were both examined by Professor Williamson. Professor Williamson found that an additional 0.10 per cent should be added for cost of issuance. For market pressure, Professor Williamson noted that he had seen testimony which had justified a 5 per cent effect for market pressure. Placing this into his calculations, Professor Williamson arrived at an additional 0.2 per cent adjustment for market pressure or a midpoint recommendation of 16.8 per cent and a range of 15.8 per cent to 17.8 per cent. Professor Williamson cited other factors and reduced his overall recommendation to 16.7 per cent.

In his testimony, Professor Williamson discussed the capital asset pricing model (CAPM) but through cross-examination it was established that he did not rely on this method for purposes of his recommendation. Professor Williamson discussed the risk he perceived with the construction of Seabrook and concluded that the risk was approximately 2.5 per cent. The range of common equity for the electric utility industry was found to be between 14 per cent and 16 per cent by Professor Williamson.

The risk factors examined by Professor Williamson were AFUDC as a per cent available for common, dividend yield, dividend pay-out ratio, return on book common equity, and market-to-book ratios.

Dr. Belmont was offered by the Department of Defense (hereafter referred to as DOD) for establishing its position on cost of common equity.

The DCF method was also advocated by Dr. Belmont. His approach differs somewhat from Professor Williamson in that he used dividend yields based on measures of six and twelve months in lieu of a spot price. His initial recommendation was in the range of 13.89 to 14.21. However, when Dr. Belmont testified he updated his numbers so as to reflect changes since he prefiled his testimony.

The first adjustment is a 40 basis point increase to reflect a study performed by Dr. Belmont which revealed that investors perceive utilities involved in nuclear construction to be significantly more risky than other utilities. Dr. Belmont related this increased risk to the Three Mile Island experience and the NRC's moratorium in nuclear licensing permits. The second adjustment is to reflect a worsening financial marketplace with increasing interest rates. The effect of these two proposals was to elevate Dr. Belmont's recommendation to a range between 14.70 per cent and 15 per cent.

As to recognition of cost of issuance and market pressure, Dr. Belmont contends that there should be no recognition for these factors. Dr. Belmont concludes that costs of issuance of flotation costs are recognized in the market price of the stock and therefore already recognized by the DCF estimating procedure. As to market pressure, Dr. Belmont maintains that based upon data from 286 separate common stock issues by utilities over the 1975-78 period, he cannot find any statistically

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significant evidence supportive of an allowance for market pressure.

Dr. Belmont in pursuit of comparable companies has drawn from the C. A. Turner and Associates Public Utility Common Stocks Newsletter (December, 1979). From that list of 105 electric and gas companies, Dr. Belmont reduced the level of companies examined to 19 based on certain risk criteria which included the percentage of operating income derived from electricity sales, operating revenue, nationally marketed common equity, equity ratios, Standard & Poor's ratings, and reported in Value Line.

Staff economist, Robert Camfield, provided the commission with his analysis as to the proper return on common equity necessary for PSNH. Mr. Camfield relied upon the DCF method for his recommendation of 15.50 per cent to 16.25 per cent. The approach used by Mr. Camfield uses a spot market price together with the annual dividend rate. A growth rate is calculated using growth in dividends and earnings over ten years adjusted for the quarterly dividend payments.

In arriving at a group of comparable companies, Mr. Camfield has compared PSNH to seven other New England electric utilities. The measurements of risk evaluated by Mr. Camfield are equity ratios, fixed charge coverage, stock price stability, earnings predicability, volatility in rate of return earned on book value, Value Line safety index, and beta coefficients.

Mr. Camfield finds PSNH to have certain unique features not the least of which is its amount of construction as compared to its plant in service.

#### Commission Analysis

The commission has historically applied the criteria set forth by the United States Supreme Court. In the case of *Bluefield Water Works & Improv. Co. v West Virginia Pub. Service Commission* 262 US 679, PUR1923D 11, 67 L Ed 1176, 43 S Ct 675, the court ruled that:

"A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business

undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally." (262 US at pp. 692, 693, PUR1923D at pp. 20, 21.)

The court elaborated further in the *Federal Power Commission v Hope Nat. Gas Co.* (1944) 320 US 591, 603, 51 PUR NS 193, 200, 201, 88 L Ed 333, 64 S Ct 281:

"The rate-making process under the (Natural Gas) Act — i.e., the fixing of 'just and reasonable rates' — involves a balancing of the investor and the consumer interests. Thus we stated in the *Natural Gas Pipeline Company* case that 'regulation does not insure that the business shall produce net revenues.'

#### FOOTNOTE

<sup>1</sup>\$25,744,000 is as of September 30, 1979, and the \$3,346,886 reflects normalization.

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(315 US at p. 590, 42 PUR NS 129.) But such considerations aside, the investor has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view, it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital ... ."

Public Service Company of New Hampshire's request for 18 per cent return on common equity hinges its support on the testimony of witnesses Meyer and Harty. Dr. Phillips' comparable earnings method failed to arrive at an 18 per cent return on common equity. Mr. Harty performed no analysis as to the propriety of the 18 per cent. Therefore, if there is support for the 18 per cent, Mr. Meyer is the only witness who performed any study which arrived at 18 per cent.

The 18.2 per cent derived by Mr. Meyer seeks to arrive at a market-to-book ratio of 1.2. However, the recommendation drops to 16 per cent if the goal is to achieve book value. The DOD, LUCC, and CAP argue that Mr. Meyer should be totally ignored. These parties contend that actual experience does not have a place in rate-making, a determination of a proper return on common equity requires an accepted economic methodology, and that Mr. Meyer has a vested interest.

The commission finds that Mr. Meyer's analysis as to the concerns of credit institutions and rating agencies to be of a particular value. Further on in this decision, the commission will heavily rely on these concerns. However, Mr. Meyer's methodology does not satisfy the

standards set forth in Hope and Bluefield. In particular, the lack of recognition of Mr. Meyer's methodology, the failure to compare PSNH to other companies as well as an absence of an adequate degree of risk measurement, necessitates nonacceptance of Mr. Meyer's 18.2 per cent. In addition, the commission does not seek to establish rates based on a goal of a market-to-book ratio of 1.2. Such a process would elevate the needs of investors over the interests of consumers.

The testimony of Professor Williamson is cited in the LUCC's brief for support of a range of 15.5 per cent to 17.5 per cent with an advocated midpoint of 16.5 per cent. This assertion fails to recognize that both in his prefiled testimony and under cross-examination, Professor Williamson made allowances for market pressure and costs of issuance. The two adjustments resulted in an overall recommendation of either 16.7 per cent or 16.8 per cent and a band range of one per cent around each number.

Professor Williamson's use of the DCF method included a reliance upon historic earning growth rates of PSNH as a preference over historical dividend growth rates. Public Service Company of New Hampshire contends in brief that such reliance is not supported by Professor Williamson's work papers. Public Service Company of New Hampshire correctly cites the statistically better fit that historical dividend rates have over historical earnings rates. If a substitution of a dividend rate is made for the

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earning growth rate, Professor Williamson's recommendation would increase.

The commission finds certain other problems with Professor Williamson's approach. The primary weakness is a use of a January spot price. The prime interest rates had been steadily climbing through December. Historically higher prime interest rates always lead to falling stock prices. Therefore, Professor Williamson's reliance on a January 2, 1980, price, underestimates the company's actual stock price under more stable economic conditions. The dividend yield calculation submitted by Professor Williamson is therefore inflated and tends to overstate the cost of common equity. Professor Williamson's addition for market pressure is not based on any personal analysis but rather upon the analysis of others. The rights of parties such as DOD are severely harmed when such allowances are made without option to subject those assumptions to cross examination.

Upon the basis of the foregoing, the commission rejects the recommendation of the LUCC as being unreasonably high.

This finding is somewhat ironical given the continuing concern by the LUCC as to an enhanced rate of return. The LUCC has petitioned the commission to reconsider its emergency order which had support (in part) of a 15.3 per cent. However, the LUCC then proceeded through its witness to request a return on equity of approximately 16.7 per cent.

Dr. Belmont's testimony despite its revisions does not adequately address the standards of Bluefield and Hope. In particular, the development of his comparability sample is weak. Public Service Company of New Hampshire places emphasis on the fact that although the six factors used to determine comparability result in a sample consisting of 22 companies only 19 are used for comparison to PSNH. The commission finds this to be a legitimate concern. Furthermore, the commission would note that the companies excluded have the highest costs of common equity

according to Dr. Belmont's calculations.

Another disturbing feature of Dr. Belmont's approach is the relative absence of risk measurement. The commission has set forth certain risk measurements that should properly be addressed when arriving at a proper cost of common equity. *Re Pennichuck Water Works Co.* (1979) 64 NH PUC 206; *Re Exeter & Hampton Electric Co.* (1980) 65 NH PUC 209; *Re Hampton Water Works Co.* (1979) 64 NH PUC 374. These standards have not been reflected in Dr. Belmont's analysis.

Finally, Dr. Belmont's use of six-month and 12-month averages for yield fails to recognize more recent changes in market conditions. Dr. Belmont's use of three-month averages for yield in other proceedings supports this finding. Consequently, the commission will not accept Dr. Belmont's basic analysis for a determination of a return on common equity for PSNH.

Staff economist, Robert Camfield, has demonstrated the closest adherence to principles set forth in *Bluefield* and *Hope*. Further, Mr. Camfield has used risk measurements that have been found viable by the commission in previous proceedings. His yield calculation uses a market price that the commission finds to be more reflective of market conditions into the future than those offered by other witnesses. Mr. Camfield has used dividend growth rates for ten years which the commission finds to be more

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reliable than the growth rates submitted by others.

The comparable sample developed by Mr. Camfield is found to be of greater comparability to PSNH than those submitted by others. Many of these companies are involved in the same plants as PSNH, are competing for the same local investors, and are experiencing the same risks as to fuel mix, per cent of AFUDC, stability of stock price, as well as depressed market-to-book ratios. Mr. Camfield's comparable sample is found to be reliable and in compliance with the texts of *Bluefield* and *Hope*.

Mr. Camfield has arrived at a range for return of common equity between 15.5 per cent and 16.25 per cent. The commission will adjust the low end of this range or 15.5 per cent.

The final set of issues to be resolved are the questions of whether an allowance should be made for costs of issuance and/or market pressure. Recently, in *Exeter & Hampton*, the commission refused to allow either of these adjustments. The commission's reasoning was that *Exeter* rarely goes into the market and therefore it would be unreasonable to recognize an allowance for cost of issuance. As to market pressure, the commission found that market pressure can be positive or negative and general market forces rather than the issuance itself affects the price of the stock. (65 NH PUC at pp. 218, 219.)

The commission is aware that PSNH will continually be entering the financial markets for common stock placements. Mr. Camfield also noted that an allowance should be granted for PSNH because of their frequent visits to the financial market. Upon a review of the testimony provided by Mr. Harrison and Mr. Camfield, the commission finds a 40 basis point adjustment to be appropriate.

As to market pressure, the commission finds that on the basis of this record, market pressure

cannot be justified. In particular, the commission relies on Dr. Belmont's analysis that reveals total absence of market pressure as a quantifiable or provable phenomena.

Therefore, the commission will allow PSNH a return on common equity of 15.90 per cent.

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

Capital Structure and  
Component Ratios for Rate Making

*Item*  
*Common Equity*  
*Preferred Stocks*  
*Long-term Debt*  
*S-T Debt*  
*Taxes\**

*Total*

*Represents the quarterly average balance of deferred taxes carried on the books of account for the year ending September 30, 1979, plus recognition of the applicant's pro forma adjustment for normalization.*

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

Overall Cost of Capital

*Item*

*Common Equity*  
*Preferred Stock*  
*L-T Debt*  
*S-T Debt\**  
*Taxes*

*Total*

*Assumes prime rate of 13 per cent for S-T debt and L-T term loan.*

### VIII. Attrition

Public Service Company originally requested an attrition allowance of 0.2 per

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cent. The company subsequently updated the request to 0.5 per cent. Community Action Program, LUCC, and DOD raise the question of procedural fairness in that the request for 0.5 per cent has only recently emerged. Staff witness Camfield objects to the use of any attrition allowance that is front loaded as proposed by PSNH. In lieu of a flat adjustment, Mr. Camfield suggests focusing on certain items that are known to cause attrition and make periodic adjustments.

[13] The commission believes there are compelling reasons to examine a departure from flat attrition factors. The commission would note that its secondary adjustments are similar to that proposed by Mr. Camfield. However, the commission will examine this question in a rule-making proceeding in the foreseeable future.

The LUCC, CAP, and DOD are correct that there is not persuasive evidentiary support for the recognition of a 0.5 per cent attrition adjustment. The parties are supported in their contentions when a review of this decision reveals substantial updating by the commission due to

the emergency situation. Public Service Company of New Hampshire has the burden of proof as to this adjustment and the commission finds that only a 0.2 per cent factor can be sustained.

Therefore the commission will add a 0.2 per cent attrition factor to the 12.29 per cent rate of return so as to allow PSNH an opportunity to earn this allowed rate of return in the foreseeable future.

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

Revenue Requirement			
Rate Base		\$402,607,918	
Cost of Capital plus Attrition Allowance		12.49%	
Required Net Operating Income	\$ 50,285,729		
Less Pro Forma Net Operating Income:			
Operating Revenue		\$271,764,308	
Operating Expenses			
Operation & Maintenance	\$182,408,101		
Depreciation & Amortization	16,632,605		
Taxes - Other	14,811,805		
Income Taxes: Federal	4,382,155		
New Hampshire	2,774,491		
Deferred	12,344,885		
Investment Tax Credit	1,270,542		
		\$234,624,584	
Adjustments:			
Depreciation - Account 114	1,833		
Donations	25,774		
Return on Customer Deposits	61,891		
Total Operating Expenses		\$234,714,082	\$37,050,226
Required Net Operating Income Increase			\$13,235,503
Revenue Requirement ( + 51.497)			\$25,701,503
Allocation to NH Jurisdiction			71.34%
Required New Hampshire Retail Increase			\$18,335,452

Staff Exh 40-A.

### IX. Additional Steps Required to Eliminate Financial Emergency

An examination of the record reveals that the problems experienced by PSNH will not be solved by the granting of an increased level of rates. The testimony of witnesses Harrison, Meyer, Williamson,

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Harty, Belmont, and Camfield all recognize that PSNH will continue to face severe financial problems absent other action.

Mr. Meyer and Mr. Harrison both listed the concerns expressed by financial institutions and rating agencies. Chief among these concerns was the level of construction. This factor increases in importance during times of high interest rates when the ability to finance is lessened for all industries and especially those involved in major construction programs.

Notable economists have failed to predict the high level of inflation that has burdened consumers and industry alike in recent years. Only the most pessimistic of economists ever predicted interest rates above 16 per cent and no one predicted a prime rate of 20 per cent. The combined effect of inflation and high interest rates have created a situation where it is difficult

and often impossible to finance new construction. This is true whether one is building a mall in Concord, a home in Merrimack, or a power plant in Seabrook. Consequently, all forms of construction are being delayed.

The cash-flow studies submitted by the company are not encouraging. Stripped of their optimistic assumptions as to sales growth, lower inflation, and substantially lower interest costs, there is a clear indication that absent other action this company will soon return to the commission for another quick fix.

After lengthy evaluation the commission believes it necessary to prescribe additional steps to elevate the company out of its financial dilemma and onto the road to greater financial flexibility. To again place our findings in the vernacular, the time for a permanent as opposed to a quick fix has arrived.

Public Service Company of New Hampshire is presently the owner of 50 per cent of the Seabrook station. In addition, the company has ownership interests in two other plants, Pilgrim II and Millstone III. A major assistance to PSNH and the continuation of the Seabrook project itself would be the approval by the NRC and the Massachusetts DPU of the divestiture proposal. The failure of these regulatory approvals to be obtained expeditiously has raised serious concerns among investors, rating agencies, financial institutions, and other regulatory commissions including this one as to the understanding these commissions have as to the seriousness of their inaction.

An attempt to slow down the divestiture to force PSNH to continue 50 per cent ownership is nothing more and nothing less than an attempt to halt the construction at Seabrook and eventually Pilgrim II. Since inaction has the same effect as negative action in this instance, this commission must take the following steps.

(1) If the Massachusetts DPU and the NRC have not approved divestiture by September 30, 1980, this commission will begin to order PSNH out of the Pilgrim II project.

#### *Analysis*

As the record in this proceeding reveals, PSNH sought to divest itself of interests in Pilgrim II. There was not even one utility interested in even discussing much less owning additional shares in Pilgrim II. Whether this situation exists because of the Massachusetts DPU or the failure of Boston Edison to receive a permit from the NRC is unclear. Regardless of the reason, the lack

of interest provides measurement of the value of the ownership interest.

If the Massachusetts DPU does not begin to channel a course of support for these projects, it is financial folly for PSNH to continue to harm its cash flow by making Pilgrim II payments. The record reveals that at least \$91.4 million would be expended by PSNH in the next five years.

When this figure is compared to the coal conversion costs of Schiller of less than \$20 million, it is clear that absent changed circumstances the interest in Pilgrim II could frustrate our conversion order for Schiller. If there is not to be regulatory support for Pilgrim II, then it is



financially irresponsible for PSNH to be required to continue its monthly payment on Pilgrim II. Therefore, absent action from the Massachusetts DPU, the commission will begin hearings October 1, 1980.

(2) Public Service Company of New Hampshire must delay Seabrook II by three years except for items that are necessary for both units.

Staff Exh 4, which was initially denoted as the "worst case" among the cash scenarios is rapidly becoming the scenario. Staff Exh 4 assumes a delay of four years in Seabrook II. This is coupled with a divestiture occurring as of January 1, 1981. The commission has chosen three years as more likely assuming completion of the divestiture by September 30, 1980.

Public Service Company of New Hampshire recently made a sound financial move in laying off a portion of its workforce. Work has continued full force on Seabrook I and on common projects associated with both units. This situation should remain until cash flow of the company improves.

As commission Exhs 2 and 3 reveal it is not either unusual or unaccepted for utilities to delay construction during times of rapid inflation and volatile money markets. This reduction in construction costs together with an improvement in earnings had been received positively by investors. (Commission Exh 2.)

Public Service Company of New Hampshire should focus its attention on Seabrook I. Inflation and increased interest rates have made it financially impossible for Seabrook II to be in service two years after Seabrook I.

A search of the commission files has revealed that where more than one nuclear plant has been built on a common site, the length of time between operation dates is more than two years. The following are illustrative:

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

Millstone I	1970	Pilgrim I	1972
Millstone II	1975	Pilgrim II	1987
Millstone III	1986		

While delays do result in additional costs, utilities like other industry can only commit themselves to what is affordable and achievable. The recent downrating of PSNH occurred shortly after the allowance of an emergency rate increase. Therefore, the answer to PSNH's financial problems supercede any level of increased rates.

(3) Revenue from other jurisdictions must be increased or PSNH should endeavor to sell its properties located in other states.

Public Service Company of New Hampshire struck a responsive chord at the commission when it announced it was contacting other utilities towards reaching an agreement to sell its service

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territory in Maine. Public Service Company of New Hampshire is in a difficult position in Maine because its rates are lower for its Maine customers than for its New Hampshire customers.

Yet PSNH's present rates in Maine are higher than those of other utilities servicing Maine. A large factor in the differential is the higher concentration of hydro and preinflation nuclear.

The commission has clearly established that it will not tolerate inequity between PSNH jurisdictions. Therefore, the commission will expect resolution of the situation in PSNH's service territory in Vermont as well as Maine within the very near future.

#### *X. Revised Statute Annotated 378:30-a*

For some unexplained reason every time an adjustment to the rates was proposed in this proceeding, one or more of the parties began citing chapter and verse RSA 378:30-a, the anti-CWIP statute. Public Service Company of New Hampshire has not sought to include CWIP in rate base. Nor are any of its proposed adjustments a violation of RSA 378:30-a. As has been previously noted in our decisions, PSNH has a level of CWIP approaching \$500 million. If the full level of that account had been included in rate base, the level of revenues requested would be in excess of \$70 million more than what was requested in this proceeding. The company would still have had increased property taxes, wages, oil prices, and other expenses identified in this proceeding. Public Service Company of New Hampshire has not sought to violate RSA 378:30-a nor would this commission allow any utility to violate any New Hampshire statute.

#### *XI. Rate Design*

A final decision as to the proper distribution of revenue between and among PSNH's classes of customers, as well as the customers within each class, has been reserved until Phase II of these proceedings. This procedure will allow the commission and the parties to adequately address questions of rate design. In addition, the hearings held pursuant to Phase II will assist the commission in its attempt to adequately address the major issues involved in complying with the Public Utility Regulatory Policies Act of 1978 (PURPA).

In the interim, rates must be in effect to reflect the revenue levels authorized by the commission in this decision.

To begin the determination of a reasonable interim rate design the commission is guided by the fundamental principle that the cost of increasing electricity supply by one unit is significantly more expensive than the existing average cost of electricity today. The commission recently found that increased usage of electricity in New England will be met with increased oil generation for the next four years. *Re Exeter & Hampton Electric Co.* (1980) 65 NH PUC 209. Since oil is rapidly increasing in price, economic efficiency dictates that increased electric usage is to be discouraged during the foreseeable future. The economics of the era, the region, and the nation should be supported by the allocations of revenue designated to be received from each customer class and each customer. Failure to honor these concerns results in often irreversible incorrect economic signals.

The declining block rate had economic justification during the past because by allowing a utility to enlarge its market lower unit costs could be achieved. *Public Service Co. of New Hampshire v New Hampshire* (1959)

departed from the past. Promotional advertising is no longer allowed because increasing energy costs dictate conservation. *Public Service Co. of New Hampshire v New Hampshire* (1973) 113 NH 497, 510, 511, 2 PUR4th 59, 311 A2d 513. The commission has, through its recent decisions, recognized that to be economically consistent rates can no longer promote the increased use of energy.

In *Re Granite State Electric Co.* (1978) 63 NH PUC 35, 28 PUR4th 240, 246, the commission adopted a policy of placing heavier increases on the trailing or large usage energy blocks. The commission's rationale for placing the burden on the large as compared to the small user was that those contributing to the system peak should pay the true cost of their usage and that this rate design would also discourage "unneeded consumption." (28 PUR4th at p. 246.) In *Re Public Service Co. of New Hampshire* (1978) 63 NH PUC 127, the commission approved tariffs which eliminated intermediate blocks in the declining block and generally flattened the rate design. In *Connecticut Valley Electric*, DR 76-187 ([1977] 62 NH PUC 7; [1977] 62 NH PUC 46) and DR 78-72 ([1978] 63 NH PUC 167; [1978] 63 NH PUC 294) the commission allowed flat rates to become effective. National objectives of conservation, equity, and efficiency were cited by the commission in approving flat rates for the *New Hampshire Electric Cooperative*. ([1980] 65 NH PUC 16.) *Exeter and Hampton Electric Company's* recent request to accentuate the declining block was rejected and the commission ordered a significant flattening of the rates. (65 NH PUC 209.)

In addition to our own decisions, both the New Hampshire legislature and the Congress have mandated recognition of conservation. In RSA 378:7-a the legislature required specific rate design options of every electric company "in order to conserve electricity and discourage excessive consumption." The recently enacted Public Utility Regulatory Policies Act of 1978 (PURPA) has established conservation, equity, and efficiency as national goals for the setting of electric rates.

[14] In public hearings held throughout the state pursuant to this docket, the commission received a large degree of public input which primarily focused on rate design issues. In particular, the declining block received consistent criticism for its failure to provide the proper economic benefits for the recognition of conservation. Consequently, the commission will standardize the rates charged residential ratepayers in the state by requiring PSNH to flatten the residential rates during the pendency of Phase II.

The present residential customer charge will remain at its present level. Original Page 19, Rate D NHPUC No. 22 together with Supplement 10 is to be changed to establish a uniform cost per kwh regardless of energy usage. Original Page 20, Rate D NHPUC No. 22 together with Supplement 10 is to be changed to establish a uniform rate for uncontrolled water heating. First Revised Page 21, Rate D together with Supplement 10 is to be revised to have the revenue lost from the charge for the first 500 kwh to be recovered through the cost for all additional kwh.

Public comment in hearings conducted throughout the state, focused on the inability of consumers to calculate their bills because of an unawareness of

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the rate structure in effect. The commission believes that the goals of energy conservation

and consumer awareness require corrective action. Therefore, PSNH will reproduce the residential rate tariff in effect on all bills starting on bills rendered after August 1, 1980.

Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that all tariff sheets for final rate relief as filed by Public Service Company of New Hampshire are rejected, and it is

Further ordered, that Public Service Company of New Hampshire file revised tariff sheets to collect an additional amount above Tariff No. 22 of \$18,355,452, and it is,

Further ordered, that the design for the residential rate will be flattened as noted in the report, and it is

Further ordered, that the rate design set in the emergency rate order and the temporary rate order is to be followed by PSNH until Phase II is completed in designing the aforementioned rates as to revenue allocation and rate design within classes with the exception as to the change in the residential rate as referred to above, and it is

Further ordered, that all bills rendered to residential customers after August 1, 1980, shall set forth the tariffs in effect for the residential class, and it is

Further ordered, that the effect of this revenue change is to be applied to all bills rendered on or after July 1, 1980, and it is

Further ordered, that PSNH delay work on Seabrook II for three years but for those areas that are common to both Seabrook I and II, and it is,

Further ordered, that PSNH inform the commission as soon as possible on the status of their operations in other jurisdictions and continue to keep the commission informed, and it is

Further ordered, that all parties to this proceeding are placed on notice as to the possibility of hearings on Pilgrim II as of October 1, 1980, and it is

Further ordered, that PSNH file a refund plan for the difference between permanent and temporary rates, and it is

Further ordered, that a procedural hearing as to Phase II will be held within the month of June, 1980, and it is

Further ordered, that PSNH file appropriate tariff pages for examination upon occurrence of the bills referred to in the report.

By order of the Public Utilities Commission of New Hampshire, this ninth day of June, 1980.

LOVE, chairman, dissenting in part: Since I cannot determine whether normalization is being adopted per se for all utilities or based on PSNH's financial emergency, I must dissent in part. Normalization is a major issue which I believe should have been covered in a rule-making docket similar to the procedure used by the FERC RM 80-42. As these cases are appealed, hopefully the supreme court will provide guidance as to the criteria the commission should adopt before beginning a rule making.

However, if the allowance of full normalization is based solely on the financial emergency, I will concur. This remedy has been recognized pursuant to financial emergencies by other commissions. Re Potomac Edison Co. (W Va 1978) 26 PUR4th 53; Re Laclede Gas Co. (Mo 1978) 27 PUR4th 241.

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Even assuming that the majority's finding is based on a financial emergency, I cannot accept the "deficiency adjustment" of \$552,178 to be charged annually over a 29-year period. This adjustment reflects approximately \$1,022,611 of the rate increase granted. Staff witness Sullivan states he believes this amount should be removed because he maintains PSNH is seeking retroactive rate making. Public Service Company of New Hampshire counters that it has not sought to charge present or future ratepayers for benefits that were passed through previously.

I believe both Mr. Sullivan and PSNH are incorrect, based on the record before the commission. I believe that the exact impact relates to the service lives of the various plants in service. Since these components of plant vary in their initial service dates as well as their tax lives, I am not convinced that either position can prevail without a more thorough breakdown which has not been provided.

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NH.PUC\*06/12/80\*[78599]\*65 NH PUC 290\*Public Service Company of New Hampshire

[Go to End of 78599]

## **Re Public Service Company of New Hampshire**

DF 80-116, Order No. 14,273

65 NH PUC 290

New Hampshire Public Utilities Commission

June 12, 1980

PETITION by electric company for authority to increase its authorized common stock, \$5 par value, from 18 million shares to 27 million shares; granted.

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SECURITY ISSUES, § 58 — Financing of construction program — Public interest.

[N.H.] An electric company was authorized to increase its authorized common stock, \$5 par value, from 18 million shares to 27 million shares where the increase was found to be for proper corporate purposes, including the financing of the company's construction program, and was found to be in the public interest.

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APPEARANCES: Frederick J. Coolbroth and Philip Ayers for the petitioner.

## BY THE COMMISSION:

## Report

By this unopposed petition, filed May 21, 1980, 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 RSA 369:14 to increase its capital stock beyond the amounts fixed and limited by its articles of agreement as follows: to increase its authorized

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common stock, \$5 par value, from 18 million to 27 million shares.

At the duly noticed hearing on the petition, held in Concord on June 11, 1980, the company submitted that at a meeting of the common stockholders of the company held on April 8, 1980, the stockholders voted to amend the articles of agreement of the company to increase its authorized common stock to the higher amounts set forth in the company's petition, and a certified copy of the authorizing votes was submitted.

Company witness Lampron testified that the increases in the authorized capital stock were necessary for proper corporate purposes, including the financing of the company's construction program over the next several years.

Based upon all the evidence, the commission finds that the increase in the company's capital stock in the amounts requested in the petition for proper corporate purposes, including the financing of the company's construction program, will be consistent with the public good and should be approved and authorized. 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 increase its authorized capital stock as follows: common stock, \$5 par value, from 18 million to 27 million shares.

By order of the Public Utilities Commission of New Hampshire this twelfth day of June, 1980.

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NH.PUC\*06/17/80\*[78602]\*65 NH PUC 303\*Public Service Company of New Hampshire

[Go to End of 78602]

## Re Public Service Company of New Hampshire

DR 79-187, 36th Supplemental Order No. 14,283

65 NH PUC 303

New Hampshire Public Utilities Commission

June 17, 1980

MOTION by Legislative Utility Consumers' Council for recusal; denied.

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COMMISSIONS, § 51 — Action by commission — Prejudice or bias — Motion for recusal.

[N.H.] A motion for recusal was denied where, among other things, it was based upon a public statement by a commissioner that he believed the anticonstruction work in progress statute to be constitutional, the commission saying that it presumes all statutes to be constitutional and, secondly, that it had specifically found the statute to be constitutional months before the statement in a proceeding from which the movant could have appealed, and where a second reason for the motion was to perpetuate a "minicontroversy" until a final order.

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BY THE COMMISSION:

Report

The Legislative Utility Consumers' Council (LUCC) has filed a motion for recusal. The motion is lengthy, but can be divided into basically two areas. The first area is statements that have appeared in the press. One such statement was a statement by a commissioner that he believed the anti-CWIP statute to be constitutional. The commission presumes all statutes to be constitutional. Secondly, the commission had specifically found the statute to be constitutional months *before* the statement. If the LUCC wished to challenge the constitutionality of RSA 378-30-A then it should have done so by appealing our Report and Order No. 13,799 ([1979] 64 NH PUC 295).

The other statements that appeared in the press are identical in that no statement was made that had not already appeared in our previous orders. Due to the complexity of utility regulation and the length of our decisions, it does become necessary to respond to mistaken impressions of our orders by citing the exact passages of our orders or referring to citations to testimony or exhibits relied upon in the decision. For example, recently there have been questions raised as to whether or not there were exhibits in the record to support a delay of Seabrook II. Attached are Exhs S-1 and S-4 which clearly reveal that there were documents and scenarios on the question of delay. Yet if the commission failed to cite these documents, the public might have the mistaken impression that there were not exhibits supporting the commission's finding.

The other concern of the LUCC is that the commission had arrived at a conclusion as to return on common equity prior to the end of the case. The LUCC asserts that the commission found in excess of 17 per cent. However, the commission accepted the lower staff figure and rejected the LUCC's 16.7 to 17.7 per cent range and the company's 18.2 per cent as too high. The commission has addressed this issue in two orders prior to this one and the continuation

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of this action by the LUCC is confusing. In an attempt to understand the LUCC's concerns,

the commission asked and eventually received a copy of the LUCC minutes. In those minutes, the commission finds that counsel for the LUCC stated that part of the reason for the motion for recusal was to "keep a minicontroversy going" until a final order. A final order has been issued and in any event, parties that file motions for recusal based on a minicontroversy and then continue to press for a response are acting neither professionally nor responsibly. Therefore, the commission finds that the LUCC motion for recusal must be denied. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that the Legislative Utility Consumers' Council's motion for recusal be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of June, 1980.

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NH.PUC\*06/18/80\*[78600]\*65 NH PUC 291\*Small Energy Producers and Cogenerators

[Go to End of 78600]

## Re Small Energy Producers and Cogenerators

Intervenors: Energy Law Institute, Franklin Falls Hydro-Electric Corporation, Public Service Company of New Hampshire, Newfound Hydroelectric Company, New Hampshire Electric Cooperative, Inc., Legislative Utility Consumers' Council, New Hampshire Hydro Associates, Bethelhem Mink Farm Inc., Governor's Council on Energy, Concord Electric Company, and Granite State Electric Company et al.

DE 79-208, Fifth Supplemental Order No. 14,280

65 NH PUC 291

New Hampshire Public Utilities Commission

June 18, 1980

INVESTIGATION on commission motion, of rates charged electric utilities for energy generated by small power producers; rates fixed.

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1. RATES, § 321 — Small electric energy producers and cogenerators — Avoided cost standard.

[N.H.] Avoided costs used in fixing rates charged to electric utilities for energy generated by small power producers should not be based solely on average fuel costs. p. 296.

2. RATES, § 250 — Retroactive rates — Small power producers.

[N.H.] The statutes that allow for some retroactive



application of rates do not apply to small power producers since they are not designated as public utilities under either state or federal law. p. 299.

INTERSTATE COMMERCE, § 79 — Federal and state regulation of small power producer rates — Charges to electric utilities.

[N.H.] Discussion of federal and state regulation of small power producer rates charged to electric utilities. p. 292.

RATES, § 321 — Small electric energy producers — Avoided costs.

[N.H.] Discussion of avoided costs used in fixing rates charged to electric utilities for energy generated by small power producers. .Pg p. 294.

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APPEARANCES: Representative Eugene S. Daniell pro se; Peter Brown, Larry Smuckler, and Robert Olson for the Energy Law Institute; Robert Rowe for Franklin Falls Hydro-Electric; Philip Ayers for Public Service Company of New Hampshire; Joseph S. Ransmeier for Newfound Hydroelectric Company; John Pillsbury for New Hampshire Electric Cooperative; Gerald L. Lynch for the Legislative Utility Consumers' Council; Edward Forster, pro se; Charles A. Diamond, pro se; Gordon Marker for New Hampshire Hydro Associates; Robert C. Collman for Bethlehem Mink Farm, Inc.; Paul Ambrosino for the Governor's Council on Energy; Douglas MacDonald for Concord Electric Company; Philip H. R. Cahill and William G. Hayes for Granite State Electric; Gerald Beckman, pro se.

BY THE COMMISSION:

Report

#### I. Procedural History

On October 18, 1979, the commission on its own motion issued Order No. 13,869 (64 NH PUC 361), which initiated hearings under docket DE 79-208 pertaining to small power producers and cogenerators. Pursuant to NHRSA 363-A:4, Limited Electrical Energy Producers Act (LEEPA), and the Public Utility Regulatory Policies Act of 1978 (PURPA), Title II, § 210, this commission is empowered to determine a proper rate to be charged electric utilities for energy generated by a small power producer (SPP).

The commission devoted six hearing days for the presentation of testimony and exhibits from interested parties. The response to the commission's order was significant and positive as demonstrated by the list of appearances. These parties included a number of New Hampshire's present and potential small power producers, members of industry interested in small power production, representatives of various state and federal agencies, and representatives of the state's electric utility industry. Each sought to offer reasons for adjusting the present rate of four cents per kwh for energy and 4.5 cents per kwh for energy and capacity set by Order No. 13,589 in DE 78-232, DE 78-233 (64 NH PUC 82).

#### II. State Versus Federal Standards

The Public Utility Regulatory Policies Act (PURPA) sets forth a specific standard for determination of a proper small power producer's rate. This standard requires that electric utilities must purchase electric energy and capacity made available by qualifying cogenerators and small power producers at a rate reflecting the cost that the purchasing utility can avoid as a result of obtaining energy and capacity from

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these sources, rather than generating an equivalent amount of energy itself or purchasing the energy or capacity from other suppliers. This avoided cost standard has been the subject of various interpretations by the parties.

While PURPA has a defined standard, the state act, Limited Electrical Energy Producers Act (LEEPA), fails to provide any guidance or standard other than to require the commission to actively encourage the development of small scale and diversified sources of supplemental electrical power. RSA 362-A:1. As this commission has noted previously, the general overall theme of both legislative acts is to encourage the development of alternate energy generation.

The FERC regulations implementing § 210 of PURPA have eliminated any potential for conflict between these state and federal initiatives. According to these rules, the states are free pursuant to their own authority to enact laws or regulations providing for rates, which result in even greater encouragement of the alternate energy technologies. However, states cannot promulgate laws or regulations which provide rates lower than the federal standards. Such enactments would fail to provide the requisite encouragement for these technologies. Volume 45 — *Federal Register* No. 38, p. 12221 (February 25, 1980).

Further removal of any potential for conflict is provided in the FERC rules where state regulatory authorities are to be accorded great latitude in determining the manner of implementation of § 210. Volume 45 — *Federal Register* No. 38, p. 12230 (February 25, 1980).

The commission will generally adopt the avoided cost standard. However, due to the passage of LEEPA, the commission will recognize rates and measures where appropriate in excess of that allowed pursuant to the PURPA standard of avoided costs and the FERC rules. The only state statutory limitation as to allowance of rates in excess of avoided costs is that such an allowance can only be applied to facilities of five mw or less. Through this approach the commission will be in a position to honor the themes of both legislative enactments; namely, the rapid encouragement of alternate energy sources.

### III. Energy Technologies Covered

Questions have arisen as to the applicability of the rate set in this proceeding to energy sources other than hydroelectric. Both PURPA and LEEPA are explicit as to the energy sources covered by the rates, rules, regulations and standards promulgated pursuant to the passage of each statute. Section 201 of PURPA defines a small power production facility as a facility which produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources or any combination thereof. Renewable resources have been further defined as including at a minimum wind, solar, and water.

Limited Electrical Energy Producers Act defines a qualifying limited electrical energy

producer as one not involving the use of nuclear or fossil fuel. While LEEPA also has a capacity limitation different from that set forth in PURPA, the statutes are similar, in that the rate set covers small power producers using facilities with its primary source being biomass, waste, wind, solar, hydro, wood, or any combination thereof.

#### IV. Avoided Costs

Public Utility Regulatory Policies Act states that in setting rates, state public utility commissions must not set a rate that exceeds the incremental cost to the electric utility of alternative electric energy, PURPA § 210(b). Congress delegated to the Federal Energy Regulatory Commission (FERC) the task of rule making within the incremental cost guidelines. PURPA § 210(a). The FERC, in its rule-making function, has substituted the term avoided cost for the term incremental cost. However, the FERC defined avoided cost as the "incremental cost to an electric utility of electric energy or capacity or both which but for the purchase ... such utility would generate itself or purchase from another source." 45 *Federal Register* 12234 (February 25, 1980). The commission therefore finds that the term avoided cost is another way of expressing the concept of incremental cost. For purposes of uniformity with the FERC rules, the commission will use the term "avoided costs" with the understanding that the use of the term equates to the concept of "incremental costs."

The FERC envisioned that commissions would use data provided by the electric utilities pursuant to § 133 of PURPA. While the FERC initially indicated that consideration of this data was mandatory in development of an avoided cost rate under § 210, the final FERC rules clearly establish that this information is but one of the factors to be considered. 45 *Federal Register* 12218 (February 25, 1980). If state commissions await the filing of § 133 data in November of 1980, the congressional intent to have alternative energy in service as quickly as possible will be thwarted. Furthermore, state commissions which await the filing of this data will be frustrated in their attempts to complete a § 210 review prior to March, 1981, the deadline established by § 210(f).

Since this commission established a procedure whereby the avoided costs are to be determined prior to the submission of § 133 data, the parties have offered a proxy as an appropriate substitute. The proxy offered is Public Service Company's most recently constructed and most efficient oil generating station, Newington. Upon review, the commission finds that the proxy is reasonable as a starting point and that suitable adjustments can be made to arrive at the avoided costs for Public Service Company. (PSNH)

The parties, while in agreement as to the Newington proxy, differ substantially in the components to be considered in arriving at the incremental cost or the avoided costs at the margin. Public Service Company of New Hampshire has offered the average fuel cost at Newington for six months ending June 30, 1980, 47.4 mills. Public Service Company of New Hampshire has estimated the average 1980 fuel cost to be 52.7 mills. As to adjustments for operation and maintenance costs and inventory costs, PSNH contends that such costs are fixed and therefore should be excluded for purposes of calculating avoided costs. Additionally, PSNH argues that consideration should be given to the change that will occur in PSNH's avoided costs

with the advent of Seabrook.

Granite State Electric (GSE) has adopted a similar approach. Granite State Electric Company stated that its average fuel costs as of December, 1978, was 28 mills and that as of December, 1979, this figure had increased to 48 mills. No GSE estimates were provided

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for 1980. Granite State offers the additional argument that it deserves additional consideration because of its present state of excess capacity. A GSE witness testified that its supplier of energy and capacity, New England Power, would not be in need of additional capacity until 1993.

Staff economist, Lisa Gertler, rejected the proposition that avoided costs should be solely based on fuel. While witness Gertler calculated a fuel component based upon the assumption that oil-fired electricity would be displaced, she also included calculations for other costs that would be avoided, inventory and operation and maintenance costs. Additionally, her calculations included a formula for calculating the additional value of a purchase from a small power producer which can meet an utility's daily peak loads thereby displacing the highest marginal cost generating sources.

Ms. Gertler agreed with the commission's prior determination of five mills as an additional allowance for those units that can provide capacity as well as energy. Due to the financing problems experienced by small power producers, Ms. Gertler recommended that in addition to setting a rate, the commission provide a long term incentive by "grandfathering" small power producers at the determined rate as they come on line. An additional recommendation was to instruct utilities to accept any contractual agreement offered by a small power producer unless the utility can prove unjust and unreasonable terms.

The following table illustrates Ms. Gertler's recommendation for avoided costs ending June 30, 1981:

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

Base Fuel Cost	61.81 mills per kwh
Adder for Daily Peak	6.18
Correction for Forced Outages	4.33
Inventory Cost	1.89
Operation and Maintenance	2.10
Total	<u>76.31 mills per kwh</u>

The total for energy and capacity would be 81.31 mills per kwh.

The Energy Law Institute (ELI) has provided substantial background into the legal and economic factors associated with setting a rate pursuant to § 210 of PURPA. Energy Law Institute witness Martin Ringo offered similar adjustments to the basic fuel component: adder for incremental cost differences from Newington, a correction for forced outages, operating and maintenance expenses and inventory cost. In addition, ELI cites the commission's attention to other components of avoided costs such as physical depreciation and externalities, which are unquantifiable on the basis of this record but nonetheless are argued to exist.

The ELI agrees with the quantifiable components found by staff with one exception, the adder for incremental cost differences from Newington. Stating that the staff projection is conservative ELI offers an adder of 10.82 mills per kwh in lieu of staff's 6.18 mills per kwh. Energy Law Institute proposes the adjustment in the first instance on the basis that Newington is PSNH's most efficient oil burning unit and as such it will be the first company-operated oil unit on line under NEPOOL's economic dispatch

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system. Therefore, according to ELI when Newington is not on line because of either scheduled or unscheduled outage or when system demand exceeds capacity with only Newington and more economic units on line, the avoided cost will exceed the base fuel cost of Newington. Energy Law Institute's proposal differs from staff's in that consideration is given to the Schiller station and PSNH's NEPEX purchases.

Numerous existing and potential power producers testified at the hearings. One of the most complete offerings came from Newfound Hydroelectric Company. While in general agreement with the approach offered by Ms. Gertler, Newfound requests a rate of 80 mills per kwh for energy and 85 mills for units which can provide both energy and capacity.

While in disagreement with the narrow interpretation offered by PSNH and GS as to avoided costs, Newfound has applied recent increases in the price of oil to indicate the impropriety of the figures offered by the two aforementioned utilities. Newfound highlights the PSNH projection for 1980 which reveals a 27.3 per cent increase in the last six months of 1980. Applying this increase to the first six months of 1981, Newfound arrives at a rate of 70.9 mills per kwh under PSNH's scenario. Turning to Granite State's figures, Newfound focuses on the 75 per cent increase between December, 1978, and December, 1979, which carried forward to December, 1980, would yield a cost rate of 83.8 mills per kwh.

Another thorough presentation was provided by Gordon Marker of New Hampshire Hydro Associates. Mr. Marker has significant experience in the field of hydroelectric generation. Mr. Marker focused on the tremendous front end costs associated with small power projects. An observation supported by Dr. Gerald Beckman, Ted Larter, and Edward Forster. Mr. Marker offered that the commission should adopt a flexible approach and suggested that those small power producers familiar with utility accounting, ratemaking, and regulation should be treated as in essence a small utility.

Representative Eugene Daniell, the major proponent of LEEPA, cites our attention to the inability of small power producers to hire the necessary lawyers and accountants if the commission should proceed to set rates on a project by project basis. The real question according to Representative Daniell is what is necessary to increase the amount of alternate energy in the state. Representative Daniell asks the commission to consider the real costs of Seabrook if it should decide to adopt the approach of using the next plant on line.

The LUCC urges the commission to avoid overestimation of avoided costs. In particular, the LUCC suggests that there is not an adequate record for the inventory and operation and maintenance adjustments offered by staff witness Gertler.

*Commission Analysis*

[1] The position that avoided costs should be based solely on average fuel costs is rejected. The FERC rules clearly state that a determination of the avoided costs as to energy purchased from small power producers envisions costs in addition to fuel and operating and maintenance. Volume 45 *Federal Register* 12225 (February 25, 1980). The examination of a particular oil-fired generating station's fuel price cannot cease at the price of the fuel. A

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generating station like Newington represents the avoided fuel cost only when the plant is on line and only when following the system's load. It is necessary to develop an appropriate adder to reflect a purchasing utility's cost when the above two factors are not operative.

As to the development of an appropriate adder to the fuel cost, the commission will accept staff's adjustment. This adjustment is based on a formula which multiplies the factor for costs above Newington by the percentage of time the load exceeded Newington by the probability of such load being supplied by the small power producer. While there may be merit to the considerations offered by ELI as to other plants and system purchases, the record has not been significantly developed to measure the accuracy of the projections.

The fuel cost to which the adder is applied is the projected average price of a barrel of oil for Newington for the period July 1, 1980, to June 30, 1981. Recent activity by the oil producing nations together with past underestimations by PSNH indicate that the figure used is conservative.

The adjustment for forced outages is also accepted. Recent hearings in the fuel adjustment cases, DR 80-46, establish the existence as well as the frequency of these adjustments. These forced outages raise average avoided cost because a utility is required to substitute less economical units. The staff correction of 7 per cent for the unscheduled outage rate at Newington and the weighted cost of all units more expensive than Newington is justified.

The adjustment for inventory has been challenged on the basis that the amount of energy provided by the small power producers is so minute as to not be a factor in inventory. The commission finds that in theory the adjustment for inventory is justified. While the number of small power producers may very well impact on inventory, there is no question that this cost is an avoided cost. Since the rate set in this proceeding will encourage the development of alternative energy sources both in quantity and quality, to ignore this aspect of avoided cost would support circularity and frustrate the purpose of both PURPA and LEEPA. The staff adjustment based on the working capital component associated with financing fuel inventory divided by the corresponding annual output of the plants involved, is a reasonable method for approximating fuel inventory costs.

Staff's proposed adjustment for operation and maintenance expenses does not distinguish between fixed and variable expenses. While consistency may dictate a removal of certain fixed costs, it is equally clear that recognition must be provided for physical depreciation as suggested by ELI. Since the record does not reveal these subtle and possibly balancing adjustments, the commission will accept the adjustment proposed by staff.

The discussion up to this point has focused upon a small power producer selling strictly energy. However, when a small power producer can provide reliable capacity as well as energy, the avoided costs are higher. This additional benefit has been clearly recognized by this commission in its prior report and Order No. 13,589 (64 NH PUC 82) and the FERC in its recent promulgation of rules. Volume 45 *Federal Register*, 12216, 12225 (February 25, 1980).

The testimony in this proceeding as well as the former case has revealed the accuracy of a five mill adjustment for capacity. The criteria used in our

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previous report and order is again adopted. While § 292.304(c) indicates that there are valid reasons for adopting different criteria for capacity adjustments depending on the alternative energy source used by the small power producer, there is not enough evidence in this record to adopt any further refinement.

The testimony of witnesses Larter, Harris, Forster, Marker, Beckman, Ambrosino, and Gertler all focus on a major problem faced by all small power producers, namely financing. Financial institutions do not have the necessary experience under either PURPA or LEEPA to properly evaluate the financial strength of a given project. Concern has been raised that the rate today may be lowered in the future which in turn would alter the economics and financial attractiveness of the projects. The record establishes the need to set not only a fair rate but some assurance that the rate will continue into the future.

Another factor that enters into this analysis is the next scheduled plant, Seabrook I. Substantial amounts of testimony and exhibits were devoted to answering the question of whether avoided costs will increase or decrease with the introduction of Seabrook I into the generation mix. Upon a review of the record it is simply impossible to forecast the effect Seabrook I will have on avoided costs of PSNH or GSE. While witnesses from these utilities initially used a total cost of \$2.6 billion for completion of Seabrook I and II, this figure was later raised to \$3.1 billion. Public Service Company of New Hampshire's most recent report to the commission raises the figure to \$3.3 billion. This figure does not include decommissioning costs, nuclear waste storage costs, or additional costs resulting from the aftermath of Three Mile Island or the slowdown in construction. On a mills per kwh basis, certain assumptions are made as to the useful life of the plants, the outages, the system load as well as other factors that given different assumptions could change the mills per kwh rate. However, it is also clearly established that oil prices are rising at a phenomenal rate exceeding the consumer price index and fueling the fires of inflation. The differential between oil fuel costs and nuclear fuel costs continues to widen.

Whether or not the avoided costs of PSNH's system are more or less than the present with the advent of Seabrook depends largely on the assumptions made. While the commission has found the economics of Seabrook justify its construction, the impact of its construction on avoided costs in 1983 and beyond is not clear.

Because of the commission's concern that alternative energy be developed as quickly as possible, coupled with our recognition that the advent of Seabrook places an entirely new variable into the avoided cost calculation, the commission finds that the rate set in this

proceeding will be applicable as a minimum to all small power producers presently operating qualifying facilities and to all small power producers who activate qualifying facilities between the date of this order and the date of initial generation at Seabrook I, for the life of the qualifying facilities. In essence, those small power producers, with qualifying facilities either under PURPA or LEEPA, will be grandfathered to the rate set in this proceeding as a minimum if the qualifying facility begins generation prior to electrical generation at Seabrook I.

The rate grandfathered for the

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forementioned qualifying producers is the staff proposal of 7.631 cents per kwh for energy and 8.131 cents per kwh rounded upwards to 7.7 cents and 8.2 cents respectively to account for the conservative assumptions taken by staff and the unquantified externalities.

This rate will be applicable to all New Hampshire utilities, except for Granite State. Due to the commission finding that Granite State has excessive capacity, the commission for the present will only award the energy component of 7.7 cents for all kwh sold to Granite State by qualifying small power producers within its service territory.

In terms of application of the aforementioned rates to cogenerators, the commission is mindful of the fact that no cogenerator or party interested in cogeneration appeared in our proceedings. The aforementioned rates for energy and capacity will only apply to (1) cogenerators who offer to sell their entire output and buy back all their needs, ( § 292.304b) and (2) as to electrical generators utilizing portions of their own output and selling excess to the electric utility only the energy rate will apply minus the adder for daily peak or seven cents. The remainder of the cogeneration question will be resolved in subsequent hearings.

As each new small power producer is connected to a New Hampshire utility, an adjustment will be made to reflect any increased costs in the utility's basic rates or fuel adjustment.

Finally, although the commission sets a minimum today, such a finding does not foreclose additional increases in the future prior to Seabrook I. While the commission is prepared to have additional hearings in the future due to increased avoided costs, the commission does not have the resources or the capabilities to begin treating small power producers as utilities. Besides the strict prohibition as to such treatment in both PURPA and LEEPA, it would be impossible at this moment in regulation to begin seeking out comparable small power producers so as to apply the traditional cases of Hope and Bluefield to arrive at a reasonable return on common equity. While the idea has long term merit, the practicality of regulation forecloses use of this method.

#### V. Existing Producers and Effective Date

[2] The question has been raised as to whether or not it is fair to allow existing small power producers the new rate. Various parties have contended that an allowance of this new rate to existing small power producers will be a major windfall. Small power producer, Ted Larter, reacted by stating that to do otherwise would punish the highly skilled small power producer who achieved results before lesser talented or motivated small power producers began their operations. The question is resolved by examination of the FERC rules that clearly provide guidance that if the choice is between small rate reductions and help to the small power



producer, the latter should prevail.

The commission does not examine the rate of return earned by other suppliers of energy to utilities. This factor together with the legislative restrictions on treating these small power producers independent of the regulatory system, but for pricing purposes, is of significant rationale to allow the rate found in this proceeding to be applied to existing small power producers.

There has been some discussion that the rates be applied retroactively to May

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1, 1980. The small power producers are not designated as utilities under either state or federal law. Consequently, the statutes that allow for some retroactive application of rates do not apply. Therefore, the aforementioned rates will apply to all energy-capacity as of June 18, 1980, forward. Our order will issue accordingly.

Supplemental Order

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

Ordered, that all qualifying small power producers will receive 7.7 cents per kwh for all energy sold to any New Hampshire electric utility, and it is

Further ordered, that all qualifying small power producers will receive 8.2 cents per kwh for reliable capacity provided to any New Hampshire electric utility except Granite State Electric, and it is

Further ordered, that qualifying cogenerators are only included to the extent discussed in the report, and it is

Further ordered, that all electric utilities within the state provide quarterly information as to amount of kwh's purchased from small power producers,

By order of the Public Utilities Commission of New Hampshire this eighteenth day of June, 1980.

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NH.PUC\*06/19/80\*[78603]\*65 NH PUC 304\*Pennichuck Water Works

[Go to End of 78603]

## **Re Pennichuck Water Works**

DR 80-134, Order No. 14,287

65 NH PUC 304

New Hampshire Public Utilities Commission

June 19, 1980

PETITION of a water company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Pennichuck Water Works, a public utility engaged in the business of supplying water service in the state of New Hampshire, on June 13, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 4 — Water, providing for increased rates (\$2,334,729), effective July 14, 1980; 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 Ninth Revised Pages 21-24 of tariff, NHPUC No. 4 — Water, of Pennichuck Water Works be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of June, 1980.

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NH.PUC\*06/20/80\*[78601]\*65 NH PUC 300\*Public Service Company of New Hampshire

[Go to End of 78601]

### Re Public Service Company of New Hampshire

DE 80-57, Order No. 14,282

65 NH PUC 300

New Hampshire Public Utilities Commission

June 20, 1980

PETITION by electric company for authority to acquire an easement over private land to be used for transmission lines, and to determine a fair and reasonable price to be paid for the easement; damages fixed and awarded.

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EMINENT DOMAIN, § 8 — Acquisition of easement — Award of damages.

[N.H.] An award of damages for an electric company's acquisition of an easement for the construction of transmission lines was based upon the testimony of the company's witnesses rather than upon the testimony of the landowner's witness.

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APPEARANCES: Eaton W. Tarbell, Jr., for the Public Service Company of New Hampshire; Steven Ells for Olde Mill Investments, Inc.

## BY THE COMMISSION:

## Report

The Public Service Company of New Hampshire, a public utility engaged in

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the supply of electric service in the state of New Hampshire, pursuant to provisions of RSA 371, petitioned the Public Utilities Commission of New Hampshire for permission to acquire a perpetual rights of easements to certain lands in an area of Hampton, New Hampshire, said lands to be used in conjunction with transmission lines emanating from the Seabrook nuclear power station; and further to determine damages to be paid for same. The petition was filed on March 7, 1980, with a duly noticed public hearing scheduled for May 13, 1980, subsequently adjourned until May 22, 1980, at 2:00 P.M..

The petition prayed that the commission determine that the necessity for the taking had been predetermined through prior approvals by state and federal authorities under RSA 162-F et al. It further sought that the commission determine a fair and reasonable price to be paid for said easement.

The question of necessity was resolved early in the proceeding with a ruling that issue of a certificate of site and facility plus approval by the Nuclear Regulatory Commission precluded further challenge. The matter of value was the only item remaining, and to this end, the petitioner presented two witnesses. The landowner presented one witness.

Petitioner's witness, Harry R. Murray, provided the commission with maps and plans on which the property in question was isolated. These were entered as Exhs P-1 and P-2 respectively.

Petitioner's witness, David F. Colt, indicated that he had appraised the property before the taking at \$82,000 and after the taking at \$64,400, resulting in damages of \$17,600. Supporting these appraisal figures were several photographs entered as exhibits, with the location of the photographer marked upon Exh P-2 for each view. The taking involved property which included in addition to the land a two-family residence with an attached barn plus the foundation of a former garage. Mr. Colt advised the residence had been unoccupied for an extended period and the garage had been mostly destroyed by fire some three years prior. It was revealed that the bulk of the property in question was zoned residential, while a small portion ... 0.687 acres located under an existing power line right of way was zoned industrial. Mr. Colt considered the income potential of the two-family home to assess its value before and after the taking. He considered fair rental of the two units at a total of \$540 per month and examining this with similar sales estimated a value of \$59,400 for the house with one acre of land which he valued at \$15,000. He considered the additional 14 acres valued at \$22,500 for a total value of the home and land of \$82,000. He supported this estimate with data on comparable sales in the Hampton area. He arrived at these under both a market data approach and an income data approach. He attributed all damages to the taking of the land, with no impact on the building. His damages include \$10,400 for the land and \$7,200 in severance damages.

In support of the landowner, George H. Sumner, testified on the basis of two lots as shown in

the tax maps of the town of Hampton (Map 350, Lots 3 and 4). For Lot 3, Sumner appraises the value as \$20,500 before the taking and zero after the taking. He claims potential industrial use and based his appraisal upon comparable industrial sales. For Lot 4, Mr. Sumner claimed a value before the taking of \$100,000. This

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is based upon replacement cost of the house at \$40 per square foot or \$73,920; but, because of the age of the home, depreciated this amount by 20 per cent to \$59,136. To this, he added value of improvements (porches and barn) in the amount of \$4,250. His land value for that parcel was \$36,250 for a total value of \$99,636 which he rounded to \$100,000. (It was noted that there was some discrepancy between petitioner's acreage and that of the petitioner, the latter having used figures of the town of Hampton tax maps.) The after-taking value was stated at \$80,000 or a \$20,000 damage assessment.

The commission finds that the petitioner's claim of potential industrial use of the so-called Lot 3 invalid since the only portion of that section industrially zoned in encumbered by the existing power line easement and testimony indicated issue of a variance for such unlikely. It therefore rejects the comparisons with that of other industrial sales by Mr. Sumner. Accordingly, that portion of land known as Lot 3 comprising 1.13 acres will be considered the same value as other land in the parcel, based upon residential use.

Mr. Colt testified that his appraisal was based upon approximately 15 acres and Mr. Murray's survey indicated 14.817 acres, while the town of Hampton tax maps on which Mr. Sumner based his appraisal indicated a total of 11.53 acres. If the acreage for Lot 3 is added to the land valued by Mr. Sumner at \$2,500 per acre, the total land value is \$26,325 plus \$12,750 (house lot) or \$39,075. Mr. Colt appraised this land at \$37,500. The commission accepts the latter, since Mr. Sumner's land value was based upon comparables which he appreciated at one per cent each month. Cross-examination revealed that figure inflated for at least six months.

Since both appraisers testified no damages to the building, no comment need be made.

Based upon the foregoing, the commission accepts the petitioner's appraisal of damage at \$17,600. Our order will issue accordingly.

Order

Based upon 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 take, pursuant to RSA 371, property described in its petition which is in the commission files on this matter; and it is

Further ordered, that Public Service Company of New Hampshire pay damages for said taking in the amount of \$17,600 to the Olde Mill Investments, Inc.; and it is

Further ordered, that the taking granted herein is perpetual right and easement as presented in the company's petition.

By order of the Public Utilities Commission of New Hampshire this twentieth day of June, 1980.

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NH.PUC\*06/20/80\*[78604]\*65 NH PUC 305\*Conversion of Schiller Station

[Go to End of 78604]

## Re Conversion of Schiller Station

DE 79-141, Fifth Supplemental Order No. 14,292

65 NH PUC 305

New Hampshire Public Utilities Commission

June 20, 1980

ORDER directing a utility to share responsibility for the cost of an air quality study.

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EXPENSES, § 119.1 — Air quality study — Utility expense.

[N.H.] The commission ordered a utility to be responsible for \$100,000 of a study concerning the impact on air quantity and emission levels resulting from conversion of a power station from oil to coal generation.

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BY THE COMMISSION:

Supplemental Order

Whereas, the New Hampshire Air Resources Agency is assisting the public utilities commission and Public Service Company concerning the impact on air quality and emission levels of a conversion of Schiller station from oil to coal; and

Whereas, the costs of Schiller station generated from oil or coal are recovered through rates to consumers; and

Whereas, the Public Service Company of New Hampshire has raised concerns as to potential environmental impact of a coal conversion; and

Whereas, time, money, and effort can be saved through a professional evaluation of factors such as emissions, stack data, PSD review, and meteorological data; and

Whereas, the New Hampshire Air Resources Agency will conduct "A Study of Air Quality Impacts and Necessary Emissions Limitations"; it is hereby

Ordered, that pursuant to RSA 365:37, 365:38, 374:5-a, Public Service Company be responsible for \$10,000 of the aforementioned study and that this amount be tendered to the New Hampshire Air Resources Agency.

By order of the Public Utilities Commission of New Hampshire this twentieth day of June, 1980.

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NH.PUC\*06/24/80\*[78605]\*65 NH PUC 305\*Public Service Company of New Hampshire

[Go to End of 78605]

## Re Public Service Company of New Hampshire

DF 80-115, Order No. 14,294

65 NH PUC 305

New Hampshire Public Utilities Commission

June 24, 1980

PETITION by electric company for authority to issue and sell common stock; granted.

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SECURITY ISSUES, § 58 — Financing of construction program — Refund of short-term notes.

[N.H.] An electric company was authorized to issue and sell common stock to pay off a portion of outstanding short-term notes, the proceeds of which were used to finance the purchase and construction of property reasonably requisite for present and future use in the conduct of its business.

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APPEARANCES: Frederick J. Coolbroth and Philip Ayers for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed May 21, 1980, 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 not exceeding 2.5 million shares of common stock \$5 par value. A duly noticed hearing was held in Concord on June 11, 1980.

Company witness Lampron testified that the proceeds of the sale of the common stock will be used (a) to pay off a portion of the short-term notes outstanding at the time of the sale (estimated to be about \$122.1 million on July 16, 1980), 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 finance the purchase and construction of additional such property; and (c) for other corporate purposes. All expenses incurred in accomplishing the financing will be paid from the general funds in the company.

The common stock will be sold through 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 commission recommends that in the future the company give considerable thought to a competitive sale.

The company submitted a balance sheet as of March 31, 1980, actual and proformed to reflect the sale of \$30 million of preferred stock and the proposed sale of common stock. Exhibits were also submitted showing: the disposition of proceeds; estimated expenses of the issue and capital structure as of March 31, 1980, actual and proformed to reflect the sale of \$30 million of preferred stock and the proposed sale of the common stock. Projected financing requirements were outlined in testimony. A certified copy of authorizing votes of the company's board of directors was put in evidence at the hearing. A copy of the registration statement was supplied at the request of the commission staff.

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 petitioner's business, and for other proper corporate purposes, and further finds that the issue and sale of the common

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stock will be consistent with the public good. Our order will issue accordingly.

Order

Based 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 not exceeding 2.5 million shares of common stock, \$5 par value, for cash in accordance with the foregoing report and as set forth in its petition; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this commission the number of shares of said common stock to be sold and the purchase price thereof, after which a supplemental order will issue approving the number of shares of said common stock to be sold and the purchase price thereof; and it is

Further ordered, that the proceeds from the sale of said common stock shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of said company and the other purposes stated in the report; 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 to 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-fourth day of

June, 1980.

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NH.PUC\*06/26/80\*[78606]\*65 NH PUC 307\*Concord Steam Corporation

[Go to End of 78606]

### Re Concord Steam Corporation

DF 80-128, Order No. 14,298

65 NH PUC 307

New Hampshire Public Utilities Commission

June 26, 1980

PETITION of a utility to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Concord Steam Corporation, a public utility in the state of New Hampshire, on May 26, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 2 — Steam, providing for increased rates designed to increase the company's annual base revenues effective June 15, 1980; 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; and

Whereas, the commission has

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docketed DF 80-128 for July 10, 1980, to expedite consideration of this petition; it is hereby

Ordered, that Second Revised Page 11 of tariff, NHPUC No. 2 — Steam, of Concord Steam Corporation be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of June, 1980.

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NH.PUC\*06/27/80\*[78607]\*65 NH PUC 308\*Pennichuck Water Works

[Go to End of 78607]

### Re Pennichuck Water Works



DR 80-26, Supplemental Order No. 14,299

65 NH PUC 308

New Hampshire Public Utilities Commission

June 27, 1980

ORDER approving revised tariff pages and requiring public notice.

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BY THE COMMISSION:

Supplemental Order

Whereas, certain revised pages to Pennichuck Water Works tariff, NHPUC No. 4 — Water, filed February 4, 1980, were suspended by commission Order No. 14,057 dated February 13, 1980 (65 NH PUC 70); and

Whereas, after investigation and a further filing by Pennichuck; it is

Ordered, that Original Pages 13A and 15B; First Revised Pages 6, 8, 9A, 13, 14, 15, 15A, and 15C; and Second Revised Page 9 of Pennichuck Water Works tariff, NHPUC No. 4 — Water, are approved, effective July 1, 1980; and it is

Further ordered, that Pennichuck Water Works give public notice of these revisions in accordance with this commission's tariff filing rules.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of June, 1980.

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NH.PUC\*06/27/80\*[78608]\*65 NH PUC 308\*Concord Natural Gas Corporation

[Go to End of 78608]

## Re Concord Natural Gas Corporation

DR 80-126, Order No. 14,300

65 NH PUC 308

New Hampshire Public Utilities Commission

June 27, 1980

PETITION of a gas company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Concord Natural Gas Corporation, a public utility engaged in the business of supplying gas service in the state of New Hampshire, on May 29, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 13 — Gas, providing for increased rates (\$162,443), effective July 1, 1980; 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 Tenth Revised Pages 13-16 and Eighth Revised Page 17 of tariff, NHPUC No. 13 — Gas, of Concord Natural Gas Corporation be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of June, 1980.

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NH.PUC\*06/27/80\*[78609]\*65 NH PUC 309\*Granite State Electric Company

[Go to End of 78609]

## Re Granite State Electric Company

DR 79-214, Order No. 14,302

65 NH PUC 309

New Hampshire Public Utilities Commission

June 27, 1980

ORDER that a proceeding devoted solely to an electric company would be held regarding fuel clause issues.

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BY THE COMMISSION:

Order

Whereas, the commission initiated DR 79-214; and

Whereas, DR 79-214 has been a generic proceeding; and

Whereas, some of the utilities involved have been treated individually in rate proceedings on fuel clause issues; and Whereas, Granite State Electric Company filed testimony on January 18, 1980; and

Whereas, the commission believes it is just and proper to individually proceed with the Granite State Electric Company case; it is hereby

Ordered, that a proceeding solely devoted to Granite State Electric Company's fuel clause proposal will be held on July 22, 1980, at 2:00 P.M. at the offices of the commission.

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

June, 1980.

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NH.PUC\*06/27/80\*[78610]\*65 NH PUC 310\*Pittsfield Aqueduct Company

[Go to End of 78610]

## **Re Pittsfield Aqueduct Company**

DR 80-125, Order No. 14,305

65 NH PUC 310

New Hampshire Public Utilities Commission

June 27, 1980

PETITION of a water company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Pittsfield Aqueduct Company, a public utility engaged in the business of supplying water service in the state of New Hampshire, on May 29, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 4 — Water, providing for increased rates (\$51,213), effective July 1, 1980; 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 Pages 13-17 of tariff, NHPUC No. 4 — Water, of Pittsfield Aqueduct Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of June, 1980.

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NH.PUC\*06/27/80\*[78611]\*65 NH PUC 310\*New England Telephone and Telegraph Company

[Go to End of 78611]

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

DE 80-81, Order No. 14,306

65 NH PUC 310

New Hampshire Public Utilities Commission

June 27, 1980

PETITION by telephone company for a license to place aerial cable over railroad tracks; granted.

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CONSTRUCTION and equipment, § 5 — Telephone line construction.

[N.H.] A telephone company was granted a license to install an aerial cable over railroad tracks where, after notice and hearing, no objections were raised or submitted to the cable, and it was found to be in the public interest.

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APPEARANCES: Alfred Ward, manager, outside plant, for the petitioner.

BY THE COMMISSION:

Report

On April 14, 1980, the New England

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Telephone and Telegraph Company filed with this commission a petition seeking authority to install and maintain an aerial telephone cable over the railroad tracks for approximately 95 feet from telephone pole 35A/3 on the railroad right of way in Woodstock, New Hampshire, 211 feet south of railroad marker (20-02) to telephone pole 35A/4 on right of way in Woodstock, New Hampshire.

The commission issued an order of notice on April 15, 1980), directing all interested parties to appear at public hearing at 10:00 A.M. on May 28, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; John Coleman, New England Telephone and Telegraph Company; New Hampshire Aeronautics Commission; and the New Hampshire Transportation Authority.

An affidavit of publication was received on May 1, 1980, indicating a publication in the *Manchester Union Leader* on April 22, 1980, signed by Elizabeth A. Sheppard and received in the commission's offices in Concord, New Hampshire on May 1, 1980.

Alfred Ward, outside plant manager, described the aerial cable as being 25 pair, BKTA-25 aerial cable with one 6M strand as shown on drawing NHR No. 80-2, with a clearance of 25 feet over the railroad track.

The commission noted that no objections were filed nor expressed at the public hearing. No objections being voiced or submitted to this aerial cable installation, the commission finds the record supports the installation of the cable would be in the public interests. Our order will issue accordingly.

Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that authority be granted for installation of aerial telephone cable over railroad tracks for New England Telephone and Telegraph Company, said crossing to be approximately 95 feet from telephone pole 35A/3 on the railroad right of way in Woodstock, New Hampshire, to be installed and maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of June, 1980.

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NH.PUC\*06/27/80\*[78612]\*65 NH PUC 311\*Concord Electric Company

[Go to End of 78612]

## Re Concord Electric Company

DR 79-214, Order No. 14,308

65 NH PUC 311

New Hampshire Public Utilities Commission

June 27, 1980

INVESTIGATION on commission motion, as to whether electric company's fuel adjustment clause should be altered; revisions allowed.

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### 1. RATES, § 303 — Fuel adjustment clause — Revisions.

[N.H.] The commission allowed the alteration of the fuel adjustment to an electric company's quarterly adjustment, believing that the goal of leveling off fluctuations in the fuel adjustment together with providing an opportunity to budget was of significant value, and, in addition, consumers' bills would increase or decrease solely on the basis of usage within each month of the quarter, and would be an appropriate conservation signal as well p. 312.

### 2. RATES, § 303 — Fuel adjustment clause — Revisions.

[N.H.] The commission allowed an electric company to roll energy charges into base rates so as to set a new base reflecting a roll-in to basic rates of the same amount of fuel cost per kilowatt-hour as included in the Public Service Company of New Hampshire's retail New Hampshire rates. p. 313.

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APPEARANCES: Warren Nighswander; William Shaine; Gerald Eatin, Community Action Program.

## BY THE COMMISSION:

## Report

## I. Procedural History

This docket was opened by the commission pursuant to its own motion. The commission's concern related to whether the present fuel adjustment clause should be altered to a quarterly adjustment so as to minimize the dramatic fluctuations in the fuel adjustment charge due to changes in the generation mix. The commission was especially concerned with the consumer confusion and inability to budget under the existing system. From this investigation has sprung numerous other issues which are discussed below. The commission held hearings in this docket on December 17, 1979, June 5 and June 18, 1980.

## II. Fuel Adjustment Alteration

The Concord Electric Company provided testimony and exhibits supporting (1) an estimated quarterly forward-looking fuel adjustment clause; (2) a roll into base rates of energy charges on a basis comparable with the rates currently in effect for Public Service Company of New Hampshire; (3) a recovery of the "two-month lock up," which is the lag in the billing of the FAC due to a two-month delay in that billing; and (4) to partially offset the lock up with the refunds received from PSNH together with interest.

## III. Estimated Quarterly Forward-looking Fuel Adjustment Clause

[1] The commission staff, company, and intervenors seem to be in agreement that a forward-looking clause is superior to the current two-month lagging one.

Concern was expressed by the LUCC that this revision will improve the company's cash flow and working capital position, and thereby give the company, indirectly, a rate increase.

The commission is hesitant to begin examining working capital, which will lead to a full rate case. Rather, we will monitor the company's monthly reports as filed with the commission, and if the rate of return earned climbs to a level that is unjust or unreasonable, the commission will call the company in on our own motion.

The commission has recently reduced rates pursuant to this standard. *Re Kearsarge Teleph. Co.* (1979) 64 NH PUC 131; *Re Dunbarton Teleph. Co.* (1979) 64 NH PUC 159; *Re*

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Continental Teleph. Co. of New Hampshire, (1979) 64 NH PUC 190. Therefore, upon review, the commission will allow the alteration of the fuel adjustment to the company's quarterly adjustment. The commission believes the goal of leveling off fluctuations in the fuel adjustment together with providing an opportunity to budget is of significant value to adopt this revised fuel adjustment. In addition, consumers bills during the quarter will from this day forward increase or decrease solely on the basis of usage within each month of the quarter. This will be an appropriate conservation signal as well.

## IV. Roll-in

[2] The collection of fuel charges is monitored by this commission whether the fuel is

recovered in the basic rates or the fuel adjustment clause. The commission has historically allowed utilities to roll in so as to set a new base. However, there is no revenue impact associated with this request. The parties are in agreement as to this factor and the commission will allow the roll-in.

#### V. Collection of Lockup

The company as part of this filing has requested authority to surcharge its "Two-month Lock In" over a 12-month period. In the cases of Public Service Company of New Hampshire and Exeter & Hampton Electric Company, the commission handled a similar surcharge request in conjunction with a rate case. Proceeding in this allowed the commission greater flexibility and allowed for the correct treatment of all items in dispute.

Both the LUCC and staff are concerned with the fact that in this case the commission is not faced with a rate case. The LUCC and staff note that in *Re Concord Electric Co. (1978) 63 NH PUC 240*, this commission recognized as a working capital component of rate base an allowance for unrecovered fuel costs. The LUCC in brief and the LUCC and staff in the hearing suggested that if the commission allowed recognition of the unrecovered fuel costs without altering existing basic rates to reduce the working capital component, the commission would be unfair to consumers. The commission agrees. While no party cited our decision in *Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209*, this contention is exactly the result reached in that docket. In Exeter, the commission allowed the recovery of the lock up but removed any allowance in working capital for unrecovered fuel costs.

The effect of Concord Electric's request would be to increase rates by approximately \$1.2 million as of April 30, 1980. More recent data, as of May 31, 1980, would reduce this amount. However, the commission rejects collection of this rate prior to full consideration of the company's rates.

Currently the company is in possession of a refund from PSNH which is due to be returned to ratepayers. The commission feels that refund plus interest, as currently being accrued, should also be held in abeyance until the issue of unrecovered fuel costs is resolved. If existing consumers are to receive the benefits of the refund and the charges of the unrecovered fuel costs, the commission believes decreasing rates by \$700,000 plus then increasing them by in excess of \$1 million will only cause confusion. Furthermore, sufficient evidence has not been given on the possibility of refunding these developed

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amounts to those customers that paid the overcharges.

The issues of the PSNH refunds and the lock up should be resolved together in a separate case as the commission did in *Exeter & Hampton Electric*. Such a procedure allows for full recognition of the effects of each as well as a complete explanation of the options available in the refund. Concord Electric is to continue adding interest to the refunds. Through this fashion the commission will be assured that consumers will be adequately and fully compensated. The commission will, therefore, neither increase rates by over a \$1.2 million or decrease rates, rather the commission will study the effect of both on the company's working capital, earned rate of return, and other components that affect the rates charged consumers. Only through this manner

can the commission be assured that consumers are not unfairly billed. Our order will issue accordingly.

Order

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

Ordered, that Concord Electric Company shall revise its fuel adjustment clause from a monthly, two-month lagging calculation to a future looking quarterly calculation as described in Second Revised Page 15 of NHPUC Tariff No. 6 — Electricity, Concord Electric Company; and it is

Further ordered, that 65th Revised Page 15A, NHPUC Tariff No. 6 — Electricity, Concord Electric Company is denied; and it is

Further ordered, that the "lock up" will remain on the company's balance sheet to be subsequently netted against the refund received from PSNH for over-collection of temporary surcharge (fuel), including interest, which as of May 31, 1980, including interests equals \$732,048 in another proceeding; and it is

Further ordered, that the refund from PSNH will continue to accrue interest per the current methodology; and it is

Further ordered, that the company file on a timely basis its complete internal monthly reports; and it is

Further ordered, that the company file with this commission tariff pages reflecting a roll in to basic rates of the same amount of fuel cost per kwh as included in PSNH retail NH rates. By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of June, 1980.

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NH.PUC\*06/30/80\*[78613]\*65 NH PUC 314\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78613]

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

Additional petitioner: Public Service Company of New Hampshire

IE 14,934, Order No. 14,310

65 NH PUC 314

New Hampshire Public Utilities Commission

June 30, 1980

PETITION by electric cooperative and electric company for authority to change service territories; granted.

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**Page 314**



## MONOPOLY AND COMPETITION, § 29 — Divisions of service area.

[N.H.] An electric cooperative was authorized to discontinue service to four customers in a limited area and an electric company was authorized to extend service to the same customers in that area where the affected customers did not object to the proposed transfer of service and where the commission found that improved service could be rendered more economically by an extension of the electric company's lines than by maintaining or rerouting the cooperative's line.

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## BY THE COMMISSION:

## Order

Whereas, New Hampshire Electric Cooperative, Inc. (hereinafter called the Cooperative), a corporation duly organized under the laws of this state and operating therein as an electric public utility under the jurisdiction of this commission, by petition filed May 15, 1980, seeks authority pursuant to Chap 374 RSA to discontinue service in a limited area in Colebrook in the Kidderville area to four customers, because maintenance and operation of its present distribution lines involves traversing approximately 6,175 feet cross country through swamp and other difficult terrain, resulting in costly operations and extended service interruptions; and

Whereas, Public Service Company of New Hampshire (hereinafter called Public Service), a corporation duly organized under the laws of this state and operating therein as an electric public utility under the jurisdiction of this commission, by petition filed May 23, 1980, seeks authority pursuant to Chap 374 RSA to serve the four customers presently receiving service from the Cooperative, by an extension of approximately 1,800 feet of new line; and

Whereas, the four customers involved, namely: Harry Bolles, Levida Boutwell, Leonard Lintner, and James Smith have signified in writing that they have no objection to the proposed transfer of service, such assent to the transfer being on file with this commission; and

Whereas, the commission finds it to be in the public interest that improved service to these four customers can be rendered more economically by an extension of Public Service lines than maintaining or rerouting the Cooperative's lines, such extension by Public Service requiring only a relatively small construction surcharge under the line extension provisions of the filed tariff, which the commission will waive in this case in the interest of improved service; it is

Ordered, that, pursuant to the provisions of Chap 374 RSA, the Cooperative be, and hereby is, authorized to discontinue electric service, and Public Service be, and hereby is, authorized to extend electric service, to the above-named customers in the Kidderville area of the town of Colebrook, effective on a mutually agreeable date subsequent to this order, when necessary construction is completed, such authorization to provide service being granted without hearing, as provided by RSA 374:26 when all interested parties are in agreement; and it is

Further ordered, that Public Service may collect accounts receivable of the Cooperative relating to the customers who are subject to this transfer at the time of the transfer as a condition of continued service by Public Service; and it is

Further ordered, that each company, the Cooperative and Public Service, file

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a map of the town of Colebrook reflecting the above changes in service territories as required by RSA 372:22B, such maps to be filed in due time as a part of the ongoing commission cases (DE 78-105 — Cooperative, and DE 78-106 — Public Service) to obtain compliance with RSA 374 as amended by Chap 304 of the 1977 Session Laws.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1980.

=====

NH.PUC\*06/30/80\*[78614]\*65 NH PUC 316\*Concord Electric Company

[Go to End of 78614]

### **Re Concord Electric Company**

IE 14,423, Supplemental Order No. 14,311

65 NH PUC 316

New Hampshire Public Utilities Commission

June 30, 1980

ORDER requiring an electric company to refund to its customers a surcharge credit.

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REPARATION, § 39 — Surcharge credit — Method of payment.

[N.H.] The commission ordered an electric company to refund to its customers a surcharge credit plus accumulated interest on a per kilowatt-hour basis over a 12-month period, and to set aside an amount for claims by past customers who were no longer serviced by the company.

BY THE COMMISSION:

Supplemental Order

Whereas, on October 13, 1977, Concord Electric Company originally received a check from Public Service Company of New Hampshire for rebates ordered by the then existing Federal Power Commission; and

Whereas, by commission Order No. 12,946 dated November 1, 1977 (62 NH PUC 280), the commission suspended the distribution of refunds pending an appeal by the Public Service Company of New Hampshire; and

Whereas, a final decision by the U. S. circuit court of appeals on August 31, 1979, has been rendered upholding the previous Federal Power Commission decision; and

Whereas, the U. S. Supreme Court has denied certiorari; it is hereby

Ordered, that Concord Electric Company will refund the original credit plus accumulated interest on all bills rendered on or after July 31, 1980; and it is

Further ordered, that the refund will be flowed back to consumers as it was surcharged; namely, on a per kilowatt-hour basis; and it is

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Further ordered, that during this 12-month refund process the Concord Electric Company will continue to accumulate interest on the yet to be refunded remainder; and it is

Further ordered, that Concord Electric Company will set aside \$60,000 for claims by past customers who are no longer serviced by Concord Electric Company; and it is

Further ordered, that Concord Electric Company make a reasonable attempt to contact those past customers.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1980.

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NH.PUC\*06/30/80\*[78615]\*65 NH PUC 317\*Exeter and Hampton Electric Company

[Go to End of 78615]

**Re Exeter and Hampton Electric Company**

DR 79-91, Fourth Supplemental Order No. 14,312

65 NH PUC 317

New Hampshire Public Utilities Commission

June 30, 1980

PETITION of an electric company to collect fuel costs over a 12-month period; granted.

RATES, § 332 — Unrecovered fuel costs less customer refunds — Time of collection.

[N.H.] The commission allowed an electric company to collect over a one-year period the net difference between unrecovered fuel costs and an amount of refunds due to consumers plus interest, since there had been no allowance for unrecovered fuel costs in the company's working capital allowance.

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BY THE COMMISSION:

Supplemental Order

Exeter and Hampton Electric Company (hereinafter referred to as "Exeter" or the "company") has filed two motions relating to the commission's Report and Order No. 14,231 (65

NH PUC 209). The first was a motion for rehearing and the second a motion for clarification. The following discussion addresses one of the issues aired in both motions.

*Lockup*

The Exeter and Hampton Electric Company seeks to have the commission alter its Report and Order No. 14,231 so as to allow the collection of the difference between the unrecovered fuel costs above base as of May 31, 1980, \$894,138, and the amount of refunds due to consumers plus interest based on the prime interest rate amounting to \$782,567, to be collected over one year rather than three years originally stated in the report and order.

Upon review of the company's contention, the commission finds that where there has been no allowance for unrecovered fuel costs in the working capital allowance, it is just and reasonable to allow the collection over a one-year period. If there was a collection of these costs over a three-year period, then just and reasonable principles would require an adjustment to the working capital calculation.

Therefore, the commission will allow the \$111,571 difference to be recovered by a kilowatt-hour surcharge as proposed or 6.07 cents per 100 kwh.

It is hereby

Ordered, that Exeter and Hampton

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begin collecting the net difference between the unrecovered fuel costs above base and the Public Service Company of New Hampshire refunds over a 12-month period by applying a temporary surcharge of 6.07 cents per kwh on all bills rendered on or after June 30, 1980.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1980.

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NH.PUC\*06/30/80\*[78616]\*65 NH PUC 318\*Exeter and Hampton Electric Company

[Go to End of 78616]

**Re Exeter and Hampton Electric Company**

DR 79-91, Fifth Supplemental Order No. 14,313

65 NH PUC 318

New Hampshire Public Utilities Commission

June 30, 1980

ORDER approving a fuel adjustment charge.

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BY THE COMMISSION:

Supplemental Order

Whereas, the company's proposed alteration to the fuel adjustment charge was inadvertently rejected by our Order No. 14,231 (65 NH PUC 209) and

Whereas, the proposed fuel adjustment was not objected to by any party or staff and will serve as a mitigation against attrition for the company while more properly matching expenses with customers; it is hereby

Ordered, that Exeter and Hampton's proposed fuel adjustment design change is to be made effective on all bills rendered on or after June 30, 1980.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1980.

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NH.PUC\*06/30/80\*[78617]\*65 NH PUC 318\*Northern Utilities, Inc.

[Go to End of 78617]

**Re Northern Utilities, Inc.**

IR 14,939, Order No. 14,314

65 NH PUC 318

New Hampshire Public Utilities Commission

June 30, 1980

PETITION of a gas company to revise its tariff; 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 June 2, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Gas, providing for changes in the present billing and collecting procedure; 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 13A and Third Revised Page 13 of tariff, NHPUC No. 6 — Gas, of Northern Utilities, Inc., Allied Gas division, be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June,

1980.

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NH.PUC\*06/30/80\*[78618]\*65 NH PUC 319\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78618]

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

IR 14,937, Order No. 14,315

65 NH PUC 319

New Hampshire Public Utilities Commission

June 30, 1980

PETITION of an electric company for approval of a service 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. 69 with Laurence Woodward d/b/a Woodward's Motor Inn, effective as of the date of this order, 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 hereof.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1980.

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NH.PUC\*06/30/80\*[78619]\*65 NH PUC 320\*Public Service Company of New Hampshire

[Go to End of 78619]

### **Re Public Service Company of New Hampshire**

Additional petitioner: New Hampshire Electric Cooperative, Inc.

IE 14,935, Order No. 14,316

65 NH PUC 320

New Hampshire Public Utilities Commission

June 30, 1980

PETITION for authority to change service territories in a limited area; granted.

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SERVICE, § 252 — Substitution of service — Electric.

[N.H.] The commission authorized an electric company to discontinue service to four of its customers, and for another electric company to extend service to the same customers, due to the fact that the latter company could provide service more economically and because none of the customers objected to the transfer of service.

-----

BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire (hereinafter called Public Service), a corporation duly organized under the laws of this state and operating therein as an electric public utility under the jurisdiction of this commission, by petition filed May 23, 1980, seeks authority pursuant to Chap 374 RSA to discontinue service in a limited area in Pittsburg along Route 3 to four customers, because these customers can be more economically served by another electric utility; and

Whereas, New Hampshire Electric Cooperative, Inc. (hereinafter called the cooperative), a corporation duly organized under the laws of this state and operating therein as an electric public utility under the jurisdiction of this commission, by petition filed May 15, 1980, seeks authority pursuant to Chap 374 RSA to serve the four customers presently receiving service from Public Service, by an extension of approximately 200 feet of new line; and

Whereas, the four customers involved — namely, Real Cameron, Cellaire Chaloux, Mrs. Lawrence Noyes, and Howard Reid — have signified in writing that they have no objection to the proposed transfer of service, such assent to the transfer being on file with this commission; and

Whereas, the commission finds it to be in the public interest that service to these four customers can be provided more economically by an extension of the cooperative's lines than maintaining the Public Service lines, such extension by the cooperative requiring no construction surcharge under the line extension provisions of the filed tariff; it is

Ordered, that pursuant to the provisions of Chap 374 RSA, Public Service be, and hereby is, authorized to discontinue electric service, and the cooperative be, and hereby is, authorized to extend electric service, to the above named customers on Route 3 in the town of Pittsburg, effective on a mutually agreeable date subsequent to

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this order, when necessary construction is completed; such authorization to provide service being granted without hearing, as provided by RSA 374:26 when all interested parties are in agreement; and it is

Further ordered, that the cooperative may collect accounts receivable of Public Service relating to the customers who are subject to this transfer at the time of the transfer as a condition of continued service by the cooperative; and it is

Further ordered, that each company, Public Service and the cooperative, file a map of the town of Pittsburg reflecting the above changes in service territories as required by RSA 372:22B; such maps to be filed in due time as a part of the ongoing commission cases (DE 79-105 — cooperative, DE 78-106 — Public Service) to obtain compliance with RSA 374 as amended by Chap 304 of the 1977 Session Laws.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1980.

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NH.PUC\*06/30/80\*[78621]\*65 NH PUC 322\*Fuel Adjustment Charge

[Go to End of 78621]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, and Legislative Utility Consumers' Council

DR 80-46, Second Supplemental Order No. 14,319

65 NH PUC 322

New Hampshire Public Utilities Commission

June 30, 1980

PETITION by electric company for authority to adjust fuel adjustment charge; order in accordance with opinion.

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

[N.H.] A fuel adjustment charge was authorized for an electric company's regular July, August, and September, 1980, billings, using the same rate as the prior quarter, which was \$2.28 per 100 kwh.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; William Shaine for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-a (II), the commission on June 23, 1980, held a hearing on the



petition of Public Service Company of New Hampshire (hereinafter referred to as the "company") for authority to apply a fuel adjustment charge to regular July, 1980, monthly billings to their customers at a constant rate for regular July, August, and September, 1980, billings pursuant to its tariff, NHPUC No. 22 — Electricity, which is a three-month forward-looking fuel adjustment charge including a fold-in of fossil energy costs based on costs during the year ending May 31, 1979.

Reference may be made to commission Order No. 14,155 (65 NH PUC 144) for statements and explanation of the fuel adjustment clause presently in effect.

The company is a public utility engaged in the business of supplying electric service in the state of New Hampshire. On May 23, 1980, the company filed with the commission, their 41st Revised Pages 17 and 18 of the tariff, NHPUC No. 22 — Electricity. In response to a staff request, the company subsequently submitted 42nd Revised Pages 17 and 18 of the same tariff, and 43rd Revised Tariff Pages 17 and 18.

The estimates utilized in developing NHPUC No. 22 — Electricity, PSNH 41st Revised Pages 17 and 18, were made more than one month ago. Cross-examination by staff and the LUCC brought out the fact that some of those estimates, namely the ones regarding the cost of oil, were too low; and rather than start the quarter with an estimate which is known to be incorrect, all parties agreed to have PSNH submit revised pages which contain more recent estimates of the future cost of oil. The commission recognizes that artificially low estimates will result in a reconciling adjustment during the winter months when consumers can least afford any increase in the fuel adjustment clause.

On June 26, 1980, the company submitted two sets of revised tariff pages, 42nd and 43rd Revised Pages 17 and 18.

The 42nd Revised Pages differed from the 41st only in raising the estimated oil prices from \$18.78 in July, \$19.25 in August, and \$19.25 in September, to \$19.80 for the three-month period. This proposed change results in a six cents increase in the proposed FAC rate per 100 kwh to 70 cents per 100 kwh.

The 43rd Revised Pages contain data based on the company's best estimates as of late June, 1980, of fuel prices for the quarter ending September 30, 1980.

Upon review of the evidence presented in this docket and the information available to the commission on fuel cost estimates, we believe a figure between the \$2.26 per 100 kwh originally proposed by the company and the later estimates of \$2.32 and \$2.36 per 100 kwh is appropriate.

We will, therefore, utilize the same

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rate as the prior quarter which was \$2.28 per 100 kwh.

Per Art III of Settlement Agreement No. 2 in dockets DR 76-46 and DR 79-187, the 36-month period over which the company is entitled to collect the fuel adjustment charge under collection began June 1, 1980.

The total amount to be amortized is approximately \$18.7 million. Of this amount the

amortizing adjustment for the quarterly period ending September 30, 1980, is \$1,558,443. This amount, which is approximately 15 cents per 100 kwh, is added to the commission's estimate of energy cost per kwh for the quarterly period ending September 30, 1980, of \$2.28 per 100 kwh, and then the amount of fuel costs included in base rates is deducted.

The result of taking the above figures into account, for July, 1980, is a fuel adjustment rate of 62 cents per 100 kwh.

This being only the second quarter of estimated, forward-looking fuel adjustment charges for the company, there is no need to calculate the reconciling adjustment, for none is applicable for this period.

Based upon all the testimony and evidence in the record of this proceeding and the aforementioned orders, the Commission finds that the proposed fuel adjustment charge for service, plus the previously noted amortizing adjustment which are to be billed in July, 1980, of 62 cents per 100 kwh is just and reasonable. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that 41st, 42nd, and 43rd Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for a quarterly estimated fuel adjustment clause, of 60 cents, 66 cents, and 70 cents respectively, per 100 kwh be, and hereby are, rejected for the month of July, 1980; and it is

Further ordered, that PSNH submit Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, providing for a quarterly estimated fuel adjustment clause of 62 cents per 100 kwh for the month of July, 1980; and it is

Further ordered, that Original Page 15-B of Concord Electric tariff, NHPUC No. 6 — Electricity, be, and hereby is, rejected; and it is

Further ordered, that 66th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge of 66 cents per 100 kilowatt-hours for the month of July, 1980, be, and hereby is, permitted to become effective July 1, 1980; in conjunction with a roll in to basic rates of fuel cost of \$1.809 per 100 kwh; and it is

Further ordered, that 60th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.56 per 100 kilowatt-hours for the month of July, 1980, be, and hereby is, rejected; and it is

Further ordered, that Original Page 19A of Exeter & Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$1.41 per 100 kwh for the month of July, 1980, be, and hereby is, permitted to become effective July 1, 1980, together with the lock up approved in Order No. 14,312 (65 NH PUC 317) or \$1.4707 per 100 kwh; and it is

Further ordered, that 39th Revised

providing for the monthly fuel surcharge of 38 cents per 100 kilowatt-hours for the month of July, 1980, be, and hereby is, permitted to become effective July 1, 1980; and it is

Further ordered, that Sixth Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$1.53 per 100 kilowatt-hours for the month of July, 1980, be, and hereby is, permitted to become effective July 1, 1980. This amount includes 25 cents per 100 kilowatt-hours which had been previously deferred and was previously ordered to be billed at the rate of 50 cents per 100 kilowatt-hours in June and an additional 25 cents in July, 1980; and it is

Further ordered, that 70th Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$2.24 per 100 kilowatt-hours for the month of July, 1980, be, and hereby is, permitted to become effective July 1, 1980; and it is

Further ordered, that 22nd Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$1.59 per 100 kilowatt-hours for the month of July, 1980, be, and hereby is, permitted to become effective July 1, 1980; and it is

Further ordered, that 78th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$1 per 100 kilowatt-hours for the month of July, 1980, be, and hereby is, permitted to become effective July 1, 1980; and it is

Further ordered, that 44th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 39 cents per 100 kilowatt-hours for the month of July, 1980, be, and hereby is, permitted to become effective July 1, 1980.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1980.

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NH.PUC\*07/01/80\*[78620]\*65 NH PUC 321\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78620]

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

Additional petitioner: Public Service Company of New Hampshire

IE 14,936, Order No. 14,317

65 NH PUC 321

New Hampshire Public Utilities Commission

July 1, 1980

PETITIONS for authority to change service territories in a limited area; granted.

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SERVICE, § 252 — Substitution of service — Electric.

[N.H.] The commission authorized an electric company to discontinue service to ten of its customers, and for another electric company to extend service to the same customers, due to the fact that the latter company could provide service more economically and because none of the customers objected to the transfer of service.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc. (hereinafter called the cooperative), a corporation duly organized under the laws of this state and operating therein as an electric public utility under the jurisdiction of this commission, by petition filed May 15, 1980, seeks authority pursuant to Chap 374 RSA to discontinue service in a limited area in Columbia along Route 3 to ten customers because proposed rearrangement of its distribution lines would require construction in excess of three miles to continue to provide this service; and

Whereas, Public Service Company of New Hampshire (hereinafter called Public Service), a corporation duly

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organized under the laws of this state and operating therein as an electric public utility under the jurisdiction of this commission, by petition filed May 23, 1980, seeks authority pursuant to Chap 374 RSA to serve the ten customers presently receiving service from the cooperative by an extension of approximately 1,400 feet of new line; and

Whereas, the ten customers involved — namely, James Annis, Alex Bessette, Andre Bessette, Francis Brady, Rose Clark, Claire Conklin, Cindy Estes, Francis Gray, Finley MacDonald, and Helen Nile — have signified in writing that they have no objection to the proposed transfer of service, such assent to the transfer being on file with this commission; and

Whereas, the commission finds it to be in the public interest that service to these ten customers can be continued more economically by an extension of Public Service lines than a rerouting of the cooperative's lines, such extension by Public Service requiring no construction surcharge under the line extension provisions of the filed tariff; it is

Ordered, that pursuant to the provisions of Chap 374 RSA, the cooperative be, and hereby is, authorized to discontinue electric service, and Public Service be, and hereby is, authorized to extend electric service, to the above named customers on Route 3 in the town of Columbia, effective on a mutually agreeable date subsequent to this order, when necessary construction is completed; such authorization to provide service being granted without hearing, as provided by RSA 374:26 when all interested parties are in agreement; and it is

Further ordered, that Public Service may collect accounts receivable of the cooperative relating to the customers who are subject to this transfer as a condition of continued service by

Public Service; and it is

Further ordered, that each company, the cooperative and Public Service, file a map of the town of Columbia reflecting the above changes in service territories as required by RSA 372:22B; such maps to be filed in due time as a part of the ongoing commission cases (DE 78-105 — cooperative, and DE 78-106 — Public Service) to obtain compliance with RSA 374 as amended by Chap 304 of the 1977 Session Laws.

By order of the Public Utilities Commission of New Hampshire this first day of July, 1980.

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NH.PUC\*07/01/80\*[78623]\*65 NH PUC 327\*New England Telephone and Telegraph Company

[Go to End of 78623]

### Re New England Telephone and Telegraph Company

DE 80-100, Order No. 14,321

65 NH PUC 327

New Hampshire Public Utilities Commission

July 1, 1980

PETITION by telephone company for a license to place a buried cable under railroad tracks; granted.

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CONSTRUCTION AND EQUIPMENT, — 5 Underground telephone lines.

[N.H.] A telephone company was granted a license to place a buried cable under railroad tracks where, after notice and hearing, no objections were filed or expressed, and it was found to be in the public interest.

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APPEARANCES: Alfred H. Ward, manager, outside plant, for the petitioner.

BY THE COMMISSION:

Report

On April 30, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to maintain a buried telephone cable under the railroad tracks for approximately 1,916 feet along state Highway 112 on the railroad right of way in Woodstock, New Hampshire, as shown on plan NHR No. 80-4.

The commission issued an order of notice on May 5, 1980, directing all interested parties to

appear at public hearing at 1:00 P.M. on June 10, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers Council; John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; John Coleman, New England Telephone and Telegraph Company; New Hampshire Aeronautics Commission, and New Hampshire Transportation Authority.

An affidavit of publication was received on May 21, 1980, indicating a publication in the *Manchester Union Leader* on May 14, 1980, signed by Elizabeth A. Sheppard and received in the commission's offices in Concord, New Hampshire, on May 21, 1980.

Alfred Ward, outside plant manager, described the buried cable as being 1,800 pair ACMW-1800 cable with two "C" plastic ducts and 40 feet of four-inch galvanized pipe under the railroad tracks as shown in drawing NHR No. 80-4.

The commission noted that no objections were filed nor expressed at the public hearing; well publicized and proper notification was given to the public as to the proposed maintenance of buried cable in Woodstock, New Hampshire; with no objections being voiced or submitted to this buried cable installation, the commission feels said cable would be in the public interest.

Our order will issue accordingly.

Order

Based upon the foregoing report, which is made a part hereof, it is

Ordered, that authority be granted for continued maintenance of telephone cable under railroad tracks for New England Telephone and Telegraph Company, said crossing to be approximately 40 feet under railroad tracks and approximately 1,916 feet on the railroad right of way in Woodstock, New Hampshire, as described in plan NHR No. 80-4 paralleling Route 112 to be maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this first day of July, 1980.

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NH.PUC\*07/01/80\*[78627]\*65 NH PUC 337\*Fryeburg Water Company

[Go to End of 78627]

## Re Fryeburg Water Company

DF 80-111, Order No. 14,326

65 NH PUC 337

New Hampshire Public Utilities Commission

July 1, 1980

PETITION of a water company for authority to issue mortgage notes; granted.

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SECURITY ISSUES, § 80 — Purposes of capitalization — Retirement of existing notes.

[N.H.] The commission authorized a water company to issue and sell for cash mortgage notes, the proceeds to be used to retire existing notes outstanding with the balance to be applied as working capital.

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BY THE COMMISSION:

Order

Whereas, Fryeburg Water Company, a public utility operating in Fryeburg, Maine, and East Conway, New Hampshire, under the jurisdiction of this commission, seeks authority, pursuant to RSA 369 to issue and sell for cash, up to \$195,000 principal amount of mortgage notes with interest not to exceed 13 per cent per annum, and the company to give a blanket mortgage of its real and personal property to a trustee acting for the mortgagee(s); and

Whereas, the Fryeburg Water Company represents that the proceeds from the proposed issue will be used to retire existing notes in the amount of approximately \$195,000 and the balance to be applied to the applicant as working capital; and

Whereas, the following investigation and consideration of the evidence, finds that the issuance of said proposed financing is in the public interest, and consistent with the public good; it is

Ordered, that Fryeburg Water Company be, and hereby is, authorized to issue and sell for cash its mortgage notes, in an aggregate principal amount not in excess of \$195,000 with full indebtedness due on or after July 1, 1984, and before July 1, 1985, interest to be no more than 13 per cent per annum; and it is

Further ordered, that the Fryeburg Water Company be, and hereby is, authorized to mortgage its plant, property, and equipment as security for this note or notes authorized herein; and it is

Further ordered, that the proceeds from the sale of the mortgage note or notes, be applied, to the extent necessary to the payment of its indebtedness in the amount of \$195,000, and the balance to be applied to the working capital; and it is

Further ordered, that on January 1st and July 1st of each year, the Fryeburg Water Company shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of said mortgage note or notes, until the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this first day of July, 1980.

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NH.PUC\*07/02/80\*[78625]\*65 NH PUC 331\*New England Telephone and Telegraph Company

[Go to End of 78625]

## Re New England Telephone and Telegraph Company

DE 80-106, Order No. 14,323

65 NH PUC 331

New Hampshire Public Utilities Commission

July 2, 1980

PETITION by telephone company for a license to maintain a buried conduit under railroad tracks; granted.

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CONSTRUCTION AND EQUIPMENT, § 5 — Underground telephone lines.

[N.H.] A telephone company was granted a license to maintain a buried conduit under railroad tracks where, after notice and hearing, no objections were filed or expressed, and it was found to be in the public interest.

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APPEARANCES: Wayne Snow, manager, engineering, for the petitioner.

BY THE COMMISSION:

Report

On May 5, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to maintain a buried telephone conduit under the railroad tracks for approximately 50 feet along the railroad right of way in Laconia, New Hampshire, as shown on Plan No. 294, consisting of one 15-inch steel casing with four four-inch plastic conduits.

The commission issued an order of notice on May 13, 1980, directing all interested parties to appear at public hearing at 10:00 A.M. on June 26, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council (LUCC); John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; John Coleman, New England Telephone and Telegraph Company; and New Hampshire Transportation Authority.

An affidavit of publication was received on June 10, 1980, indicating a publication in the *Manchester Union Leader* on May 20, 1980, signed by Sylvia Prince and received in the commission's offices in Concord, New Hampshire, on June 10, 1980.

Wayne Snow, outside engineering manager, described the buried conduit as being a 15-inch steel casing with four four-inch plastic conduits beginning at existing manhole No. 812 on Elm



street to Union avenue (Lakeport section) under the railroad tracks as shown on Plan No. 294. Mr. Snow also submitted a permit dated June 1, 1979, from the New Hampshire Transportation Authority authorizing the installation of the conduit (Exh A).

The commission noted that no objections were filed nor expressed at the public hearing; well publicized and proper notification was given to the public as to the proposed maintenance of buried conduit in Laconia, New Hampshire; with no objections being voiced or submitted to this buried conduit and cable installation; the commission feels said cable and conduit would be in the public interest.

Our order will issue accordingly.

Order

Based upon the foregoing report, which is made a part hereof, it is hereby

Ordered, that authority be granted for continued maintenance of telephone cable and conduit under railroad tracks for New England Telephone and Telegraph Company, said crossing to be from manhole No. 812 on Elm street to Union street (Lakeport section) under the railroad tracks on the railroad right of way in Laconia, New Hampshire, as described in Plan No.294 to be maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this second day of July, 1980.

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NH.PUC\*07/03/80\*[78622]\*65 NH PUC 325\*Public Service Company of New Hampshire

[Go to End of 78622]

## Re Public Service Company of New Hampshire

DE 80-59, Order No. 14,320

65 NH PUC 325

New Hampshire Public Utilities Commission

July 3, 1980

PETITION by electric company for authority to acquire an easement over private land to be used for transmission lines, and to determine a fair and reasonable price to be paid for the easement; damages fixed and awarded.

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EMINENT DOMAIN, § 8 — Acquisition of easement — Award of damages.

[N.H.] An award of damages for an electric company's acquisition of an easement for the construction of transmission lines was based upon the testimony of the company's witness rather

than upon the testimony of the landowner's witness.

APPEARANCES: Eaton W. Tarbell, Jr., for the Public Service Company of New Hampshire; Stephen L. Tober for Messrs. Carner and Parkhurst.

BY THE COMMISSION:

Report

The Public Service Company of New Hampshire, a public utility engaged in the supply of electricity in the state of New Hampshire, pursuant to provisions of RSA 371, petitioned the Public Utilities Commission of New Hampshire for permission to acquire perpetual rights and easements to certain lands in the city of Portsmouth, New Hampshire, owned by James E. Carner and Chester A. Parkhurst. The petition was filed on March 7, 1980 at 10:00 A.M.

In its petition, the Public Service Company prayed that the commission recognize that the necessity for the taking had been predetermined by prior approvals under RSA 162-F et al. It further requested that a fair and reasonable price be determined for damages.

The question of necessity was resolved early in the proceeding with a ruling from the commission that issue of the certificate of site and facility plus approval of federal authorities precluded further challenge. The matter of value was the only item to be heard; and, to this end, the petitioner presented two 326 witnesses, and the landowner, one witness.

Petitioner's witness, Harry R. Murray, a registered land surveyor, provided the commission with maps and plans on which the property was isolated. These were entered as Exhs P-1 and P-2 respectively. The area involved in the taking was described as a strip 170 feet wide and 887.1 feet along at its centerline, comprising 3.463 acres. The strip runs northeasterly on the subject property to join an existing Public Service Company of New Hampshire right of way. The proposed right of way will be used in conjunction with the existing right of way for a transmission line emanating from the Seabrook nuclear power station. Exhibit P-2 shows the existing right-of-way crosses the subject property in a "V" fashion, encumbering a much greater amount of land. The proposal could be viewed as dividing the property into three rather than the existing two sections.

The second witness for the Public Service Company was David F. Colt, real estate appraiser. He described the land as having 210 residentially zoned, with 1345 feet frontage along a paved road. About half the land was indicated as swampy. After analyzing various comparable properties, Mr. Colt valued the land at \$700 per acre for a total value before the taking of \$147,000. Mr. Colt testified that the land value for the entire property was diminished by \$10 per acre after the taking because the taking involved some of the high land. Deducting the taking of 3.463 acres from the total, the owners have 206.537 acres. This acreage at \$690 per acre is valued by Mr. Colt at \$ 142,510 which he rounded downward to \$142,500. The damages estimated by Mr. Colt are \$4,500.

Mr. Carner appeared on behalf of Mr.

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Parkhurst and himself. Mr. Carner introduced Exh A, a one-page letter dated May 8, 1980,

from Richard Mycko a real estate broker, in which Mr. Mycko, who was not present advised Mr. Carner that his assessment of damages by the taking was \$47,000. He listed two comparable sales in which both were properties sold by Carner and Parkhurst in Greenland, New Hampshire. Mr. Mycko was not present to be cross-examined on his appraisal. Testimony revealed that neither was encumbered by PSNH easments such as the subject property. Mr. Carner's testimony indicated a value before the taking in excess of \$1 million.

The commission rejects the appraisal of Richard Mycko filed as an exhibit of the petitioner. Mr. Mycko was not present at the hearing to present his qualifications, nor did his report present comparables with the same zoning characteristics. Mycko fails to present appraisals before and after the taking, merely indicating what he felt was the damage to the taken property.

Mr. Carner, too, presented an estimate of the current value of the property, yet failed to provide supportive evidence other than land value of smaller industrial properties in Greenland which he and Mr. Parkhurst had sold in earlier years. Mr. Colt in his testimony indicated smaller parcels (such as the two cited by Mr. Carner and Mr. Mycko) were more marketable and could demand higher unit prices (T35). Based upon these facts, the commission does not accept Mr. Carner's figures and will adopt those of Mr. Colt; i.e., value before the taking of \$147,000 and after the taking of \$142,500 citing damages of \$4,500. Our order will issue accordingly.

#### Order

Based on 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 take, pursuant to RSA 371, property described in its petition which is in the commission files on this matter; and it is

Further ordered, that Public Service Company of New Hampshire pay damages for said taking in the amount of \$4,500 to James E. Carner and Chester A. Parkhurst; and it is

Further ordered, that the taking granted herein is perpetual right and easement as presented in company's petition.

By order to the Public Utilities Commission of New Hampshire this third day of July, 1980.

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NH.PUC\*07/07/80\*[78626]\*65 NH PUC 333\*New England Telephone and Telegraph Company

[Go to End of 78626]

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

DR 80-23, Fourth Supplemental Order No. 14,325

65 NH PUC 333

New Hampshire Public Utilities Commission

July 7, 1980

HEARING to determine if certain documents of New England Telephone and Telegraph

Company should be exempt from being public records; order in accordance with opinion  
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1. PROCEDURE, § 16 — Production of documentary evidence — Right to Know Law — Exemptions.

[N.H.] The exemption under the Right to Know Law includes any commercial or financial information of a somewhat confidential nature such as trade secrets, and documents which disclose trade secrets are not required to be produced and made public unless such disclosure is indispensable to ascertain the truth, this standard being part of the common law and carried over by the legislature in the Right to Know Law. p. 333.

2. PROCEDURE, § 16 — Production of documentary evidence — Right to Know Law — Exemptions.

[N.H.] The commission adopted the rationale set forth in *Fanunum v Bristol Myer Co.* (1966) 107 NH 196, and *Spain v U. S. Rubber Co.* (1947) 94 NH 406, as the proper standard to be applied in regulatory proceedings and for the purpose of determining exemptions pursuant to the Right to Know Law. p. 335.  
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BY THE COMMISSION:

Report

[1] A hearing was held before Vincent J. Iacopino, executive director and secretary of the public utilities commission who was appointed to conduct a limited hearing to determine if certain documents of the New England Telephone and Telegraph Company should be exempt from being public records.

As the records are not on file with the commission, the hearing examiner conducted the hearing as though a motion was made by the LUCC to compel the company to produce the documents in question. The hearing was conducted in camera in accordance with the standard set forth in *Lodge v Knowlton* (1978) 108 NH 514.

The company made the documents available to the LUCC and to the staff of the commission who signed an agreement of protection.

It was agreed by the parties that the transmittal letter which accompanied the documents could be used during the cross-examination of witnesses. Of the numerous documents reviewed five documents remain in dispute at this time and these five documents were submitted to the hearing examiner. The five letters are identified as 80-01-448, 80-01228, 80-02-060, and 80-03-368.

The company maintains that the letters are privileged and confidential and that they contain confidential, commercial, or financial information whose disclosure would create an invasion of privacy. The company further maintains that the documents, if filed with the commission, should be under a protective

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order segregating the documents from public access. It is maintained that the documents if subject to RSA 91A et seq. fall within the exemption set forth in RSA 91A-5 IV. The company argued that confidential records have always been protected from disclosure if disclosure amounts to an invasion of privacy and cites many authorities in its memorandum.

The LUCG maintains that the company is seeking approval for contracts between the company and the Western Electric Company and pursuant to RSA 365-5 the company has the burden to prove the reasonableness of the transaction when they are affiliate companies. The company produced a price comparison study which was examined by the LUCG and its expert witness. Data requests were submitted to the company which probed the study and revealed the documents in question. The LUCG requested the documents from the company who produced the same condition on the persons reviewing them signing a protection agreement. The LUCG after reviewing the documents maintains that the documents in question should be filed with the commission and fully examined in an open proceeding before the commission. It is argued that the documents should be public records in the spirit of RSA 91 A et seq., the Right to Know Law, and that they do not fall within the exemption of RSA 91A-5 IV. The LUCG in its memorandum cites several cases and the New Hampshire Constitution in support of its position..

The commission recognizes the broad public purpose of the Right to Know Law (RSA91A) as set forth in the preamble of the act. (See also *Mense v Manchester* [1978] 113 NH 533.)

Notwithstanding the broad purpose of the act the commission further recognizes its obligation to regulate private investor companies who have proprietary rights and interests. The commission is mindful that a proper determination of this issue should consider and balance the public and or private interest in the information sought against the severity of the invasion of privacy.

A careful review of the statute, RSA 91A-5 IV, and the cases cited by the parties, fails to disclose any definition as to the scope of the exemptions set forth. Our conclusion is that the exemption includes any commercial or financial information of a somewhat confidential nature such as trade secrets. Documents which disclose trade secrets are not required to be produced and made public unless such disclosure is indispensable to ascertain the truth. This standard was part of the common law and it appears that the legislature carried this protection to the Right to Know Law by RSA 91 A-5 IV.

It should be noted that the records up to this time are company records which have not been filed with the commission. Of course, it is acknowledged that if an order issued by the commission to file the documents they would become public records.

Having determined that company records can be protected by RSA 91A-5 IV if they meet the standard set forth therein we now proceed to examine the documents in question to determine if they pertain to confidential, commercial, or financial information whose disclosure would constitute an invasion of privacy.

The hearing examiner reviewed the five documents in question and heard the statements of the parties. Upon consideration of same he made the following

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findings and recommends the adoption by the commission:

1. The documents are not part of the comparative price study of Western Electric products, but are a part of the general files of the New England Telephone and Telegraph Company.
2. The testimony and exhibits placed before the hearing examiner show that the documents were marked "proprietary and confidential," "not for use or disclosure except under written agreement." The documents have not been released to the public.
3. The documents are such that they contain information technical in nature and are not available to the company's competitors. Disclosure of the documents would have adverse financial consequences to the company.
4. The documents contain information such as cost information, economic feasibility studies, internal cost accounting procedures, confidential sampling methods, sales comparisons, forecasts and market information, and manufacturing processes. This information is of such a nature as to contain the characteristics of trade secrets and is available only to the company. Disclosure to the public would give to the company's competitors economic advantages which are detrimental to the company and an invasion of its privacy.
5. The documents contain confidential, commercial, and financial information and fall within the exemptions set forth in RSA 91A-5 IV.
6. The documents should be segregated into a separate file and secured from public access.
7. It appears that future documents shall be in issue, therefore, a general protective order is recommended which upon application may include future documents.

[2] The commission determines that the invasion of privacy test in *Hanberger v Eastman* (1964) 196 NH 107, is not appropriate for this proceeding but applies for determining tort liability. The commission adopts the rationale set forth in *Fanunum v Bristol Myer Co.* (1966) 107 NH 196, and *Spain v U. S. Rubber Co.* (1947) 94 NH 406, as the proper standard to be applied in regulatory proceeding and for the purpose of determining exemptions pursuant to RSA 91A-5 IV.

The commission adopts the findings of the hearing examiner and an appropriate protective order will issue.

#### Supplemental Order

Whereas, New England Telephone and Telegraph Company (the "company"), has filed a tariff providing for an increase in rates; and

Whereas, the Legislative Utility Consumers' Council (LUCC) has through various data and hearing requests requested certain documents; and

Whereas, various intervenors, including staff of the public utilities commission (the "commission") have viewed such documents; and

Whereas, all persons viewing such documents have signed an agreement of protection dated May 16, 1980. Exh A thereto; and

Whereas, various intervenors propose to examine company witnesses concerning information

which may be proprietary, privileged, restricted, or confidential; and

Whereas, the company has requested the commission to issue a protective order to protect all information which may be proprietary, privileged, restricted, or confidential; it is hereby

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Ordered, that:

1. All documents, data, information, studies, and other matters furnished pursuant to any data or hearing requests for information, subpoenas, dispositions or other modes of discovery or pursuant to direct or cross-examination that are claimed to be of a trade secret, proprietary, privileged, or confidential nature and are designated as "confidential and proprietary" (referred to herein as "confidential information"), shall be furnished pursuant to the terms of this order, and shall be treated by all persons accorded access thereto pursuant to this order, including staff of the commission, as constituting trade secrets, confidential or privileged commercial and financial information, and shall neither be used nor disclosed except for the purpose of this proceeding, and solely in accordance with this order and any protective agreement executed by such persons. All confidential information provided to members of the commission staff at the request of those members will be deposited in a designated location in the office of the secretary of the commission but will not be physically delivered to any member of the staff. Confidential information so deposited shall be available at all times for inspection by those members of the staff who have requested the information and who have signed the agreement of protection, but shall be deemed to continue to be in the possession of the company and shall not become records of the staff.

2. All confidential information made available pursuant to this order shall be given solely to counsel for the intervenors and to those members of the staff who have signed the agreement of protection dated May 16, 1980, and shall not be used or disclosed except for purposes of this proceeding. Provided, 336 however, that access to any specific document may be authorized solely for purposes of this proceeding to persons designated for that purpose by order of the commission and upon signing Exh A of the agreement of protection.

3. Those parts of any transcript, documents, depositions reduced to writing, and information provided pursuant to data and hearing requests or other written references to confidential information, or that portion of testimony containing reference thereto, if filed with the commission, will be sealed by the commission, segregated in the files of the commission, and withheld from inspection by any person not bound by the terms of this order, unless such confidential information is released from the restrictions of this order either through agreement of the parties, or, after notice to the parties and hearing, pursuant to the order of the commission and/or final order of a court having jurisdiction.

4. All persons who receive, or who are afforded access to, any confidential information by reason of this order or any protective agreement shall neither use nor disclose the confidential information for purposes of business or competition, or any other purpose other than the purposes of preparation for and conduct of this proceeding, and then solely as contemplated herein, and shall use their best efforts to keep the confidential information secure and in accordance with the purposes and intent of this order.

5. The company retains the right to question, challenge, and object to the admissibility of any and all data, information, studies, and other matters furnished under the terms of this order in response to interrogatories, requests for information or other modes of discovery, or cross-examination on the grounds of relevancy and materiality.

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6. This order shall in no way constitute any waiver of the rights of any party herein at any time to contest any assertion or to appeal any finding that specific information is confidential information or should be subject to the protective requirements of this order. In the event agreement cannot be reached on the manner of use of documents, data, and information which the commission agrees constitutes confidential information, or in the event agreement cannot be reached as to whether certain materials constitute confidential information, the parties shall promptly seek a ruling in regard thereto from the commission; provided further that pending final resolution as to the continued application of the restrictions contained in this order to any particular document, data, or information pursuant to the above procedures or due to questions raised by the commission on its own motion, such materials will continue to be treated as confidential information pursuant to this order and placed in a sealed portion of the record or, alternatively, shall be coded or summarized or otherwise treated to protect the privileged nature thereof, until a final adjudication is made by the commission and any judicial review is completed.

7. Upon completion of this proceeding, including any administrative or judicial review thereof, or in any ancillary proceeding, all confidential information, whether the original or any duplication or copy thereof, furnished under the terms of this order or any protective agreement shall be returned promptly to the company. Confidential information made part of the record in this proceeding shall remain in the possession of the commission and shall continue to be subject to the protective requirements of this order.

8. The provisions of this order are specifically intended to apply data or information supplied by or from the company and by or from Western Electric Company, Bell Telephone Laboratories, and the American Telephone and Telegraph Company pursuant to this order.

9. The parties shall utilize a plan to use the documents affected by this order by substituting the names, prices of confidential and proprietary information where appropriate (brand X).

By order of the Public Utilities Commission of New Hampshire this seventh day of July, 1980.

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NH.PUC\*07/07/80\*[78628]\*65 NH PUC 338\*Town of Stewartstown

[Go to End of 78628]

## Re Town of Stewartstown

DE 80-114, Order No. 14,328



65 NH PUC 338

New Hampshire Public Utilities Commission

July 7, 1980

PETITION of a town for a license to construct and maintain a sewer system; granted.

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CONSTRUCTION AND EQUIPMENT, § 8 — Sewer system — Installation.

[N.H.] The commission authorized a town to construct and operate a sanitary sewer system through and under railroad rights of way owned by the state, noting that no objections were filed or expressed, and that the project was in the public interest.

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APPEARANCES: Philip R. Waystack, Jr., for the petitioner.

BY THE COMMISSION:

Report

On May 8, 1980, the town of Stewartstown filed with this commission a letter seeking authority for an easement to construct, install, and lay and thereafter use, operate, inspect, repair, maintain, replace, and remove sanitary sewers, manholes, and related appurtenances necessary thereto, over, across, through, and under the railroad rights of way owned by the state of New Hampshire at various locations within the town of Stewartstown.

On May 21, 1980, the commission issued an order of notice setting a hearing for July 1, 1980, at 10 A.M. together with publication directing all interested parties to appear at public hearing at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to New Hampshire Transportation Authority, John Amrol, department of public works and highways, the selectmen's office, town of Stewartstown, Ronald J. Eberhard, P. E., Eberhard Engineering, P.C., and the Office of the Attorney General.

On June 6, 1980, an affidavit of publication was received indicating publication in the Colebrook, New Hampshire, News and Sentinel on May 28, 1980.

Attorney Waystack presented Kevin Haynes, chairman, board of selectmen, as a witness.

The petitioner testified that the sanitary sewer line is the result of a cooperative sanitary sewer venture with the town of Canaan, Vermont. An inter-municipal agreement has been signed with the town of Canaan, Vermont, which will eliminate Stewartstown's present discharge into the Connecticut river. The project began two years ago and construction is currently underway. Exhibit No. 3 "Key Plan, Index of Drawings, and Legend" indicating three separate locations along the railroad right of way where construction will be necessary. The petitioner testified that if authority is not granted by this commission for construction in the state-owned property along the railroad right of way, that the project will fail.

Total estimated cost of the project is \$1.5 million. The project is approximately 5 to 10 per cent complete. Construction completion is estimated at February 26, 1981.

The commission notes that no objections were filed nor expressed at the public hearing; no intervenors or interested parties were in attendance. The commission finds the sanitary sewer construction on state-owned land in the town of Stewartstown to be in the public interest.

Order

Based on the foregoing report which is made a part hereof; it is

Ordered, that authority be granted for an easement to construct, install, and lay, and thereafter, use, operate, inspect, repair, maintain, replace, and remove

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sanitary sewers, manholes, and related appurtenances necessary thereto, over, across, through, and under the railroad rights of way owned by the state of New Hampshire at various locations within the town of Stewartstown.

By order of the Public Utilities Commission of New Hampshire this seventh day of July, 1980.

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NH.PUC\*07/07/80\*[78629]\*65 NH PUC 340\*New England Telephone and Telegraph Company

[Go to End of 78629]

## Re New England Telephone and Telegraph Company

DE 80-99, Supplemental Order No. 14,329

65 NH PUC 340

New Hampshire Public Utilities Commission

July 7, 1980

PETITION of a telephone company for a license to install and maintain an aerial cable; granted.

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TELEPHONES, § 2 — Aerial cable — Installation.

[N.H.] The commission authorized a telephone company to install and maintain an aerial telephone cable over railroad tracks, noting that no objections were filed or expressed at the public hearing, and that the project was in the public interest.

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APPEARANCES: Alfred Ward, manager, outside plant, for the petitioner.

BY THE COMMISSION:

## Report

On April 30, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to maintain an aerial telephone cable over the railroad tracks for approximately 178 feet from telephone pole 34.1 on the railroad right of way in Lincoln, New Hampshire, 281 feet north of railroad marker L/1 to telephone pole 34.2 on the right of way in Lincoln, New Hampshire.

The commission issued an order of notice on May 5, 1980, directing all interested parties to appear at public hearing at 10:00 A.M. on June 10, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; John Coleman, New England Telephone and Telegraph Company; New Hampshire Aeronautics Commission; and New Hampshire Transportation Authority.

An affidavit of publication was

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received on May 21, 1980, indicating a publication in the *Manchester Union Leader* on May 14, 1980, signed by Elizabeth A. Sheppard and received in the commission's offices in Concord, New Hampshire, on May 21, 1980.

Alfred Ward, outside plant manager, described the aerial cable as being 25 pair, BKTA-25 aerial cable with one 6M strand as shown on drawing NHR No. 80-3, with a clearance of 25 feet over the railroad track.

The commission noted that no objections were filed nor expressed at the public hearing; well publicized and proper notification given to the public to the proposed maintenance of aerial cable in Lincoln, New Hampshire; with no objections being voiced or submitted to this aerial cable installation, the commission feels said cable would be in the public interests.

Our order will issue accordingly.

#### Supplemental Order

Based upon the foregoing report, which is made a part hereof, it is

Ordered, that authority be granted for maintenance of aerial telephone cable over railroad tracks for New England Telephone and Telegraph Company, said crossing to be approximately 178 feet from telephone pole 34.1 on the railroad right of way in Lincoln, New Hampshire, approximately 281 feet north of railroad marker L/1 to telephone pole 34.2 on the railroad right of way in Lincoln, New Hampshire, to be maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this seventh day of July, 1980.

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NH.PUC\*07/14/80\*[78630]\*65 NH PUC 341\*New England Telephone and Telegraph Company

[Go to End of 78630]

## Re New England Telephone and Telegraph Company

DE 80-120, Order No. 14,343

65 NH PUC 341

New Hampshire Public Utilities Commission

July 14, 1980

PETITION of a telephone company for authority to place and maintain an aerial cable; granted.

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TELEPHONES, § 2 — Aerial cable — Installation.

[N.H.] The commission authorized a telephone company to place and maintain an aerial cable over a portion of a lake, noting that no objections were filed or expressed, and that the cable would be in the public interest.

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APPEARANCES: Wayne Snow, manager, engineering, for the petitioner.

BY THE COMMISSION:

Report

On May 27, 1980, the New England

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Telephone and Telegraph Company filed with this commission a petition seeking authority to place and maintain an aerial telephone cable over Lake Winnisquam for approximately 160 feet over Lake Winnisquam from Pole 450A/17 1/2 to pole 450A/18 in Laconia, New Hampshire, as shown on Plan No. 28-19.

The commission issued an order of notice on May 28, 1980, directing all interested parties to appear at public hearing at 10:00 A.M. on July 2, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; John Coleman, New England Telephone and Telegraph Company; New Hampshire Transportation Authority.

An affidavit of publication was received June 11, 1980, indicating a publication in the *Manchester Union Leader* on June 6, 1980, signed by Sylvia Prince and received in the commission's offices in Concord, New Hampshire, on June 11, 1980.

Wayne Snow, manager, engineering, described the aerial cable as being 50 pair cable from

pole 450A/17 1/2 on private property of Milton Howard to pole 450A/18 on private property of Rolland Gove shown in Drawing No. 28-19 and Holderness quadrangle.

The commission noted that no objections were filed nor expressed at the public hearing; well publicized and proper notification was given to the public as to the proposed installation and maintenance of aerial cable in Laconia, New Hampshire, with no objections being voiced or submitted to this aerial cable installation; the commission feels said cable would be in the public interests. Our order will issue accordingly.

#### Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that authority be granted for installation and maintenance of aerial telephone cable over Lake Winnisquam for New England Telephone and Telegraph Company, said crossing to be approximately 160 feet from pole 450A/17 1/2 to pole 450A/18 in Laconia, New Hampshire, as described in Plan No. 28-19 from private property of Milton Howard to private property of Rolland Gove to be maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of July, 1980.

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NH.PUC\*07/15/80\*[78631]\*65 NH PUC 343\*Cynthia L. Knight v New Hampshire Electric Cooperative, Inc.

[Go to End of 78631]

### **Cynthia L. Knight v New Hampshire Electric Cooperative, Inc.**

IE 14,942, Order No. 14,345

65 NH PUC 343

New Hampshire Public Utilities Commission

July 15, 1980

PETITION for review of account involving a dispute over an electric bill; meter test and partial payments ordered pending determination of proper bill.

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PAYMENT, § 23 — Bill dispute — Incorrect metering and billing.

[N.H.] The dispute over an electric bill based upon the allegation that a customer's bill for one month was approximately one hundred dollars more than any other bill rendered in the past six years was resolved with the electric cooperative being ordered to conduct a meter test in the presence of a commission staff engineer and the customer being ordered to make partial and installment payments pending the outcome of the meter test.

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APPEARANCES: Thomas W. Morse for New Hampshire Electric Cooperative; Bruce E. Friedman for Cynthia Knight.

BY THE COMMISSION:

Report

On May 13, 1980, Bruce E. Friedman filed with this commission on behalf of his client, Cynthia L. Knight, a "petition for review of account."

Upon receipt of the above petition, the commission scheduled a hearing for 9:00 A.M. on Tuesday May 20, 1980, and notified all interested parties.

At the hearing, the petitioner's attorney produced evidence supporting his charge that the November, 1979, bill was approximately \$100 more than any other bill rendered in the past six years. It was also determined that the customer's account reflected balances of \$47.39 over ninety days, \$86.53 sixty-ninety days, \$60.64 thirty-sixty days and \$39.53 current for a total of \$234.09. In addition there was a \$10 service charge for the restoral of service following the May 6, 1980, disconnection.

Counsel for the petitioner requested relief of a portion of the November bill and further stated that the petitioner was in a position to pay \$70 on her account immediately, with the town of Allenstown prepared to pay an additional \$70.

The investigatory staff of the commission reported that as of May 8, 1980, the date of the contact memo, they had had no prior knowledge of the disputed November bill even though a contact memo had been generated with the petitioner in February of 1980.

Based upon the testimony submitted, the commission ordered that a meter test be conducted in the presence of the staff electrical engineer, that the \$20 reconnection charge assessed for the February disconnect and an additional amount of \$9.09 be forgiven so that the total amount owing (\$75) would become due and payable at the rate of \$25 per

**Page 343**

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month beginning with the month of June.

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 Electric Cooperative, Inc., conduct a test of the petitioner's meter in the presence of the staff electrical engineer; and it is

Further ordered, that the petitioner, Cynthia L. Knight, immediately forward to New Hampshire Electric Cooperative, Inc., a partial payment on her account of \$70; and it is

Further ordered, that the New Hampshire Electric. Cooperative, Inc., reduce the petitioner's outstanding bill by forgiving an amount of \$29.09; and it is

Further ordered, that the petitioner pay the remaining balance of \$75 in three equal installments of \$25 each beginning with the month of June and continuing in each of the two

successive months.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of July, 1980.

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NH.PUC\*07/15/80\*[78632]\*65 NH PUC 344\*Lakes Region Water Company, Inc.

[Go to End of 78632]

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

DR 80-44, Order No. 14,346

65 NH PUC 344

New Hampshire Public Utilities Commission

July 15, 1980

APPLICATION by water company for authority to increase rates; granted as modified.

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1. DEPRECIATION, § 16 — Property subject to depreciation — Contribution in aid of construction.

[N.H.] Depreciation on contributions in aid of construction is per se unjust and unreasonable. p. 345.

2. RATES, § 602 — Water company — Availability charges.

[N.H.] An availability charge for water service to lots in a residential subdivision was deemed necessary where there was no possibility of drilling individual wells, where the state Water Supply and Pollution Control Commission has required the builder of the water system to install plant for a fully developed and connected system, and where the increase to existing developed lots without the implementation of such a charge would be of significant proportions. p. 346.

3. RATES, § 649 — Hearing and notice — Temporary rates.

[N.H.] The temporary rate statute specifically requires notice and hearing prior to the implementation of temporary rates. p. 346.

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

[N.H.] Rate case expenses of a water company were allowed to be amortized over a two-year period as a temporary surcharge, but this allowance was conditioned upon receipt of a detailed analysis as to the amount of each rate case expense and the reason for incurring

the expense and the commission's satisfaction that the expenses were prudently incurred. p.

347.

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APPEARANCES: Dom S. D'Ambruoso for Lakes Region Water Company and various limited appearances.

BY THE COMMISSION:

Report

On March 5, 1980, the Lakes Region Water Company filed a petition for a rate increase of \$59,162. The commission suspended the rate request pending investigation and noticed a hearing for April 23, 1980. Prior to that hearing, the commission staff sent data requests to the company, which were responded to on April 10, 1980. At the scheduled hearing, staff indicated that it had further questions for the company, and stated that many of the questions could be resolved through further discovery and meetings. No appearance was entered by any other party. Subsequent staff discovery and discussions yielded a settlement that was submitted to the commission at the next scheduled hearing on July 3, 1980. At the July 3, 1980, hearing, comments from the public were received as to the nature of the increase and, in particular, the rate design of the proposed increase.

The settlement arrived at would, if approved, result in an increase of approximately \$38,014 plus reasonable fees for rate case expenses. The design of the proposed revenue increase was left to the commission as was the question of temporary rates.

[1] Upon review, the commission will accept the settlement as to revenue. A major differential between the amount requested by the company and the settlement relates to the elimination of depreciation on contributions in aid of construction. Failure to eliminate this factor from the rates would in effect require consumers to pay twice for the same plant. Such a result would contravene the principle of just and reasonable rates as required by RSA 378:7. Depreciation on contributions in aid of construction are per se unjust and unreasonable.

As to the design of the rate, the commission will approve the following:

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

<i>First Step Rate</i>	<i>Customers</i>	<i>Rate</i>	<i>Revenue</i>
Kitchen Sink	289	\$50	\$14,450
Dishwasher	41	50	2,050
Toilet	288	30	8,640
Sink, Other Lavatory	288	30	8,640
Bath or Shower	286	30	8,580
Sillcock	240	30	7,200
Washing Machine	43	28	1,204
<i>Second Step Rate</i>			
Toilet	53	\$ 30	\$ 1,590
Bathtub or Shower	30	30	900
Lavatory	53	30	1,590
Sillcock	50	30	1,500
Availability Charge	531	30	15,930
House Service			
Connection Fees	6	600	3,600
Actual			<u>\$75,874</u>



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The additional revenue allowed (\$84) will compensate for postage costs to those with availability charges.

[2] The commission generally does not accept availability charges as proper rate making. However, where as here there is (1) no possibility of drilling individual wells; and (2) the state of New Hampshire Water Supply and Pollution Control Commission has required the builder of the water system to install plant for a fully developed and connected system; and (3) the increase to existing developed lots without the implementation of such a charge would be of such significant proportions, the commission believes it necessary to impose an availability charge on the remaining 531 lots.

[3] The commission is again faced with a request for temporary rates for service both prior to the filing and any notice as to a temporary rate increase. RSA 378:27, the temporary rate statute, specifically requires notice and hearing prior to the implementation of temporary rates. Only in this fashion can consumers be adequately given an opportunity to present their concerns to the commission. This commission has held this position in recent cases, including *Re Manchester Gas Co.* (1978) 63 NH PUC 191; (1978) 63 NH PUC 373; *Re Pennichuck Water Works* (1979) 64 NH PUC 206; *Re Hampton Water Works* (1979) 64 NH PUC 246.

To allow this company to have its effective date be the date upon which the company filed its temporary rate petition would also violate the due process requirements that the commission must also observe. As the United States Supreme Court stated in an analogous situation:

"The vast expansion of the field of administrative regulation in response to the pressure of social needs is made possible under our system by adherence to the basic principles that the legislature shall appropriately determine the standards of administrative action and that in administrative proceedings of a quasijudicial character the liberty and property of the citizen shall be protected by the rudimentary requirement of *fair play*. These demand a fair and open hearing essential alike to the legal validity of the administrative regulation and to the maintenance of public confidence in the value and soundness of this important governmental process. Such a hearing has been described as an inexorable safeguard." See *Morgan v United States* (1938) 304 US 1, 23 PUR NS 339, 341, 82 L Ed 1129, 58 S Ct 773.

To allow an effective date prior to the hearing would in effect make the hearing a sham. Consumers would not have notice as to the effective date nor would they believe that their considerations would have any impact. This is hardly within the scope of fair play or is such a process designed to build confidence in regulation as a whole.

The commission, while exercising its quasijudicial capacity, must observe the traditional safeguards against arbitrary action. Furthermore, the fundamental requisites of due process of law and procedural due process require that notice and a timely and reasonable opportunity to be heard be given to people whose rights will be affected by the commission's decision. An effective date prior to the hearing would ignore the requirements of notice both as a general proposition as well as specifically applied to the instant case. The right to be heard would also have little value if the effective date occurred before the hearing.

Therefore, the commission will allow

the increase to be applied to all bills rendered on or after July 1, 1980. Since the company bills in July for the next six months, the notice and hearing requirements of RSA 378:27 are honored. The commission will not allow any increase to be applied to bills prior to July 1, 1980.

[4] While the commission will allow the rate case expenses of the company of \$10,800 to be spread over two years as a temporary surcharge, this allowance is conditioned upon receipt of a detailed analysis as to the amount of each rate case expense and the reason for incurring the expense and the commission's satisfaction that the expenses were prudently incurred after review. The rate case expenses are to be recovered per lot whether developed or not.

Our order will issue accordingly.

Order

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

Ordered, that the revenue increase and the rate design set forth in the report is effective on all bills rendered on or after July 1, 1980; and it is

Further ordered, that at its next regular issuance of bills, Lakes Region shall commence billing at quarterly intervals; and it is

Further ordered, that new tariff pages bearing the effective date of July 1, 1980, shall be filed in accordance with this commission's tariff filing rules Nos. 19, 21, 24, 27, and 28, and such pages shall also contain an extension plan that correctly designates the terms and conditions under which the water company will extend its mains.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of July, 1980.

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NH.PUC\*07/17/80\*[78633]\*65 NH PUC 347\*Public Service Company of New Hampshire

[Go to End of 78633]

## Re Public Service Company of New Hampshire

DR 79-187, 37th Supplemental Order No. 14,348

65 NH PUC 347

New Hampshire Public Utilities Commission

July 17, 1980

PETITION to render rate structure changes by a revised tariff; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 14,271 (65 NH PUC 251) directed Public Service Company of New Hampshire to increase its rates by \$18,355,452; and

Whereas, certain structure changes

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were directed in said order; and

Whereas, Public Service Company of New Hampshire finds it more appropriate administratively to render such changes in the form of a completely revised tariff rather than through revisions and/or supplements to the existing tariff NHPUC No. 22; it is

Ordered, that Public Service Company of New Hampshire tariff, NHPUC No. 24, be, and hereby is, approved for effect July 1, 1980; and it is

Further ordered, that First Revised Pages 23 and 24 of tariff, NHPUC No. 24, be, and hereby are, approved for effect July 1, 1980; said pages deemed in compliance with the provisions of commission Order No. 14,319 (65 NH PUC 322) under docket DR 80-46.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of July, 1980.

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NH.PUC\*07/17/80\*[78634]\*65 NH PUC 348\*Manchester Gas Company

[Go to End of 78634]

## Re Manchester Gas Company

IR 14,938, Order No. 14,349

65 NH PUC 348

New Hampshire Public Utilities Commission

July 17, 1980

PETITION of a gas company for approval of a service contract; granted.

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BY THE COMMISSION:

Order

Whereas, Manchester Gas Company, a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 21 with Nielsen Moulding Design Corporation, effective as of the date of this order for gas 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; and it is

Further ordered, that this contract be subject to revision or revocation by order of the commission resulting from the decision in the pending docket DR 80-29.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of July, 1980.

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NH.PUC\*07/17/80\*[78635]\*65 NH PUC 349\*Public Service Company of New Hampshire

[Go to End of 78635]

## Re Public Service Company of New Hampshire

DE 80-45, Order No. 14,351

65 NH PUC 349

New Hampshire Public Utilities Commission

July 17, 1980

PETITION of an electric utility to condemn lands; granted.

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ELECTRICITY, § 7 — Condemnation of lance for transmission line construction —  
Commission authorization.

[N.H.] The commission approved the petition of an electric utility to condemn lands within a town to be used in conjunction with transmission lines emanating from a nuclear power station, provided that the company pay to the town \$1,900 in damages.

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APPEARANCES: Lawrence E. Spellman for the Public Service Company of New Hampshire.

BY THE COMMISSION:

Report

On February 29, 1980, the Public Service Company of New Hampshire, a public utility engaged in the supply of electricity within the state of New Hampshire, filed with the New Hampshire Public Utilities Commission its petition to condemn certain town-owned lands within the town of Hampton Falls, New Hampshire; said lands to be used in conjunction with transmission lines emanating from the Seabrook nuclear power station. An order of notice was issued on April 9, 1980, setting the case for public hearing on May 21, 1980, at 10:00 A.M.. A second order of notice was issued on May 6, 1980, rescheduling said hearing for July 15, 1980, at 10:00 A.M. at the commission's Concord offices. Counsel for the petitioner was prepared to present two witnesses, while the petitioner did not appear.

In an opening statement, Attorney Spellman indicated that he possessed a letter from the counsel of the town of Hampton Falls, Attorney John J. Ryan, in which the town agreed to the necessity of the taking and the offer by Public Service Company of New Hampshire of \$1,900 in damages.

There being no intervention, Mr. Spellman introduced as exhibits three documents; viz, a plan of the taking; qualifications of David F. Colt, appraiser; and Mr. Colt's appraisal.

The commission will accept Mr. Spellman's statement that the necessity and damages have been agreed upon. With no other intervention at the hearing, our order will issue accordingly.

Order

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

Ordered, that the Public Service Company of New Hampshire be, and hereby is, granted authorization under RSA 371 to take certain property described in its petition which is within the commission files in this docket; and it is

Further ordered, that the taking granted herein is perpetual right and

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easement as described in the company's petition; and it is

Further ordered, that the Public Service Company of New Hampshire pay the town of Hampton Falls the sum of \$1,900 in damages; and it is

Further ordered, that said taking is subject to the following agreement of the parties:

(1) The town of Hampton Falls shall waive any and all objections to the necessity and location of the taking; and

(2) The company shall have the right to construct an underground line for lighting protection, and will restore promptly any disturbed land to a condition at least as good as its preconstruction state; and

(3) Depot road, located in Hampton Falls, and the landing area on the river at the end of said road shall be left in the condition of August 24, 1978, and shall be available to the general public for customary uses.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of July, 1980.

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NH.PUC\*07/18/80\*[78636]\*65 NH PUC 350\*New England Telephone and Telegraph Company

[Go to End of 78636]

## Re New England Telephone and Telegraph Company

DE 80-127, Order No. 14,353

65 NH PUC 350

New Hampshire Public Utilities Commission

July 18, 1980

PETITION of a telephone company for authority to install and maintain a submarine cable; granted.

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TELEPHONES, § 2 — Submarine cable — Installation.

[N.H.] The commission authorized a telephone company to install and maintain a submarine cable under a river, noting that no objections were filed or expressed at the public hearing, and that the project was in the public interest.

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APPEARANCES: Alfred Ward, manager, outside plant, for the petitioner.

BY THE COMMISSION:

Report

On May 29, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to install and maintain a submarine telephone conduit under the Merrimack river for approximately 390 feet under the Merrimack river in Concord, New Hampshire, as shown on Plan No. 42-9 consisting of 600 pair submarine cable from manhole No. 501 to manhole No. 502.

The commission issued an order of notice on June 5, 1980, directing all

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interested parties to appear at public hearing at 10:00 A.M. on July 16, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; John Coleman, New England Telephone and Telegraph Company; New Hampshire Transportation Authority and the New Hampshire Aeronautics Commission.

An affidavit of publication was received on June 18, 1980, indicating a publication in the *Manchester Union Leader* on June 13, 1980, signed by Elizabeth A. Sheppard and received in the commission's offices in Concord, New Hampshire, on June 18, 1980.

Alfred Ward, outside plant manager, described the submarine cable as being a 600 pair submarine cable beginning at existing manhole No. 501 as shown on Plan No. 42-9 to manhole No. 502. Mr. Ward indicated permits dated May 13, 1980, from the New Hampshire Special Board authorizing the installation of the conduit and signed by George M. McGee, Sr., chairman of the Wetlands Board and the Water Supply and Pollution Control Commission, Permit No. N-506 signed by Terrence P. Frost.

The commission noted that no objections were filed nor expressed at the public hearing; well publicized and proper notification was given to the public as to the proposed maintenance of submarine cable in Concord, New Hampshire, with no objections being voiced or submitted to this submarine cable installation the commission feels said submarine cable would be in the public interests.

Our order will issue accordingly.

Order

Based on the foregoing report, which is made a part hereof; it is

Ordered, that authority be granted for installation and maintenance of telephone submarine cable under the Merrimack river for New England Telephone and Telegraph Company, said crossing to be from manhole No. 501 to manhole No. 502 under the Merrimack river in Concord, New Hampshire, as described in Plan No. 42-9 to be maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of July, 1980.

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NH.PUC\*07/21/80\*[78637]\*65 NH PUC 351\*Small Energy Producers and Cogenerators

[Go to End of 78637]

## Re Small Energy Producers and Cogenerators

DE 79-208, Sixth Supplemental Order No. 14,358

65 NH PUC 351

New Hampshire Public Utilities Commission

July 21, 1980

ORDER granting motions for rehearing.

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**Page 351**

BY THE COMMISSION:

Supplemental Order

Whereas, New Hampshire Electric Cooperative, Inc., Public Service Company of New Hampshire, and Granite State Electric Company filed motions for rehearing in regard to Order No. 14,280 (65 NH PUC 291); and

Whereas, the commission is of the opinion that the motions for rehearing be granted; it is hereby

Ordered, that the motions for rehearing filed by New Hampshire Electric Cooperative, Inc.,

Public Service Company of New Hampshire, and Granite State Electric Company be, and hereby are, granted; and it is

Further ordered, that the rehearing concerning the above motions shall be held on August 1, 1980, at 2:30 P.M. at the offices of the commission, 8 Old Suncook Road, Concord, New Hampshire.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of July, 1980.

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NH.PUC\*07/21/80\*[78638]\*65 NH PUC 352\*Concord Electric Company

[Go to End of 78638]

### **Re Concord Electric Company**

DE 79-214, Second Supplemental Order No. 14,359

65 NH PUC 352

New Hampshire Public Utilities Commission

July 21, 1980

ORDER granting motions for rehearing.

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BY THE COMMISSION:

Supplemental Order

Whereas, Concord Electric Company and the Legislative Utility Consumers' Council filed motions for rehearing in regard to Order No. 14,308 (65 NH PUC 311); and

Whereas, the commission is of the opinion that the motions for rehearing be granted; it is hereby

Ordered, that the motions for rehearing filed by Concord Electric Company and the Legislative Utility Consumers' Council be, and hereby are, granted; and it is

Further ordered, that the rehearing concerning the above motions shall be held on July 24, 1980, at 8:45 A.M. at the offices of the commission, 8 Old Suncook Road, Concord, New Hampshire.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of July, 1980.

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NH.PUC\*07/24/80\*[78639]\*65 NH PUC 353\*Northern Utilities, Inc.

[Go to End of 78639]



**Re Northern Utilities, Inc.**

IR 14,939, Supplemental Order No. 14,377

65 NH PUC 353

New Hampshire Public Utilities Commission

July 24, 1980

PETITION of a gas company to revise its tariff; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, Northern Utilities, Inc., Allied Gas division, a public utility engaged in the supply of gas service in the state of New Hampshire, on June 2, 1980, filed certain revisions to its tariff, NHPUC No. 6 — Gas, providing for changes to its billing and collecting procedures; and

Whereas, said filing was suspended by commission Order No. 14,314 (65 NH PUC 318) pending investigation and decision thereon; and

Whereas, said investigation now indicates that the rights and interests of the public are protected by actions concurrent with said filing; it is

Ordered, that the suspension directed by this commission be, and hereby is, removed; and the filing is hereby allowed to become effective with all bills rendered on or after August 1, 1980.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of July, 1980.

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NH.PUC\*07/24/80\*[78640]\*65 NH PUC 353\*Exeter and Hampton Electric Company

[Go to End of 78640]

**Re Exeter and Hampton Electric Company**

DR 79-91, Sixth Supplemental Order No. 14,379

65 NH PUC 353

New Hampshire Public Utilities Commission

July 24, 1980

PETITION of an electric company to revise its tariff; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, Exeter and Hampton Electric Company filed with this commission its tariff,

NHPUC No. 14 — Electricity, in compliance with commission Order Nos. 14,231 (65 NH PUC 209) and 14,234 (65 NH PUC 230); and

Whereas, this commission finds Tariff No. 14 acceptable with the exception of certain data appearing on Original Page 20 of said tariff; it is

Ordered, that Exeter and Hampton Tariff No. 14, be, and hereby is, approved for effect July 1, 1980; and it is

Further ordered, that Exeter and Hampton Electric Company file with this commission First Revised Page 20

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to its tariff, NHPUC No. 14, said revised page to be effective on July 1, 1980, and to reflect a customer charge for the domestic class of \$4.80 and an energy charge such that revenues from the domestic class remain the same as authorized earlier by orders under this docket.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of July, 1980.

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NH.PUC\*07/24/80\*[78641]\*65 NH PUC 354\*Concord Steam Corporation

[Go to End of 78641]

**Re Concord Steam Corporation**

DR 80-128, Supplemental Order No. 14,383

65 NH PUC 354

New Hampshire Public Utilities Commission

July 24, 1980

APPLICATION by steam corporation to alter its rates and financial character; granted in accordance with opinion.

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1. SECURITY ISSUES, § 99 — Debt ratio.

[N.H.] A steam company was authorized to issue debt instruments totalling \$3.5 million through the New Hampshire Municipal Bond Bank at an estimated 9 per cent although the proposed issuance would change the company's debt-equity ratio from 43/57 per cent to 90/10 per cent, and even though the company had been placed on notice that the commission believed it necessary for the company to increase its equity in future financings, where the commission concluded that the use of the bond bank and the estimated rate were reasonable. p. 354.

2. RATES, § 303 — Fuel adjustment clause — Steam company.

[N.H.] A steam company was allowed to include the cost of wood waste in its fuel adjustment charge to preclude a greater reliance on oil, although the company was cautioned to minimize costs in this area. p. 355.

### 3. SERVICE, § 188 — Extensions — Burden of cost.

[N.H.] Any extension of service which necessitates greater cost to a public utility company should be allocated to those seeking to obtain service, and the system as a whole should not be required or allowed to bear the entire costs of extensions. p. 356.

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APPEARANCES: Thomas Rath for Concord Steam Corporation.

BY THE COMMISSION:

Report

On May 26, 1980, Concord Steam Corporation filed with this commission a petition involving three separate requests for alterations to its rates and financial character. The commission ordered that a hearing would be held on July 10, 1980, with proper notice to all interested parties.

[1] Concord Steam's first request involves authority to issue debt instruments totalling \$3.5 million through the New Hampshire Municipal Bond Bank at an estimated rate of 9 per cent. Staff inquiries raised concern as to the debt-equity ratio achieved by this issuance. The proposed issuance will change the company's debt-equity ratio from 43/57 on December 31, 1979, to 90/10. Concord

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Steam is placed on notice that the commission believes it necessary for the company to increase its equity in future financings. The use of the New Hampshire Municipal Bond Bank and the estimated rate are reasonable. Therefore, the commission approves the requested authority for a debt issuance.

[2] The second level of the request relates to inclusion in the company's fuel adjustment charge of the cost of wood waste. Use of wood waste will be for the public good because of the displacement of oil. The commission is all too aware that a failure to recognize this for fuel adjustment purposes may lead to a greater reliance on oil. Staff raised a concern that this 100 per cent inclusion may remove a portion of the incentive to maintain costs at the lowest level possible. While this danger is inherent in all fuel adjustment clauses, the company is placed on notice that a failure to minimize costs in this area will result in a commission disallowance of costs as has been the case in previous cases involving electric utilities. The commission will allow this change to the fuel adjustment design subject to a review by the commission after a reasonable amount of months have passed.

The third aspect of Concord Steam's proposal is a revenue increase of \$20,094. This increase is to be achieved by the complete flattening of the rate structure. The concept of flat rates is supported by the record as well as past decisions of this commission. The presentation of the

basis of the revenue increase does pose some potential problems.

For example, unlike most revenue increases, exhibits were not submitted on depreciation, expenses, cost of capital, etc. Consequently, while there is support for the increase of \$20,094, there are valid staff and commission concerns related to the company's revenue picture upon the advent of connection to the two area hospitals.

Staff's concern as to depreciation, for example, is at least valid until the company files supporting documentation. The wood waste handling equipment may well require a greater service life than seven years. Further documentation is necessary to substantiate a continuation of this practice.

Additional financial exhibits and supporting documents need to be filed with this commission after the advent of the hospital connections. Only then can the commission fully determine that the revenue received is proper. Our review of this filing indicates that the rates approved will be generally reasonable. However, a more extensive presentation will be required when the hospitals are connected to Concord Steam's system. Therefore, Concord Steam can anticipate an appearance before this commission for a more complete revenue investigation in the late spring of 1981, which may lead to a rate reduction.

By the time of that inquiry, the commission will expect the company to alter its existing practice so that expenses relating to "miscellaneous nonoperating revenue" are carried "below the line" and, therefore, not applicable to Concord Steam customers.

The commission also will require the company to seek letter approval from the commission prior to purchasing the facility at Hall Street.

Some years ago, the commission directed each public utility to file a "fixed capital and depreciation study" so as to have a basis to determine service lives and to have a knowledge of the utility's fixed capital. A further statutory requirement directs that each utility under

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our jurisdiction file its actual or proposed additions to plant at the end of each calendar year. After a search of our files, the commission finds that Concord Steam has failed to make these required filings. The company is hereby directed to file a fixed capital study, which would include installation dates and original cost of each plant item, and a depreciation study broken down by plant category.

[3] The line extension plans for all public utilities in New Hampshire specify the terms, conditions, and method by which a utility can extend its lines or pipes in the public way. Concord Steam's tariff also contains such a plan. However, Concord Steam has interpreted its tariff as applicable only to lateral service. The commission disagrees. Any extension of service which necessitates greater cost to the company should be allocated to those seeking to obtain service. The system as a whole will not be required or allowed to shoulder the entire costs of extensions.

One final issue has been raised relating to the costs incurred by Concord Steam in entering into the contract with the state. The period of amortization for these costs will be an issue in the aforementioned proceeding in the spring of 1981. Our order will issue accordingly.

Supplemental Order

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

Ordered, that Concord Steam Corporation's request to borrow \$3.5 million through the New Hampshire Municipal Bond Bank for 20-year bonds, be, and hereby is, accepted; and

Further ordered, that the company shall submit to this commission, the interest rate applicable to this issue. Following this request submission, a further supplemental order will be issued approving the terms of the issue; and it is

Further ordered, that on January 1st and July 1st in each year, the company shall file with this commission a detailed statement, duly sworn to, showing the disposition of the proceeds of said note until the expenditure of the whole of said proceeds shall have been fully accounted for; and it is

Further ordered, that the company shall request and receive written response from this commission before purchasing the Hall Street plant; and it is

Further ordered, that commission Order No. 14,298 issued June 26, 1980 (65 NH PUC 307), suspending Second Revised Page 11, Concord Steam Corporation tariff, NHPUC No. 2 — Steam, is hereby lifted; and it is

Further ordered, that Second Revised Page 11, shall be refiled with an effective date as of the issue date of this order, and shall apply to all service rendered after such date; and it is

Further ordered, that Second Revised Page 11, shall bear notation of this order in accordance with this commission's tariff filing Rule No. 28; and it is

Further ordered, that the company give public notice of these changes reflected by the to be revised tariff pages through one-time publication in the *Concord Monitor*.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of July, 1980.

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NH.PUC\*07/24/80\*[78642]\*65 NH PUC 357\*Northern View Water Supply Company, Inc.

[Go to End of 78642]

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

DE 80-79, Order NO. 14,384

65 NH PUC 357

New Hampshire Public Utilities Commission

July 24, 1980

PETITION by water company for authority to discontinue operations as a public utility; granted on a conditional basis.

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SERVICE, § 277 — Water company — Paucity of customers.

[N.H.] A water company serving only two customers was authorized to discontinue operations as a public utility subject to the ability of such customers to develop individual wells to serve their water needs.

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APPEARANCES: Ralph W. Scott, president, for the petitioner; Gerald L. Lynch for the Legislative Utility Consumers' Council; John V. Cabibi, pro se.

BY THE COMMISSION:

Report

By a petition filed April 10, 1980, Northern View Water Supply Company, Inc., seeks authority to discontinue operations as a public utility in the town of Pembroke. A duly noticed hearing was held on this matter at the commission office on May 27, 1980.

The hearing in this case produced testimony that the water company is now serving only two single family homes, in addition to two apartment houses owned by the owners of the water company. This condition produces an issue of the continued operation of the water system serving considerably fewer customers than it was originally designed to serve. As a result there is a distortion of operating expenses in relation to customers served in such accounts as depreciation and, over time, maintenance of mains and other production equipment. This also carries over to the level of rates charged and it should be noted that this company's rates are already high in comparison with others. Testimony was also given by the company that the apartment houses were not billed in accordance with the tariff rate and as directed by a previous commission order. Had the order been carried out, it might have produced an additional \$920 in 1979 gross revenues. The net effect would be about \$181. If outstanding debts of \$1,800 and \$2,600, as testified to by the petitioner, which do not include the expense involved in the instant case, are amortized over five years an additional annual expense of \$920 is incurred which would eliminate the above net income.

It is difficult to regulate a utility that is serving only two customers and it could be argued that the legislature recognized this when it revised RSA 362:4, giving the commission the authority to exempt those water companies serving less than ten, if in the public good.

In view of the facts as developed in this case, and the history of the company as set forth in various documents on file at this office, we are of the opinion that the public good will best be served by

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granting, on a conditional basis, the petitioner's request to discontinue operations as a public utility. The basis for such discontinuance shall be that the two remaining single family homes — i.e., those presently owned by John Cabibi and Ryan Bryant — shall have successfully developed individual wells to serve their water needs. We would expect that this could be

accomplished in eight month's time and will set April 1, 1981, as the effective date. Should this be accomplished sooner or if extenuating circumstances render this date unreasonable, the commission should be so notified. Our order will issue accordingly.

Order

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

Ordered, that Northern View Water Company, Inc., be, and hereby is, authorized to permanently discontinue operation as a public utility in the town of Pembroke upon the successful development of individual well supplies at the homes of John Cabibi and Ryan Bryant on Eley lane in Pembroke or April 1, 1981, whichever shall come first; and it is

Further ordered, that Northern View Water Company, Inc., notify this commission upon the completion of the above provision.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of July, 1980.

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NH.PUC\*07/25/80\*[78643]\*65 NH PUC 358\*Conversion of Schiller Station

[Go to End of 78643]

### Re Conversion of Schiller Station

Intervenor: Public Service Company of New Hampshire

DE 79-141, Sixth Supplemental Order No. 14,388

65 NH PUC 358

New Hampshire Public Utilities Commission

July 25, 1980

ORDER granting a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire (PSNH) has filed a motion for rehearing as to Order No. 14,292 (65 NH PUC 305); it is

Hereby ordered, that the motion for rehearing is granted with a hearing to be held at the commission offices at Concord, New Hampshire on Thursday, July 31, 1980, at 1:00 P.M.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of July, 1980.

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NH.PUC\*07/29/80\*[78644]\*65 NH PUC 359\*Manchester Water Works

[Go to End of 78644]

## Re Manchester Water Works

IE 14,495, Order No. 14,390

65 NH PUC 359

New Hampshire Public Utilities Commission

July 29, 1980

PETITION of a water company for authority to extend its mains; granted.

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SERVICE, § 210 — Extension mains — Water company.

[N.H.] The commission authorized a water company to extend its mains and service further into a town, noting that such extension would be for the public good.

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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 July 17, 1980, 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 as follows:

Beginning at a point along Londonderry's westerly most boundary line with Manchester, said point being the southwesterly most existing franchise limit for the town of Londonderry, as granted by PUC Order No. 12,583 and DE 77-8, dated January 27, 1977; from this point continuing in a southerly direction along said boundary line to the northerly most line of Litchfield road; thence turning easterly following along said northerly most line of Litchfield road to the point where said line intersects with the centerline of Route No. 128 (Mammoth road); thence continuing easterly along the northerly most line of Bartley Hill road so-called to the point where said line intersects with 400-foot elevation contour line as shown on copy of USGS map; thence following generally in a northerly direction along the path of said 400-foot contour line to the point where said line intersects with the westerly most line of the southbound



lane of Interstate 93; thence turning northerly, following the said westerly most line of I-93 to the point where said line intersects with Londonderry's northerly most boundary line with Manchester; thence turning westerly, following along said boundary line, crossing Mammoth road and continuing to the northeasterly most existing franchise limit for Londonderry; and as set for on a map on file with the commission; and for these purposes to

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construct and maintain the necessary lines and apparatus.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of July, 1980.

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NH.PUC\*07/29/80\*[78645]\*65 NH PUC 360\*Conversion of Schiller Station

[Go to End of 78645]

### **Re Conversion of Schiller Station**

DE 79-141, Seventh Supplemental Order No. 14,391

65 NH PUC 360

New Hampshire Public Utilities Commission

July 29, 1980

ORDER granting a motion for continuance.

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BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire has filed a motion for continuance; and

Whereas, the commission will grant said motion; it is hereby

Ordered, that the hearing originally scheduled for Thursday, July 31, 1980, at 1:00 P.M. is rescheduled for Monday, August 4, 1980, at 8:45 A.M.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of July, 1980.

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NH.PUC\*07/31/80\*[78646]\*65 NH PUC 360\*Fuel Adjustment Charge

[Go to End of 78646]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Legislative Utility Consumers' Council, and Community Action Program

DR 80-46, Third Supplemental Order No. 14,401

65 NH PUC 360

New Hampshire Public Utilities Commission

July 31, 1980

PETITION by electric company for authority to apply a forward-looking fuel adjustment charge, including a fold-in of fossil energy costs; granted.

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

[N.H.] An electric company was authorized to apply a three-month forward-looking fuel adjustment charge, including a fold-in of fossil energy costs to its customers at a constant rate.

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APPEARANCES: Martin L. Gross and Philip Ayers for the Public Service Company of New Hampshire; Roland Von Ohlsen for the Legislative Utility Consumers' Council; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-a (II), the commission on July 24, 1980, held a hearing on the petition of Public Service Company of New Hampshire (hereinafter referred to as the "company") for authority to apply a fuel adjustment charge to regular August, 1980, monthly billings to their customers at a constant rate for regular July, August, and September, 1980, billings pursuant to its tariff, NHPUC No. 22 — Electricity, which is a three-month forward-looking fuel adjustment charge including a fold-in of fossil energy costs based on costs during the year ending May 31, 1979.

Reference may be made to commission Order No. 14,155 (65 NH PUC 144) for statements and explanation of the fuel adjustment clause presently in effect.

The company is a public utility engaged in the business of supplying electric service in the state of New Hampshire. On July 22, 1980, the company filed with the commission, their Exhs P-1 through P-12 showing actual financial and electrical data for the quarter ended June 30, 1980; an additional leasing, maintenance, and freight cost adjustment; the proposed reconciling adjustment for the quarter ended June 30, 1980, which will not go into calculations until October 1, 1980, schedules showing maintenance day outages at the company's generating units and

major entitlement units for June, 1980, the reasons for unscheduled outages; and fuel data sheets for the period ending June 30, 1980.

In addition, at the hearing Exh P-13 was submitted, further detailing the credit received from Consolidation Coal Company.

An explanation of the company's coal purchase plans was provided.

Per Art III of Settlement Agreement No. 2 in dockets DR 76-46 and DR 79-187, the 36-month period over which the company is entitled to collect the fuel adjustment charge under collection began June 1, 1980.

The total amount to be amortized is approximately \$18.7 million. Of this amount the amortizing adjustment for the quarterly period ending September 30, 1980, is \$1,558,443. This amount, which is approximately 15 cents per 100 kwh, is added to the commission's estimate of energy cost per kwh for the quarterly period ending September 30, 1980, of \$2.28 100 kwh, and then the amount of fuel costs included in base rates is deducted.

The result of taking the above figures into account, for August, 1980, is a fuel adjustment rate of 62 cents per 100 kwh.

This being only the second quarter of estimated, forward-looking fuel adjustment charges for the company, there is no need to calculate the reconciling adjustment, for none is applicable for this period.

Based upon all the testimony and evidence in the record of this proceeding and the aforementioned orders, the commission finds that the proposed fuel adjustment charge for service, plus the previously noted amortizing adjustment which are to be billed in August, 1980, of 62 cents per 100 kwh is just and

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reasonable. Our order will issue accordingly.

Supplemental Order

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

Ordered, that Public Service Company of New Hampshire First Revised Pages 23 and 24 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly estimated fuel adjustment clause of 62 cents per 100 kwh for the month of August, 1980, be, and hereby is, permitted to become effective August 1, 1980; and it is

Further ordered, that 66th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge of 66 cents per 100 kilowatt-hours for the month of August, 1980, be, and hereby is, permitted to become effective August 1, 1980; in conjunction with a roll-in to basic rates of fuel cost of \$1.809 per 100 kwh; and it is

Further ordered, that First Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$1.92 per 100 kwh for the month of August, 1980, be, and hereby is, permitted to become effective August 1, 1980; and it is

Further ordered, that 40th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 45 cents per 100 kilowatt-hours for the month of August, 1980, be, and hereby is, permitted to become effective August 1, 1980; and it is

Further ordered, that Seventh Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$2.04 per 100 kilowatt-hours for the month of August, 1980, be, and hereby is, permitted to become effective August 1, 1980; and it is

Further ordered, that 71st Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$2.22 per 100 kilowatt-hours for the month of August, 1980, be, and hereby is, permitted to become effective August 1, 1980; and it is

Further ordered, that 23rd Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$2.41 per 100 kilowatt-hours for the month of August, 1980, be, and hereby is, permitted to become effective August 1, 1980; and it is

Further ordered, that 79th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 96 cents per 100 kilowatt-hours for the month of August, 1980, be, and hereby is, permitted to become effective August 1, 1980; and it is

Further ordered, that 45th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 48 cents per 100 kilowatt-hours for the month of August, 1980, be, and hereby is, permitted to become effective August 1, 1980.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of July, 1980.

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NH.PUC\*08/01/80\*[78647]\*65 NH PUC 363\*Pennichuck Water Works

[Go to End of 78647]

## **Re Pennichuck Water Works**

Intervenors: Legislative Utility Consumers' Council and City of Nashua

DR 80-134, Supplemental Order No. 14,406

65 NH PUC 363

New Hampshire Public Utilities Commission

August 1, 1980

APPLICATION by water company for authority to increase rates; proposed 11 rates rejected and

modified rate increase granted.

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1. RETURN, § 26 — Cost of capital — Water company.

[N.H.] A cost of capital of 10.97 per cent was deemed reasonable for a water company. p. 364.

2. RETURN, § 35 — Attrition allowance — Waiver by petitioner.

[N.H.] An attrition allowance was deemed inappropriate in a water rate case where the applicant for a rate increase contemplated filing an additional request for a rate increase within the next two years and agreed to waive its rights to such an allowance prior to its next request for a rate increase. p. 365.

3. DEPRECIATION, § 16 — Property subject to depreciation — Customer contributions in aid of construction.

[N.H.] Customer contributed capital is not a proper item for depreciation for rate-making purposes. p. 367.

4. VALUATION, § 190 — Rate base items — Profit from sale of capital assets.

[N.H.] Profit from the disposition of a capital asset is solely attributable to the stockholder of a public utility company for rate-making purposes. p. 367.

5. RATES, § 249 — Effective date of rate increase — Year-end rate base.

[N.H.] Use of a year-end rate base, in whole or in part, requires the commission to balance the interests of consumers by requiring the effective date of a rate increase to relate to service rather than bills rendered on or after the date of the rate order. p. 369.

RATES, § 120.1 — Test-year adjustments.

[N.H.] Discussion of formula used in determining an appropriate test year and adjustments for rate-making purposes. p. 366.

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APPEARANCES: John B. Pendleton for the petitioner; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council; Philip Howorth and Robert Sullivan for the city of Nashua.

BY THE COMMISSION:

Report

On June 13, 1980, Pennichuck Water Works, a New Hampshire corporation engaged in the supply and distribution of water in Nashua and a portion of Merrimack, New Hampshire, filed certain revisions of its tariff, NHPUC No. 4 — Water, providing for an increase in rates for all classes of service in the amount of \$2,334,729 which represented a 75.8 per cent increase over permanent rates effective as to all bills rendered on or after July 14, 1980.

On June 19, 1980, the commission issued Order No. 14,287 (65 NH PUC 304), pursuant to

RSA 378:6 suspending the proposed effective date of said increase pending full investigation and decision thereon.

On June 19, 1980, Pennichuck (hereinafter referred to as the company) filed a petition for temporary rates to be effective as to all bills rendered on and after July 14, 1980, for service

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theretofore and thereafter rendered. Duly noticed public hearings on the merits of temporary rates and permanent rates were held on July 10 and 23, 1980.

The substance of this report reflects the terms of a stipulated agreement reached as a result of extensive negotiations by and between members of the commission's investigatory and advisory staff and counsel for the Legislative Utility Consumers' Council, the city of Nashua, and Pennichuck Water.

*Rate of Return*

[1] The company submitted evidence attempting to show the need for a 13.45 per cent cost of capital. In arriving at the cost of capital, the company used: 12.36 per cent cost of long-term debt; 10.25 per cent cost of preferred stock; and a 16.5 per cent return on common equity. The capital structure as of March 31, 1980, pro formed to reflect the addition of 81,121,769 long-term debt to complete the company's water treatment facility was used to determine the overall cost of capital. The company filed for an attrition allowance of 0.5 per cent to arrive at the requested 13.95 per cent rate of return. The company subsequently submitted evidence supporting an attrition allowance of 1.23 per cent. The company submitted a revised rate of return based upon the capital structure at March 31, 1980, pro formed to reflect issuance of new long-term debt to eliminate that portion of its present long-term debt attributed to the construction loan for its water treatment facility. Using the pro formed capital structure at March 31, 1980, and pro forming further to include the conversion of all construction loan funds to new long-term debt, the commission finds a fair cost of money to be presently 10.97 per cent, computed as follows:

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

CAPITALIZATION

Long-term Debt  
Common Equity  
Preferred Stock  
Taxes  
  
Total

The commission reminds all parties to the proceedings that the allowed rate of return in this proceeding is neither a maximum nor a minimum for future proceedings. Market conditions, the economy, risk factors, as well as a company's financial situation as it relates to the aforementioned, together mandate a reexamination of the cost elements that together arrive at a fair rate of return. Our finding is supported by the landmark decision of *Bluefield Water Works & Improv. Co. v West Virginia Pub. Service Commission*, 262 US 679, PUR1923D 11, 67 L Ed

1176, 43 S Ct 675, where the Supreme Court ruled that (262 US at pp. 692, 693, PUR1923D 11.):

"A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings

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which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally."

#### *Attrition Allowance*

[2] Based on our analysis of the record in this case and on our judgment, the commission finds that an attrition allowance determined at this time would be inappropriate, especially since the company contemplates an additional rate filing upon completion of its Merrimack river diversion project within the next two years. In addition, the completion of the project and its immediate inclusion in rate base will mitigate, if not eliminate, any attrition. The company has agreed to waive its rights to an attrition allowance prior to its next request for a rate increase.

#### *Rate Base*

The company submitted computations showing an average rate base of \$7,178,403 as of March 31, 1979. Adjustments were made to pro form the rate base for nonrevenue-producing items added during the subsequent to the test year. The adjustments amount to \$7,604,084 for the water treatment facility (which reflects a cost savings of approximately \$500,000 under the contract price), \$31,455 for the Timberline Drive booster station, and \$23,168 for the new meter department, for total upward adjustments of \$7,658,707. Downward adjustments include an investment credit adjustment of \$551,628 and \$26,158 of land no longer needed for watershed protection removed from the rate base (see, *infra*), to arrive at a pro formed rate base of \$14,259,324.

The commission finds that a rate base in the amount of \$14,259,324 (see following table) is a reasonable and proper basis upon which to establish just and reasonable rates.

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

RATE BASE  
Year Ended March 31, 1980  
Gross Plant in Service  
Less: Depreciation Reserve  
Contributions and Advances  
Land

Net Plant in Service

Working Capital:  
 Materials and Supplies  
 Four Months' Operation and Maintenance  
 Customer Deposits  
 Investment Tax Credits

Total Working Capital  
 Rate Base

### *Adjustments to Revenue and Expenses*

The commission in determining an appropriate test year and adjustments thereto has traditionally used the following formula.

"A recently past test year serves as a guide for the establishment of rates for the future. Where the test-year experience is not an accurate guide to the future because of known and certain changes which will occur, a conservative adjustment should be made. These modifications or adjustments are applied to modify the test-year earnings by changes occurring after the test year so that the test period earnings will be normalized and also, thereby, more reasonable rates, will be set for a future period." Re Public Service Co. of New Hampshire (1972) 95 PUR3d 401, 437.

The supreme court has supported this concept as shown from the following:

"The test year is designed to produce an index to the deficiencies in earnings which the companies will probably encounter in the immediate future as indicated by actual operations in the known and recent past. To the extent that test-year figures can be accurately pro formed to reflect established and current changes in *revenues or expenses*, modification of test-year figures is considered appropriate." (Emphasis added.) Public Service Co. of New Hampshire v New Hampshire (1959) 102 NH 150, 30 PUR3d 61, 72, 153 A2d 80.

The commission has not been presented with any suggestion to change its formula and, therefore, has adhered to this formula in evaluating the presentations in this proceeding. The commission has accepted and allowed certain upward and downward adjustments which it has found in keeping with commission precedent. These adjustments are reflected in the following paragraph.

### *Revenue Requirements*

The required increase in rates is computed as follows:

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

Accepted Cost of Capital	10.97%	
Allowed Rate of Return	10.97%	
Times: Rate Base	\$14,259,324	
Required Net Operating Income		
Less: Net Operating Income as Reported	\$1,016,106	\$1,564.248
Adjustments:		
Revenue Recoupment	( 59,690)	
Miscellaneous Operating Revenues	12,000	
Operating Expense	(284,264)	
Depreciation and Amortization	(182,416)	
Taxes, Other than Income	(171,573)	



Business Profits Tax	69,281	
Federal Income Tax	366,496	
Adjusted Test-year NOI		765,940
Required Increase in NOI		\$ 798,308
Plus: Tax Adjustment		808,592
Required Revenue Increase		\$1,606,900

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The net operating income deficiency (\$798,308) is adjusted for income taxes at the current corporate tax rates to yield the additional amount of revenue the company must collect on an annual basis going forward. The commission concludes that an increase in revenues in the annual amount of \$1,606,900 is the increase in basic rates to which the company is entitled on this record.

*Temporary Rates and Rate Case Expense*

On June 19, 1980, the company filed a petition for temporary rates to become effective as to all bills rendered on or after July 14, 1980. 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. Since any temporary rates would be effective for only a few days, the company has agreed to waive same without prejudice to its appeal in DR 79-3 ([1979] 64 NH PUC 206) currently before the New Hampshire supreme court. However, the company is entitled to recoup \$13,226 remaining to be collected pursuant to DR 79-3. Pending the supreme court decision in DR 79-3, the company will be allowed to continue to collect the recoupment from DR 79-3.

*Depreciation on Contributed Capital*

[3] The commission does not believe proper rate making allows for depreciation in plant from customers, contributed capital. Pennichuck is placed on notice that this area will receive commission scrutiny in the next proceeding involving rates before this commission.

*Rate Design*

Due to the settlement, rate design was not an area of controversy. However, the commission is not unaware of the importance of rate design. Customers of Pennichuck Water, such as Wolfgang Eschholtz, have written to us concerning the present minimum allowance as well as other rate design issues. Because of the validity of these concerns, together with the length of time that has transpired since Pennichuck's last cost-of-service study, the commission will require Pennichuck to submit a cost-of-service study with its next rate filing.

*Land*

[4] Two issues remaining for our review. The first involves the accounting for land no longer required because of the operation of the new treatment plant. The second issue is the effective period for the rate increase.

As to the land issue, both the city of Nashua and the LUCC contend that there should be a rate base deduction for the current "fair market value" of the 1,490 acres no longer useful due to the construction of the filtration plant. While both the city and the LUCC concede that the

commission's Uniform Classification of Accounts for Water Utilities (1940) provides for the inclusion of the plant at current cost in the capital account and the removal of the 1,490 acres of land from rate base at historical cost. However, both intervenors contend that the circumstances in this proceeding are unusual.

The argument as to the alleged unique situation focuses on the following factors: (1) a doubling of Pennichuck's rate base over what would be produced using quarterly averages, (2) the land being removed is a direct result of the new filtration plant installation, (3) the phenomenal increase in the land's value

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over its book cost, and (4) that absent any order from this commission the ratepayers will be shut out from the benefits of the land disposition. Intervenors contend that our decision in *Re Gas Service, Inc.* (1979) 64 NH PUC 113, where the commission departed from its Uniform Classification of Accounts for the proposition that under a certain set of circumstances departure has and can be justified. Additional support is offered from various and other cases involving additions to plant that provide a betterment to the system where these additions were partially offset by the value of the salvage on fair market value of the retired plant. Finally, the intervenors argue that absent commission acceptance of the aforementioned arguments, limitations should be placed on Pennichuck which would require an orderly liquidation or a reevaluation of the land on its books with the goal being a substantial capital surplus. Under this scenario the intervenors request that this surplus be drawn upon to offset expenses before future rate increases are granted or that the surplus be treated as interest-free capital. Citations are offered *Reed v China Teleph. Co. (Me)* PUR1920C 386; *City of Meridien v Meridien Gas Light Co. (Conn)* PUR1921B 611; *Re Manchester Gas Co. (1975)* DR 74-70.

The LUCC offered one additional argument in its supplemental memorandum which relates the Pennichuck case with that of the Public Service Company of New Hampshire proceeding. The LUCC states, and we quote, "logic dictates that if stockholders enjoy the benefits of a gain in the Pennichuck case, then stockholders of PSNH should enjoy the loss in their case where assets are being sold at less than full cost." The LUCC ironically then proceeds to argue that consumers should share in the benefits of the increased value of the land.

Neither the LUCC nor the city of Nashua addresses the argument offered by Pennichuck; namely, that profits derived from the sale of capital assets belong to stockholders not consumers. *Chicopee Mfg. Co. v Public Service Co. of New Hampshire* (1953) 98 NH 5, 13, 98 PUR NS 187, 93 A2d 820; *Pennichuck Water Works v New Hampshire* (1962) 103 NH 49, 53, 36 PUR3d 374, 164 A2d 669.

Pennichuck contends that these two cases clearly indicate that had Pennichuck sold the land, all benefits would flow to the stockholders. However, since Pennichuck does not plan to sell the land in the foreseeable future, the commission is urged to refrain from dealing with the question. Rather, Pennichuck sees the entire issue as one of accounting which involves the transfer of an asset from a fixed capital account to a nonoperating property account. To resolve this accounting issue, Pennichuck cites out Uniform Classification of Accounts; Accounts 100, 110. Pennichuck interprets these provisions to recognize only original cost and not fair market value.

Staff agrees with Pennichuck's interpretation of our classification of accounts. However, staff believes that Pennichuck should be required to sell this land, no longer used and useful, within five years. At this sale, staff proposes that the profits on the sale should be divided between stockholders' historical investment in the company as opposed to the total capital structure. Staff suggests that in this fashion stockholders are provided recognition for their long-term investment in the company but eliminates any windfall profit on funds

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provided by others such as banks, whose interest requirements were and are paid by ratepayers through tariff rates.

Just and reasonable rates require that land no longer used and useful is to be removed from rate base on an original cost basis. Intervenors seek to have consumers enjoy the best of both valuation methodologies. It would clearly be inequitable for ratepayers to have paid a return on this plant at the lower original cost rate all these years and then to have its necessitated removal be at the higher fair market value. Furthermore, the commission's Uniform Classification of Accounts clearly requires the treatment of this land on an original cost basis.

As to the disposition of the profits, after the sale, staff has clearly demonstrated the rights of both stockholders and consumers. However, the New Hampshire supreme court has found on two occasions that the profit from the disposition of a capital asset is solely attributable to the stockholder. While it is unclear whether the supreme court considered staff's argument, it is clear that the court has ruled on this issue. Therefore, the amount removed from rate base will be \$26,158.

#### *Effective Time Period*

[5] All parties have agreed that the operational date will be the effective date for the approved adjustment to revenues. By agreement, all parties have accepted the affidavit of John Collins that the plant became operational on July 31, 1980. The issue for the commission is whether the new rates are to be applied to all bills rendered on or after July 31, 1980, or to all service rendered on or after July 31, 1980.

Pennichuck contends that for the commission to remain consistent, it must apply the new permanent rate to all bills rendered on or after July 31, 1980. The effect of such a decision would be to apply the revenue increase to service rendered in May, June, and July of 1980. Pennichuck claims that it has reviewed all previous Pennichuck cases before this commission and the final order was always applied to all bills rendered on or after the date of the order.

Pennichuck contends that, in fact, such a finding is mandated by the commission's Tariff Filing Rule No. 29. That rule states the following:

"a. Metered Service — unless otherwise expressly provided, newly established rates shall be first used in the rendering of all bills based on successive meter readings, the latter of which is taken on or after the effective date stated in the tariff provision."

In anticipation of the intervenor arguments, Pennichuck addressed the applicability of *Nelson v Public Service Co. of New Hampshire* (1979) 119 NH — , 402 A2d 623, and the recent

temporary rate decisions by this commission including Re Pennichuck Water Works (1979) 64 NY PUC 206; Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209; Re Hampton Water Works (1979) 64 NH PUC 374; and Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121. The company argues that neither Nelson or the temporary rate decisions are applicable. Nelson is distinguished as being applicable only when rates are placed into effect pursuant to statutory authority vis-a-vis commission authority. The remaining cases are distinguished as relating to temporary and not permanent rates. Pennichuck also contends that RSA 378:30-a, the anti-CWIP statute, is not

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applicable to the present situation. Rather, no bills rendered prior to the date of the completion will reflect or be based upon the inclusion of CWIP in rate base. Pennichuck dismisses any concern as to the fact that bills will apply to service rendered prior to the completion of the plant as irrelevant.

The LUCC and the city of Nashua contend that the new level of increased revenues should be applied to all service rendered on or after July 31, 1980. The first argument is that the New Hampshire constitution, specifically Part 1 Art 23, prevents retroactive application of the rate increase. The second argument is that to collect the increased rates for service prior to the operation date of the plant is a violation of RSA 378:30-A. The LUCC reinforces this argument by noting that the proposed treatment by the company would allow a double benefit in that the company has accrued AFUDC in the filtration plant during the last quarter prior to operation.

The third argument offered by intervenors relates to the aforementioned Nelson decision which is offered by analogy. The argument states that just as the commission's Tariff Rule 29 could not overrule the statutory language of RSA 378:6 in Nelson, neither can the rule triumph over the language of RSA 378:30-A.

Another contention offered by the LUCC is the factual situation whereby consumers have been using water based on the assumption of existing rates. Legislative Utility Consumers' Council and the city of Nashua contend that a 50 per cent plus increase retroactively is unfair as to notice and denies these consumers the opportunity to adjust their usage levels based on the increased rates.

The next contention offered by the two intervenors is the analogy to recent commission decisions in Re Hampton Water Works (1979) 64 NH PUC 374; Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209; Re Manchester Gas Co. (1979) 64 NH PUC 95, 29 PUR4th 121; and Re Lakes Region Water Co. (1980) 65 NH PUC 344, which have placed emphasis on the statutory requirement of actual notice to consumers of pending adjustments to their rates.

Finally, LUCC and the city of Nashua note that the language of commission Tariff Rule No. 29 begins "unless otherwise expressly provided" which would allow for a commission order, a New Hampshire statute, a New Hampshire constitutional provision, or a New Hampshire supreme court decision to the contrary.

The commission's tariff rule is specifically couched in language so as to allow the commission the necessary flexibility to fulfill its statutory obligation to balance the interests of the utility and consumers. In this case, equity requires that the commission set increased rates on

all service effective on or after July 31, 1980. While Pennichuck correctly states that permanent rates are usually applied to all bills rendered on or after the date of the order, this is not the usual rate case. Permanent rate increases before this commission are the result of historical test year, 13-month averages (or in water cases, historical four quarters). Consequently, to mitigate a portion of the regulatory lag inherent in deciding a case, the increase is placed into effect which has limited retroactive application.

This case represents a departure from the average rate base concept. In this proceeding the departure was allowed

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due to the significance of the addition in relation to the remainder of Pennichuck's investment. The filtration plant doubles the company's rate base and has significantly increased the dollar amount of its capital structure. The commission's decision to include the filtration plant on a year-end basis, together with recognition of the increased capital costs provides an adequate response to the interests of the company. Use of a year-end rate base in whole or in part requires this commission to balance the interests of consumers by requiring the effective date to relate to service rather than bills rendered on or after July 31, 1980.

Other factual considerations support this finding. The company's proposal would result in consumers paying for usage in the months of May, June, and July, 1980. The rate case was not filed until June 13, 1980. Notice in the paper did not appear until July 5 and 9, 1980. The reason for the rate increase, the advent of the filtration plant, did not become operational until July 31, 1980. Customers in May, June, and a major portion of July had no notice that their rates could be affected by as much as 75 per cent or even the lesser approved figure of approximately 50 per cent. The magnitude of and increase, the lack of notice, and the fact that the increase is the result of including a plant which did not become operational until July 31, 1980, all require the increase to be applied to service on or after July 31, 1980.

Revised Statute Annotated 378-30-a also requires the conclusion to be reached on this issue. If the commission adopted the company's proposed usage in May, June, and July of 1980, would be charged based on plant not completed as of the date of service was provided, such a situation would violate RSA 378-30-a. Equally disturbing would be the continued accrual of AFUDC during these three months. Such a double benefit has recently been specifically disallowed in *Re Public Service Co. of New Hampshire* (1980) 65 NH PUC 251.

The commission has applied increases prospectively to service rather than retroactively to bills in the past. A recent example is the emergency rate increase in *Re Public Service Co. of New Hampshire* (1979) 64 NH 467.

The question of the New Hampshire Constitution and whether it has an impact is before the supreme court on the appeal of DR 79-3. The commission will await the court's guidance. However, the commission need not reach the issue due to the other factual and legal standards requiring the increase to be applied to all service rendered on or after July 31, 1980. 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 its tariff, NHPUC No. 4 — Water, as filed by Pennichuck Water Works on June 13, 1980, which revisions were suspended by commission Order No. 14,287 dated June 19, 1980, be, and hereby are, rejected; and it is

Further ordered, that in accordance 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 \$1,606,900 through the period ending March 31, 1981, and these new tariff pages shall so state; and it is

Further ordered, that these revised tariff pages shall be filed to become effective

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with all service rendered on or after July 31, 1980; and it is

Further ordered, that prior to August 15, 1980, Pennichuck Water Works shall file additional tariff pages setting forth therein rates designed to produce an annual increase in gross revenues of \$1,606,900 over the base rates in effect as of the date of this order, such rates to take effect as to all service rendered on or after a date which is eight months subsequent to the above effective date; 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; and it is

Further ordered, that Pennichuck Water Works conduct a cost of service study prior to the filing for any further increases in revenue.

By order of the Public Utilities Commission of New Hampshire this first day of August, 1980.

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NH.PUC\*08/01/80\*[78648]\*65 NH PUC 372\*Southern New Hampshire Builders Association v Public Service Company of New Hampshire

[Go to End of 78648]

**Southern New Hampshire Builders Association v Public Service  
Company of New Hampshire**

DE 80-151, Order No. 14,407

65 NH PUC 372

New Hampshire Public Utilities Commission

August 1, 1980

ORDER requiring parties to file prefiled testimony by a specified date.

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BY THE COMMISSION:

Order

Whereas, the Southern New Hampshire Builders Association has filed a "motion for discovery"; and

Whereas, the hearing days in this case will be on September 9 and 10, 1980, at the offices of the commission; it is hereby

Ordered, that Southern New Hampshire Builders Association, Public Service Company of New Hampshire, and any other parties file prefiled testimony by August 15, 1980; and it is

Further ordered, that any data requests be submitted by any party no later than August 29, 1980.

By order of the Public Utilities Commission of New Hampshire this first day of August, 1980.

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NH.PUC\*08/01/80\*[78649]\*65 NH PUC 373\*Pennichuck Water Works

[Go to End of 78649]

## Re Pennichuck Water Works

DF 80-155, Order No. 14,409

65 NH PUC 373

New Hampshire Public Utilities Commission

August 1, 1980

PETITION for authority to transfer land; granted.

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BY THE COMMISSION:

Order

Whereas, Pennichuck Water Works has filed a petition requesting approval of the transfer of 1,490 acres of land with the fixed capital cost of \$26,158 from its rate base to a nonoperating property account; and

Whereas, pursuant to Report and Supplemental Order No. 14,406 (65 NH PUC 363), the commission has determined that \$26,158 is the proper valuation and that the proposed transfer is the proper accounting; it is hereby

Ordered, that the proposed transfer as determined in the petition is granted.

By order of the Public Utilities Commission of New Hampshire this first day of August, 1980.

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NH.PUC\*08/01/80\*[78650]\*65 NH PUC 373\*Concord Electric Company

[Go to End of 78650]

## Re Concord Electric Company

Intervenors: Legislative Utility Consumers' Council

DR 79-214, Third Supplemental Order No. 14,410

65 NH PUC 373

New Hampshire Public Utilities Commission

August 1, 1980

PETITION for rehearing to reconsider commission failure to approve electric company's collection of unrecovered fuel cost above base (lockup) pursuant to fuel adjustment clause; collection of lockup for specified period approved.

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RATES, § 303 — Fuel adjustment clause — Collection of unrecovered fuel cost above base.

[N.H.] The commission allowed an electric company to collect its unrecovered fuel cost above base (lockup) for a specified future period, but it would not allow any interest to be added, noting that although the fuel adjustment clause was originally designed to recover fuel costs and maintain the quality of a utility's earnings, there never was any consideration of interest on a recovery of expenses.

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APPEARANCES: As noted previously.

BY THE COMMISSION:

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### Report

On June 27, 1980, the commission issued Report and Order No. 14,308 (65 NH PUC 311) as its initial decision in this proceeding. Timely motions for rehearing were filed by Concord Electric Company (hereinafter referred to as "Concord") and the Legislative Utility Consumers' Council (hereinafter referred to as "LUCC"). The issues raised by the Concord motion for rehearing basically requests the commission to reconsider its failure to approve collection of the lockup. The LUCC asked the commission to reconsider the testimony of Roland Von Ohlsen as to whether or not there should be an adjustment to basic rates relating to implementation of the new fuel adjustment clause design. The establishment of the previous fuel adjustment clause, together with the approval of the corresponding lockup, was the result of commission decisions in 1974 and 1975. During those years the commission established the accounting treatment for



unbilled fuel adjustment revenues and stated that the collection of same would be allowed some time in the future. Public Service Company of New Hampshire, through a settlement agreement with the LUC, Community Action Program, commission staff, Business and Industry Association, and the Department of Defense is recovering its unbilled fuel costs above base. (See Re Public Service Co. of New Hampshire [1980] 65 NH PUC 251.) Exeter and Hampton Electric Company is presently collecting their unbilled fuel costs above base through an order of this commission in DR 79-91 (65 NH PUC 209). Concord Electric argues that it should receive similar treatment from the commission.

Concord also seeks to have an interest component applied to the revenue figure collected so as to compensate Concord Electric during the recovery of these funds from consumers. The commission has extensively reviewed its prior orders dating back to the mid-1970's. The commission agrees that the result of this review reveals both a policy and specific orders allowing for the recovery of the lockup. However, nowhere has the commission found a suggestion, much less an order, allowing for the collection of interest. Since the recovery of the lockup thoroughly relates to commission orders in the mid 1970's, so must be the resolution to the interest question. Therefore, upon reconsideration, the commission will allow Concord Electric to begin collecting its unrecovered fuel cost above base (lockup) for the next twelve months starting with all bills rendered on or after August 1, 1980. The commission will not allow any interest to be added to this amount. The commission would note that the fuel adjustment clause was originally designed to recover fuel costs and maintain the quality of a utility's earnings. Whatever the strength or weaknesses of its initiation, nowhere was there consideration of interest on a recovery of expenses.

The LUC does not dispute either the design of the fuel adjustment clause or the recovery of the lockup. (Transcript, June 18, 1980, p. 3.) However, the LUC raises the question as to whether or not there should be a reduction to the basic rates due to an alleged reduction in the working capital needs of Concord Electric. Mr. Von Ohlsen offered an analysis based on a review of a lead-lag study offered by Douglas MacDonald in DR 77-142 (63 NH PUC 240). Mr. Von Ohlsen contends that there will be a reduction in

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one of the "lags" affecting Concord Electric's working capital and there should therefore be a reduction in rates.

The difficulty in reaching a decision on Mr. Von Ohlsen's testimony is that the commission did not use a lead-lag analysis computing Concord Electric's working capital needs in its most recent full rate proceeding. (63 NH PUC 240.) It would be improper, both to methodology and as to regulation, for this commission to isolate one aspect of a lead-lag study for rate treatment. Furthermore, upon a review of the testimony of Mr. Von Ohlsen, the commission finds that he has not established that there are working capital offsets to the company's proposal. As the commission noted in its original order, Concord Electric's rate base has grown since the last rate proceeding. The commission will continue to monitor both the recovery of fuel costs and the return earned by Concord Electric. If at any time an unreasonable situation develops, the commission will immediately order Concord Electric into a rate reduction proceeding. Based on our analysis to date, the commission is satisfied that there has been no impropriety or

unreasonable return earned.

Concord Electric is to show both the recovery of the lockup and the refund of charges improperly collected from Concord Electric by Public Service Company of New Hampshire as two separate items on the bills to consumers. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that Concord Electric Company is to begin recovering its lockup over a 12-month time period beginning on all bills rendered on or after August 1, 1980; and it is

Further ordered, that Concord Electric Company separately list both the refund and the lockup collection on customers' bills.

The secretary of the commission is hereby directed to issue the above order this first day of August, 1980.

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NH.PUC\*08/05/80\*[78651]\*65 NH PUC 375\*Public Service Company of New Hampshire

[Go to End of 78651]

## Re Public Service Company of New Hampshire

DE 80-67, Order No. 14,416

65 NH PUC 375

New Hampshire Public Utilities Commission

August 5, 1980

ORDER authorizing condemnation of land and award of damages.

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APPEARANCES: Eaton W. Tarbell, Jr., for the Public Service Company of New Hampshire.

BY THE COMMISSION:

Report

On March 20, 1980, the Public Service Company of New Hampshire, a public utility engaged in the supply of electricity within the state of New Hampshire, filed with the New Hampshire Public Utilities Commission its petition to condemn certain town-owned lands within the town of Hampton, New Hampshire. Said lands to be used in conjunction with transmission lines emanating from the Seabrook nuclear power station. An order of notice issued on April 9, 1980, setting a public hearing on May 21, 1980, at 1 P.M. at the commission offices, no one appeared in opposition to said petition.

The company produced witness Harry Robert Murray, a surveyor, who testified as to the

location of the company's right of way and introduced a map depicting same. He also testified to the location of the land to be condemned and its measurements.

The company also produced witness David F. Colt, a real estate appraiser, who testified that he examined the premises in question and concluded that the damages as a result of the taking, amounted to \$1,100.

Upon consideration of the facts presented, the commission finds that the subject taking is necessary and that a proper award of damages in the sum of \$1,100 is granted to the town of Hampton. Our order will issue accordingly.

Order

Based upon 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 take, pursuant to RSA 371, property described in its petition which is in the commission files on this matter; and it is

Further ordered, that Public Service Company of New Hampshire pay damages for said taking in the amount of \$1,100 to the town of Hampton; and it is

Further ordered, that the taking granted herein is perpetual right and easement as presented in the company's petition.

By order of the Public Utilities Commission of New Hampshire this fifth day of August, 1980.

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NH.PUC\*08/06/80\*[78652]\*65 NH PUC 376\*Pennichuck Water Works

[Go to End of 78652]

**Re Pennichuck Water Works**

DR 80-134, Second Supplemental Order No. 14,421

65 NH PUC 376

New Hampshire Public Utilities Commission

August 6, 1980

ORDER correcting a prior commission order.

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BY THE COMMISSION:

Supplemental Order

Whereas, Supplemental Order No. 14,406 (65 NH PUC 363) inadvertently omitted rate case expenses in the total annual increase in gross revenue; it is hereby

Ordered, that Supplemental Order No. 14,406 is hereby amended and supplemented to allow a total annual increase in gross revenues in the sum of \$1,618,039 through the period ending March 31, 1981, and these new tariff pages shall so state; and it is

Further ordered, that the remaining parts of Supplemental Order No. 14,406 not inconsistent with this order shall remain in full force and effect.

By order of the Public Utilities Commission of New Hampshire this sixth day of August, 1980.

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NH.PUC\*08/07/80\*[78653]\*65 NH PUC 377\*Village District of Eidelweiss

[Go to End of 78653]

**Re Village District of Eidelweiss**

IE 14,642, Order No. 14,422

65 NH PUC 377

New Hampshire Public Utilities Commission

August 7, 1980

ORDER exempting a municipal water plant from public utility statutes.

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MUNICIPAL PLANTS, § 2 — Exemption from public utility statutes — Outside customers.

[N.H.] The commission granted an exemption from public utility statutes to a municipal water system that served nine customers located outside district boundaries; however, the company was required to notify the commission if at some future time it should expand its water system to serve ten or more customers outside district boundaries.

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BY THE COMMISSION:

Order

Whereas, the Village District of Eidelweiss, a central water system furnishing water service within the district boundaries in the town of Madison, New Hampshire, and in a limited area outside those boundaries in the town of Conway, New Hampshire, by a petition filed July 15, 1980, seeks clarification of its service in Conway, New Hampshire, under the provisions of RSA 362:4 as amended; and

Whereas, the petitioner states that he is now furnishing water to nine customers in Conway, New Hampshire, and has stated that service would continue to be provided these customers under the terms and conditions of existing contracts as heretofore provided; 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 exemption from public

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utility statutes be, and hereby is, granted to the Village District of Eidelweiss in regards to its customers in Conway, New Hampshire; and it is

Further ordered, that the Village District of Eidelweiss shall notify this commission if at some future time it shall expand its water system to serve ten or more customers outside the district boundaries.

By order of the Public Utilities Commission of New Hampshire this seventh day of August, 1980.

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NH.PUC\*08/08/80\*[78654]\*65 NH PUC 378\*Public Service Company of New Hampshire

[Go to End of 78654]

### Re Public Service Company of New Hampshire

DR 79-187, 38th Supplemental Order No. 14,428

65 NH PUC 378

New Hampshire Public Utilities Commission

August 8, 1980

ORDER granting motions for rehearing.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Public Service Company of New Hampshire and the Legislative Utility Consumers' Council, having filed motions for rehearing to the findings made in Order No. 14,271 (65 NH PUC 251) as to the delay of Seabrook II; and

Whereas, the commission, having reviewed the motions filed and the briefs submitted therewith, wishes further oral argument as to the delay of Seabrook II; and

Whereas, the Nuclear Regulatory Commission has now approved the divestiture, a different circumstance than it existed at the time of the issuance of Order No. 14,271; it is hereby

Ordered, that the motions for rehearing as to the Seabrook II delay are granted and arguments shall be heard on August 19, 1980, at 9:00 A.M. at the offices of the commission, 8 Old Suncook Road, Concord, New Hampshire; and it is

Further ordered, that the portion of Order No. 14,271 pertaining to the construction of Seabrook II is hereby suspended until further consideration of the matter.

By order of the Public Utilities Commission of New Hampshire this eighth day of August, 1980.

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NH.PUC\*08/08/80\*[78655]\*65 NH PUC 379\*Public Service Company of New Hampshire

[Go to End of 78655]

## **Re Public Service Company of New Hampshire**

DR 79-187, 39th Supplemental Order No. 14,429

65 NH PUC 379

New Hampshire Public Utilities Commission

August 8, 1980

ORDER denying a motion for rehearing.

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PROCEDURE, § 35 — Motor for rehearing — Parties.

**[N.H.]** The commission denied a motion for rehearing as to a prior commission order because the party requesting the rehearing was not an injured party.

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APPEARANCES: as noted previously.

BY THE COMMISSION:

Report

The Business and Industry Association (BIA) has filed a motion for rehearing as to our Order No. 14,271 (65 NH PUC 251). In particular, the BIA objects to the commission's order which temporarily flattens the residential rate until the full question of rate structure is addressed in Phase II.

The Business and Industry Association has represented to the commission that it appears as a representative of commercial and industrial electrical uses. The Business and Industry Association has been very clear in its representations that it does not seek to represent the interests of residential users. Consequently, the motion for rehearing cannot be viewed as coming from either an injured or an affected party.

The BIA's motion fails to recognize that the commission must set a rate design during the transition from Phase I to Phase II. The commission, in establishing a rate design during this transition, referred to statutory and case law as well as its prior decisions. These general criteria

are ideally suited for the present transition.

The commission has further notified all parties that the rate design set forth in our orders is coupled with a guarantee that adjustments will be made upon the completion of Phase II. Therefore, not only are BIA's rights already preserved, but so are those of all other parties.

In addition to the fact that the BIA is not an injured party, there are other valid reasons for the rejection of BIA's motion. First, PSNH has not submitted a cost-of-service study that has corresponded to its rate increase filings (as to time period) for over five years. Second, the cost-of-service study, initially filed as part of its case in this proceeding, is over two years old and PSNH is pursuing a course designed to update this information. Third, acceptance of BIA's motion would lead to the conclusion that there should not be any rates in effect until the conclusion of Phase II.

Finally, the commission had appropriate evidence in the Form 1, sales forecast, the record of the preferred stock offering, the annual reports to stockholders, and the public hearings to

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arrive at its decision pending the conclusion of Phase II.

Therefore, the commission rejects the BIA's motion for rehearing. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is hereby Ordered, that the Business and Industry Association's motion for rehearing is denied.

By order of the Public Utilities Commission of New Hampshire this eighth day of August, 1980.

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NH.PUC\*08/12/80\*[78656]\*65 NH PUC 380\*Public Service Company of New Hampshire

[Go to End of 78656]

## **Re Public Service Company of New Hampshire**

DR 79-187, 40th Supplemental Order No. 14,430

65 NH PUC 380

New Hampshire Public Utilities Commission

August 12, 1980

ORDER placing parties on notice of commission's intent to issue a subsequent order.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Public Service Company of New Hampshire and the Legislative Utility Consumers' Council have filed motions for rehearing as to commission Order No. 14,271,

Whereas, the commission has handled a portion of the concerns raised by the aforementioned motions in 38th Supplemental Order No. 14,428 (65 NH PUC 378),

Whereas, the commission has notified both parties that the balance of the concerns raised in the two motions for rehearing will be handled pending further consideration by the commission within the reasonable immediate future,

Whereas, the commission's determination will be made by subsequent order which will include a detailed analysis accepting and rejecting all additional aspects of the motions by PSNH and LUCC; it is hereby

Ordered, that all parties are placed on notice of the commission's intent to issue a subsequent order accepting or rejecting the various concerns raised by the LUCC and PSNH in the respective motions for rehearing.

By order of the Public Utilities Commission of New Hampshire this twelfth day of August, 1980.

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NH.PUC\*08/14/80\*[78657]\*65 NH PUC 381\*Conversion of Newington Station

[Go to End of 78657]

## **Re Conversion of Newington Station**

DE 80-175, Order No. 14,432

65 NH PUC 381

New Hampshire Public Utilities Commission

August 14, 1980

INVESTIGATION on commission motion, as to whether an electric company should convert its generating unit from oil to natural gas or coal.

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ELECTRICITY, § 3 — Generating plants — Conversion from oil to natural gas or coal.

[N.H.] The commission concluded that an investigation is necessary to determine whether or not a conversion of an electric company's generating station from oil to natural gas or coal should be ordered.

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BY THE COMMISSION:

Order



Pursuant to RSA 378:7 the commission has the authority upon its own motion to begin hearings whenever it shall be of the opinion that the rates, fares, or charges demanded by any public utility for service rendered or to be rendered are unjust or unreasonable or that the regulations or practices of any such public utility affecting such rates are unjust and unreasonable. In addition, pursuant to RSA 374:4 the commission has the express duty to be kept informed as to how public utilities operate and manage their property as to safety and adequacy. Finally, the commission has the power pursuant to RSA 374:7 to investigate the methods employed by electric utilities in manufacturing electricity. After an investigation which includes hearings, the commission may order reasonable and just improvements.

The commission upon its own motion and pursuant to the aforementioned statutes will begin hearings on the question of whether or not it is in the best interest of the public to have the generating unit at Newington station converted from oil to natural gas and/or its substitutes and/or coal.

The commission has attempted over the years to encourage the development of electrical energy sources that are not oil fired. The commission approved the construction of the Seabrook nuclear plant. Re Public Service Co. of New Hampshire (1975) DSF 6205. Recently the commission rendered an opinion whereby it set rates designed to encourage the development of alternate energy sources including hydro, wood, wind, and solar. Re Small Energy Producers and Cogenerators (1980) 65 NH PUC 139.

While both of these decisions will cause substantial reductions in the amount of oil used for electrical generation, their impact will be minimal until the mid-1980's.

During the interim the company's generation mix if not altered would steadily increase in terms of oil usage from its present 53.46 per cent. (DR 76-46, Exh P-1-D.) The result of increased oil usage together with ever increasing oil prices represents a legitimate concern for this commission. The Public Service Company of New Hampshire has both

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oil and coal generation. Since 1973 the cost of both fuels has risen, however, to accurately compare the two sources of electricity it is necessary to convert cost per ton and cost per barrel into equivalent units of heat or cents per million Btu. Whereas, in 1973 oil and coal were exactly equal in terms of cents per million Btu, a significant difference has arisen over the past six years. Prior to the most recent oil price increases, the cost for oil as opposed to coal was almost double. With the most recent increases in the price of oil, the differential balloons oil costs to nearly four times the cost of coal (cents per million Btu). Economic analysts predict that this differential will continue to increase over the span of the next decade.

Natural gas as a source of supply has been improving since the mid-1970's. The Department of Energy has been reversing its position on the usage of natural gas by encouraging the use of natural gas in lieu of oil. Articles are being written which discuss the possibility of natural gas usage in base load electrical generating units. While that time may still be a few years away, there is significant economic justification to explore the usage of natural gas or its substitutes in peaking and intermediate electrical generating stations.

The commission's order to explore the area of conversions is not unusual. Numerous utilities are in the process of conversion from oil generation to coal or natural gas. At present the Atlantic Electric Company, Central Louisiana Electric, Long Island Lighting, and Public Service Electric and Gas Company are either requesting permission to convert to natural gas or are undertaking that conversion. As to coal, Savannah Electric Light and Power Company has already completed a conversion from oil to coal. In New England, the New England Electric Company is in the process of converting three oil generating stations to coal.

Therefore, the commission concludes that an investigation is necessary to determine whether or not a conversion of the oil generating station located at Newington should be ordered. The company is instructed to answer the following questions in its testimony.

1. What are the capital costs involved in converting from oil to coal? Natural gas?
2. What are the company's estimates as to cost in terms of cents per million Btu for coal, natural gas, and oil over the next ten years?
3. What environmental rules, regulations, or laws are of consequence in a conversion to coal? Natural gas?
4. If an order were issued in the fall of this year requiring a conversion to coal or natural gas, how lengthy would the conversion process be?
5. What are the company's estimates for the next twenty years as to the cost of the Newington generation in mills, using (a) oil, (b) coal, (c) natural gas?
6. What are the company's estimates as to usage?

Hearings will be scheduled in the foreseeable future, and prepared testimony is due from the company by September 17, 1980.

The secretary of the commission is hereby directed to issue the above order this fourteenth day of August, 1980.

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NH.PUC\*08/14/80\*[78658]\*65 NH PUC 383\*Public Service Company of New Hampshire

[Go to End of 78658]

## **Re Public Service Company of New Hampshire**

DF 80-153, Order No. 14,433

65 NH PUC 383

New Hampshire Public Utilities Commission

August 14, 1980

PETITION by electric company for authority to issue and sell Eurodollar term notes; granted.

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## SECURITY ISSUES, § 58 — Financing of construction — Eurodollars.

[N.H.] An electric company was authorized to issue and sell for cash an aggregate of \$28 million of Eurodollar term notes to the Eurodollar banks where the proceeds from the proposed financing would be expended to pay off short-term notes, the proceeds of which had been used in the purchase and construction of property necessary for present and future service, to finance the purchase and construction of additional such property within the state, and for other proper corporate purposes, all being found to be in the public interest.

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APPEARANCES: Frederick J. Coolbroth for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed July 22, 1980, 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 Eurodollar term notes in the aggregate amount of \$28 million.

On July 22, 1980, an order of notice was issued setting the hearing for August 14, 1980.

At the hearing on the petition, held in Concord on August 14, 1980, the company submitted that it proposes to enter into a loan agreement with a group of European banks and affiliates of European banking consortia (the Eurodollar banks) providing for the lending by the Eurodollar banks to the company an aggregate of \$28 million and the issuance by the company to the Eurodollar banks of its Eurodollar term notes aggregating that amount; the Eurodollar banks and the amount which each would lend to the company being as follows:

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

Kredietbank N.V.	\$6,000,000
Banca Commerciale Italiana,	\$5,000,000
New York Branch	\$5,000,000
Banco De Bilbao	\$5,000,000
Orion Bank Limited	\$5,000,000
Pkbanken Investments Limited	\$5,000,000
The Euram Corporation	\$2,000,000
	\$28,000,000

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 August 29, 1980, and mature two years from the date of execution of the loan agreement, expected to be on or shortly before August 29, 1980; that the interest rate for the loan would be the arithmetic mean of the rates of interest at which Eurodollar certificates of deposit are offered to Banco de Bilbao, Banca Commerciale

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Italiano, and Orion Bank Limited (rounded up to the nearest one-sixteenth of one per cent)

plus 0.75 per cent and that the interest rate would fluctuate at the end of three-month or six-month interest periods at the option of the company.

The company, through witness Harrison, stated that the proceeds of the sale of the Eurodollar term notes will be used (1) to pay off a portion of the short-term notes outstanding at the time of sale (estimated to be \$129,350,000 on August 29, 1980), the proceeds of which will have been principally expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the company's business; (2) to finance the purchase and construction of additional such property within the state; and (3) for other proper corporate purposes. All expenses incurred in accomplishing the financing, including compensation to be paid to underwriters, will be paid from the general funds of the company.

The company submitted a balance sheet as at May 31, 1980, actual and pro forma to reflect other recent financings by the company and the proposed sale of the Eurodollar term notes. Exhibits were also submitted showing: a comparison of effective interest rates under the proposed Eurodollar term loan and the company's existing term loan; a comparison of LIBOR (London interbank offered rate) and the U. S. prime rate; disposition of proceeds from Eurodollar term notes; estimated expenses of the Eurodollar term notes; and capital structure as at May 31, 1980, actual and pro forma to reflect the sale of common stock in July, 1980, and the Eurodollar term notes. Projected financing requirements and estimated construction expenditures were outlined in testimony. A certified copy of authorizing votes of the company's board of directors was put in evidence at the hearing.

Mr. Traum conducted an extensive cross-examination on behalf of the commission staff. Since this is the first venture into the Eurodollar market by a New Hampshire utility, and one of the first in the United States, various concerns were addressed; i.e., federal income tax implications, deposit stipulations, effects of European currency fluctuations, prepayment penalties, <sup>2</sup>The Wall Street Journal's<sup>1</sup> published Eurodollar rates, comparisons with the U. S. prime rate, volatility, etc.

Commissioner Riordan addressed the concern about "buy American." The company's response was partially that the lower interest rates available via the Eurodollar market benefit the company and its customers, and the loans bring U. S. currency back into the U. S. temporarily.

Based upon all of the evidence, the commission finds that the proceeds from the proposed financing will be expended (1) 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 principally in the purchase and construction of property reasonably requisite for present and future use in the conduct of the petitioner's business; (2) to finance the purchase and construction of additional such property within the state; and (3) for other proper corporate purposes, and further finds that the issue and sale of the Eurodollar term notes for the purposes described and on the terms presented will be consistent with the public good. Our order will issue accordingly.

Our order will issue authorizing the issuance and sale for cash, on the terms presented, of an aggregate of \$28 million

of the Eurodollar term notes to the Eurodollar banks.

Order

Based 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 its Eurodollar term notes in the aggregate amount of \$28 million for cash in accordance with the foregoing report and as set forth in its petition and testimony; and it is

Further ordered, that the proceeds from the Eurodollar term notes shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of said company and for the other purposes stated in the report; 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 to by its treasurer or assistant treasurer, showing the disposition of the proceeds of the Eurodollar 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 fourteenth day of August, 1980.

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NH.PUC\*08/18/80\*[78659]\*65 NH PUC 385\*Concord Electric Company

[Go to End of 78659]

### **Re Concord Electric Company**

IE 14,423, Supplemental Order No. 14,435

65 NH PUC 385

New Hampshire Public Utilities Commission

August 18, 1980

ORDER approving pages of a tariff.

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BY THE COMMISSION:

Supplemental Order

Whereas, Concord Electric Company, on July 30, 1980, filed with this commission Original Pages 15-B and 15-C of tariff, NHPUC No. 6 — Electricity; and

Whereas, said filing specifies procedures for the return to the customers of moneys which had resulted from a refund to Concord Electric Company by Public Service Company of New Hampshire; and

Whereas, said filing is found in compliance with commission Order No. 14,311, dated June 30, 1980 (65 NH PUC 316); it is

Ordered, that Original Pages 15-B and 15-C be, and hereby are, approved for effect July 31, 1980.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of August, 1980.

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NH.PUC\*08/18/80\*[78660]\*65 NH PUC 386\*Connecticut Valley Electric Company, Inc.

[Go to End of 78660]

### **Re Connecticut Valley Electric Company, Inc.**

DR 80-178, Order No. 14,436

65 NH PUC 386

New Hampshire Public Utilities Commission

August 18, 1980

PETITION of an electric company to revise its tariff; 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 August 11, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 4 — Electricity, relative to the purchased power cost adjustment filed for effect September 8, 1980; 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 17 of 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 eighteenth day of August, 1980.

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NH.PUC\*08/18/80\*[78661]\*65 NH PUC 386\*Claremont Gas Light Company

[Go to End of 78661]

### **Re Claremont Gas Light Company**

DR 80-171, Order No. 14,437

65 NH PUC 386

New Hampshire Public Utilities Commission

August 18, 1980

PETITION of a gas company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Claremont Gas Light Company, a public utility engaged in the business of supplying gas service in the state of New Hampshire, on July 29, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 9 — Gas, providing for increased rates (\$41,515 — 14.97 per cent), effective September 1, 1980; 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

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Ordered, that Seventh Revised Pages 13, 14, 15, and 16 of tariff, NHPUC No. 9 — Gas, of Claremont Gas Light 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 August, 1980.

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NH.PUC\*08/18/80\*[78662]\*65 NH PUC 387\*Woodsville Municipal Electric Department

[Go to End of 78662]

**Re Woodsville Municipal Electric Department**

DR 80-177, Order No. 14,438

65 NH PUC 387

New Hampshire Public Utilities Commission

August 18, 1980

PETITION of an electric company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Woodsville Municipal Electric Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 1, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 3 — Electricity, relative to the purchased power cost adjustment line extension policy, and service fees, effective September 1, 1980; 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 Pages 9A and 9B; First Revised Pages 4, 7, 8A, 9, 10, and 10A; and Third Revised Page 10A-1 of tariff, NHPUC No. 3 — Electricity, of Woodsville Municipal Electric Department, 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 August, 1980.

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NH.PUC\*08/18/80\*[78663]\*65 NH PUC 387\*Gas Service, Inc.

[Go to End of 78663]

### **Re Gas Service, Inc.**

DR 80-179, Order No. 14,439

65 NH PUC 387

New Hampshire Public Utilities Commission

August 18, 1980

PETITION of a gas company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., a public utility engaged in the business of supplying gas service in the state of New Hampshire, on August 1, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 5 — Gas, providing for increased rates designed to increase annual revenues by \$943,954 (6.6 per cent), effective September 1, 1980; 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, 11th Revised Pages 4 and 5; and Section 4, Fourth Revised Pages 1



and 2, and Tenth Revised Pages 4 and 5 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 eighteenth day of August, 1980.

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NH.PUC\*08/19/80\*[78664]\*65 NH PUC 388\*Concord Natural Gas Corporation

[Go to End of 78664]

### Re Concord Natural Gas Corporation

IE 14,948, Order No. 14,440

65 NH PUC 388

New Hampshire Public Utilities Commission

August 19, 1980

PETITION of a gas company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Concord Natural Gas Corporation, a public utility engaged in the business of supplying gas service in the state of New Hampshire, on July 25, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 13 — Gas, providing for changes relative to fees associated with disconnection, turn on, late payment, etc.; 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 Pages 25, First Revised Page 11, Second Revised Page 12, Third Revised Page 5, and Fourth Revised Page 1 of tariff, NHPUC No. 13 — Gas, of Concord Natural Gas Corporation be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of August, 1980.

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NH.PUC\*08/20/80\*[78665]\*65 NH PUC 389\*Information to Consumers

[Go to End of 78665]

### Re Information to Consumers

DE 80-174, Order No. 14,441

65 NH PUC 389

New Hampshire Public Utilities Commission

August 20, 1980

ORDER requiring utilities to include a commission telephone number with all bills.

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SERVICE, § 172 — Commission complaint number — Inclusion in bills.

[N.H.] The commission required every utility to include the commission's toll-free service number with all bills or bill inserts to be used for reporting complaints, problems, or comments on utility services, noting that it was in the public good for the commission to have as much access as possible to the viewpoints, concerns, complaints, and problems of individual consumers.

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BY THE COMMISSION:

Order

Whereas, the Public Utilities Commission of New Hampshire has placed into service a toll-free number so as to provide a greater opportunity for consumers to report complaints, problems, or comments on utility service; and

Whereas, the commission finds that it is in the public good to have as much access as possible to the viewpoints, concerns, complaints, and problems of individual consumers; it is hereby

Ordered, that every utility in the state will be required as of October 1, 1980, to include the commission's phone number in all bills that go to their consumers; it is

Further ordered, that with all bills or on all bill inserts after October 1, 1980, the following is to be reproduced:

"By New Hampshire Public Utilities Commission Order No. 14,441, you are advised that you may bring any complaint, problem, concern, or comment to the attention of the public utilities commission by calling the following toll-free number: 1-800-852-3793."

By order of the Public Utilities Commission of New Hampshire this twentieth day of August, 1980.

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NH.PUC\*08/20/80\*[78666]\*65 NH PUC 389\*Utility Bill Calculation

[Go to End of 78666]

## Re Utility Bill Calculation

DE 80-183, Order No. 14,443

65 NH PUC 389

New Hampshire Public Utilities Commission

August 20, 1980

ORDER requiring utility bills to include presently effective tariff rates.

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1. PAYMENT, § 19 — Utility bills — Calculation of charges by recipient.

[N.H.] Utility bills, like all other bills, should provide for an opportunity to the recipient to calculate privately the charges requested to be paid. p. 390

2. PAYMENT, § 21 — Billing requirement — Effective tariff rates.

[N.H.] The commission required all electric, gas, telephone, and water bills submitted to residential consumers to have on the bill or attached to the bill an insert with the presently effective tariff rates, the commission noting that it was in the public interest to have a well informed utility consumer. p. 390

3. PAYMENT, § 21 — Billing requirements — Effective tariff rates.

[N.H.] The commission required all electric, gas, telephone, and water bills submitted to commercial, industrial, municipal, and other consumers to have on the bill or attached to the bill an insert with the presently effective tariff rates, the commission noting that it was in the public interest to have a well informed utility consumer. p. 390

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BY THE COMMISSION:

Order

Whereas, the existing commission rules require that:

"Bills shall be rendered at regular intervals and shall show all meter readings and such other factors as are necessary, so that the charges may be readily computed from the information appearing on the bill."

Whereas, it is in the public interest to have a well informed utility consumer; and

[1] Whereas, utility bills, like all other bills, should provide for an opportunity to the recipient to privately calculate the charges requested to be paid; and

Whereas, absent a listing of the presently effective rates, such calculation is impossible it is

[2] Ordered, that as of October 1, 1980, all electric, gas, telephone, and water bills submitted to residential consumers shall have on the bill, or attached to the bill, an insert with the presently effective tariff rates; it is

[3] Further ordered, that as of November 1, 1980, all electric, gas, telephone, and water bills submitted to commercial, industrial, municipal, as well as other consumers, shall have on the bill, or attached to the bill, an insert with the presently effective tariff rates.

By order of the Public Utilities Commission of New Hampshire this twentieth day of August, 1980.

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NH.PUC\*08/21/80\*[78667]\*65 NH PUC 390\*Wolfeboro Municipal Electric Department

[Go to End of 78667]

## Re Wolfeboro Municipal Electric Department

DR 80-181, Order No. 14,444

65 NH PUC 390

New Hampshire Public Utilities Commission

August 21, 1980

PETITION of an electric company to revise its tariff; suspended pending commission investigation.

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**Page 390**

BY THE COMMISSION:

Order

Whereas, Wolfeboro Municipal Electric Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 1, 1980, filed with this commission tariff, NHPUC No. 6 — Electricity, providing for increased rates effective September 1, 1980; 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. 6 — Electricity, of Wolfeboro Municipal Electric Department, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of August, 1980.

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NH.PUC\*08/21/80\*[78668]\*65 NH PUC 391\*Northern Utilities, Inc.

[Go to End of 78668]

**Re Northern Utilities, Inc.**

IR 14,949, Order No. 14,445

65 NH PUC 391

New Hampshire Public Utilities Commission

August 21, 1980

PETITION of a gas company for approval of a service contract; granted.

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BY THE COMMISSION:

Order

Whereas, Northern Utilities, Inc., a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 38 with Phillips Exeter Academy for gas 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-first day of August, 1980.

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NH.PUC\*08/25/80\*[78669]\*65 NH PUC 392\*Conversion of Schiller Station

[Go to End of 78669]

**Re Conversion of Schiller Station**

DE 79-141, Eighth Supplemental Order No. 14,447

65 NH PUC 392

New Hampshire Public Utilities Commission

August 25, 1980

ORDER rescinding a prior commission order.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission issued Fifth Supplemental Order No. 14,292 (65 NH PUC 305)

requiring Public Service Company of New Hampshire (PSNH) to be responsible for \$10,000 to the New Hampshire Air Resources Agency for a study of air quality impacts and emission limitations; and

Whereas, PSNH volunteered and subsequently tendered a check for \$10,000; and

Whereas, such agreement was based on a rescission of Fifth Supplemental Order No. 14,292 and an understanding that the company would not waive its objections to Fifth Supplemental Order No. 14,292 and that the commission would not state that it was without the power to initiate such an order; and

Whereas, the legal question of the authority of the commission to issue an order similar to Fifth Supplemental Order No. 14,292 is best left to a time when mutual agreement cannot be obtained; it is hereby

Ordered, that based on the above, Fifth Supplemental Order No. 14,292 is rescinded.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of August, 1980.

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NH.PUC\*08/25/80\*[78670]\*65 NH PUC 392\*Northern View Water Supply Company, Inc.

[Go to End of 78670]

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

DE 80-79, Supplemental Order No. 14,448

65 NH PUC 392

New Hampshire Public Utilities Commission

August 25, 1980

ORDER granting a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed on August 13, 1980, by the Legislative Utility Consumers' Council for a rehearing concerning Report and Order No. 14,384, dated July 24, 1980 (65 NH PUC 357); and

**Page 392**

Whereas, after full consideration of the allegations in said motion and after weighing the reasons presented in said motion; it is

Ordered, that the motion for rehearing is granted; and it is

Further ordered, that a rehearing shall be set for September 3, 1980, at 9:30 A.M. at the

offices of the commission, 8 Old Suncook Road, Building No. 1 in Concord, New Hampshire.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of August, 1980.

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NH.PUC\*08/27/80\*[78671]\*65 NH PUC 393\*Pennichuck Water Works

[Go to End of 78671]

## Re Pennichuck Water Works

Intervenors: Legislative Utility Consumers' Council and City of Nashua

DR 80-134, Third Supplemental Order No. 14,454

65 NH PUC 393

New Hampshire Public Utilities Commission

August 27, 1980

MOTION for rehearing of water rate order; denied.

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1. COMMISSIONS, § 22 — Limitations on jurisdiction — Rulings by courts.

[N.H.] The commission's statutory and discretionary power to balance the interests of consumers and the utilities that serve them is limited where the supreme court issues a decision on an issue clarifying where that balance is thereafter to be found. p. 393.

2. VALUATION, § 190 — Financial and accounting treatment of land removed from rate base.

[N.H.] Objections to the commission's accounting and financial treatment of land being removed from a water company's rate base were rejected where those objections did not address two supreme court decisions that resolved the issue by placing any gain or loss with the stockholders of a regulated utility. p. 393.

3. RATES, § 250 — Effective date — Retroactive rates.

[N.H.] The commission will not allow double charges to utility consumers by applying rates retroactively for newly completed construction projects to a time period when an allowance for funds used during construction was accumulated, and it pointed out that its previous decisions have not always allowed retroactivity and that retroactivity is not required in all situations. p. 394.

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APPEARANCES: As noted previously.

BY THE COMMISSION:

Report

The city of Nashua (city), the Legislative Utility Consumers' Council (LUCC), and the Pennichuck Water Works (company) have all timely filed motions for rehearing as to the commission's Report and Order No. 14,406 (65 NH PUC 363).

[1, 2] The LUCC and city motions contend that the commission erred as to its accounting and financial treatment to

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be given the 1,490 acres of land which is to be removed from Pennichuck's rate base. The alleged error is that the commission failed to adopt the position of its staff, the LUCC, and the city on this issue. Since no new arguments are offered, these motions for rehearing must be rejected. While the commission recognized merit in the concerns expressed by its staff, the LUCC, and the city of Nashua, no party addressed the two supreme court cases that resolve the issue by placing any gain or loss with the stockholders of a regulated utility. This commission is empowered by statute to balance the interests of consumers and the utilities that serve them. The same requirement is applicable to the supreme court. Any attempt to balance these always complex and often divergent interests is not easy. The commission is provided a large degree of discretion in arriving at a balance. This discretion is, however, limited where the supreme court issues a decision on an issue clarifying where that balance is to thereafter be found. On the issue of land, the supreme court has addressed the issue twice with identical results. No attempt has been made by the LUCC or the city to distinguish these decisions from this case. Therefore, the commission must deny the motions filed by these two parties.

Pennichuck's motion challenges the effective date of the rate increase. The motion alleges that the commission failed to follow supreme court precedent, misinterpreted RSA 378:30(a), failed to follow past commission practice, and failed to consider all factual considerations offered by the company.

[3] The commission does not find the arguments presented by the company persuasive. First, the commission recognized the unique situation involved in this proceeding, an addition to plant in service that doubled Pennichuck's rate base. While Pennichuck's rate base, exclusive of treatment facility, was based on an average of five quarters,<sup>1(2)</sup> the new rate base contains the treatment facility which is included as a pro forma addition at its inception into service. If the facility had been included on an average basis for the five quarters, its recognition in rates would have been significantly reduced. Under such a scenario, a retroactive application could have occurred but at a substantially reduced revenue level.

It is this unique use of major year-end addition that distinguishes this case from *Pennichuck Water Works v New Hampshire* (1960) 103 NH 49, 36 PUR3d 374, 164 A2d 669. In this proceeding there exists a "good reason" why July 31, 1980, should be the effective date as to service rather than bills rendered.

The commission's previous decisions have not always allowed retroactivity. The recently concluded Phase I of DR 79-187 is a clear example (emergency rate order). Nor do our rules preclude our decisions since the rule states "unless otherwise expressly provided." Finally, Pennichuck does not require retroactivity in all situations. *Nelson v Public Service Co. of New*



Hampshire (1979) 119 NH — , 402 A2d 623.

Pennichuck cannot be viewed to be in the same economic situation as they were in 1960. The entire case from the date of filing tariff sheets to decision was less

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than two months. Furthermore, a recent increase had been allowed in 1979 (64 NH PUC 206). In addition, a major addition has been allowed into rate base, and the effect of today's poor economic conditions have been reflected in Pennichuck's rate of return.

Another consideration is RSA 378:3. Pennichuck's arguments, if accepted, would effectively preclude notice to consumers, who were first notified on July 5th and 9th of the pending rate request, would receive less notice than the commission (thirty days) which is to balance their interests together with the utility's interest.

As to the factual circumstances, the commission has already noted that (a) the year-end addition doubling rate base, (b) an updated capital structure, and (c) fair notice to consumers all are compelling reasons for the commission's action as to an effective date. In addition, the commission will not allow double charges to consumers by applying rates retroactively for newly completed construction projects to a time period when AFUDC was accumulated. Reasonable and balanced regulation can neither allow, much less sanction, utility action which ultimately leads to consumers paying for duplicative charges.

The commission does not find any error in its analysis as to RSA 378-30-a. Therefore, based on the above, the commission rejects Pennichuck's motion for rehearing. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that the motions for rehearing filed by all parties be, and hereby are, denied.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of August, 1980.

#### FOOTNOTE

<sup>1</sup>The commission incorrectly stated four quarters in the original order. However, this method is in keeping with the 13-month approach used with utilities that bill monthly.

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NH.PUC\*08/27/80\*[78672]\*65 NH PUC 395\*New England Power Company

[Go to End of 78672]

## **Re New England Power Company**

Intervenors: Legislative Utility Consumers' Council and Rhode Island Attorney General

DE 79-223, Supplemental Order No. 14,456

65 NH PUC 395

New Hampshire Public Utilities Commission

August 27, 1980

MOTION to dismiss proceeding to exercise state commission jurisdiction over exportation of hydroelectric power to another state; motion denied.

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1. INTERSTATE COMMERCE, § 28 — Burden on interstate commerce.

[N.H.] Where Congress has not acted, the states may not regulate interstate commerce if the state's regulation would place an undue burden on that commerce or where the article

**Page** 395

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of commerce is so national in nature as to be amenable only to a national scheme of regulation, but where these two factors are not present, the states may regulate interstate commerce in the absence of legislation by the United States. p. 397.

2. INTERSTATE COMMERCE, § 5 — Federal and state regulation — Effect of federal action.

[N.H.] Where Congress has acted, states may exercise their authority over the article of interstate commerce concurrently with the United States unless the state's regulation is inconsistent with the scheme of regulation adopted by the United States, or where the United States has entirely preempted the field. p. 397.

3. INTERSTATE COMMERCE, § 5 — Federal and state regulation — Effect of federal action.

[N.H.] A state may not, upon its own authority, prohibit the introduction of an article into interstate commerce, but Congress may authorize a state to regulate interstate commerce where, but for such authorization, the state would be prohibited from doing so. p. 397.

4. INTERSTATE COMMERCE, § 34.1 — Regulation of electric companies — Scope of Federal Power Act.

[N.H.] In the field of generation and sale of electric energy, Congress has enacted a scheme of regulation which, while reserving certain aspects of the subject to the United States, is scrupulous in its recognition and preservation of the interests of the several states, and in that legislation, Congress has authorized the states to regulate the exportation of hydroelectric energy generated within the state, at least insofar as the states exercised such control over that hydroelectric energy in 1920. p. 398.

5. INTERSTATE COMMERCE, § 34.1 — State commission jurisdiction — Exportation of hydroelectric power.

[N.H.] The state commission has the authority to determine where the power from hydroelectric plants located within the state can be sold. p. 398.

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APPEARANCES: Philip H. R. Cahill for New England Power Company; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council (LUCC); Dennis Roberts, Rhode Island Attorney General.

BY THE COMMISSION:

Report

On December 28, 1979, New England Power Company (NEPCO) filed a motion to dismiss in these proceedings for lack of subject matter jurisdiction. New England Power Company contends that NHRSA 374:35 cannot constitutionally confer jurisdiction on the New Hampshire Public Utilities Commission to regulate NEPCO's transfer of hydroelectricity from New Hampshire. Further, NEPCO alleges that such regulation is invalid under both the Commerce Clause of the United States Constitution and the Federal Power Act.<sup>1(3)</sup>

New England Power Company argues that the commission is precluded from action pursuant to RSA 374:35 as a result of Supreme Court decisions precluding a state from imposing an undue burden on interstate commerce. The interstate transmission of electric current from one state to another NEPCO views as interstate commerce. Thus, NEPCO arrives at the conclusion that a state cannot enact or enforce any regulation which unduly burdens or discriminates against the interstate transmission of electricity. *Rhode Island Pub. Utilities Commission v Attleboro Steam & Electric Co.* 273 US 83, PUR1927B 348, 71 L Ed 549, 47 S Ct 294. Based on the

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aforementioned reasoning, NEPCO concludes that any action pursuant to NHRSA 374:35 is an unconstitutional exercise of state power.

New England Power Company then proceeds to embark on a discussion of the various Supreme Court cases which warn of the balkanization of the states' unity and the potential for rivalries and retaliation if one state is allowed to prohibit or restrict interstate commerce. *West v Kansas Nat. Gas Co.* (1911) 221 US 229, 249-255, 55 L Ed 716; *Pennsylvania v West Virginia*, 262 US 553, PUR1927D 23, 67 L Ed 1117, 43 S Ct 658; *Hood v DuMond* (1949) 366 US 525, 538, 539.

To illustrate the potential for retaliation, NEPCO cited the interconnections of NEPOOL and the potential for other New England states to preclude New Hampshire from the benefits of New England nuclear units outside New Hampshire.

These arguments lead to NEPCO's assertion that a state is without power to burden interstate commerce in this fashion for the exclusive benefit of its own residents. Consequently, NEPCO finalizes this argument by stating that NHRSA 374:35 and any order issued pursuant to the statute are unconstitutional by operation of the Interstate Commerce Clause of the United States Constitution.

New England Power Company also challenges the commission's jurisdiction under the Federal Power Act. While noting that portions of the Federal Power Act leave limited authority to the states with respect to the hydroelectric projects, NEPCO offers the proposition that no provision authorizes a state prohibition on the exportation of hydroelectric power. New England

Power Company further argues that state laws such as RSA 374:35 are preempted because otherwise such laws would interfere or frustrate the Federal Energy Regulatory Commission's (FERC) overall scheme of water utilization.

New England Power Company concedes that Part II of the Federal Power Act provides that no state will be deprived of its lawful authority now exercised over the exportation of hydroelectric power. In pursuit of its motion, NEPCO offers that exemptions such as the aforementioned must be narrowly construed. Furthermore, NEPCO contends that the rate-making provisions of the Federal Power Act clearly define the FERC's jurisdiction on rates. For the aforementioned reasons NEPCO submits that the proceeding in DE 79-223 should be dismissed for lack of subject matter jurisdiction.

#### Commission Analysis

[1-3] Article I, § 8, Clause 3 of the United States Constitution confers upon the Congress of the United States the authority to regulate interstate commerce. While that authority is exclusively in the United States in some instances, it does reside concurrently with the states in other instances. The authority of the states to regulate interstate commerce can be divided into two categories, when Congress has acted and when it has not.

Where Congress has not acted, the states may not regulate interstate commerce if the state's regulation would place an undue burden on that commerce or where the article of commerce is so national in nature as to be amenable only to a national scheme of regulation. Where these two factors are not present the states may regulate interstate commerce

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in the absence of legislation by the United States.

Where Congress has acted, the states may exercise their authority over the article of interstate commerce concurrently with the United States unless the state's regulation is inconsistent with the scheme of regulation adopted by the United States, or where the United States has entirely preempted the field.

A review of NEPCO's contentions reveal that they cannot be sustained.<sup>2</sup> It is well settled that a state may not, upon its own authority, prohibit the introduction of an article into interstate commerce. *West v Kansas Nat. Gas Co.* (1911) 221 US 229, 55 L Ed 716. However, the Congress may authorize a state to regulate interstate commerce where, but for such authorization, the state would be prohibited from doing so. *Auclair Transp. Inc. v New Hampshire* (1973) 113 NH 231, 234.

[4, 5] In the field of the generation and sale of electrical energy, the Congress has enacted a scheme of regulation which, while reserving certain aspects of the subject to the United States, is scrupulous in its recognition and preservation of the interests of the several states. 16 USCA §§ 792 et seq. *United States v California Pub. Utilities Commission* (1952) 345 US 295, 98 PUR NS 65, 97 L Ed 1020, 73 S Ct 706. In that legislation the Congress has authorized the states to regulate the exportation of hydroelectric energy generated within the state, at least insofar as the states exercised such control over that hydroelectric energy in 1920. 16 USCA § 824(b). That section, as amended through the present, states:

"The provisions of this subchapter (subchapter II) ... *shall not ... deprive a state or a state commission* of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a state line ... ." (Emphasis supplied.)

When the bill, which subsequently became the aforementioned statute, was introduced into the House of Representatives it failed to contain the quoted clause. However, the bill was amended so as to insert the quoted clause. Speaking in support of the addition of that clause, Representative William A. Rogers of New Hampshire stated that the bill, as originally drafted, would have deprived certain states of "certain rights which they have over the exportation of hydroelectric energy," and that the amendment would preserve those rights. *79 Cong Rec* 10527.

The Federal Power Commission, the agency charged with the enforcement of the statute held:

"The legislative history of this provision *79 Cong Rec* 10527 shows that it has reference to certain existing state statutes which purported to prohibit or restrict the exportation of hydroelectric energy. E. g. Me Rev Stat (1930) Chap 68 § 1; NH Laws (1929) Chap 106; W Va Acts (1929) Chap 58; Wis Stat (1931) § 31.27." *Re Safe Harbor Water Power Corp.* (1946) 5 FPC 221, 235, 66 PUR NS 212, 226, Opinion No. 143.

The aforementioned interpretation was approved by the United States Supreme Court in *United States v California Pub. Utilities Commission* (1952) 345 US 295, 98 PUR NS 65, 97 L Ed 1020, 1029, 1030, 73 S Ct 706, footnote

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4. There the Supreme Court verified that the statute was "intended to preserve the validity of certain state statutes prohibiting or regulating the volume of state power exported."

To clarify, the Congress specifically recognized the interests of the state of New Hampshire in controlling the use of its hydroelectric energy and specifically authorized the state of New Hampshire to exercise that control. The statute under which this commission has conducted this proceeding was specifically recognized by the federal agency charged with administering the federal regulatory scheme as coming within the grant of authority to the states. Finally, that construction was specifically approved by the United States Supreme Court. The various cases cited by NEPCO describe generally accepted principles of federal supremacy but are inapplicable to the instant case because of the specific grant of authority.

New England Power Company's arguments fail to focus on the specific question of whether or not this state has the authority to determine where the power from hydroelectric plants located within the state (*Vermont v New Hampshire* [1934] 290 US 579) can be sold. The commission answers this question in the affirmative.

Past decisions of this commission clearly support the commission's finding. In *Re Grafton Power Co.* (1929) 12 NH PSC 194, 201, this commission clearly conditioned its permission to transfer the power out of state. The following is taken from the report and order of Commissioner Mayland H. Morse (12 NH PSC at p. 201):

"Said Grafton Power Company shall discontinue such business in whole or in part, to such

extent and under such notice as the commission may order, whenever after notice and hearing thereon the public service commission shall find that such electrical energy, or any portion thereof affected by this order is reasonably required for use within this state, and that the public good requires that it be delivered for such use."

Similar passages appear in all orders issued by this commission whereby permission was granted to transmit the power outside the state. When New England Power came before the commission in 1954, nineteen years after the amendments to the Federal Power Act, the company specifically requested that the commission "permit and approve New England Power Company's engaging in such business, including the transmitting or conveying of electrical energy generated by waterpower beyond the confines of New Hampshire." (NEPCO's petition dated November 15, 1954.)

In the commission's report and order in that case the following condition was imposed to the approval:

"Further ordered, that New England Power Company be, and hereby is, permitted to engage in the business of transmitting or conveying electrical energy generated by water beyond the confines of New Hampshire on the statutory conditions of §§ 33 and 34 of Chap 289 of the Revised Laws of New Hampshire, as amended; namely, that New England Power Company shall discontinue such export, in whole or in part, to such extent and under such conditions as this commission may order, if this commission finds that such electrical energy or any portion thereof is reasonably required for use within this state, and that the public good requires that it be delivered for such use, such service within this state to be upon terms as favorable as shall be granted to consumers outside the state,

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having due regard for all the facts and conditions which may affect the subject." Re Connecticut River Power Co. (1954) 36 NH PUC 302, 311, 312.

Therefore, it is clear that NEPCO by its 1954 petition recognized the commission's jurisdiction and authority as to the transmission of hydroelectric power outside the state. The order in that proceeding specifically conditioned the approval on the possibility that at sometime in the future the permission could be discontinued. Finally, NEPCO did not appeal the commission's aforementioned order. Based on the foregoing NEPCO can neither claim lack of subject matter jurisdiction, lack of notice, or surprise.

New England Power Company concerns relating to balkanization and retaliation are unfounded. First, as has been noted this specific delegation refers only to hydroelectric power. The possibility for retribution by disallowing New Hampshire access to nuclear plants in other states cannot be reasonably offered considering that New Hampshire utilities have an ownership interest in all New England Yankee nuclear units. As to withholding power from oil units, given today's economics it is doubtful that this would occur or be a potential threat. However, each of these scenarios implies that New Hampshire has chosen a path of balkanization. Such a conclusion fails to recognize over fifty years of sharing one of its most vital resources, the Connecticut river. New Hampshire was sharing its resources decades before the creation of the New England Power Pool.

An historical examination of our files reveals that the aforementioned 1954 NEPCO decision was issued before proceedings accepting the arrangement were heard by the Massachusetts Department of Public Utilities. (December 3rd versus December 7, 1954.) Clearly the Massachusetts DPU was aware of the terms imposed by the New Hampshire commission. Furthermore, the creation of NEPOOL years later was based upon consideration of the existing laws within each New England state.

Finally, recognition must be given to the specific policy determination by the United States Congress which specifically continued the statutory lives of the existing hydroelectric exportation statutes in the four states of which only New Hampshire's remains. This jurisdiction is not a deliberate attempt at balkanization but rather a sanctioned power belonging to the state of New Hampshire.

Based upon the foregoing, the commission denies the NEPCO motion to dismiss. Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is made part of this order, it is hereby Ordered, that the motion to dismiss filed by New England Power Company is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of August, 1980.

#### FOOTNOTES

<sup>1</sup>The Rhode Island Attorney General agrees with NEPCO on the matter of jurisdiction.

<sup>2</sup>The commission has sought the opinion of its attorney in the attorney general's office. His analysis concurs with our analysis.

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NH.PUC\*08/27/80\*[78673]\*65 NH PUC 401\*Hanover Water Works

[Go to End of 78673]

### Re Hanover Water Works

DR 80-160, Order No. 14,458

65 NH PUC 401

New Hampshire Public Utilities Commission

August 27, 1980

ORDER stipulating the accounting treatment of fixed asset cost as offset by O customer contributions.

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ACCOUNTING, § 13 — Fixed asset cost — Offset by customer contributions.

[N.H.] The commission stated that a water company should record on its books the full cost of a fixed asset addition and then credit that account with the amount collected from customers, the net amount to be used as the basis for depreciation.

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APPEARANCES: Edward S. Brown, executive vice president, and Lewis J. Bressett, president, for the petitioner; William Shaine for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On July 26, 1980, Hanover Water Works, a New Hampshire corporation engaged in the supply and distribution of water in Hanover, New Hampshire, filed a revision to its tariff, NHPUC No. 5 — Water, which would increase the charge for installing a three-quarter-inch service connection from \$25 to \$300.

On August 27, 1980, a hearing was held and evidence submitted by Hanover Water Works that its present tariff charge is not compensatory as the average cost for this installation is now \$304. The company has, however, agreed that the charge made for any service connection should be the actual cost incurred.

The company further proposes that it will charge the customers only for the labor or installation costs incurred, and record the addition to its fixed capital account with only the cost of the material used in such installation. The commission finds that the company should record on its books the full cost of the fixed asset addition, re: labor and materials, and then credit that account with the amount collected from the customer. This net amount will be used as the basis for depreciation. Our order will issue accordingly.

Order

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

Ordered, that the revision to its tariff, NHPUC No. 5 — Water, as filed by Hanover Water Works on July 16, 1980, is hereby rejected; and it is

Further ordered, that in accordance with this report and order, Hanover Water Works shall file a new tariff page reflecting a charge for "connection and reconstruction" as shall actually occur in each installation, and bearing the effective date as of the date of this order; and it is

Further ordered, that Hanover Water Works give public notice of this tariff change by publishing the same in a

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newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of August, 1980.

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NH.PUC\*08/28/80\*[78674]\*65 NH PUC 402\*Gas Service, Inc.

[Go to End of 78674]

## Re Gas Service, Inc.

Intervenor: Legislative Utility Consumers' Council

DF 80-150, Order No. 14,459

65 NH PUC 402

New Hampshire Public Utilities Commission

August 28, 1980

PETITION by gas company for authority to increase its short-term debt on a temporary basis; granted.

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SECURITY ISSUES, § 98 — Short-term debt.

[N.H.] A gas company was authorized to increase its short-term debt on a temporary basis to defray the cost of making additions and replacements to its plant, and to finance the inventory of gas, so as to give the company time to issue long-term debt, preferred stock, or common stock at hopefully more advantageous rates than it could get currently.

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APPEARANCES: Charles H. Toll for the petitioner; William Shaine for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this petition filed on July 17, 1980, Gas Service, Inc., a public utility organized under the laws of New Hampshire and operating under the jurisdiction of this commission, as a gas public utility in the cities of Nashua, Laconia, Franklin, and Concord and the towns of Amherst, Belmont, Canterbury, Gilford, Hudson, Merrimack, Northfield, Sanbornton, and Tilton, all in the state of New Hampshire, seeks authority to increase its short-term debt limit to \$4 million on a temporary basis until December 31, 1981, and to \$2.5 million permanently thereafter.

A duly noticed public hearing was held at the offices of the commission on August 26, 1980.

Prior to and during the course of the hearing the company submitted its petition and exhibits reflecting a listing of short-term notes payable as of June 30, 1980, a breakdown of the company's long-term notes payable as of June 30, 1980, and the lines of short-term credit available to the applicant from the Bank of New Hampshire, NA, Cambridge Trust Company, Indian Head National Bank of Laconia, and the Strafford National Bank. These banks are prepared to increase their current lines of credit to Gas Service, Inc., to 54 million.

The company witness, Mr. Mancini, stated these bank lines of credit are at the

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prime rate with nonwritten agreements that the compensating balances would average 8 per cent on the bank lines and an additional 5 per cent on the borrowed amount. If this situation should change, the company should notify the commission in a very timely manner.

The notes will be for three-month durations. The proceeds of the proposed additional financing would be used to defray the cost of making additions and replacements to the company's plant, and to finance the inventory of gas.

The company in addition stated that in 1981, or thereabouts, it contemplates seeking authority to issue up to \$1 million of long-term debt and \$1 million of preferred stock which will be used in whole or in part to reduce the company's short-term indebtedness. The company plans to wait until at least the fall of 1980, in hopes that the currently high rates of interest on long-term debt will come down.

Based upon all the evidence, the commission finds that the short-term debt limit should be temporarily raised to \$4 million. This action will be for the period of up to December 31, 1981, as stipulated in RSA 369 :7, which should give the company sufficient time to issue long-term debt, preferred stock, or common stock at hopefully more advantageous rates than they could get currently. After that period the limit shall be fixed at \$2.5 million.

The proceeds from the short-term notes appear to be reasonably necessary for present and future use in the conduct of the petitioner's business and for other corporate purposes. The issuance and sale of 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 Gas Service, Inc., be, and hereby is, authorized to issue and sell, and from time to time renew, for cash its notes or notes payable less than twelve months after the date thereof in an aggregate principal amount not exceeding \$4 million. This additional authority shall last until December 31, 1981, after which time \$2.5 million will be the maximum; and it is

Further ordered, that interest on bank borrowings will be at the local prime rate or rates; and it is

Further ordered, that on or before 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 proceeds of the note or notes, or other evidences of indebtedness herein authorized, until the whole of said proceeds have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of August, 1980.

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NH.PUC\*08/28/80\*[78675]\*65 NH PUC 404\*Concord Natural Gas Corporation

[Go to End of 78675]

## **Re Concord Natural Gas Corporation**

DR 80-126, Supplemental Order No. 14,460

65 NH PUC 404

New Hampshire Public Utilities Commission

August 28, 1980

ORDER rejecting a gas company's proposed rates.

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BY THE COMMISSION:

Supplemental Order

Whereas, on May 29, 1980, Concord Natural Gas Corporation filed tariff pages designed to collect increased rates as of July 1, 1980, of \$162,443; and

Whereas, the commission suspended the effective date of the tariff by Order No. 14,300 on June 27, 1980 (65 NH PUC 308); and

Whereas, the commission on June 27, 1980, designated July 17, 1980, as a procedural hearing date; and

Whereas, the aforementioned procedural hearing date was canceled at the request of Concord Natural Gas based on an assurance that Concord Natural Gas would contact the commission within a one — to two-week time frame as to when Concord Gas was prepared to present its testimony and exhibits; and

Whereas, the commission has repeatedly sought to receive information from Concord Gas as to when it was prepared to go forward; and

Whereas, Concord Natural Gas has consistently refused to specify any date for filing testimony and exhibits other than to request another one- to two-week delay; and

Whereas, two months have now elapsed in the six months allotted by the commission prior to the rates becoming effective under bond pursuant to RSA 378:6; and

Whereas, Concord Natural Gas has not demonstrated any attempt to carry its burden of proof or to proceed forward with its petition; it is hereby

Ordered, that the suspension Order No. 14,300 is rescinded; and it is

Further ordered, that Tenth Revised Pages 13-16 and Eighth Revised Page 17 of tariff, NHPUC No. 13 — Gas, are hereby rejected; and it is

Further ordered, that rates are to remain at their present levels; and it is

Further ordered, that DR 80-126 is hereby closed.

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

August, 1980.

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NH.PUC\*08/29/80\*[78676]\*65 NH PUC 405\*Gas Service, Inc.

[Go to End of 78676]

### **Re Gas Service, Inc.**

DR 80-179, Supplemental Order No. 14,462

65 NH PUC 405

New Hampshire Public Utilities Commission

August 29, 1980

PETITION by gas company for authority to increase rates; denied.

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PROCEDURE, § 32 — Rehearing of rate order.

[N.H.] A gas company's request for a rate increase was denied where it had received a rate increase about six months prior to this request where the applicant's work papers revealed that the proposed rate increase was nothing more than a relitigation of the the issues such as return on equity, attrition, and rate design which the commission had disposed of in the previous case, and the petition was deemed, in reality, to be a late-filed motion for rehearing.

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APPEARANCES: Charles Toll for Gas Service, Inc.

BY THE COMMISSION:

Report

Gas Service, Inc., has filed with the commission a petition to increase its rates by \$943,954. The filing, which occurred on August 1, 1980, was to be effective September 1, 1980. The commission, by Order No. 14,439 dated August 18, 1980 (65 NH PUC 387), suspended the tariff pages and prevented the aforementioned from becoming effective. Shortly thereafter our staff requested initial work papers from the company so as to ascertain the rationale behind the proposed rate request.

The commission believed it necessary to request the aforementioned work papers due to the proximity of this rate request to our decision of February 21, 1980, which addressed Gas Service, Inc.'s last rate request (65 NH PUC 76). In that rate request, DR 79-129, Gas Service sought an increase of \$727,299. Upon review of their evidentiary presentation, the commission found that only \$418,696 was justified.

The major differences between the amount requested and the amount granted involved the commission's disagreement with the company's proposed return on common equity, the

company's proposed attrition allowances, the company's proposed revenue adjustment based upon weather, and some of the company's pro forma adjustments to its test-year data.

The work papers filed by Gas Service, Inc., in this proceeding clearly indicate that the rate increase is directly related to a relitigation of the aforementioned issues. Gas Service again seeks to increase its return on equity as well as its attrition allowances. Their alleged financial difficulty is based on comparing a capital structure versus a rate base versus revenues and expenses that have no relationship to one another as to time period. Finally, the company has not adequately realized the effect of the rate increase just recently granted.

The company has less than six months of data under the revenue levels set by our report and order in DR 79-129. Since the company prevailed on the issue in its motion for rehearing it has even less data on the effect of that order. In addition,

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Gas Service is before this commission with other revenue proposals relating to its extension program. These factors have not properly been recognized in the filing. If the commission were to pursue this case any further it is clear that it would embark upon a series of pro forma adjustments which would attempt to portray a test year of actual data reflecting the effects of our last order. Such a procedure is likely to result in unjustifiable assumptions which lead to inequitable decisions.

Gas Service, Inc.'s proposed rate request is allegedly a 6.6 per cent increase. However, a clearer examination of its ramifications reveals that the company proposes a 103 per cent increase in its customer charge. Such a request, if granted, would reveal an enormous increase on the small users while leaving the average and larger users with the minimal increase. The question of rate design was also an issue in the last proceeding wherein the commission required Gas Service to place the major portion of its rate increase in the larger usage blocks in each customer class. In DR 79-129 the company's proposed increase would have increased smaller usage customers by a level of four times that of other customers. The commission, for the reasons set forth in DR 79-129, rejected the company's approach.

A review of Gas Service, Inc.'s work papers clearly reveal that the proposed rate increase pursuant to this docket is nothing more than a relitigation of the issues to which the commission disagreed with the company in DR 79-129. In attempting to relitigate revenue issues such as return on common equity and attrition and rate design issues such as the amount of the increase on the customer's charge, Gas Service, Inc.'s petition is, in reality, a late filed motion for rehearing on DR 79-129.

New Hampshire RSA 378:7 specifically provides this commission with the discretion not to investigate anything which it has investigated within a period of two years. Gas Service, Inc., has received an order from this commission that is approximately six months old. Its new proposal is merely a late-filed motion for rehearing relating to the aforementioned case which, pursuant to RSA 541:3, is filed too late. A review of the company's work papers reveal that a reasonable rate of return is being earned and there is no confiscation. A review of our record reveals that Gas Service, Inc., has filed for a rate increase each and every year at least since 1973. This continuous strain on the commission's resources cannot be justified where less than a year has

passed since the company's last rate proceeding and where furthermore, no confiscation is occurring. The commission believes it necessary to require Gas Service, Inc., to continue with its existing level of rates. Therefore, the proposed rate increase is denied and this docket is closed. Our order will issue accordingly.

Supplemental Order

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

Ordered, that Section 2, 11th Revised Pages 4 and 5; and Section 4, Fourth Revised Pages 1 and 2, and Tenth Revised Pages 4 and 5 of tariff, NHPUC No. 5 — Gas, of Gas Service, Inc., be, and hereby are, rejected; and it is

Further ordered, that DR 80-179 is hereby closed.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of August, 1980.

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NH.PUC\*08/29/80\*[78677]\*65 NH PUC 407\*Laconia Water Works

[Go to End of 78677]

**Re Laconia Water Works**

DE 80-166, Order No. 14,463

65 NH PUC 407

New Hampshire Public Utilities Commission

August 29, 1980

PETITION of a water company for a license to place a sleeve under state-owned railroad tracks; granted.

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WATER, § 12 — Installation for future use — Water company.

[N.H.] The commission authorized a water company to install a 30-inch sleeve for use with a future water main under a railroad crossing, noting that no one had objected to the proposal and that the crossing was in the public good.

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APPEARANCES: Rodger L. Matthewman, superintendent, for Laconia Water Works.

BY THE COMMISSION:

Report

On July 23, 1980, this commission received a petition from Laconia Water Works seeking a license to install a 30-inch sleeve for use with a future water main under railroad tracks at the

Main street, Laconia, New Hampshire, crossing. The sleeve is estimated at 50 feet in length and will pass under double tracks at the crossing. The project was planned by the Water Works in coordination with the Department of Public Works and Highways and the Transportation Authority. The crossing will be similar to the Elm street, Laconia, crossing completed earlier.

An order of notice was issued by the commission on August 4, 1980, setting the matter for public hearing at the commission offices in Concord on August 28, 1980, at 10:00A.M.. Parties notified were: Goodwin Railroad, city of Laconia, New Hampshire Department of Public Works and Highways, New Hampshire Transportation Authority, and the attorney general.

The duly noticed hearing was held as scheduled; no intervenor was present. Mr. Matthewman presented the facts on the crossing, indicating that the crossing was similar to that at Elm street, for which only verbal approval of state authorities had been obtained. Since each had approved that crossing, and none had objected to this docket, the commission finds that both the Elm street and Main street crossings are 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 Laconia Water Works be, and hereby is, granted a license for the crossing of railroad tracks in the city of Laconia at the Elm street and Main street crossings; and it is

Further ordered, that said license approves the installation of 30-inch sleeves at said crossings for the use in housing water mains.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of August, 1980.

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NH.PUC\*08/29/80\*[78678]\*65 NH PUC 408\*Gas Service, Inc.

[Go to End of 78678]

**Re Gas Service, Inc.**

DR 80-36, Supplemental Order No. 14,464

65 NH PUC 408

New Hampshire Public Utilities Commission

August 29, 1980

HEARING on revision of service extension terms and conditions of gas service extensions; order in accordance with opinion.

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1. RATES, § 313 — Combined billing — Gas company.

[N.H.] A gas company was allowed to eliminate a tariff provision which allowed combined

service on the same property with separate metering, but combined billing for a single property, thus allowing the customer to save on his internal piping costs, yet costing the company more in equipment such as services and meters, where it was said to be not cost based, by allowing billing at lower rates through the combined bills. p. 408.

2. RATES, § 308 — Relocation of facilities.

[N.H.] A gas company's conditions under which it would relocate or replace equipment were modified so as to require it to make the initial installation as specified by the customer, but would require the customer to cover costs if he subsequently desired relocation or modification to his system. p. 408.

3. DISCRIMINATION, § 204 — Gas service extensions — Burden of cost — Space-heating customers.

[N.H.] A gas company's proposed tariff which would generally require a minimum contribution for main extensions for heating customers and a substantially larger contribution for nonheating residential customers, was rejected pending further investigation where it showed a preference for heating over nonheating customers even though this would on the average result in a larger increase in rate base for additional heating customers. p. 409.

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APPEARANCES: Charles H. Toll, Jr., for Gas Service, Inc.

BY THE COMMISSION:

Report

[1] On January 31, 1980, Gas Service, Inc., filed with this commission certain revisions to its tariff, NHPUC No. 5 — Gas, which proposed revisions to its terms and conditions including those under which it would extend its mains and provide services. On February 22, 1980, said filing was suspended by commission Order No. 14,075 (65 NH PUC 98) pending investigation and decision. An order of notice was issued on March 10, 1980, setting hearing on April 22, 1980, at 10:00 A.M.. On April 22, 1980, a new order of notice was issued changing that hearing date to May 23rd at 10:00 A.M., subsequently rescheduled for May 15, 1980, at the same time. The company presented one witness.

Witness Stagney testified that the company proposed the elimination of a provision under its terms and conditions which allowed combined service on the same property. This permitted separate metering, but combined billing for a single property. It allowed the customer to save on his internal piping costs, yet cost the company more in equipment such as services and meters. The provision was said to be not cost based, by allowing billing at lower rates through the combined bill. The commission finds this elimination proper.

[2] Mr. Stagney further indicated that his company proposed that a new paragraph be added in its terms and conditions which would address conditions under which the company would relocate or replace equipment. Current provisions are not clear as to responsibility



for the cost of such relocation, such as the conversion of a master-metered apartment complex to individual metering. The proposal would require the company to make the initial installation as specified by the customer, but would require that customer to cover costs should he subsequently desire relocation or modification to his system. The commission agrees with this addition.

Another proposal of the company which was discussed by witness Stagney was that of controlled attachment. Present tariff attachment policy has no restrictions on residential customers and the proposal offers no change to this class. On commercial and industrial classes, current restrictions permit sales to new customers or existing customers of a maximum of 50,000 cubic feet per day. This limit is unchanged for new customers, but revises that of existing customers to allow 50,000 cubic feet *above* their highest use in 1977-78. It further provides a means of penalizing a customer for excess use. The commission recognizes the potential of exceeding the limits, but has concern regarding the means of policing same and the equitable assessment of penalties. We will allow the restriction and penalty, but will perform periodic audits to ensure proper operations.

[3] Mr. Stagney testified that the most significant change in the filing is that for service extensions. The proposal eliminates any cost-free connection to the system compared to former free availability of connection to existing mains or 100-foot extensions per customer. For longer extensions, provisions formerly allowed free connection if the requirements of the so-called 25 per cent test were met. If that test failed, a contribution was required to extend the main in the amount of the total construction cost less 25 per cent of the net annual revenue. Current provisions also have no charge for service pipes. The proposal would require new customers to pay a minimum of \$200 (\$500 if load exceeds five therms per hour). This contribution could be larger, depending upon the results of the 25 per cent test.

The commission recognizes the increased demand for gas service and the associated construction costs to provide that service. Construction of gas mains is somewhat analogous to that of water mains as far as continually increasing costs go. In recent years, several water utilities under this commission's jurisdiction have requested and received authorization to reduce the amount of free construction of mains which it provided a customer. As costs rise, it becomes less and less feasible to provide such construction and expect the resulting revenues to justify the investment. On the other hand, when the customer is expected to provide funds, it is unreasonable to allow that portion of plant in the company's rate base. The commission will allow the contribution plan for mains as presented, but only the net investment of the company will be included in rate base and for depreciation purposes.

The case for service pipe contribution presents somewhat a different problem. Materials furnished by the company indicated a typical low pressure service to cost \$867. Using company figures for net annual revenue of a cooking and water heating customer (\$57), the contribution that potential customers must make before obtaining service is \$639. One with space heating as well might have net revenue of \$226, in which case his contribution would be the minimum of

\$200 since he satisfies the 25 per cent test.

Stagney testified that the company is concerned with competition from oil and electric companies; and accordingly could not make charges too high to make it unattractive to developers. Obviously, the concern is not for potential customers on existing lines who might want to convert to gas for cooking or water heating. It appears that Gas Service does not realize the importance of such base load customers, whose consumption is stable throughout the year. Its primary concern is to sign the heating customers which bring in the large revenues during a few months of the year.

The commission is concerned about the 25 per cent rule and whether or not it violates RSA 378:10. The concern is that residential heating customers who contribute more to the company's peak than residential nonheating customers, whose usage increases the company's base load, would on the average pay substantially less for their main extensions.

Revised Statutes Annotated 378:10 states "Preferences. No public utility shall make or give any undue or unreasonable prejudice or disadvantage, in any respect whatever."

The 25 per cent rule as proposed would generally require the minimum contribution for main extensions for heating customers and a substantially larger contribution from nonheating residential customers. This shows a preference for heating over nonheating customers, even though this method will on the average result in a larger increase in rate base for additional heating customers. For this reason the commission must reject this aspect of the filing pending more information addressing these concerns.

The same holds true for the similar proposed rule regarding commercial and industrial customers.

The commission notes that the company indicated it was reluctant to serve those sections of its franchise area which lacked potential for further expansion (T20). This appears in violation of the basic reasoning a franchise which prescribes an obligation to serve in return for the exclusive rights. The company proposes provision in Par 6(c) which repeats in broader terms that appearing in the current tariff under Par 4(b). The commission finds this unnecessary. While it acknowledges that there could exist some conditions or circumstance where service to a customer within a franchise would be detrimental to the company or existing customers, their terminology within the existing Par 4(b) is adequate. Final decision in any such refusal would lie within commission responsibility should the refusal be appealed by the potential customer.

The commission would further indicate that in its opinion it is the duty of the utility to furnish the invested funds necessary to provide plant and the obligation of the ratepayer to furnish a reasonable return on those funds.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Gas Service, Inc.'s Section 1, First Revised Pages 3, 5, 6, 10, 11, and 13 superseding Original Pages 3, 5, 6, 10, 11, and 13 of NHPUC Tariff No. 5 — Gas, Gas Service, Inc., are accepted; and it is

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Further ordered, that Section 1, Third Revised Pages 9 and 19, superseding Second Revised Pages 9 and 19, are hereby rejected.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of August, 1980.

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NH.PUC\*08/29/80\*[78680]\*65 NH PUC 412\*Fuel Adjustment Charge

[Go to End of 78680]

### Re Fuel Adjustment Charge

Intervenors: Legislative Utility Consumers' Council and Public Service Company of New Hampshire

DR 80-46, Fourth Supplemental Order No. 14,467

65 NH PUC 412

New Hampshire Public Utilities Commission

August 29, 1980

PETITION by electric company for authority to apply fuel adjustment charge to regular September, 1980, monthly billings to its customers; order in accordance with opinion.

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

[N.H.] An electric company was authorized to apply a fuel adjustment charge to regular September, 1980, monthly billings, this being a forward-looking fuel adjustment charge.

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APPEARANCES: Eaton W. Tarbell, Jr., for the Public Service Company of New Hampshire; Ronald Von Ohlsen for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378 :3-a (II), the commission on August 21, 1980, held a hearing on the petition of Public Service Company of New Hampshire (hereinafter referred to as the "company") for authority to apply a fuel adjustment charge to regular September, 1980, monthly billings to their customers at a constant rate for regular July, August, and September, 1980, billings pursuant to its tariff, NHPUC No. 22 — Electricity, which is a three-month

forward-looking fuel adjustment charge including a fold-in of fossil energy costs based on costs during the year ending May 31, 1979.

Reference may be made to commission Order No. 14,155 (65 NH PUC 144) for statements and explanation of the fuel adjustment clause presently in effect.

The company is a public utility engaged in the business of supplying electric service in the state of New Hampshire. On August 19, 1980, the company filed with the commission, their affidavits and Exhs P-1 through P-8 showing actual financial and electrical data for the month ended July 31, 1980, schedules showing maintenance day outages at the company's generating units and major entitlement units for July, 1980, the reasons for unscheduled outages, and fuel data sheets for the period ending July 31, 1980.

Based upon an agreement between the company, PUC staff, LUCC, and CAP, the company need not bring its witnesses to the two off months of each quarter. The company must profile its testimony and affidavits with all parties and upon request by the commission or any party, must bring its witness or witnesses to the hearing for purposes of cross-examination.

Per Art III of Settlement Agreement No. 2 in dockets DR 76-46 and DR 79-187, the 36-month period over which the company is entitled to collect the fuel adjustment charge under collection began June 1, 1980.

The total amount to be amortized is approximately \$18.7 million. Of this amount the amortizing adjustment for the quarterly period ending September 30, 1980, is \$1,558,443. This amount, which is approximately 15 cents per 100 kwh, is added to the commission's estimate of energy cost per kwh for the quarterly period ending September 30, 1980, of \$2.28 per 100 kwh, and then the amount of fuel costs included in base rates is deducted.

The result of taking the above figures into account, for September, 1980, is a fuel adjustment rate of 62 cents per 100 kwh.

This being only the second quarter of estimated, forward-looking fuel adjustment charges for the company, there is no need to calculate the reconciling adjustment, for none is applicable for this period.

Based upon all the affidavits and evidence in the record of this proceeding

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and the aforementioned orders, the commission finds that the proposed fuel adjustment charge for service, plus the previously noted amortizing adjustment which are to be billed in September, 1980, of 62 cents per 100 kwh is just and reasonable. Our order will issue accordingly.

Supplemental Order

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

Ordered, that Public Service Company of New Hampshire First Revised Pages 23 and 24 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly estimated fuel adjustment clause of 62 cents per 100 kwh for the month of September, 1980, be, and hereby is, permitted to become effective September 1, 1980; and it is

Further ordered, that 66th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge of 66 cents per 100 kilowatt-hours for the month of September, 1980, be, and hereby is, permitted to become effective September 1, 1980; in conjunction with a roll-in to basic rates of fuel cost of \$1.809 per 100 kwh; and it is

Further ordered, that Second Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$4.04 per 100 kwh for the month of September, 1980, be, and hereby is, denied; and it is

Further ordered, that Third Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$2.98 per 100 kwh for the month of September, 1980, be, and hereby is, permitted to become effective September 1, 1980, subject to review; and it is

Further ordered, that the following revised tariff pages of NHPUC No. 15 — Electricity, be suspended, pending further investigation:

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

First Revised Page 19	First Revised Page 29
Second Revised Page 20	First Revised Page 31
Second Revised Page 21	First Revised Page 32
First Revised Page 23	Second Revised Page 34
First Revised Page 24	First Revised Page 36
First Revised Page 25	First Revised Page 38

and it is

Further ordered, that 41st Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1 per 100 kilowatt-hours for the month of September, 1980, be, and hereby is, permitted to become effective September 1, 1980; and it is

Further ordered, that Eighth Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$2.31 per 100 kilowatt-hours for the month of September, 1980, be, and hereby is, permitted to become effective September 1, 1980; and it is

Further ordered, that 72nd Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$2.74 per 100 kilowatt-hours for the month of September, 1980, be, and hereby is, permitted to become effective September 1, 1980; and it is

Further ordered, that 24th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$2.69 per 100 kilowatt-hours for the month of September, 1980, be, and hereby is, permitted

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to become effective September 1, 1980; and it is

Further ordered, that 80th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$1.47 per 100

kilowatt-hours for the month of September, 1980, be, and hereby is, permitted to become effective September 1, 1980; and it is

Further ordered, that 46th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of \$1.10 per 100 kilowatt-hours for the month of September, 1980, be, and hereby is, permitted to become effective September 1, 1980.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of August, 1980.

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NH.PUC\*09/02/80\*[78679]\*65 NH PUC 411\*Granite State Electric Company

[Go to End of 78679]

## Re Granite State Electric Company

DR 80-192, Order No. 14,466

65 NH PUC 411

New Hampshire Public Utilities Commission

September 2, 1980

CONSIDERATION of electric company's duty to flow through refunds to its customers; refunds ordered.

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REPARATION, § 39 — Refund of overcharges — Flow-through policy.

[N.H.] An electric company which received refunds from its distributor pursuant to a Federal Energy Regulatory Commission order was required to return those refunds, plus any accrued interest, to its customers.

BY THE COMMISSION:

Report

On July 8, 1980 the Federal Energy Regulatory Commission (FERC) issued its final order concerning refunds in New England Power Company's R-10 proceeding. In the FERC's letter order, it required New England Power Company to transmit refunds to its customers on or before one month from the date of the letter or August 8, 1980.

Granite State Electric Company, a subsidiary and customer of New England Power Company, received a refund from New England Power Company together with accumulated interest. However, a portion of the refunds originally ordered by the FERC's Order No. 49-A were stayed pending appeal.

New England Power Company has traditionally had a wealth of proceedings before the FERC at any given point in time. Presently, rate filings NEP-R-11 and NEP-R-12, which had

been placed into effect by this commission, were subject of a FERC approved settlement agreement whereby additional refunds plus interest will be owed to Granite State Electric Company and therefore, its customers. Therefore, at the present time refunds plus interest are due to Granite State Electric Company and thereafter its customers by FERC proceedings R-10, R-11, and R-12.

Granite State Electric Company's tariff requires that these refunds be immediately flowed to consumers. The difficulty arises because these refunds revert back to overcharges that in some instances exceed four years in duration. Furthermore, the aforementioned rate cases involved three time periods that overlap.

The commission is concerned that the

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present procedure involving refunds is far from adequate. However, due to the relatively ancient nature of these refunds and the commission's desire to expedite these refunds, the generic problem will not be addressed in this docket.

Granite State Electric Company is to return to its customers the refunds from R-10, R-11, and R-12 plus any accrued interest to consumers by means of a onetime refund in the month of October. This refund is to be computed on a per kilowatt-hour basis so as to correspond to the manner by which it was overcollected. In arriving at the total to be refunded, Granite State Electric Company will add interest at the prime interest rate to the money it received from New England Power Company on August 8th up until the day the money is refunded. When Granite State Electric Company receives a similar refund for R-11 and R-12 overcharges, aggregate of the refunds plus the accrued interest and accumulated further interest at the prime rate during the time period in which Granite State Electric Company retains custody of the refunds.

The accumulated refunds are to be labeled clearly and distinctly on the bill as follows: "Refund Plus Interest — Public Utilities Commission Order No. 14,466." Our order will issue accordingly.

Order

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

Ordered, that Granite State Electric Company refund the overcharges collected pursuant to R-10, R-11, and R-12 together with accrued interest plus interest at the prime interest rate for the time period in which Granite State Electric Company maintains custody either directly or indirectly of the aforementioned refunds; and it is

Further ordered, that the aforementioned moneys be returned to Granite State Electric Company customers during the month of October, 1980, by means of a per kilowatt-hour refund; and it is

Further ordered, that the refund be clearly and distinctly designated by the following wording: "Refund Plus Interest — Public Utilities Commission Order No. 14,466."

By order of the Public Utilities Commission of New Hampshire this second day of September, 1980.

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NH.PUC\*09/03/80\*[78681]\*65 NH PUC 415\*Small Energy Producers and Cogenerators

[Go to End of 78681]

## Re Small Energy Producers and Cogenerators

Intervenors: Energy Law Institute, Franklin Falls Hydroelectric Corporation, Public Service Company of New Hampshire, Newfound Hydroelectric Company, New Hampshire Electric Cooperative, Inc., Legislative Utility Consumers' Council, New Hampshire Hydro Associates Bethlehem Mink Farm Inc., Governor's Council on Energy. Granite State Electric Company and Concord Electric Company et al.

DE 79-208, Seventh Supplemental Order No. 14,470

65 NH PUC 415

New Hampshire Public Utilities Commission

September 3, 1980

MOTION for rehearing of order establishing rates for small power producers and cogenerators; denied in part and approved in part.

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RATES, § 321 — Small power producers and cogenerators.

[N.H.] The commission received and considered oral and written testimony and arguments submitted by three electric companies which sought a rehearing of an order fixing rates for small power producers and cogenerators.

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APPEARANCES: Representative Eugene S. Daniell, pro se; Peter Brown, Larry Smukler, and Robert Olson for the Energy Law Institute; Robert Rowe for Franklin Falls Hydroelectric; Philip Ayers for Public Service Company of New Hampshire; Joseph S. Ransmeier for Newfound Hydroelectric Company; John Pollsbury for New Hampshire Electric Cooperative; Gerald L. Lynch for the Legislative Utility Consumers' Council; Edward Forster, pro se; Charles A. Diamond, pro se; Gordon Marker for New Hampshire Hydro Associates; Robert C. Collman for Bethlehem Mink Farm, Inc.; Paul

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Ambrosino for the Governor's Council on Energy; Douglas MacDonald for Concord Electric Company; Philip H. R. Cahill and William C. Hayes for Granite State Electric; and Gerald Beckman, pro se.

BY THE COMMISSION:



## Report

### *I. Procedural History*

The commission issued its Report and Order No. 14,280 on June 18, 1980 (65 NH PUC 291). Three parties, Granite State Electric (GSE), Public Service Company of New Hampshire (PSNH), and the New Hampshire Electric Cooperative (Co-op), filed motions for rehearing. The commission received oral arguments in addition to the written submissions provided by all three utilities.

### *II. Statutory Authority and Analysis*

The New Hampshire legislature enacted the Limited Electrical Energy Producers Act (LEEPA) to encourage the development of small scale and diversified electrical energy sources that use neither nuclear nor fossil fuels. Pursuant to this recent act, the commission has the jurisdiction over the rates charged for sale of electrical energy from small power producers to electric utilities. Pursuant to LEEPA, small power producers are exempt from all other rules, regulations, and statutes applying to public utilities.

The Public Utility Regulatory Policies Act of 1978 (PURPA) was passed by the Congress to encourage cogeneration and small power production. The Federal Energy Regulatory Commission (FERC) was directed to adopt rules to implement § 210 of this act. These rules require electric utilities to purchase electric power from and sell electric power to qualifying cogeneration and small power production facilities, and provide for the exemption of qualifying facilities from certain federal and state regulations. The New Hampshire Public Utilities Commission, as well as other state commissions, are charged with the implementation of the rules and a determination of a proper rate for sales of electrical energy between small power producers and electric utilities.

The overriding theme of both legislative initiatives is to increase the amount of electrical energy produced by biomass, waste, wind, solar, and hydro. The necessity for these acts has been documented by the FERC:

"Prior to the enactment of PURPA, a cogenerator or small power producer seeking to establish interconnected operation with a utility faced three major obstacles. First, a utility was not generally required to purchase the electric output at an appropriate rate. Secondly, some utilities charged discriminatory high rates for backup service to cogenerators and small power producers. Thirdly a cogenerator or small power producer which provided electricity to a utility's grid ran the risk of being considered an electric utility and thus being subjected to state and federal regulations as an electric utility. Sections 201 and 210 of PURPA are designed to remove these obstacles." Volume 45, *Federal Register* No. 38, p. 12215.

Clearly, the two legislative bodies recognized, by their actions, the difficulty experienced by small power producers and cogenerators prior to 1978. State public utilities commissions

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were given the limited authority to correct this situation by setting a rate designed to encourage the development of nonnuclear and nonfossil fueled plants within the guidelines set

by the two statutes.

### III. Granite State Electric's Motion

Granite State Electric in its motion for rehearing cites numerous grounds for reversal. The first issue raised involves whether or not there is evidence in the record upon which to base a conclusion as to the avoided costs for its energy supplier, New England Power Company. Coupled with this concern is an allegation that New England Power and Public Service Company have differing avoided costs of fuel.

The record in this proceeding reveals that Granite State Electric buys its power requirements from New England Power Company (NEPCO). The record also reveals that NEPCO and PSNH both burn oil at the margin and will continue to do so for the immediate future. Yet GSE's assertion that the fuel costs of NEPCO will be lower than PSNH's cannot be sustained.

For example, fuel data records filed by NEPCO and PSNH with this commission and the Department of Energy reveal that the oil prices for the two companies continuously change as to which is more expensive. In February of 1980, PSNH had higher oil prices; whereas, in March of 1980, NEPCO oil prices were higher even though the sulfur percentage for NEPCO was slightly higher.

Of equal importance is the percentage of oil generation found in the generation mix of the two companies. The following table taken from records routinely filed by NEPCO and PSNH with the commission reveals that PSNH is less dependent on oil than is NEPCO.

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

	PSNHNEPCO	
Oil	48%	77%
Coal	37	0
Nuclear	10	15
Hydro	5	8

While NEPCO's coal conversion program *may* alter these percentages slightly in the foreseeable future, it is clear that NEPCO will continue to burn oil at the margin for the immediate future.

1(4) Other factors that will continue to increase the marginal price to both NEPCO and PSNH are numerous. For example, the prior subsidization of oil prices at the Colson Cove unit in New Brunswick will be removed in the spring of 1981.

2(5) Another major contributor will be the Nuclear Regulatory Commission's new policy on safety which has resulted in an increase in the number of nuclear units being shut down for repairs. Re Public Service Co. of New Hampshire (1980) 65 NH PUC 107. In New England, lesser use of nuclear capacity results in greater use of oil. Finally, any increased level of sales will be responded to by increased usage of oil-fired units. Re Public Service Co. of

Newington is one of the newest oil-fired additions to the New England Power grid (1974). By contrast NEPCO's oil-fired units were built *primarily* in the time period of 1952-69. Testimony by witnesses Brown and Gertler reveal that selection of Newington is conservative because of its relative absence of age and the greater likelihood for a higher degree of efficiency vis-a-vis other oil-fired units. This finding is equally valid for both PSNH and NEPCO.

Specific NEPCO data does exist in the record to sustain the commission's application of the Newington data to NEPCO. Exhibit 4 reveals that NEPCO estimates oil prices to escalate at a rate that "exceeds the general inflation rate by 2 per cent" over the 1980 to 1985 period. Such an estimate is fairly close to the estimate submitted by PSNH. The commission's reliance on PSNH's estimate as fair for both companies recognized the relative closeness of the two estimates.

3(6)

As to the usage of heat rates, the commission received from NEPCO-GSE the heat rates for its various units. Some of those units exceeded Newington's heat rate; others were below Newington's heat rate. Based on this evidence, the commission's use of the Newington heat rate as calculated by staff is justified.

Later in its memorandum, GSE raises a question as to whether or not the other than fuel components of staff witness Gertler's testimony have been properly developed in the record. Witness Gertler endeavored to develop a methodology to calculate avoided costs. The four other than fuel components were part of a total effort to synthesize the results of a production costing model. Ms. Gertler testified that these components were equally applicable to Granite State Electric. Finally, the record was left open on April 4, 1980, for GSE-NEPCO to respond to Ms. Gertler's testimony.

4(7) Granite State Electric Company-New England Power Company chose not to rebut Ms. Gertler's methodology or the factors used in arriving at avoided costs.

Granite State Electric also challenges the commission's order on the basis that actual oil prices have been below the estimates submitted into evidence and that this trend will lead to a lower fuel component for the avoided cost calculation as of December 31, 1980. Such a result is viewed as unreasonable and in violation of a PURPA imposed standard, which required to pay small power producers a rate that does not exceed its avoided costs.

The commission must rely upon estimates of oil prices to arrive at a fuel component for avoided costs. Estimates may, by their very nature, be too high or too low at any moment in time.

5(8) Granite State Electric Company's only witness stated that GSE and NEPCO are not confident of any numbers that are used for projections of oil prices due to the uncertainty.

6(9) Little can be gained as far

as GSE is concerned from opening the record for the receipt of more estimates.

While there has been an oil glut, which has temporarily stabilized oil prices, two months of data does not require new estimates to be made. Meetings are already scheduled by OPEC to consider further increases. This initiative, together with the federal government's decision to decontrol the price of oil, clearly reveal an upward trend for the future.

Granite State Electric Company's focus on December 31, 1980, is misplaced, and as Newfound Hydroelectric notes in its argument, the commission is not mandated to examine this issue every twelve months; nor is there any provision for automatic review in 1981. The commission is acutely aware from this record that small power producers do not have the resources for lengthy regulatory proceedings. Clearly, the specific exemption from regulation provided in both statutes substantiates this finding. The commission will not review the issue of avoided costs until sometime in December of 1981. This will allow the commission to evaluate the results of its order.

The data reviewed in this proceeding covered a time period substantially beyond December, 1980. In Report and Order No. 13,589 (63 NH PUC 82), the commission expressly contemplated an approximate one-year planning period and clearly provided for future annual adjustments.

The Commission's Report and Order No. 14,280 does not provide for annual adjustments. Instead, the commission has eliminated a major barrier to the development of alternative energy — financial instability. Testimony submitted in this proceeding revealed that a continuation of annual adjustments would not initiate the development of facilities designed to be encouraged by the enactment of the two statutes. Staff witness Gertler, as well as witnesses representing the various small power producers, testified to the need for implementation of a grandfathering provision.

7(10) Granite State Electric chose not to file testimony in response to this aspect of staff's testimony prior to the commission's decision.

A review of the evidence provided in this docket reveals that the commission has set a rate that is less than, or the equivalent of, avoided costs for NEPCO and PSNH.

8(11)

Whatever merit might be achieved in deriving a complex formula which would monitor fluctuation in avoided costs would be more than offset by the regulatory involvement required by the small power producer and the commission.

9(12) Such a situation would reimpose the obstacles specifically sought to be

alleviated by the enactment of PURPA, LEEPA, and the rules of the Federal Energy

Regulatory Commission.

Because Granite State contends that there is little, if any, documentation to substantiate the commission's findings, additional testimony by its only witness is offered. No explanation is provided as to why NEPCO failed to present this evidence in its original presentation of testimony, or in the commission-provided opportunity to rebut the testimony of staff witness Gertler. In its original testimony and marked Exh 1, NEPCO-GSE attempted to relitigate the commission's decision in Report and Order No. 13,589, DE 78-232, DE 78-233 issued on April 18, 1979, in direct violation of RSA 541:3.

The data provided by GSE in its initial testimony was general in nature. While cross-examination by the various parties successfully brought forth specifics, GSE's posture was to hold any decision until the advent of the FERC rules and eventually the filing of PURPA § 133 data. Such a hiatus would result in the establishment of at least two of the obstacles sought to be eliminated by the passage of §§ 201 and 210 of PURPA. Delay would result in a return to unwilling buyers and regulatory delays. Such a result is directly contrary to the public good, as well as violative of the spirit of the two enactments.

The testimony sought to be provided includes information that was accessible to both NEPCO and GSE prior to the conclusion of these hearings. Furthermore, a substantial portion of the testimony is late-filed rebuttal to the methodology proposed by staff. Granite State Electric Company did not avail itself of the opportunity to rebut staff prior to the commission's decision. Nothing in its arguments or offer of proof requires the commission to alter its order. Finally, a portion of the testimony is a further refinement of testimony and exhibits already presented. Consequently, the offered testimony is not only tardy but repetitive.

Granite State Electric asserts that the commission's order violates PURPA and the regulations promulgated thereunder. While Granite State recognizes that state commissions are mandated to implement § 210 by March 1, 1981, the company contends that commission action should await the filing of § 133 data on November 1, 1980. Such a result cannot be sanctioned under either PURPA or LEEPA. Both acts were passed with the express purpose to encourage the development of renewable energy sources. Such development has been legislatively determined to be in the public interest. Any delay would result in a sacrifice of the public interest.

Granite State seeks to place a very severe limitation on the flexibility accorded this commission in complying with its § 210 obligations. Granite State would require this commission to consider every factor listed in § 292.304(e). However, neither that section nor the remaining rules promulgated by the Federal Energy Regulatory Commission narrowly restrict a state commission.

Section 292.304(e) allows that the factors cited shall be considered "to the extent practicable." While the commission has examined many of the factors listed in this section, § 133 data was not specifically reviewed. The utilities involved, including NEPCO-GSE, have not expressed any willingness to file this data prior to November 1, 1980. A November 1, 1980, filing would necessitate at least one month's notice to the

scenario would leave minimal time at best to review data that appears in an entirely new format. Clearly, the March 1st deadline could not be met given briefing schedules and other pending cases.

Section 292.302(d) allows a state regulatory body to substitute data for determination of avoided costs. Such an allowance is carrying forward the FERC's enlightened policy of flexibility. The following passage is illustrative:

"The commission also continues to believe, as stated in the proposed rule, that this rule making represents an effort to evolve concepts in a newly developing area within certain statutory constraints. The commission recognizes that the *translation of the principle of avoided capacity costs from theory into practice is an extremely difficult exercise, and is one which, by definition, is based on estimation and forecasting of future occurrences.* Accordingly, the commission supports the recommendation made in the staff discussion paper that it should leave to the states and nonregulated utilities *flexibility for experimentation and accommodation of special circumstances*' with regard to implementation of rates for purchases. Therefore, to the extent that a method of calculating the value of capacity from qualifying facilities reasonably accounts for the utility's avoided costs, and does not fail to provide the required encouragement of cogeneration and small power production, it will be considered as satisfactorily implementing the commission's rules." (Emphasis supplied.) Volume 45, *Federal Register* No. 38, p. 12226 (February 25, 1980).

The commission has considered many of the data requirements set forth in § 292.304(e). However, where the data is unavailable and where postponement would result in the imposition of obstacles to the development of alternative energy rather than their removal, the commission can require substitute data for avoided costs. The commission finds that the substitute data in this record is reflective of avoided costs for both NEPCO and PSNH.

Another disturbing factor associated with specifically the Granite State motion is the absence of any present small power producer. Unlike PSNH and the Co-op, GSE does not have an existing small power producer. A review of the data submitted by GSE reveals only limited attempts to arrange for the development of small power production facilities in New Hampshire. While the commission's decision has now encouraged small power producers to begin the limited regulatory process at the FERC, this process together with the actual physical construction places the in-service date approximately eighteen months away. The commission does not find any evidentiary support to substantiate a contention that NEPCO's avoided costs are less than the rate set by the commission at the present or in the future when the power is physically delivered.

10(13)

Granite State Electric Company contends that the state statute, LEEPA, does not authorize the commission's decision. Rather, GSE contends that the

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commission has violated RSA 378:7, which requires rates to be just and reasonable. The commission has already found that the rates set do not exceed the avoided costs of NEPCO and PSNH. Consequently, such a finding established the rates as just and reasonable.

Limited Electrical Energy Producers Act does not set a standard for determination of a proper rate for small power producers. However, the legislature has established that it is in the public interest to *provide* for small scale and diversified sources of supplemental electrical power to lessen the state's dependence upon other sources. (RSA 362-A:1.) Therefore, an order that provides for such facilities to become operational is in the public interest and thereby just and reasonable.

The commission's order in DE 78-232 and DE 78-233 provided increased interest in the development of small scale and diversified sources of power. However, very few, if any, projects were submitted to the Federal Energy Regulatory Commission as a result of that order. The various witnesses in this proceeding testified that major increases in inflation and interest rates were primarily responsible in increasing the costs involved to both the small power producer and the utilities.

The commission notes with approval the numerous project filings with the FERC since the commission's order. Projects are now scheduled in Franklin, Nashua, Manchester, Somersworth, Peterborough, as well as other communities.

<sup>11(14)</sup> Such rapid progress is perhaps the most substantive vindication that the commission has satisfied the requirements of RSA 378:7; 362-A, and PURPA.

Granite State Electric concludes its arguments by challenging the commission's decision setting a minimum rate for small power producers who bring into service a qualifying facility between the date of the commission's order and the date of initial generation of Seabrook I. The commission received substantial testimony on this aspect of setting a rate. The un rebutted testimony of witnesses Gertler, Forster, Larter, Marker, Collman, and Ringo all highlighted the necessity of financial stability for progress in the area of development. The grandfathering provision was suggested by staff witness Gertler and was the subject of briefing by all parties. Upon review, the commission continues to find merit to the proposal especially given further delays in the operation date of Seabrook. Finally, the FERC, as was noted previously, anticipated such action in its rule-making decision.

Based on the foregoing, the commission denies Granite State Electric-New England Power Company's motion for rehearing.

#### *IV. Public Service Company's Motion*

Public Service Company of New Hampshire's motion for rehearing is substantially limited in scope. Public Service Company of New Hampshire's first concern is recovery of the costs associated with the new projects as they become operational. The commission will allow prompt recovery of these costs. Due to a

settlement agreement in DR 79-187, the commission is bound to await completion of Phase II of that docket before any consideration could be given in the fuel adjustment clause. However, if an additional facility does become operational in the interim, an immediate adjustment will be made to PSNH's basic rates based on an estimated usage which will be examined quarterly for

accuracy.

Public Service Company of New Hampshire's second area of focus is the grandfathering rate for existing small power producers. While the commission recognizes that there may be valid reasons in the future for such distinctions, this record does not provide guidance on this aspect. The few records available from existing small power producers revealed substantial labor without these costs being recognized as expenses. Additionally, the commission finds guidance in the FERC rules whereby specific recognition is made for overestimations and underestimations. Limited Electrical Energy Producers Act, PURPA, and the FERC rules are quite explicit in their requirements that this commission has not been empowered with the duty, obligation, or jurisdiction to determine reasonable rates of return for small power producers. Volume 45, *Federal Register* No. 38, p. 12222 (February 25, 1980).

The commission requested the various parties to present testimony on differentials that could be used to distinguish one producer from another. This request was not actively responded to. Consequently, the commission is left with the avoided costs of NEPCO and PSNH, which is a per se reasonable rate for existing small power producers.

Public Service Company of New Hampshire challenges the use of the Newington proxy and offers the additional testimony of Mr. Barbour. As the commission noted in the oral presentations, the date of Mr. Barbour's analysis is April 2, 1980, or two days prior to the last hearing day in this proceeding. Furthermore, PSNH's counsel stated on April 4, 1980, that although PSNH had additional testimony, PSNH believed the commission had an adequate record upon which to base a decision.

12(15) Finally, PSNH suggested the Newington proxy and for the reasons discussed in disposing of Granite State's motion, the commission will not await the filing of § 133 data.

Another issue raised by PSNH is the commission's requirement for an additional 0.5-cent per kilowatt-hour capacity payment for producers that sell to PSNH while providing Granite State an exemption from such payment. The commission is not providing Granite State Electric with an exemption. Rather, the commission is following the rules promulgated by the FERC, which provide that where utilities have excess capacity, the only avoided cost is energy related.

13(16) While Granite State's excess capacity situation disallows consideration of a capacity payment, it is incorrect to assume that other aspects of the regulatory process are not brought into force.<sup>14(17)</sup>

Public Service Company of New Hampshire's final concern relates to nonhydro generating facilities that

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provide energy but not capacity. Public Service Company of New Hampshire is concerned that cogenerators which use diesel fuel may not qualify under RSA 362-A but may qualify for the benefits of PURPA. The company questions whether it is desirable to encourage this type of facility in New Hampshire. Accordingly, to PSNH there is no public sentiment to foster rapid



development of cogenerators and other than non-hydroelectric generating facilities. Therefore, PSNH requests deferral of the rate set until after November 1, 1980.

Public Utility Regulatory Policies Act requires the development of both additional cogeneration and other renewable energy sources other than hydro. Limited Electrical Energy Producers Act requires the latter but not necessarily the former. The test pursuant to PURPA remains one of avoided costs to the purchasing utilities. Consequently, the commission will apply the same rates to these facilities as well with one exception. Any attempt to sell power from a cogenerator fueled by diesel fuel will be handled on a case-by-case basis. Furthermore, the FERC specifically applies the cogenerator rate to new or additional facilities. The rate set by our orders in these proceedings does not apply to existing contracts involving existing cogenerators since the commission is not provided such authority under PURPA or LEEPA.

Based upon the foregoing, the commission finds that PSNH's motion for rehearing is denied in part and approved in part.

#### *V. New Hampshire Electric Cooperative's Motion*

The New Hampshire Electric Cooperative raises two concerns. The first involves its status as a purchasing utility. The Co-op is willing to wheel power from any small power producer or cogenerator to Public Service, its major supplier at no cost, but it is unwilling to pay PSNH's avoided costs. The major concern of the Co-op involves the Balsalm's resort. Upon consideration of the arguments presented, the commission will amend its prior order so as to require PSNH to pay the established avoided cost rate for small power production or cogeneration as defined by PURPA, arising from within the service territories of the Co-op, Concord Electric, and Exeter and Hampton Electric, if the aforementioned utilities are prepared to wheel the power at no cost or at a reasonable cost. These transactions will be governed by the discussion in the FERC rules. Volume 45 *Federal Register* No. 38, p. 12220 (February 25, 1980).

The Co-op's second concern is the treatment of these energy costs for rate making. The commission will allow the Co-op to file tariffs in its rate proceeding and will await receipt of that information to determine the appropriate regulatory method for recovery. Such a result is necessary given our decision as to the first issue raised by the cooperative.

Based upon the foregoing, the Co-op's motion for rehearing is denied in part and approved in part. Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is hereby Ordered, that Granite State Electric

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Company's motion for rehearing is hereby denied; and it is

Further ordered, that Public Service Company of New Hampshire's motion for rehearing is denied in part and approved in part; and it is

Further ordered, that New Hampshire Electric Cooperative's motion for rehearing is denied in part and approved in part.

By order of the Public Utilities Commission of New Hampshire this third day of September, 1980.

#### FOOTNOTES

<sup>1</sup>New England Power Company coal conversion plans have raised significant environmental considerations that continually postpone the use of coal. Recently, a NEPCO representative testified before this commission that coal may never be burned in some of the units slated for conversion.

<sup>2</sup>New England Power Company has a 90 mw entitlement in the Colson Cove unit through MEPCO. In 1928 New Hampshire had over 45 per cent of its electrical energy needs met by hydro. *Electrical World*, June 2, 1928, p. 1179. In 1951, the percentage was 49 per cent. By 1979 the percentage of hydro was 5 per cent with an actual drop in total mwh of 35 per cent.

<sup>3</sup>The Congressional Budget Office has predicted that oil prices will rise to *at least* \$52 a barrel prior to 1985. While No. 6 residual may not rise as rapidly, the commission is dealing with estimates and the tenfold increase in the price of oil over the past decade is not easily forgotten; nor should it be.

<sup>4</sup>Transcript, p. 6-60.

<sup>5</sup>The commission agrees with these latter arguments and believes that in the long run "overestimations" and "underestimations" of avoided costs will balance out. Volume 45, *Federal Register* No. 38, p. 12224.

<sup>6</sup>Transcript, p. 2-12, February 8, 1980.

<sup>7</sup>The rules promulgated by the FERC clearly encourage this approach. Many commenters have stressed the need for certainty with regard to return on investment in new technologies. The commission agrees with these latter arguments. Volume No. 45, *Federal Register* No. 38, p. 12224.

<sup>8</sup>"The commission intends that the rates for purchases be based, at the option of the qualifying facility, on either the avoided costs at the time of delivery or the avoided costs calculated at the time the obligation is incurred. This charge enables a qualifying facility to establish a fixed contract price for its energy and capacity at the outset of its obligation or to receive the avoided costs determined at the time of delivery." Volume 45, *Federal Register* No. 38, p. 12224.

<sup>9</sup>Such a minute-by-minute evaluation was rejected by the Federal Energy Regulatory Commission, Volume 45, *Federal Register* No. 38, p. 12224. Where a contract is signed, as long as the total payment is not in excess of the estimated avoided costs over the duration of the contract, the PURPA standards are met. *Id.*, Volume 45, *Federal Register* No. 38, p. 12224, last paragraph.

<sup>10</sup>Transcript, February 8, 1980, p. 19. Granite State Electric Company-New England Power Company's witness Newsham stated that he was unaware of any site in New Hampshire that could be brought into service at less than five cents per kwh. Inquiry as to higher levels of costs

was not conducted.

<sup>11</sup>FERC Project Nos. 3254, 3229, 3094, for example.

<sup>12</sup>Transcript, pp. 6-53 and 54.

<sup>13</sup>Volume 45, Federal Register No. 38, p. 12216.

<sup>14</sup>Re Niagara Mohawk Power Corp. Case 27538 et al. Opinion No. 80-7 Feb. 29, 1980 (NY); Re Kansas City Power & Light Co. Case No. ER-80-204, March 18, 1980 (Mo.); NARUC Bulletin, July 28, 1980, page 15.

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NH.PUC\*09/04/80\*[78682]\*65 NH PUC 425\*Public Service Company of New Hampshire

[Go to End of 78682]

## Re Public Service Company of New Hampshire

Additional petitioner: Americable, Inc.

DE 80-138, Order No. 14,472

65 NH PUC 425

New Hampshire Public Utilities Commission

September 4, 1980

PETITION of a cable television utility for authority to construct and maintain a communications line; granted.

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CONSTRUCTION AND EQUIPMENT, § 5 — Cable television line — Installation.

[N.H.] The commission authorized a cable television company to construct and maintain a cable television communication line, noting that no objections were filed or expressed and that the line was in the public interest.

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APPEARANCES: Frederick J. Coolbroth for the petitioner.

BY THE COMMISSION:

Report

On June 27, 1980, Public Service Company of New Hampshire filed with this commission a joint petition seeking authority for (1) Americable, Inc., to construct and maintain a cable TV communication line over and across the Merrimack river in the towns of Merrimack and Litchfield; and (2) an amendment to the license granted by the commission to Public Service Company of New Hampshire by Order No. 12,928 ([1977] 62 NH PUC 263) to accommodate such construction.

The commission issued an order of notice on July 18, 1980, directing all interested parties to appear at a public hearing set for 10 A.M. on August 12, 1980, at the commission's offices in Concord. Notices were sent to Public Service Company of New Hampshire (for publication) and to the Office of the Attorney General. An affidavit of publication was filed with the commission on August 12, 1980.

By letter filed August 11, 1980, the

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New Hampshire Aeronautics Commission stated that as a result of their study of the petition, they interposed no objection to the proposed cable crossing at this time.

The hearing on the joint petition was held in Concord on August 12, 1980. Based upon the evidence that the petition was unopposed, and as no objections were filed or expressed either prior to or at the public hearing, the commission finds that approval of the said petition is in the public interest.

Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that authority be granted to Americable, Inc., to construct and maintain a cable TV communication line over and across the Merrimack river in the towns of Merrimack and Litchfield, New Hampshire, said installation to be as defined in the filed petition; and it is

Further ordered, that an amendment be authorized to the license granted by the commission to Public Service Company of New Hampshire by Order No. 12,928 to accommodate such construction.

By order of the Public Utilities Commission of New Hampshire this fourth day of September, 1980.

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NH.PUC\*09/09/80\*[78683]\*65 NH PUC 426\*Gas Service, Inc.

[Go to End of 78683]

### **Re Gas Service, Inc.**

DR 80-36, Second Supplemental Order No. 14,475

65 NH PUC 426

New Hampshire Public Utilities Commission

September 9, 1980

ORDER approving a tariff page.

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BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 14,464 (65 NH PUC 408) dated August 29, 1980, rejected Third Revised Page 19 of Section 1, Gas Service, Inc., tariff, NHPUC No. 5 — Gas; and

Whereas, the accompanying report to that Order No. 14,464 indicated that the provisions of said page were acceptable subject to certain conditions; it is

Ordered, that so much of Order No. 14,464 which rejects Section 1, Third Revised Page 19 of the Gas Service, Inc. tariff, NHPUC No. 5 — Gas, be, and hereby is, voided and said page allowed to become effective on the date of Order No. 14,464; and it is

Further ordered, that Gas Service, Inc., file with this commission its Fourth Revised Page 9 of Section 1 as discussed in the Report and Order No. 14,464, said page to become effective on August 29, 1980, the date of said order.

By order of the Public Utilities Commission of New Hampshire this ninth day of September, 1980.

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NH.PUC\*09/11/80\*[78684]\*65 NH PUC 427\*Gas Service, Inc.

[Go to End of 78684]

**Re Gas Service, Inc.**

IR 14,932, Order No. 14,479

65 NH PUC 427

New Hampshire Public Utilities Commission

September 11, 1980

PETITION of a gas company for approval of a service contract; granted.

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BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 28 with Johns-Manville Sales Corporation effective on May 9, 1980, for gas 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 September, 1980.

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NH.PUC\*09/12/80\*[78685]\*65 NH PUC 427\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78685]

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

DE 80-189, Order No. 14,482

65 NH PUC 427

New Hampshire Public Utilities Commission

September 12, 1980

PETITION of an electric company to revise its tariff; 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 August 28, 1980, filed with this commission its tariff, NHPUC No. 10 — Electricity, providing for increased rates, effective October 1, 1980; 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. 10 — Electricity, of New Hampshire Electric Cooperative, Inc., be, and hereby

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is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twelfth day of September, 1980.

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NH.PUC\*09/12/80\*[78687]\*65 NH PUC 429\*Concord Electric Company

[Go to End of 78687]

**Re Concord Electric Company**

DR 80-3, Supplemental Order No. 14,484

65 NH PUC 429

New Hampshire Public Utilities Commission

September 12, 1980

PETITION of an electric company to implement changes in its tariff; granted as modified.

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APPEARANCES: Franklin Hollis for Concord Electric Company.

BY THE COMMISSION:

Report

On December 31, 1979, Concord Electric Company filed with this commission certain changes to its tariff, NHPUC No. 6 — Electricity. By this filing the company proposed to correct two provisions in its PL rate, which, while appropriate at the time they were implemented, now appear to be obsolete. The first of these is the elimination of the provision of using the customers' lighting loads as a proxy for the demand. The second provision eliminated the lifetime factor on the demand ratchet, reducing it to the current month and the preceding eleven months.

The company indicated that the first provision affected five customers, all of whom had been notified; and three of whom had acknowledged that the change would impact their bills. The second provision affected six customers, reducing the demand charges for each.

The docket was suspended by Order No. 13,999 on January 18, 1980 (65 NH PUC 30), pending investigation of the matter. An order of notice was issued for public hearing on August 28, 1980, at 1:00 P.M. at the commission's Concord offices. Counsel for the company presented two witnesses, Peter J. Stulgis and Vernon McFarland.

Testimony indicated that the change in demand measuring for the five customers would increase their bills by a total of \$22,834 annually. Because of this, the company proposed to phase the conversion by offering these five customers special contracts at the revised PL rate for a period of two years, following which they would revert to the general Rate G. Cross-examination revealed that customers with comparable loads are now receiving service from Concord Electric Company under the general rate. To continue this discriminatory rate for these five customers would violate provisions of RSA 378:10, therefore the commission rejects the company's proposal to continue these customers under the PL rate for two years.

The testimony on the ratchet revealed that the lifetime factor in the ratchet defeated any load management or conservation measures that the customer might take. The ratchet is an accepted tool in the electric industry, and the company's proposal to base this upon the current twelve months is more realistic and will be accepted by the commission. Our order will issue accordingly.

Supplemental Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that Third Revised Page 25

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of Concord Electric Company tariff, NHPUC No. 6 — Electricity, be, and hereby is, approved for effect as of the date of this order; and it is

Further ordered, that the following customers be served under the general Rate G: Concord IGA, FINAST, Grand Union, IBM, and Zayre, effective with all service provided after the date of this order; and it is

Further ordered, that Concord Electric Company give each affected customer written notice of these changes.

By order of the Public Utilities Commission of New Hampshire this twelfth day of September, 1980.

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NH.PUC\*09/15/80\*[78686]\*65 NH PUC 428\*Exeter and Hampton Electric Company

[Go to End of 78686]

### Re Exeter and Hampton Electric Company

DR 79-214, Fourth Supplemental Order No. 14,483

65 NH PUC 428

New Hampshire Public Utilities Commission

September 15, 1980

ORDER approving tariff pages.

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BY THE COMMISSION:

Supplemental Order

Whereas, on August 20, 1980, the Exeter and Hampton Electric Company filed with this commission certain revisions to its tariff, NHPUC No. 15 — Electricity; and

Whereas, said revisions comprised the following:

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

- First Revised Page 19
- Second Revised Page 20
- Second Revised Page 21
- First Revised Page 23
- First Revised Page 24
- First Revised Page 25
- First Revised Page 29
- First Revised Page 31
- First Revised Page 32
- Second Revised Page 34
- First Revised Page 36
- First Revised Page 38

and



Whereas, said pages were suspended by commission Order No. 14,467 (65 NH PUC 412) pending investigation; and

Whereas, said investigation now reveals that the proposed method of calculation of fuel adjustment charge duplicates that already approved by this commission for the Concord Electric; it is

Ordered, that said method is found in the public good; and it is

Further ordered, that the suspension of cited pages be, and hereby is, removed and the pages allowed to become effective on October 1, 1980.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of September, 1980.

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NH.PUC\*09/16/80\*[78688]\*65 NH PUC 430\*Hudson Water Company

[Go to End of 78688]

## **Re Hudson Water Company**

IE 14,959, Order No. 14,485

65 NH PUC 430

New Hampshire Public Utilities Commission

September 16, 1980

PETITION of a water company for authority to extend service; granted.

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SERVICE, § 210 — Extension of service facilities — Water company.

[N.H.] The commission authorized a special contract for a water company's proposed extension so that the company could provide water service to an additional area.

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BY THE COMMISSION:

Order

Whereas, Hudson Water Company, a utility providing water service under the jurisdiction of this commission, has filed copies of its Special Contract No. 14 with Litchfield Industrial Park, effective September 10, 1980, for the installation of certain water mains and associated fittings and valves, so as to permit Hudson to provide water service to an area in the vicinity of New Hampshire Route 3A and St. Laurent drive in Hudson, New Hampshire, also known as "Adam Estates of Hudson"; and

Whereas, upon investigation and consideration, this commission is of the opinion that the

nature of the construction of this extension requires the issuance of a special contract; it is

Ordered, that Hudson Water Company in the application of its municipal fire protection Rate FP-1, shall in its calculation of the inch-foot charges to the town of Hudson for this extension, base such calculation in part on a 12-inch main in New Hampshire Route 3A, as deemed adequate by the water company; and it is

Further ordered, that Litchfield Industrial Park shall receive refunds for any extension, lateral or continuous,

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from the mains installed under this contract, such refund to be based on the proportionate size, length, and location of such new extension relative to the initial extension; and it is

Further ordered, that if an additional customer, not a part of Adam Estates of Hudson, is connected to any part of this extension, Litchfield Industrial Park shall receive a refund based on the proportional distance to serve such customer through an eight-inch main from the point of origin; and it is

Further ordered, that under no circumstances will Hudson Water Company be required to make refunds in excess of the amount advanced for construction; and it is

Further ordered, that said contract may become effective as of the date of this order.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of September, 1980.

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NH.PUC\*09/17/80\*[78689]\*65 NH PUC 431\*Portsmouth Water Works

[Go to End of 78689]

### Re Portsmouth Water Works

DR 80-159, Order No. 14,489

65 NH PUC 431

New Hampshire Public Utilities Commission

September 17, 1980

PETITION of a municipal corporation for an increase in rates; granted.

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RATES, § 596 — Increase in rates — Water company.

[N.H.] The commission authorized a municipal corporation that provided water service to a town to increase rates 10 per cent, to be applied evenly to all blocks of the rates with the exception that those customers who consistently use less than the initial or minimum volume

would receive no increase.

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APPEARANCES: Rance G. Collins and Susan Diaz for the petitioner; William Shaine for the Legislative Utility Consumers' Council; William Wilder and Frank J. Ciolek, commissioners, for Rye Water District.

BY THE COMMISSION:

Report

Portsmouth Water Works is a municipal corporation that provides water service to the town of Greenland and in limited areas in the towns of Durham, Madbury, Newcastle, Newington, and Rye, which service is provided outside the corporate limits of Portsmouth and thus subject to the jurisdiction of this commission.

The Water Works has filed revisions to its tariff, NHPUC No. 2 — Water, calling for an increase in all rate schedules of 10 per cent, and an increase from one per cent to 1.5 per cent per month in the interest rate charged on bills unpaid after thirty days.

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The proposed 10 per cent increase in the metered rate schedule would be applied evenly to all blocks of the rate with the exception that those customers who consistently use less than the initial, or minimum, volume will receive no increase in their water bills. This would occur as the charge for such use, 1,200 cubic feet per four months period, would remain at its existing level. The result of this provision is that only those customers using greater than the initial allowance will absorb the proposed increase. We do not find this objectionable.

We also note that Portsmouth provides municipal fire protection in the town of Greenland and in the limited area in which it serves in Newcastle, Newington, and Rye, and makes no direct charge to these towns, recovering any costs involved through the general metered rate.

In the past the commission has generally accepted rates filed by municipal systems for their customers falling under NHPUC jurisdiction when those rates were identical to those for in-town customers. Such is the case here.

Additionally, an analysis of the company's filings and responses to cross-examination during the hearings has convinced the commission that the proposed rates will not result in any manner an excessive return to the Water Works.

The commission will therefore accept the rates as filed.

The proposed increase to 1.5 per cent in the interest charged on late payment of bills will allow Portsmouth to apply a rate that this commission has approved for other water utilities in New Hampshire. Our order will issue accordingly.

Order

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

Ordered, that Fourth Revised Page 16, Third Revised Page 16A, Second Revised Page 17,

Fifth Revised Page 18, and First Revised Page 18A of Portsmouth Water Department tariff, NHPUC No. 2 — Water, filed for effect August 10, 1980, be, and hereby are, accepted; and it is

Further ordered, that publication of these tariff changes, in accordance with tariff filing Rule No. 27, is hereby waived.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of September, 1980.

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NH.PUC\*09/18/80\*[78690]\*65 NH PUC 433\*Public Service Company of New Hampshire

[Go to End of 78690]

## Re Public Service Company of New Hampshire

Intervenors: Community Action Program, Legislative Utility Consumers' Council, Department of Defense, General Services Administration and Business and Industry Association

DR 79-187, 41st Supplemental Order No. 14,490

65 NH PUC 433

New Hampshire Public Utilities Commission

September 18, 1980

MOTIONS for rehearing of rate order, requesting the commission to rescind that portion of the order requiring delay of Seabrook II; rehearing as to that issue denied.

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1. APPEAL AND REVIEW, § 32 — Finality of commission orders — Effect of appeal.

[N.H.] A regulatory decision is not final until the completion of the appeal procedure. p. 434

2. RETURN, § 22 — Reasonableness — Balancing of consumer and utility interests.

[N.H.] The commission's obligation to balance the interests of the consumer and the utility in a rate case requires it to provide the utility with an opportunity to earn a fair rate of return, both presently and into the foreseeable future, but it cannot and will not provide revenues in excess of a reasonable return. p. 437

3. SECURITY ISSUES, § 28 — Commission powers — Imposition of conditions — Emergency.

[N.H.] The commission has the power to condition the use of proceeds from the issuance of debt and equity instruments, especially under emergency conditions. p. 440

4. COMMISSIONS, § 44 — Jurisdiction over managerial matters.

[N.H.] One of the basic foundations of utility regulation is regulatory deference to utility management decisions, but, where financial emergency is asserted, the commission has broad discretionary powers in determining if an emergency exists and in tailoring a remedy which will

enable the public utility to meet the emergency. p. 440  
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APPEARANCES: Martin Gross and Philip Ayers for Public Service Company of New Hampshire; Gerald Eaton for Community Action Program; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council; Jefferson M. Shaffner for the United States Department of Defense and General Services Administration; Dom S. D'Ambruoso for the Business and Industry Association.

BY THE COMMISSION:

Report

*I. Procedural History*

The commission issued its Report and Order No. 14,271 on June 7, 1980 (65 NH PUC 251), which addressed Public Service Company's request for an increase in excess of \$35 million. A portion of that order required Public Service Company of New Hampshire (PSNH) to delay the construction of Seabrook II by three years. On June 30, 1980, the Legislative Utility Consumers' Council (LUCC) and PSNH filed motions for rehearing, which requested the commission

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to rescind that portion of the order requiring the delay of Seabrook II. The commission, upon a review of the written arguments submitted by the LUCC and PSNH requested further oral arguments, which were presented on August 19, 1980. During the interim, the commission has suspended that portion of the June 7th order.

*II. Rationale Beyond the Initial Order*

The commission set forth its rationale for the Seabrook II delay order in Section IX of its decision entitled "Additional Steps Required to Eliminate Financial Emergency." The commission's specific findings were as follows:

1. That the granting of increased rates would not solve the financial emergency as evidenced by the downgrading of PSNH's bond rating to the lowest level immediately after the granting of the emergency rate increase.
2. Testimony submitted by witnesses for the LUCC, PSNH, and the staff all agreed that PSNH would continue to face severe financial problems absent other action.
3. Testimony by PSNH witnesses reveals that the level of construction embarked upon by a given utility is an element of particular interest to financial institutions and rating agencies.
4. The cash-flow studies submitted by PSNH were overly optimistic and that absent other action, PSNH would soon seek another rate increase.
5. That additional steps were necessary to elevate PSNH out of its financial dilemma and towards greater financial flexibility.
6. That the beginning of the divestiture or adjustment period would be of major assistance to PSNH in achieving the orderly construction of Seabrook and placing PSNH in a sounder

financial position.

7. That many utilities reduce or delay construction during times of inflation and volatile money markets.

8. That a finding of a financial emergency pursuant to RSA 378:9 necessitates greater regulatory involvement in the affairs of a utility so as to protect the interests of both consumers and stockholders, as well as to prevent continuation of the financial emergency.

These findings resulted in the commission's order delaying Seabrook II. Of these, the commission places the heaviest emphasis on: (1) the absence of regulatory approvals as to the divestiture; and (2) the potential for rate increase requests being filed every six months which could not be justified or assist in solving PSNH's financial emergency.

### *III. Analysis*

[1] Approvals by the Nuclear Regulatory Commission (NRC) and the Massachusetts Department of Public Utilities (DPU) would allow an adjustment period to begin under which PSNH would not be required to contribute to the construction of Seabrook for a period slightly in excess of a year. During this adjustment period, PSNH would have an opportunity to place itself in a stronger financial position. Short-term debt, presently at 116 per cent of prime, would be replaced with lower cost debt and stock issues. The company would for the first time in years have some flexibility as to when it should enter the capital markets. This contrasts with its present position of financing at

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whatever the market demands, or facing an extreme cash-flow crisis.<sup>1(18)</sup>

Originally, it was assumed that this adjustment period would begin in late 1979. This initial date has been continually revised to the present date, January of 1981. Each revision assumed: (1) expeditious consideration; and (2) approval by the NRC and DPU.

While at first these assumptions appeared reasonable, a year of inactivity has raised considerable doubt as to the validity of these assumptions. While the adjustment period begins upon receipt of these regulatory approvals, the issue of appeal is extremely likely regardless of the DPU decision. Such an appeal could result in a stay of any approval which would further extend the start of the adjustment period. A regulatory decision is not final until the completion of the appeal procedure. (See *Re Granite State Electric Co.* (1980) — NH — , 421 A2d 121.

Equally unclear is the finality of the recent NRC staff decision approving the divestiture. The full commission has not issued a decision, and therefore, the time period for appeal has not started. While PSNH has stated that the adjustment period will begin despite appeals, their analysis is one of legal interpretation and does not specifically discuss the possibility of a stay of either regulatory approval assuming such approval is granted. Finally, MMWEC, one of the partners increasing its share under the divestiture, must secure financing before the adjustment period begins.

Public Service Company of New Hampshire contends that the three-year delay will not substantially improve the company's financial situation, but will increase the cost of Seabrook.

Counsel for PSNH proceeded to offer different scenarios to illustrate this contention. However, each scenario assumed an approval of the divestiture and the initiation of the adjustment period. If the divestiture is not approved, PSNH conceded that a delay in construction would be required for Seabrook II and possibly Seabrook I.<sup>2(19)</sup>

The commission does not have any knowledge when or if the divestiture will receive the required regulatory approvals. However, the commission, after waiting in excess of sixteen months, believes reasonable regulation requires an assumption that the divestiture approval is not likely to occur within the near future. Since the evidence establishes that absent approval PSNH must delay construction of at least one or both of the Seabrook units, the commission will continue to order the delay of any construction of Seabrook II until the necessary approvals have been received and the adjustment period has officially started. Only upon the beginning of the adjustment period will the commission lift the delay of the second unit. Whether this delay is three days, three months, three years, or longer will depend on the actions of the Massachusetts Department of Public Utilities and the Nuclear Regulatory Commission.

Public Service Company of New Hampshire contends that financial stability has returned to the company and that the delay of Seabrook II is unnecessary. However, the record leads to a contrary conclusion.

Public Service Company of New Hampshire has continually appeared

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before this commission and maintained that absent CWIP the company could not continue any level of Seabrook more than 2 per cent.<sup>3(20)</sup> Company witnesses have testified that PSNH examined three cash-flow scenarios without CWIP — 50 per cent, 35 per cent, and 25 per cent.<sup>4(21)</sup> It was their conclusion, as well as their investment bankers', that 25 per cent was the highest level of Seabrook that could be maintained.<sup>5(22)</sup> The only way PSNH could stretch their ownership interest to 28 per cent was to relieve themselves of their shares in Pilgrim II and Millstone III.<sup>6(23)</sup> These cash-flow studies assumed the divestiture of a 22 per cent interest in Seabrook and the selling of the Pilgrim II and Millstone III interest by January 1, 1980. At that time, Seabrook was estimated to cost \$2.6 billion and the prime interest rate was less than 10 per cent.

An examination of those assumptions reveals that: (1) the divestiture has not occurred; (2) even if it does occur, PSNH will still maintain 37+ per cent; (3) PSNH cannot find anyone interested in owning more of Pilgrim II; (4) PSNH has failed to timely follow through on its divestiture of Millstone III; (5) the total cost of Seabrook is approaching \$3.6 billion; and (6) the prime interest rate is 12.25 per cent. If additional evidence is necessary to recognize the severity of PSNH's problem, the last year is more than illustrative. Since the beginning of this year, PSNH has experienced two financings that failed to be either immediately completed or were less successful than anticipated. In addition, the company has had its bonds downgraded to the lowest level immediately after the award of an emergency rate increase. Finally, because of astronomical increases in interest rates, the company itself reduced its level of construction this past spring.

The commission noted in its previous report and order that PSNH's cash-flow studies were

overly optimistic. The newer offerings suffer from the same affliction. One assumption in these analyses is growth in revenues from increased sales. Public Service Company of New Hampshire has assumed 5 per cent annual growth. Yet for the twelve months ended June 30, 1980, the sales growth has been less than eight-tenths of one per cent.

Another key assumption is the prime interest rate. Public Service Company of New Hampshire assumes the prime to be dropping to 10.25 per cent and remain at 10 per cent for the remainder of the cash-flow forecast. Yet the prime interest rate has just recently risen to 12.25 per cent. Public Service Company of New Hampshire's assumption as to the inflation rate is also low where most figures show an annual 20 per cent rate. Therefore, the commission finds that despite earning a reasonable rate of return from its New Hampshire jurisdiction, PSNH will continue to face potential cash-flow problems until the start of the adjustment period.

In describing PSNH's cash-flow

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studies as overly optimistic, the commission found that absent other action PSNH would return in the foreseeable future for another rate increase.<sup>7(24)</sup> Such a conclusion was supported by witness Williamson, who predicted that based on his analysis, PSNH would seek a rate increase shortly after the conclusion of this proceeding. It was this potential for another rate increase absent other action that was of concern to the commission in its decision to delay Seabrook II.

[2] The commission is obligated to balance the interests of the consumer and the utility. This statutory requirement necessitates providing a utility with an opportunity to earn a fair rate of return, both presently and into the foreseeable future. *New England Teleph. & Teleg. Co. v New Hampshire* (1973) 113 NH 92, 96, 98 PUR3d 253, 302 A2d 814, 817. However, the commission cannot and will not provide revenues in excess of a reasonable return. *New England Teleph. & Teleg. Co. v New Hampshire* (1962) 104 NH 229, 232, 233, 44 PUR3d 498, 193 A2d 237, 214.

Public Service Company of New Hampshire has been provided an opportunity to earn a reasonable return over a reasonable time period. Any attempts for rate increases during that time period will receive a negative response from this commission. Inaction or negative reaction to the divestiture by the Massachusetts DPU or the NRC does not justify rate increases. Therefore, the only remaining course is to eliminate a portion of the problem by delaying Seabrook II until these agencies have acted and the adjustment period begins.

The commission has a choice between further rate increases that cannot be justified under the standard of just and reasonable rates and a delay of Seabrook II. The commission has a choice between allowing PSNH to continue to drift from financial crisis to financial crisis or to delay Seabrook II until the company can regain some financial flexibility. The interest of both PSNH and its consumers require that Seabrook II be delayed until the adjustment period officially begins. Any other action would result in unreasonable financial consequences for PSNH and its consumers.

#### *IV. PSNH and LUCC Arguments Relating to the Additional Costs of Delay*

Public Service Company of New Hampshire and the LUCC both argue that it is not in the



interests of either the company or the consumer to delay Seabrook II by any amount of time. The LUCC, while not attempting any financial analysis of its own, argues that the commission should accent the testimony of PSNH witness Merrill.<sup>8(25)</sup> Obviously PSNH makes the same request.

The testimony offered by Mr. Merrill did not have work papers attached. The commission requested the supporting

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work papers so as to evaluate the underlying assumptions.<sup>9(26)</sup>

Mr. Merrill testified that there would be \$540 million of additional costs associated with our order of a three-year delay. One of the basic assumptions involved the present schedule absent our order which PSNH contends was April 1, 1983, for Seabrook I and February 1, 1985, for Seabrook II. The commission finds that this assumption is incorrect.

In mid-1979, PSNH estimated these same dates for completion of the two units. Yet during cross-examination before the Massachusetts DPU, Mr. Merrill agreed that there would be some change in the service date for Seabrook II because of the six-week carpenter strike.<sup>10(27)</sup> On October 5, 1979, Mr. Bigelow of New England Power Company, NEPCO's equivalent to Mr. Merrill, made an evaluation of the in-service dates of Seabrook I and II. At that time Mr. Bigelow, whose company, NEPCO, has an ownership interest in Seabrook, evaluated the in-service dates of the two units as November, 1983, and November, 1985.<sup>11(28)</sup>

On January 30, 1980, Mr. Merrill was again before the Massachusetts DPU. Again Mr. Merrill stated that he expected some change in the in-service dates from the April 1, 1983, and February 1, 1985, projections.<sup>12(29)</sup>

In March of 1980 PSNH decided that the overall level of construction should be reduced substantially in view of the unsettled state of the capital markets and the very high cost of external funds.<sup>13(30)</sup> This reduced level continued into the ironworkers strike that has only recently concluded after ten weeks.

In evaluating the reduced level of construction activity in March, Mr. Bigelow updated his estimate as of April 1, 1980, to an in-service date for Seabrook I of November, 1984, and for Seabrook II, November, 1986. His evaluation places Seabrook I nineteen months later than PSNH's official projection and Seabrook II twenty-one months later than predicted.<sup>14(31)</sup>

Public Service Company of New Hampshire's own prospectus states that continuation of the construction slowdown will necessitate revised in-service dates of June, 1984, and April, 1986, for Units I and II, respectively.<sup>15(32)</sup>

Both Mr. Harrison and Mr. Merrill have in essence recognized that the in-service date for both units have been pushed back.<sup>16(33)</sup> Therefore, the commission cannot accept as a reasonable assumption the existing official in-service dates of April, 1983, and February, 1985.

Another disturbing assumption by PSNH is the use of data from the

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December, 1979, revised estimate for total construction costs, projected expenditures, and expenditures to date. This data resulted in PSNH increasing the total cost of Seabrook from \$2.6 to \$3.1 billion. Yet the more recent June 30, 1980, quarterly estimate indicates a total cost of the project of \$3.38 billion. The delay because of the various strikes could increase that figure to in excess of \$3.4 billion.

The effect of these two assumptions is to place dollars attributable to the commission's initial decision which have already been incurred regardless of any delay order.

The PSNH assumptions as to sales growth and replacement costs of power have come from their recently submitted sales and peak forecast. The commission is evaluating these pursuant to DE 80-47. However, these can neither be accepted nor rejected until completion of that investigation.

One area that should be evaluated, that unfortunately was not, is the savings that PSNH and ultimately its customers can enjoy from financial flexibility. Testimony was given that delays in construction can reduce the number of financings necessary in any given year. There are obvious savings to be found if PSNH has the ability to postpone financings because of poor market conditions. The ability to finance when the prime is at 10 per cent versus 20 per cent (has happened recently) is of a substantial magnitude.

The commission finds that PSNH and LUCC's proposed cost of our original three-year delay order cannot be substantiated by the work papers provided. Rather many of the costs allegedly associated with the delay are either unsupported or will occur regardless of the order. In addition, there are other areas which a delay provides savings through increased financing flexibility. Finally, PSNH must realize that if their construction program is not altered in some fashion they will have an increasingly difficult task to raise the needed financings despite earning a reasonable rate of return.

As to this latter point, the best solution is the divestiture. However, the impact of the commission's delay order was positive as noted by the company's extremely successful Eurodollar financing and the stabilization in their stock values.<sup>17(34)</sup>

While the above analysis is somewhat moot in view of our alteration which ties the Seabrook II delay to positive action by the Massachusetts DPU and the NRC, the analysis is valid to underscore the rational reasons behind the delay if there is a continuation of the regulatory lag to beyond the foreseeable future.

The LUCC asserts that any delay of Seabrook II overturns the economics of Seabrook as a whole. The LUCC contends that PSNH should own 50 per cent of Seabrook and that no delay should be ordered. In addition, the LUCC contends that the commission is imposing costs on the consumers of New Hampshire by ordering any delay of Seabrook II. Finally, the LUCC argues for the inclusion of CWIP in rate base rather than a delay of Seabrook II.

The record does not support the contentions of the LUCC. Even if the costs associated with the Seabrook II delay were valid, the cost per kwh for Seabrook would still be substantially below the costs of Pilgrim II and Millstone III, the next scheduled units.

The LUCC also fails to recognize that if PSNH does not have a greater degree of financial flexibility, they will continue to be subjected to conditions such as what occurred when PSNH sought merely temporary loans from its Seabrook partners. Public Service Company of New Hampshire was given an ultimatum that if they wanted the loan, all that was necessary was to agree to buy all their power from NEPCO at any price until Seabrook was operational. The commission would expect that the LUCC would be concerned as to what such an agreement would have done to escalate the fuel adjustment clause.

If the LUCC believes that CWIP is better than a delay of Seabrook, then their forum is the legislature and not this commission.

Finally, the LUCC should consider our previous findings where the commission noted that no matter how worthy a project, efficient and economic management dictate that financings during times of high interest rates are to be avoided. All businesses are making a concerted effort to reduce capital expenditures until a more favorable market develops. As the commission has noted previously, whether one is financing a home, a commercial establishment, or a power plant, sound business practices dictate prudence in the level of cost one is willing to incur.

#### *V. PUC Authority and Evidence Challenges*

[3] Public Service Company of New Hampshire and the LUCC assert that the commission lacks the authority to issue a delay order. These proceedings include a finding of a financial emergency pursuant to RSA 378:9. As such, the commission has wide discretionary powers to determine the severity of the emergency and to determine the appropriate form of relief. Re Public Service Co. of New Hampshire (1951) 97 NH 549, 550. Furthermore, a public utilities commission has the power to condition the use of proceeds from the issuances of debt and equity instruments, Re Detroit Edison Co. Case No. U-5877 (Mich 1979), especially under emergency conditions.

Public Service Company of New Hampshire and the LUCC allege that there is a lack of evidence to justify any delay order. However, a review of the evidence reveals exhibits specifically discussed a delay of one or both units. Furthermore, testimony and cash-flow studies have been properly analyzed so as to determine the necessary short-term and long-term remedies to PSNH's financial emergency.

#### *VI. Interference with Management*

[4] The commission is aware that one of the basic foundations of utility regulation is regulatory deference to utility management decisions. However, where financial emergency is asserted, a public utility commission has broad discretionary powers in determining if an emergency exists and in tailoring a remedy which would enable the public utility to meet the emergency. Re Dayton Power & Light Co. Case No. 78-284-E1-AEM (Ohio 1978).

Public Service Company has been before this commission on a regular basis since the mid-1970's. In 1974, PSNH issued preferred stock on what was then considered an unusually high cost rate of 11 per cent (111.58 net cost to maturity). In 1978 this commission found PSNH to be "teetering precariously on the brink of financial disaster." ([1978] 63 NH PUC 127.) In

December of 1979, the commission found PSNH in a state of financial emergency, pursuant to RSA 378:9, DR 79-187 Emergency Rate Order (64 NH PUC 467).

Throughout the 1977 to 1980 period, PSNH has borrowed at a rate of 116 per cent + of prime for purposes of obtaining short-term debt. It has experienced two downgradings in its bond rating: 1974 and recently after an allowance of an emergency rate increase.

The commission finds that whereas under normal circumstances management would be accorded the full force "of management prerogative," the aforementioned history of Public Service Company together with our finding of financial emergency pursuant to RSA 378:9 dictate that the commission channel a course that will alleviate the financial emergency rather than prolong the time period until its reemergence.

Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that Public Service Company of New Hampshire delay any work on Seabrook II until the proposed divestiture has received the necessary regulatory approvals and the adjustment period has commenced; and it is

Further ordered, that all Public Service Company of New Hampshire financings from this day forward will carry an express condition that none of the proceeds from these financings can be used to further the construction of Seabrook II until the divestiture has received the necessary approvals and the adjustment period for ownership in the Seabrook plant begins; and it is

Further ordered, that solely as to the issue of the delay of Seabrook II, the Legislative Utility Consumers' Council and Public Service Company of New Hampshire's motions for rehearing are denied.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of September, 1980.

#### FOOTNOTES

<sup>1</sup>August 19, 1980, Tr. p. 34.

<sup>2</sup>August 19, 1980, Tr. pp. 26, 27.

<sup>3</sup>DF 79-100-6205 — August 6, 1979, Tr. pp. 3-13 through 3-24, of which commission takes administrative notice.

<sup>4</sup>DF 79-100-6205 — August 6, 1979, Tr. p. 3-14.

<sup>5</sup>DF 79-100-6205 — August 6, 1979, Tr. pp. 3-14, 15.

<sup>6</sup>DF 79-100-6205 — August 6, 1979, Tr. p. 3-15.

<sup>7</sup>The commission's evaluation reveals that the request would be approximately \$50 million or the amount of money needed to replace CWIP. Interestingly, the LUCC in its most recent federal grant request indicates that they anticipate a new rate request of \$35-40 million in October or

November of 1980.

<sup>8</sup>Transcript, August 19, 1980, pp. 10, 13.

<sup>9</sup>In the future work papers should be attached to testimony of this nature. The nine days taken by PSNH to file the work papers created difficulty in allowing the commission a chance to evaluate the validity of the assumptions. The fact that Mr. Merrill initially submitted incorrect fuel estimates effectively precluded a competent analysis, prior to hearing. How any party could accept or reject the testimony without these underlying assumptions is beyond our comprehension. The commission would, in the future, expect more thoughtful analysis rather than mere acceptance or rejection of data based on considerations other than meaningful regulation.

<sup>10</sup>Volume V, p. 101 MDPUs Nos. 20035, 20109 & 20172, September 24, 1979.

<sup>11</sup>Transcript, August 19, 1980, p. 38.

<sup>12</sup>Volume XXXI, p. 117, MDPUs Nos. 20035, 20109 & 20172, January 30, 1980, and Tr. August 19, 1980, p. 75.

<sup>13</sup>Prospectus, July 9, 1980, pp. 6, 10. Transcript, August 19, 1980, p. 4.

<sup>14</sup>Transcript, August 19, 1980, p. 39.

<sup>15</sup>Transcript, August 19, 1980, pp. 41, 44.

<sup>16</sup>Transcript, August 19, 1980, pp. 41, 44, 75-77, 91, 92. If full scale construction on Seabrook will not continue until the transfers of interest are in hand, then even a January, 1981, starting date pushes the in-service dates to 1984 and 1986 for the two units.

<sup>17</sup>Transcript, August 19, 1980, p. 57-59.

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NH.PUC\*09/18/80\*[78693]\*65 NH PUC 450\*Requests for Rate Relief by Utility Companies

[Go to End of 78693]

**Re Requests for Rate Relief by Utility Companies**

DE 80-173, Order No. 14,493

65 NH PUC 450

New Hampshire Public Utilities Commission

September 18, 1980

ORDER extending the time to submit written testimony.

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BY THE COMMISSION:

Order

A motion to extend the time to file written testimony and to reschedule the public hearing in the above matter having been filed on September 10, 1980, and the commission having reviewed and considered the request it is hereby

Ordered, that the time to submit written testimony shall be extended from September 19, 1980, to October 2, 1980; it as

Further ordered, that the request to reschedule the public hearing from October 9, 1980 to November 3, 1980 is denied.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of September, 1980.

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NH.PUC\*09/18/80\*[78694]\*65 NH PUC 451\*Public Service Company of New Hampshire

[Go to End of 78694]

## Re Public Service Company of New Hampshire

DE 80-175, Order No. 14-494

65 NH PUC 451

New Hampshire Public Utilities Commission

September 18, 1980

ORDER extending the time to file testimony.

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BY THE COMMISSION:

Order

Public Service Company of New Hampshire having filed a motion for extension of time to file testimony concerning its position on the feasibility of converting its Newington station from oil fired to either coal or natural gas, fired generation, from September 17, 1980, to October 3, 1980; and the commission having reviewed and considered the motion; it is hereby

Ordered, that the time to file testimony shall be extended from September 17, 1980, to September 29, 1980.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of September, 1980.

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NH.PUC\*09/18/80\*[78695]\*65 NH PUC 452\*Utility Advertising

[Go to End of 78695]

**Re Utility Advertising**

DE 79-63, Order No. 14,495

65 NH PUC 452

New Hampshire Public Utilities Commission

September, 18, 1980

ORDER bifurcating a proceeding and extending time to submit testimony.

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BY THE COMMISSION:

Order

A motion to bifurcate the proceedings in the above docket having been filed by Concord Natural Gas Corporation, Gas Service, Inc., Manchester Gas Co., Inc., and Northern Utilities, Inc., having been filed on September 10, 1980, and the commission having reviewed and considered the request it is hereby

Ordered, that docket DE 79-63 shall be bifurcated to allow the gas companies to submit their testimony, exhibits, and comments separately; it is

Further ordered, that the public hearing scheduled for October 8, 1980, shall remain scheduled as fixed; it is

Further ordered, that the time for the gas companies to submit their testimony be extended from September 19, 1980, to October 2, 1980.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of September, 1980.

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NH.PUC\*09/19/80\*[78691]\*65 NH PUC 441\*Northern View Water Supply Company, Inc.

[Go to End of 78691]

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

DE 80-79, Second Supplemental Order No. 14,491

65 NH PUC 441

New Hampshire Public Utilities Commission

September 19, 1980

ORDER affirming a prior commission order.

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BY THE COMMISSION:

Supplemental Order

Whereas, by Supplemental Order No. 14,448 (65 NH PUC 392), the commission granted a rehearing in this case, on a motion for rehearing filed by the Legislative Utility Consumers' Council; and

Whereas, at the conclusion of all evidence submitted at the hearing on September 3, 1980, the commission granted the Legislative Utility Consumers' Council ten days in which to attempt to reach a further settlement between all parties in this case; and

Whereas, no new proposals, evidence, or settlement agreements have been submitted for commission review as of the date of this order; it is

Ordered, that the provisions of Order No. 14,384 (65 NH PUC 357) remain in effect and continuing.

By order of the Public Utilities Commission of New Hampshire this nine-tenth day of September, 1980.

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NH.PUC\*09/19/80\*[78692]\*65 NH PUC 442\*New England Power Company

[Go to End of 78692]

### Re New England Power Company

Intervenors: State of Rhode Island, Public Service Company of New Hampshire, Legislative Utility Consumers' Council, Governor's Council on Energy, New Hampshire People's Alliance, Massachusetts Attorney General's Office

DE 79-223, Second Supplemental Order No. 14,492

65 NH PUC 442

New Hampshire Public Utilities Commission

September 19, 1980

INVESTIGATION into whether approval to transmit hydroelectric energy beyond the confines of the state should be revoked; permission withdrawn.

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ELECTRICITY, § 14 — Exportation of hydroelectric energy.

[N.H.] An electric company's permission to export hydroelectric energy was withdrawn where the commission found that there was a market for the hydroelectric energy being exported, that the energy was reasonably required for use within the state, and that the discontinuance of the exportation of the energy in lieu of use within the boundaries of the state was in the public good, at least until the two generating units at Seabrook are operational, such findings being in compliance with the two statutory standards governing the commission's power to alter or to discontinue an approval to transmit hydroelectric energy beyond the state boundaries.



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APPEARANCES: Philip H. R. Cahill, Victoria A. Queeney, and Michael Flynn for New England Power Company (NEPCO); Dennis J. Roberts II and John R. McDermott for the state of Rhode Island (RI); Philip Ayers for

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Public Service Company of New Hampshire (PSNH); William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council (LUCC); George Cantz, Governor's Council on Energy (GCOE); New Hampshire Peoples' Alliance (Alliance); Francis X. Bellotti and Alan D. Mandl, Massachusetts Attorney General's Office, by brief only.

BY THE COMMISSION:

Report

Jurisdictional Challenges

The commission by Report and Supplemental Order No. 14,456 (65 NH PUC 395) has already determined jurisdiction over the exportation of hydroelectric power pursuant to RSA 374:35 and 36. Contrary to the assertions of NEPCO and the Rhode Island Attorney General, there remains life in these two statutes. The commission, in the aforementioned order, cited the various provisions of the Federal Power Act that allowed the continuation of state jurisdiction in the area of hydroelectric exportation. The commission noted that through the efforts of New Hampshire Congressman William A. Rogers, the Congress passed the amended Federal Power Act which specifically reserved existing state rights over the exportation of hydroelectric power produced within the state *Re Safe Harbor Water Power Corp.* (1946) 5 FPC 221, 235, 66 PUR NS 212, Opinion No. 143. With the passage of the Federal Power Act, there existed four states which had existing statutes controlling the exportation of hydroelectric power: Maine Revised Statutes (1930) Chap. 68, § 1; West Virginia Acts (1929) Chap 58; Wisconsin Statutes (1931) § 31.27; and New Hampshire Laws (1929) Chap 106. These four statutes, which prohibited or regulated the exportation of state power, were held to have continuing validity by the United States Supreme Court. *United States v California Pub. Utilities Commission* (1953) 345 US 295, 98 PUR NS 65, 97 L Ed 1020, 1029, 1030, 73 S Ct 706, footnote 4.

The commission proceeded to analyze its past decisions where the commission consistently reserved its statutory right to alter in whole or in part any approval to transfer hydroelectric power outside the state. *Re Grafton Power Co.* (1929) 12 NH PSC 194, 201; (1929) *Re Connecticut River Power Co.* (1954) 36 NH PUC 302, 311, 312. The commission noted that NEPCO itself sought our approval in the latter proceeding through its initial petition (NEPCO's petition dated November 15, 1954).

Further research has revealed that contrary to its present position, New England Power specifically recognized the commission's continuing jurisdiction as to the exportation of hydroelectric power *after* the passage of the Federal Power Act in 1935. The following passage from New England Power Company's 1948 prospectus<sup>1(35)</sup> is illustrative and conclusive as to jurisdiction:

"In the case of a company engaged in the generation of electric energy by waterpower in New Hampshire, such company is prohibited from transmitting such energy outside of New Hampshire unless the company first obtains

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the consent of the New Hampshire Public Service Commission. The statute provides for the discontinuance of such transmission outside of New Hampshire to the extent the New Hampshire Public Service Commission finds that the electrical energy is reasonably required in New Hampshire. No such consent has been obtained with reference to energy generated at the Bellows Falls development or at the present Wilder development of Bellows Falls Hydro-Electric Corporation because such generation is in Vermont. However, the company is bound by a stipulation given in 1927 by Bellows Falls Hydro-Electric Corporation to the state of New Hampshire, that electricity should be delivered in New Hampshire for use within that state in such amount as should be ordered by the New Hampshire Public Service Commission under such regulations as to rates and service as may be from time to time determined by such commission. No such orders have been issued pursuant to this stipulation. Consent has been obtained for the transmission out of New Hampshire of such energy to be generated at the Wilder development following the redevelopment as is, at the time, in excess of that which can be marketed within the state at fair rates." (Page 18) Exh X-3 NHPUC Docket D-No. 2771, FPC Docket No. E6145.

The commission has found through its analysis in Order No. 14,456 that it has jurisdiction pursuant to RSA 374:35 and 36 to evaluate the remaining questions in this proceeding. New England Power Company's position in the past has been that this commission has the jurisdiction and the power to consider approving or halting the transfer of hydroelectric power outside the boundaries of the state. New England Power Company has not offered any compelling legal criteria as to why its position of today is contrary to its position in 1948 and 1954.

#### Statutory Requirements of RSA 374:35

Revised Statute Annotated 374:35 states the following:

"Permission Required. No corporation engaged in the generation of electrical energy by waterpower shall engage in the business of transmitting or conveying the same beyond the confines of the state, unless it shall first file notice of its intention so to do with the public utilities commission and obtain an order of said commission permitting it to engage in such business. Any such corporation engaged in the business of transmitting or conveying such electrical energy beyond the confines of this state pursuant to such order shall discontinue such business in whole or in part, to such extent and under such conditions as the commission may order, whenever, after notice to such corporation and hearing thereon, the commission shall find that such electrical energy or the portion thereof affected by said order is reasonably required for use within this state and that the public good requires that it be delivered for such use."

To alter or to discontinue an approval to transmit hydroelectric energy beyond the confines of the state, RSA 374:35 sets forth certain requirements and standards to be considered.

The first statutory requirement imposed upon the commission is notice to New England

Power and subsequent hearings thereon. This requirement has been satisfied by the commission's Report and Order No. 13,913 ([1979] 64 NH PUC 397) and the subsequent hearings held pursuant to this docket.

The statute then proceeds to impose

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two standards. The first is a finding that the electrical energy or the portion thereof affected by an order is reasonably required for use within the state of New Hampshire. The second necessary evaluation relates to the question of whether or not the public good requires that the hydroelectric power be delivered for use within the state.

#### Electrical Energy Need within the State of New Hampshire

There are five hydroelectric projects presently located along the Connecticut river within the boundaries of the state of New Hampshire. At these five sites, there are 21 units which have a total capacity of 419.8 megawatts.<sup>2(36)</sup> The amount of energy generated by these units has averaged nearly a billion kilowatt-hours a year over the past six years.<sup>3(37)</sup> These units were built primarily within the time frame of 1920 to 1956.<sup>4(38)</sup> The permission granted to transmit this hydroelectric power outside the state was first provided in 1929 and continued through subsequent decisions to 1954.<sup>5(39)</sup> This proceeding is the first reexamination of this issue since that time period.

The population growth rate in New Hampshire has increased dramatically since 1954. In the time period between 1960 and 1970, New Hampshire added 130,760 people or a 21.5 per cent increase.<sup>6(40)</sup> Between 1970 and 1980 the state population increased by another 24.6 per cent.<sup>7(41)</sup>

In comparison with both the United States and New England as an entirety, New Hampshire grew considerably faster over the 1960 to 1980 time period. During 1960 to 1970, New Hampshire grew at a rate 1.7 times faster than the region as a whole, which then increased to a rate of 5.5 times faster for the second decade. New England's slow growth rate can largely be attributed to an essentially stagnant growth period in southern New England.<sup>8(42)</sup>

The magnitude of this stagnation in southern New England is illustrated by Rhode Island's actual net population loss over this period. Equally relevant is the testimony that New Hampshire's growth is primarily from immigration of which the leading contributor was Massachusetts at 39 per cent.<sup>9(43)</sup>

The relevance of these population trends to the issues in this proceeding is extremely clear. Since the last PUC order allowing the transmission of this hydroelectric power outside the state, consumers in Massachusetts and Rhode Island have been receiving ever increasing levels of New Hampshire hydroelectric power per customer while New Hampshire has been receiving dramatically lesser power on per customer basis from units located within the state. The immigration of people from the remainder of New England to New Hampshire has resulted in a shift in the very market that the prior exportation orders were designed to serve.

Another example of the changed circumstances facing New Hampshire's energy future is in

the comparison of the generating sources serving New Hampshire presently and the generation

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mix when the permission to export the hydroelectric power was first granted. In the late 1920's New Hampshire had 45 per cent of its electrical energy provided by hydroelectric power. With the exception of Maine, this was the highest percentage of any state in the United States.<sup>10(44)</sup> Equally impressive, New Hampshire also had the second lowest level of purchased power indicating a high degree of self-sufficiency.<sup>11(45)</sup> In 1951, New Hampshire had over 49 per cent of its electrical energy needs met by hydroelectric generation.<sup>12(46)</sup> Obviously, there was a surplus of hydroelectric power which justified the orders granting permission to export of the 1920's and 1950's.

The present generating mix is markedly different from that encountered in the 1920's and 1950's. The state's largest electric utility, Public Service Company of New Hampshire, serves 83 per cent of the total population in the state. Its generating mix includes only 4.6 per cent of the power generated by hydroelectric plants.<sup>13(47)</sup> The available hydroelectric energy is from the 48 mw of hydro capacity which PSNH owns.<sup>14(48)</sup>

New England Power Company provides energy to less than 6 per cent of the state's population, and has a maximum peak of 79 mw.<sup>15(49)</sup> Yet New England Power Company has 419.8 mw of hydroelectric capacity which is used by and large to service consumers outside New Hampshire.

The effect of this unbalanced use of hydroelectric generation is the major reason for the higher costs per kwh of PSNH, by approximately 25 per cent over NEPCO as demonstrated by staff witness Gertler.<sup>16(50)</sup>

Another factor that relates to an accurate assessment of the electrical energy needs of New Hampshire is the projected load growth within the state and the plants scheduled to meet that need in the future. Staff Exhs 1 and 8 are NEPOOL's most recent peak growth projections in which the data is segregated and examined by state. These exhibits predict that the load growth in New Hampshire will be higher over the next ten years than either Massachusetts or Rhode Island. New England Power Pool predicts in this 1979 study that the load growth in New Hampshire will in the base case be 5 per cent.

Public Service Company of New Hampshire's most recent 1980, forecast predicts a peak growth of 5 per cent for its system. When the commission examined PSNH's 1979 peak-load projection, the commission determined that at that time the proper range was between 4.2 per cent and 5 per cent.<sup>17(51)</sup> Staff has used the 5 per cent prediction to examine peak growth for the next ten years and the plants scheduled to meet the increased demand. Staff witness Traum expressed concern that during certain years between now and when both units are operational at Seabrook, PSNH may be required to enter into contracts for one- or two-year entitlements in existing units. Mr. Traum's exhibits also reveal

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entitlements purchased from NEPCO for oil-fired capacity in certain years before the

completion of Seabrook.<sup>18(52)</sup>

Staff witness Traum's testimony reveals two key determinants for answering the question of New Hampshire's energy needs. First, the fact that PSNH will need to make additional purchases of capacity in the years leading to the completion of Seabrook establishes an available market for the hydroelectric power within the state. Second, his analysis reveals that at the same time that NEPCO is exporting hydroelectric power from New Hampshire, it is planning to enter into contracts to transfer oil-generated power back into the state to serve the energy needs of the electric utility, PSNH, which provides electrical power to 83 per cent of New Hampshire's residents either directly or indirectly. Such an ironical situation clearly establishes the market for the electrical energy from the hydroelectric plants along the Connecticut river within this state.

Staff witness Traum also examined the plants scheduled to meet the state's energy needs in the future, Seabrook I and II. Mr. Traum noted that the projected in-service dates for these units have always been delayed, never advanced. Based on this historical analysis and the reduction in the construction work force, Mr. Traum reached the conclusion that Seabrook I and II would not be in service on the dates presently predicted by PSNH, April 1, 1983, and February 1, 1985, respectively.

Mr. Traum then proceeded to develop an historical delay regression which yielded a set of different in-service dates which he then averaged with PSNH's present estimate to arrive at a revised estimate for the two in-service dates of 1985 and 1989. This led Mr. Traum to his ultimate conclusion that the longer the delay is in bringing Seabrook into service, the more compelling the need for the hydroelectric power to remain in New Hampshire.

Recently, the commission reviewed the projections of in-service dates for both Seabrook units. The commission concluded that the various labor strikes coupled with the volatile financial markets and the failure of the Massachusetts DPU to approve the divestiture had postponed the operational dates for Seabrook I and II to 1984 and 1986, respectively.<sup>19(53)</sup> While continued delay in the divestiture approval may result in further delay because of our recent order in DR 79-187, it is clearly established that the delay in these units requires that the state have access to the energy and capacity from the hydroelectric units on the Connecticut river at least until the completion of both Seabrook units.

New England Power Company contends in brief that the new 1980 NEPOOL forecast may lead to a lower peak growth projection for the state of New Hampshire. However, the new forecast does not provide a state-by-state breakdown. Consequently, the commission will have to await the completion of its examination of this issue pursuant to DE 80-47. The evidence offered by NEPCO does not in of itself prove that the demand of PSNH has changed due to the absence of state-by-state data. Furthermore, the delays in the completion

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date of the two Seabrook units coupled with NEPCO's exportation of hydroelectric power while attempting to sell back to New Hampshire oil-fired electricity outweighs any consideration as to NEPCO's contention.

The commission finds that based on the testimony and exhibits of witnesses Traum, Gertler,

and MacLellan, there has been a demonstrated need for the hydroelectric power presently being exported outside the state and that it is reasonably required for use within the state. Factors, which include the delay of both Seabrook I and II, the increased population in the state since the decisions allowing export, the worsening generation mix, NEPCO's practice of selling to PSNH oil-fired capacity while exporting New Hampshire hydro capacity, as well as the unfavorable distribution of hydroelectric facilities in service to New Hampshire residents, all clearly support this finding both individually and collectively.

#### Public Good Standard

The public good can be advanced by achieving goals such as providing electric service at the lowest possible cost, and achieving a fair distribution of limited natural resources. Staff witness Gertler testified that if the exportation of the hydroelectric power was discontinued and the power was used within the state of New Hampshire, there would be an annual savings of approximately \$25 million a year.<sup>20(54)</sup> Such a result is clearly within the realm of the public good because of its extremely beneficial effect on the citizens of the state of New Hampshire. Ms. Gertler's analysis disclosed that the per capita income for the state of New Hampshire has been and is presently below that of the states in southern New England. Ms. Gertler's analysis also revealed that the price paid for electric energy in New Hampshire is higher than NEPCO's price for the states it serves.

The historical records contained in the commission files reveal that there was substantial takings of New Hampshire land for purposes of flooding, and construction of the various hydroelectric units and supporting structures. See *Re Grafton Power Co.* (1929) 12 NH PSC 194; *Re Connecticut River Power Co.* (1954) 36 NH PUC 302 (also interim transfers contained in our files). These takings created a vested interest in the plants for the citizens of New Hampshire. Contrary to the Massachusetts Attorney General's position, the commission has not ignored the concerns of other states rather the commission has reviewed its past records to reveal all the considerations that led to the earlier exportation orders.

The aforementioned decisions reveal that all financings, construction, and operation of these hydroelectric facilities was done with a clear recognition that the state of New Hampshire had made considerable efforts to assist the development of these units and the only consideration given to New Hampshire was that upon the appearance of a market for the power within the state, the power would be delivered. Questioning by the existing Attorney General for New Hampshire in 1928 revealed that the power could always be delivered cheaper within the state than outside the state because of line losses. (See *Tr.* September 21, 1928, p. 25, *Grafton Power docket.*) A state has an interest in

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controlling the use of its natural resources. Such conditions that are necessary to protect the misuse of these limited resources falls within the public good.

The testimony in this proceeding reveals that the continued allowance of exportation of this power directly harms the public of the state of New Hampshire. Recently, PSNH sought temporary loans from its Seabrook partners so as to be able to continue the construction of Seabrook until the next major financing. New England Power Company, a partner in the

ownership of Seabrook, refused to loan the money unless PSNH agreed to buy any necessary capacity from NEPCO that it might need between the present and the advent of Seabrook no matter what the cost.<sup>21(55)</sup> Public Service Company of New Hampshire refused and NEPCO chose not to make the temporary loan thereby jeopardizing the continuation of the plant.

Testimony in DR 79-187, which the commission administratively takes notice, reveals that on at least one other occasion NEPCO attempted to impose conditions on a short-term temporary loan and seriously jeopardized the continuation of the plant. In making the aforementioned condition concerning power purchases, NEPCO was able to rely upon its excess capacity situation which is in part directly related to its ability to export the Connecticut river hydroelectric power. Since the commission has found the construction of Seabrook to be in the public interest, any use of our natural resources which jeopardizes this interest cannot be viewed as within the public good.

Equally distressing is the conflicting positions of the Massachusetts Attorney General. In proceedings before the Massachusetts DPU, the Massachusetts Attorney General has continually attempted to block the Seabrook divestiture based in large part on the need for power.<sup>22(56)</sup> Yet again the exportation of the hydroelectric power allows another interest in another state to use the exported power as a lever to block actions which will greatly aid the public good within the state of New Hampshire. It is directly contrary to the state of New Hampshire's interest to have an officer of another state attempt to block efforts to establish new energy sources found to be in the public good while relying upon energy and capacity from this state. Obviously, the continuation of exportation would lead to further incorrect economic signals.

The hydroelectric power from the Connecticut river dams is presently used for peaking with some use as base load. The units PSNH will be buying from, prior to the completion of the two Seabrook units, will also be peaking but with one major difference, they will be oil fired. There is a substantial difference between the costs of this hydroelectric power and power generated from oil-fired units. To allow PSNH and other New Hampshire utilities to be forced to increase the amount of their generating capacity by turning to oil-fired units when there exists hydroelectric peaking power within the state would not be in the public good.

The commission has found that any

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increased usage within the state will be met by increased reliance upon oil until the units at Seabrook can be completed and the Schiller station converted to coal.<sup>23(57)</sup> Since the staff Exhs 1, 6, and 8 all reveal that there will be growth in energy usage during the years leading to the operation of Seabrook, it is clear that the public good requires greater use of the state's natural resources so as to reduce the reliance upon oil for increased usage of electricity.

The commission has already discussed that regardless of any order of this commission Seabrook I and II have been delayed to 1984 and 1986. This delay gives further support to finding that the public good requires a discontinuance of the transfer of hydroelectric power outside the state at least until the two plants are built.

Upon a review of the two standards set forth by RSA 374:35, the commission finds that there

is a market for the hydroelectric power presently being exported out of the state and that the power is reasonably required for use within the state. The commission further finds, that the discontinuance of the exportation of the power in lieu of use within the boundaries of the state is in the public good at least until the two units are operational at Seabrook. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that the permission granted New England Power Company (NEPCO) to transmit hydroelectric energy from within the boundaries of the state to outside the state is hereby withdrawn as of thirty days from the date of this order; and it is

Further ordered, that NEPCO make arrangements to sell the previously exported hydroelectric energy to persons, utilities, and municipalities within the state of New Hampshire within thirty days of the date of this order; and it is

Further ordered, that upon the completion of both units at Seabrook the commission will again reexamine the issue of exportation.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of September, 1980.

#### FOOTNOTES

<sup>1</sup>New England Power Company, first mortgage bonds, Series B, 3 per cent, dated July 1, 1948.

<sup>2</sup>New England Power Company Exh 1-D.

<sup>3</sup>Staff Exh No. 9 Schedule I.

<sup>4</sup>New England Power Company Exh 1-B.

<sup>5</sup>Re Grafton Power Co. (1929) 12 NH PSC 194, 201; Re Connecticut River Power Co. (1954) 36 NH PUC 302, 311, 312.

<sup>6</sup>Legislative Utility Consumers' Council Exh I.

<sup>7</sup>1980 United States census.

<sup>8</sup>Legislative Utility Consumers' Council Exh I.

<sup>9</sup>Legislative Utility Consumers' Council Exh I.

<sup>10</sup>Re Grafton Power Co. (1929) 12 NH PSC 194; commission file D-1222 Electrical World June 2, 1928, p. 1179. Re Small Power Producers and Cogenerators (1980) 65 NH PUC 415.

<sup>11</sup>Electrical World June 2 1928 p. 1179.

<sup>12</sup>Re Small Power Producers and Cogenerators (1980) 65 NH PUC 415.

<sup>13</sup>Staff Exh 9, Schedule VIII.

<sup>14</sup>Transcript, January 29, 1980, p. 24.



<sup>15</sup>Staff Exh 6, Schedule II.

<sup>16</sup>Staff Exh 9, Schedule IV.

<sup>17</sup>Commission dockets I-SF 14,829-14,831 (1979).

<sup>18</sup>Staff Exh 6, Schedule 4.

<sup>19</sup>DR 79-187 Report and Order No. 14-490 (65 NH PUC 433, 438, footnotes 12-16).

<sup>20</sup>Staff Exh 9.

<sup>21</sup>July 29, 1980, Tr. pp. 70-74.

<sup>22</sup>DR 79-187, Report and Order No. 13,962, ([1979] 64 NH PUC 458).

<sup>23</sup>DR 79-187, Report and Order No. 14,490 (65 NH PUC 433).

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NH.PUC\*09/24/80\*[78696]\*65 NH PUC 452\*Mary Ellen Cormier v Public Service Company of New Hampshire

[Go to End of 78696]

## Mary Ellen Cormier v Public Service Company of New Hampshire

IE 14,958, Order No. 14,500

65 NH PUC 452

New Hampshire Public Utilities Commission

September 24, 1980

ORDER allowing removal of meters and performance of accuracy tests.

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BY THE COMMISSION:

Order

Upon consideration of the motion of Public Service Company of New Hampshire; it is

Ordered, that Public Service Company of New Hampshire be allowed to remove the meters on the premises of the complainant and perform accuracy tests in the field; and it is

Further ordered, that Public Service Company of New Hampshire coordinate

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its testing with the commission staff and counsel for the complainant so that all parties will have the opportunity to observe the testing procedure.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of September, 1980.

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NH.PUC\*09/24/80\*[78697]\*65 NH PUC 453\*Northern Utilities, Inc.

[Go to End of 78697]

## Re Northern Utilities, Inc.

DE 80-87, DR 80-93, Supplemental Order No. 14,501

65 NH PUC 453

New Hampshire Public Utilities Commission

September 24, 1980

CONSIDERATION of gas company's proposed service extension rules; order in accordance with opinion.

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SERVICE, § 188 — Extensions — Burden of cost.

[N.H.] The commission denied that portion of a gas company's proposed service extension rule which allowed residential customers to be charged for service line costs, but it held that the 25 per cent rule may apply to the entire costs for main extensions but not applied to service line costs.

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APPEARANCES: Franklin Hollis for Northern Utilities, Inc.

BY THE COMMISSION:

Report

On January 2, 1980, Northern Utilities, Inc., a public utility engaged in the supply of gas in the state of New Hampshire filed with this commission Supplement No. 14 to its tariff, NHPUC No. 6 — Gas, providing for a more restrictive policy on connection of new customers. Docketed as DE 80-87, this filing was suspended by commission Order No. 14,059, dated February 13, 1980 (65 NH PUC 73). An order of notice was issued on April 17, 1980, setting hearing for 10:00 A.M., May 15, 1980.

On April 8, 1980, Northern Utilities, Inc., filed certain revisions to its tariff, NHPUC No. 6 — Gas, proposing changes to the terms and conditions under which it would extend its mains and provide services to new customers. Pending investigation, this filing was also suspended by commission Order No. 14,191 on April 21, 1980 (65 NH PUC 173). An order of notice was issued on April 22, 1980, setting a public hearing on this matter for May 23, 1980, at 10:00 A.M. in the commission's Concord offices. This subsequently was rescheduled and was heard simultaneously with docket DE 80-87 on May 15, 1980, at 10:00 A.M.

Witness Allen Caron, manager of marketing and assistant treasurer of the company, testified to the tremendous increase in demand for gas service in

Northern's jurisdiction and of the resulting extreme costs imposed on the company to make installations to those customers. The company sees problems of system capacity developing and sees difficulty in being able to obtain funds for further construction under the current financial situation. Accordingly, DE 80-87 is submitted in response to the system capacity problem and DR 80-93 is submitted to supplement the company's construction budget. Mr. Caron testified that should the filing of DR 80-93 be approved, then that portion of DE 80-87 relative to restrictions on residential customers would be eliminated.

Mr. Caron explained that the existing tariff provides that in those cases where a main extension and service are required, 100 feet of the main extension and the entire gas service line are installed at no expense to the customer. If the main extension exceeds 100 feet, then a customer contribution is made based on a so-called "25 per cent test." If the net annual revenue from the customer is estimated to be less than 25 per cent of the company's estimated cost of the main extension, the customer makes an advance contribution in the amount of the difference.

The proposed filing would eliminate the 100-foot allowance and a portion of the service allowance so that the entire main extension and that portion of the service line extending from the main to the customer's property line would be subject to the 25 per cent rule. Construction costs would be based on actual average cost per foot of service installation that occurred during the most recent 12-month period and would be recalculated annually. The company calculates that costs during the period ending December 31, 1979, to be \$9.71 per foot. Construction costs to commercial and industrial customer would be based on actual cost of installation and the service line cost would include the entire distance from the main to the meter, not to the property line.

In regard to the temporary restriction on acceptance of new customers, Mr. Caron testified that with the tremendous differences occurring in market prices of fuels, gas and oil, the demand for natural gas has been such that the company could quickly sell out its system capacity. Approximately 700 firm applications were made in the last six months of 1979. The company proposes to maximize its available capacity by placing more restrictive limits on commercial and industrial customers and placing slight further limits on residential customers.

Witness Del Camp explained the company's system capacity and current system loads, and explained construction measures the company is taking to improve that system capability. He explained that despite the company's improvement plans it will be impossible to meet the current load growth requests which, if not controlled, would require a doubling of the company's system in five years.

#### *Commission Analysis*

The commission accepts the general philosophy of the 25 per cent rule and takes judicial notice of its current application in three New Hampshire gas jurisdictions. We are concerned, however, by the company's proposal to treat different customers in different manners.

We concur with the company's analysis that restrictions on large customers are in the public interest and will assure the greatest distribution of

limited resources to the largest number of customers. We accept the company's proposed limitations on commercial and industrial customers. However, we find the description of limitations for those customers as depicted in First Revised Page I to be inadequate to properly define the limits to different types of customers for different uses and we will direct the company to more clearly address the following: heating sales to new customers, heating sales to existing customers, nonheating sales to new customers, nonheating sales to existing customers.

We do not concur with the company's proposed revisions to restrictions for residential customers. The company's current tariff limits new sales of gas *for heating purposes* where existing gas mains are adequate. The proposed filing limits new sales for *all* purposes. So long as the company proposes to make quantities available to commercial and industrial customers at the levels indicated, then we find it acceptable to continue to allow residential customers the opportunity for nonheating gas purposes. For that reason, we will disallow the proposed revision in the residential portion of the filing.

The company's proposed main extensions and services proposals are an extreme departure from its present tariff. It is our judgment that to the extent practicable, opportunities should remain to encourage the small user; i.e., cooking and water heating, the so-called base load units. We believe the residential customer continues to be entitled to a gas service at no cost. The overall system attains adequate benefit for such base load increases so as to support those costs. Accordingly, we will deny that portion of the company's proposal which allows residential customers to be charged for service line costs. The 25 per cent rule may apply to the entire costs for main extensions but shall not be applied to service line costs.

The commission recognizes the increased demand for gas service and the associated construction costs to provide that service. Construction of gas mains is somewhat analogous to that of water mains as far as continually increasing costs go. In recent years, several water utilities under this commission's jurisdiction have requested and received authorization to reduce the amount of free construction of mains which it provided a customer. As costs rise, it becomes less and less feasible to provide such construction and expect the resulting revenues to justify the investment. On the other hand, when the customer is expected to provide funds, it is unreasonable to allow that portion of plant in the company's rate base. The commission will allow the contribution plan for mains as presented, but only the net investment of the company will be included in rate base and for depreciation purposes.

The same philosophy toward service line costs shall apply to the commercial and industrial customer. Our order will issue accordingly,

Supplemental Order

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

Ordered, that Northern Utilities, Inc.'s Third Revised Tariff Page 10 superseding the Second Revised Page 10 and Second Revised Page 11 superseding First Revised Page 11 are rejected; and it is

Further ordered, that Supplement No. 14, Original Page 1 is rejected; and it is

Further ordered, that new tariff pages be submitted which conform to the directives of the commission in the accompanying report.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of September, 1980.

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NH.PUC\*09/29/80\*[78698]\*65 NH PUC 456\*Gas Service, Inc.

[Go to End of 78698]

### **Re Gas Service, Inc.**

DR 80-179, Second Supplemental Order No. 14,504

65 NH PUC 456

New Hampshire Public Utilities Commission

September 29, 1980

ORDER denying a motion for rehearing.

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PROCEDURE, § 33 — Motion for rehearing — Grounds for denial.

[N.H.] The commission denied a gas company's motion for rehearing because the allegations that the commission had consistently underestimated the effect of rampant inflation and had failed to grant prompt and adequate basic relief were unfounded; the commission noted that the company had the burden of proof to develop the level of revenue it needed for the future period, and that statutes were enacted precisely to avoid continuous rate examinations.

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BY THE COMMISSION:

Supplemental Order

On September 18, 1980, Gas Service, Inc., filed a motion for rehearing and other relief. The commission has reviewed the motion filed and the supporting memorandum and is not compelled to alter its report issued on August 29, 1980, or Order No. 14,462 (65 NH PUC 405).

The company's last rate case was filed on June 1, 1979. On February 21, 1980, the commission issued Order No. 14,062 (65 NH PUC 76) granting an increase of \$405,196. Additional relief was granted by Order No. 14,104 (following cost of gas adjustment) issued March 4, 1980, Order No. 14,135, issued March 17, 1980 (65 NH PUC 133), and Order No. 14,251, issued May 27, 1980 (65 NH PUC 236). Barely two months elapsed when the company filed their petition in this docket. The commission finds that the last sentence in RSA 378-7 was

enacted precisely to avoid continuous rate examinations. The company had the burden of proof to develop the level of revenue it needed for the future period. To allege "that the commission has, among other things, consistently (a) underestimated the effect of rampant inflation ... , (b) failed to grant prompt and adequate basic relief ... " is unfounded. If the company desired additional relief or if the commission erred, the proper avenue for further relief is an appeal in the proper forum.

Having considered the motion and memorandum filed; it is hereby

Ordered, that the motion for rehearing

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and other relief be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of September, 1980.

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NH.PUC\*09/29/80\*[78699]\*65 NH PUC 457\*Public Service Company of New Hampshire

[Go to End of 78699]

### **Re Public Service Company of New Hampshire**

DF 80-195, Order No. 14,505

65 NH PUC 457

New Hampshire Public Utilities Commission

September 29, 1980

APPLICATION by electric company for authority to issue and sell preferred stock; granted.

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SECURITY ISSUES, § 58 — Financing of construction program.

[N.H.] An electric company was authorized to issue and sell preferred stock where the proceeds from the proposed financing would be expended to pay off a portion of short-term notes, the proceeds of which had been expended principally in the purchase and construction of property reasonably requisite for present and future use in the conduct of the company's business, to finance the purchase and construction of additional such property and for other proper corporate purposes, such action being deemed to be in the public interest.

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APPEARANCES: Frederick J. Coolbroth and Martin L. Gross for the petitioner; Ronald Von Ohlsen for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

## Report

By this unopposed petition filed September 4, 1980, 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 not exceeding 1.2 million shares of preferred stock, \$25 par value. A duly noticed hearing was held in Concord on September 22, 1980, at which the company submitted the testimony of two witnesses, John J. Lampron, its treasurer, and David N. Merrill, its executive vice president.

Mr. Lampron stated that the proceeds of the sale of preferred stock will be used (a) to pay off a portion of the short-term notes outstanding at the time of sale (estimated to be \$112.6 million on October 23, 1980), the proceeds of which will have been principally expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the

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company's business; (b) to finance the purchase and construction of additional such property; and (c) for other proper corporate purposes, subject to further testimony from Mr. Merrill with respect to the limitations stated in the commission's 41st Supplemental Order No. 14,490 in DR 79-187 (65 NH PUC 433) precluding the use of proceeds from future company financings to further the construction of Unit II at Seabrook station until the commencement of the adjustment periods for the reduction of the company's ownership interest in Seabrook station.

All expenses incurred in accomplishing the financing will be paid from the general funds of the company.

The preferred stock will be sold through a negotiated public offering. Mr. Lampron described the expected terms of sale to be negotiated and stated the reasons why the company proposed an agreement with underwriters reached through negotiation rather than through competitive bidding.

Mr. Lampron presented testimony as to current securities market conditions and foreseeable trends prior to the offering of the preferred stock. Mr. Lampron concluded that the price of the stock would be \$25, that the dividend rate required to make the preferred stock marketable would most likely not exceed 16 per cent, and that the compensation to be paid to underwriters would most likely not exceed 4.5 per cent of the selling price.

The company submitted a balance sheet as at July 31, 1980, actual and pro forma to reflect the issuance of Eurodollar term notes in the aggregate amount of \$28 million and the proposed sale of the preferred stock. Exhibits were also submitted showing: disposition of proceeds; estimated expenses of the issue; and capital structure as at July 31, 1980, actual and pro forma to reflect the issuance of Eurodollar term notes in aggregate amount of \$28 million and the proposed sale of the preferred stock. Projected financing requirements and estimated construction expenditures were outlined in testimony and supplemented by further information supplied by the company at the commission's request. A certified copy of authorizing votes of the company's board of directors was put in evidence.

Mr. Merrill presented testimony addressing the provisions of Order No. 14,490 with respect

to the use of proceeds from financings in connection with further construction of Seabrook Unit II. Mr. Merrill stated that the company intended to comply with Order No. 14,490. He also stated the company's understanding that the use of such proceeds would not be precluded for further construction of Unit I or for obligations arising out of the construction of facilities common to Unit I or for the payment of bills for construction already performed on Unit II. The commission finds that the use of the proceeds from the sale of the preferred stock for such purposes is not inconsistent with Order No. 14,490.

Additionally, Mr. Merrill presented testimony concerning certain existing financial obligations relating to Unit II; namely, (1) contractual requirements to make progress payments for facilities and equipment being manufactured by several contractors and suppliers at locations other than the Seabrook site and (2) contractual requirements to make payments for nuclear fuel. A list of these contracts was subsequently supplied by the company. Mr. Merrill stated that the company was willing to enter into negotiations aimed at deferring these

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obligations, but that absent such deferrals, the satisfaction of the obligations by the company is of special importance to the orderly continuation of the construction program, the avoidance of unnecessary cost including potential damage suits, and the maintenance of the company's credit with its suppliers and contractors. He stated that what the company seeks is flexibility to use financing proceeds to make payments on these important contracts if negotiations for deferrals on reasonable terms are not successful.

Further, Mr. Merrill identified one item of work on Seabrook II that has been continuing since the decision of the company in March, 1980, to substantially reduce the level of construction at Seabrook station. The contractor performing work on the liner for the Unit II reactor containment, Pittsburgh DesMoines Steel Company, has agreed to continue work while permitting the company to defer any payments therefore until April, 1981. Mr. Merrill stated that the following adverse consequences could result from stopping this work: (1) a substantial escalation of the cost of this work, including demobilization and remobilization expenses, (2) a requirement that the company currently pay the charges for work performed to date by the contractor which would otherwise be deferred, and (3) a possible delay in the construction of the containment liner for Unit I, a critical path item for that unit, because the contractor may determine that it is uneconomical to proceed on Unit I after demobilizing on Unit II.

The commission finds that if it were to absolutely prohibit the use of proceeds from the preferred stock issue to meet existing obligations for progress payments and nuclear fuel payments under the contracts listed by the company, the company would be exposed to claims for damages and potential increases in costs that would not be consistent with the object of controlling the costs of the Seabrook project nor the public good. On the understanding that the company will use its best efforts to seek deferrals of such payments on reasonable terms, the company is authorized to use the proceeds of the financing to meet existing obligations for progress payments and nuclear fuel payments associated with Seabrook Unit II.

With respect to work on the Unit II containment liner by Pittsburgh DesMoines Steel Company, the commission finds that the financial impact of the continuation of such work under



the existing deferred payment arrangement is minimal in comparison to the financial consequences and impact that the cessation and subsequent reinstatement of such work would impose on the project. Therefore, notwithstanding the limitation in Order No. 14,490, the commission determines that work under the arrangement with Pittsburgh DesMoines Steel Company may continue and authorizes the proceeds of this financing to be used to pay charges under this arrangement when due. However, no authorization is given to proceed with work which is not included under the present deferred payment arrangement unless similar terms deferring payment are obtained.

The commission further finds that the use of the proceeds from the preferred stock for expenditures related to further construction of Seabrook Unit II other than those specifically authorized herein would be inconsistent with Order No. 14,490 and is hereby prohibited.

The commission reserves the right to reexamine further expenditures in future

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financings for Seabrook Station II.

The commission will, as is our customary practice, reserve jurisdiction to approve the number of shares to be sold and the price thereof.

Based upon all of the evidence, the commission finds that the proceeds from the proposed financing will be expended (1) 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 principally in the purchase and construction of property reasonably requisite for present and future use in the conduct of the petitioner's business; (2) to finance the purchase and construction of additional such property; and (3) for other proper corporate purposes, all of the foregoing being subject to the limitation set forth above, and further finds that the issue and sale of the preferred stock for the purposes described and upon the terms presented will be consistent with the public good. Our order will issue accordingly.

Order

Based 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 not exceeding 1.2 million shares of preferred stock, \$25 par value, for cash in accordance with the foregoing report and as set forth in its petition; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this commission the number of shares of said preferred stock to be sold, the purchase price thereof, dividend rate thereon, and a copy of the preliminary prospectus with respect to this issue, after which a supplemental order will issue approving the number of shares of the preferred stock to be sold and the purchase price and dividend rate thereon; and it is

Further ordered, that the proceeds from the sale of said preferred stock shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of said company and for the other purposes stated in the report; and it is

Further ordered, that except as authorized in the foregoing report, none of the proceeds from

the preferred stock shall be used to further the construction of Seabrook 11 until the divestiture has received the necessary approvals and the adjustment period for ownership in the Seabrook plant begins; 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 to 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-ninth day of September, 1980.

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NH.PUC\*09/29/80\*[78700]\*65 NH PUC 461\*Granite State Electric Company

[Go to End of 78700]

## Re Granite State Electric Company

Intervenor: Legislative Utility Consumers' Council

DR 79-214, Fifth Supplemental Order No. 14,508

65 NH PUC 461

New Hampshire Public Utilities Commission

September 29, 1980

PETITION of an electric company to revise its fuel adjustment clause; granted.

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RATES, § 332 — Fuel adjustment clause — Quarterly adjustment.

[N.H.] The commission allowed an electric company's proposed quarterly adjustment to its fuel adjustment clause because the goal of leveling off fluctuations in the fuel adjustment together with providing an opportunity to budget was of significant value, and consumer bills would increase or decrease solely on the basis of usage within each month of the quarter thus providing an appropriate conservation signal.

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APPEARANCES: Phillip H. R. Cahill and Michael D. Flynn for the company; William Shaine for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

I. Procedural History

This docket was opened by the commission pursuant to its own motion. The commission's concern related to whether the present fuel adjustment clause should be altered to a quarterly adjustment so as to minimize the dramatic fluctuations in the fuel adjustment charge due to changes in the generation mix. The commission was especially concerned with the consumer confusion and inability to budget under the existing system. From the investigation has sprung numerous other issues which are discussed below. The commission held hearings in this docket relating to GSEC on December 17, 1979, July 22, 1980, and July 31, 1980.

## II. Fuel Adjustment Alteration

The Granite State Electric Company provided testimony and exhibits supporting (1) an estimated quarterly forward-looking fuel adjustment clause; (2) a roll into base rates of energy charges on a basis comparable with the rates currently in effect for Public Service Company of New Hampshire and Concord Electric Company; (3) a recovery of the "two-month lockup," which is the lag in the billing of the FAC due to a two-month delay in that billing; and (4) to recover the differential between fuel costs incurred and paid and fuel charge revenues collected in the more than eight years since it placed a fuel charge in its rates in 1972.

## III. Estimated Quarterly Forward-looking Fuel Adjustment Clause

The commission staff, company, and intervenors seem to be in agreement that a quarterly forward-looking clause is superior to the current one.

Concern was expressed by the LUCC that this revision will improve the company's

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cash flow and working capital position, and thereby give the company, indirectly, a rate increase.

The commission is hesitant to begin examining working capital, which will lead to a full rate case. Rather, we will monitor the company's monthly reports as filed with the commission, and if the rate of return earned climbs to a level that is unjust or unreasonable, the commission will call the company in on our own motion.

The commission has recently reduced rates pursuant to this standard Re Kearsarge Teleph. Co. (1979) 64 NH PUC 131; Re Dunbarton Teleph. Co. (1979) 64 NH PUC 159; Re Continental Teleph. Co. of New Hampshire (1979) 64 NH PUC 190. Therefore, upon review, the commission will allow the alteration of the fuel adjustment to the company's quarterly adjustment. The commission believes the goal of leveling off fluctuations in the fuel adjustment together with providing an opportunity to budget is of significant value to adopt this revised fuel adjustment. In addition, consumers' bills during the quarter will from this day forward increase or decrease solely on the basis of usage within each month of the quarter. Therefore, this new design will be an appropriate conservation signal.

## IV. Roll-in

The collection of fuel charges is monitored by this commission whether the fuel is recovered in the basic rates or the fuel adjustment clause. The commission has historically allowed utilities to roll in so as to set a new base. However, there is no revenue impact associated with this

request. In this case the amount of fuel costs included in the base rates of the company is already greater than that roll-in to the base rates of PSCo of NH and Concord Electric Company by this commission, so rather than send the customers a misleading pricing signal, we will not alter the amount of fuel costs included in base rates.

#### V. Collection of Lockup

The company as part of this filing has requested authority to collect its "two-month lock-in." In the cases of Public Service Company of New Hampshire and Exeter and Hampton Electric Company, the commission handled a similar request in conjunction with a rate case. Proceeding in this way allowed the commission greater flexibility and allowed for the correct treatment of all items in dispute.

All parties in this case are cognizant of the fact that in this case the commission is not faced with a rate case.

The situation with regard to this utility is significantly different from the other companies in one very important way. The commission approved the FAC on December 28, 1971, and the company began billing in January, 1972, based on December, 1971, costs as a proxy. The commission therefore finds that there is no two-month lag. This finding is further buttressed by company witness McDade on p. 31 of the July 22, 1980, transcript in this case. "We have never gone through that process in Granite State and therefore the current rates, when they were approved, did not recognize from the very beginning that two-month lag." Our order will incorporate this finding.

#### VI. Over- Undercollections

The company, at the commission's request, determined and submitted a

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calculation showing the amount of differential between fuel costs incurred and paid and fuel charge revenues collected since it placed a fuel charge into effect in 1972.

This calculation was presumably calculated after witness McDade stated on p. 37 of the July 22, 1980, transcript that, "The company does not account for the unbilled fuel cost."

He also stated, in response to a question from a PUC staff member, Mr. Traum, "I think as a general rule if you had a situation where fuel clause revenue and expense were at variance, you would make an adjustment in the rate case so that you would not either increase or decrease your requested increase because of any deficiency in the fuel clause.

"Question: So I guess your answer is we've got to look back in the rate case to see what we did?

"Answer: Yes. My recall is we did nothing because I think at that period, the test period, the expense and revenue were almost equal."

The test year in DR 79-63, as reflected in Exh GS-6, revealed that there had been an overcollection of approximately \$160,000. Granite State did not seek or receive an adjustment to compensate consumers for overcollection.

Based on the inadequate record in this proceeding, the commission finds that at this time no undercollection has been established. Because of the situation of overcollection revealed in the test year in DR 77-63 the commission finds that the question of overcollection-undercollection should be resolved in a separate proceeding. 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 Electric Company shall revise its fuel adjustment clause from a monthly calculation to a future looking quarterly calculation as described in Exh M-1 revising Original Page 15 and 15-A of NHPUC tariff, No. 8 — Electricity, Granite State Electric Company; and it is

Further ordered, that the request for recovery of the "two-month lockup" is denied; and it is

Further ordered, that the company's request to collect the cumulative "undercollections" from the past FAC is denied; and it is

Further ordered, that the company file on a timely basis its complete internal monthly reports; and it is

Further ordered, that the company will not charge the amount of fuel rolled into basic rates.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of September, 1980.

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NH.PUC\*09/29/80\*[78701]\*65 NH PUC 464\*Exeter and Hampton Electric Company

[Go to End of 78701]

**Re Exeter and Hampton Electric Company**

DR 79-91, Supplemental Order No. 14,509

65 NH PUC 464

New Hampshire Public Utilities Commission

September 29, 1980

PETITION of an electric company to recover lost revenues and expenses through a surcharge; granted as modified.

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1. RATES, § 260 — Temporary and permanent rates — Surcharge for undercollection.

[N.H.] The commission approved a collection procedure whereby the difference between temporary rates and permanent rates was to be collected by surcharge for an equal number of months as the undercollection occurred. p. 464.

2. RATES, § 260 — Rate case expense — Collection by surcharge.

[N.H.] The commission ordered an electric company to collect all rate case expense by surcharge over a three-year period rather than an eight-month period as proposed by the company. p. 464.

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BY THE COMMISSION:

Report

[1] Commission Order No. 14,234 (65 NH PUC 230) directed the Exeter and Hampton Electric Company to file with the commission certain tariff pages which would specify a manner of recovery of the difference between temporary rates allowed by Order No. 13,918 ([1979] 64 NH PUC 399) and permanent rates allowed by Order No. 14,231 (65 NH PUC 209). On August 27, 1980, the company filed with the commission its Supplement No. 1 to tariff, NHPUC No. 14 — Electricity. By this supplement, the company proposed to recover the amount of \$74,704 by surcharge beginning with bills rendered on October 1, 1980, through May 31, 1981. This represented the lost revenue during the period November 29, 1979, end dully 31, 1980, with recovery proposed for an equal number of months as the under-collection occurred. The commission accepts this procedure, but will specify collection between November 1, 1980, and June 30, 1981.

[2] Commission Order No. 14,231 specified that the company consider the expense of its cost-of-service study as rate case expense to be amortized of a three-year period. In its filing of Supplement No. 2 to tariff NHPUC No. 14 — Electricity, the company proposed to recover these costs as well as all rate case expenses over an eight-month period, the same specified in Supplement No. 1. This is in direct conflict with the commission order and will be rejected. Our order will issue accordingly.

Supplemental Order

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

Ordered, that Original Pages 1 and 1a of Exeter and Hampton tariff, NHPUC No. 14 — Electricity, be, and hereby are, rejected; and it is

Further ordered, that Original Page 1 of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, be, and hereby is, rejected; and it is

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Further ordered, that Exeter and Hampton Electric Company file with the commission for effect on November 1, 1980, first revised page(s) to said Supplement No. 1 such that lost revenue from temporary rates will be recovered during the period November 1, 1980, through June 30, 1981; and it is

Further ordered, that Exeter and Hampton also file first revised page(s) Supplement No. 2 such that all rate case expense is collected by surcharge over a three-year period starting on November 1, 1980.

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

September, 1980.

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NH.PUC\*09/30/80\*[78702]\*65 NH PUC 465\*Fuel Adjustment Charge

[Go to End of 78702]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire and Legislative Utility Consumers' Council

DR 80-46, Fifth Supplemental Order No. 14,510

65 NH PUC 465

New Hampshire Public Utilities Commission

September 30, 1980

CONSIDERATION of electric company's proposed fuel adjustment charge; order in accordance with opinion.

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

[N.H.] An electric company's proposed fuel adjustment charge was approved in part and rejected in part, with revisions prescribed.

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APPEARANCES: Eaton W. Tarbell and Philip Ayers for Public Service Company of New Hampshire; Gerald L. Lynch and William Shaine for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-a (II), the commission on September 23, 1980, held a hearing on the petition of Public Service Company of New Hampshire (hereinafter referred to as the "company") for authority to apply a fuel adjustment charge to regular October, 1980, monthly billings to their customers at a constant rate for regular October, November, and December, 1980 billings pursuant to its tariff, NHPUC No. 22 — Electricity, which is a three-month forward-looking fuel adjustment charge including a fold-in of fossil energy costs based on costs during the year ending May 31, 1979.

Reference may be made to commission Order No 14,156 (65 NH PUC 146) for statements and explanation of the fuel adjustments clause presently in effect.

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The company is a public utility engaged in the business of supplying electric service in the state of New Hampshire. On August 21, 1980, the company filed with the commission, Exhs 1 through 3 showing the calculation of the reconciling adjustment for the quarterly period ending June 30, 1980, and the projections for the quarter ending December 31, 1980. The requested rate for October, November, and December, 1980, is \$1.30 per 100 kwh. Actual financial and electrical data for the month ended August 31, 1980, schedules showing maintenance day out-ages at the company's generating units, and major entitlement units for August, 1980, the reasons for unscheduled out-ages, and fuel data sheets for the period ending August 31, 1980, were prefiled on September 19, 1980.

In any attempt to determine the validity of PSNH's request for an increase in the fuel adjustment clause rate requires recognition of two factors. The first, is that there are numerous factors that are estimated for three months. The second factor is that the existing fuel adjustment provides for recognition of over — or undercollections in the second succeeding quarter.

The experience of all parties is limited due to the relatively recent adoption of the clause. In the first quarter of operation, the results were well within the acceptable range of prediction error. The second quarter, while not yet complete, does appear to have a degree of undercollection beyond a normal range of prediction. Yet, to contend as PSNH insists, that the estimating procedure has an undercollection bias cannot be maintained. One data point does not establish a trend. Furthermore, the old fuel adjustment clause design had dramatic shifts from month to month.<sup>1(58)</sup> Therefore while the commission may witness a significant undercollection adjustment in the first quarter of 1981, this assumption does not allow for any attempt at early compensation in this quarter.

A review of the underlying assumptions behind PSNH's proposed \$1.30 reveals assumptions that are either unsupported or against the weight of the evidence contained within the records of the commission. Further, there are additional factors that were not addressed by PSNH which are likely offsets to the estimated increases proposed by PSNH.

One of PSNH's initial assumptions involves sales growth throughout the quarter. Public Service Company of New Hampshire contends that the amount of kwh prime sales will increase approximately 7 per cent from the same quarter in 1979. In addition, their estimate reveals a 16 per cent increase in sales in the fourth quarter over the third quarter.

Public Service Company of New Hampshire's prime sales growth estimates do not have the necessary evidentiary support. A review of the commission's records reveals that fourth quarter 1979 prime sales increased over fourth quarter 1978 prime sales by only 1.02 per cent. The prime sales for twelve months ending July 31, 1980, increased by only four-tenths of one per cent. The 1980 prime sales through July 31, 1980, revealed a decrease of 1.1 per cent. Against such a history, the PSNH estimate as to sales growth cannot be maintained. In lieu of PSNH's estimate,

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the commission will substitute a 1.02 per cent sales growth for the quarter over 1979.

This adjustment necessitates three other adjustments. The first is a reduction of the lost and



unaccounted for mwh. The second change is to reduce the denominator in the fuel cost per mwh fraction by 61,869. The third adjustment is to reduce the amount of kwh and cost from each fossil generating unit except for Merrimack on an even basis.

The use of generating stations by PSNH in its estimates relies to a large extent on historical data. In evaluating the use of this data, the commission is aware that estimates can be based on historical averages of different time periods. Due to changing economics, weather patterns, environmental requirements, and regulatory action by other regulatory bodies, the commission believes that recent historical averages offer a greater likelihood of accuracy than data measurements over extended periods of time.

Public Service Company of New Hampshire did not submit the historical data it used to make its forecasts. Therefore, it is impossible for the commission to know whether the same time period was used for each station, or the time period relied upon. The commission is especially concerned with the prediction as to hydroelectric generation. Since these facilities have no fuel cost component, over- or underestimation of usage can have considerable impact on the rate for any given quarter.

A review of our records reveals that for the past five years the average generation for the fourth quarter was 84,188. This is compared to the estimate provided by PSNH of 78,061. Public Service Company of New Hampshire's estimate is below the actual amount generated in four of the last five years. The commission finds that there has not been adequate substantiation of PSNH's estimate and will instead use the five-year average. The effect of using a five-year historical average is the replacement of approximately 4,900 mwh of expensive oil generation and purchases with zero cost hydropower.

As was noted, PSNH has made certain assumptions as to the availability of certain units during the fourth quarter of 1980. One assumption is a one-week scheduled outage for Merrimack I and II. Under cross-examination, the out-ages were stated to be a part of an annual plan for a one-week scheduled out-age prior to winter. Reference was made to prior scheduled outages in past years. In response to this assertion, staff offered Exhs 17 and 18 which were PSNH exhibits from prior hearings in this docket. These exhibits reveal that there were not any scheduled outages in October and November of 1979. Similar exhibits in the 1978 hearings also reveal a lack of any scheduled outage for Merrimack I and II. Consequently, the commission does not find the necessary trend to establish this scheduled outage. Since this was the only substantiation offered, the commission will not accept this adjustment. By substituting full generation for October for both units, New Hampshire retail customers should receive the benefits of approximately 40,040 additional mwh of coal-fired generation to replace more expensive oil-fired generation. The commission will thus make this downward adjustment to the fuel adjustment submission.

The next area that must be addressed is the commission's recent order in DE 79-223 which requires the cessation of the exportation of hydroelectric power outside the state of New Hampshire by

to enforce this order. However, the commission noted that the commission would not accept specific assumptions by the various parties until the completion of negotiations by October 19, 1980.

However, this ruling does not foreclose some recognition of our hydroelectric exportation ban. The underlying assumptions behind the three-month estimating procedure supports recognition of this order. Although one ban is effective on October 19th, eighteen days after the beginning of the three-month period, there remains seventy-two days of the fourth quarter which will be affected. A three-month estimating procedure by its very nature equalizes increases and decreases in costs prior to their actual occurrence. For example, an estimated increase in the price of coal in December is averaged throughout the period and thereby providing some recognition in October of an event projected to occur in December. This procedure has a benefit to the company in terms of cash flow. The principal of equal treatment for both consumers and utilities requires recognition of factors that will reduce costs as well as those that result in an opposite adjustment.

The commission has noted its intention to fully enforce its order in the Connecticut river hydroelectric exportation case, DE 79-223, while specific assumptions by any party will require additional review in the October hearings. It is clear that the aforementioned order, if enforced, can be a substantial offset to the fuel adjustment increases and, furthermore, that such an event will occur within the quarter.

Since the commission order is a known change, the commission finds that there must be recognition in some fashion during the entire quarter. However, the recognition must be made solely on the minimum amount of power Public Service would be entitled to regardless of various assumptions or scenarios. The commission noted in its Report and Order No. 14,492 (65 NH PUC 442) that over the past six years, the average generation from the New Hampshire based units was nearly a billion kilowatt-hours per year. In 1979, the kilowatt-hour level of generation reached its lowest level of the immediate past, 764,000 mwh. Using this figure as the most conservative possible for total generation, the next step is a determination of the net generation applicable to the quarter and to Public Service retail customers specifically.

Since the commission order alters the heretofore status quo on October 20, 1980, seventy-two days of this fourth quarter will be affected. Assuming uniform generation of kilowatt-hours during the year, approximately 151,000 megawatt-hours will be generated in the period. The commission also assumed that all utilities in New Hampshire would reserve the same benefit per kwh sold from the Connecticut river stations. Such a situation would result in Public Service's New Hampshire retail customers receiving the benefits of 113,000 mwh of zero cost power due to the commission's order which will replace a uniform-like amount of generation from the fossil fuel plants except Merrimack. The commission will make this adjustment.

Public Service, in developing its fuel oil estimates has projected a steady increase in the cost of oil for October through December. The prices used by Public Service range from \$22.40 in October

through \$24.60 in December.

Additional testimony was provided by two Public Service witnesses. One witness testified that to replace Public Service oil inventory as of the hearing last week would cost \$21.99 per barrel. The other witness testified that a third-party discussion with someone from the Oil Pricing Guide had resulted in the latter stating that oil prices should remain stable through the duration of the quarter.

Public Service has always accounted for its oil on a FIFO basis. Clearly a late September price of oil at \$21.99 would result in purchases that would be used no earlier than late November. Testimony in DR 79-187 and comments in the audit report performed for the commission by Cresap McCormick substantiates this finding. Both sources indicate a PSNH oil capacity of 120 days with at least a minimum 60-day supply at all times. If Public Service can replace its inventory in late September at \$21.99, FIFO accounting together with their normal usage through this time period cannot sustain the projection of \$22.40 to \$24.60. While these price levels will be reached in the future, their recognition can only be allowed when this higher priced oil is actually burned for the benefit of consumers. Therefore, the commission will adopt the \$21.99 per barrel price as the average for the quarter. The result of this change is approximately a \$1,555,000 reduction in costs of which \$1,243,940 flows to Public Service's retail customers and a corresponding reduction in the fuel adjustment charge request.

Public Service has provided estimates for its coal prices. Exhibit 23 reveals that each estimate has been rounded upward to a higher figure per ton. The commission does not find convincing substantiation for the rounding and will therefore use only the unadjusted estimate. This change results in an approximate \$12,608 reduction in costs and a corresponding reduction in the fuel adjustment charge requested.

Certain other issues were raised during the pendency of this proceeding. The list includes the potential for refunds due to the annual coal pile survey as well as adjustments based on the annual NEPOOL billings. Both have represented considerable adjustments in the past but are unquantified to date. Furthermore, more optimistic assumptions as to usage by Public Service of the hydroelectric electricity from the Connecticut river also can result in significant reductions in the fuel adjustment charge.

Acting in the opposite direction is Public Service's disturbing testimony on the potential undercollection during July and August and its concern that revisions to its estimating procedure are necessary.

Review of the aforementioned factors results in this commission's approving a rate for only the next month. The commission will expect Public Service to address with firm numbers the issues of the coal pile survey, the NEPOOL annual adjustment, and the power from the Connecticut hydroelectric station at the October hearing.

Based upon the foregoing adjustments, the commission finds that a rate of 60 cents per 100 kwh will be just and reasonable for the next month. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that Public Service Company

of New Hampshire Second Revised Page 23 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly reconciling adjustment of \$634,464 for the quarterly period ending December 31, 1980, be, and hereby is, permitted to become effective October 1, 1980; and it is

Further ordered, that Second Revised Page 24 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly estimated FAC rate of \$1.30 per 100 kwh for the quarter ending December 31, 1980 be, and hereby is, rejected and it is

Further ordered, that Public Service Company of New Hampshire file Revised Page 24 to its tariff, NHPUC No. 14 — Electricity, providing for a quarterly estimated FAC rate of 60 cents per 100 kwh for the quarter ending December 31, 1980; and it is

Further ordered, that 67th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge including prior period adjustment of \$1.70 per 100 kwh for the month of October, 1980, be, and hereby is, permitted to become effective October 1, 1980; and it is

Further ordered, that Fourth Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$1.72 per 100 kwh for the month of October, 1980, be, and hereby is, permitted to become effective October 1, 1980; and it is

Further ordered, that 42nd Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 34 cents per 100 kwh for the month of October, 1980, be, and hereby is, permitted to become effective October 1, 1980; and it is

Further ordered, that Ninth Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$2.28 per 100 kilowatt-hours for the month of October, 1980, be, and hereby is, permitted to become effective October 1, 1980; and it is

Further ordered, that Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$3.28 per 100 kilowatt-hours less the amount rolled into base rates for the month of October, 1980, be, and hereby is, permitted to become effective October 1, 1980; and it is

Further ordered, that 25th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$2.46 per 100 kilowatt-hours for the month of October, 1980, be, and hereby is, permitted to become effective October 1, 1980; and it is

Further ordered, that 81st Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$2.18 per 100 kilowatt-hours for the month of October, 1980, be, and hereby is, permitted to become effective October 1, 1980; and it is

Further ordered, that 47th Revised Page 10-B of Woodsville Water and Light Department

tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 34 cents per 100 kilowatt-hours for the month of October, 1980, be, and hereby is, permitted to become effective October 1, 1980.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of September, 1980.

FOOTNOTE

<sup>1</sup>Exhibit 16 — DR79-187.

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NH.PUC\*09/30/80\*[78703]\*65 NH PUC 471\*Information to Consumers

[Go to End of 78703]

**Re Information to Consumers**

DE 80-174, Supplemental Order No. 14,511

65 NH PUC 471

New Hampshire Public Utilities Commission

September 30, 1980

ORDER amending the notice requirement for a commission service telephone number.

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SERVICE, § 172 — Commission service number — Notice requirements.

[N.H.] The commission amended a prior order and allowed utilities to inform their customers in a form convenient to their normal billing process of a toll-free number to be used for reporting directly to the commission complaints, problems, or comments regarding utility service; the utilities were no longer required to utilize the commission's exact language to inform their customers of the telephone number due to the administrative problems faced by some utilities in complying with such a requirement.

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BY THE COMMISSION:

Supplemental Order

Whereas, the public utilities commission issued Order No. 14,441 on August 20, 1980 (65 NH PUC 389), and

Whereas, said order provided that all utilities include on their bills or on a bill insert the following language:

By New Hampshire Public Utilities Commission Order No. 14,441, you are advised that you

may bring any complaint, problem, concern, or comment to the attention of the public utilities commission by calling the following toll-free number: 1-800-852-3793; and

Whereas, it has come to the attention of the commission that the exact printing of the above quoted language is creating some administrative problems and difficult for some of the utilities to comply with, and

Whereas, the commission's only concern is that the utilities' customers are informed that a toll-free number (1-800-852-3793) is available for customers to report complaints, problems, or comments on a utilities service, therefore, it is hereby

Ordered, that Order No. 14,441 is amended and supplemented to permit all the public utility companies to inform their customers of the above telephone number and language in a form convenient to the normal billing procedure.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of September, 1980.

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NH.PUC\*09/30/80\*[78704]\*65 NH PUC 472\*Gas Service, Inc.

[Go to End of 78704]

### **Re Gas Service, Inc.**

DR 80-36, Third Supplemental Order No. 14,512

65 NH PUC 472

New Hampshire Public Utilities Commission

September 30, 1980

ORDER denying a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Gas Service, Inc., filed a motion for rehearing on September 18, 1980, requesting the commission to reconsider its determinations set forth in Supplemental Order No. 14,464 (65 NH PUC 408) and Second Supplemental Order No. 14,475 (65 NH PUC 426).

The commission has reviewed the matter including the pleading filed and find that there is no good cause to alter Supplemental Order No. 14,464 and Second Supplemental Order No. 14,475, therefore; it is hereby

Ordered, that the motion for rehearing filed by Gas Service, Inc., is denied.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of September, 1980.

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[Go to End of 78705]

## Re Utility Bill Calculation

DE 80-183, Supplemental Order No. 14,514

65 NH PUC 472

New Hampshire Public Utilities Commission

September 30, 1980

ORDER amending a prior order regarding the inclusion of presently effective tariff rates with utility bills.

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PAYMENT, § 21 — Billing requirements — Effective tariff rates.

[N.H.] The commission amended a prior order and authorized a telephone company to provide detailed invoicing of equipment and service at presently effective tariff rates semiannually and not with each bill as was required by the prior order.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission on August 20, 1980, issued Order No. 14,443 (65 NH PUC 389) requiring that every utility as of October 1, 1980, provide all of its residential customers with the presently effective tariff rates for those customers and to provide as of November 1st, all commercial, industrial, municipal, and other customers with the presently effective tariff rates applying to those customers; and

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Whereas, after investigation into the ability of the Union Telephone Company to comply with said Order No. 14,443, it was determined that certain modifications of Order No. 14,443 must be made; it is

Ordered, that the Union Telephone Company be, and hereby is, authorized to provide detailed invoicing of equipment and service at presently effective tariff rates semiannually and not with each bill as previously required by Order No. 14,443; and it is

Further ordered, that the Union Telephone Company be, and hereby is, authorized to be exempt from the provisions of Order No. 14,443 as follows:

A. Union Telephone Company is not required to provide a detailed invoicing of equipment

and service at presently effective tariff rates to customer with Key-PBX systems, and

B. Union Telephone Company is not required to provide a detailed invoicing of equipment and service at presently effective tariff rates to certain customers with special billings.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of September, 1980.

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NH.PUC\*10/02/80\*[78706]\*65 NH PUC 473\*Public Service Company of New Hampshire

[Go to End of 78706]

## Re Public Service Company of New Hampshire

DE 80-55, Supplemental Order No. 14,515

65 NH PUC 473

New Hampshire Public Utilities Commission

October 2, 1980

PETITION of an electric utility to condemn lands; granted.

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ELECTRICITY, § 7 — Condemnation of land for transmission line construction — Commission authorization.

[N.H.] The commission approved the petition of an electric utility to acquire perpetual rights and easements to privately owned land to be used in conjunction with transmission lines emanating from a nuclear power station, provided that the company pay to the landowners \$35,000 in damages.

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BY THE COMMISSION:

Supplemental Report

The Public Service Company of New Hampshire, a public utility engaged in the supply of electricity in the state of New Hampshire, pursuant to provisions of RSA 371, petitioned the Public Utilities Commission of New Hampshire for permission to acquire perpetual rights and easements to certain lands in the town of Hampton, New Hampshire, owned by Howard C. Page, Jr., and Lois A. Page, said lands to be used in conjunction with transmission lines emanating from the Seabrook nuclear power station; and further to determine damages to be paid for same. The petition was filed on March 6, 1980, with a

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duly noticed public hearing scheduled on May 13, 1980, at 1:00 P.M., subsequently



adjourned until May 21, 1980, at 10:00 A.M..

After public hearing this commission issued Order No. 14,322 (65 NH PUC 329), awarding damages in the sum of \$31,000 to the landowner on July 21, 1980. A motion for rehearing was requested along with a view of the property to be taken by the commission and its staff.

A view of the property was taken by the commission and members of its staff in the presence of the attorneys for the interested parties. Said view demonstrated that the size of the towers to be installed behind the landowners' home had been increased from 75 feet to 100 feet; and that said tower be located directly behind the plaintiffs' residence. The company agreed to relocate the structure as best it could from its present proposed location.

Upon consideration of all the facts the commission finds that the amount of damages awarded in Order No. 14,322 should be vacated and that the proper damages awarded are \$35,000. Our order will issue accordingly.

#### Supplemental Order

Based upon the foregoing supplemental report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to take, pursuant to RSA 371, property described in its petition which is in the commission files on this matter; and it is

Further ordered, that Public Service Company of New Hampshire pay damages for said taking in the amount of \$35,000 to Howard C. Page, Jr., and Lois A. Page; and it is

Further ordered, that the taking granted herein is perpetual right and easement as presented in the company's petition.

By order of the Public Utilities Commission of New Hampshire this second day of October, 1980.

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NH.PUC\*10/06/80\*[78707]\*65 NH PUC 474\*New England Poker Company

[Go to End of 78707]

### **Re New England Poker Company**

DE 79-223, Third Supplemental Order No. 14,517

65 NH PUC 474

New Hampshire Public Utilities Commission

October 6, 1980

ORDER denying motions for rehearing and suspension.

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BY THE COMMISSION:

Supplemental Order

A motion for rehearing, clarification, and suspension of Order No. 14,492 (65 NH PUC 442) was filed by New England Power Company on September 26, 1980. A further motion for rehearing and suspension of Order No. 14,492 was

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filed on October 1, 1980, by the commonwealth of Massachusetts through the attorney general of the commonwealth. The commission, having reviewed the aforementioned motions and the memorandum supporting same, finds that all of the arguments submitted by the aforementioned parties were fully considered and determined by the commission and that there is no reason to alter, amend, or vacate Order No. 14,492. Therefore, the motions filed by New England Power Company and the commonwealth of Massachusetts are hereby denied.

By order of the Public Utilities Commission of New Hampshire this sixth day of October, 1980.

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NH.PUC\*10/07/80\*[78708]\*65 NH PUC 475\*Locke Lake Water Company, Inc.

[Go to End of 78708]

### **Re Locke Lake Water Company, Inc.**

DR 80-198, Order No. 14,518

65 NH PUC 475

New Hampshire Public Utilities Commission

October 7, 1980

PETITION of a water company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Locke Lake Water Company, Inc., a public utility engaged in the business of supplying water service in the state of New Hampshire, on October 6, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 2 — Water, providing for increased rates, effective November 3, 1980; 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 10, 11, 16, 17, and 18 of tariff, NHPUC No. 2 — Water, of Locke Lake Water Company, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of October,

1980.

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NH.PUC\*10/07/80\*[78709]\*65 NH PUC 476\*Public Service Company of New Hampshire

[Go to End of 78709]

## Re Public Service Company of New Hampshire

DE 80-215, Order No. 14,519

65 NH PUC 476

New Hampshire Public Utilities Commission

October 7, 1980

ORDER requiring a utility to cease payments to a nuclear power project.

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ELECTRICITY, § 3 — Termination of interest — Nuclear power project.

[N.H.] The commission ordered an electric company to cease any and all payments into a nuclear power project owned by another utility because a continued interest in the nuclear project might have frustrated the commission's order to convert the company's power station from oil to coal generation.

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BY THE COMMISSION:

Order

Whereas, the commission's Report and Order No. 14,271 (65 NH PUC 251) in docket DR 79-187 of June 9, 1980, indicated that "the commission believes it necessary to prescribe additional steps to elevate the company out of its financial dilemma and on the road to greater financial flexibility"; and

Whereas, the commission indicated therein that "if the Massachusetts DPU and the NRC have not approved divestiture by September 30, 1980, this commission will begin to order PSNH out of the Pilgrim II project"; and

Whereas, the commission further indicated therein that absent changed circumstances the interest in Pilgrim II could frustrate the commission's order to convert the company's Schiller station from oil to coal; and

Whereas, the commission further indicated that absent action from the Massachusetts DPU, the commission will begin hearings in October of 1980; and

Whereas, final approval of the divestiture of Seabrook has been received by the Massachusetts DPU and the NRC; and

Whereas, the Massachusetts DPU has not acted with regard to the construction of Pilgrim II; and

Whereas, Boston Edison has not received a permit from the NRC to construct Pilgrim II; and

Whereas, the divestiture has not begun by September 30, 1980; it is

Ordered, that Public Service Company of New Hampshire cease any and all payments into the Pilgrim II project, effective immediately, or show cause why it should not do so at a hearing to be held on November 7, 1980, at 10:00 A.M. at the offices of the commission, 8 Old Suncook Road, Concord, New Hampshire. All prefiled testimony and exhibits shall be presented to the commission by October 31, 1980; and it is

Further ordered, that Public Service Company of New Hampshire notify all persons desiring to be heard to appear at said hearing, when and where they may be heard upon the issues set forth above, by causing an attested copy of this order of notice to be published once in a newspaper having general circulation in that

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portion of the state in which operations are conducted, such publication to be not later than October 24, 1980, such publication to be designated in an affidavit to be made on a copy of this order or notice and filed with this office.

By order of the Public Utilities Commission of New Hampshire this seventh day of October, 1980.

NH.PUC\*10/07/80\*[78710]\*65 NH PUC 477\*Granite State Electric Company

[Go to End of 78710]

## **Re Granite State Electric Company**

DR 79-214

65 NH PUC 477

New Hampshire Public Utilities Commission

October 7, 1980

ORDER revising an electric company's fuel adjustment clause.

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BY THE COMMISSION:

Supplemental Report

Whereas, the commission issued a report in the above docket on September 29, 1980 (65 NH PUC 461); and

Whereas, Section IV, Roll-in (65 NH PUC at p. 462) inadvertently included a sentence that should be eliminated therefrom so that Section IV should read as follows:

## IV. Roll-in

The collection of fuel charges is monitored by this commission whether the fuel is recovered in the basic rates or the fuel adjustment clause. The commission has historically allowed utilities to roll-in so as to set a new base. However, there is no revenue impact associated with this request. Rather than send the customers a misleading pricing signal, we will not alter the amount of fuel costs included in base rates.

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NH.PUC\*10/08/80\*[78711]\*65 NH PUC 477\*Utility Bill Calculation

[Go to End of 78711]

## Re Utility Bill Calculation

DE 80-183, Second Supplemental Order No. 14,521

65 NH PUC 477

New Hampshire Public Utilities Commission

October 8, 1980

ORDER amending a prior order regarding the inclusion of presently effective tariff rates with utility bills.

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PAYMENT, § 21 — Billing requirements — Effective tariff rates.

[N.H.] The commission amended a prior order and allowed a telephone company to provide to its residence customers detailed invoicing of equipment and service as to presently effective tariff rates on a semiannual basis rather than on each bill as was required by the prior order.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission on August 20, 1980, issued Order No. 14,443 (65 NH PUC 389) requiring that every utility as of October 1, 1980, provide all of its residential customers with the presently effective tariff rates for those customers and to provide as of November 1st all commercial, industrial, municipal, and other customers with the presently effective tariff rates applying to those customers; and

Whereas, after investigation into the ability of the New England Telephone and Telegraph Company to comply with said Order No. 14,443 it was determined that certain modifications of Order No. 14,443 must be made; it is

Ordered, that the New England Telephone and Telegraph Company be, and hereby is, authorized to provide to its residence customers detailed invoicing of equipment and service at presently effective tariff rates semiannually and not each bill previously required by Order No. 14,443; and it is

Further ordered, that the New England Telephone and Telegraph Company be, and hereby is, authorized to be exempt from the provisions of Order No. 14,443 as follows:

New England Telephone and Telegraph Company is not required until the first quarter of 1981 to provide a detailed invoicing of equipment and service at presently effective tariff rates semiannually to business customers except those with private branch exchanges (PBX) switchboard or certain miscellaneous services.

By order of the Public Utilities Commission of New Hampshire this eighth day of October, 1980.

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NH.PUC\*10/09/80\*[78713]\*65 NH PUC 485\*New England Power Company

[Go to End of 78713]

## Re New England Power Company

DE 79-223, Fourth Supplemental Order No. 14,525

65 NH PUC 485

New Hampshire Public Utilities Commission

October 9, 1980

ORDER denying a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

A motion for rehearing and/or other relief of Order No. 14,492 (65 NH PUC 442) was filed by the state of Rhode Island by its attorney general and counsel for the Rhode Island Division of Public Utilities on October 8, 1980. The

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commission, having reviewed the aforementioned motion and the memorandum supporting same, finds that all of the arguments submitted by the aforementioned parties were fully considered and determined by the commission and that there is no reason to alter, amend, or vacate Order No. 14,492. Therefore, the motion filed by the state of Rhode Island by its attorney general and counsel for the Rhode Island Division of Public Utilities is hereby denied.

By order of the Public Utilities Commission of New Hampshire this ninth day of October, 1980.

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NH.PUC\*10/14/80\*[78714]\*65 NH PUC 486\*Golden Brook Water System, Inc.

[Go to End of 78714]

## Re Golden Brook Water System, Inc.

Additional petitioner: Hudson Water Company Intervenor: Legislative Utility Consumers' Council

DE 80-144, Order No. 14,528

65 NH PUC 486

New Hampshire Public Utilities Commission

October 14, 1980

PETITIONS of electric companies to transfer assets, discontinue operations, and operate as a public utility.

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CONSOLIDATION, MERGER, AND SALE, § 42 — Terms of sale — Operating losses.

[N.H.] The commission denied the request of a water company that was in the process of acquiring another water company to offset the operating losses associated with the acquired company against customer contributions, the commission stating that such a practice was not in the best interests of the customers of the acquired company.

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APPEARANCES: Robert E. Jauron for both companies; Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By petition filed June 27, 1980, Golden Brook Water System, Inc., duly authorized to operate as a public utility in New Hampshire, seeks authority to sell and transfer certain of its assets and franchise to the Hudson Water Company, and to discontinue operations as a public utility in the limited area served in the town of Windham. Hudson Water Company, duly authorized to operate as a public utility in New Hampshire, seeks authority to operate as a water public utility in the territory presently served by Golden Brook, as granted in Order No. 12,786 in DE 77-38 ([1977] 62 NH PUC 164) and Order No. 13,497 in DE 78-209 ([1979] 64 NH PUC 28), all as provided under RSA 374:30, 374:28, and 374:22, respectively.

In addition, Hudson Water Company seeks authorization to be allowed to write off any losses incurred from

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operating the Golden Brook system over the next three years, against contributions in aid of construction.

A duly noticed public hearing on said petition was held on September 11, 1980.

At the hearing, the company submitted testimony and exhibits stating the detail of the sale. As submitted, the purchase price will be approximately \$27,000 which is the depreciated value of the fixed assets less the contributions in aid of construction.

In addition to the purchase price, the buyer will pay to the seller the full amount of the currently billed accounts receivable of the seller, and 90 per cent for the accounts receivable in arrears.

The witness for Hudson Water Company, Phelps, stated that the proper resolutions have been approved by the stockholders and boards of directors of both companies.

We are concerned with Hudson Water Company's request for authority to submit to the commission each year for three years, a statement of the revenues and expenses of the Golden Brook system, with the expectation that the commission will authorize Hudson Water Company to offset its expected losses, by debiting contributions in aid of construction attributable to the Golden Brook system and crediting paid-in capital by a like amount.

Witness Phelps stated that a similar accounting treatment has been authorized by the commission in DE 79-134, Hudson Water Company-Williamsburg Water Company. During cross-examination by Traum of the PUC finance department, a number of differences were cited in the two cases. In DE 79-134 Hudson was temporarily operating the system at the order of the commission and had filed at the request of the commission, for permanent operating authority. Neither situation is true in this case. In the Williamsburg case, an emergency situation existed which had forced the commission to act. Again, such is not the case here.

This request would allow Hudson to operate Golden Brook for three years with a greatly reduced risk, by covering any loss with customer's contributed capital. The commission believes that this is not in the best interest of the customers of Golden Brook.

In conclusion, it has not been normal commission practice to allow the offset of operating losses against customer contributions, and as we have stated, this case differs in several requests with the issues brought in the Williamsburg case. The commission will not allow it in this case.

It is our opinion that with proper depreciation allocations, and metered consumption, the Golden Brook system should not operate at a loss; however, should the rate structure, as existing, prove inadequate resulting in Hudson earning less than a reasonable rate of return, it may seek rate relief under the rules and procedures of this commission.

Further, it is evident from the record in this case and that on file at the commission, that the source or well water supply at Golden Brook is more than adequate to supply the sixty-five customers now taking service. Hudson has stated that it expects future growth in this area and will utilize the well supply at Golden Brook to serve such growth.

As previously stated, more realistic service lives should be adopted for meters and pumps at Golden Brook. It is our opinion that depreciation rates for these accounts should be based on



service lives of forty years, which are consistent

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with those allowed Hudson for its plant in the town of Hudson. We will expect Hudson to file a depreciation schedule for all plant accounts in this system, prior to filing the 1980 annual report.

Upon investigation and consideration of the evidence submitted, and on file at this commission, we are of the opinion that the authority sought by the petitioners is just and reasonable, and in the public interest. Our order will issue accordingly.

Order

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

Ordered, that Golden Brook Water System, Inc., be, and hereby is, authorized to sell and transfer to Hudson Water Company, certain of its assets and its franchises for a sum equal to the depreciated value of these assets less the contributions made in aid of construction; and it is

Further ordered, that upon completion of said sale and transfer, Golden Brook Water System, Inc., be, and hereby is, authorized to discontinue operations as a water public utility in the franchise areas granted in the town of Windham in DE 77-38/12,786 and DE 78-209/13,497; and it is

Further ordered, that Hudson Water Company, be, and hereby is, authorized to purchase and acquire certain assets and franchises of Golden Brook Water System, Inc., at a cost and in the areas as above ordered; and it is

Further ordered, that upon completion of the purchase and transfer, Hudson Water Company shall file an adoption supplement, adopting as of the sale and transfer, the presently effective tariff of Golden Brook as its own; and it is

Further ordered, that upon completion of the purchase and transfer, Hudson Water Company shall file with this commission, a detailed balance sheet reflecting the purchase and sale transaction.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of October, 1980.

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NH.PUC\*10/14/80\*[78715]\*65 NH PUC 488\*Walnut Ridge Water Company

[Go to End of 78715]

## Re Walnut Ridge Water Company

DF 80-149, Order No. 14,530

65 NH PUC 488

New Hampshire Public Utilities Commission

October 14, 1980

PETITION of a water company to issue and sell notes; granted.

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1. SECURITY ISSUES, § 39 — Necessity of commission authorization — Due date as a factor.

[N.H.] Public utilities are required to seek approval of the commission to issue notes and other evidences of indebtedness payable more than twelve months after the date thereof for lawful corporate purposes. p. 489.

2. SECURITY ISSUES, § 58 — Purposes of capitalization — Additions and betterments.

[N.H.] The commission authorized a water company to issue and sell for cash intermediate term notes, payable over a three-year period in an aggregate principal amount not exceeding \$30,000, the proceeds to be used to pay advances made to the company for the installation of water meters. p. 490.

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 APPEARANCES: Alexander J. Kalinski for the petitioner.

BY THE COMMISSION:

Report

This proceeding was initiated by this commission in order to investigate the short-term financing of Walnut Ridge Water Company (the "company") to install meters and to determine certain tariff provisions covering a metered rate schedule. Prior to the hearing the company requested that the hearing be limited to the issue of the short-term borrowing and that the change in tariff provisions be deferred to a future filing for a rate increase.

The company presented a balance sheet and financial statements showing the actual figures for calendar year 1979 and pro forma statements for the calendar year 1980 to 1981. Statements were also filed for the period ending June 30, 1980. Detailed statements were also filed showing the cost of installing water meters. Our Order No. 13,742 ([1979] 64 NH PUC 237) previously directed the company to install meters throughout its water system.

The financing authorization that the company seeks is being requested to be issued to specifically cover the cost of installing meters to comply with our previous order. At the hearing, witness Noury explained that it was the company's intention to negotiate a note payable in the amount of \$30,000 to be paid in equal installments over a period of thirty-six months. The proceeds from the note would be used to repay Lewis Builders for advances made to the company for the installation of water meters.

[1] Pursuant to RSA 369, public utilities are required to seek approval of this commission to issue notes and other evidences of indebtedness payable more than twelve months after the date thereof for lawful corporate purposes. Chapter 369:7 provides the statutory requirements for the

issuance of short-term notes payable in less than twelve months. It is the finding of this commission that the issue of the aforementioned notes will not be considered as short-term notes. The subject notes are for a three-year period and will be considered as intermediate term debt until such time as the balance will be repaid within a 12-month period.

Two other issues were raised by the staff. The first issue regards the subject of tariffs related to the newly installed meter. This issue will be deferred until the company files an appropriate tariff. The other issue is the matter of depreciation rates for those meters. The financial results presented by the company include depreciation rates for meters that are inconsistent with those approved for other water companies and the industry. Proper rates will result in improved net operating results in the company's financial statements.

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[2] Based upon all the evidence, the commission finds that the issue of the intermediate term notes of the company should be authorized. The proceeds from the notes will be used to repay the advances of Lewis Builders to the company. The issuance of the 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 Walnut Ridge Water Company is authorized to issue and sell for cash intermediate term notes payable over a period of three years in an aggregate principal amount not exceeding \$30,000; and it is

Further ordered, that the proceeds of the notes shall be used to pay advances by Lewis Builders, Inc.; and it is

Further ordered, that interest on the notes will be at the prime short-term commercial borrowing plus 1.5 per cent, with principal payments to be made over a three-year period; and it is

Further ordered, that on or before July 1st and January 1st of each year, Walnut Ridge Water 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 be fully accounted for.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of October, 1980.

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NH.PUC\*10/15/80\*[78716]\*65 NH PUC 490\*Hudson Water Company

[Go to End of 78716]

## Re Hudson Water Company

DR 80-218, Order No. 14,531

65 NH PUC 490

New Hampshire Public Utilities Commission

October 15, 1980

PETITION of a water company to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Hudson Water Company, a public utility engaged in the business of supplying water service in the state of New Hampshire, on October 9, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 7 — Water, providing for increased annual revenues of \$201,282 (25.2 per cent), effective November 9, 1980; 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 8, 12, and 21A; Second Revised Page 18A; 11th Revised Pages 17, 19, and 21; and 14th Revised Page 16 of tariff, NHPUC

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No. 7 — Water, of Hudson Water Company, be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of October, 1980.

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NH.PUC\*10/16/80\*[78717]\*65 NH PUC 491\*Woodmaster, Inc. v Manchester Gas Company

[Go to End of 78717]

**Woodmaster, Inc. v Manchester Gas Company**

IC 14,962, Order No. 14,532

65 NH PUC 491

New Hampshire Public Utilities Commission

October 16, 1980

ORDER requiring payment for gas consumed.

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PAYMENT, § 9 — Liability for payment — Gas customer.

[N.H.] A gas company customer was held to be liable for gas used even though the customer had never applied to the company for service, pursuant to the company's tariff which stated that the use of service without notifying the company and enabling it to read its meter would render the user liable for any amount due for service supplied to the premises from the time of the last reading.

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APPEARANCES: John A. Lassey for Woodmaster, Inc.; Charles P. Bauer for Manchester Gas Company.

BY THE COMMISSION:

Order

On August 7, 1980, this commission received a telephone call from the Manchester Gas Company advising it that difficulties existed with gas service to Woodmaster, Inc., at 1370 Hooksett Road, Hooksett, New Hampshire. This was followed by a letter of August 13, 1980, in which a chronology of events was presented. Subsequently, on September 18, 1980, Manchester Gas Company filed with the commission a request for hearing in which difficulties were reiterated and a hearing was requested such that parties could be heard regarding this alleged use of service and payment thereof.

By letter of September 24, 1980, the executive director of the commission set the case for hearing at 4:00 P.M. on October 9, 1980.

Manchester Gas Company claims that service to the former occupant of the Woodmaster, Inc., building was terminated for nonpayment on February 27, 1979. From that time, access to the building by company employees was apparently without success until March 31, 1980. At that time, the meter had recorded a consumption of 2,725 therms.

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Occupant of the premises at that time was Woodmaster, Inc., and that organization was billed for the gas consumed — over \$1,600.

The commission was advised that through counsel, Woodmaster had objected to this bill, and subsequently obtained a restraining order from the Hillsborough superior court to avoid disconnection.

Testimony revealed that the Woodmaster, Inc., purchased the building in August, 1979. In the months that followed, actions were taken to replace the heating system, during which time gas was turned "on" by Woodmaster, Inc., or its agent, Merrimack Sheet Metal, Inc., for testing and adjusting the new heating units. Woodmaster admitted that these heating units were used briefly at various other times and continuously during March, 1980. Until the late March meter reading, Woodmaster had not applied for service with the company despite this use of gas.

The commission acknowledges the fact that Manchester Gas failed to lock the meter in February, 1979, as prescribed in federal guidelines for gas pipeline safety, and that such lock could have prevented the difficulties now faced. However, the product was consumed and there

is an obligation for payment. Meter testing has proven the accuracy within prescribed tolerances, verifying the bill's correctness.

In the approved tariff of Manchester Gas Company, Section 4 d states " ... the use of service without notifying the company and enabling it to read its meter will render the user liable for any amount due for service supplied to the premises from the time of the *last* reading ... " (emphasis added).

Accordingly, the commission finds Woodmaster, Inc., subject to the provisions of Manchester Gas Company's tariff Section 4 d and its use of gas was in violation of said section.

If the commission was requested to determine the amount due to Manchester Gas Company by its customer, Woodmaster, Inc., the commission would find the customer responsible for \$1,300 and the balance of gas used during the period since the last meter reading will be charged to the company for its failure to comply with the rules of the commission pertaining to the securing of inactive gas services.

By order of the Public Utilities of New Hampshire this sixteenth day of October, 1980.

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NH.PUC\*10/17/80\*[78712]\*65 NH PUC 478\*Public Service Company of New Hampshire

[Go to End of 78712]

## Re Public Service Company of New Hampshire

DR 79-187, 42nd Supplemental Order No. 14,522

65 NH PUC 478

New Hampshire Public Utilities Commission

October 17, 1980

MOTIONS for rehearing of electric rate case; denied.

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VALUATION, § 213 — Rate base items — Property held for future use.

[N.H.] The statute precluding the inclusion of construction work in progress in a public utility company's rate base does not affect the inclusion of plant held for future use in the rate base.

RETURN, § 26.4 — Cost of equity capital.

[N.H.] Discussion, on motions for rehearing of rate case, of arguments relating to return on equity capital p. 480.

VALUATION, § 293 — Working capital allowance — Billing and payment for service.

[N.H.] Discussion, on motions for rehearing of rate case, of arguments relating to working capital allowance and lead-lag factors. p. 482.

COMMISSIONS, § 51 — Motion for recusal — Bias or prejudice of commissioners.

[N.H.] Discussion, on motion for rehearing of rate case, of the issue of recusal based upon statements made by commissioners. p. 483.

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APPEARANCES: As noted previously.

BY THE COMMISSION:

Report

The Legislative Utility Consumers' Council (LUCC), the Public Service Company of New Hampshire (PSNH), and the Business and Industry Association (BIA) filed motions for rehearing as to commission Order No. 14,283 (65 NH PUC 303). The commission by previous orders has rejected BIA's motion for rehearing, as well as the LUCC's and PSNH's motions to suspend the commission's order as to the delay of Seabrook II. The remainder of the LUCC and PSNH motions are addressed within this text.

#### *I. The LUCC Motion for Rehearing*

The LUCC has made it extremely difficult to evaluate their position since it appears to be neither consistent nor realistic. The LUCC's witnesses take one position, and counsel for the LUCC takes another directly contrary position, and then tie LUCC contends that the commission has not properly stated its position pursuant to RSA 363:17-b, II.

For example, counsel for the LUCC has attempted to block the proposed divestiture of a portion of PSNH's Seabrook interest. *Legislative Utility Consumers' Council v Public Service Co. of New Hampshire (Divestiture, Slip Opinion, 1980)*. Yet the LUCC witness, Professor Williamson, stated that a 50 per cent interest in Seabrook was too big a project for PSNH to finance.<sup>1(59)</sup>

Counsel for the LUCC has objected to any delay in Seabrook II based on an allegation that there was no notice and little, if any, evidence on the issue. Yet the LUCC's witness, Professor Williamson, stated that the commission had three options, which were not exclusive of one another: (1) the speedy approval of the divestiture; (2) the deferral of at least a portion of the company's construction program; and (3) rate increases.<sup>2(60)</sup> But counsel for the

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LUCC is opposed to divestiture and delay of Seabrook.

Counsel for the LUCC alleges that the commission has allowed an enhanced rate of return. Yet the LUCC witness, Professor Williamson, proposed a 16.7 per cent return on common equity, which is above what the commission allowed by nearly a full percentage point.<sup>3</sup> The commission will address the specific points raised by the LUCC as follows.

The LUCC claims that the commission's order is unjust and unreasonable, because the

commission recognized increased wages for PSNH employees who do not work construction projects. The LUCC asserts that increased wages for nonconstruction employees is against the law which precludes inclusion of CWIP in rate base. The argument is illogical and therefore is beyond any reasonable response.

The LUCC asserts that recognition of increased property taxes on existing completed plant and increased wages of nonconstruction employees are against the law which precludes the inclusion of CWIP in rate base. The argument is illogical and unsupported.

The LUCC asserts that the commission's order is unreasonable because an allowance of normalization has been described outside this hearing as encouraging a bias toward the building of new plant. The LUCC also opposes any decline in PSNH's ownership interest in new nuclear plant. The commission cannot reconcile the LUCC's conflicting positions and, therefore, must reject their argument as untenable.

The LUCC asserts that the commission's order is erroneous in that they claim there is no support in the record for the commission's finding that PSNH will spend at least \$91.4 million in Pilgrim II payments over the next five years. The LUCC requested that the commission include in the record the evidence and record of PSNH's last preferred financing. In that information requested for inclusion by the LUCC appears the \$91.4 million figure. (See prospectus, p. 24.) Since the LUCC is responsible for placing the alleged missing information into the record, the commission cannot find the basis to substantiate LUCC's conflicting claim.

The LUCC asserts that the commission's order is unjust and unreasonable, because the commission incorrectly stated that the LUCC witness, Professor Williamson, made an adjustment for cost of issuance. Then the LUCC asserts that the commission erred in failing to state its reasoning for rejecting Professor Williamson's ten basis point cost of issuance allowance, which LUCC claimed he did not make. The commission finds these allegations conflicting and that LUCC's position is untenable.

The LUCC repeatedly asserts that the commission had predetermined the return on common equity at 17 per cent plus. The LUCC fails to recognize that the commission set a return on common equity at 15.9 per cent.

The LUCC's arguments on return on common equity fail to grasp financial reality or the legal standards of Hope and Bluefield. If the commission is to set a return that is commensurate with returns on other investments in other enterprises having corresponding risks, there must be an understanding of the other investment opportunities available in the market and business conditions generally.

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At the time of the commission's order on April 10, 1980 (65 NH PUC 162), a six-month treasury bill with virtually no risk had a 14.8 per cent return. Bond and preferred stock financings for all utilities at that time were above this rate. Common stock, which has a higher risk because of its low status in terms of bankruptcy vis-a-vis the other financial mechanisms, is bound to have a higher cost rate. The prime interest rate for the most sound businesses was at that time in the range of 19 to 20 per cent.



When the commission issued its report and order dated June 9, 1980 (65 NH PUC 251), the prime interest rate had dropped to 13 per cent. Six-month Treasury bills were closer to 8 per cent and the general market was significantly improved since April. Bluefield specifically recognizes that a rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally. (262 US 679, 692, 693, PUR 1923D 11, 21, 67 L Ed 1176, 43 S Ct 675.)

The LUCC characterization of our orders as promises cannot be substantiated. Rather, the commission is attempting to follow the guidelines adopted by the New Hampshire supreme court in determining a proper return on common equity.

The LUCC contends that the commission's order is unjust and unreasonable because of the finding that historically higher prime interest rates lead to falling utility stock prices. This relationship is uniformly recognized in utility regulation and was noted specifically by witness Phillips on pp. 23 and 24 of his prefiled testimony and in his accompanying schedules.

The LUCC contends that the commission erred in stating that Professor Williamson advocated a 16.7 per cent return on common equity. The commission would cite the LUCC to Vol 20, Tr., p. 88 where the witness conceded that his initial 16.5 per cent recommendation yielded 16.7 per cent when using 1979 numbers and performing correct addition.

Legislative Utility Consumers' Council alleges that the commission erred by rejecting Dr. Belmont's analysis based on LUCC cross-examination on the issue of the beta factor. The commission did not reject Dr. Belmont's analysis in its entirety; rather, the commission accepted Dr. Belmont's analysis as to market pressure. (65 NH PUC at p. 283).

The LUCC contends that Professor Williamson did not believe an allowance for market pressure was justified. However, a review of the record reveals a contrary conclusion. (See Transcript, Vol 20, pp. 57, 58.)

The LUCC contends that the commission should have accepted its arguments that a sound statistical fit was important. The commission does not find any error in attempting to achieve statistically sound information.

The LUCC contends that the commission's observations on the conflicting opinions taken by the LUCC on Seabrook and the Seabrook education center are unjust and unreasonable. The commission allowed the inclusion in rate base, because it found the evidence submitted to be more persuasive for its inclusion as compared to its exclusion.

The LUCC contends that the commission failed to state the LUCC's position as to plant held for future use. A review of p. 30 of the commission's report reveals a contrary conclusion.

The LUCC asserts that the commission

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should have removed plant held for future use from rate base in its entirety because of RSA 378:30-A. The commission finds that the statute precludes the inclusion of CWIP in rate base, but does not affect the issue of inclusion of plant held for future use in rate base.

The LUCC challenges the depreciation rate allowed in the commission's order. The

commission considered LUCC arguments as to depreciation rates for similarly sized utilities in New England. The commission found the evidence submitted to support a change in the depreciation rate. The commission specifically finds that the rate set by the commission will more accurately distribute the cost or other basic value of tangible capital assets, less salvage over the estimated useful life of each unit of plant in a systematic and rational behavior. This commission's staff will continue to perform its function of review to assure against any deviations from just and reasonable rates. The commission also finds no error in its statement on p. 263 of 65 NH PUC, concerning product mix.

The LUCC is concerned that the commission failed to note the LUCC's support for the staff testimony on removal of customer advances and deposits. The commission corrects this omission.

The LUCC's objections to the commission's determination of a proper working capital allowance are stated in a highly unprofessional manner. The commission found that the 45-day working capital rule, while convenient, is not reflective of the modern working capital requirements of utilities. *Re Exeter & Hampton Electric Co.* (1980) 65 NH PUC 209.

The commission has rejected various types of 45-day working capital in recent cases, because the commission found that consumers would be required to pay in excess of what was reasonable. *Re Granite State Electric Co.* (1978) 63 NH PUC 121, 28 PUR4th 240, and *Re Manchester Gas Co.* (1979) 64 NH PUC 95, 29 PUR4th 121. During those cases, the LUCC found the commission's rejection of the 45-day rule to be most satisfactory because it reduced rates. However, prior to this case, the commission also rejected the 45-day rule in *Re Hudson Water Co.* (1979) 64 NH PUC 35, 28 PUR4th 617, because it found the 45-day rule underestimated the working capital costs of the utility involved. Consistency demands a constant standard that is applied to all utilities. The goal is not to please or assist one party over another, but rather to set a just and reasonable rate. The commission does not have the luxury of adopting inconsistent approaches.

The commission's allowance of a working capital adjustment for increased oil prices is an attempt to set a reasonable rate, both at the time of the decision and also for a reasonable time thereafter. From the LUCC's experience in the fuel adjustment hearings, it is fully aware that the oil price used was reasonable.

The LUCC argues that the commission should have given greater weight to witness Von Ohlsen's lead-lag study. The commission reviewed Mr. Von Ohlsen's work and found witness Price's work to be more persuasive.

The LUCC has offered certain remarks aimed at the character of this commission in its arguments concerning normalization and working capital. The commission would remind counsel for the LUCC that attorneys have a professional obligation to argue the merits of a case and not to embark on paths

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designed to remove faith in the regulatory system. If a party's arguments are found not to be persuasive, it is simply a question of losing to more persuasive arguments.

The commission would remind the LUCC that its witnesses on normalization and return on common equity made major errors in simple addition. Possibly the interests of consumers would be better served, if there was greater attention given to the submissions made before this commission.

The commission finds that RSA 378:30-a does not address the question of normalization; nor has the LUCC demonstrated any causal relationship.

The commission also rejects the concept that the commission must address each and every sentence that appears in a party's brief because of RSA 363:17-b III. The commission has made a reasonable effort to set forth the major positions on all issues, and the LUCC's continuous citation of the statute is significant alteration of the statute.

Finally, the LUCC again addresses the issue of recusal. The commission has reviewed the allegations and finds each one of them to be seriously lacking in merit. The commission would note that any comment was taken from words appearing in prior decisions of this commission. The commission, for example, found that RSA 378:30-a is constitutional in *Re Public Service Co. of New Hampshire* (1979) 64 NH PUC 295, 31 PUR4th 351. Otherwise, the commission would not have addressed RSA 378:7. How a comment that a statute is constitutional after a prior finding by the commission and where no party is challenging the constitutionality can be justification for recusal is at least vague and highly illogical.

The commission finds that its actions have been consistently in the public interest and that there are no grounds to support recusal.

Public Service Company of New Hampshire also challenges the commission's decision as to delaying Seabrook II. The commission has responded to PSNH's and LUCC's concerns in prior orders. The commission finds that there is sufficient information on the question of delay of Seabrook II to support the commission's findings.

## *II. The PSNH Motion for Rehearing*

Public Service Company of New Hampshire challenges the commission's initiation of a proceeding into the question of whether or not the commission should order PSNH out of Pilgrim II. The company then proceeds to list certain adverse effects that they believe are associated with such an order. These alleged problems will require thoughtful examination in the commission's upcoming proceeding. However, the commission is attempting to explore all available options in arriving at a solution to PSNH's financial problems. The testimony in this proceeding reveals the negative view given by rating agencies and investors to large construction programs. The record also contains evidence that there has been no interest in purchasing an interest in Pilgrim II. Finally, unlike Seabrook, Pilgrim II does not have a construction permit. A review of the commission's financial records reveals that the mayor ownership interest in Pilgrim II is owned by a utility which is rated near the bottom in terms of key financial measurements.

The commission believes that the question of the advantages and disadvantage of continuation in Pilgrim II must be examined. The commission

therefore will initiate its investigation into Pilgrim II.

Public Service Company of New Hampshire challenges the validity of the commission's finding on return on common equity. The commission adopted 15.9 per cent. Public Service Company of New Hampshire contends that the return on equity should be higher. Mr. Camfield provided the commission with a range of 15.5 to 16.25. While this range did not include market pressure and cost of issuance, Mr. Camfield considered that there might be some justification for recognition of these factors. The commission chose the bottom of the range and found that costs of issuance were an appropriate addition. The 40 basis points raised the return on equity to 15.9. The commission rejected any recognition of market pressure based on Dr. Belmont's testimony.

The commission upon review finds that its finding as to return on common equity was proper. For example, the cost of issuance based on historical data is likely to be reduced in the foreseeable future. With greater financial stability and better market conditions the costs of issuance especially underwriter compensation should be reduced. Therefore, even assuming the validity of PSNH's arguments the result arrived at by the commission is proper.

The commission believes a range provides an appropriate rate-making tool so as to properly recognize fluctuations in the market, errors via rounding, and other factors that alter a proper return on common equity.

Mr. Camfield recommended his entire range for our consideration and the commission's finding is within that range.

The commission has attempted to address rate base matters for inclusion in this order. However, due to factors beyond the control of the commission, a more specific breakdown of a just and reasonable rate base based solely on 13-month averages will be the subject of a subsequent order.

The commission has reviewed PSNH's concerns involving test-year expenses and finds that the commission has not erred in its treatment of expenses. The payments to EPRI were removed because the company testified that they would not be rendering payments to EPRI. The commission would encourage the company to continue these efforts and cut all nonessential costs especially in the FERC 900 accounts.

As to the expenses from Cresap and McCormick, these expenses have been properly amortized and will not be recurring in the future. The commission has attempted to use greater levels of staff expertise versus consultants in carrying out its statutory duties. The commission has provided recognition of this fact by making an upward adjustment based on new levels of staff at the commission. To provide recognition for both outside and intra staff expertise would be double counting and unreasonable.

The audit performed by Cresap was a one time only occurrence. This contrasts with a program such as carrying forward the implementation of PURPA. The Cresap audit also is different than the recovery of reasonable expenses allowed by *New Hampshire v Hampton Water Works Co.* (1941) 91 NH 278, 38 PUR NS 72, 18 A2d 765.

The commission initially ordered a refund of the differential between rates under bond and the lower figure allowed in the permanent order. However, PSNH has alleged a statutory right to collect

the difference between the rates placed into effect on December 28, 1979, and those arrived at by our order of June 9, 1980.

The other parties have not addressed this issue and the commission requests that all parties who are interested in this issue file a supplementary brief no later than October 27, 1980. The first topic that must be addressed is the legal argument. The second topic is essentially one of fact that depends on the response to the legal argument. The factual question relates to certain adjustments such as the updated capital structure through June, the allowance of an attrition factor, and other adjustments which might not be justified as of December, 1979, but were found to be justifiable so as to fulfill the commission's obligation to set reasonable rates both for the present and for the foreseeable future. Upon receipt of briefs on this matter the commission will address the issue raised by PSNH.

Public Service Company of New Hampshire seeks to reserve its rights as to rate design. Those rights together with those of all parties are reserved until completion of Phase II.

Finally, the issue of new cost capital will be addressed in the commission's subsequent order on rate base. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that the aforementioned report adequately responds to the LUCC's motion for rehearing which is denied, and it is

Further ordered, that the PSNH motion for rehearing is denied to the extent covered in the report, and it is

Further ordered, that all parties address the issues raised by PSNH as to refund-recoupment by October 27, 1980.

The secretary of the commission is hereby directed to issue the above order this seventeenth day of October, 1980.

#### FOOTNOTES

<sup>1</sup>Transcript, Vol 20-138-139, March 10, 1980, and Emergency Proceeding, December 31, 1979, Transcript.

<sup>2</sup>Transcript, Vol 20-171-172.

<sup>3</sup>Transcript, Vol 20-88.

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NH.PUC\*10/17/80\*[78718]\*65 NH PUC 492\*Public Service Company of New Hampshire

[Go to End of 78718]

## Re Public Service Company of New Hampshire

DR 79-187, 43rd Supplemental Order No. 14,534

65 NH PUC 492

New Hampshire Public Utilities Commission

October 17, 1980

MOTION for clarification of order which delayed construction of the Seabrook II generating plant until divestiture was complete and the adjustment period has started; order in accordance with opinion.

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RATES, § 125 — Reasonableness — Ability to pay.

[N.H.] An electric rate increase was not deemed necessary where testimony of the public revealed an inability to pay existing rates, since the regulatory process does not have a practice which places the burden of increased costs on the consumers, and the commission has consistently allocated certain costs to stockholders as well as to consumers.

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APPEARANCES: as noted previously.

BY THE COMMISSION:

Report

The Legislative Utility Consumers' Council (LUCC) has filed a motion for clarification as to the commission's 41st Supplemental Order No. 14,490 (65 NH PUC 433). The aforementioned order delayed Seabrook II until the Seabrook divestiture was complete and the adjustment period has started.

The LUCC presented Professor Williamson as a witness in these proceedings. During the course of his testimony the professor was asked what options the commission had available in resolving the financial problems experienced by Public Service Company. Professor Williamson agreed that the commission had three choices which were not necessarily exclusive of one another. (1) An expeditious divestiture by PSNH of a portion of its interest in Seabrook, (2) a deferral of at least a portion of the company's construction program, and (3) more rate increases.<sup>1(61)</sup>

The LUCC has attempted to block the proposed divestiture of a portion of PSNH's Seabrook interest. Legislative Utility Consumers' Council v Public Service Co. of New Hampshire (Divestiture, Slip Opinion, 1980). Through its actions in this proceeding, the LUCC adamantly opposes any delay of Seabrook II. The commission must assume that the LUCC believes a larger rate increase is necessary. Yet, the commission cannot agree with this conclusion. The commission has reviewed the countless number of exhibits in this proceeding to arrive at a

revenue figure that is just and reasonable.

The commission would remind the LUCC that the testimony of the public revealed an inability to pay existing rates. A further demonstration of the difficulties experienced by the public in attempting to pay their electric bills is the absence of growth in electric sales over the past year. The LUCC cannot legitimately argue against divestiture and for delay and then contend that rate increases are not the remaining option. This consistent inconsistency contributes nothing to the regulatory process. Even more distressing is the failure by the LUCC to concern itself with the ability of consumers to pay.

Contrary to the assertion by the LUCC, the regulatory process does not have a practice which places the burdens of increased costs on the consumers. This commission, as well as others, has consistently allocated certain costs to stockholders as well as consumers. Re Pennichuck Water Works (1979) 64 NH PUC 206; Re Concord Electric Co. (1978) 63 NH PUC 240; Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209; Re Public Service Co. of New Hampshire, (1980) 65 NH PUC 251.

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The LUCC has come before this commission on the question of divestiture and contended that PSNH did not receive full cost for the portion of Seabrook which it sought to divest. The commission stated that if this situation could be proven, there would be a legal presumption that consumers would not have to pay these additional costs. Obviously, responsible argument should not include a blanket damnation of the regulatory process.

The commission found in Order No. 14,490 that PSNH's figures for the cost of the delay could not be substantiated. Furthermore, their relevancy is questionable given the commission's order that tied the delay to the approval of the divestiture. The LUCC chose not to investigate the rationale or assumptions behind PSNH's numbers. The LUCC has compounded its failing to analyze the benefits to be gained by PSNH if it finances in a more stable economic environment.

Contrary to the LUCC's assertion, the commission has not found that there will be extra costs as a result of the delay order. The commission was presented one set of numbers which it found to contain incorrect assumptions and as has been noted were tied to a different order. The commission made a specific finding that there would be a savings to PSNH and eventually its customers if PSNH financed in a more stable economic environment versus a chaotic market. The LUCC fails to grasp that most businesses would find it ill-advised to finance at a 116 per cent of prime when the prime is between 15 and 20 per cent and that there are substantial savings, comparatively speaking, to financing when the prime is in a lower range. The net effect of the commission's order has not been established in this record. Contrary to the LUCC's assertion, there has not been a specific recognition of increased costs over what otherwise would be the case. The savings in financing costs have not been analyzed and any conclusion as to the overall net effect of the commission's order is speculative.

The LUCC has not undertaken the type of analysis that would be of assistance to the commission. The commission expects parties to be of assistance to the regulatory process and to carefully examine their positions for inconsistencies. The commission has made its order clear given the record in this proceeding. If the LUCC wishes to advance to a higher tribunal, that is

their right. However, the commission strongly recommends that the LUCC begin to channel a course of greater preparation and consistency. Our order will issue accordingly.

Supplemental Order

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

Ordered, that the aforementioned report adequately addresses the concerns listed in the motion for clarification and thus is responsive to the Legislative Utility Consumers' Council's motion.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of October, 1980.

FOOTNOTE

<sup>1</sup>Transcript, Vol 20, pp. 171-173.

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NH.PUC\*10/17/80\*[78720]\*65 NH PUC 496\*Fuel Adjustment Charge

[Go to End of 78720]

### Re Fuel Adjustment Charge

Intervenor: Public Service Company of New Hampshire

DR 80-46, Sixth Supplemental Order No. 14,538

65 NH PUC 496

New Hampshire Public Utilities Commission

October 17, 1980

ORDER granting a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Public Service Company of New Hampshire having filed a motion for a rehearing with respect to Report and Order No. 14,510 on October 10, 1980 (65 NH PUC 465), and the Legislative Utility Consumers' Council having filed an objection to said motion on October 15, 1980; and the commission having considered the pleadings filed by all of the parties and for good cause shown, grants the motion of Public Service Company of New Hampshire; and it is hereby

Ordered, that the matter be scheduled for hearing on October 24, 1980, at 10:00 A.M..

By order of the Public Utilities Commission of New Hampshire this seventeenth day of October, 1980.

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NH.PUC\*10/20/80\*[78721]\*65 NH PUC 497\*Union Telephone Company

[Go to End of 78721]

## Re Union Telephone Company

DF 80-184, Order No. 14,539

65 NH PUC 497

New Hampshire Public Utilities Commission

October 20, 1980

PETITION by telephone company for authority to issue short-term debt and other long-term debt; granted.

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SECURITY ISSUES, § 58 — Financing of construction program — Short-term debt and long-term debt.

[**N.H.**] A telephone company was authorized to issue and sell for cash short-term notes and other intermediate long-term debt to finance its construction program and to finance its engineering costs related to qualifying for financing from the Rural Electrification Administration and the Rural Telephone Bank.

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APPEARANCES: Dom S. D'Ambruoso for the petitioner; Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this petition filed on August 15, 1980, Union Telephone Company, a telephone public utility operating under the jurisdiction of this commission, seeks authority pursuant to RSA 369, to issue and sell for cash and from time to time renew its short-term notes and intermediate long-term debt, other than its mortgage, in an amount not to exceed \$1.4 million, such short-term notes to be issued at interest rates not to exceed the local prime bank loan rate plus one-quarter per cent for compensating balances at the time of issuance or renewal, and intermediate long-term debt at rates specified to commission Order No. 12,972 ([1977] 62 NH PUC 327).

On May 9, 1979, the commission issued its Report and Order No. 13,621 (64 NH PUC 125), authorizing the company to issue debt in an amount not to exceed \$1.3 million with interest rates not to exceed the prime bank loan rate at the time of issuance or renewal.

As of June 30, 1980, the company was \$3,022 from the ceiling previously authorized by the commission.

The company is requesting the higher borrowing limit: to meet its current and future

construction program; to finance the engineering costs related to qualifying for financing from the Rural Electrification Association, Rural Telephone Bank; to pay off current accounts payable; and for other legal corporate purposes.

The commission is concerned with the amount of time which has and will continue to elapse between issuance of Order No. 13,956 on December 19, 1979 (64 NH PUC 434), which told the company to get involved in REA, RTB financing, and the eventual benefits accruing to customers through lower interest rates approximately one year from now. We request the company move as expeditiously as possible.

The commission is also concerned that the company may not be fully investigating all possible sources of short-term borrowing to get the lowest rate, and orders the company do so.

Sufficient supporting data was submitted

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with the company's petition and 13 exhibits to enable the commission to adjudicate the merits thereof; and this commission finds that granting the petition, with the noted concerns, 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 have outstanding up to \$1.4 million of short-term and other intermediate long-term debt; and it is

Further ordered, that the proceeds from the said debt will be expended for those purposes noted in the attached report; 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 expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twentieth day of October, 1980.

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NH.PUC\*10/21/80\*[78722]\*65 NH PUC 498\*Public Service Company of New Hampshire

[Go to End of 78722]

## **Re Public Service Company of New Hampshire**

DF 80-195, Supplemental Order No. 14,540

65 NH PUC 498

New Hampshire Public Utilities Commission

October 21, 1980

PETITION for authority to issue and sell preferred stock; granted.

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SECURITY ISSUES, § 109 — Preferred stock — Terms of sale.

**[N.H.]** The commission authorized a utility to issue and sell at a price of \$25 per share in cash 1.2 million shares of its sinking-fund preferred stock 15 per cent dividend series with a \$25 par value, to be sold either to the public, through an offering by underwriters on behalf of the company, or to underwriters who will make a public offering thereof, or both.

BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 14,505 dated September 29, 1980 (65 NH PUC 457), issued in the above-entitled proceeding, authorized Public Service Company of New Hampshire to issue and sell not exceeding 1.2 million shares of preferred stock, \$25 par value, subject to further order of this commission; and

Whereas, in compliance with said Order No. 14, 505, following negotiations with underwriters, the company has submitted to this commission the details concerning the number of shares of preferred stock to be sold, and the price, dividend rate, and other terms

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thereof, which contemplate the issue and sale of 1.2 million shares of a new series of its preferred stock, \$25 par value, designed "sinking-fund preferred stock 15 per cent dividend series, \$25 par value," either to the public, through an offering by underwriters on behalf of the company, or to underwriters who will make a public offering thereof, or both; said preferred stock to be sold bearing a dividend rate of 15 per cent per year, at a price to the company of \$25 per share, and to provide for a mandatory sinking fund under which 60,000 shares will be redeemed annually beginning May 15, 1985, and for optional redemption of an additional 60,000 shares on each mandatory sinking-fund redemption date with compensation to the underwriters in the aggregate amount of \$1,236,000, all as set forth in the underwriting agreement between the company and the underwriters, a copy of which is to be filed with the commission; and

Whereas, after due consideration, it appears that the issue and sale of said preferred stock upon the terms, conditions, and 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 \$25 per share in cash 1.2 million shares of its sinking-fund preferred stock 15 per cent dividend series, \$25 par value, as hereinabove set forth, with compensation to the underwriters in the aggregate amount of \$1,236,000; and said stock to be sold at said price of \$25 per share either to the public, through an offering by underwriters on behalf of the company, or to underwriters who will make a public offering thereof, or both, all 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. 14,505 of this commission are

incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of October, 1980.

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NH.PUC\*10/24/80\*[78719]\*65 NH PUC 495\*Connecticut Valley Electric Company, Inc.

[Go to End of 78719]

## **Re Connecticut Valley Electric Company, Inc.**

DR 80-178, Supplemental Order No. 14,537

65 NH PUC 495

New Hampshire Public Utilities Commission

October 24, 1980

PETITION of an electric company to institute a purchased power cost adjustment; granted.

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RATES, § 332 — Purchased power cost adjustment

[N.H.] The commission authorized an electric company to implement a purchased power cost adjustment surcharge subject to refund in order to counter an approved wholesale rate increase for the company's supplier.

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APPEARANCES: S. Allenby and G. Cook for Connecticut Valley Electric Company, Inc.

BY THE COMMISSION:

Report

On August 11, 1980, Connecticut Valley Electric Company, Inc., filed revisions to its tariff, NHPUC No. 4 — Electricity, by which it proposed to implement a purchased power cost adjustment according to the terms outlined in Section 16 of the tariff. These revisions were proposed for effect September 8, 1980. To allow for adequate investigation and hearing, the commission suspended the filing and ordered a public hearing on September 30, 1980, at 9:00 A.M.. Affidavits of publication of both the filing and hearing have been filed with this commission.

At the public hearing, Gerald Cook advised the commission that the Federal Energy Regulatory Commission had approved a wholesale rate increase in Docket No. ER80-422 for the company's supplier, Central Vermont Public Service Corporation, effective on August 2, 1980. This increase is subject to refund pending final decision by the FERC. The company requested that it be allowed to recover the costs of this increase through implementation of a purchased power cost adjustment of \$0.01008 per kwh surcharge. The surcharge represents an annual

increase in revenue of \$1,500,246; however, this is offset by a modification to the resale fuel adjustment clause so there is a net increase of \$514,255 or 7.5 per cent.

Upon a review of the request, the commission finds that it will allow this rate to go into effect pending final determinations by the Federal Energy Regulatory Commission (FERC) and this commission. The commission clearly retains jurisdiction over any rates that affect the ultimate consumer. Through use of this jurisdiction, the commission will allow this rate to go into effect subject to refund.

#### Supplemental Order

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

Ordered, that commission Order No. 14,436 dated August 18, 1980 (65 NH PUC 386), be, and hereby is, vacated; and it is

Further ordered, that surcharges proposed by Connecticut Valley Electric

**Page** 495

Company, Inc., for the recovery of increased wholesale costs of electricity, in the amount of \$0.01008 per kwh, are authorized, effective with all bills rendered on or after September 30, 1980; and it is

Further ordered, that Connecticut Valley Electric Company, Inc., give public notice of this allowed purchased power surcharge by one-time publication in a newspaper having general circulation in the area served.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of October, 1980.

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NH.PUC\*10/27/80\*[78723]\*65 NH PUC 499\*Utility Advertising

[Go to End of 78723]

## Re Utility Advertising

Intervenors: Public Service Company of New Hampshire, Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Northern Utilities, Inc., Concord Natural Gas Corporation, Manchester Gas Company, Gas Service, Inc., Community Action Program, New Hampshire Legal Assistance, Legislative Utility Consumers' Council, and New Hampshire Clamshell et al.

DE 79-63

65 NH PUC 499

New Hampshire Public Utilities Commission

October 27, 1980

HEARING on proposed rule prohibiting the recovery from ratepayers of any direct or indirect

expenditure by any gas or electric utility for promotional, political, or institutional advertising or activity order in accordance with opinion.

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EXPENSES, § 26 — Advertising expenditures — Gas and electric utilities.

[N.H.] The commission adopted a rule providing that no electric or gas utility shall recover, in any manner, from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional, political, or institutional advertising, or promotional, institutional, or political activities.

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APPEARANCES: Martin Gross, Philip Ayers, and Debbie Sklar for Public Service Company of New Hampshire; Franklin Hollis for Concord Electric Company and Exeter and Hampton Electric Company; Michael Flynn for Granite State Electric Company; Franklin Hollis and Walter C. Ivancevic, president, for Northern Utilities, Inc.; Cedric H. Dustin, Jr., president, and Ronald P. Bisson, manager, for Concord Natural Gas Corporation; James Hood, N. George Mattaini, president, and Robert R. Giordano, senior vice president and treasurer, for Manchester Gas Company; Howard M. Moffett and Larry T. Stagney, vice president, for Gas Service, Inc.; Gerald Eaton for Community Action Program; Robert D. Gross, executive director, New Hampshire Legal Assistance; Gerald Lynch for Legislative Utility Consumers' Council; Arnold Alpert for New Hampshire Clamshell; Representative Edward J. Wojnowski; Linda L. Ashford, New Hampshire Public Utilities Commission statistical assistant; Eugene Sullivan, New Hampshire Public Utilities Commission finance director.

BY THE COMMISSION:

Report

*I. Procedural History*

This proceeding was initiated by Order No. 13,547 on March 27, 1979 (64 NH PUC 55). On August 15, 1980, the public utilities commission (commission), pursuant to its statutory authority granted by RSA 365:8, 365:10, 374:2, 378:5, 378:7, and 378:24 and the Public Utility Regulatory Policies Act of 1978 (PURPA), proposed a rule prohibiting the recovery from ratepayers of any direct or indirect expenditure by any gas or electric utility for promotional, political, or institutional advertising or activity. Sections 113(b)(5) and 303(b)(2) of PURPA established the federal standard that no electric or gas utility may recover from any person other than the shareholders (or other owners) of such utility and direct or indirect expenditure by such utility for promotional or political advertising as defined in § 115(h) for electric utilities and § 304(b) for gas utilities. Those latter two sections define "advertising" and "promotional" and "political" advertising.

In its order of notice, the commission proposed a rule similar to that established by PURPA:

The commission proposes adopting the following rule. This rule will amend the uniform

systems of accounts as prescribed by the commission for gas and electric utilities.

"(1) No electric or gas utility shall recover, in any manner, from any person other than the shareholders of such utility and direct or indirect expenditure by such utility for promotional, political, or institutional advertising, or promotional, institutional, or political activities.

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"(2) *Definitions*

"A. *Advertising*. The term 'advertising' directly or indirectly, means the use, by an electrical or gas utility, of any media in order to transmit a message to the general public, or to such utility's consumers.

"B. *Promotional Advertising*. The term 'promotional advertising' means any advertising conducted for the purpose of encouraging any person to select or use the service or increase usage of the service of a gas or electric utility, to select, purchase, install, or use any appliance or equipment designed to use such utility's service, or to use any other particular service of the utility.

"C. *Political Advertising*. The term 'political advertising' means any advertising conducted for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

"D. *Institutional Advertising*. The term 'institutional advertising' means any advertising conducted for the purpose of promoting the corporate image or goodwill of a gas or electric utility or the utility industry in general.

"E. *Promotional Activity*. The term 'promotional activity' means any act or practice conducted for the purpose of encouraging any person to select or use the service or increase usage of the service of a gas or electric utility, to select, purchase, install, or use any appliance or equipment designed to use such utility's service, or to use any other particular service of the utility.

"F. *Political Activities*. The term 'political activities' means any act or practice conducted for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

"G. *Institutional Activities*. The term 'institutional activities' means any act or practice conducted for the purpose of promoting the corporate image or goodwill of a gas or electric utility or the utility industry in general.

"(3) *Reports Required*

"A. Each gas or electric utility engaging in advertising or any of the activities in § 2 of this rule, shall file an annual report with the commission regarding such activities. This report shall itemize the expenses incurred by type of advertising or activity and shall be included with the utility's annual report to the commission.

"B. Each gas or electric utility shall keep copies of all its advertising on file for inspection by the commission.

"(4) *Accounting*

"A. Each gas or electric utility shall keep a record of all expenditures incurred with respect to any advertising or activity, incurred directly or indirectly, referred to in § 2 of this rule.

"B. Any advertising or activity referred to in § 2 of this rule shall bear its allocative portion of all expenses incurred. For example, the cost of a bill insert might not increase total postage expense; however, if the nature of the material is such that it is promotional, institutional, or political, a portion of the postage expense should be allocated to that advertising or activity.

"C. Questions regarding appropriate allocation factors, shall be referred to the finance director of the commission; however, the inclusion or exclusion of any provision in this rule shall not

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restrict or limit the commission's power in any rate case to disallow, in whole or in part, any expense which the commission finds to be unjust, unreasonable, excessive, or unwarranted." (Note: Certain typographical errors in the proposed rule have been corrected above.)

Pursuant to RSA 541-A:3 and the requirement of § 113(a) of PURPA, the commission solicited comments in writing and held a public hearing in the commission's offices on October 8, 1980. Comments were received, in writing and/or orally from the above mentioned persons.

A request by the state's gas utilities to bifurcate the proceedings was granted by the commission. Generally, it is the gas utilities' contention that their position is significantly different from the electric utilities and, therefore, the final rule should recognize this distinction. The positions of the various parties are summarized below.

II. *Comments*

A. *Public Service Company of New Hampshire*

Public Service Company of New Hampshire (PSNH) maintains that it generally supports the achievement of the purposes of PURPA. However, PSNH also claims that these purposes will not be met by the commission's proposed rules due to the "imposition of financial disincentives for utilities to communicate ... ." Public Service Company of New Hampshire claims that the rules are "both excessively broad and not all inclusive." Public Service Company of New Hampshire suggested that a rule which refined the definition of political advertising and permitted recovery of the costs of certain forms of advertising would be acceptable. These forms of advertising are similar to those included in PURPA § 115(h)(2). Public Service Company of New Hampshire would also eliminate the provisions regarding institutional advertising and activities, although inclusion of promotional and political activities would be acceptable if certain other changes are made.

Public Service Company of New Hampshire had no general objection to the reporting requirement or the accounting procedures; however, its position was that allocations of expenses for advertising should be incremental only and not pro rata as per the commission's proposed rule.

B. *Concord Electric and Exeter and Hampton Electric Companies*



Concord Electric Company and Exeter and Hampton Electric Company would also eliminate the provisions regarding institutional advertising and activities because PURPA does not have this requirement, because it would change an allegedly existing ratemaking standard in New Hampshire, and because it is overbroad. Concord Electric Company and Exeter and Hampton Electric Company like PSNH, suggested exceptions for certain types of informational advertising and clarification of the term controversial issue. The companies would also prefer that whatever advertising a utility may include in cost of service be indicated in the rule by exception rather than as so-called "permitted" types as in Ms. Ashford's testimony. Concord Electric Company and Exeter and Hampton Electric Company would eliminate the provision authorizing the commission's

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finance director to determine allocation factors, and would add a provision permitting the commission to allow or disallow any expense for advertising as a charge to ratepayers notwithstanding the provisions of the rule.

*C. Granite State Electric Company*

Granite State Electric Company suggested changes to the language of the rule referring to the prohibition of recovery from any person "other than the shareholders." Granite would also have the commission include in the final rule an exception for certain types of informational advertising.

*D. Gas Service, Inc.*

Basically, Gas Service, Inc. (GSI), claims the rules are unnecessary and that if a rule is to be adopted "substitute rules based on PURPA without unnecessary expansion of coverage" should be used. In addition, GSI maintains that the commission's power to adopt utility advertising rules is limited under state law in that it would not be reasonable to disallow categorically any promotional advertising by a natural gas utility. The company also maintains that since PURPA does not apply to the company, those rules should not be adopted. The reason for this is that GSI maintains that the purpose of the PURPA standards "was to control abuses by the large companies that dominate the utility industry in some of the most populous sections of the country." Gas Service, Inc. would provide exceptions similar to those indicated in PURPA § 304(b)(2), and would eliminate the accounting and reporting requirements. Gas Service, Inc. maintains that current promotional advertising by gas utilities can lower per unit costs to all customers and would help achieve oil displacement. The company would eliminate the provisions regarding institutional advertising.

*E. Northern Utilities, Inc.*

Northern Utilities, Inc., disagrees with the need for the rule in its entirety for a variety of reasons. Northern Utilities, Inc. maintains that it is subject to marketplace competition, that increased use of natural gas is of benefit to the general public, that informational advertising is an important element of service to customers, and that advertising is of benefit to ratepayers and should be allowed as an operating expense.

*F. Concord Natural Gas Corporation*

Concord Natural Gas Corporation (CNGC) is of the opinion that "the public would be best served without those rules." The company maintains that lack of conformity among utilities would not involve hardship or confusion among various parties involved in utility matters. Moreover, CNGC believes that advertising may be in the best interest of gas utility customers who should bear the expense in some instances. The reasons for these positions are similar to those of Gas Service and Northern Utilities, Inc.

Concord Natural Gas Corporation also proposed changes to the various provisions of the rules. The substance of these changes would, in effect, make the rules fall more in line with the PURPA standard. The company would also allocate costs in an incremental rather than pro rata basis.

#### *G. Manchester Gas Company*

Manchester Gas Company is of the

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opinion that reasonable promotional expenses should be allowed above the line. The reasons are similar to those expressed by the other gas utilities and, therefore, need not be reiterated.

#### *H. Nonutility Comments*

Community Action Program, New Hampshire Legal Assistance, and Legislative Utility Consumers' Council all supported the proposed rule, though no substantive comments were filed. Representative Edward J. Wojnowski of Newmarket expressed support of the rule and requested its extension to telephone utilities. In addition, he suggested a provision which would read as follows:

"Any advertising by a utility ... shall note with a disclaimer at the end of said advertisement the words: This advertisement was paid for by the stockholders."

#### *I. NHPUC Staff Comments*

New Hampshire Public Utilities Commission Statistical Assistant Linda L. Ashford provided comments regarding the proposed rule and various other positions. Ms. Ashford pointed out that the proposed rule in no way prohibits any form of advertising but rather allocates the costs to either consumers or investors. Ms. Ashford indicated that institutional advertising-activities are directly beneficial to shareholders and, therefore, those provisions should be retained. Ms. Ashford agreed that there would be types of advertising which would clearly not be political, promotional, or institutional. In order to clearly delineate this so-called permitted forms of advertising which would be included in cost of service, Ms. Ashford proposed inclusion of an exception for informational advertising and activity, which would be properly includable in cost of service. These exceptions are along the lines of PURPA §§ 115(h)(2) and 304(b)(2).

New Hampshire Public Utilities Commission Finance Director Eugene F. Sullivan provided additional information concerning the commission's current policy and the FERC Uniform System of Accounts prescribing accounting treatment for electric utilities, which has been adopted by the commission. Mr. Sullivan indicated that certain civic, political, promotional, and appliance sales advertising have not been included in cost of service. On the other hand,

advertising promoting conservation of electrical energy has been permitted. While an across-the-board prohibition of institutional advertising does not exist at present, the commission may review the reasonableness of such expenditures. Mr. Sullivan was of the opinion that the same standards which apply to electric utilities should be adopted for gas utilities on the basis that the commission should take steps to foster conservation of our natural gas reserves and that reduction in purchase of OPEC LNG will beneficially affect our balance of payments.

Regarding reporting requirements, Mr. Sullivan recommended that utilities be required to file a report of advertising expense with the annual report to the commission. Such a report would be similar to that contained in the proposed rule. Mr. Sullivan supported the commission's proposed rule calling for pro rata allocation of joint costs rather than incremental allocation.

### III. *Discussion and Findings*

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#### A. *Affect of PURPA*

With regard to advertising, the Public Utility Regulatory Policies Act of 1978 (PURPA) established the following standard:

"Advertising — No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in § 115(h).

"Section 113(b)5. Note: § 303(b)(2) establishes the identical standard for gas utilities substituting 'gas' for 'electric' and '§ 304(b)' for '§ 115(h).' " and further:

"Advertising

"(1) For the purposes of this section and § 113(b)(5) —

"(A) The term 'advertising' means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

"(B) The term 'political advertising' means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

"(C) The term 'promotional advertising' means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation of any appliance or equipment designed to use such utility's service.

"(2) For purposes of this subsection and § 113(b)(5), the terms 'political advertising' and 'promotional advertising' do not include —

"(A) advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy,

"(B) advertising required by law or regulation, including advertising required under Part 1 of Title II of the National Energy Conservation Policy Act,

"(C) advertising regarding service interruptions, safety measures, or emergency conditions,

"(D) advertising concerning employment opportunities with such utility,

"(E) advertising which promotes the use of energy efficient appliances, equipment, or service, or

"(F) any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

"Section 115(h). Note: § 304(b) establishes the identical standard for gas utilities substituting 'gas' for 'electric' and '§ 303' for '§ 113(b)(5)' and 'natural gas' for 'electric energy.' "

With regard to the advertising standard, the joint explanatory statement of the committee of conference (conference report) clearly indicates that "adoption of the standard does not prohibit any utility from engaging in this kind of advertising. The standard merely specifies who is to pay for the advertising." Moreover, with regard to the applicability of the standard to gas utilities, the provisions are parallel to those for electric utilities.

The purposes of PURPA are the conservation of energy, the optimization of the efficiency of use of facilities and resources, and equitable rates. According to the conference report, the purposes are independent of one another and that it is not necessary that all three standards be achieved. Rather, if any of these purposes is achieved and the

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others are not negatively impacted, a finding can be made that the purposes of the title are carried out. Adoption of a standard which varies insignificantly from the standards spelled out in PURPA is treated as adoption of the standard for purposes of the act.

It is the commission's opinion that the final rule adopted in these proceedings, being similar to the standard promulgated by the act, is sufficiently similar so as to be considered as adoption of the PURPA standard.

#### *B. Findings*

After careful consideration of the comments presented, the commission is of the opinion that only minor changes should be made to the proposed rule. In order to provide additional clarity, and be consistent with the PURPA standard, an exception section has been added to permit recovery of fair and reasonable informational advertising and activity expenses. In addition, in order to promote compliance, the commission will retain the provision on annual reporting.

Aside from the considerations put forth by the gas utilities, the two areas of most controversy concern the provisions regarding institutional advertising and activity and the allocation of costs. Comments at the hearing indicated that expenditures for institutional advertising were insubstantial and, therefore, the costs should be recovered. This argument, however, cuts both ways. While institutional advertising may indirectly benefit consumers, investors are benefited directly. In balancing the interests of investors and consumers, the commission is cognizant of the relationship and interaction between benefits to investors and benefits to consumers. Where the benefit is so direct, as is the case of institutional advertising and activity, and where control is directly in the hands of management, it seems fair to charge investors with these costs. Moreover, the line between institutional and promotional or political advertising or activity is

very thin indeed. Unlike the forms of advertising or activity falling under the banner of the informational exclusion, what may be institutional may not be so different from promotional or political. In order to avoid the need to review each and every advertisement, and in view of the non-materiality of amount, the commission will retain the institutional advertising-activity provisions.

As to allocation of costs, where it exists the commission will retain the proposed rule. While it may be true that no incremental cost might be incurred in the case of a political bill stuffer, for example, the utility is, in fact, obtaining a "free ride"; that is, had the mailing been done separately, all costs would have to be considered political. By "sharing the ride," so to speak, the cost to investors is actually reduced. The economic benefit cannot be overlooked and the true allocated cost must be assigned. This would, of course, require allocation of, not only postage expense, but all the mail handling expenses as well. The reference to the finance director for allocation factors has been deleted; instead, the utility will be required to make the allocation and keep records as to how those allocations were made.

In considering a utility's request for rate relief, it is well-settled that such rates are prospective only. Any advertising expenses in the test year are not actually recovered in the succeeding year, assuming an historic test year. Rather, if the level of expenditure was deemed

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reasonable, it will be included in the cost of service. The gas utilities maintain that current costs of advertising to promote gas usage should be included in cost of service for a variety of reasons. What these commenters fail to note is that even if these costs are reasonable now, by the time of the next rate case, on a prospective basis, they may not be. Therefore, there is no guarantee that they will ever be recovered. Therefore, in order to promote conservation, the rule on promotional advertising-activities will be retained.

The commission also finds that the suggestion by Representative Wojnowski has merit and may serve to remove controversy over public utility advertisements. Until the effect of these new rules can be reviewed, an optional line as to each advertisement whether it is being paid for by investors or ratepayers, can be used.

*Final Rule*

(1) No electric or gas utility shall recover, in any manner, from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional, political, or institutional advertising, or promotional, institutional, or political activities.

(2) *Definitions*

(A) *Advertising*. The term "advertising" directly or indirectly means the use, by an electric or gas utility, of any media in order to transmit a message to the general public, or to such utility's consumers.

(B) *Promotional Advertising*. The term "promotional advertising" means any advertising conducted for the purpose of encouraging any person to select or use the service or increase usage of the service of a gas or electric utility, to select, purchase, install, or use any appliance or

equipment designed to use such utility's service, or to use any other particular service of the utility.

(C) *Political Advertising*. The term "political advertising" means any advertising conducted for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance. An issue shall be deemed controversial if the utility is involved in a case or controversy about it before a court, legislative body, or government agency, including the New Hampshire Public Utilities Commission.

(D) *Institutional Advertising*. The term "institutional advertising" means any advertising conducted for the purpose of promoting the corporate image or goodwill of a gas or electric utility or the utility industry in general.

(E) *Promotional Activity*. The term "promotional activity" means any act or practice conducted for the purpose of encouraging any person to select or use the service or increase usage of the service of a gas or electric utility, to select, purchase, install, or use any appliance or equipment designed to use such utility's service, or to use any other particular service of the utility.

(F) *Political Activity*. The term "political activity" means any act or practice conducted for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters or with respect to any controversial issue of public importance. An issue shall be deemed controversial if the utility is involved in a case or controversy about it before a court,

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legislative body, or government agency, including the New Hampshire Public Utilities Commission.

(G) *Institutional Activity*. The term "institutional activity" means any act or practice conducted for the purpose of promoting the corporate image or goodwill of a gas or electric utility or the utility industry in general.

(H) For the purpose of this rule, the terms political advertising, promotional advertising, institutional advertising, political activity, promotional activity, and institutional activity do not include advertising or activities:

- i. Informing electric consumers how they can conserve energy or can reduce peak demand for electric energy.
- ii. Informing natural gas consumers how they can conserve natural gas or can reduce peak demand for natural gas.
- iii. Required by law or regulation, including advertising required under Part 1 of Title II of the National Energy Conservation Policy Act.
- iv. Involving service interruptions, safety measures, or emergency conditions.
- v. Concerning employment opportunities with such utility.
- vi. Providing any explanation of existing or proposed rate schedules or notifications of

hearings thereon.

(3) The provisions of the rule shall not restrict or limit the commission's power to disallow any expense as a charge to ratepayers which the commission finds to be unjust, unreasonable, excessive or unwarranted.

(4) Every advertisement shall contain a statement indicating whether the cost of the advertisement is included in operating expenses for rate-making purposes. (Optional.)

(5) *Reports Required*

(A) Each gas or electric utility shall file an annual report with the commission regarding the advertising or activities defined in § 2. This report shall itemize the expenses incurred by type of advertising and activity and shall be included with the utilities' annual report to the commission.

(B) Each gas or electric utility shall keep copies of all its advertising on file for inspection by the commission.

(6) *Accounting*

(A) Each gas or electric utility shall keep a record of all expenditures incurred with respect to any advertising or activity, incurred directly or indirectly, referred to in § 2 of this rule, and any allocation methodology.

(B) Any advertising or activity referred to in § 2 of this rule shall bear its allocative portion of all expenses incurred. For example, the cost of a bill insert might not increase total postage expense; however, if the nature of the material is such that it is promotional, institutional, or political, a portion of the postage expense should be allocated to that advertising activity.

Our order will issue accordingly.

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NH.PUC\*10/28/80\*[78724]\*65 NH PUC 509\*Prohibition of Electric Master Metering

[Go to End of 78724]

**Re Prohibition of Electric Master Metering**

Intervenors: Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Governor's Council on Energy, New Hampshire Housing Commission, New Hampshire Legal Assistance, Public Service Company of New Hampshire, New Hampshire People's Alliance, and Community Action Program

DE 80-172

65 NH PUC 509

New Hampshire Public Utilities Commission

October 28, 1980

HEARING on proposed rule prohibiting master metering of electricity used in multifamily dwellings; order in accordance with opinion.

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## RATES, § 313 — Master metering of electricity.

[N.H.] The commission promulgated a rule prohibiting master metering of electric service where there is more than one dwelling unit in the affected building receiving electric service through the master meter and the occupants of each unit have control over any portion of the electric service, used in such unit, received through the master meter, such rules to be applied to new construction which include all multifamily buildings excluding motels, hotels, and dormitories, for which construction commenced after November 18, 1980, or which were undergoing renovations after that date and in which the cost of the renovations exceed 50 per cent of the value of the building or are converted to electric space and/or water heating after that date.

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APPEARANCES: Franklin Hollis for Concord Electric Company and Exeter and Hampton Electric Company (CE/E&H); Michael Flynn for Granite State Electric Company (Granite); George N. Gantz, director of planning and research, Governor's Council on Energy (GCOE); Tony Redington, executive director for New Hampshire Housing Commission (NHHC); Robert D. Gross, executive director, New Hampshire Legal Assistance (NHLA); Martin Gross and Philip Ayers for Public Service Company of New Hampshire (PSNH); Maurice Routhier for the New Hampshire People's Alliance (NHPA); Gerald Eaton for Community Action Program (CPA); Linda L. Ashford, New Hampshire Public Utilities Commission statistical assistant.

BY THE COMMISSION:

Report

*I. Procedural History*

This proceeding was initiated by order of the public utilities commission (commission) on August 15, 1980, pursuant to its statutory authority granted by RSA 365:8, 365:10, 374:1, and 374:3 and the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 USC § 2601 (1978). Section 113(b) (1) of PURPA established the following federal standard:

"Section 113 (b) (1) — *Master Metering* — To the extent determined appropriate under § 115 (d), master metering of

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electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of this title." and further:

"Section 115(d) — *Master Metering* — Separate metering shall be determined appropriate for any new building for purposes of § 113(b)(2) if —

"(1) there is more than one unit in such building;

"(2) the occupant of each such unit has control over a portion of the electric energy used in such unit; and



"(3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the cost of purchasing and installing separate meters in such building."

The "purposes of the act" are:

"Section 101. Purposes

"The purposes of this title are to encourage —

"(1) conservation of energy supplied by electric utilities;

"(2) the optimization of the efficiency of use of facilities and resources by electric utilities;  
and

"(3) equitable rates to electric consumers."

In its order of notice, the commission proposed a rule similar to that established by § 113(b)(1) of PURPA:

"Master metering of electric service is prohibited in buildings constructed after January 1, 1980. Electric service shall be considered master metered for the purposes of this rule if:

"(1) There is more than one dwelling unit in such building receiving electric service through the master meter; and

"(2) The occupant of each such unit has control over a portion of the electrical service, used in such unit, which would be master metered."

Pursuant to RSA 541-A:3 and the requirements of § 113(a) of PURPA, the commission solicited comments in writing, and held a public hearing in the commission offices on October 6, 1980. Comments were received in writing and/or orally from the above named persons.

## *II. Comments*

### *A. General*

Nearly all those commenting endorsed the commission's proposed rule. Concord Electric Company and Exeter and Hampton Electric Company stated:

"It has been a policy of the companies to discourage master metering of *all* electricity used in multifamily dwelling buildings ... the companies, therefore, favor the adoption of a rule along the lines of the rule proposed by the commission ... ."

Similar comments regarding the adoption of a rule prohibiting master metering were received from PSNH (" ... endorses this proposed rule ... "), the GCOE (" ... wishes to express its support for the proposed rule ... "), NHPA (" ... supports the adoption of the proposed rule as written ... "), NHLA (" ... endorses the intent to prohibit master metering according to the PURPA standards ... "). Community Action Program voiced its approval orally at the public hearing. Granite did not take a specific position on adoption of the rule. In late-filed written comments, the LUCC also favored "a general prohibition of master metering for electric service in multifamily dwellings." Only the NHHC voiced opposition to adoption of a master metering prohibition. The NHHC stated that its " ... staff recommendation

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regarding your proposed rule on individual metering is that such a rule should not be adopted if it is going to penalize economically those who develop and own rental housing."

The NHHC's opposition appears to be based on its own interpretation of the requirements under the state's energy code and private developers' actual practices. Further discussion of this issue will be discussed below. It is worthwhile noting at this point that not a single builder or developer who might be affected by this rule commented either orally or in writing.

Although there was general support for the proposed rule, various suggestions were made concerning the actual provisions of the rule.

#### *B. Effective Dates*

The proposed effective date of the proposed rule was January 1, 1980. All commentors on this item indicated that the effective date should be changed. Public Service Company of New Hampshire and NHLA recommended changing the date so as to apply to "buildings constructed after January 1, 1981"; CE/E&H proposed that the rule apply to "buildings for which ground is broken after July 1, 1981" or having January 1, 1981, the effective date and not have the rule apply to a building project initiated before said date; Granite would have the rule apply to "all buildings not commencing construction within ninety days of the final adoption of the rule"; GCOE would change the effective date to August 24, 1979, for new construction or buildings undergoing renovations but would set an October 6, 1980, date for "all buildings" converted to electric space and water heating after October 6, 1980"; LUCC would change the effective date so that it would be "prospective in nature"; staff suggested that the rule be effective "after August 24, 1979, as per New Hampshire RSA 155-D, and § 505.2(e) of the New Hampshire Energy Code" (see discussion of energy code below).

#### *C. Provision for Exemption*

The proposed rule, as written, did not contain a provision for exemption. Several commentors indicated that such a provision was warranted. Concord Electric Company and Exeter and Hampton Electric Company, Granite, LUCC, and staff all suggested that a provision for exemption be included which would permit master metering upon a showing that the long-run benefits to consumers of individual metering do not exceed the cost of purchasing and installing separate meters.

#### *D. Definition of "Control"*

Concord Electric Company and Exeter and Hampton Electric Company indicated that the definition of the term "control" was not defined and suggested use of the term "switching control" or "direct control" be used.

#### *E. Type of Construction Affected*

The proposed rule prohibits master metering in "buildings" and later refers to "dwelling unit in such building." Public Service Company of New Hampshire would limit the proposed rule to buildings containing dwelling units as the latter are defined in Chap III, Rule 8C 1 of the commission's Rules and Regulations Prescribing Standards for Electric Service. It would also pertain

only to such buildings for which building permits were issued after January 1, 1981. Granite would limit the rule to all buildings "commencing construction" ninety days after the final adoption of the rule and defines commencing construction as:

"Actual ground breaking or related site preparation activity, which is followed by an active and reasonably continuous period of construction."

Staff would have the rule apply to commercial buildings as well as residential. Community Action Program suggested the inclusion of mobile home parks. Governor's Council on Energy and PSNH suggested not extending the proposed rule to commercial buildings. Community Action Program suggested extending the proposed rule to master metered gas buildings.

### *III. Discussion and Conclusions*

#### *A. Effect of PURPA*

The joint explanatory statements of the committee of conference (conference report) indicates that the purposes of the act are "independent of one another and not listed in any order of preference or priority." The conference report goes on to state:

"The conference intends that it is not necessary that all of these three purposes be achieved for any action to be considered as carrying out these purposes. Rather, if any of those purposes is achieved and the others are not negatively impacted, a finding can be made that the purposes of the title are carried out."

With regard to the standards established in § 113 of PURPA, the conference report states:

"Section 113. Adoption of certain standards

"The purpose of this section is to establish a second group of Federal standards with respect to electric utilities. Unlike the first group established by § 111(d), some of these standards are not directly related to the rate structure of the electric utility, but rather relate to other practices of electric utilities regarding terms and conditions of electric service that may indirectly affect the rate structure of the utility.

"The conferees intend that the discretion under this title of a state regulatory authority or nonregulated electric utility to adopt the standards established by § 113 or not adopt them or to implement the standards established by § 111 or not implement them is very broad, so long as the requirements of this title are met. Such authority and utility are not required by these sections to adopt or implement such standards. *However, any provisions of state law or regulations that may require such adoption or implementation are not affected by this title.*

"The conferees wish to emphasize that for purposes of the determination in accordance with Par (1) or (2) of § 113 and for the purposes of any review of the consideration and determination in any court, *the purposes of this title supplement state law.*

"It should be noted that the test of consistency with state law, as described in § 113(a) (1) and (2) is with respect to state law alone and not with respect to state law as supplemented by the three purposes of the title. The intent here is that where a state regulatory commission or

nonregulated utility finds insufficient authority pursuant to otherwise applicable state law, under which it may adopt a standard established in § 113, then these three purposes of the title provide such authority. In effect the three purposes expand the discretion of

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the state regulatory commission or non-regulated utility to adopt the standards of § 113. However, *the conferees also intend that three purposes do not override state law.*

"The last sentence of § 113(a) states that nothing in this subsection prohibits any state regulatory authority or non-regulated utility from making the determination that it is not appropriate to implement any such standard pursuant to its authority under otherwise applicable state law. The intention here is to preserve the discretion of the state regulatory authorities and nonregulated utilities which is provided by state law, except to the extent this title imposes procedural requirements such as requirements to hold a hearing, consider and make determination ... ." (Emphasis added.)

With particular reference to the master metering standard the conference report states:

"With regard to the standard for master metering, *the conferees leave the matter of what is a new building to the states for their determination.* The states should be guided by the cost of purchasing and installing individual meters in the building after the date of adoption of the standard balanced against the energy to be saved over the anticipated useful life of the building. The conferees believe that the case for adopting the standard is stronger if the person using the space in a building uses significant amounts of electric energy and controls its use and the installation of meters would be cost effective. There is no intention here to have state regulatory authorities or non-regulated utilities dictating the design of buildings, the choice or design of heating systems, cooling systems, or any other such energy consuming systems in buildings. Rather, this standard goes only to the choice of whether, given a specific multiunit building, the electrical consumption in the building will be measured by a master meter or by use of individual meters in the separate dwelling units." (Emphasis added.)

Therefore, while the commission's discretion under PURPA, with regard to the master metering standard is very broad, provisions of state law or regulations requiring adoption or implementation are not affected by the act. The conference report also indicates that in considering the adoption of the standard, the cost of purchasing, and installing individual meters should be balanced against the energy to be saved over the anticipated useful life of the building.

*B. New Hampshire Energy Code*

As the GCOE points out, under the authority of RSA 155-D, effective August 24, 1979, the GCOE administers the New Hampshire Energy Code (code). Section 505.2(3) of the code provides:

"e. Electric Energy Determination. In all multifamily dwellings provision shall be made to determine the energy consumed by each tenant by separately metering individual dwelling units.

"Exception: Motels, hotels, and dormitories are exempt from these requirements."

We think the GCOE is quite correct when it states that the incremental cost of wiring,

metering, etc. is virtually zero for the purpose of PURPA since the code clearly requires the installation of separate meters in multifamily residential buildings.

The code was effective August 24, 1979. All new construction as of that date must conform to the requirements of the code. The NHHHC indicated that while builders and developers have been

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wiring multifamily buildings for separate meters, many have been installing master meters: "... However, under the New Hampshire Energy Code, the rental developer in most cases has selected only to wire for individual metering and elected a master meter." (Page 4.) However, when asked for a definition of the rule contained in the code, Mr. Redington indicated that the NHHHC looks to the GCOE for definitions and interpretations of the code. Mr. Gantz of the GCOE indicated in both oral and written comments that the code mandates not only wiring for individual meters, but the installation of meters themselves, as well. We agree with the NHHHC that "there is no one who seriously questions the fact that individual metering of electricity results in lower average usages by tenants regardless of the nature of the housing units examined, the incomes of the tenants, or the household types (elderly, family, one-person)." Studies referred to by NHHHC and data provided by staff all indicate that there is an energy savings to be achieved by individual metering. The commission sees no benefit to a developer to both individually meter and master meter the same building. Moreover, submetering for the purposes of billing would constitute a resale of electricity and would be prohibited. The commission, therefore, finds that the prohibition of master metering would achieve the purposes of PURPA and be consistent with the state law under the New Hampshire Energy Code.

#### *C. Provisions of the Rule*

The proposed rule differed only slightly from the PURPA standard. The conference report states: "... Adoption of standards which vary insignificantly from the standards spelled out in this section may be treated as adoption of the standards for purposes of this subsection." The commission is of the opinion the final rule as adopted herein substantially conforms to the PURPA standard.

The New Hampshire Energy Code is effective August 24, 1979, and pertains to new construction after that date. The commission, however, will give the final rule in this proceeding prospective application effective November 18, 1980. It would appear from the testimony of Mr. Redington, however, that there may exist construction which should have been in conformance with the code after August 24, 1980, but is not. As part of this proceeding, therefore, the commission, in a supplemental order, will order all electric utilities to review all buildings master metered after August 24, 1979, and report the results to the commission. The commission will investigate whether these buildings are in compliance with the requirements of the code.

The code requirement pertains to multifamily dwellings with the exclusion of motels, hotels, and dormitories. Despite some commentors' suggestions that the commission expand the rule to cover commercial buildings, existing dwellings, existing mobile home parks, or master metered gas buildings, the commission finds that this expansion is not required by PURPA and is not covered by the state energy code. Of greater significance, however, is the fact that there is

insignificant information in the record at this time to properly develop an appropriate rule. The commission, therefore, will limit the final rule to include only multifamily dwellings. While the commission is of the opinion that it could, at this time, institute

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such a rule, with appropriate exemption or waiver provisions, it would not be practical to do so. However, the commission does intend to consider the extension of the final rule to commercial buildings, existing mobile home parks, and existing buildings and will issue a supplemental order in this proceeding.

The definition of new buildings, according to the conference report, is left to the states. The code defines new construction to include all buildings for which construction commenced after August 24, 1979, and all buildings undergoing renovation after August 24, 1979, in which the costs of the renovation exceed 50 per cent of the value of the building. The GCOE is of the opinion that all buildings converted to electric space and water heating after the effective date of the final rule be included. The commission notes that, as CE/E&H points out, the proposed rule would permit master metering of electrical service of the occupant who did not have control over the service being master metered. The intent of this provision was to allow master metering providing central heat, air conditioning and/or hot water where the tenant had no direct control over the amount of energy used thereby permitting the use of load management techniques such as off-peak storage facilities or alternative energy systems in conjunction with off-peak electrical service as noted by PSNH. While the proposed rule does not require the use of such techniques, where they are cost-effective they should be installed. By permitting the installation of centralized space and/or water heating now, conversions involving load management and/or alternative energy systems will be that much easier later. The commission is of the opinion that this provision is not in conflict with the code, since the energy is not directly consumed by the tenant and is not under the individual tenant's control. As for the GCOE's proposed inclusion of conversions to electric space and water heating after the effective date of the rule, the change noted above is perfectly applicable and the commission will include such conversions.

Because the code mandates the installation of individual meters, and the commission's rule permits master metering under certain conditions, the commission is of the opinion that no provision for waiver is necessary. A builder could not install a master meter under the code for energy consumed directly by each tenant, under any condition, and the final rule has a built-in waiver when certain conditions are met. It should be noted, that even when a master meter is installed, it will still be necessary to install individual meters for each tenant. Actually, the master meter is not a master meter at all but is analogous to the meter which would be installed for public lighting purposes; e.g., common halls, lobbies, utility rooms, etc.

The commission is of the opinion that the final rule is consistent with the purposes of PURPA and the requirements of the state energy code. The commission is appreciative of the time and effort put forth by all commentors in the development of this final rule.

#### *IV. Final Rule*

The following rule will become Rules 2(c), and 2(d), Chap. III of the Rules and Regulations Prescribing Standards for Electric Utilities: (c) (1) Master metering of electric service is

prohibited in new construction as per NHRSA 155.1) and § 505.2(e) of the New

**Page 515**

Hampshire Energy Code. Electric service shall be considered master metered for the purposes of this section if:

- a. There is more than one dwelling unit in such building receiving electric service through the master meter, and
- b. The occupant(s) of each unit has control over any portion of the electrical service, used in such unit, received through the master meter.

(2) *Definitions:* For the purposes of § (1) above

a. "New construction" includes all multifamily buildings excluding motels, hotels, and dormitories, (1) for which construction commenced after November 18, 1980, or (2) which are undergoing renovations after November 18, 1980, in which the cost of the renovations exceed 50 per cent of the value of the building, or (3) are converted to electric space and/or water heating after November 18, 1980.

b. "Dwelling Unit" is defined in Chap. III, Rule 8c1 below.

c. "Control" means direct control such as a thermostat or direct use, but does not include indirect control such as control over water flow as in the case of hot water usage.

Our order will issue accordingly.

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NH.PUC\*10/28/80\*[78725]\*65 NH PUC 516\*Public Service Company of New Hampshire

[Go to End of 78725]

**Re Public Service Company of New Hampshire**

DR 79-187, 44th Supplemental Order No. 14,544

65 NH PUC 516

New Hampshire Public Utilities Commission

October 28, 1980

ORDER granting a motion for an extension of time to file brief.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Legislative Utility Consumers' Council and Community Action Programs having filed on October 27, 1980, a motion for an extension of time to file brief in Phase I, DR 79-187; and

Whereas, upon consideration of the aforementioned motion the commission believes there is merit to the concerns listed; it is hereby

Ordered, that all parties have until October 29, 1980, to file briefs relating to the question of recoupment.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of October, 1980.

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NH.PUC\*10/30/80\*[78726]\*65 NH PUC 517\*Information to Consumers

[Go to End of 78726]

### Re Information to Consumers

Intervenors: Concord Electric Company, Exeter and Hampton Electric Company, Public Service Company of New Hampshire, Granite State Electric Company, New Hampshire Electric Cooperative, Inc., Northern Utilities, Inc., Gas Service, Inc., Manchester Gas Company, Concord Natural Gas Corporation, New Hampshire Legal Assistance, New Hampshire People's Alliance, and Community Action Program et al.

DE 80-174, Second Supplemental Order No. 14,545

65 NH PUC 517

New Hampshire Public Utilities Commission

October 30, 1980

HEARING on proposal to amend and supplement commission rules and regulations for electric and gas utilities by adopting provisions relative to providing information to consumers; final rules promulgated.

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PAYMENT, § 2 — Rules and regulations — Information to consumers — Rate advantages — Meter reading and bill forms.

[N.H.] The commission has promulgated rules and regulations for electric and gas utilities relative to providing information to consumers relating to possible rate advantages and rate schedules, meter reading and bill forms, and service provisions.

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APPEARANCES: Franklin Hollis for Concord Electric Company and Exeter and Hampton Electric Company; Martin L. Gross and Philip Ayers for the Public Service Company of New Hampshire; Michael Flynn for Granite State Electric Company; John Pillsbury, general manager, for New Hampshire Electric Cooperative, Inc.; Milton F. Todd, assistant treasurer, and Franklin Hollis for Northern Utilities, Inc.; Michael J. Mancini, Jr., treasurer, and Victor L. Blondin for Gas Service, Inc.; David A. Skrzysoski, controller, and Charles Bauer for Manchester Gas



Company; Ronald P. Bisson, office manager, for Concord Natural Gas Corporation; Robert D. Gross, executive director, for New Hampshire Legal Assistance; Maurice Routhier for the executive board, New Hampshire People's Alliance; Gerald Eaton for Community Action Program; Hervey Scudder, pro se; David W. Lavoie for staff.

BY THE COMMISSION:

Report

### *I. Procedural History*

On August 15, 1980, the New Hampshire Public Utilities Commission (commission) issued an order of notice proposing to amend and supplement the commission's rules and regulations for electric and gas utilities by adopting provisions relative to providing information to consumers. The proposed rules were issued pursuant to the commission's authority granted by RSA 365:8, 365:10, 378:1, 378:3, and § 113 (b) (3) and 115 (f) of the Public Utility Regulatory Policies Act of 1978 (PURPA). Pursuant to RSA Chap. 541-A, written comments were received by

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September 19, 1980, and a hearing was held on October 7, 1980. Written and/or oral comments were received from the above-named persons. At the hearing, it was decided not to require degree-day adjusted consumption data to be disseminated to consumers due to the lack of sufficient data upon which to develop an appropriate methodology at this time. The commission intends to continue to pursue the matter and will issue subsequent orders as appropriate.

### *II. Comments*

#### *A. Public Service Company of New Hampshire*

Public Service Company of New Hampshire (PSNH) indicated that it "endorses the goal of providing consumers with the information necessary to promote end-use energy conservation." However, the company indicated that the commission should consider the marginal benefits to be derived, and the marginal costs which will be incurred. Overall, PSNH endorsed the proposed rule, while suggesting minor modifications.

Public Service Company of New Hampshire would eliminate the requirement that "a clear and concise listing of his (her) rights and responsibilities as an electric consumer" be given to each customer and include instead a bill insert stating that such rights exist and that they can be obtained from the company. Public Service Company of New Hampshire would substitute the following language on a bill insert:

"By New Hampshire Public Utilities Commission order you are advised that as a utility consumer you have certain rights and responsibilities. You may bring any complaint, problem, concern, or comment to the attention of the public utilities commission by calling the following toll-free number: 1-800-852-3793."

Public Service Company of New Hampshire would eliminate the requirement that "each bill shall indicate the date of the next meter reading." The company claims that because of weather, bill redesign, and associated computer programming changes, it should not be done.

While PSNH indicated that it had no prepayment meters in service at this time, the rule on

prepayment meters should be left intact because they may be coming back. The New Hampshire Electric Cooperative is in accord with the last statement.

*B. Concord Electric and Exeter and Hampton Electric Companies*

In general, the companies favored the concepts of the proposed rule. Concord Electric Company and Exeter and Hampton Electric Company claimed that the rule was too vague regarding the listing of rights and responsibilities requirement and that this should be clarified.

Concord Electric Company and Exeter and Hampton Electric Company also claimed that indicating the date of the next meter reading on the bill would be "virtually impossible to comply with" due to sickness, weather, holidays, and other factors.

*C. Granite State Electric*

Granite State Electric agreed with the commission that "the proposed rule will provide helpful and useful information to the company's customers." However, Granite suggested that the requirement

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that a utility notify customers of a change in rate schedules not apply to changes under purchase power cost adjustment clauses, fuel adjustment clauses, or revisions in a general rate case after the initial filing.

*D. Manchester Gas Company*

Manchester Gas Company suggested that the mailing of rate schedules to customers not be required until sixty days from the effective date of the rule. Manchester Gas also indicated that the rule was too vague as to what "a clear and concise listing of a customer's rights and responsibilities" would include, and requested a more specific definition. In addition, the company suggested that the normal recurring cost of gas adjustment filing not be subject to direct customer notification.

Manchester Gas suggested that the requirement for showing the date of the next meter reading be deleted because it cannot be guaranteed. In addition, the company suggested that the commission take into account the supply of bill forms on hand where changes require a redesign of the bill. The company indicated that it had a nine-month supply on hand. In addition, the company requests that a waiver provision be included.

*E. Gas Service, Inc.*

Gas Service, Inc., suggested that a reasonable effective date allowing ample time for implementation be set. Gas Service, Inc. would also eliminate the provisions regarding individual notice of rate schedule filings because it would confuse customers and public notice is already given. It should also not cover cost of gas adjustment filings. The company also suggested eliminating the requirement showing the next meter reading date on the bill.

*F. Concord Natural Gas Corporation*

Concord Natural Gas Corporation would eliminate the words "a clear and concise explanation of" with respect to the requirement providing rate schedules. The company states

that the transmittal of rate schedules should be sufficient. Concord Natural Gas Corporation also maintains that notice to customers or proposed rate changes is unnecessary. In any case, the company would propose notice of the percentage increase only and that the requirement not apply to cost of gas adjustment clause filings. The company would delete the next meter reading date requirement, and suggests providing consumption data only once each year.

*G. Northern Utilities, Inc.*

Northern Utilities, Inc., comments are similar to those noted above with regard to individual notice of rate changes. Northern, however, does indicate the date of the next meter reading on its current bills.

*H. Other Comments*

New Hampshire Legal Assistance and NHPA support the proposed rules. New Hampshire People's Alliance would also have the utility notify consumers of when and where public hearing will be held at least ten days in advance of the earliest hearing. Community Action Program suggested that foreign language versions of any statement of rights be available where appropriate. Staff witness Lavoie indicated that individual

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notice to consumers would give notice to customers of utilities of proposed rate changes before they occur. He also indicated that the purpose of giving proposed rate information to consumers is so they can see the effect on their utility bills. It will encourage conservation and/or intervention at the beginning of the process, rather than after the rates are adopted. He also suggests that if the bills indicate the *approximate* date of the next meter reading, it should not cause undue problems.

*II. The Proposed Rule*

The proposed rules would amend and supplement Rules 3 and 5, Chap III of the NHPUC rules and regulations prescribing standards for electric utilities and Rules 3 and 6, Chap III of the NHPUC rules and regulations prescribing standards for gas service. Those rules, as amended and supplemented would read as follows: Rules and Regulations Prescribing Standards for Electric Utilities Chapter III, Service Provisions

3. Information to Consumers

A. Each utility shall, upon request, provide its customers with such information and assistance as is necessary that they may secure the most advantageous rate or rates.

B. Each utility shall, upon request, explain to its customers the method of reading meters.

C. Each utility shall transmit to each of its customers a clear and concise explanation of the existing rate schedules applicable to such customer. Such statement shall be transmitted to each customer upon application for service in the case of new customers; in the case of existing customers as of the effective date of this rule, such statement shall be included as a bill enclosure, with the next billing statement. Such statement shall include a clear and concise listing of his (her) rights and responsibilities as an electric customer. Such statement shall also include the telephone number of the NHPUC consumer assistant.

D. Not later than thirty days (sixty days in the case of a utility using a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such customer, such utility shall transmit to each of its customers a clear and concise explanation of the rate schedule(s) applied for applicable to such customer.

E. Not less frequently than once each year, each utility shall transmit to each of its customers a clear and concise summary of the existing rate schedules applicable to each of the major classes of customers for which there is a rate and an identification of any classes not so summarized. Such summary shall be transmitted together with such customer's billing as a bill enclosure.

### 5. Meter Reading and Bill Forms

A. The metering equipment for each service shall indicate the number of kilowatt-hours (kwh) registered and kw of kva demand if applicable. All meter constants shall be plainly marked on the face of the meter.

B. All service meters shall be read at regular intervals and on the corresponding day of each meter reading period insofar as practicable within regularly scheduled work days.

C. Bills shall be rendered at regular intervals and shall show all meter readings and such other factors as are necessary, so that the charges may be readily computed from the information

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appearing on the bill. Each bill shall indicate the date of the current meter reading and any applicable discount or penalty date. Each bill shall indicate the date of the next meter reading.

D. All bill forms for domestic and general service customers shall include either a brief of the applicable rate indicating the basis on which charges are determined, or a notation that a printed copy of the effective rate will be furnished upon request.

E. Each utility having prepayment meters in service shall, upon request, at the end of each collection period inform the customer of the readings of the meter at the beginning and end of the period, and the amount of money taken from the meter for the period corresponding to the meter readings.

F. Each utility shall keep an accurate account of all charges for service billed each customer and shall maintain records showing information from which each bill rendered may be readily computed.

G. Each utility, at the request of a customer of such utility, shall transmit to such customer a clear and concise statement of the actual consumption and/or degree day adjusted consumption of electric energy by such customer for each billing period during the prior year. Rules and Regulations Prescribing Standards for Gas Service

### 3. Information to Consumers

A. Each utility shall, upon request, provide its customers with such information and assistance as is necessary that they may secure the most advantageous rate or rates.

B. Each utility shall, upon request, explain to its customers the method of reading meters.

C. Each utility shall transmit to each of its customers a clear and concise explanation of the existing rate schedules applicable to such customer. Such statement shall be transmitted to each customer upon application for service in the case of new customers; in the case of existing customers as of the effective date of this rule, such statement shall be included as a bill enclosure, with the next billing statement. Such statement shall include a clear and concise listing of his (her) rights and responsibilities as a gas customer. Such statement shall also include the telephone number of the NHPUC consumer assistant.

D. Not later than thirty days (sixty days in the case of a utility using a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such customer, such utility shall transmit to each of its customers a clear and concise explanation of the rate schedule(s) applied for applicable to such customer.

E. Not less frequently than once each year, each utility shall transmit to each of its customers a clear and concise summary of the existing rate schedules applicable to each of the major classes of customers for which there is a rate and an identification of any classes not so summarized. Such summary shall be transmitted together with such customer's billing as a bill enclosure.

#### 6. Meter Reading and Bill Forms

A. Each service meter of the displacement type shall indicate clearly the cubic feet of gas registered. When gas is measured under high pressure or when the quantity is determined by calculation from recording devices, the utility shall supply the customer with the infor

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mation needed to make clear the method by which the quantity is determined. All meter constants shall be plainly marked on the face of the meter.

B. All service meters shall be read at regular intervals and on the corresponding day of each meter reading period insofar as practicable within regularly scheduled work days.

C. Bills shall be rendered at regular intervals and shall show all meter readings and such other factors as are necessary, so that the charges may be readily computed from the information appearing on the bill. Each bill shall indicate the date of the current meter reading and any applicable discount or penalty date. Each bill shall indicate the date of the next meter reading.

D. All bill forms for domestic and general service customers shall include either a brief of the applicable rate indicating the basis on which charges are determined, or a notation that a printed copy of the effective rate will be furnished upon request.

E. Each utility having prepayment meters in service shall, upon request, at the end of each collection period inform the customer of the readings of the meter at the beginning and end of the period, and the amount of money taken from the meter for the period corresponding to the meter readings.

F. Each utility shall keep an accurate account of all charges for service billed each customer and shall maintain records showing information from which each bill rendered may be readily computed.

G. Each utility, at the request of a customer of such utility, shall transmit to such customer a clear and concise statement of the actual consumption and/or degree day adjusted consumption of gas by such customer for each billing period during the prior year.

### III. *Effect of PURPA*

Section 113(b)(3) of PURPA states:

"Information To Consumers — each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of § 115(f)."

Section 115(f) of PURPA states:

"Information To Consumers — (1) for purposes of the standard for information to consumers established by § 113(b)(3), each electric utility shall transmit to each of its electric customers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer —

"(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by § 113(b)(3) is adopted with respect to such electric utility, whichever last occurs, and

"(B) not later than thirty days (sixty days in the case of an electric utility which uses a bimonthly billing system) after such utility application for any change in a rate schedule applicable to the consumer (or proposal of such a change in the case of a nonregulated utility).

"(2) For purposes of the standard for information to consumers established by § 113(b)(3), each electric utility shall transmit to each of its electric consumers not less frequently than once each year —

"(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric

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consumers for which there is a separate rate, and

"(B) an identification of any classes whose rates are not summarized.

"Such summary may be transmitted together with such consumer's billing or in such other manner as the state regulatory authority or nonregulated electric utility deems appropriate.

"(3) For purposes of the standard for information to consumers established by § 113(b)(3), each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility)."

With regard to this federal standard, the joint explanatory statement of the committee of conference (conference report) states:

" ... The conferees felt that the ability of the electric consumer to make the right decisions regarding the use of electric energy depends greatly on the information available to him ... . . . ."

"The statement given to the consumer pursuant to subsection (f)(1) could also include a listing of his rights and responsibilities as an electric consumer ... ."

Section 113 (a) requires that the commission consider the adoption of the above standard if the commission determines that such adoption is appropriate to carry out the purposes of Title I of PURPA, is otherwise appropriate and consistent with state law. The purposes of Title I are:

"Section 101 Purposes

"The purposes of this title are to encourage —

"(1) conservation of energy supplied by electric utilities;

"(2) The optimization of the efficiency of use of facilities and resources by electric utilities; and

"(3) equitable rates to electric consumers."

The conference report states that the purposes are independent of one another and that it is not necessary that all three purposes be achieved. Rather, if any of the purposes is achieved, and the others are not negatively impacted, a finding can be made that the purposes of the title are carried out. In addition, the conference report indicated that "adoption of standards which vary insignificantly from the standards spelled out in this section may be treated as adoption of the standards for purposes of this subsection.

Based upon the comments received, and numerous studies on the subject, it is apparent that the purposes of the act will be met by adoption of the standard. Although the final rule adopted in this proceeding varies slightly from the federal standard, the commission is of the opinion that it has adopted the standard."

Although PURPA only requires that the commission consider the standards with respect to PSNH [as per § 102 (a)], for the purposes of consistency the commission has extended the rule to all electric utilities. Moreover, the commission is of the opinion that such information is in the best interests of gas consumers as well, and has extended this proceeding to include gas utilities as well.

#### *IV. Discussion and Findings*

Nearly all commenters agreed that the proposed rules were appropriate and

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would provide customers with useful information. The comments pertained primarily to four areas: (1) statement of rights and responsibilities; (2) provision of the date of the next meter reading on the bill; (3) the effective date of the rules; and (4) provision for notice to customers regarding change in rate schedules.

As the conference report indicated, a statement of a consumer's rights and responsibilities could be included as part of the statement of the existing rate schedule. Inasmuch as the rules and regulations are indeed part of existing tariffs, the commission is of the opinion that this

information relating to service provisions, deposit requirements, and discontinuance of service should be provided. However, the existing rules are quite lengthy. Rather than allow each utility to provide its own summary, resulting in possible confusion, contrary interpretation, and lack of uniformity, as well as duplication of effort, the commission will draft a proposal statement of utility consumers' rights and responsibilities and circulate it for comment. Therefore, this provision of the proposed rules will be deleted for the time being.

There was diversity of opinion regarding the provision of the rules providing the date of the next meter reading on the bill. Most utilities indicate they do not do so at present, while at least one said it did. Several commented that the bill indicated that the meter was read every thirty days. The commission is of the opinion that consumers should be aware of when their meter will be read. Therefore, the provision will be retained; however, the bills need only state the "approximate" date of the next reading.

In order to provide the companies with sufficient time to implement these rules, the commission has made these rules effective January 1, 1981. Any part of these rules now contained in existing rules, however, continue to be effective in the interim.

The provision requiring direct notice of changes in rate schedules has been modified to require such notice only on the occasion of a general rate case. The commission is of the opinion that notices of proposed increased rates may spark conservation and/or intervention and provide for additional input. We cannot on the one hand promote the cause of equal access to the regulatory process, and on the other bury the notices of impending cases in small print in the middle of a newspaper. However, because the time frame is so short in the process of setting rates under fuel adjustment, purchased power, and gas adjustment clauses, it would be unwieldy to follow the same procedure in these cases. Therefore, the rule does not require direct notice in these situations. However, the annual mailing of "a clear and concise summary of existing rate schedules" shall include a provision indicating that such rate changes do occur periodically and the frequency of change should be noted.

Community Action Program made the admirable suggestion that the statements required under this rule should be provided in a foreign language. Since the companies are most familiar with the linguistic background of their service territory, the rule provides that such statements should be provided where appropriate.

Our order will issue accordingly.

Supplemental Order

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

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Ordered, that the attached final rules become effective on January 1, 1981, to the extent that they differ from existing rules.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of October, 1980.

*V. Final Rule*



The final rule amends and supplements PUC 303.03 and PUC 303.5, Chap PUC 300 of the NHPUC Rules and Regulations Prescribing Standards for Electric Utilities. Those rules, as amended and supplemented would read as follows: Rules and Regulations Prescribing Standards for Electric Utilities Chapter 300, Service Provisions

*Puc 303.03. Information to Consumers*

(a) Each utility shall, upon request, provide its customers with such information and assistance as is necessary that they may secure the most advantageous rate or rates.

(b) Each utility shall, upon request, explain to its customers the method of reading meters.

(c) Each utility shall transmit to each of its customers a clear and concise statement of the existing rate schedules applicable to such customer. Such statement shall be transmitted to each customer upon application for service in the case of new customers; in the case of existing customers as of the effective date of this rule, such statement shall be included as a bill enclosure, with the next billing statement. Such statement shall also include the toll-free telephone number of the NHPUC consumer assistant.

(d) Not later than thirty days (sixty days in the case of a utility using a bimonthly billing system) after such utility's application for a general rate increase, such utility shall transmit to each of its customers a clear and concise statement of the rate schedule(s) applied for applicable to such customer.

(e) Not less frequently than one each year, each utility shall transmit to each of its customers a clear and concise statement of the existing rate schedules applicable to each of the major classes of customers for which there is a rate and an identification of any classes not so summarized. Such statement shall be transmitted together with such customer's billing as a bill enclosure. Such statement shall indicate whether the rate schedules are subject to a fuel adjustment and/or purchase power clause, and the frequency with which the rates under these clauses are subject to change. Such statement shall also include the toll-free number of the NHPUC consumer assistant.

(f) All statements required under (a) — (e) above shall be provided in a foreign language format, where appropriate.

*Puc 303.05. Meter Reading and Bill Forms*

(a) The metering equipment for each service shall indicate the number of kilowatt-hours (kwh) registered and kw of kva demand if applicable. All meter constants shall be plainly marked on the face of the meter.

(b) All service meters shall be read at regular intervals and on the corresponding day of each meter reading period insofar as practicable within regularly scheduled work days.

(c) Bills shall be rendered at regular intervals and shall show all meter readings and such other factors as are necessary, so that the charges may be

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readily computed from the information appearing on the bill. Each bill shall indicate the date

of the current meter reading and any applicable discount or penalty date. Each bill shall indicate the approximate date of the next meter reading. Each bill shall indicate the toll-free telephone number of the NHPUC consumer assistant.

(d) All bill forms for domestic and general service customers shall include either a brief of the applicable rate schedule indicating the basis on which charges are determined, or a notation that a printed copy of the effective rate schedule will be furnished upon request.

(e) Each utility having prepayment meters in service shall, upon request, at the end of each collection period inform the customer of the readings of the meter at the beginning and end of the period, and the amount of money taken from the meter for the period corresponding to the meter readings.

(f) Each utility shall keep an accurate amount of all charges for service billed each customer and shall maintain records showing information from which each bill rendered may be readily computed.

(g) Each utility, at the request of a customer of such utility, shall transmit to such customer a clear and concise statement of the actual consumption of electric energy by such customer for each billing period during the prior year.

The final rule amends and supplements Rules PUC 503.03 and 506.06, Chap PUC 500 of the NHPUC Rules and Regulations Prescribing Standards for Gas Service. Those rules, as amended and supplemented would read as follows: Rules and Regulations Prescribing Standards for Gas Service

*Puc 503.03. Service Provisions*

(a) Each utility shall, upon request, provide its customers with such information and assistance as is necessary that they may secure the most advantageous rate or rates.

(b) Each utility shall, upon request, explain to its customers the method of reading meters.

(c) Each utility shall transmit to each of its customers a clear and concise statement of the existing rate schedules applicable to such customer. Such statement shall be transmitted to each customer upon application for service in the case of new customers; in the case of existing customers as of the effective date of this rule, such statement shall be included as a bill enclosure, with the next billing statement. Such statement shall also include the toll-free telephone number of the NHPUC consumer assistant.

(d) Not later than thirty days (sixty days in the case of a utility using a bimonthly billing system) after such utility's application for a general rate increase, such utility shall transmit to each of its customers a clear and concise statement of the rate schedule(s) applied for applicable to such customer.

(e) Not less frequently than once each year, each utility shall transmit to each of its customers a clear and concise statement of the existing rate schedules applicable to each of the major classes of customers for which there is a rate and an identification of any classes not so summarized. Such statement shall be transmitted together with such customer's billing as a bill enclosure. Such statement shall indicate whether

the rate schedules are subject to a gas adjustment clause, and the frequency with which the rates under these clauses are subject to change. Such statement shall also include the toll-free number of the NHPUC consumer assistant.

(f) All statements required under (a) — (e) above shall be provided in a foreign language format, where appropriate.

*Puc 503.06. Meter Reading and Bill Forms*

(a) Each service meter of the displacement type shall indicate clearly the cubic feet of gas registered. When gas is measured under high pressure or when the quantity is determined by calculation from recording devices, the utility shall supply the customer with the information needed to make clear the method by which the quantity is determined. All meter constants shall be plainly marked on the face of the meter.

(b) All service meters shall be read at regular intervals and on the corresponding day of each meter reading period insofar as practicable within regularly scheduled work days.

(c) Bills shall be rendered at regular intervals and shall show all meter readings and such other factors as are necessary, so that the charges may be readily computed from the information appearing on the bill. Each bill shall indicate the date of the current meter reading and any applicable discount or penalty date. Each bill shall indicate the approximate date of the next meter reading. Each bill shall indicate the toll-free telephone number of the NHPUC consumer assistant.

(d) All bill forms for domestic and general service customers shall include either a brief of the applicable rate schedule indicating the basis on which charges are determined, or a notation that a printed copy of the effective rate schedule will be furnished upon request.

(e) Each utility having prepayment meters in service shall, upon request, at the end of each collection period inform the customer of the readings of the meter at the beginning and end of the period, and the amount of money taken from the meter for the period corresponding to the meter readings.

(f) Each utility shall keep an accurate account of all charges for service billed each customer and shall maintain records showing information from which each bill rendered may be readily computed.

(g) Each utility, at the request of a customer of such utility, shall transmit to such customer a clear and concise statement of the actual consumption of gas by such customer for each billing period during the prior year.

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NH.PUC\*10/31/80\*[78727]\*65 NH PUC 528\*New England Telephone and Telegraph Company

[Go to End of 78727]

## Re New England Telephone and Telegraph Company

DE 80-193, Order No. 14,547

65 NH PUC 528

New Hampshire Public Utilities Commission

October 31, 1980

APPLICATION by telephone company for authority to place and maintain a buried telephone conduit under a railroad right of way; granted.

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CONSTRUCTION AND EQUIPMENT, § 5 — Underground telephone conduit.

[N.H.] A telephone company was authorized to place and maintain a buried conduit under a railroad right of way where, after notice and hearing, no objections were filed or expressed and the commission concluded that the conduit would be in the public interest.

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APPEARANCES: Wayne Snow, manager, engineering, for the petitioner.

BY THE COMMISSION:

Report

On August 29, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to place and maintain a buried telephone conduit in two locations in Laconia, New Hampshire. The first being approximately 456 feet from manhole No. 81A in the area of Messer and Lyford streets, with a 12-inch steel casing under the railroad tracks with four four-inch plastic conduits. The second location in the vicinity of Union avenue for a distance of 90 feet, with a 24-inch steel casing with 16 four-inch plastic conduits under the railroad tracks. Both locations are described in detail on Drawings 3 and 11 of 18, Project No. 135429.

The commission issued an order of notice on September 3, 1980, directing all interested parties to appear at public hearing at 10:00 A.M. on October 21, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; John Coleman, New England Telephone and Telegraph Company; and the New Hampshire Transportation Authority.

An affidavit of publication was received on September 25, 1980, indicating a publication in the *Manchester Union Leader* on September 19, 1980, signed by Elizabeth A. Sheppard and received in the commission's offices in Concord, New Hampshire, on September 25, 1980.

Wayne Snow, outside engineering manager, described the buried conduit as being a 12-inch steel casing with four four-inch plastic conduits beginning at existing manhole No. 81 A on Messer street and a 24-inch steel casing with 16 four-inch plastic conduits on Union avenue (Lakeport section) under the railroad tracks as shown on Plans 3 and 11, Project No. 135429.

The commission noted that no objections were filed nor expressed at the

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public hearing; well publicized and proper notification was given to the public as to the proposed maintenance of buried conduit in Laconia, New Hampshire; with no objections being voiced or submitted to this buried conduit and cable installation, the commission feels said cable and conduit would be in the public interests.

Our order will issue accordingly.

Order

Based on the foregoing report, which is made a part hereof; it is

Ordered, that authority be granted for installation and continued maintenance of telephone cable and conduit under railroad tracks for the New England Telephone and Telegraph Company, said crossing to be from manhole No. 81A on Messer street to Union avenue (Lakeport section) under the railroad tracks on the railroad right of way in Laconia, New Hampshire, as described in Project No. 135429 to be maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 1980.

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NH.PUC\*11/03/80\*[78728]\*65 NH PUC 529\*Fuel Adjustment Charge

[Go to End of 78728]

## **Re Fuel Adjustment Charge**

DR 80-46, Seventh Supplemental Order No. 14,550

65 NH PUC 529

New Hampshire Public Utilities Commission

November 3, 1980

PETITION by electric companies, electric cooperative association, and municipal electric plant for approval of proposed fuel adjustment charges for November, 1980; granted.

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

[N.H.] Fuel adjustment charges submitted by electric companies, an electric cooperative association, and a municipal electric plant for November, 1980, were approved.

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## BY THE COMMISSION:

## Supplemental Order

Whereas, the following electric companies, Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, and Woodsville Water and Light Department, filed with this commission their respective fuel adjustment charges for the month of November, 1980; and

Whereas, it appears to the commission that the filings are in the best in

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terests of the public affected; it is

Ordered, that 67th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge including prior period adjustment of \$1.70 per 100 kwh for the month of November, 1980, be, and hereby is, permitted to become effective November 1, 1980; and it is

Further ordered, that Fourth Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$1.72 per 100 kwh for the month of November, 1980, be, and hereby is, permitted to become effective November 1, 1980; and it is

Further ordered, that 43rd Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of ten cents per 100 kwh for the month of November, 1980, be, and hereby is, permitted to become effective November 1, 1980; and it is

Further ordered, that Tenth Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$1.86 per 100 kilowatt-hours for the month of November, 1980, be, and hereby is, permitted to become effective November 1, 1980; and it is

Further ordered, that Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$3.28 per 100 kilowatt-hours less the amount rolled into base rates for the month of November, 1980, be, and hereby is, permitted to become effective November 1, 1980; and it is

Further ordered, that 26th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$2.31 per 100 kilowatt-hours for the month of November, 1980, be, and hereby is, permitted to become effective November 1, 1980; and it is

Further ordered, that 82nd Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$1.72 per 100 kilowatt-hours for the month of November, 1980, be, and hereby is, permitted to become effective November 1, 1980; and it is

Further ordered, that 48th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of ten cents per 100 kilowatt-hours for the month of November, 1980, be, and hereby is, permitted to become effective November 1, 1980.

By order of the Public Utilities Commission of New Hampshire this third day of November, 1980.

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NH.PUC\*11/05/80\*[78729]\*65 NH PUC 531\*New England Telephone and Telegraph Company

[Go to End of 78729]

## Re New England Telephone and Telegraph Company

DE 80-204, Order No. 14,554

65 NH PUC 531

New Hampshire Public Utilities Commission

November 5, 1980

PETITION of a telephone company for authority to place and maintain a buried telephone conduit and an aerial cable; granted.

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TELEPHONES, § 2 — Underground conduit — Aerial cable — Installation.

[N.H.] The commission authorized a telephone company to place and maintain a buried telephone conduit and aerial cable, noting that no objections were filed or expressed and that the installation would be in the public interest.

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APPEARANCES: Alfred Ward, manager, engineering, for the petitioner.

BY THE COMMISSION:

Report

On September 25, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to place and maintain a buried telephone conduit and aerial cable in Concord, New Hampshire.

The installation originates at manhole No. 26 with 65 feet of buried conduit consisting of four four-inch "C" plastic tubes to a new pole and aerial cable crossing the railroad tracks to a new pole, as described in Plan NHR No. 80-10. Two cables will be installed with one 600 pair and 25 pair lashed to the main lead cable.

The commission issued an order of notice on September 26, 1980, directing all interested

parties to appear at public hearing at 10:00 A.M. on October 28, 1980, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; John Bridges, division of safety services; George Gilman, Department of Resources and Economic Development (DRED); Office of the Attorney General; John Coleman, New England Telephone and Telegraph Company; and New Hampshire Transportation Authority.

An affidavit of publication was received on October 20, 1980, indicating a publication in the Manchester Union Leader on October 4, 1980, signed by Sylvia Prince and received in the commission's offices in Concord, New Hampshire, on October 22, 1980.

Alfred Ward, outside engineering manager, described the buried conduit as being four four-inch plastic conduits beginning at existing manhole No. 26 and aerial cable to two new poles crossing the railroad tracks shown on Plan NHR No. 80-10.

The commission noted that no objections were filed nor expressed at the public hearing; well publicized and proper notification was given to the public as to the proposed maintenance of buried conduit and aerial cable in Concord, New Hampshire; with no objections being voiced or submitted to

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this buried conduit and cable installation, the commission feels said cable and conduit would be in the public interest

Our order will issue accordingly.

Order

Based on the foregoing report, which is made a part hereof; it is

Ordered, that authority be granted for installation and continued maintenance of telephone cable and conduit under and over railroad tracks for the New England Telephone and Telegraph Company, said crossing to be from manhole No. 26 to two new poles over the railroad tracks on the railroad right of way in Concord, New Hampshire, as described in NHR No. 80-10 to be maintained by New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this fifth day of November, 1980.

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NH.PUC\*11/05/80\*[78730]\*65 NH PUC 532\*Fuel Adjustment Charge

[Go to End of 78730]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Legislative Utility Consumers' Council, and Community Action Program

DR 80-46, Seventh Supplemental Order No. 14,555



65 NH PUC 532

New Hampshire Public Utilities Commission

November 5, 1980

PETITION by electric company for approval of a proposed fuel adjustment charge and for a rehearing of a prior rate order; approval of fuel adjustment charge granted as modified, and motion for rehearing granted in part and denied in part.

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1. RATES, § 303 — Fuel adjustment charge — Electric company.

[N.H.] An electric company's proposed fuel adjustment charge was approved in part where no objections were raised and that part of the charge was deemed just and reasonable. p. 532.

2. REPARATION, § 43.1 — Refund of overcharges.

[N.H.] An electric company's consumers have a right to receive refunds immediately for any overcharges that have occurred because of the company's fuel inventory miscalculations. p. 533.

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APPEARANCES: Eaton W. Tarbell, Martin Gross, and Philip Ayers for Public Service Company of New Hampshire; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council; Gerald Eaton for Community Action Program.

BY THE COMMISSION: Report

[1] The Public Service Company of New Hampshire (PSNH) filed a request for a fuel adjustment charge of \$0.0164 per kwh. Public Service Company of

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New Hampshire also filed a motion for rehearing on commission Order No. 14,510 (65 NH PUC 465), which requests that PSNH be allowed to recover additional revenue during the months of November and December, 1980. The motion for rehearing focuses on six aspects of the commission's Order No. 14,510, of which the major factor is the question of hydroelectric generation from sites along the Connecticut river. By agreement of all parties, the issues presented by both petitions were consolidated. Because the hearings this month in essence focused on two fuel adjustment orders rather than the usual one, the commission conducted an extensive investigation which culminated in four days of hearings. Adding to the length of the proceedings was the commission's concern that any refunds from either the coal pile survey or the NEPOOL annual adjustment should be immediately flowed through to consumers. These issues were the subject of extensive analysis, and all parties were aware of the commission's interest in these matters.

The \$0.0164 per kwh filing, although explored by the commission and its staff, was found to be properly supported. The key factors that led to this increase are (1) the dramatic jump in the price of oil because of the Iran-Iraq conflict, and (2) scheduled and unscheduled outages of

comparatively low cost units throughout New England. No intervenor objected to the request made by PSNH, and upon a review, the commission finds that the request is just and reasonable given that the commission cannot implement its order to transfer the hydroelectric power from NEPCO to New Hampshire utilities.

[2] The commission from past experience was very concerned about the question of the coal pile survey. The survey revealed that coal had been billed but not burned. To remedy this overcollection from consumers that has been built up over a year period, the commission finds that immediate refunds should be sent immediately to consumers. The approximately \$775,000 refund will be returned to consumers immediately over the next two months as an offset of \$0.0010 per kwh. The commission rejects any suggestion that the money should be applied to prior undercollections or should await until the next succeeding quarter. Consumers have a right to receive refunds immediately for any overcharges that have occurred because of the fuel inventory miscalculations. Absent the motion for rehearing, this would lead to a fuel adjustment of \$0.0154 per kwh. If the commission could implement its ban of the transfer of New Hampshire's most valuable asset, the hydroelectric power from the sites along the Connecticut river, the charge to consumers would be lowered by 30 per cent to 40 per cent. However, due to the appeal by New England Power Company, PSNH as well as other New Hampshire utilities cannot pass along the benefit of this reduction to their consumers.

The motion for rehearing reviews the various commission findings in Order No. 14,510. In that order the commission significantly lowered the fuel adjustment request of PSNH. The primary cause of that reduction was the implementation of our Order No. 14,492 (65 NH PUC 442) which required NEPCO to transfer the hydroelectric power to utilities within the state of New Hampshire. The commission designated two staff personnel to monitor and assist in the transfer.

Public Service Company contacted

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both NEPCO and the commission staff so as to begin the process of negotiating a unit power contract or other mechanism to implement the order. New England Power Company chose to appeal the commission's order and they were successful in receiving a stay of our order. Consequently, the Public Service Company will not receive the benefit of this natural resource to pass through to its consumers for this time period. Thus, the granting of the stay by the supreme court automatically necessitates granting PSNH's motion for rehearing as to this issue. The commission cannot find any distinction between recognizing large credits for coal pile refunds and this situation. Some parties to the proceeding have suggested that the commission defer collection of the lost revenue from October to either the months of January, February, March, or April. Such a practice clearly rejects the standard of just and reasonable rates. Further, if the Iran-Iraq war continues oil prices would further escalate thus increasing the burden on the consumer. No party to this proceeding has ever suggested that PSNH not recover the revenue, rather the parties have suggested but not contended that other times might be more appropriate.

Public Service Company of New Hampshire's argument on the issue of the hydroelectric power does however distort the record. The commission never stated that it would not implement

its Order No. 14,492. The commission indicated quite strongly that various assumptions would not be entertained on the question at the hearing in question. However, the commission used the lowest possible effect that the transfer of power would have on PSNH. The commission assumed that all other demand within the state was met by the hydroelectric power from the Connecticut river and applied only the remainder to PSNH thus avoiding assumptions that could prejudice PSNH in any fashion.

Public Service Company of New Hampshire also seeks to overturn our decision on the amount of hydroelectric power from its own units. Public Service Company of New Hampshire contends that twenty-two years of historical data is better than the five years of data that the commission used in arriving at its average. Public Service Company of New Hampshire has not demonstrated any evidentiary support for its selection of a 22-year versus a five-year average. Rather, the commission finds that the five-year average is more likely to be reflective of present weather conditions and operation and maintenance of the units in question. Consequently, this aspect of PSNH's motion for rehearing is rejected.

Public Service Company of New Hampshire objected to the commission's decision not to recognize any scheduled outages for Merrimack Units 1 and 2. The commission relied upon the record in the proceeding that indicated that contrary to PSNH's assertion that scheduled outages at the Merrimack units during the fall were not routine, evidence in the hearing demonstrated that in both 1979 and 1978 no scheduled outage would in fact occur. However, since that time, PSNH has in fact conducted scheduled outages at both units and has presented further information that indicates that during some of the prior years, scheduled outages did in fact occur during the fall. Upon reconsideration, the commission will grant this aspect of PSNH's motion for rehearing.

Public Service Company of New

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Hampshire contends that the commission's reduction of its sales estimates and its corresponding reductions in the fuel adjustment charge is unjust, unreasonable, and unsupported by the record. Upon a review of the record, the commission finds the same effective cross-examination by staff that it relied upon in the original order. This cross-examination reveals that PSNH's numbers were without the necessary evidentiary support, nor has reality salvaged the lack of an adequate presentation. The commission has noted in recent decisions the tremendous drop-off in sales experienced by PSNH. Those decisions quantified PSNH's annual growth over the past year to less than one per cent. Under such circumstances use of a figure slightly in excess of one per cent is hardly unjust and unreasonable. Furthermore, records routinely filed with the commission give further support that this trend has continued beyond dates of our previous orders. Based not only on the record, but also on the files of the commission, it is clear that PSNH's position on this point cannot prevail. At the rehearing PSNH agreed that for the next quarter the commission's position was reasonable. Public Service Company of New Hampshire has also challenged the commission's use of lower coal and oil prices at arriving at a figure for the fuel adjustment charge. Upon review, the commission finds that the coal price reduction was supported by the evidence and PSNH's contention is rejected. Public Service Company of New Hampshire's presentation in the original hearing relied to a

large extent on both hearsay and the testimony of two witnesses who stated somewhat contradictory positions on the price of oil. Public Service Company of New Hampshire has devoted considerable effort in placing more substantive evidence before the commission in its hearing on its motion for rehearing. Based on the newer evidence, the commission will now sustain PSNH's position. However, the commission would remind all parties that evidentiary positions in areas as critical as the fuel adjustment clause require diligent, extensive process. Revised Statute Annotated 378:8 clearly places the burden of proof on PSNH. That burden was not met in the original proceedings, but has been met by the evidentiary presentation in the subsequent hearing relating to their motion. Consequently, the commission will grant PSNH's motion as to the aspect of oil prices.

Based upon the foregoing, the commission will make an adjustment to the fuel adjustment charge for the months of November and December of \$0.0026 per kwh.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Public Service Company of New Hampshire Third Revised Pages 23 and 24 to its tariff, NHPUC No. 24 — Electricity, are hereby rejected; and it is

Further ordered, that the PSNH motion for rehearing concerning Order No. 14,510 is hereby granted in part and denied in part; and it is

Further ordered, that as a consequence of the foregoing, PSNH should file revised tariff pages to recover \$0.0180 per kwh for the months of November and December, 1980.

By order of the Public Utilities Commission of New Hampshire this fifth day of November, 1980.

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NH.PUC\*11/06/80\*[78731]\*65 NH PUC 536\*Concord Natural Gas Corporation

[Go to End of 78731]

## **Re Concord Natural Gas Corporation**

Additional petitioners: Gas Service, Inc., Keene Gas Corporation, Manchester Gas Company, and Northern Utilities, Inc.

DR 80-207 et al. Order No. 14,556

65 NH PUC 536

New Hampshire Public Utilities Commission

November 6, 1980

CONSIDERATION of proposed cost of gas adjustments for the winter period November 1, 1980, through April 30, 1981, as filed by gas companies; order in accordance with opinion.

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RATES, § 303 — Cost of gas adjustments.

[N.H.] Cost of gas adjustments as submitted by several gas companies in conformance with commission tariff filing rules and cost of gas adjustment terms outlined in the individual tariffs of each of the companies were approved in part and rejected in part.

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APPEARANCES: Charles H. Toll for Concord Natural Gas Corporation and Gas Service, Inc.; Kenneth Wood, vice president, Keene Gas Corporation; James Hood for Manchester Gas Company; Eaton W. Tarbell for Northern Utilities, Inc.; Gerald Eaton for Community Action Program.

BY THE COMMISSION:

Report

In conformance with commission tariff filing rules and cost of gas adjustment terms outlined in the individual tariffs of each of the named companies, proposed cost of gas adjustments for the winter period November 1, 1980, through April 30, 1981, were filed for commission consideration. The companies originally proposed cost of gas adjustments as follows:

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

Concord Natural Gas Corporation		\$0.1216 per therm
Gas Service, Incorporated	Nashua	\$0.0220 per therm
	Laconia	\$0.0002 per therm
Keene Gas Corporation		\$0.217 per therm
Manchester Gas Company		\$0.2041 per therm
Northern Utilities, Inc.	(Allied Gas)	\$0.1493 per therm

A duly noticed public hearing was held at the commission offices on October 22, 1980, at which time a witness for each company discussed the components of its cost of gas adjustment. Impacting the cost of gas adjustments were the following:

1. Refunds from Tennessee Gas Pipeline — supplier of natural gas to the distribution companies.
2. Over- and undercollections.
3. Substantial increases in the cost of produced and purchased gas.

In the previous winter period for cost of gas adjustments (1979-80), the commission emphasized its concern for accuracy of company forecasts. Although the commission stressed that close scrutiny would be given to future cost of gas filings, the same issues that impacted

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previous winter periods were presented again at this filing.

The trend continued with the companies reporting substantial refunds from Tennessee Gas Pipeline and overcollection of revenue in the CGA. One company reported undercollection, while three reported overcollection.

The staff raised considerable issue of the interest rates which were applied to Tennessee Gas refunds and overcollections of revenues in the cost of gas in prior periods. Noting the relative low interest rate — i.e., 8 per cent — now being charged by the companies to in effect use these moneys, it has been determined that a change is necessary. Commencing on November 1, 1980, each company will apply interest to the outstanding balances of refunds and overcollections at the average weighted cost of short-term borrowings during each month if the funds are used in operations. In the event that the funds are unnecessary for operations, they shall accrue interest at the rate which the funds are invested. It will be incumbent upon the companies to invest those funds at the highest possible interest rate. At the present time, the subject companies are borrowing short-term funds at between 12 and 14 per cent. All of the companies will apply their current interest costs monthly to the outstanding balances and shall submit a reconciliation statement to the commission at the end of the adjustment period.

The companies took the position that interest charges should be applied to undercollections as well as overcollections. The commission finds inadequate evidence in the record to assure itself that such is necessary; it will be prepared to accept further arguments on this issue at the next cost of gas adjustment proceedings in March, 1981.

The commission continues to be extremely concerned as to whether a range of propane prices as presented is warranted. It notes that the highest price is being paid by Manchester Gas Company of 60 cents per gallon for 2 million gallons while Keene Gas Corporation pays 51.6 cents per gallon for half as much product. Gas Service, Inc., pays 53.5 cents per gallon for almost the same quantity as Manchester Gas Company.

The commission expects all companies to make every effort to obtain the lowest price possible.

The staff has been concerned that during the last few CGA hearings there have been certain answers the companies were unable to furnish during cross-examination. This is due to the fact that the companies are represented by either financial or operational personnel. Therefore, the commission will expect that at future CGA hearings all the companies will have present persons who are knowledgeable in the financial and operational aspects of their business.

The action of the commission in requiring all companies to submit actual refund figures by Tennessee Gas Pipeline along with other items, has resulted in lowering the cost of gas adjustment for some companies. This and other factors as discussed below, have necessitated a change in at least one company's filing.

Concord Natural Gas Corporation submitted 17th Revised Pages 21 and 21A, requesting a 1980-81 winter period CGA of \$0.1216 per therm. The company estimates a 10 per cent increase in therm sales which we accept along with the estimate of the Tennessee Gas Pipeline refund in RP77-62 for the winter period.

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During the hearing, an error was noted in the interest calculation for the prior period overcollection. This correction reduces the CGA to \$0.1212 per therm, which we accept.

Gas Service, Inc., also submitted CGA estimates with adjustments for growth and weather of

5.4 per cent. We will accept the CGA's as filed of \$0.0220 per therm for the Nashua division and \$0.0002 per therm for the Laconia division.

Keene Gas Corporation submitted a CGA for the 1980-81 winter period of \$0.217 per therm, which we accept.

Manchester Gas Company included a sales growth of approximately 10 per cent in its filing. The commission will accept this estimate along with Tennessee Gas Pipeline's refund to produce a CGA for 1980-81 winter period of \$0.2041 per therm.

Northern Utilities, Inc., Allied Gas Division, submitted 17th Revised Page 22A with a CGA of \$0.1493 per therm. The company estimated a 9.6 per cent for growth of sales in therms for this period. The staff noted an arithmetic error in the calculations consequently the company has resubmitted an 18th Revised Page 22A. The new figure reduces the CGA to \$0.1490 per therm, which we accept.

The commission will continue to stress the goal of accurate forecasts and will oversee that the companies strive to the best of their ability. Our order will issue accordingly.

#### Order

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

Ordered, that 17th Revised Page 21 and 15th Revised Page 21-A of Concord Natural Gas Corporation, tariff, NHPUC No. 13 — Gas, be, and hereby are, rejected; and it is

Further ordered, that 18th Revised Page 21 and 16th Revised Page 21-A of Concord Natural Gas Corporation, tariff, NHPUC No. 13 — Gas, providing for a cost of gas adjustment of \$0.1212 per therm for the period November 1, 1980, through April 30, 1981, be, and hereby are, approved; and it is

Further ordered, that Section 2, 18th Revised Page 3; and Section 4, 18th Revised Page 3 of Gas Service, Inc., tariff, NHPUC No. 5 — Gas, providing for cost of gas adjustment of \$0.0220 per therm for Nashua; and \$0.0002 per therm for Laconia for the period November 1, 1980, through April 30, 1981, be, and hereby are, approved; and it is

Further ordered, that First Revised Page 26 of Keene Gas Corporation, tariff, NHPUC No. 1 — Gas, providing for a cost of gas adjustment of \$0.217 per therm for the period November 1, 1980, through April 30, 1981, be, and hereby is, approved; and it is

Further ordered, that 18th Revised Page 20 of Manchester Gas Company, tariff, NHPUC No. 12 — Gas, providing for cost of gas adjustment of \$0.2041 per therm for the period November 1, 1980, through April 30, 1981, be, and hereby is, approved; and it is

Further ordered, that 17th Revised Page 22-A of Northern Utilities, Inc., Allied Gas Division, tariff, NHPUC No. 6 — Gas, be, and hereby is, rejected; and it is

Further ordered, that 18th Revised Page 22-A of Northern Utilities, Inc., Allied Gas Division, tariff, NHPUC No. 6 — Gas, providing for a cost of gas adjustment of \$0.1490 per therm for the period November 1, 1980, through April

30, 1981, be, and hereby is, approved; and it is

Further ordered, that revised tariff pages approved by this order become effective with all billings issued on and after November 1, 1980; and it is

Further ordered, that public notice of this cost of gas adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this sixth day of November, 1980.

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NH.PUC\*11/10/80\*[78732]\*65 NH PUC 539\*New England Power Company

[Go to End of 78732]

## Re New England Power Company

DF 80-213, Order No. 14,561

65 NH PUC 539

New Hampshire Public Utilities Commission

November 10, 1980

PETITION by electric company for authorization and approval of a proposed additional issue of bonds and preferred stock; granted.

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### 1. SECURITY ISSUES, § 58 — Financing of construction programs.

[N.H.] An electric company was authorized to issue and sell additional bonds and preferred stock where the company would apply the proceeds from the issue and sale to the payment of short-term borrowings incurred for, or to the cost of, or to the reimbursement of the treasury for, uncapitalized additions and improvements to the plant and property of the company, and any other uncapitalized expenditures of the company. p. 542.

### 2. SECURITY ISSUES, § 99 — Capital structure.

[N.H.] An electric company was authorized to issue and sell additional bonds and preferred stock which, after the completion of the issue, would result in a capital structure comprised of 48.3 per cent bonds, 15 per cent preferred stock, and 36.7 per cent equity, and the company would receive an additional equity capital contribution from its parent company. p. 542.

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APPEARANCES: Robert King Wulff, Richard B. Couser, and Kirk Ramsauer for New England Power Company.

BY THE COMMISSION:



## Report

New England Power Company (the company), a Massachusetts corporation owning and operating properties in Massachusetts, New Hampshire, Connecticut, Maine, and Vermont is qualified as a foreign corporation to do business in New Hampshire but does not engage in local distribution in the state. On October 3, 1980, the company filed a petition requesting authorization and approval of the commission for the issue and sale of not exceeding \$50 million principal amount of general and refunding mortgage bonds, Series E (the Series E G & R bonds), for the issue and pledge of not exceeding \$25 million principal amount of first mortgage bonds, Series Z (the Series Z bonds), and for the issue and sale of not exceeding

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500,000 additional shares of its dividend series preferred stock, par value 100 per share, or an aggregate additional par value of not exceeding \$50 million (the new preferred stock).

A public hearing was held on the application on October 17, 1980. At the hearing, the company indicated that it requested authorization and approval of the commission for \$50 million principal amount of Series E G & R bonds, \$25 million principal amount of Series Z bonds, and 500,000 shares of new preferred stock with an aggregate par value of \$50 million. Votes taken by the directors of the company authorizing the issue of additional general and refunding mortgage bonds, additional first mortgage bonds, and the new preferred stock were introduced at the hearing as an exhibit. Votes taken by the stockholders of the company were also introduced at the hearing as an exhibit.

The company's financial statements presented as exhibits were the basis of testimony relating to the company's capitalization. They show that on the date of the statements, June 30, 1980, the bonds outstanding, net of unamortized premium or discount, amounted to \$466,018,500, consisting of 17 issues of first mortgage bonds and three issues of general and refunding bonds with interest rates ranging from 2.875 per cent to 10.875 per cent and with maturity dates from 1980 to 2008. The Series E G & R bonds are the company's fourth issue of general and refunding mortgage bonds. Not shown in the capitalization is \$50 million of pledged first mortgage bonds held by the trustee for the general and refunding bonds. Common stock totaled \$128,997,920 represented by 6,449,896 shares outstanding having a par value of \$20 per share. There were also outstanding 860,280 shares of preferred stock having a par value of \$100 per share and 996,000 shares of preferred having a par value of \$25 per share, or an aggregate par value of 110,930,975. The dividend rates on outstanding series of preferred stock range from 4.56 per cent to 11.04 per cent. Premiums on capital stock amounted to \$87,207,450; other paid-in capital was \$128 million; retained earnings were \$23,734,928; and unappropriated undistributed subsidiary earnings were \$4,639,085. Short-term borrowings were \$31,970,000.

The company reported that as of June 30, 1980, its utility plant was \$940 million. The accumulated depreciation reserve against such property amounted to \$257 million. Other investments, of which a major part of the amount was authorized investments in securities of nuclear generating companies, was shown as \$43 million.

The company is unable to predict when these financings will occur because of currently high interest rates, highly volatile financial markets, and its desire to take advantage of rapidly

changing market conditions. It is believed, however, that these financings will occur sometime prior to April 1, 1981. The proposed preferred stock issue and bond issue are separate transactions and not contingent one upon the other.

The proposed \$50 million principal amount of Series E G & R bonds will be issued under and pursuant to the terms of the company's general and refunding mortgage indenture and deed of trust dated as of January 1, 1977, as amended and supplemented, securing its presently outstanding Series A, B, and C G & R bonds (the G & R indenture). The Series E G & R bonds will have a lien subordinate to the company's first mortgage bonds.

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The Series E G & R bonds will bear interest from the date of issue and mature in not more than thirty years. The exact maturity date will be fixed prior to the date of the sale of the bonds. The Series E G & R bonds will be issued in fully registered form only. They will be redeemable in whole or in part at any time prior to maturity upon thirty days' notice at ordinary redemption prices; however, none of the Series E G & R bonds shall be redeemable, for a period of five years, at a lesser effective interest cost. The Series E G & R bonds will also be redeemable for sinking fund and other specific purposes at special redemption prices.

The Series E G & R bonds will be sold at competitive bidding after a public invitation for bids. The mechanism of competitive bidding will insure that the price and the interest rate will reflect the market conditions at the time of bidding and produce the lowest cost of money to the company. The terms and conditions for bids provide, in part, that the Series E G & R bonds will be sold at a price not less than 98 per cent nor more than 101.75 per cent of their principal amount. The interest rate is not to exceed 15 per cent per annum unless a higher rate is subsequently approved by the commission. The maximum interest rate of 15 per cent, as requested by the company, appears reasonable in view of the unsettled condition of the securities market. The company requires sufficient latitude to give it flexibility to accept bids within limitation without returning to the commission for additional approvals which may cause increased expense and jeopardize a financing which could be advantageous on the day when the bids are opened. The Series E G & R bonds will be sold to the bidder or bidding group which submits a price and an interest rate resulting in the lowest cost of money to the company.

The proposed Series Z bonds will be pledged to the trustee of the G & R bonds as additional security representing a first mortgage claim for the holders of G & R bonds including the Series E G & R bonds. They will bear the same interest rate and have the same maturity date as the proposed Series E G & R bonds. The Series Z bonds will not pay interest as long as interest payments are made on the G & R bonds.

Except for such variables as the dividend rate, redemption prices, limitations on redemptions, and a possible sinking fund, the terms and preferences of the new preferred stock will be substantially identical with those of all presently outstanding shares of the company's dividend series preferred stock. In general, they provide that dividends are to be cumulative and payable quarterly and that no dividends may be paid on common stock until dividends on all preferred stock have been paid or declared. A further limitation on the payment of common stock dividends provides that if common stock equity is less than 20 per cent of total capitalization,

then common stock dividends will be limited to 50 per cent of the net income for the preceding twelve months while if common stock equity is 20 per cent or more but less than 25 per cent of such net income.

Holders of the new preferred stock will not have general voting rights. However, the holders of all classes of the company's preferred stock voting as a single class, have the right, upon default of four quarterly dividends, to elect a majority of the directors of the company. Also the company may not without a

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majority vote of the dividend series preferred stock and preferred stock — cumulative issue any unsecured indebtedness if the total outstanding amount thereafter would be in excess of 20 per cent of total capitalization, including unsecured indebtedness, of which not more than one-half shall be short-term indebtedness with an original maturity of less than ten years. There is currently outstanding such a vote which permits the issuance of short-term unsecured indebtedness in excess of the above 10 per cent limitation.

The new preferred stock will be sold at competitive bidding after a public invitation for bids. The mechanism of competitive bidding will insure that the price and dividend rate will reflect the market conditions at the time of bidding and produce the lowest cost of money to the company. The terms and conditions for bids, provide, in part, that the new preferred stock will be sold at a price not less than \$100 nor more than \$102.75 per share, and the dividend rate would not exceed 14 per cent per annum unless an order of the commission be issued approving a higher rate. The maximum dividend rate of 14 per cent, as requested by the company, appears reasonable in view of the unsettled condition of the securities market. The company requires sufficient latitude to give it flexibility to accept bids within limitations without returning to the commission for additional approvals which may cause increased expense and jeopardize a financing which could be advantageous on the day when the bids are opened.

[1] The company will apply the proceeds from the issue and sale of the securities to the payment of short-term borrowings incurred for, or to the cost of, or to the reimbursement of the treasury for, uncapitalized additions and improvements to the plant and property of the company, and any other uncapitalized expenditures of the company.

[2] After the completion of the issue of the proposed securities, bonds (excluding pledged bonds) will comprise 48.3 per cent of the total capitalization, preferred stock 15 per cent, and common equity 36.7 per cent.

The last issue of securities by the petitioner, \$90 million of G & R bonds, Series C, was authorized and approved by the commission by Order Nos. 14,020 (65 NH PUC 51) and 14,128 (65 NH PUC 125).

In addition to the issuance of the securities, the company will receive additional equity capital from New England Electric System, its parent, in the fall of 1980, in the amount of a \$20 million capital contribution. The mix of securities requested herein and the capital contribution results in a balanced capital structure.

Upon investigation and consideration of the evidence submitted this commission is of the

opinion that the granting of the authorization and approval sought will be consistent with the public good. Our order will issue accordingly.

Order

Ordered, that New England Power Company, be, and hereby is, authorized to issue and sell \$50 million principal amount of general and refunding mortgage bonds, the Series E G & R bonds, to mature in not more than thirty years from the first day of the month as of which the bonds are issued, to bear interest at a rate not in excess of 15 per cent per annum (unless a subsequent order of the commission approves a

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higher rate), and to be sold at such price, as shall be determined by the directors of the company in accordance with the terms of the accepted bid therefor following publication of an invitation for bids for such issue of bonds; and it is

Further ordered, that New England Power Company, be, and hereby is, authorized to issue and pledge \$25 million in amount of first mortgage bonds, the Series Z bonds, to bear the same interest rate and to have the same maturity as the general and refunding mortgage bonds, Series E; and it is

Further ordered, that the New England Power Company, be, and hereby is, authorized to issue and sell \$50 million aggregate par value of preferred stock consisting of 500,000 shares of a new series of its dividend series preferred stock, \$100 par value, at a dividend rate not in excess of 14 per cent (unless a higher rate is subsequently approved by the commission), and consents to the issue, disposition, and sale of said additional preferred stock of the company at competitive bidding; and it is

Further ordered, that the proceeds from the issue and sale of the Series E general and refunding mortgage bonds and the dividend series preferred stock, authorized herein, will be applied to the payment of short-term borrowings incurred for, or to the cost of, or to the reimbursement of the treasury for uncapitalized additions and improvements to the plant and property of the company and any other uncapitalized expenditures of the company; and it is

Further ordered, that this authorization to issue securities contained herein shall be exercised on or before April 1, 1981, and not thereafter, unless such period is extended by order of this company and any other uncapitalized expenditures of the company; and it is

Further ordered, that on or before 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 or assistant treasurer showing the disposition of the proceeds of said securities, 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 tenth day of November, 1980.

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NH.PUC\*11/13/80\*[78733]\*65 NH PUC 543\*Wayne Harris/Adair v Concord Electric Company

[Go to End of 78733]

## Wayne Harris/Adair v Concord Electric Company

IC 14,961, Order No. 14,563

65 NH PUC 543

New Hampshire Public Utilities Commission

November 13, 1980

ORDER resolving a factual dispute as to whether adequate service termination notice had been given.

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WITNESSES, § 1 — Credibility of conflicting witnesses.

[N.H.] In a factual dispute between a telephone company and a customer regarding whether adequate service termination notice had been given, the commission ruled that the company's witness was more credible, based on the demeanor of the witnesses and making a judgment as to the credibility of each.

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BY THE COMMISSION:

Order

Whereas, a dispute has arisen between Concord Electric Company and Wayne Harris/Adair and pursuant to a request for a hearing by the commission, the matter was scheduled and held on October 4, 1980.

The primary and controlling issue presented is whether the customer properly notified the company to terminate services at 14 Thompson street in Concord. It appears that the customer was a tenant at said premises and vacated same on or about the last week of February, 1980. The customer claims that he telephoned the company and requested that service be terminated. The company, through its witnesses, testified that they received no telephone message from the defendant and that the records do not reflect any such notice of termination. They also indicated that it is proper and customary to make a notation that any such request was received.

The issue calls for a determination of a factual dispute which can only be resolved by observing the demeanor of the witnesses and making a judgment on the credibility of their testimony.

The hearing examiner, having observed the witnesses while testifying, recommends that the testimony of the company's witnesses is the more credible testimony, and, therefore, the commission should find that the company's position should be accepted and the customer should

adhere to the tariff provisions on file at the commission. Therefore, it is

Ordered, that the commission adopts the findings and recommendations of the hearing examiner and resolves that the company has not violated the tariff provisions or the rules and regulations on file at this commission; and the customer's consumer complaint should be dismissed.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of November, 1980.

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NH.PUC\*11/14/80\*[78734]\*65 NH PUC 544\*Public Service Company of New Hampshire

[Go to End of 78734]

### Re Public Service Company of New Hampshire

IR 14,971, Order No. 14,566

65 NH PUC 544

New Hampshire Public Utilities Commission

November 14, 1980

ORDER approving tariff pages and requiring public notice.

**Page 544**

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BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire, on October 22, 1980, filed with this Commission First Revised Pages 28, 31, 36, and 38 of its tariff, NHPUC No. 24 — Electricity; and

Whereas, said revisions expand the budget billing plan to all domestic customers, it previously being limited to those customers with electric space heating; and

Whereas, the commission finds this proposal to be for the public good; it is

Ordered, that First Revised Pages 28, 31, 36, and 38 of Public Service Company of New Hampshire tariff, NHPUC No. 24 — Electricity, be, and hereby are, allowed to become effective November 1, 1980; and it is

Further ordered, that public notice of these revisions be given as specified in the company's letter dated October 22, 1980, accompanying the filing.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of November, 1980.

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NH.PUC\*11/17/80\*[78735]\*65 NH PUC 545\*Hudson Water Company

[Go to End of 78735]

## Re Hudson Water Company

IE 14,981, Order No. 14,567

65 NH PUC 545

New Hampshire Public Utilities Commission

November 17, 1980

PETITION of a water company for authority to extend service; granted.

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SERVICE, § 210 — Extension of service facilities — Water company.

[N.H.] The commission authorized a special contract for a water company's proposed extension so that the company could provide water service to an additional area.

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BY THE COMMISSION:

Order

Whereas, Hudson Water Company, a utility providing water service under the jurisdiction of this commission, has filed copies of its Special Contract No. 15 for effect October 19, 1980, for the installation of certain water mains and associated fittings and valves, so as to permit Hudson to provide water service to an area in the vicinity of New Hampshire Route 3-A, Chalifoux road and Limit Brook road in Hudson, New Hampshire, also known as the Gagnon Farmsite; and

Whereas, upon investigation and consideration, this commission is of the opinion that the nature of the construction of this extension requires the issuance of a special contract; it is

Ordered, that Hudson Water Company in the application of its municipal fire protection Rate FP-1, shall in its calculation of the inch-foot charges to

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the town of Hudson for this extension, base such calculation in part on a six-inch main in Limit Brook road, as deemed adequate by the water company and until such time as it can be demonstrated that the eight-inch main is required; and it is

Further ordered, that the builder-developer shall receive refunds for any extension, lateral or continuous, from the mains installed under this contract, such refund to be based on the proportionate size, length, and location of such new extension relative to the initial extension; and it is

Further ordered, that if an additional customer, not a part of Limit Brook subdivision or Gagnon Farm is connected to any part of this extension, the builder-developer shall receive a refund based on the proportional distance to serve such customer through an eight-inch main from the point of origin; and it is

Further ordered, that under no circumstances will Hudson Water Company be required to make refunds in excess of the amount advanced for construction; and it is

Further ordered, that any assessed charges to future developers to recover the cost differential incurred by the installation of a larger main in Limit Brook road, shall be limited to the charge actually incurred in the installation; and it is

Further ordered, that said contract may become effective as of the date of this order.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of November, 1980.

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NH.PUC\*11/17/80\*[78736]\*65 NH PUC 546\*Public Service Company of New Hampshire

[Go to End of 78736]

## Re Public Service Company of New Hampshire

IR 14,967, Order No. 14,568

65 NH PUC 546

New Hampshire Public Utilities Commission

November 17, 1980

PETITION of an electric company for approval of a service 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. 42 with Edward A. Cocci, effective November 1, 1980, 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

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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 seventeenth day of November, 1980.

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NH.PUC\*11/17/80\*[78737]\*65 NH PUC 547\*Manchester Gas Company

[Go to End of 78737]

### **Re Manchester Gas Company**

IR 14,968, Order No. 14,569

65 NH PUC 547

New Hampshire Public Utilities Commission

November 17, 1980

PETITION of a gas company for approval of a service contract; granted.

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BY THE COMMISSION:

Order

Whereas, Manchester Gas Company, a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 22 with Genest Bakery, Inc., effective upon order of the commission, for gas 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 seventeenth day of November, 1980.

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NH.PUC\*11/17/80\*[78738]\*65 NH PUC 547\*Manchester Gas Company

[Go to End of 78738]

### **Re Manchester Gas Company**

IR 14,969, Order No. 14,570

65 NH PUC 547

New Hampshire Public Utilities Commission

November 17, 1980

PETITION of a gas company for approval of a service contract; granted.

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BY THE COMMISSION:

Order

Whereas, Manchester Gas Company, a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 23 with Elbes Associates, effective upon order of the commission, for gas 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 seventeenth day of November, 1980.

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NH.PUC\*11/17/80\*[78739]\*65 NH PUC 548\*Tilton and Northfield Aqueduct Company

[Go to End of 78739]

## Re Tilton and Northfield Aqueduct Company

DF 80-212, Order No. 14,573

65 NH PUC 548

New Hampshire Public Utilities Commission

November 17, 1980

PETITION of a utility for authority to extend its long-term debt; granted.

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SECURITY ISSUES, § 57 — Long-term debt — Property taxes.

[N.H.] The commission authorized a utility to increase its long-term debt by the amount of \$22,300 to be used to pay back property taxes.

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APPEARANCES: Kenneth Money, president of the Tilton and Northfield Aqueduct Company.

BY THE COMMISSION:

## Report

Tilton and Northfield Aqueduct Company (the "company"), a New Hampshire corporation with its offices in Tilton, New Hampshire, filed on September 29, 1980, authority to increase its LTD by the amount of \$22,300.

On October 3, 1980, the commission issued an order of notice setting the matter for hearing on November 12, 1980, at the offices of the commission. The duly noticed hearing was so held.

The company, represented by its president, Kenneth Money, stated that in 1978 the company had borrowed \$155,000 of long-term debt from the Bank of New Hampshire at a rate varying from 8 to 12 per cent based on the bank's prime rate, of which \$22,300 of the principal has been paid off.

A review of the commission's records

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turned up no approval of this debt, but a note in an audit report submitted to the commission by the PUC finance department on January 4, 1979 contained the following: "The company borrowed \$150,000 of long-term funds recently without PUC approval. The company's general manager and treasurer say they did not get PUC approval because they did not realize that it was required. A letter requesting retroactive approval will be sent to the PUC."

No copy of the aforementioned letter has been found in the commission files. Based on information learned about the note during cross-examination by the commission staff, the commission will approve said note as being an historical fact and requests a copy of its terms and covenants be filed. In the future we will not be so lenient regarding violations of our rules and regulations. Our order will issue accordingly.

As for this request, the \$22,300 would be used to pay off back property taxes to the towns of Tilton and Northfield, which is very important as the company and the commission recognize the value of maintaining goodwill in its franchise area. The note would be for ten years and prospectively at 2 per cent over the prime rate from the Bank of New Hampshire.

Recognizing that the prime rate is currently at a very high level, which the commission anticipates will decline in the near future, the commission will authorize and approve the issuance of this additional debt at this time, so that the company and thus its ratepayers may realize the advantages of long-term financing at more favorable rates anticipated at some point during the next twelve months by having the leverage to move quickly, so the company will have Part I of a two-part order in hand. Such authorization and approval will be subject to the issuance, upon application of the company, immediately prior to the time of issuance of such debt, of a supplemental order approving the interest rate and other provisions of the debt.

This report and order should not be construed as giving the company authority to renegotiate any of the terms of its existing long-term debt.

Upon consideration and investigation of the evidence submitted, this commission is of the opinion that the granting of the authorization sought is 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 Tilton and Northfield Aqueduct Company, be, and hereby is, authorized to issue and sell \$22,300 of long-term debt with maturity in ten years; and it is

Further ordered, that the proceeds from such debt shall be used to pay past due property taxes to the towns of Tilton and Northfield; and it is

Further ordered, that this authorization shall be exercised on or before twelve months have expired from the date of this order; and it is

Further ordered, that Tilton and Northfield Aqueduct Company shall make application to this commission immediately prior to the time of issue of the debt for a supplemental order approving the interest rate, amount, and all other provisions of the debt; and it is

Further ordered, that on or before January 1st and July 1st in each year, said company shall file with this commission a detailed statement, duly sworn by its president or treasurer showing the

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disposition of the proceeds of said funds, until the expenditure of the whole of said proceeds shall have been fully accounted for; and it is

Further ordered, that the company file a copy of the terms and covenants of its currently outstanding long-term debt.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of November, 1980.

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NH.PUC\*11/17/80\*[78740]\*65 NH PUC 550\*Woodsville Municipal Electric Department

[Go to End of 78740]

**Re Woodsville Municipal Electric Department**

DR 80-177, Supplemental Order No. 14,574

65 NH PUC 550

New Hampshire Public Utilities Commission

November 17, 1980

PETITION of a municipal utility to implement changes to its tariff; granted.

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1. RATES, § 304 — Connection fee — Increase.

[N.H.] The commission authorized a municipal utility to increase its connection fee from \$3 to \$5, the commission noting that the increased fee was more realistic and for the public good. p. 550.

2. RATES, § 332 — Extension charges — Amount and computation.

[N.H.] The commission accepted the proposal of a municipal utility to standardize its extension policy with that of other state electric utilities, whereby customers are subject to a surcharge of four cents per foot per month for five years. p. 551.

3. RATES, § 332 — Purchased power adjustment.

[N.H.] The commission allowed a municipal utility to implement a purchased power adjustment surcharge pending final determination by the Federal Energy Regulatory Commission and the commission in order to recover increases levied against the utility by its supplier. p. 551.

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APPEARANCES: Roger Welch, office manager, for the petitioner.

BY THE COMMISSION:

Report

On August 1, 1980, Woodsville Municipal Electric Department filed with the commission certain changes to its tariff, NHPUC No. 3 — Electricity, to become effective September 1, 1980. These changes involved an increase in the connection charge, a modification of the line extension policy, and the addition of a purchased power adjustment. The filing was suspended August 18, 1980, by commission Order 14,438 (65 NH PUC 387). An order of notice was issued on September 10, 1980, setting hearing on September 30, 1980, at 9:00 A.M.. Public notice of the hearing was also directed and an affidavit attesting to same has been filed.

[1] At the public hearing witness Welch testified that the increase in the connection fee was to set a more realistic charge for such service. The proposal increases this charge from \$3 to \$5 (from \$5 to \$10 if after hours). The commission

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finds this for the public good and will accept this change.

[2] For line extensions, the present policy requires a minimum monthly guarantee based upon the length of the extension. The cost per foot is quite obsolete and could result in subsidization by other ratepayers. Under the proposed policy, Woodsville would standardize its extension policy with that of other New Hampshire electric utilities, charging a surcharge of four cents per foot per month for five years. The commission approves such standardization.

[3] For its purchased power adjustment, the department sought to surcharge its customers to recover those increases levied against it by its supplier, Central Vermont Public Service Corporation, under a bonded FERC ruling. A review of this filing has resulted in the commission allowing this rate pending final determination by the Federal Energy Regulatory Commission

and this commission. The commission clearly retains jurisdiction over any rates that affect the ultimate user, and through this jurisdiction will allow the purchased power adjustment. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is Ordered, that Woodsville Municipal Electric Department be, and hereby is, authorized to place into effect, as of September 30, 1980, Original Pages 9A and 9B; First Revised Pages 4, 7, 8A, 9, and 10; Second Revised Page 10A; and Fourth Revised Page 10A-1 of tariff, NHPUC No. 3 — Electricity; First Revised Page 10A and Third Revised Page 10A-1 are hereby rejected; and it is

Further ordered, that the purchased power adjustment authorized by cited pages be applied to all bills rendered on or after September 30, 1980; and it is

Further ordered, that Woodsville Municipal Electric Department file with the commission its plan for a surcharge to recover those revenues lost between September 30, 1980, and the first billing issued under this order; and it is

Further ordered, that public notice of this order be given by publication twice of a summary of the approved changes in a newspaper having wide circulation in the area served; with affidavit of such publication to be filed with this commission.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of November, 1980.

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NH.PUC\*11/18/80\*[78741]\*65 NH PUC 551\*White Rock Water Company, Inc.

[Go to End of 78741]

**Re White Rock Water Company, Inc.**

DR 80-235, Order No. 14,575

65 NH PUC 551

New Hampshire Public Utilities Commission

November 18, 1980

PETITION of a water company to revise its tariff; suspended pending commission investigation.

**Page 551**

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BY THE COMMISSION:

Order

Whereas, White Rock Water Company, Inc., a public utility engaged in the business of supplying water service in the state of New Hampshire, on November 14, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 1 — Water, providing for increased rates

(\$4,520 — 27.48 per cent), revision of its line extension policy, etc., filed for effect February 1, 1981; 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 5, 8, 10, 13-15, and 18; and Third Revised Pages 16 and 17 of tariff, NHPUC No. 1 — Water, of White Rock Water Company, Inc., 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 November, 1980.

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NH.PUC\*11/19/80\*[78742]\*65 NH PUC 552\*Granite State Electric Company

[Go to End of 78742]

## **Re Granite State Electric Company**

DR 79-214, Sixth Supplemental Order No. 14,576

65 NH PUC 552

New Hampshire Public Utilities Commission

November 19, 1980

ORDER approving a limited motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

The Granite State Electric Company having filed a motion for a rehearing in docket 79-214 and Order No. 14,508 (65 NH PUC 461), and the commission having reviewed the motion and the objection to the motion and for good cause shown it is hereby.

Ordered, that the motion is granted to the extent that (a) the request for recovery of the two-month lag or lockup be reserved for a subsequent hearing, and (b) the request for recovery of cumulative undercollection be reserved for a subsequent hearing, and it is

Further ordered, that the secretary of the commission shall fix a time and place for said hearings.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of November, 1980.

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NH.PUC\*11/21/80\*[78743]\*65 NH PUC 553\*Northern Utilities, Inc.

[Go to End of 78743]

**Re Northern Utilities, Inc.**

IR 14,953, Order No. 14,577

65 NH PUC 553

New Hampshire Public Utilities Commission

November 21, 1980

PETITION of a gas company for approval of a service contract; granted.

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BY THE COMMISSION:

Order

Whereas, Northern Utilities, Inc., a utility selling gas under the jurisdiction of this commission, has fled with this commission a copy of its Special Contract No. 39 with Portsmouth Hospital effective August 8, 1980, for gas 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-first day of November, 1980.

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NH.PUC\*11/21/80\*[78744]\*65 NH PUC 553\*Manchester Gas Company

[Go to End of 78744]

**Re Manchester Gas Company**

IR 14,982, Order No. 14,578

65 NH PUC 553

New Hampshire Public Utilities Commission

November 21, 1980

PETITION of a gas company for approval of a service contract; granted.

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BY THE COMMISSION:

Order



Whereas, Manchester Gas Company, a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 24 with International Paper Company for gas 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 date of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of November, 1980.

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NH.PUC\*11/21/80\*[78745]\*65 NH PUC 554\*Wolfeboro Municipal Electric Department

[Go to End of 78745]

## Re Wolfeboro Municipal Electric Department

IE 14,976, Order No. 14,580

65 NH PUC 554

New Hampshire Public Utilities Commission

November 21, 1980

ORDER requiring a refund plan to be filed.

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BY THE COMMISSION:

Order

Whereas, Wolfeboro Municipal Electric Department continues to hold certain moneys refunded to it by Public Service Company of New Hampshire as a result of overcollection of fuel adjustment costs as determined by the Federal Energy Regulatory Commission; and

Whereas, all appeals of this FERC decision are now exhausted; it is

Ordered, that Wolfeboro Municipal Electric Department file with this commission, no later than December 7, 1981, its plan for a one-time refund of said moneys, and accumulated interest, to customers of record.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of November, 1980.

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NH.PUC\*11/25/80\*[78746]\*65 NH PUC 554\*Concord Electric Company

[Go to End of 78746]

## Re Concord Electric Company

DE 79-215, Supplemental Order No. 14,581

65 NH PUC 554

New Hampshire Public Utilities Commission

November 25, 1980

PETITION by electric company for establishment of service territory; service territory established.

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MONOPOLY AND COMPETITION, § 28 — Establishment of service territory — Electric company.

[N.H.] An electric company was given a service territory where the area reflected current conditions in the territory involved, where it was found to be compatible with the interests of all consumers, and no customer transfers were involved in the establishment of the service territory.

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APPEARANCES: Vernon E. M. McFarland for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of the 1977 Session Laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and

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sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it, or any other electric utility company, which it believes it is entitled to serve.

Revised Statute Annotated 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. Revised Statute Annotated 374:22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, Concord Electric Company (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state,

has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition consisting of numbered town maps showing service territories for which commission authorization is being sought. The date of filing and the towns involved are as follows:

May 28, 1980 — Allenstown (4), Bow (27), Canterbury (38), Chichester (46), Epsom (78), Hopkinton (120), Loudon (142), and Pembroke (188).

A duly noticed public hearing was held on November 20, 1980, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing.

At the hearing, the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate, along with other New Hampshire electric utilities whose territorial boundaries may not be precisely defined, the proposed service territories have been established on maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a.

The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers, and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

These applications have been timely made under the extension granted by Third Supplemental Order No. 13,927 ([1979] 64 NH PUC 409) of the commission.

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In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the applications are established as the exclusive service territories as of this report. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories of Concord Electric Company, as follows:

May 28, 1980 — Allenstown (4), Bow (27), Canterbury (38), Chichester (46), Epsom (78),

Hopkinton (120), Loudon (142), and Pembroke (188); and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of November, 1980.

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NH.PUC\*11/25/80\*[78747]\*65 NH PUC 556\*Connecticut Valley Electric Company, Inc.

[Go to End of 78747]

**Re Connecticut Valley Electric Company, Inc.**

DE 79-216, Second Supplemental Order No. 14,582

65 NH PUC 556

New Hampshire Public Utilities Commission

November 25, 1980

PETITION by electric company for establishment of service territory; service territory established.

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MONOPOLY AND COMPETITION, § 28 — Establishment of service territory — Electric company.

[N.H.] An electric company was given a service territory where the area reflected current conditions in the territory involved, where it was found to be compatible with the interests of all consumers, and no customer transfers were involved in the establishment of the service territory.

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APPEARANCES: James A. Selleck, for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of the 1977 Session Laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other times as the commission shall direct, each electric utility engaged in the distribution and sales of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of

this section, and any areas not presently served by it, or any other electric utility company, which it believes it is entitled to serve.

Revised Statute Annotated 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. Revised Statute Annotated 374:22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, Connecticut Valley Electric Company, Inc. (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition consisting of numbered town maps showing service territories for which commission authorization is being sought. The date of filing and the towns involved are as follows:

October 20, 1980 — Bath (17), Charlestown (42), Claremont (47), Haverhill (111) Lyme (145), Newport (176), Orford (185), and Piermont (190).

A duly noticed public hearing was held on November 20, 1980, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing, except as noted below for the town of Claremont.

At the hearing the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate, along with other New Hampshire electric utilities whose territorial boundaries may not be precisely defined, the proposed service territories have been established on maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a.

In the towns of Claremont and Lyme it was necessary to establish a joint service territory for a small section of each town, to be served by both Connecticut Valley Electric Company and New Hampshire Electric Cooperative, Inc., because the distribution facilities were so intertwined or commingled as to make establishment of exclusive territories impractical. Service in this area shall be rendered subject to the conditions set forth in RSA 374:22-c.

The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers, and all other relevant factors. No customer transfers are involved in the establishment of those service territories.

At the hearing, petitioner withdrew its request to reserve the right to serve the proposed Claremont vocational school, on the basis of the New Hampshire Electric Cooperative's statement that if the school were to be located in the service territory of the Cooperative and the Cooperative was unable to provide the magnitude of service requested, the Cooperative was willing to agree with another utility to provide the service.

These applications have been timely made under the extension granted by Third Supplemental Order No. 13,927 ([1979] 64 NH PUC 409) of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the application are, with the exceptions noted for the towns of Claremont and Lyme, established as the exclusive service territories as of this report. Our order will issue accordingly. Supplemental Order

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

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories, except as noted, of Connecticut Valley Electric Company, Inc., as follows:

Bath (17), Charlestown (42), Claremont (47),<sup>1(62)</sup> Haverhill (111), Lyme (145),<sup>1(63)</sup> Newport (176), Orford (185), and Piermont (190);

and it as

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of November, 1980.

#### FOOTNOTES

<sup>1</sup>Includes a joint territory in which New Hampshire Electric Cooperative, Inc., is also authorized to serve.

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NH.PUC\*11/25/80\*[78748]\*65 NH PUC 558\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78748]

### Re New Hampshire Electric Cooperative, Inc.

DE 78-105, Third Supplemental Order No. 14,584

65 NH PUC 558

New Hampshire Public Utilities Commission

November 25, 1980

PETITION by electric cooperative for establishment of service territory; service territory established.

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MONOPOLY AND COMPETITION, § 28 — Establishment of service territory — Electric cooperative.

[N.H.] An electric cooperative was given a service territory where the area reflected current conditions in the territory involved, where it was found to be compatible with the interests of all consumers, and no customer transfers were involved in the establishment of the service territory.

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APPEARANCES: Thomas W. Morse, for the petitioner.

BY THE COMMISSION:

Report

These petitions have been filed pursuant to Chap 304 of the 1977 Session Laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it, or any other electric utility company, which it believed it is entitled to serve.

Revised Statutes Annotated 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. Revised Statutes Annotated 374:22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, New Hampshire Electric Cooperative, Inc. (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed three petitions consisting of numbered town maps showing service territories for which commission authorization is being sought. The dates of filing and

the towns involved are as follows:

1. August 29, 1980 — Brookfield (32), Conway (52), Eaton (73), Effingham (74), Franklin (86), Freedom (87), Fremont (88), Gilford (89), Hill — First Revised (114), Lempster (135), Loudon (142), and Lyman (144).

2. October 16, 1980 — Alton (6), Barnstead (14), Brentwood (29), Deer-field (60), Durham (70), Epping (77), Epsom (78), Farmington (82), Gilmanton (90), Lee (134), New Durham (169), Northwood (181), Nottingham (182), Pittsfield (193), and Raymond (199).

3. October 16, 1980 — Bath (17), Charlestown — First Revised (42), Claremont (47), Haverhill (111), Lyme (145), Orford (185), and Piermont (190).

A duly noticed hearing was held on November 20, 1980, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing.

At the hearing, the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed

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above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate, but without precise territorial boundaries, the proposed service territories have been established on the maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a.

In the towns of Claremont and Lyme it was necessary to establish a joint service territory for a small section of each town, to be served by both New Hampshire Electric Cooperative, Inc., and Connecticut Valley Electric Company and similarly for the towns of Lee, Lempster, and Northwood, joint service territories for New Hampshire Electric Cooperative and Public Service Company of New Hampshire, because the distribution facilities were so intertwined or commingled as to make establishment of exclusive territories impractical. Service in these areas shall be rendered subject to the conditions set forth in RSA 374:22-c.

The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

These applications have been timely made under the extension granted by Third Supplemental Order No. 12,927 of the commission.



In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the applications are, with the exception noted for the towns for Claremont, Lyme, Lee, Lempster, and Northwood, established as the exclusive service territories as of the date of this report. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places, filed with the application are established as the exclusive service territories, except as noted, of New Hampshire Electric Cooperative, Inc., as follows:

Brookfield (32), Conway (52), Eaton (73), Effingham (74), Franklin (86), Freedom (87), Fremont (88), Gilford (89), Hill — First Revised (114), Lempster (135),<sup>1</sup> Loudon (142), and Lyman (144);

Alton (6), Barnstead (14), Brentwood (29), Deerfield (60), Durham (70), Epping

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(77), Epsom (78), Farmington (82), Gilmanton (90), Lee (134),<sup>1(64)</sup> New Durham (169), Northwood (181),<sup>1(65)</sup> Nottingham (182), Pittsfield (193), and Raymond (199);

Bath (17), Charlestown — First Revised (42), Claremont (47),<sup>2(66)</sup> Haverhill (111), Lyme (145),<sup>2(67)</sup> Orford (185), and Piermont (190);

and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of November, 1980.

#### FOOTNOTES

<sup>1</sup>Includes a joint service territory in which Public Service Company of New Hampshire is also authorized to serve.

<sup>2</sup>Includes a joint service territory in which Connecticut Valley Electric Company is also authorized to serve.

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NH.PUC\*11/25/80\*[78749]\*65 NH PUC 561\*Northern Utilities, Inc.

[Go to End of 78749]

**Re Northern Utilities, Inc.**

DR 80-104, Supplemental Order No. 14,585

65 NH PUC 561

New Hampshire Public Utilities Commission

November 25, 1980

PETITION of a gas utility for a rate increase on a temporary basis; granted.

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RATES, § 85 — Commission authority — Temporary rates.

[N.H.] The commission recognized that state statutes authorize temporary rates when appropriate and specify the effects of a later permanent rate decision on the interim period during which temporary rates apply; the statutes also authorize the commission to terminate temporary rates prior to final determination of the rate proceeding.

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APPEARANCES: Franklin Hollis, Margaret Nelson, and Martin L. Gross for the petitioner; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

These proceedings were initiated on April 22, 1980, when Northern Utilities, Inc., Allied Gas Division (sometimes hereinafter referred to as the "company"), a public utility under jurisdiction of this commission, filed revisions to its tariff NHPUC No. 6 with this commission, seeking to increase its annual gross revenues by approximately \$394,446.

Pursuant to the authority vested in this commission by RSA 378:6, on May 19, 1980, by Order No. 14,238 (65 NH

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PUC 231), we suspended the proposed rate increase pending an investigation and public hearing.

On September 16, 1980, the company filed a petition for temporary rates, asking for an increase in rates on a temporary basis of \$462,190 annually, or an increase of 8.27 per cent in firm base revenues.

Hearings were held in Concord on July 17, October 14, 15, and 16, and on November 19 and 20, 1980, with the company and staff putting on a major portion of their testimony and with cross-examination by the commission, staff, intervenors, and the company.

At the hearings the company presented testimony and exhibits alleging the need for temporary and permanent rates and alleging the need for an increase in rates.

The financial data primarily relied upon by the company was based on a test year, ended December 31, 1979, with some reference to current 1980 results. The company alleged that it was unable to do any permanent financing at this time due to the company's earnings level and due to the condition of the capital markets.

The company requested these temporary rates be collected by surcharging each bill rendered under its rates for firm gas presently in effect by an amount equal to 8.27 per cent of the base revenue billed thereunder.

The company stood ready to furnish a bond in accordance with the requirements of RSA 378:30 upon the granting of its petition for temporary rates.

The company requested the commission allow it to bill the surcharge on all bills rendered on and after September 1, 1980.

This commission recognizes that a temporary rate proceeding does not require the same exhaustive analysis of the evidence as that contemplated for permanent rates, but it also recognizes that information already on the record in relation to the permanent rate proceeding cannot be ignored.

As was stressed by the NHPUC finance staff in its cross-examination of the company witness on temporary rates, this commission sets rates based on the cost of service as opposed to coverage ratios.

Acknowledging that the company's temporary request is for \$462,190, the NHPUC finance staff has cast sufficient doubt on certain company adjustments and schedules to make the commission remove those respective amounts from the temporary request.

A partial list of those concerns is as follows:

1. Tax normalization
2. Tax calculation correction
3. Allocation of supplemental gas facilities
4. Pro forma adjustments more than twelve months beyond the end of the test year
5. Pro forma adjustments which are not known and measurable
6. Rate base calculated on year-end averages versus the 13 month-end averages
7. The amount of the revenue adjustment due to weather normalization
8. The discrepancy in the 1979 earned rates of return for New Hampshire versus Maine and whether or not that results in subsidization of Maine customers by those in New Hampshire
9. No recognition of growth in customers in the revenue figures and "BINGO" sheet
10. The requested rate of return

This commission views the temporary

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rate provisions as applicable only where need is clearly shown. These provisions should not

be used indiscriminately but only where the public interest so requires. We are dealing with an issue important to the consumer and to the company. The New Hampshire statutes authorize temporary rates when appropriate and specify the effects of a later permanent rate decision on the interim period during which temporary rates apply. The statutes also authorize this commission to terminate temporary rates prior to final determination of the rate proceeding.

We find that it is in the public interest that the company's present tariff (NHPUC No. 6) be prescribed as temporary rates, under RSA 378:27, effective with all current service rendered on and after the date of this order. We further find that the company shall file a repayment bond, under RSA 378:30, to secure repayment to the customers of the difference, if any, between the amounts collected under such temporary rates and the rates that the commission finds should have been in effect during the continuance of such temporary 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 rates and charges and tariff NHPUC No. 6 of the Northern Utilities, Inc., Allied Gas Division currently in effect, not be increased by 8.27 per cent (exclusive of the fuel surcharge) and the current rates be established as temporary rates effective with all current service rendered on and after the date of this order; and it is

Further ordered, that the Northern Utilities, Inc., Allied Gas Division give public notice of these changes by publishing a copy of this order, upon receipt, in newspapers having general circulation in the territory served by said company; and it is

Further ordered, that the Northern Utilities, Inc., Allied Gas Division furnish this commission with a bond to secure the repayment to the customers of the public utility of the difference between the amounts collected under such temporary rates and the rates which the commission find should have been in effect during the continuance of such temporary rates.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of November, 1980.

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NH.PUC\*11/26/80\*[78751]\*65 NH PUC 601\*Public Service Company of New Hampshire

[Go to End of 78751]

## Re Public Service Company of New Hampshire

DE 78-106, Second Supplemental Order No. 14,587

65 NH PUC 601

New Hampshire Public Utilities Commission

November 26, 1980

PETITIONS for establishing service territories.

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1. FRANCHISES, § 43 — Franchise service areas.

[N.H.] State statute provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. p. 601.

2. SERVICE, § 31 — Commission jurisdiction — Conflicting service territories.

[N.H.] State statute provides that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission has jurisdiction to establish service territories. p. 601.

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APPEARANCES: Pierre O. Caron for the petitioner.

BY THE COMMISSION:

Report

These petitions have been filed pursuant to Chap 304 of the 1977 Session Laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it, or any other electric utility company, which it believes it is entitled to serve.

[1, 2] Revised Statutes Annotated 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric

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utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. Revised Statutes Annotated 374:22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, Public Service Company of New Hampshire (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed three petitions consisting of numbered town maps showing service territories for which commission authorization is being sought. The dates of filing and the towns involved are as follows:

1. July 16, 1980 — Andover (8), Bethlehem (25), Boscawen (26), Bow (27), Brookfield (32), Canterbury (38), Chichester (46), Concord (51), Conway (52), Dunbarton (69), Eaton (73), Effingham (74), Enfield (76), Franklin (86), Freedom (87), Fremont (88), Gilford (89), Hill

(114), Hopkinton (120), Lempster (135), Loudon (142), Lyman (144), Orange (184), Washington (245), Waterville (246), and Webster (248);

2. September 30, 1980 — Alton (6), Barnstead (14), Brentwood (29), Deerfield (60), Durham (70), Epping (77), Epsom (78), Farmington (82), Gilmanton (90), Lee (134), New Durham (169), Northwood (181), Nottingham (182), Pittsfield (193), and Raymond (199);

3. October 21, 1980 — Albany (2) and Bath (17).

A duly noticed public hearing was held on November 20, 1980, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing.

At the hearing, the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate, along with other New Hampshire electric utilities whose territorial boundaries may not be precisely defined, the proposed service territories have been established on maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a. In the towns of Lee, Lempster, and Northwood it was necessary to establish a joint service

**Page 602**

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territory for a small section of each town to be served by both Public Service Company of New Hampshire and New Hampshire Electric Cooperative, Inc., because the distribution facilities were so intertwined or comingled as to make establishment of exclusive territories impractical. Service in this area shall be rendered subject to the conditions set forth in RSA 374:22-c.

The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers, and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

These applications have been timely made under the extension granted by Third Supplemental Order No. 13,927 ([1979] 64 NH PUC 409) of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the applications are, with the exceptions noted for the towns of Lee, Lempster, and Northwood, established as the exclusive service territories as of this report. Our order will issue accordingly.

## Supplemental Order

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

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories, except as noted, of Public Service Company of New Hampshire as follows:

Andover (8), Bethlehem (25), Boscawen (26), Bow (27), Brookfield (32), Canterbury (38), Chichester (46), Concord (51), Conway (52), Dunbarton (69), Eaton (73), Effingham (74), Enfield (76), Franklin (86), Freedom (87), Fremont (88), Gilford (89), Hill (114), Hopkinton (120), Lempster (135),<sup>1(68)</sup> Loudon (142), Lyman (144), Orange (184), Washington (245), Waterville (246), and Webster (248); Alton (6), Barnstead (14), Brentwood (29), Deer-field (60), Durham (70), Epping (77), Epsom (78), Farmington (82), Gilmanton (90), Lee (134),<sup>1(69)</sup> New Durham (169), North wood (181),<sup>1(70)</sup> Nottingham (182), Pittsfield (193), and Raymond (199); Albany (2) and Bath (17);

and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order; and it is

Further ordered, that: so much of Supplemental Order No. 13,636 (64 NH PUC 147) in DE 78-106 dated May 24, 1979, as reads North Hampton (197) is changed to read North Hampton (179).

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of November, 1980.

## FOOTNOTE

<sup>1</sup>Includes a joint service territory in which New Hampshire Electric Cooperative, Inc., is also authorized to serve

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NH.PUC\*11/26/80\*[78752]\*65 NH PUC 604\*Connecticut Valley Electric Company, Inc.

[Go to End of 78752]

## Re Connecticut Valley Electric Company, Inc.

DR 80-178, Second Supplemental Order No. 14,588

65 NH PUC 604

New Hampshire Public Utilities Commission

November 26, 1980

ORDER authorizing a purchased power surcharge and requiring public notice.

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1. RATES, § 332 — Purchased power adjustment — Electric company.

[N.H.] The commission authorized an electric company to implement a one-time surcharge in order to compensate the company for lost revenue resulting from increased costs of purchased power. p. 606.

2. RATES, § 243 — Purchased power adjustment — Public notice.

[N.H.] The commission required an electric company to give public notice by publication or bill insert of a one-time purchased power surcharge designed to compensate the company for lost revenue resulting from increased power costs. p. 606.

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BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 14,537 (65 NH PUC 495) authorized Connecticut Valley Electric Company, Inc., to levy a purchased power adjustment against all bills issued on or after September 30), 1980; and

Whereas, public hearing and subsequent issue of said order were on or after that date, resulting in lost revenue for the company; and

Whereas, these increased costs of purchased power had been levied against, and paid by, the company to its supplier — such lost revenue amounting to \$95,272; it is

[1] Ordered, that the foregoing amount be recovered through a one-time surcharge of 50.00758 per kilowatt-hour on all bills rendered during December, 1980; and it is

Further ordered, that Third Revised Page 15 be, and hereby is, approved for effect December 1, 1980; and it is

[2] Further ordered, the public notice of this surcharge be given by publication or bill insert, whichever is the less expensive; with appropriate affidavit to be filed with the commission.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of November, 1980.

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NH.PUC\*11/26/80\*[78753]\*65 NH PUC 604\*Service Territories of Electric Utilities

[Go to End of 78753]

### Re Service Territories of Electric Utilities

IA 14,674, Fourth Supplemental Order No. 14,589



65 NH PUC 604  
New Hampshire Public Utilities Commission  
November 26, 1980

ORDER extending a filing date.

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**Page 604**

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BY THE COMMISSION:

Supplemental Order

Whereas, by Order No. 13,066 ([1978] 63 NH PUC 35), First Supplemental Order No. 13,205 ([1978] 63 NH PUC 197), Second Supplemental Order No. 13,406 ([1978] 63 NH PUC 350), and Third Supplemental Order No. 13,927 ([1979] 64 NH PUC 409), this commission extended the filing date of February 26, 1978, to July 1, 1978, January 1, 1979, December 31, 1979, and December 31, 1980 respectively; and

Whereas, an analysis of the status of this project relative to defining electric utility service territories indicates that by December 31, 1980, agreements will have been reached on all 241 towns with electric service in the state, but the preparation of sealed maps in final form of 51 towns for filing with this commission will take additional time beyond December 31, 1980; it is

Ordered, that the last extension date of December 31, 1980, be, and hereby is, further extended to March 31, 1981, for those utilities for which all service territory town maps have not yet been filed, namely: New Hampshire Electric Cooperative, Inc., and Public Service Company of New Hampshire.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of November, 1980.

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NH.PUC\*11/26/80\*[78756]\*65 NH PUC 608\*Exeter and Hampton Electric Company

[Go to End of 78756]

**Re Exeter and Hampton Electric Company**

IE 14,987, Order No. 14,595

65 NH PUC 608

New Hampshire Public Utilities Commission

November 26, 1980

ORDER suspending a tariff page pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on October 30, 1980, filed with this commission First Revised Page 33 of its tariff, NHPUC No. 14 — Electricity, providing for changes in the outdoor lighting service classification OL (Special Provisions (h) additional equipment); 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 Page 33 of tariff, NHPUC No. 14 — Electricity, of Exeter and Hampton 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-sixth day of November, 1980.

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NH.PUC\*11/26/80\*[78757]\*65 NH PUC 609\*Fuel Adjustment Charge

[Go to End of 78757]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire and Legislative Utility Consumers' Council

DR 80-46, Eighth Supplemental Order No. 14,596

65 NH PUC 609

New Hampshire Public Utilities Commission

November 26, 1980

PETITION of an electric utility to implement a fuel adjustment charge; granted.

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RATES, § 332 — Fuel adjustment charge — Electricity.

[N.H.] The commission authorized an electric energy producer to implement a fuel adjustment charge as adjusted, such charge being just and reasonable.

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APPEARANCES: Eaton W. Tarbell for Public Service Company of New Hampshire; William Shaine for the Legislative Utility Consumers' Council.

## BY THE COMMISSION:

## Report

Pursuant to RSA 378:3-a (II), the commission on November 19, 1980, held a hearing on the petition of Public Service Company of New Hampshire (hereinafter referred to as the "company") for authority to apply a fuel adjustment charge to regular December, 1980, monthly billings to their customers at a constant rate for regular November and December, 1980, billings pursuant to its tariff, NHPUC No. 22 — Electricity, which is a three-month forward-looking fuel adjustment charge including a fold-in of fossil energy costs based on costs during the year ending May 31, 1979.

Reference may be made to commission Order No. 14,155 (65 NH PUC 144) for statements and explanation of the fuel adjustment clause presently in effect.

The company is a public utility engaged in the business of supplying electric service in the state of New Hampshire. On November 17 and November 19, 1980, the company filed with the commission, their affidavits and exhibits 1 through 18 showing actual financial and electrical data for the month ended October 31, 1980, schedules showing maintenance day outages at the company's generating units and major entitlement units for October, 1980, the reasons for unscheduled outages, and fuel data sheets for the period ending October 31, 1980.

Based upon an agreement between the company, PUC staff, LUCC, and CAP, the company need not bring its witnesses to the two off months of each quarter. The company must prefile its testimony and affidavits with all parties and upon request by the commission or any party, must bring its witness or witnesses to the hearing for purposes of cross-examination.

Per Art III of Settlement Agreement No. 2 in dockets DR 76-46 and DR 79-187, the 36-month period over which the company is entitled to collect the fuel

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adjustment charge undercollection began June 1, 1980.

The total amount to be amortized is approximately \$18.7 million. Of this amount, the amortizing adjustment for the two months ending December 31, 1980, is \$1,038,962. This amount, which is approximately 14 cents per 100 kwh, is added to the commission's estimate of energy cost per kwh for the period ending December 31, 1980. Then further adjustments were made for the NH retail portion of the Merrimack Coal Inventory adjustment, to adjust for the October, 1980, undercollection; and to make the reconciling adjustment for the quarterly period ended June 30, 1980.

The result of taking the above figures into account for December, 1980, is a fuel adjustment rate of \$1.80 per 100 kwh.

Based upon all the affidavits and evidence in the record of this proceeding and the aforementioned orders, the commission finds that the proposed fuel adjustment charge for service, plus the previously noted adjustments which are to be billed in December, 1980, of \$1.80 per 100 kwh is just and reasonable. Our order will issue accordingly.

Supplemental Order

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

Ordered, that Public Service Company of New Hampshire Sixth Revised Pages 23 and 24 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly estimated fuel adjustment clause of \$ 1.80 per 100 kwh for the month of December, 1980, be, and hereby is, permitted to become effective December 1, 1980; and it is

Further ordered, that 68th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a monthly fuel surcharge of \$1.97 per 100 kwh for the month of December, 1980, be, and hereby is, permitted to — become effective December 1, 1980; and it is

Further ordered, that Fifth Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$1.98 per 100 kwh for the month of December, 1980, be, and hereby is, permitted to become effective December 1, 1980; and it is

Further ordered, that 44th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of a six-cent credit per 100 kwh for the month of December, 1980, be, and hereby is, permitted to become effective December 1, 1980; and it is

Further ordered, that 11th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$2.10 per 100 kwh for the month of December, 1980, be, and hereby is, permitted to become effective December 1, 1980; and it is

Further ordered, that the company submit a Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$4.04 per 100 kwh for the month of December, 1980, which will be permitted to become effective December 1, 1980; and it is

Further ordered, that 27th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity providing for the monthly fuel surcharge of \$2.38 per 100 kwh for the month of December, 1980, be, and hereby is, permitted to

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become effective December 1, 1980; and it is

Further ordered, that 83rd Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$1.81 per 100 kwh for the month of December, 1980, be, and hereby is, permitted to become effective December 1, 1980; and it is.

Further ordered, that 49th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge credit of seven cents per 100 kwh for the month of December 1, 1980, be, and hereby is, permitted to become effective December 1, 1980.

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

November, 1980.

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NH.PUC\*12/01/80\*[78750]\*65 NH PUC 564\*New England Telephone and Telegraph Company

[Go to End of 78750]

## Re New England Telephone and Telegraph Company

Intervenors: Volunteers Organized in Community Education, Department of Defense, General Services Administration, Legislative Utility Consumers' Council, New Hampshire Peoples' Alliance, Concerned Pocket Books, and Moultonboro Group

DR 80-23, Fifth Supplemental Order No. 14,586

40 PUR4th 29

65 NH PUC 564

New Hampshire Public Utilities Commission

December 1, 1980

APPLICATION by a telephone company for authority to increase its rates and charges; granted with modifications.

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1. VALUATION, § 192.1 — Investment tax credit — Exclusion from rate base.

[N.H.] A telephone company was required to deduct pre-1971 investment tax credit reserve from rate base because the portion of the accumulated investment tax credit which had not been restored to income was available for general corporate purposes and represented to the company customer-supplied cost-free capital. p. 569.

2. VALUATION, § 25 — Test-year averages — 13-month period.

[N.H.] A 13-month period of test-year averages was utilized because the use of the beginning balance and the month-end balances through the end of the test year provides the average investment in rate base items during a 12-month period, thus providing a better match to test-year income and expenses. p. 569.

3. VALUATION, § 69.1 — Purchases from related companies.

[N.H.] A telephone company's rate base was not reduced for purchases made by the company from an affiliated company at prices greater than 100 per cent of the lowest general trade because the commission concluded that price comparison studies were only a general indicator of purchase opportunities, and technical and cost-benefit evaluations must be performed within the context of an open access procurement system. p. 572.

4. EXPENSES, § 106 — Modernization — Cost savings.

[N.H.] The commission did not adjust expenses in the test year for cost savings expected to occur as a result of modernization of a telephone company's facilities and services because there

was no evidence that the modernization would effect a positive and identifiable cost saving. p. 575.

5. EXPENSES, § 10 — Post-test period allowance — Wage increase.

[N.H.] The commission allowed adjustments to test-year expenses for additional wage expense where such expense was a known and measurable change; such adjustments had been found to be a major offset to attrition and thereby fulfilled the commission's obligation to set reasonable rates both for the present as well as the future. p. 577.

6. RETURN, § 4 — Commission duty — Rate of return.

[N.H.] In determining the proper rate of return, it is the function of the commission to consider the total effect or end result to both the utility and the ratepayer, which, as provided by statute, must be the fixing of "just and reasonable" rates to both the investor and the consumer. p. 578.

7. RETURN, § 26.4 — Cost of equity — Telephone company.

[N.H.] A commission's finding that a telephone company was experiencing a 13.78 per cent cost of equity, calculated on the basis of the average of the cost of common equity at two separate time periods in order to take into account unusually high prime interest rates, was considered fair and reasonable. p. 587.

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8. RETURN, § 26.2 — Cost of debt — Telephone company.

[N.H.] A commission's determination that a telephone company was experiencing a cost of debt of 8.04 per cent was considered fair and reasonable. p. 587.

9. RETURN, § 35 — Attrition allowance — Telephone company.

[N.H.] An attrition allowance of 0.14 per cent of rate base instead of a telephone company's proposed allowance of 1.20 per cent was upheld as reasonable and supported by evidence. p. 590.

10. RATES, § 565 — Coin-telephone service — Accessibility.

[N.H.] The commission denied a telephone company's request to increase the cost of coin-telephone service from ten cents per call to 25 cents per call because it was in the public interest to make the use of such service as easily and readily available as possible. p. 595.

11. SERVICE, § 452 — Multiparty lines — Publicity.

[N.H.] The commission directed a telephone company to publicize better two-party and four-party service because of a company responsibility to increase customer awareness of the opportunities provided by such service. p. 598.

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APPEARANCES: G. Peter Guenther and Robert Wells of McLane, Graf, Greene, Raulerson & Middleton, professional association, for the petitioner; William Shaine and Gerald Lynch for the

Legislative Utility Consumers' Council; Allen Linder and Richard Aborjaily of New Hampshire Legal Assistance for Volunteers Organized in Community Education; Jefferson Shaffner and Frank Wilson for the Department of Defense and General Services Administration.

BY THE COMMISSION:

Report

These proceedings were initiated when the New England Telephone and Telegraph Company (sometimes hereinafter referred to as the "company"), a public utility engaged in the business of providing communications services in the state of New Hampshire and other New England states, filed with this commission substantial revisions to its tariffs, NHPUC Nos. 70 and 73. These proposed tariff revisions provide for the implementation of a 19 per cent composite increase to the present rates and were designed to generate an annual gross revenue increase of \$22 million. In this filing, the company requested that the rates become effective on March 1, 1980.

Pursuant to the authority vested in the commission by RSA 378:6 on February 19, 1980, by its Order No. 14,048 (65 NH PUC 67), the commission suspended the proposed rate increase pending an investigation and public hearings on the question of the reasonableness of the proposed rates and charges as authorized by the provisions of RSA 378:5.

A number of intervenors have appeared in this proceeding and the following were accepted as full parties in addition to the company: Legislative Utility Consumers' Council (hereinafter referred to as the LUCC); Volunteers Organized in Community Education (hereinafter referred to as VOICE); Department of Defense and General Services Administration (hereinafter referred to as DOD). In addition to the formal parties participating, various public organizations; i.e., New Hampshire Peoples' Alliance, Concerned Pocket Books, and the Moultonboro Group.

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The proceeding commenced on March 4, 1980, with a procedural hearing held before a hearing examiner. Subsequently, after due notice, thirty-six days of hearing were held before the commissioners during the period of June 12, 1980, through October 13, 1980, including seven evening sessions for public witnesses held throughout the state.

On September 2, 1980, pursuant to RSA 378:6 the company put into effect portions of the revised tariffs originally filed in February, which portions generate, on the October 31, 1979, test year, additional revenue of \$15,125,000.

On the first day of the hearing, counsel for the company outlines the *issues* which the company intended to address; i.e., inflation, declining rate of return versus fair rate of return, requested overall return, test year, pro forma adjustment, directory assistance charge, and increase coin rate. The company requested the commission to take jurisdiction under RSA 378:6 and that the commission determine the just and lawful rates and charges to be charged by the company for its services.

The commission takes jurisdiction and proceeds pursuant to general legal principles of public utility law that a public utility is entitled to a return on its investment commensurate with returns on investments of other enterprises of similar risk, and sufficient to allow the company to operate

successfully to maintain its financial integrity and to attract capital.

The general principles are well established and clearly set forth by the United States Supreme Court in *Bluefield Water Works & Improv. Co. v West Virginia Pub. Service Commission*, 262 US 679, PUR1923D 11, 67 L Ed 1176, 43 S Ct 675, and *Federal Power Commission v Hope Nat. Gas Co.* (1944) 320 US 591, 51 PUR NS 193, 88 L Ed 333, 64 S Ct 281. In *Bluefield* the court held:

"A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties ... . The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." (262 US at pp. 692, 693, PUR1923D 11.)

*Federal Power Commission v Hope Nat. Gas Co.*, *supra*, substantially affirms the "Bluefield" opinion.

The commission has an obligation to fix a rate of return for some period in the future as enunciated by the New Hampshire supreme court in *New England Teleph. & Teleg. Co. v New Hampshire* (1973) 113 NH 92, 98 PUR3d 253, 302 A2d 814.

"Because of the need to establish a fixed period in which to make the necessary calculations, a test year already expired is used by the commission to fix rates under which the utility will operate for *some time in the future*. This necessarily imposes on the commission the obligation to fix a rate of return which will meet the constitutional standards not only at the time its order is made *but for a reasonable period of time thereafter*. [Citations omitted.] This is recognized by RSA 378:7 which provides that the commission shall determine and fix a just

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and reasonable rate, 'thereafter to be observed' by the utility and imposes on it no obligation to again investigate a rate matter within a period of two years." (Emphasis added.)

#### *Summary of Company's Position*

The company presented John Coleman, general manager, for the New Hampshire New England Telephone and Telegraph Company, to summarize its position. Mr. Coleman testified that the primary goal of the company has been and will continue to be, to provide quality telecommunications services for its customers. The company, in spite of a record high growth rate of new residential and business customers, is providing its customers with new and innovative service. Improved earnings are essential to continue being responsive to the quality telecommunications needs of its customers. Since the last rate increase granted to the company in 1975, the increased growth and resultant increase in capital construction as well as the overall cost of doing business have increased, caused by record high interest rates and inflation. The company put forth its best efforts to control expenses and maintain its financial strength by introducing new revenue-producing marketing strategies and implementation of cost saving



technologies. A number of new key telephone and private branch exchange systems such as Com Key, Dimension, and Horizon have been introduced, new models of design line telephones were made available such as Princess, Trimline, and Touch-Tone telephones. Phone Center stores were established in various cities and towns. Electronic switching system (ES-S) was installed in three major exchanges in 1980 and three more will be completed in 1981. The ESS systems permit expansion of Touch-Tone service and customer calling services.

Increased efficiency and reduced cost have been brought about by new operating methods such as installation force management plan (IFMP) and the construction force management plan (CFMP) and administration systems such as computer system for man force operation (COSMO). In addition, the company maintained a stable work force of 3,600 employees. He briefly explained the scope of the construction budget and benefits the company receives from its license contract. Both of these items are the subject matter of other witnesses. He then explained that company's plans to increase coin service and to charge for directory assistance. Mr. Coleman then concluded his testimony by stating:

"Today, service levels in New Hampshire are generally reliable and of high quality. It is essential that we be allowed to continue the introduction of cost saving technologies. It is equally important that we be allowed to meet the constantly increasing expense of conducting our business during these periods of high inflation and also earn an adequate rate of return on our investment in the state.

"We must be allowed to earn an 11 per cent rate of return for the first twelve months the new rates are in effect.

"If the company is to have an opportunity to earn this rate of return, a forward-looking approach must be adopted when setting our revenue levels.

"These rates will allow the company to meet its responsibility to New Hampshire by permitting industrial and residential growth. They will also allow the company to improve its direct contribution to the economy of the state.

"To assure continued high quality,

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reliable telecommunications services in New Hampshire through adequate earnings, I respectfully ask the commission to support our request for the repricing of our services."

*Rate Base*

New England Telephone filed its rate base calculation to reflect 12-month averages in the adjusted amount of \$238,096,000. The average net investment of \$248,192,000 for the test year ended October 31, 1979, was adjusted to eliminate \$10,096,000 of telephone plant under construction from the rate base. In order to provide for attrition, the company included a revenue requirement based on the estimated additional average net investment between the end of the test year and December 31, 1980. The additional average net investment amounts to an increase of \$26,504,000, to which the requested rate of return was applied.

Staff witness Sullivan presented testimony based on 13 monthly averages from October 31,

1978, through October 31, 1979. Mr. Sullivan's rationale for the use of this method was to provide a proper match between revenue and expenses when compared with rate base. In addition, Mr. Sullivan's rate base provided for a deduction of pre-1971 investment tax credits in the amount of \$769,891. Staff witness further testified that the use of estimated growth in average net investments was not the proper methodology to use to calculate an attrition allowance. We will address the matter of attrition in another part of this report.

The following schedule illustrates the differences between the company and the staff calculation of rate base:

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

<i>Base</i>	<i>Company Rate Base</i>	<i>Staff Rate</i>
1 Telephone plant in service 297,614,619	\$297,798,000	\$
2 Telephone plant under construction 10,127,615	10,096,000	
3 Property held for future telephone use 17,211	17,000	
<hr/>		
4 Total telephone plant 307,759,445	\$307,911,000	\$
5 Depreciation reserve 65,424,780	65,191,000	
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6 Total telephone plant less depreciation reserve 247,334,665	\$242,720,000	\$
7 Working capital 5,472,034	5,472,000	
8 Pre-1971 investment tax credits (769,891)	0	
<hr/>		
9 Average net investment 247,036,808	\$248,192,000	\$
10 Less construction work in progress 10,127,615	10,096,000	
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11 Adjusted Average Rate Base 236,909,193	\$238,096,000	\$

The company argues that the rate base adjustments advanced by the staff and other intervenors are not supported by evidence of record and are inequitable and unreasonable. They argue that the sole argument to support the deduction of pre-1971 investment tax credits is consistency with prior commission decisions. They further argue that staff's treatment provide a "disproportionate and unjustifiable benefit to present ratepayers at the expense of future ratepayers" and that "it is inconsistent with congressional intent expressed in the 1971 investment tax credit legislation." The company argues that it treats the pre-1971 reserve and its annual amortization in the same way as it treats post-1971 credits and that staff's recommendation would both deduct the reserve from rate base and credit the annual amortization to income. They

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further cite a recent New England Telephone case where the Vermont Public Service Board refused to reduce the rate base by the amount of the pre-1971 investment tax credits. The Legislative Utility Consumers' Council urges the commission to adopt the methodology used by the staff. This commission has historically reduced rate base by the amount of the pre-1971 investment tax credit reserve. We have issued numerous decisions upholding that methodology. In *Re Public Service Co. of New Hampshire* (1972) 95 PUR3d 401, 441, 442, this commission stated as follows:

"The rationale for deducting the unamortized portion of the accumulated investment tax credit is simple and the logic irrefutable. The customers through rates supply the company with funds with which to pay its income taxes in the full amount of such taxes. As a result of the law granting the credit, the company was not required to pay the tax in its full amount. It has been enabled, therefore, to accumulate the aggregate of the credits allowed over the effective years of the law — less what it annually returned to income as the investment tax credit adjustment. The balance — that portion of the accumulated investment tax credit which has not been restored to income — is available, and has been used, for the general corporate purposes of the company. It represents to the company cost-free capital, customer supplied."

[1] In *Re New England Teleph. & Teleg. Co.* (1972) 95 PUR3d 71, the commission's language was similar. This "principle" was further confirmed in the last rate case of *Re New England Teleph. & Teleg. Co.* (1976) 14 PUR4th 295. As the funds from the pre-1971 investment tax credits flow through the income statement, they are restored to rate base, upon which the company earns a rate of return. The foregoing treatment was foreclosed by the Revenue Act of 1971. If the treatment as a rate base deduction of post-1971 investment tax credits did not carry the possible disallowance by the Internal Revenue Service, this commission would follow the policy of requiring the deduction from rate base. We will, therefore, adopt the staff's position that the pre-1971 investment tax credit reserve be deducted from rate base.

[2] Company witness Troia calculated rate base using the average of the 12 monthly averages for the test year. Staff witness Sullivan used the average of the 13 month-end balance sheet figures. The company argues that their method is the more accurate and is consistent with the method used to determine its settlements with AT&T, and with the method used for regularly filed reports with the commission and its general rate filings. They argue that the credible evidence supports the reasonableness of Mr. Troia's methodology and should be approved by the commission. It is further pointed out that staff's method is an unimpeachable method for determining the average month-end net investment in plant during the 13-month period chosen. We disagree. The use of the beginning balance and the month-end balances through the end of the test year for each of the rate base items provides the average investment in those accounts during a 12-month period. It does not provide the average of thirteen months but for a 12-month period. Mr. Sullivan argues that the company's method tends to inflate the average because each month-end figure, with the exception of the beginning and ending balance, is more heavily weighted. Each month the company

capitalizes plant which has been completed during the month. It is unreasonable to assume that the revenues from those investments will be realized in that month and be matched with the investment. In past decisions we have adopted the 13-month average because it provides a better match to test-year income and expenses. Re Concord Electric Co. (1978) 63 NH PUC 240; Re New Hampshire Electric Co-op., Inc. (1979) DR 78-124; Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209; Re Union Teleph. Co. (1979) 64 NH PUC 434; Re Public Service Co. of New Hampshire (1980) 65 NH PUC 251. As in the previous cases mentioned, this case as an appropriate one to use a 13-month average. As we stated in the Public Service Company of New Hampshire rate case, DR 79-187, issued on June 9, 1980 (65 NH PUC 251): "The premise for acceptance of this method arises from our experience that this method does greater honor to the test-year concept."

The Legislative Utility Consumers' Council (LUCC) claims the New England Telephone's rate base should be adjusted downward because purchases have been made from Western Electric Company at prices greater than 100 per cent of the lowest general trade supplies. They also argue that "there should be a downward adjustment to rate base to reflect the excessive earnings of Western Electric Company in 1978 and 1979." They take the position that the commission should not grant any rate increase until the company provides for an open access purchase system and the price comparison study submitted by the company not be accepted as proof of the reasonableness of Western Electric Company purchases.

The LUCC, in its brief, argues that this commission should not accept the price comparison study as proof that New England Telephone "makes reasonable and prudent purchases when it buys from Western Electric." Legislative Utility Consumers' Council states the study can be used to show that the company (NET) makes purchases of equipment from Western Electric for products that are "comparable" and "similar" to the products of general trade suppliers even though the costs of the Western Electric products are far in excess of "comparable" products of general trade suppliers. The LUCC provides an analysis (Exh 16) which compares certain purchases by NET in 1979 with the prices of general trade suppliers. The LUCC's analysis claims that in total the company paid Western Electric \$11,262,018 while those products could have been purchased for \$9,899,623, or a difference of \$1,362,395. They further state this is a companywide figure, but it should be obvious that this is the result of one year's purchases. The LUCC takes the position that they cannot quantify the downward adjustment to rate base because of insufficient data. However, they claim that this commission has sufficient evidence to support a downward adjustment to rate base to reflect the unreasonable purchases made by NET since its last rate case petition before this commission.

The company in its reply brief argues that there is no need for the commission to examine the purchases from Western Electric because LUCC witness, Dr. Manley Irvin, testified that it would be unnecessary if the company had an open access procurement system. They argue that the evidence demonstrates that the company does have such a system. They

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state that if the claim that \$1,362,395 of alleged excessive price is examined less than \$100,000 would be applicable to intrastate New Hampshire investment. The company further

argues that first cost is not the only consideration in selecting a product. They claim that they have demonstrated that purchase decisions are based upon other considerations, including evaluations and cost studies that concluded that the full life cycle of Western products were lower. In answer to the allegations by the LUCC that New England Telephone does not have an open access procurement system, the company claims that through its witnesses and rebuttal testimony it has sustained the burden of proof necessary to support such a system. The company contends that the price comparison studies were presented to support the reasonableness of the products charged by Western that the company's practices require evaluations in each segment of the company to conduct technical and life cycle cost studies on the various alternative products before approving a Western or general trade product for use by the company. The company further states that the Bell system purchased products division (BSPPD) was organized in 1974 to facilitate access by general trade suppliers to the Bell system and it serves as a centralized role to search for product opportunities and perform technical and economic evaluations of those purchase opportunities. They claim the data is only one element that goes into the purchasing decision used by the operating companies and that each operating company is responsible for making its own purchase decisions. The company provided Mr. Ribero, the company's general trade administrator, to demonstrate that they do have an open access procurement process.

The LUCC further claims that there should be a downward adjustment to rate base to reflect the excessive earnings of Western Electric in 1978 and 1979: They cite cases from other commissions where adjustments were made to limit the profits passed on by Western Electric to the operating companies to an amount that is no greater than the rate of return that would be reasonable for a regulated utility. *Re Northwestern Bell Teleph. Co.* (Minn 1979) 29 PUR4th 7, 27; *City of Los Angeles v California Pub. Utilities Commission* (1972) 7 Cal 3d 331, 342, 94 PUR3d 226, 102 Cal Rptr 313, 497 P2d 785; *Washington Utilities & Transp. Commission v Pacific Northwest Bell Teleph. Co.* (Wash 1978) 26 PUR4th 495; *Re New York Teleph. Co.* (NY 1977) 23 PUR4th 554. The LUCC states that Western earned 15.8 per cent on its average net investment for sales to operating companies in 1978 as compared to only 6 per cent to non-Bell customers. (Exhibit 23.) They contend that in 1978 NET purchased \$28,216,000 of products from Western and that this commission should not permit Western to earn "such tremendous profits as compared to sales to non-Bell customers." The LUCC concludes that if this commission allows any increase in this case then "a downward adjustment should be made to the rate base to note dissatisfaction with the lack of proof provided by NET as to the reasonableness of its purchases."

The company states that the reasonableness of Western's earnings as discussed in the four decisions quoted by LUCC "are factual decisions, not rulings of law." They are not binding on this commission; nor are they even useful precedents since they are based

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on evidence (or lack of it) in those particular proceedings. They argue that there is absolutely no evidence in the record to show that Western's profits are unreasonable and they note the LUCC's own witness, Dr. Irwin, testified that investigation of Western's profits would be unnecessary if the company had an open access procurement system. Company witness Thornton testified that Western's business risks are comparable to those of large manufacturers, and greater

than telephone companies, that Western's sales volatility exceeds the volatility of the Bell system, and has a higher business risk as a captive supplier to the Bell system companies. They cite the impact of competition into the telecommunications services market and inability to diversify into new markets. Finally, they claim that Western has the financial characteristics of a manufacturer and not a telephone utility; hence its capital structure contains substantially less debt than a telephone utility. The company argues that the proposals of the LUCC should be rejected.

Company witness Benson testified that the price comparison study which he presented is only one input in the procurement process of the Bell operation companies and are not used as the sole basis for purchase decisions. He contends that the studies only identify potential purchase opportunities and additional technical evaluations or economic studies are performed to ascertain whether true opportunities exist. The Bell system purchased products division (BSPPD) was formed in 1974 to provide access to the operating companies by general trade suppliers and to provide a centralized analysis of general trade products which might offer cost, feature, and availability advantages. The company states that 80 per cent of the BSPPD funding is utilized to evaluate general trade products in a process that considers other factors in addition to the price comparison. Albert P. Ribero, the company's general trade administrator, presented testimony that an open access procurement process does exist and described the procedures for procuring telecommunications products or services. He testified that the purchasing policy of the company "is to purchase those products or services which meet our technical and quality criteria and result in the lowest cost, regardless of source or manufacturer."

[3] The record includes volumes of testimony and exhibits gathered over many days of hearings on the subject of Western Electric purchases. There is nothing in the record to substantiate the claim that products were purchased by the company on the basis of the price comparison alone. The price comparison study is only a general indicator of purchase opportunities and technical and cost-benefit evaluations must be performed within the context of an open access procurement system. The commission will not make a downward adjustment to rate base for purchases made by the company from Western Electric. We will monitor the purchases of New England Telephone and will initiate a cooperative investigation with the other New England state regulatory agencies in which the company operates to determine that an open access procurement system does in fact exist.

The company presented testimony by William E. Thornton regarding Western Electric profits. Western Electric is a wholly owned subsidiary of AT&T and functions as the manufacturing and supply unit of the Bell system. Western Electric's major function is the manufac

ture of telephone apparatus, equipment products, and wire and cable products. In addition, it makes sales to purchasers other than Bell telephone companies, although 87 per cent of Western Electric's sales have been made to the Bell system. Witness Thornton presented an exhibit which compared fluctuations in the total operating revenues of the Bell system sales with Western Electric's Bell system sales. That exhibit indicates that Bell system revenues have not deviated noticeably from a trend line while Western Electric's Bell system sales show substantial

deviations that in the opinion of the witness are more volatile than those of a utility. The witness concluded that the business risks inherent in Western Electric's operations are reasonably comparable to other large manufacturers and greater than a utility. In addition, comparisons with other large manufacturers, the Bell system, and electric utilities indicate that Western Electric has the financial characteristics of a manufacturer rather than those of the Bell system or an electric utility.

Mr. Thornton compared Western Electric's average return on net investment with the average return earned by other manufacturers from 1946 to 1979. An exhibit shows that the 50 largest manufacturers have averaged an annual return on equity of 12.9 per cent, Moody's 125 industrials averaged 12.3 per cent, and Western Electric's Bell system business return on equity averaged 10.1 per cent. Another exhibit was presented to show price increases which have occurred between 1950 and 1980. The exhibit indicates that Western Electric's prices have increased over that period as have those of other manufacturers. The price level of Western Electric's total manufactured products has increased only 48 per cent since 1950 compared with a rise of 268 per cent for the producer price index for durable manufacturers. The index for electrical machinery and equipment rose 204 per cent compared to 27 per cent for Western Electric. Western's prices for cable and wire increased by 140 per cent compared to a 324 per cent increase for the producer price index for wire and cable. The witness concludes that Western Electric has shared the benefits of its overall efficiency with its customers through lower prices.

The record in this case does not provide this commission sufficient information with which an adjustment can be made to disallow Western Electric excess profits from the rate base. The commission is aware that other state commissions have made disallowances on the basis that Western Electric stock cannot be purchased and therefore the stock of AT&T incorporates the risk of Western Electric with the risk attendant to the operating companies. Witness Thornton provided a chart which depicts the returns on Western Electric's net investment. It is noted that the returns for 1977, 1978, and 1979 have increased to 13.6 per cent, 15.6 per cent, and 16.8 per cent, respectively. The commission will continue to monitor those returns by reports which are periodically furnished by the NARUC-FCC Committee on Communications. In future cases, this commission will fully explore the subject of Western Electric profits to determine if indeed a disallowance should be made.

The commission will adopt an average rate base of \$236,909,193 as proposed by staff.

#### *Test-year Expenses*

The company filed a statement of net

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telephone earnings for intrastate operations for the twelve months ended October 31, 1979. The actual results for that period were \$19,292,000 of net telephone earnings. Pro forma adjustments were made in the amount of \$856,000 to arrive at adjusted net operating income of \$18,436,000. Pro forma increases in income were made to (1) provide for a change in the federal income tax rate for the last three months of 1978 from 48 per cent to 46 per cent in the amount of \$63,000, (2) to provide for additional revenues from exchange reclassifications of \$101,000, and

(3) for a \$253,000 increase in directory advertising rates. Pro forma decreases were made to reflect \$1,088,000 for 1979 wage increases and to eliminate interest charged to construction (CWIP) from income due to the elimination of plant under construction from the rate base. The company testified that an adjustment associated with anticipated savings from directory assistance repricing would be provided if it was authorized by this commission. The estimated savings from directory assistance repricing were later submitted and amount to \$417,000 under the three-call plan, \$246,000 under the five-call plan, and \$137,000 under the ten-call plan.

The company submitted updated results through June 30, 1980, and states that they should be used by the commission to offset expected attrition. The commission refused to accept these exhibits into evidence primarily because acceptance would have severely compromised the right of the other parties, as well as being a denial of procedural due process. While an updating of a test-year period is not foreclosed by this commission, compelling reasons must exist before this commission allows the target to become mobile.

The LUCC urges this commission to make several adjustments to test-year expenses. They claim that Exh 12 shows projected maintenance savings of \$819,000 in 1980 and all or a part (60 per cent) should be excluded from intrastate operating expenses. Maintenance savings, modernization savings associated with the switching control center, and dial with dial replacement in the amount of \$850,000, or an amount attributable to intrastate operations is another adjustment that they urge the commission to make. The LUCC cites the above as "clearly identifiable adjustments with quantitative explanations of maintenance expense savings anticipated by the company." They further claim that there is evidence of other cost savings devices and revenue-producing marketing strategies which have not been quantified in Exhs 10 and 11 and that this commission should allocate the entire \$819,000 ESS savings and the entire \$850,000 savings from switching control center and dial with dial replacements to New Hampshire intrastate operations.

The company, in its brief, argues that the proposed adjustments for cost savings are in the nature of cost avoidance and will not result in overall cost savings. They further claim that "they will, hopefully, curb an otherwise accelerating rate or increase in expenses and will not result in true savings which would reduce the absolute dollars of expense associated with certain activity." They further claim on p. 43 of the brief: "In the absence of a simultaneous factoring in of the normal anticipated expense increases, a going basis adjustment for savings in the nature of cost avoidance, such as is proposed by the staff, effects distorted results — essentially an incomplete snapshot of the

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future period — and thus should be rejected."

The company argues that efforts to accomplish cost avoidance through modernization have been going on for years and are continually reflected in operating results since the last rate case. Staff witness Sullivan proposed adjustments, however, he stated that he could not quantify the allocation to intrastate operations. He further urged the commission to consider the cost savings when an attrition allowance was considered.

[4] The commission will refrain from making the aforementioned adjustments for cost



savings as there is no evidence that they will effect a positive and identifiable cost saving. We will, however, accept staff's recommendation and consider the cost savings as cost avoidance in the calculation of attrition allowance.

Both the LUCC and VOICE urge the commission to disallow portions of the license contract fees from American Telephone and Telegraph (AT&T). Volunteers Organized in Community Education claims that NET has not demonstrated in the record that an outside examination or audit has been performed to verify the propriety of all of the AT&T license contract fee costs and it would not be appropriate to allow the full amount and recommends that a portion of the fees be disallowed. The LUCC argues that certain portions of the license contract fees are unjust and unreasonable and should not be used to determine the cost of service for rate-making purposes. They further claim that NET "(1) has little control on the escalation of these costs, (2) has no control of the types of research and system engineering work for which it is billed, and (3) has no ability to substantiate the benefits of its expenditure for research and systems engineering work on a current basis." The LUCC wishes to place a limitation on license contract expense in order to set just and reasonable rates. They cite various commission decisions around the country which place percentage limitations on the allowable amount of license contract fees. Re Northwestern Bell Teleph. Co. (Minn 1978) 29 PUR4th7, 30; Re Southwestern Bell Teleph. Co. (Ken 1979) 28 PUR4th 519, 541; Re Mountain States Teleph. & Teleg. Co. (Mont 1978) 29 PUR4th 97, 105, 106; Re Wisconsin Teleph. Co. 6720-TR-31, Dec. 4, 1980 (Wis). They further cite cases where limitations have been placed upon certain types of license contract expenditures. While the LUCC recommends a one per cent limitation in New Hampshire, they suggest an alternative of complete prohibition of Bell Telephone Laboratory expenses as a viable alternative which should be adjusted. They refer to Exh 9, Part V, [omitted herein] which shows that \$761,625 was charged to intrastate operations for the year for research and systems engineering work. They contend that Western Electric was the primary beneficiary of Bell Labs activities. The LUCC takes the position that New Hampshire consumers would no longer be required to prefinance the research work performed by Bell Telephone Laboratories and relates those costs to the anti-CWIP statute with regard to consumers paying for a service before receiving that service. They calculate a \$751,625 disallowance of license contract fees should this commission adopt a one per cent limitation.

The company claims that it has demonstrated through the testimony of Mr. Coleman and Mrs. deLaehne that the license contract between the com

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pany and AT&T is just and reasonable and that the services provided are necessary to the conduct of the company's business in New Hampshire. Mrs. deLaehne described the services provided to the company and Mr. Coleman explained that the work performed avoided duplication of effort and expense, controlled operating costs, and improved operations. Mr. Coleman concluded that the value of the license contract services greatly exceed New Hampshire's share of the charges for those services. The company further argues that research at the Bell Labs is directed toward searching for knowledge and determining whether new concepts and findings may have application to the telecommunications business.

New England Telephone and other Bell system operating companies are parties to the license

contract. Under the license contract, the company obtains from AT&T the use, royalty fee of Bell Laboratories' patents, various types of technical assistance, and certain other services. The contract provides that the company will pay AT&T a fee amounting to 2.5 per cent of the company's gross revenues. From 1948 to September 30, 1974, the licensee companies, by agreement, paid only one per cent of their adjusted revenues to AT&T. On October 1, 1974, AT&T changed the method of billing for license contract services. Since that time NET and the other licensees have been paying an amount based on its allocable share of the costs (including return on investment) which AT&T incurs under the license contract, but not to exceed 2.5 per cent. The allocated license contract costs which represent the license fee for the twelve months ending October 31, 1979, are \$43,264,236 for the New England Telephone, \$3,951,321 for New Hampshire total operations, of which \$2,300,708 is for intrastate operations. The total allocated costs for Bell Telephone Laboratories research and systems engineering is \$1,333,191 of which \$751,625 is for intrastate operations.

The LUCC and VOICE have urged this commission disallowance of a portion of the license contract fees. Witness deLaehne explained the basis on which AT&T allocates costs to NET. Detailed information was submitted on the nature of the services under the license contract and the manner in which the fees are computed. None of the parties to this case has presented any information casting doubt on the company's evidence. In light of this presentation, the commission must find that the payments are reasonable for the purposes of this proceeding.

However, since we are dealing with payments by a subsidiary corporation to its parent, the matter remains of concern to us. It is evident that the license contract arrangement could result in unreasonable cost allocation between the various operating companies on the one hand, and AT&T, on the other. Although cost allocation matters are reviewed by company auditors, there is a possibility that the auditors' standards differ from those that would be selected by regulatory agencies responsible for assuring that costs are apportioned fairly among the various classes of users of telephone service. An investigation of such matters by this commission is infeasible. American Telephone and Telegraph Company performs the license contract services for the other Bell system companies, as well as for New England Telephone. All regulatory agencies involved have a common interest in evaluating the allocation of the

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fees. We will urge NARUC to investigate the subject and initiate an investigation as soon as practical, considering the considerable effort involved. We are also aware that an audit of the license fees has been performed by the California commission, and we will have our staff review that audit for our future consideration.

Bell Telephone Laboratories performs research and systems engineering and development and design work for the Bell system. Bell Labs is owned equally by Western Electric and AT&T. American Telephone and Telegraph Company, in turn, owns 100 per cent of the stock in Western Electric. The company argues that it is more efficient and economical to perform work involving common needs and problems of the Bell companies on a centralized basis. It is further stated that the research and development is not product related and that the purpose is to develop innovative technology resulting in more efficient operations of the Bell companies. They testify that when the efforts of the Bell Labs reaches a point at which a specific product can be

identified, the funding of the product is assumed by Western Electric.

This commission will not disallow the Bell Labs expenses allocated as part of the license contract fees. The expensing of these costs conforms with generally accepted accounting principles as enunciated by the Financial Accounting Standards Board. Costs attributable to research and fundamental development.

During these hearings the company submitted Exh 105, which attempted to update data previously provided. The commission decided that further discovery would unnecessarily prolong the hearings and noted that it would assign due weight to the information provided. The annual effect of the 1980 wage increase is \$1,989,000 tax affected. Our records show that the increase was effective on August 10, 1980. That wage increase has been negotiated since the time of the original filing, and it is a known and measurable change. The commission has set forth the standard involving expenses as follows:

"A recently past test year serves as a guide for the establishment of rates for the future. Where the test-year experience is not an accurate guide to the future because of known and certain changes which will occur, a corrective adjustment should be made. These modifications or adjustments are applied to modify the test-year earnings by changes occurring after the test year so that the test period earnings will be normalized and also, thereby, more reasonable rates will be set for a future period." Re Public Service Co. of New Hampshire (1972) 95 PUR3d 401, 437.

[5] Adjustments for known and measurable changes in wage expenses have been previously recognized by this commission, Re Concord Nat. Gas Corp. DR 78-142; Re Concord Electric Co. (1978) 63 NH PUC 240; Re Gas Service, Inc. (1978) 63 NH PUC 2; Re Manchester Gas Co. (1979) 64 NH PUC 35, 29 PUR4th 121; Re Pennichuck Water Works (1979) 64 NH PUC 206; and Re Public Service Co. of New Hampshire (1980) 65 NH PUC 251. Such adjustments have been found to be a major offset to attrition and thereby fulfill the commission's obligation to set reasonable rates both for the present as well as the future. Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209. The commission will allow the additional wage expense as a known and measurable change and a major offset to attrition.

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The calculation of the adjusted net operating income is as follows (thousands of dollars):

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

PRO FORMA NET OPERATING INCOME  
FOR THE TEST YEAR ENDED OCTOBER 31, 1979

Actual Net Operating Income

Pro Forma Adjustments  
Change in FIT Rate to 46 Per Cent  
1979 Wage Increase  
1980 Wage Increase  
Directory Advertising Rate Increase  
1979 Exchange Reclassification  
Elimination of Interest Charged Construction  
Directory Assistance Repricing

(Ten-call)

Pro Forma Net Operating Income

### *Rate of Return*

The rate of return is a judgement percentage of the rate base which the utility is entitled to earn for interest, dividends, payments, and related requirements, based upon the standard of just and reasonable rates.

[6] It is the function of the commission to consider not only the interest of the utility but that of the general public as well since the commission stands between the public and the utility. The commission looks to the total effect or end result to both the utility and the ratepayer, which, as provided by statute must be the fixing of "just and reasonable" rates to both the investor and the consumer.

The question of what is a fair rate of return is complex and involves the resolution of conflicting testimony and the application of the commission's judgment to such testimony. That is not necessarily because there is any substantial dispute as to the facts, but because the analysis and interpretation of the facts involves the exercise of both skill and judgement, a responsibility which falls on the commission.

To determine a fair rate of return three important issues must be resolved:

1. the cost of debt capital,
2. the cost of equity capital,
3. the capital structure of the company.

### *Cost of Debt*

The cost of debt did not become a substantial issue in this docket. The commission determines that the pro forma test-year embedded cost of debt is 8.04 per cent.

Mr. Camfield in his prefiled direct testimony, p. 23, states: "Always nebulous and certainly elusive, the cost of common equity cannot be observed in capital market data, directly."

The proper return allowance is a matter for the judgement of the commission based upon the standard of just and reasonable rates. A fair rate of return cannot be the product of any rigid mathematical formula since it is not merely a matter of mathematical precision and certainty but involves the commission's informed judgement. Ascertainment of a fair return in a given case is a matter incapable of exact

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mathematical demonstration and is one of reasonable approximation, having its basis in a proper consideration of all relevant facts. Nichols and Welch, "*Ruling Principles of Utility Regulation, Rate of Return Supplement A*," p. 16 (see cases cited therein).

The New Hampshire supreme court has ruled that the commission has the duty to fix just and reasonable rates for the utilities under its jurisdiction, and the rate of return is an important factor in so doing; the return is a judgement matter for the commission based upon the evidence before it, but the cost of capital is to be determined and considered by the commission in fixing the

return. *New England Teleph. & Teleg. Co. v New Hampshire* (1962) 104 NH 229, 44 PUR3d 498, 183 A2d 237.

Controversy about the common equity return is to be expected therefore, and the commission is not at all surprised to find five witnesses prefiling testimony thereto. Generally the amount of testimony increases exponentially with regard to the dollar amount of the increase in rates sought by the petitioning entity. And since the petitioner, New England Telephone Company has applied to this commission for authority to increase its rates by over \$20 million, which in percentage terms equates to approximately a 25 per cent increase in tariff revenue, this commission is not in the least surprised to find considerable testimony and evidence pursuing the issue of the amount of common equity capital.

The record is, however, somewhat peculiar because of the great differences among the several recommendations of capital structure, as well. The commission is accustomed to agreement, essentially, as to the appropriate capital structure and the cost of senior capital.

A cursory review of the voluminous amount of material suggests that there is perhaps even more controversy about the appropriate capital structure than the cost of common equity.

#### *Cost of Common Equity*

Generally, one might find that the ongoing dispute in regard to the "fair rate of return" is confined to the appropriate common equity earnings rate. The common equity return is always an issue of dispute because one cannot calculate the cost of common equity return with precision. Whereas the cost of debt capital is readily ascertainable, the cost of common equity capital cannot be observed directly in the marketplace. Thus, the source of the inevitable controversy about the common equity return is clear; analysts, no matter how great their skill and insight, cannot directly or indirectly ascertain the precise cost of common equity capital. The commission takes careful note of the prefiled direct testimony of Professor Robert L. Johnson, at p. 6: "(1) The cost of common equity cannot be determined precisely by any technique, but a knowledge of the market conditions prevailing at any time together with knowledge about a specific company and industry makes it possible to specify a range of reasonableness."

#### *Analysis of Parties*

##### *Department of Defense*

On behalf of the Department of Defense, Mr. Langsam presented testimony as to the appropriate rate of return on common equity and the recommendation regarding the overall cost of capital.

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The testimony and exhibits of Mr. Langsam produce and recommend an overall rate of return of 9.1 - 9.5 per cent (TR 27, p. 7), with an associated cost of common equity capital within the range of 12.5 - 13.5 per cent (TR 27, p. 8). These conclusions appear on pp. 3 and 70 of Exh 130, the prefiled direct testimony of Mr. Langsam.

Basically, Mr. Langsam employed the consolidated capital structure of the Bell system (AT&T consolidated) and the associated cost of senior capital. Mr. Langsam did, however, use

imputed capitalization ratios of 50 per cent debt and 50 per cent equity in the process of generating the overall return recommendation, previous to adjusting for zero-cost capital within the capital structure. This may be seen on Table A, p. 3a, of Exh 1 30.

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

	<i>Per Cent Cost</i>	<i>Weighted Cost</i>
Senior Securities	50      7.9%	4.00%
Common Equity	50      12.5 - 13.5	6.2* - 6.7*
		10.2 - 10.7%

Please note that these actually round up to 6.25-6.75 per cent with an overall return of 10.25-10.75 per cent.

On pp. 80-86 of his prefiled direct testimony, Exh 130, Mr. Langsam discusses at length why the imputed capital structure should be used (the inquiry and response which begins on Line 23, p. 82).

"Q. Is it ever appropriate to use a capital structure which contains less equity and more debt than the actual capital structure?"

"A. Yes! The goal of regulation is to assure the ratepayers that the service they receive is at the lowest possible price. This, of course, prevents the company from taking advantage of its monopoly power to charge prices which are higher than necessary. These higher prices may not be for the immediate enrichment of the firm's stockholders. They may be used to cover inefficient operation, to provide unnecessary margins of safety, or to finance a corporate purpose not necessarily associated with the actual supply of the monopoly service."

Mr. Langsam goes on to say (direct testimony, p. 83, Line 18),

"Theoretically increasing proportions of debt cause increases in the risk associated with both debt and equity and should also be associated with increasing cost of both debt and equity. However, increasing proportions of debt in the capital structure are associated with lower cost of capital because: (a) over a small range the increasing proportion of debt does not materially change the risk of debt and equity thus the cost of debt and equity remain the same; and (b) the increase in the proportion of debt is greater than the increase in the cost of debt and equity."

In his determination of the appropriate cost of common equity capital, as stated on p. 14, Lines 1, 2 of his prefiled direct testimony, Exh 130,

"I will ascertain the cost of equity capital for the Bell system by using the following analytical approaches:

"(1) The comparable earnings approach; and

"(2) The market value approach."

In regard to (1) above, Mr. Langsam used benchmark measures of returns of

Moody's and Standard & Poor's (Exh 130, p. 16). Later, on p. 17, Mr. Langsam says that

insofar as the Bell system equity cost is less than either the industrials or the utilities, differences in perceived risks must be recognized to produce the appropriate equity return. Table E, p. 36a of Exh 130 is, apparently, the evidence used by Mr. Langsam of his argument, that Bell system equity cost is less than that of the chosen groups of equity investment opportunities. His conclusion is the "earnings of 12.5 - 13.5 per cent for AT&T are comparable to the current earnings of the industrials (S&P Industrials)." (Exhibit 130, p. 46, Lines 25, 26.)

Regarding (2), the market value approach, Mr. Langsam says that, "the cost of common equity can be ascertained by summing the investor's dividend yield and growth expectations," p. 47, Lines 5-7, Exh 130 (direct testimony). The commission recognizes this as the frequently applied discounted cash-flow analysis. Pages 48-56 of Mr. Langsam's testimony described in detail his perceptions of discounted cash flow and the many difficulties, thereof. The primary difficulty, as enunciated by Mr. Langsam and others, is that future growth cannot be readily discerned by observation; Mr. Langsam goes on to describe the growth realized by groups of industrials and utilities plus AT&T in recent years. Finally, Mr. Langsam concludes that "thus it is appropriate to include a growth rate in the market value approach which does not exceed the growth in its book value." Disavowing the market value approach in today's difficult market, Mr. Langsam goes on further to disclose the historical relationships between debt costs and the estimated cost of common equity. His conclusion is that if new Bell system debt cost is 13 per cent, "the cost of equity" is about 15 per cent p. 65, Lines 1-5, Exh 130.

The commission notes that although Department of Defense brief indicates that the overall return recommendation is 10.2 - 10.7 per cent, the briefs of LUCC and the company, the memorandum of position of staff, and the record all suggest that the recommendation by Mr. Langsam, DOD's own witness, is in fact 9.1 - 9.5 per cent, with due consideration of the zero-cost capital.

#### *New England Telephone*

The applicant, New England Telephone and Telegraph Company, has employed the services of three witnesses to present its case as to cost of capital in DR 80-23. Mr. Meyer, an investment banker with a major underwriter, Kidder-Peabody, presented testimony on what he terms "investor requirements." Second, Dr. Johnson, professor of finance at the University of South Dakota, presented testimony as to the cost of common equity capital. Finally, Mr. Cogswell, the division manager — finance of the staff of New England Telephone Company, presented testimony in regard to the level of earnings required by the company.

The first witness to testify on behalf of New England Telephone Company, Mr. Meyer, is an experienced underwriter of securities in primary markets and has appeared before this commission in the recent past. Mr. Meyer presents an overview of risk, the institutional mechanism for selling securities in the primary market, changes in investment and business risk in recent years, and history. Mr. Meyer goes on to develop the required return in terms of earnings

sufficient to bring the M-B ratio of New England Telephone up to 1.2, and, with the objective of 60 per cent equity participation, fixed charge average would therefore result in a

bond rating increase of New England Telephone Company. Mr. Meyer says that it is important to guard against dilution when selling new common stock because (p. 28, Lines 6-11, direct testimony)

"When a company's financial performance results in common stock prices below book value and when, further, the company is required by its public utility obligation to expand and sell new common stock at prices below book value, both ratepayers and stockholders are penalized."

The recommendation of Mr. Meyer, consistent with a M-B ratio of 1.2, is 18 per cent (p. 50, Lines 15-17, Exh 7 [prefiled direct testimony]). In Mr. Meyer's opinion 15.9 per cent is the cost of capital or the investor's "total return." (Same reference.)

During the beginning of cross-examination, that recommendation was changed by Mr. Meyer to 17 per cent and 15 per cent, respectively.

The second witness that appeared before the commission on behalf of New England Telephone Company, Dr. Johnson, employed three methods of ascertaining the cost of common equity: discounted cash flow and risk premium analysis and comparable earnings. Dr. Johnson reviewed the cost of debt capital in reference to market rate of return over very long historical periods.

Dr. Johnson chose from the Value Line investment survey, a relatively small group of industrial companies that have risks which are equivalent, in the opinion of Dr. Johnson, to the risks of New England Telephone Company. These companies are shown on Schedule RLJ-5, pp. 1, 2.

Using several methods to measure historical growth, as an expectation, Dr. Johnson estimates the cost of common equity capital with DCF theory ranging from 15.74 - 16.91 per cent Schedule RLJ-10. For all companies in his chosen sample, the range is limited to 16.58 per cent - 16.91 per cent, and is commensurate with a book value return of over 18 per cent as shown on Schedule RLJ-6. The market-to-book values for this group of companies is, by the simple average, about 1.43 times.

As Dr. Johnson so states, discounted cash flow is central to his analysis. Page 5 of the direct testimony of Dr. Johnson reads: "Since only the DCF method relates directly to the market, I consider it to be the best approach to determine investors' real required return on equity." Further, Dr. Johnson goes on to describe discounted cash flow and enunciates many of the fundamental difficulties with the application of the theory.

The second method, risk premium analysis, is based upon the intuitively consistent notion that, insofar as equity capital is of greater risk than debt capital, it should have higher cost than debt capital. Dr. Johnson looks at the historical experience between achieved market rates of return of equity and debt costs which may be directly observed — and concludes that the spread is between 5.7 - 7 per cent.

Secondly, Dr. Johnson first estimates the cost of common equity capital, as an estimate of the future return and then calculates the spread based upon this estimate. His conclusion of the long period historical spread analysis is about 5.7 per cent, for government bonds. For corporate bonds, the spread is 4.9 per cent.



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Using an estimate of the cost of common equity for the Standard & Poor's 400 Industrials, Dr. Johnson concludes that the risk premium is about the same RLJ-3, Exh 6. The result, based upon relatively current bond yields, produces cost rates of common equity for S&P's 400 Industrials of from 14.48 per cent - 17.44 per cent.

The third method used by Dr. Johnson is the comparable earnings method which attempts to assign the book value returns of companies of comparable risk to the utility in question, New England Telephone Company, Based upon the test comparability, the estimated cost of common equity capital is over 18 per cent.

Finally, Dr. Johnson uses discounted cash flow once again to generate a cost of common equity capital, specific to New England Telephone Company between 14.28 per cent and 15.35 per cent. With the application of an imputed M-B ratio of 1.15 - 1.20, Dr. Johnson generates recommendations of 16.39 - 17.16 per cent Schedule RLJ-19. After a lengthy discussion of risk, monopoly power, and inflation, Dr. Johnson concludes that,

"Although several years ago, the market may have perceived lower risk for New England Telephone than for the typical average company, I do not believe that this is true today. Part of the reason for the increased risk perception is the observation that the company has not been able to cover its capital costs. This very fact has increased the market's risk perception and consequently the cost of equity for the company." (Page 44, direct testimony, Exh 6.)

The third, and major, witness for the company, Mr. Cogswell, provided direct testimony, supplemental testimony, and a rebuttal statement for the commission's review using, presumably, five methods to generate a cost of common equity capital to New England Telephone Company. Mr. Cogswell concluded that the required return on common equity is 13.2 per cent - 15 per cent, but with the M-B ratio adjustment, the earnings requirement is 15 per cent - 17 per cent, p. 43 of his direct testimony. The expectation, when the testimony was proposed, was that the May, 1980, debenture could be issued at a cost rate of 10 per cent. As the economy progressed through time, it became quite clear that such a "low" cost rate on new debt capital would never be realized. In fact, the new debenture was sold at 12.31 per cent, net cost to the company. Consequently, when Mr. Cogswell finally testified on behalf of New England Telephone Company, the overall rate of return recommendation was updated to reflect the higher than anticipated cost rate. The result is that the company has increased its overall recommendation from 10.39 per cent - 11.56 per cent to 10.58 per cent - 11.56 per cent. Mr. Cogswell in arriving at his final recommendation as to the cost of capital has used five "methods." These are described as:

- (1) Return spreads
- (2) Investor expectations
- (3) Comparable earnings
- (4) Equity premiums
- (5) Financial integrity

The first approach above simply breaks down the return requirement into separate

components. The so-called pure interest rate, 3 per cent, as described on pp. 21-25, is added to investor expectations of inflation (7 per cent) plus the difference between the cost of equity and debt (3.5 per cent - 5 per cent), produces a cost rate of 13.5 per cent - 15 per cent. To this, 2 per cent

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- 3 per cent is further required to bring the M-B ratio up to the 1.3, as demanded, according to Mr. Cogswell.

Second, the investor expectation approach or discounted cash flow, suggest that, "Then, in light of the expected dividend level, they (investors) set the market price, to produce a dividend yield (dividend as a per cent of market price) which will combine with the expected growth to provide their total required return ( $K=D/P + g$ )."

Third, comparable earnings, is a method frequently employed whereby book value returns of companies of comparable risk are assigned as the opportunity "available" in alternate investments of comparable risk.

Fourth, the equity premium is " ... the amount by which the expected return to the equity investor exceeds the expected return to the bond investor." (Page 34, direct testimony, Lines 21-23.)

Finally, method five, the financial integrity "test," asks the question, what kind of earnings are required today to maintain the same purchasing power as realized by New England Telephone Company in earlier years.

On p. 39 of the direct testimony, Mr. Cogswell summarizes his analysis:

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

Return Spreads	15.5% - 18.0%
Investor Expectations	15.9 - 18.2
Comparable Earnings	15.0 - 16.5
Equity Premium	15.3 - 16.9
Financial Integrity	15.1 - 18.1

*Staff*

On behalf of staff, Mr. Camfield conducted an investigation into the cost of capital to New England Telephone Company. Based upon his investigation, he makes a recommendation of the fair rate of return for rate-making purposes. Actually, the material of Mr. Camfield reveals two estimates of the cost of capital and therefore two recommendations are put forth for the commission's review.

Page 2 of his direct testimony, Exh 118, reveals,

"The cost of capital of New England Telephone Company has been estimated at December 31, 1979, and June 30, 1980. The period October, 1979 - May, 1980, was a time of extraordinary interest rates, in nominal terms. At the peak of the business cycle, the Federal Reserve system embarked on a policy course which, in concert with other phenomena, caused the cost of all forms of capital to reach unprecedented levels. Thus, the December 31, 1979, estimates and commensurate rate of return recommendation is made during this period of exceptional capital

costs."

After discussing the recent changes in cost of money, the testimony goes on to read, "In the interest of timeliness and to capture such sudden declines in the marginal cost rates of capital, a composite cost of capital and overall rate of return recommendation (pro forma) at June 30, 1980, is proffered herein."

The December 31, 1979, recommendation is 9.02 - 9.42 per cent and the June 30, 1980, estimate is 8.80 - 9.19 per cent.

Camfield's testimony takes the reader through the gamut, first examining in detail the results of excluding the accumulated investment tax credit in the rate-making process, and then discussing some fundamental economics of regulation, finally saying,

"The analyses conducted herein, and their commensurate recommendation(s) are consistent with the legal precepts of regulation: That the regulatory authority provide the regulated enterprise an opportunity to earn a rate

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of return on its invested capital equivalent to the cost of capital. Restated, the overall rate of return recommendations at December 31, 1979, 9.02 - 9.42 per cent, and at June 30, 1980, 8.80 - 9.19 per cent will provide an opportunity to earn returns of 14.70 - 15.72 per cent and 14.16 - 15.17 per cent, respectively, on investor common equity in New England Telephone Company."

Next, Camfield goes through a lengthy discussion of the appropriate capital structure.

As we had indicated earlier, there is a dispute over the appropriate capital structure. Whereas the company recommends that the capital structure of New England Telephone as it stands is most appropriate, the Department of Defense argues that the consolidated capital structure is most appropriate.

Finally, Camfield has even a third approach, double leverage, or "sourcing" the equity of NET to the debt and equity of AT&T, the parent company of New England Telephone Company. (Camfield, p. 17, Exh 118.)

"Insofar as the common equity investment in NET as well as the investment in the many other subsidiaries which in concert represent the Bell system companies is underwritten by these several items of capital, intuition, theory, and logic all suggest that NET's common equity cost rate is the weighted cost rate of such items of capital ... the cost of AT&T's ownership interest in NET is simply the weighted average cost of AT&T (parent's) capital ... the ... rate of return recommendations are based upon 'servicing' AT&T (parent's) investment in NET."

Mr. Camfield recommends a return on equity of 13.78 - 14.78 per cent at December 31, 1979, and 13.29 - 14.25 per cent at June 30, 1980. His recommendation as to the common equity return is derived with the application of discounted cash-flow theory. Mr. Camfield recommends, through considerable argument, that no allowance for market pressure and flotation expenses be included in the common equity return.

Finally, in its memorandum of position, staff argues that the commission should ignore the June 30, 1980, recommendation as being most likely unrepresentative of future cost of capital

and should therefore choose the December 31, 1979, recommendation, 9.02 - 9.42 per cent. The commission notes that in its brief, New England Telephone misrepresents the staff by not including the December 31, 1979, recommendation, 9.02 - 9.42 per cent. New England Telephone Company specifically included only the June 30, 1980, recommendation. It is clear from staff brief, that in fact only the December 31, 1979, recommendation is being advanced.

The company submitted rebuttal evidence through Mr. Cogswell. Mr. Cogswell argues, first of all, that Mr. Camfield included deferred taxes in the capital structure at zero cost which reflect all of NET's deferred taxes, rather than only the deferral taxes generated from the New Hampshire rate base. The effect, he says, is to understate the cost of capital to New England Telephone Company of New Hampshire.

Second, Mr. Cogswell argues, that both Mr. Camfield and Mr. Langsam understate the amount of equity capital used in the capital structure. Mr. Langsam uses the consolidated capital and then imputes a hypothetical capital structure which he feels is optimal and

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consistent with minimizing costs to ratepayers. Camfield, on the other hand, "sourced" the equity of NET and AT&T (parent's) overall cost of capital. Further, Mr. Cogswell disagrees with the exclusion of the adjustment for market pressure and flotation costs. He argues that these costs are legitimate and a proper component of the cost of service. Finally, Mr. Cogswell essentially says that Mr. Langsam has understated the cost of capital in his DCF calculation because of the growth rate that is used (estimated) plus the return-risk trade-off of the Standard & Poor's 400 Industrials.

Mr. Camfield presented rebuttal evidence on behalf of the staff in regard to rate of return. Mr. Camfield argues, first of all, that the risk spread methodology of Dr. Johnson and Mr. Cogswell can only be estimated, and is no better than estimating the cost of equity capital directly. Further, Camfield argues that the spread would not logically increase as Dr. Johnson asserts, with increasing inflation.

Next, Mr. Camfield in rebuttal limits the sample of companies chosen by Dr. Johnson and reestimated its cost into the mid-14's. Thereafter, he goes on to argue that the sample industrials are not comparable to New England Telephone Company, by at least two of Dr. Johnson's chosen measures of risk. Finally, Mr. Camfield says that, in his opinion, Dr. Johnson overstates the discount rate by about 30-50 basis points.

Turning to Mr. Cogswell's analysis, Mr. Camfield says that New England Telephone has overstated its cost of common equity capital by applying market pressure and flotation costs, an inappropriate capital structure and assessment of comparability of the rate of return earned.

In regard to the issue of dilution, the testimony says, "Selling at a surplus, as shown on Chart 5, isn't any more 'fair' to 'embedded' investors than selling with a slight dilution in the current years. In both cases, the market capitalized expected returns such that the prospective investor was assured of the expectation of earning a market return equivalent or equal to the cost of capital."

A review of the testimony and exhibits presented set forth that the cost of capital equity falls

within a range of 12.5 per cent to 17 per cent.

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

Department of Defense	12.5 - 13.5
New England Telephone	15 - 17
Staff	13.78 - 14.78
LUCC	13

In recent years, the commission has in appropriate cases applied double leveraging. Re Granite State Electric Co. (1978) 63 NH PUC 121, 28 PUR4th 240. The commission has also declined to use this rate-making device in Re Hampton Water Works (1979) 64 NH PUC 374. Double leverage is recognition of all, or a significant portion of, the investment which makes up the common equity part of the NET rate base and may well consist of funds that AT&T acquired by borrowing at relatively low fixed rates of interest. The investor will obviously receive a substantial profit on what is essentially a bookkeeping transaction.

Other New England commissions have had equal difficulty with resolving the question of when use of double leverage is appropriate. For example, Rhode Island has applied the application of a double leveraging theory to a water utility but has declined to do so to a telephone utility. Compare Bristol County Water Co. v Harsch (1978) —

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RI — , 386 A2d 1103, and Re New England Teleph. & Teleg. Co. (RI 1977) 22 PUR4th 391. The Maine commission applied the use of this rate-making concept to New England Telephone, which was overturned on appeal. New England. Teleph. & Teleg. Co. v Maine Pub. Utilities Commission (Me Sup Jud Ct 1978) 27 PUR4th 1, 390 A2d 8. This issue is further clouded by the pending action in which AT&T seeks to acquire the equity of NET. The commission is aware that the five commissions which regulate New England Telephone are seeking to examine this issue on a regional basis. Such an approach might lead to greater uniformity, but at the very least would offer a thorough record.

As has been noted, this commission has not uniformly adopted or rejected the double leverage concept. The record in this proceeding gives further support to the difficulty and ramification associated with a decision on this issue. Rather than continuing to examine this issue on a case-by-case basis, the commission believes a generic rule making may be more appropriate for handling this issue, except where the commission has already ruled. Furthermore, the issue will be further clarified by the completion of the AT&T-NET transaction and a reasonable time thereafter to evaluate the consequences of such an action. Since the commission indicates that this decision would be decided based on the AT&T-NET situation as of the test year and where, further, the commission finds compelling considerations behind either a generic rule making or a regional approach, the commission declines to use this regulatory concept in this proceeding.

[7] The commission believes that the most accurate determination of a cost rate for common equity for NET recognizes the minority and majority ownership interests in New England Telephone. Witness Camfield, in one of his offerings, addressed this issue and arrived at an appropriate cost rate as of December, 1979, and June, 1980. The range for the former was 13.78

- 14.78 per cent and the range for the latter was 13.29 - 14.25 per cent. While the commission would normally accept the more recent data, the spiraling prime interest rates lead to the conclusion that the earlier figures are more reflective of the present and the foreseeable future. Striking a balance between the two sets of data and mindful of today's financial difficulties, the commission accepts Mr. Camfield's analysis that leads to a 13.78 per cent return on common equity.

### *Capital Structure*

As a result of the foregoing determinations, the commission finds the proper capital structure for the company to be as follows:

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

Debt Capital	40.29
Equity Capital	48.92
Zero-cost Capital	10.79

### *Overall Cost of Capital*

[8] Having determined the cost of debt, cost of equity, and the proper capital structure, the commission finds a 9.98 per cent rate of return, calculated as follows, to be fair and reasonable:

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

	<i>Per Cent of Capitalization</i>	<i>Weighted Cost</i>	<i>Weighted Cost</i>
Debt	40.29	8.04%	3.24%
Equity	48.92	13.78	6.74
Zero-cost Capital	10.79	0	0
		<hr/>	<hr/>
		9.98%	

### *Attrition*

New England Telephone originally requested an attrition allowance of \$5,922,000. The allowance was based upon a projected increase in average net investment between the end of the test year, October 31, 1979, and December 31, 1980.

The company argues that the adjustment is necessary in order to set rates which will allow the company to earn the found rate of return in the future. Witness Troia testified to the effects of attrition in earnings over the periods ending October 31, 1977, to October 31, 1979. He attributes the decline in earnings over that period to an imbalance in the growth of revenues, expenses, and investment. The company argues that the commission must use the most recent available data and adopt some reasonable measure to offset attrition.

Staff witness Sullivan testified that the attrition factor used by the company resulted in an attrition allowance of 1.2 per cent when measured in the overall revenue requirement. He also testified that it was improper to measure the effects of attrition on the basis of the time period used by the company. Data was presented to illustrate that following the last rate increase the company earned 0.66 per cent greater than the allowed rate of return for the twelve months

ended May 31, 1977, and a negative 0.49 per cent for the period ended May 31, 1978. Staff witness testified that the company's calculations of the return earned were inconsistent with the methodology used to arrive at the rate base upon which the return was calculated. Staff contends that the previous allowance of 0.20 per cent has been shown to be appropriate as long as there are no out-of-period pro forma adjustments to expenses.

The LUCC argues that the company's method to arrive at attrition includes projections of net investment in plant and it is illegal to set rates based on plant that is not yet in use and is contrary to New Hampshire Revised Statutes Annotated 378:30-A. The LUCC further accepts the position of staff witness Camfield that the growth in zero-cost capital significantly mitigates earnings erosion and that the commission should deny any specific attrition allowance. Finally, the LUCC argues that technological advances and cost savings methodologies act as an offset to attrition. The latter offsets, they argue, are not quantifiable from the evidence on the record, however, Exhs 10, 11, 12, and 19 illustrate that cost saving will occur.

The New Hampshire supreme court has provided guidelines for the commission to use in addressing the question of attrition. In its landmark decision, *New England Teleph. & Teleg. Co. v New Hampshire* (1973) 113 NH 92, 97, 98 PUR3d 253, 257, 302 A2d 814, the court defined attrition as follows:

" 'An erosion in earning power of a revenue-producing investment. This erosion is a complex phenomenon, the

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result of operating expenses or plant investment, or both, increasing more rapidly than revenues. If attrition occurs, the result would be that the rate of return realized in the future would be below that which rates were designed to produce.' This effect is apt to occur in a period of comparatively high construction costs when 'new plant is being added which ... is relatively expensive per telephone station. As the high cost plant comes into service, it tends to increase the applicable rate base at a more rapid pace than the resultant earnings, and the rate of return decreases accordingly.' *New England Teleph. & Teleg. Co. v Massachusetts Dept. of Pub. Utilities* (1954) 331 Mass 604, 622, 6 PUR3d 65, 78, 121 NE2d 896, 906."

The court went on to state that if the existence of attrition can be established by a company, the commission must evaluate the impact of this factor on the earnings of the utility and make an appropriate allowance. (92 NH at p. 97, 98 PUR3d at p. 257.) The court concluded its discussion by citing various ways generally used to offset attrition. In addition, the commission has set forth other methods to handle attrition. *Re Pennichuck Water Co.* (1979) 64 NH PUC 206; *Re Concord Electric Co.* (1978) 63 NH PUC 240.

In the *Pennichuck* decision, the commission allowed that utility a secondary phase increase. In doing so, the commission recognized growth in plant, which the supreme court recognized as one of the variables affecting the overall return of the company. This approach benefited the consumer by spreading the rate increase thereby minimizing its inflationary aspects.

In the *Concord Electric* case, the commission ruled that numerous pro forma adjustments made in a company's filing have the effect of offsetting or delaying the onset of attrition. This mitigation of attrition through pro forma adjustments was also recognized in *Pennichuck*.

Before analyzing the arguments of the parties, it is necessary to examine one additional supreme court decision. *Legislative Utility Consumers' Council v Granite State Electric Co.* (1979) 119 NH — , 402 A2d 644. In that case, the court clearly stated that when an attrition allowance is granted, it must be supported by findings of fact. Consequently, the area of attrition must be recognized if proven by the company, and such proof must support the adjustment actually requested. To put it another way, not only must a company prove attrition, but it must also carry the burden as to quantifying the adjustment. *Re Hampton Water Co.* (1979) 64 NH PUC 374.

In arriving at a proper attrition allowance for a telephone utility, the commission faces an extraordinarily difficult task because of the unique factors associated with the telephone industry. A telephone utility, especially in a growth state like New Hampshire, is constantly making additions to revenues, expenses, and plant. Revenues and expenses are increased due to growth in customers as well as improvements in technology. New England Telephone and Telegraph Company continuously filed new tariff pages so as to offer new services. These new offerings produce additional revenue. For example, NET has a filing before the commission presently which will produce additional annual revenue between \$200,000 — \$600,000. However, such new services also necessitate new expenses. Finally, to a certain extent the telephone industry has been able to derive economic benefits (lower costs)

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from improving technology and increased sales.

In the commission's last decision an allowance was made for attrition of 0.20. Staff witness Sullivan's testimony revealed that after two years from the date of that order, NET experienced accretion rather than attrition. After three years or half way through the test year the 0.20 had continued to hold the three-year average near the allowed rate of return. Therefore, the commission does not find evidentiary support for the requested attrition allowance of 1.20 nor the method used to arrive at the figure. Rather, the commission finds a reasonable attrition range to be 0.10 to 0.20.

[9] In this proceeding, the commission has made two adjustments for wages. The first is to update the effect of a wage increase that occurred during the end of the test year throughout the entire test period. The second, is to provide recognition for an "out-of-period" wage adjustment that is known and measurable occurring during the pendency of the case. This wage adjustment will have the effect of reducing attrition, since increases in wage costs have been a part of that attrition in the past. Consequently, the commission will adopt an attrition allowance of 0.14, in the lower portion of the range of 0.10 to 0.20 previously noted. When the cost of the 1981 effect of the 1980 contract is known and implemented, we will determine what if any relief need be granted.

As we have previously noted, it is our duty as a body created by the legislature, to provide a balance between the interests of the consuming public and the utility. We are well aware of actions at the federal level that have changed the nature of the telephone industry, and have placed it in a competitive environment. Recent FCC orders have addressed the associated problem of speedier capital recovery in that environment. We cannot consider those changes at



this time. It is our intent, however, during 1981, to address all capital recovery factors and to provide timely relief to the extent justified.

### *Revenue Requirement*

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

Rate Base	\$236,909,193
Cost of Capital and Attrition Allowance	10.12 %
Required Net Operating Income	\$ 23,975,210
Less Pro Forma Net Operating Income	16,584,000
Required Net Operating Income Increase	\$ 7,391,210
Revenue Requirement (-49.68%)	\$ 14,877,637

### *Rates and Tariff Structure*

The prime company witness to describe the company's proposed changes in rates and tariff structures was Lee J. Globerson, district manager — rates and tariffs for the state of New Hampshire. Mr. Globerson testified that five principles are used by the company in developing their tariff revisions: customers throughout the state should, to the extent possible, be charged rates which are uniform across the state for services which are essentially the same; rates should be structured to encourage customers to use the type of service best

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suiting to their needs; rate structures should encourage efficient use of facilities and resources; tariffs should be designed to be reasonably understandable to customers and easily administered by the company; rate structures should recognize customer needs and should assure that supplemental services produce as significant a share of the overall revenue requirement as possible so as to provide basic service to as many subscribers as possible.

The company proposes to "disaggregate" basic exchange service rates. Disaggregation separates the cost of the telephone from basic exchange rates. Existing exchange rates include an amount of 80 cents per month which was intended to reflect the company's cost of providing the telephone set. Customers who choose to purchase their own set are presently given a monthly credit of 80 cents in their telephone bill. Under the new plan, the basic exchange rate will not include the cost of the set. Instead, those customers who choose to own a company-provided set will see an additional amount added to the bill. The company proposes to increase this 80 cents to a new level of \$1. The disaggregation policy would also apply to wide area telephone service (WATS), private branch exchange (PBX), and Centrex service.

The company proposes significant changes in the message toll telephone service, commonly known as long-distance rates. It proposes to increase night and weekend discounts from the present 40 per cent to a level of 50 per cent. Calls made after 11 P.M. but before 8 A.M. on Saturdays and portions of Sundays would be at half the rate of daytime calls. The initial calling period would be reduced from two minutes to one minute making them consistent with the interstate long-distance rate schedules. Rates for the one-minute period would be proportionately lowered to reflect the reduced calling period. Coin-telephone call periods will remain at three minutes. Instead of separate rate schedules for operator-assisted calls the company proposes to apply incremental charges which would be added to the station-to-station rates as follows: credit

card — 30 cents, collect/third party — 60 cents, and person to person — \$1.20. Rates for additional minutes would not be affected.

Wide area telephone service (WATS) is increased to establish a closer price relationship between regular long-distance service and WATS.

Service connection charges are increased in a manner which for a new telephone customer requiring a single installation would result in an increase from the present \$32.50 to \$57.50. Service ordering charges (element one) increase from \$6 to \$9.50. Line connection charges (element two) increase from \$12.50 to \$18. Premise visit charges (element three) increase from \$3.50 to \$6. Premise wiring charges (element four) increase from \$8 to \$15.50. Jack charges (element five) increase from \$1.50 to \$4.50. Station handling charges (element six) increase from \$1 to \$4. The above related to residential customers only. Business service charges differ in that element one charges increase from \$9.50 to \$14; element four charges from \$13.50 to \$17.50; and element six charges from \$2.50 to \$4.50.

Extension station line rates are reduced in view of the increases applicable to the nonrecurring element four and five charges. Extension station lines include the inside wire associated with an extension telephone. Extension station line rates are reduced to 35 cents

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for residential customers and 75 cents per month for business customers.

General services and equipment reflect an increase in monthly rate of 25 per cent and increases in nonrecurring charges by 50 per cent. This category of service includes telephones, key telephone systems, PBXs, Centrex, private-line listening services, and other optional types of service.

Basic telephone service is restructured to result in fairer and more equitable rate schedules, according to the company. The number of rate groups is increased from seven to 21 in order that rates will more closely reflect the number of lines that can be reached on a toll-free basis.

The company proposes to implement the use of weighted main telephone lines that can be reached on a toll-free basis in order to determine the appropriate rate group for classifying the various exchanges. The proposed tariff provides that where a distance between the principal exchange and those distant exchanges in the local calling area exceeds ten miles, the count of main telephones in each of those distant exchanges is increased by a factor of 0.1 for each air line mile in excess of ten miles. Distance between calling parties becomes a more significant factor in the establishment of local exchange rates.

The company proposes to increase coin-telephone rates from ten cents to 25 cents. It contends that local coin rates have remained unchanged for approximately twenty-five years and that costs of coin service have increased at a range of 225 per cent to 400 per cent. Increases in coin rates will result in an opportunity to maintain basic exchange rates at approximately 25 cents per month less than will be necessary if coin rate increases are denied.

The company proposes to introduce directory assistance pricing which will impose a 20-cent per call rate whenever more than three calls per month are made. Exemptions will be made for handicapped persons or customers. The company contends that 80 per cent of directory

assistance calls are made by 20 per cent of its customers and that the new pricing program will assure that those heavier users bear the burden of the costs involved in providing the service. Credit cards will be issued to handicapped persons.

The company proposes to change its semipublic telephone rate schedules to more realistically assure that such service is used in a manner in which it was originally intended; i.e., to meet the need of transients, groups of employees, etc. while at the same time, provide a customer with a somewhat limited service. The company has determined that semipublic service has become perceived by some as a low-cost alternative to regular business service. Accordingly, it proposes an increase in the monthly rates from \$7.50 to \$15 coupled with a decrease from 45 cents to 25 cents in the daily guarantee.

Low use measured residence service rates will remain unchanged in order to encourage its use by customers who anticipate low outgoing local usage. However, additional message units beyond the authorized 30 per month will be increased from 11 cents to 15 cents per unit.

Finally, the company proposes to eliminate all local exchange service mileage charges which presently apply to one- and two-party customers who reside outside the base rate area. No such charges apply to four-party customers. As a result, all customers will pay the same rates for the same grade of

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service within an exchange regardless of where they reside.

#### *Directory Assistance Calling*

The company contends that residential customers are responsible for 65 per cent of directory assistance calls, and business customers for 35 per cent of those calls. However, residential customers constitute 86 per cent of New Hampshire's customers and businesses constitute approximately 14 per cent. An average customer makes less than two calls a month. Therefore, the company contends anything in excess of three calls per month is "heavy usage."

Intervenors argue that studies conducted by the company justify that residential customers should be excluded from any directory assistance calling plan since it is businesses who make the major use of such service. Volunteers Organized in Community Education argues that the mechanics and timing of newly published directories make it inevitable that many numbers are not included, and that customers deserve the opportunity of obtaining these numbers without additional cost. It offers a number of alternate plans which it suggests will assure that cost burdens are borne by high users without placing an imposition on VOICE clients.

There are certainly costs attributed to directory assistance services. In the absence of a directory assistance charge, those costs must be distributed elsewhere. To the extent that those costs should be borne by those who use this particular service the most, we concur. To the extent that businesses or individuals may choose to use this type of service for Christmas card addresses, train and bus schedules, sports scores, and credit verification, we believe those customers should pay for that service. However, we believe there is a basic service performed in providing essential directory assistance information to which the general public should be entitled and for which the basic exchange rates should support. Whether the proper number of

"free" calls should be set at three, five, or ten is almost irrelevant because the customer to whom the basic concept is addressed is the extremely high user who would not be affected by any of those numbers. Customer contacts throughout the state in conjunction with our statewide public hearings leave us with a clear impression that they perceive three calls to be inadequate for their basic needs. The increase in unpublished and unlisted numbers makes three calls inappropriate. The commission perceives little danger in setting a higher figure since such a figure will still contribute to controlling high directory assistance usage. We will set ten calls per month as an acceptable level as being well beyond the usage requirements of the vast majority of New Hampshire's customers. We will consider that number to be high enough so as not to find it necessary for the company to consider such further customer assistance measures as statewide phone directories.

We find the company's offer to allow a customer two directory assistance requests per call to be proper. Customers who request two different directory assistance numbers during a single call shall be charged only one call against his or her ten-call limit.

We will accept the 20-cent charge for calls placed in excess of the call allowance. We will accept the 40-cent charge for calls placed through an intermediate operator. We will hold the

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company to its announced exemption program for calls placed from coin telephones, lines, or trunks and qualified hospital, motels and hotels, and registered lines of handicapped users.

We will require the company to monitor the impact of this directory assistance pricing program and to submit quarterly reports to this commission during the next twelve months which will show a tracking of the increased or decreased usage by residential and business customer classes.

#### *Service Connection Charges*

The company provided evidence (Exh 65) of a multielement service charge cost study as determined by a time and motion study made to determine the effort required to make connections in the central office as well as connections to the outside plant (TP 15-39). Service charge costs were determined as follows:

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

Element One	\$16.90, \$10.45, \$11.85
Element Two	\$17.65
Element Three	\$ 6.05
Element Four	\$15.35
Element Five	\$ 4.50
Element Six	\$ 3.65

Although the record is replete with criticism of the higher prices, there is no testimony by staff or intervenors to dispute the company's calculations. However, we are sensitive to the substantial impact these changes will have on those new customers requiring all six service connection charges; and we are cautioned by the fact that not only the proposal, but the company's existing service connection charges, are higher than those imposed by any other New Hampshire company on customers within the state. We are also mindful of Mr. Globerson's

testimony (TP 15-43) that if service connection charges are not allowed as proposed, then basic rates will increase by some 50 cents a month to make up the revenue need. We are encouraged by the witness statement that a customer can mitigate the impact of about half those charges by going to a Phone Center store or designated pickup point, and by the fact the company permits a residential customer to spread his nonrecurring charges out over a period of four months for the purpose of paying them (TP 15-43). We will allow the service connection charges to stand. We direct the company, however, to institute procedures which will assure that all new customers qualifying for service connection charges be advised, before they commit themselves to such charges, as to how they may avoid as many charges as possible utilizing the Phone Store facilities, and to further advise them of the opportunities to spread these charges over a four-month period as noted in Mr. Globerson's testimony as being company policy.

#### *Coin-telephone Service*

The company testified that local coin-telephone rates have remained unchanged for about twenty-five years while the costs associated with producing the service have steadily increased. It contends that since 1955 coin-telephone instruments have increased in cost 400 per cent, motor vehicles for coin collection have increased 225 per cent, and weekly wages for coin collectors have increased 260 per cent. It offered a coin study conducted by George Fine, which outlines customer acceptance and readiness for higher priced service.

Intervenors argue that the Fine study does not justify the requested increase. There was criticism of the geographic areas selected for survey analysis and of

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the age groups selected. Volunteers Organized in Community Education offered testimony identifying low income people having no private telephones, who rely entirely on coin telephone for essential telephone service.

We do not question the fact that prices have risen in the twenty-five years since the coin-telephone rates were set at ten cents. There is adequate question in the record, however, as to whether or not the costs identified with coin-telephone service have increased to the extent offered by the company.

We are also sensitive to the fact that coin-telephone users in New Hampshire may display unique characteristics which deserve special attention. New Hampshire is a recreation state attracting many visitors from outside our geographic boundaries. Coin telephones should be available to them to use with as little inconvenience as possible in order that they may take advantage of the many opportunities afforded them upon their arrival.

[10] New Hampshire is also a state with many rural areas and many miles of uninhabited country. The coin telephone offers a degree of safety and comfort to travelers living inside and outside the state. It is in the public interest to make the use of the coin telephone as easy and readily available as possible.

We heard a loud clear message from many customers that the ten-cent call is an essential tradition, which assures continued emergency use of a coin-telephone set. We find it to be of adequate value to all customers to have use of that emergency network that we would require all

customers to support these rates. Based on nothing more than the likelihood that in an emergency a customer may be more apt to have a single dime in his pocket than multiple coins equaling 25 cents, we are driven toward directing the company to continue the ten-cent pay telephone call.

The fact is, however, that the company has no cost study to justify the increase, a fact the company witness repeatedly asserted on cross-examination. Why the company chose not to provide one is unknown, for we are aware that the mechanisms exist to do so in view of the fact that one was provided in a similar case before the Vermont Public Service Board in Docket Nos. 3806/4033 (August, 1980). Absent such a study, and without credible evidence in the record to support the request, we must deny the proposal and direct the company to retain its present ten-cent coin-telephone call.

#### *Wide Area Telephone Service*

The company claims that the establishment of WATS rates are determined after a review of equivalent message toll charges. When WATS was originally filed in 1962, rates were set equal to about 90 per cent of message toll (TP 19-58). Message toll rates have risen at a rate which results in WATS now being 67 per cent of message toll; resulting, according to the company's testimony, in the lowest WATS rates in the United States.

The Department of Defense argues that the company's claim of anticipated reduced usage as a result of the rate increase is unsubstantiated. It contends that projected revenues are understated and should be adjusted upward.

There are no intervenors' testimony to argue the company's position that increased WATS rates will raise them to a level commensurate with equivalent message toll charges. We will allow the increase as proposed.

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We find merit in the Department of Defense position that the company's revenue deficiency prediction is not proven, however, and we will allow the increase originally proposed.

#### *Elimination of Mileage Charges*

Upon cross-examination by staff, witness Globerson testified that approximately 5,700 customers will benefit if mileage charges in all exchanges are eliminated as proposed. There was no testimony in opposition to the company's plan. The plan is in conformity with the commission's policy with regard to other regulated telephone companies. We will allow the elimination of mileage charges.

#### *Other Telephone Service and Equipment*

The LUCC contends that the company failed to meet its burden of proof in establishing rates for other telephone service and equipment. The intervenors do not, however, provide alternate testimony to the contrary. The commission is left, therefore, with the company's proposal. The commission will accept the company's offering, and is confident that those customers who find the resulting telephone set prices to be beyond acceptance, will avail themselves of the opportunity to buy their own equipment at various outlets in the retail market.

#### *Extension Station Line Rate*

The company proposes to reduce its extension station line rate for residents and businesses from 75 cents to 35 cents. The intervenors support such a reduction. No testimony was offered against the proposal. The commission will accept the company's extension station line rate as proposed.

#### *Listing Services*

The company proposes to increase its monthly cost of nonpublished service to \$2 from the present 50 cents. Legislative Utility Consumers' Council asserts that privacy and safety are a matter of right and should not receive additional cost, and that customers should not be charged a premium for refraining from utilizing a service offering. We will accept the company's position that additional costs are incurred whenever a customer opts for a different type of service than is normally provided to its general class of customers. Absent any intervenors or staff testimony to support different cost levels, we will accept the increase in nonpublished and nondirectory service.

#### *Service Restoration Charge*

The company proposes an \$18 charge for the restoration of service (TP 15-44), an amount equal to an element two service connection charge. The LUCC contends that such a rate impacts largely on poor people and, by that implication, should be denied. The commission agrees that \$18 is a significant restoration charge. We are mindful, however, that although the amount of a service connection charge should be based on costs to perform the disconnection, that by its very nature higher charges should act as a deterrent toward service termination. The commission has given much thought to customer opportunities to avoid termination. It has devoted much time to refining its termination procedures in order to assure that customers have the utmost opportunity

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to avoid such measures. Our satisfaction in the adequacy of our own rules gives us cause to accept the company's restoration charge in those situations where customers fail to avail themselves of other opportunities to avoid termination. The LUCC offers no alternatives or justified reasons for denying the company's proposal. The commission will allow the \$18 restoration charge to stand.

#### *Weekend Service*

In its trial brief, the LUCC shows concern over the company's approach to weekend service. It contends that by simply cutting down on service visits during business hours, and increasing service visits during the weekends, that the company will not only provide improved customer service, but will actually receive cost savings. The LUCC's rationale totally eludes the commission. The commission saw no evidence that customers are receiving excessive service attention during business hours — so it sees no justification for reducing that customer service. And, absent that reduction, the commission sees only increases in company expenses if nonbusiness service is extended beyond that which exists now. The commission is aware that the company has a specific program for providing emergency service during nonduty hours. We suggest that if the LUCC would simply inform itself of that policy, that it might be satisfied that what it has requested already exists.

Customer response at our evening hearings gives the commission cause to require the company to explore the matter further, however. Customers do not show an awareness for that company policy. When a customer calls for emergency service on the weekend, he feels himself foreclosed from any opportunity to take further action to obtain service after the operator has taken his message and advised him that repairs will be scheduled in the following week. While the commission is satisfied that the company is prepared to offer weekend service, it is not satisfied that the customer is aware of the method by which he may avail himself of it. We direct the company to advise us by December 31, 1980, of their plan to better educate customers as to their opportunities in these situations.

In conjunction with this situation, customers also brought frequent complaints to the commission that they were required to talk to an out-of-state operator when requiring service. That issue also deserves an explanation by the company. The commission is satisfied that such a policy has cost saving advantages and retains all the prerequisites for the prompt addressing of service problems, but we are also convinced that the customer deserves better instructions as to how information should be presented to those out-of-state operators. The commission will direct the company to provide the same educational plans by December 31, 1980, as noted above.

Finally, we are sensitive to complaints that when appointments are made for repairing telephone service and those appointments are not kept that the customer is not advised of the rescheduled appointments. While delays to appointments may be unavoidable, notification of those delays is not. The commission accepts the complaints and directs the company to exert its executive emphasis in that direction. The commission's own continued customer contacts will serve as a monitoring

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device to evaluate the success of the company's action in this regard.

*Low-use Measured Service*

[11] Testimony was received by representatives from Pelham and southern Nashua that rates in those areas were discriminatory since they were the highest in the state and since customers had no opportunity to avail themselves of low-use measured service. We are sympathetic to those positions. We are aware, however, that the relatively higher rates in those two areas make customers eligible for some of the largest calling areas and highest customer densities in the state. It is proper that customers having that calling advantage should pay a higher rate. We are also cognizant of the opportunities that those same customers have for selecting a four-party line. That rate makes them eligible — with the same calling opportunities — for some of the lowest rates in the state. We do not share the view of the LUCC that discrimination exists when those same customers are not immediately entitled to low-use measured service. We feel a commitment to give priority to those customers in other parts of the state who have neither low-use measured service nor large calling areas at four-party rates. We believe, however, that the company has a responsibility to make all of its customers aware of the opportunities provided by two-party and four-party service. We recognize that such services have fallen out of favor in recent years as the trend moved toward one-party service, but the commission believes the time may have come where the advantages afforded by these services may make them more desirable



than the higher price single-party service. The commission directs the company to better publicize this service.

The commission is sensitive to the many comments by customers across the state in its public informational hearings, particularly, the elderly and the low income customers who spoke passionately for the need for low-cost one-party service to meet their emergency and essential use purposes. The commission particularly remembers the comments voiced by people in northerly and westerly parts of the state. The commission recognizes that the company's plans for expansion of low-use measured service have been predicated upon installations of electronic switching offices, but it is also cognizant of their implementation of low-use measured service in Dover (RP 15-105) and of the company's intent to look at other mechanical switching offices, such as Berlin, Littleton, Lebanon, Claremont, and Laconia.

We will require that the companies confine their most immediate efforts regarding low-use measured service to three exchange areas — the Berlin exchange, the Keene exchange, and the Lebanon exchange. We select those exchanges because the commission believes that our public informational hearings extracted the highest concern from those areas. We will direct the company to take whatever steps are necessary to provide low-use measured service in those exchanges before December 31, 1981. Additionally, we will require that the companies take immediate steps to review their remaining number five crossbar offices in order to present the commission by May 1, 1981, with a construction schedule for the additional introductions of low-use measured service in each of those exchanges.

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The commission believes that the offering of this increased low-use measured service; together with NET's already existing low measured service, plus the four-party service option will provide adequate economic choices for low income and elderly customers. We agree that LUMS should be provided at the lowest possible basic monthly rate. We accept their proposal to leave the basic monthly rate unchanged, and to increase additional message units over the monthly allowance of 30 units. Since there is a relationship between basic exchange rates and message unit rates, however, the company is directed to establish a new message unit rate below its proposed 15 cents, in order to track the basic rates which will result from this order.

*Quality of Service*

The commission has spent considerable effort in attempting to reach a great number of New Hampshire customers in order to learn their opinions and to better understand the problems facing those customers. It was particularly concerned about the quality of telephone service in New Hampshire since the commission believes that one of its most important responsibilities is to address and resolve customer complaints. Since complaints by customers of the New England Telephone Company are significant by virtue of the large number received each year, the commission was anxious to put those complaints into perspective in hopes of identifying specific problem areas within the state. We were specifically interested to learn the degree of success or failure of new electronic switching systems and to establish a sense as to whether or not unique problems are arising as a result of their installation.

Company witnesses pointed, with some degree of pride, to the fact that electronic switching

services are now available on over 100,000 telephone lines and that by the end of 1980 will be available on 137,000 lines (Coleman testimony) that equates to approximately 39 per cent of its 350,000-line system. He testified that in the area of switching service, over 99 per cent of customers received dial tone within three seconds after lifting the receiver during the busiest hours; that 98 per cent of all long-distance calls are processed without failure and that 90 per cent of operator assisted calls are answered within ten seconds. He finds that 97 per cent of all installation requests are met by the appointed date and that the company is determining an average of 4.7 trouble reports per 100 telephones.

Testimony by staff witness Partan confirms the company's level of service. He finds the statistics for customer contacts and trouble reports as compared to independent New Hampshire telephone companies to be midrange with a rating of 0.002 and a trouble index of 4.19. A letter was read into the record indicating the independent telephone companies satisfaction in the improvement of toll service. Mr. Partan testifies in cross-examination that when benchmarks established by the Federal Communications Commission for quality of service measurement are compared against New England's operation in New Hampshire that "as far as the total weak spots with respect to New Hampshire that there are none." (TP24-33.)

We view the company's installation request record with some degree of skepticism. While we do not question that the company does in fact equal or exceed the time periods for installation requests accepted nationally, we are mindful

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that a degree of that success is gained simply by setting appointment dates far enough into the future so that there is little likelihood of their not being met. We suggest the company should make every reasonable effort to reduce the time period between the date a service order is received and the date that an installation is made.

We turn to the customer informational hearings around the state for more specific complaints regarding quality of service and found relatively few. Rather, the thrust of concerns was toward a need for a type of lifeline rates, for free directory assistance calls, for a retention of the ten-cent coin call, for better service, repair on weekends, and significantly, for a toll-free number in order to reach this commission. The commission took immediate action on this last point and has now installed such a toll-free line to the office of our consumer assistance director.

A notable exception to the apparent adequacy of telephone service is that offered by residents of the lakes region. Hearings on the subject *service quality* for that area illicited many comments of similar natures. The commission was notably impressed by the sincere reasoned approach taken by those residents to bring these issues to the commission's attention. The residents are aggravated by fading conversations, service cutoffs, lack of dial tone, delays in call completions, and they are also aggravated over what they consider to be an inordinately small calling area. As a result of those hearings, we have committed the company to an immediate, aggressive investigation into the service problems of Moultonboro area residents. We have directed, and we are satisfied that the company has begun to take immediate actions to improve quality of service to those customers. We will require an initial report to the commission on its actions by January 1, 1981. We will require weekly reports through March 30, 1981, summarizing further corrective

actions taken.

We also commit the company to an investigation to provide greater calling areas for these customers and to report to this commission by March 31, 1981, the proposals and implementation dates of such proposals.

We are also concerned with the comments received by the group of New Hampton citizens, "The Concerned Pocketbooks," who speak on behalf of the Newfound area which they identify as Bristol, Alexandria, Bridgewater, Hebron, Groton, Hill, and New Hampton, in reference to their inability to reach community interest areas without paying a toll.

The commission is sensitive to their ability to reach a relatively limited number of customers, and although we recognize that the basic rates which they pay is lower as a result of their limited opportunities, we understand that to be a small solace when they perceive their greater need to be a larger calling area. However, the commission finds that the customers of Bristol, Alexandria, Hebron, Bridgewater, Groton, Hill, and New Hampton have established the need for a greater calling area. The commission will require NET to provide extended local service for these communities to include Laconia and Plymouth toll free by September 30, 1981. Obviously, if these customers by receipt of this extended calling area fall into a different rate group, those customers would then be charged the rate associated with the aforementioned different rate group.

New England Telephone is allowed

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an increase of \$14,877,637 of their requested \$22 million.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that all tariff sheets that do not comply with the report that is incorporated in this order are hereby rejected; and it is

Further ordered, that New England Telephone and Telegraph Company file appropriate tariffs so as to be in full compliance with this report and order.

By order of the Public Utilities Commission of New Hampshire this first day of December, 1980.

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NH.PUC\*12/01/80\*[78754]\*65 NH PUC 605\*Northern Utilities, Inc.

[Go to End of 78754]

## **Re Northern Utilities, Inc.**

DF 80-219, Order No. 14,592

65 NH PUC 605

New Hampshire Public Utilities Commission

December 1, 1980

PETITION of a gas utility for authority to increase its short-term borrowing limit; granted.

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SECURITY ISSUES, § 88 — Amount of short-term debt — Influential factors.

[N.H.] The commission authorized a gas company to issue, sell, and renew short-term notes up to an aggregate amount of \$8 million because the high cost of money, unstable market conditions, and lack of sufficient interest coverages weighed against the company's original plan to covert its outstanding short-term borrowings to senior capital.

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APPEARANCES: Margaret Nelson and Franklin Hollis for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed October 9, 1980, Northern Utilities, Inc. (the "company"), a New Hampshire corporation having its principal place of business in Portsmouth, New

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Hampshire, and operating as a gas utility under the jurisdiction of this commission, seeks authority to issue, sell, and renew notes payable less than twelve months after the date thereof (hereinafter referred to as short-term notes) in amounts such that short-term notes outstanding at any time may aggregate up to but not exceed \$8 million.

On October 10, 1980, an order of notice was issued by the commission. On November 13, 1980, a duly noticed public hearing was held at the commission offices.

The company is currently operating under the rules and regulations of the commission's Supplemental Order No. 7446, allowing the company to issue and have outstanding aggregate short-term indebtedness in an amount not to exceed 10 per cent of its net fixed capital account.

As of July 31, 1980, the company was entitled to have outstanding \$2,066,000 of short-term debt under this limitation; it had \$1,750,000 outstanding. As of October 8, 1980, the company's short-term notes payable had risen to \$2,590,000.

The company stated it "had hoped to finance during 1980 and convert its outstanding short-term borrowings to senior capital. The company has deferred those plans due to the high cost of money, unstable market conditions, and most importantly, lack of sufficient interest coverages. This situation will probably force the company to temporarily increase its short-term borrowings to a higher level than originally planned. The company intends to finance in 1981 as soon as practicable after interest coverages are met, which depends primarily on the favorable results of rate filings pending before this commission and the Maine PUC. Every effort is being

made to reduce the company expenditures and hold down any increase in short-term borrowings."

This commission while agreeing with the need for additional short-term debt, does not necessarily agree with the interest coverage argument and thereby does not wish to bias its finding in the company's pending request for an increase in permanent rates.

The company also supplied construction forecasts for 1980 through 1982, capitalization structures and ratios as of July 31, 1980, and the balance sheet as of July 31, 1980.

The company's cash-flow problems were further compounded by \$1.7 million of long-term debt, which matured on November 1, 1980.

As of October 30, 1980, the company had secured \$4 million in short-term lines of credit, and felt confident it could secure \$8 million if this petition is approved.

Based upon all the evidence, the commission finds that the short-term debt limit should be raised to \$8 million until December 31, 1981, by which time the company should have been able to procure longer term financing, whether it be in the form of debt or equity.

The proceeds from the short-term notes will be reasonably necessary for present and future use in the conduct of the petitioner's business and for other corporate purposes. The issuance and sale of 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 Northern Utilities, Inc., Allied Gas Division, be, and hereby is,

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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 \$8 million and it is

Further ordered, that authority to renew these rates up to an aggregate amount of \$8 million shall expire as of December 31, 1981, at which time the aggregate limit will again be governed by the commission's Supplemental Order No. 7446; and it is

Further ordered, that the notes shall bear interest at the most economical rates the company can obtain; and it is

Further ordered, that on or before January 1st and July 1st of each year, Northern Utilities, Inc., Allied Gas Division, shall file with this commission a detailed statement, duly sworn by its 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 first day of December, 1980.

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NH.PUC\*12/01/80\*[78755]\*65 NH PUC 607\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78755]

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

Additional petitioner: Public Service Company of New Hampshire

DE 78-232, DE 78-233, Second Supplemental Order No. 14,593

65 NH PUC 607

New Hampshire Public Utilities Commission

December 1, 1980

ORDER amending a prior order concerning output recordation requirements for small energy producers.

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ELECTRICITY, § 4 — Power output recordation — Small producers.

[N.H.] The commission amended a prior order by waiving a requirement that generation output be recorded at least hourly for producers of limited electrical energy of one megawatt or less; in lieu of this requirement, the commission required monthly reports indicating the total production during the given month to be submitted to the commission.

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BY THE COMMISSION:

Supplemental Order

Whereas, this commission on July 23, 1979, established, by Supplemental Order No. 13,744 (64 NH PUC 244), standards to be met by limited electrical energy producers in order to qualify for sale of electrical energy; and

Whereas, one of those standards provides that "generation output be recorded at least hourly. Monthly reports indicating each hourly production

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shall be submitted to this commission"; and

Whereas, a review of the applications of producers to date discloses that the generation of some applicants can be adequately monitored with a less restrictive recording policy; and

Whereas, the commission finds it to be in the public interest to waive that portion of our Supplemental Order No. 13,744 as regards hourly production monitoring for certain producers of energy; it is

Ordered, that for producers of limited electrical energy of one megawatt or less, the standard requiring generation output to be recorded at least hourly is hereby waived; and it is

Further ordered, that monthly reports indicating the total production during the given month shall be submitted to this commission by the fifteenth day following the end of the month; and it is

Further ordered, that accuracy of recording equipment shall be the responsibility of the qualifying producer, and shall be verified annually to this commission.

By order of the Public Utilities Commission of New Hampshire this first day of December, 1980.

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NH.PUC\*12/02/80\*[78758]\*65 NH PUC 611\*Public Service Company of New Hampshire

[Go to End of 78758]

## Re Public Service Company of New Hampshire

DF 80-229, Order No. 14,597

65 NH PUC 611

New Hampshire Public Utilities Commission

December 2, 1980

PETITION for authority to issue and sell bonds; granted.

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1. SECURITY ISSUES, § 58 — Purposes of capitalization — Construction progress payments and nuclear fuel expense.

[N.H.] The commission allowed an electric utility to use the proceeds from the sale of general and refunding mortgage bonds to meet existing obligations for construction progress payments on a nuclear power station and nuclear fuel payments, on the understanding that the company continue its efforts to seek deferrals of such payments on reasonable terms. p. 613.

2. SECURITY ISSUES, § 58 — Purposes of capitalization — Construction.

[N.H.] The commission approved the issuance of general and refunding mortgage bonds, the proceeds to be expended to pay off a portion of the short-term notes outstanding, the proceeds of which having been expended principally in the purchase and construction of property reasonably requisite for present and future use, to finance the purchase and construction of additional such property, and for other corporate purposes. p. 613.

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APPEARANCES: Frederick J. Coolbroth for the petitioner; Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

## Report

By this unopposed petition filed October 30, 1980, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New

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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 not exceeding \$25 million of general and refunding mortgage bonds, Series D (the "Series D G&R bonds"), and to mortgage its present and future property, tangible and intangible including franchises, as security for the Series D G&R bonds and other outstanding G&R bonds. As originally filed, the company's petition requested authorization with respect to not more than \$25 million of Series D G&R bonds and, in addition, requested authority to issue a new series of first mortgage bonds to be pledged as additional security for the Series D G&R bonds. By motion filed on November 6, 1980, the company requested that its petition be amended to cover \$35 million of Series D G&R bonds. However, at the hearing the company stated that it wished to withdraw the motion increasing the amount of the bonds to be issued to \$35 million and that no first mortgage bonds would be issued in connection with the financing.

The duly noticed hearing was held in Concord on November 25, 1980, at which the company submitted the testimony of two witnesses, John J. Lampron, its treasurer and David N. Merrill, its executive vice president.

Mr. Lampron stated that the proceeds of the sale of the G&R bonds will be used (a) to pay off a portion of the short-term notes outstanding at the time of sale, the proceeds of which will have been principally 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 finance the purchase and construction of additional such property; and (c) for other proper corporate purposes.

All expenses incurred in accomplishing the financing will be paid from the general funds of the company.

The Series D G&R bonds will be sold through a negotiated public offering. Mr. Lampron described in detail the major terms of the proposed Series D G&R bonds and explained why the company again proposed a negotiated rather than a competitive sale.

The company submitted a balance sheet as at October 31, 1980, actual and pro forma to reflect the proposed sale of the Series D G&R bonds. Exhibits were also submitted showing: Disposition of proceeds; estimated expenses of the issue; and capital structure as at October 31, 1980, actual and pro forma to reflect the proposed sale of the Series D G&R bonds. A certified copy of authorizing votes of the company's board of directors was put in evidence.

Mr. Merrill presented testimony concerning the efforts of the company to defer contractual payments related to Seabrook station Unit II. (Reference is made to our Order No. 14,490 [65 NH PUC 433] in DR 79-187 and Order No. 14,505 [65 NH PUC 457] in DF 80-195.) He stated that certain contractual progress payments had been deferred until at least through the first quarter of 1981, but that deferrals under certain other contracts could not be obtained upon



reasonable terms, including payments under nuclear fuel contracts. Additionally, Mr. Merrill stated that the company had been able to negotiate a deferral of payments with respect to additional work on the Unit II containment liner until April 1, 1981.

Mr. Merrill stated again that the company seeks the ability to use the proceeds from financings to make the required

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payments under contracts where deferrals on reasonable terms cannot be obtained, thereby avoiding damage suits as well as unnecessary costs and maintaining the company's credit with suppliers and contractors.

[1] The commission finds that if it were to absolutely prohibit the use of proceeds from the sale of the G&R bonds to meet existing obligations for progress payments and nuclear fuel payments under such contracts, the company would be exposed to claims for damages and potential increases in costs that would not be consistent with the object of controlling the costs of the Seabrook project nor the public good. On the understanding that the company will continue its efforts to seek deferrals of such payments on reasonable terms, the company is authorized to use the proceeds of the financing to meet existing obligations for progress payments and nuclear fuel payments associated with Seabrook Unit II.

Additionally, the commission finds that the continuation of work on the Unit II containment liner by Pittsburgh DesMoines Steel Company under the deferred payment arrangement negotiated by the company is consistent with our Order No. 14,505 in DF 80-195 and authorizes the continuation of such work.

The commission further finds that the use of the proceeds from the preferred stock for expenditures related to further construction of Seabrook Unit II other than those specifically authorized herein would be inconsistent with Order No. 14,490 in DR 79-187 and is hereby prohibited.

The commission reserves the right to reexamine further expenditures in future financings for Seabrook station II.

The commission will, as is our customary practice, reserve jurisdiction to approve the number of shares to be sold and the price thereof.

[2] Based upon all of the evidence, the commission finds that the proceeds from the proposed financing will be expended (1) 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 principally in the purchase and construction of property reasonably requisite for present and future use in the conduct of the petitioner's business; (2) to finance the purchase and construction of additional such property; and (3) for other proper corporate purposes, all of the foregoing being subject to the limitations set forth above, and further finds that the issue and sale of the Series D G&R bonds for the purposes described, and the mortgaging of the company's property, will be consistent with the public good. Our order will issue accordingly.

Order

Based 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 not exceeding \$25 million of its general and refunding mortgage bonds, Series D, for cash in accordance with the foregoing report and as set forth in its petition, and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to mortgage its present and future property, tangible and intangible including franchises, as security for its general and refunding mortgage bonds; and it is

Further ordered, that Public Service

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Company of New Hampshire shall submit to this commission the principal amount, term, purchase price, and rate of interest of said Series D general and refunding mortgage bonds, following which a supplemental order will issue approving the terms of the issue and sale of the securities, including the principal amount, term purchase price, and rate of interest thereof; and it is

Further ordered, that the proceeds from the sale of the Series D G&R bonds shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of the company and for the other purposes stated in the report; and it is

Further ordered, that except as authorized in the foregoing report, none of the proceeds from the Series D G&R bonds shall be used to further the construction of Seabrook II until the divestiture has received the necessary approvals and the adjustment period for ownership in the Seabrook plant begins; and it is

Further ordered, that on July 1st and January 1st in each year, Public Service Company of New Hampshire shall file with this commission a detailed statement, duly sworn to by its treasurer or assistant treasurer, showing the disposition of the proceeds of the Series D general and refunding mortgage bonds 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 second day of December, 1980.

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NH.PUC\*12/03/80\*[78759]\*65 NH PUC 614\*Granite State Electric Company

[Go to End of 78759]

## **Re Granite State Electric Company**

DR 80-192, Supplemental Order No. 14,598

65 NH PUC 614

New Hampshire Public Utilities Commission

December 3, 1980

ORDER requiring a refund of purchased power cost adjustment overcharge.

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REPARATION, § 41 — Period of reparation — One-time credit.

[N.H.] The commission authorized a one-time credit by an electric company to all affected customers because the company's collections pursuant to its purchased power cost adjustment were in excess of those allowed in the company's subsequent final rate decision, such credit being in the public good.

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BY THE COMMISSION:

Supplemental Order

Whereas, on November 21, 1980, the Granite State Electric Company notified this commission of the finalization by the Federal Energy Regulatory Commission and the United States Court of Appeals for the District of Columbia of the primary service for resale Rate R-10 under which Granite State purchased power from the New England Power Company; and

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Whereas, decision in that case resulted in a reduction in the amount of money recovered by Granite State Electric Company through its authorized purchased power cost adjustment; and

Whereas, said reduction results in an overcollection of moneys in the amount of \$296,538 (including interest); and

Whereas, Granite State Electric Company now proposes a one-time credit to all affected customers to effect return of this overcollection, said credit proposed for billings during the month of December, 1980, in the amount of \$0.00824 per kilowatt-hour; it is

Ordered, that such credit is in the public good and therefore approved; and it is

Further ordered, that Granite State Electric Company file with this commission an appropriate tariff page to reflect change to the PPCA No. 4; and it is

Further ordered, that Granite State Electric Company file with this commission its Supplement No. 3 to tariff NHPUC No. 8 — Electricity, said supplement to document the one-time credit of \$0.00824 per kwh to be applied against the December, 1980, billings; and it is

Further ordered, that directed tariff filings bear the notation that they are issued in compliance with this order and are effective on December 1, 1980.

By order of the Public Utilities Commission of New Hampshire this third day of December, 1980.

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NH.PUC\*12/03/80\*[78760]\*65 NH PUC 615\*Public Service Company of New Hampshire

[Go to End of 78760]

## Re Public Service Company of New Hampshire

DF 80-229, Supplemental Order No. 14,599

65 NH PUC 615

New Hampshire Public Utilities Commission

December 3, 1980

PETITION for authority to issue and sell bonds; granted.

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SECURITY ISSUES, § 106 — Sale price and interest rate — Bonds.

[N.H.] The commission authorized a utility to issue and sell for cash its general and refunding mortgage bonds in the principal amount of 523 million at a price of 98.5 per cent of the principal amount, to bear an interest rate of 17 per cent per annum.

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 14,597 dated December 2, 1980 (65 NH PUC 611), issued in the above entitled proceeding, authorized Public Service Company of New Hampshire to issue its general and refunding mortgage bonds Series D (the "Series D G&R bonds"), in a principal amount not exceeding \$25 million subject

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to the commission's authority to approve the terms, and

Whereas, in compliance with said Order No. 14,597 the company has submitted to this commission details concerning the sale of the Series D G&R bonds, including the principal amount, the term, and purchase price thereof, and the interest rate thereon, the principal amount of the Series D G&R bonds being \$23 million, said term being ten years from December 15, 1980, said price being 98.5 per cent of the principal amount, and said interest rate being 17 per cent per annum, all in accordance with the underwriting agreement, and

Whereas, after due consideration, it appears that the aforementioned terms set forth above are not in the public good, because there are no recall provisions, the cost rate is unreasonably high, that reasonableness dictates staying away from the money markets at this time and that the continuation of the Massachusetts DPU not to make a final decision on the Seabrook divestiture is causing the terms of this sale to carry uncertainties which are unreasonable for the public of New Hampshire to bear. Prudence dictates that consumers should not pay for unreasonable rates

that are of no value to them, it is hereby:

Ordered that the Public Service Company can issue and sell for cash its general and refunding mortgage bonds, Series D 17 per cent which are due in 1990, in the principal amount of \$23 million at a price of 98.5 per cent of the principal amount, said Series D G&R bonds to bear interest at the rate of 17 per cent per annum; and it is

Further ordered, that Public Service Company of New Hampshire be and hereby is, authorized to mortgage its present and future property, tangible and intangible including franchises, as security for the Series D G& R bonds hereinabove authorized; and it is

Further ordered, that all other provisions of said Order No. 14,597 of this commission are incorporated herein by reference, and it is

Further ordered, that because the commission cannot find the terms to be reasonable since the terms of 17.3 per cent are outside the terms approved in the Order No. 14,597 the commission will not allow these terms to be paid for by consumers now or in the long term rather the commission will use an effective cost rate of 15 per cent instead of 17.3 per cent for ratemaking purposes, the 15 per cent cost rate being reasonable.

By order of the Public Utilities Commission of New Hampshire this third day of December, 1980.

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NH.PUC\*12/04/80\*[78761]\*65 NH PUC 617\*Public Service Company of New Hampshire

[Go to End of 78761]

**Re Public Service Company of New Hampshire**

DF 80-229, Second Supplemental Order No. 14,601

65 NH PUC 617

New Hampshire Public Utilities Commission

December 4, 1980

PETITION for authority to issue and sell bonds; granted.

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SECURITY ISSUES, § 106 — Sale price and interest rate — Bonds.

[N.H.] The commission authorized a utility to issue and sell for cash its general and refunding mortgage bonds due in 1990 in the principal amount of \$23 million at a price of 98.5 per cent of the principal amount to bear interest at the rate of 17 per cent per annum.

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 14,597, dated December 2, 1980 (65 NH PUC 611), issued in the above entitled proceeding, authorized Public Service Company of New Hampshire to issue its general and refunding mortgage bonds Series D (the "Series D G&R bonds"), in a principal amount not exceeding \$25 million subject to the commission's authority to approve the terms; and

Whereas, in compliance with said Order No. 14,597 the company has submitted to this commission details concerning the sale of the Series D G&R bonds, including the principal amount, the term, and purchase price thereof, and the interest rate thereon, the principal amount of the Series D G& R bonds, being \$23 million, said term being ten years from December 1, 1980, said price being 98.5 per cent of the principal amount, and said interest rate 17 per cent per annum, all in accordance with the underwriting agreement; and

Whereas, the commission is concerned with the volatility of the capital market and the company's lack of financial flexibility pending the Massachusetts DPU's decision on the Seabrook divestiture to MMWEC, this commission notes that prior to securing this commission's approval of any future public finance offerings the commission will expect the company to either reduce its present total work force at the Seabrook project by approximately 40 per cent or have in place the adjustment period involving the increased ownership interest in Seabrook by Maine and Massachusetts investors owned utilities; and

Whereas, after due consideration, it appears that the issue and sale of \$23 million of the Series D G& R bonds hereinabove described, including the third supplemental indenture to be dated as of December 1, 1980, is consistent with the public good; it is

Ordered, that the Public Service Company can issue and sell for cash its general and refunding mortgage bonds, Series D 17 per cent in which are due in 1990, in the principal amount of \$23 million at a price of 98.5 per cent of the principal amount, said Series D G& R bonds to bear interest at the rate of 17 per cent per annum; and it is

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Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to mortgage its present and future property, tangible and intangible including franchises, as security for the Series D G&R bonds hereinabove authorized; and it is

Further ordered, that all other provisions of said Order No. 14,597 of this commission are incorporated herein by reference; and it is

Further ordered, that Supplemental Order No. 14,999 be, and hereby is, revoked, vacated, and set aside.

By order of the Public Utilities Commission of New Hampshire this fourth day of December, 1980.

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NH.PUC\*12/08/80\*[78762]\*65 NH PUC 618\*Gas Service, Inc.

[Go to End of 78762]

**Re Gas Service, Inc.**

DE 80-205, Order No. 14,603

65 NH PUC 618

New Hampshire Public Utilities Commission

December 8, 1980

PETITION of a gas company for authority to place and maintain a buried pipeline; granted.

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GAS, § 5 — Pipeline installation — Gas company.

[N.H.] The commission authorized a gas company to place and maintain a buried pipeline, noting that no objections were filed or expressed, and that the pipeline would be in the public interest.

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APPEARANCES: Richard G. MacDonald, supervisor of distribution, for the petitioner.

BY THE COMMISSION:

Report

On September 19, 1980, the Gas Service, Inc., filed with this commission a petition seeking authority to place and maintain a buried pipeline in Northfield, New Hampshire.

The installation originates approximately 200 feet east of New Forest Road on Sargent Street. An eight-inch steel sleeve with a wall thickness of 0.277 inches and 35 feet long will be bored five feet under the railroad crossing. A four-inch carrier main with a wall thickness of 0.188 inches will then be installed through the sleeve. The main will operate at a medium pressure and be cathodically protected against corrosion.

The commission issued an order of notice on September 26, 1980, directing all interested parties to appear at a public hearing at 1:00 P.M. on October 28, 1980, at the commission's office in Concord, New Hampshire. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council; George Gilman, Department of Resources and Economic Development (DRED); Office of Attorney

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General; and New Hampshire Transportation Authority.

Richard G. MacDonald, supervisor of operations, described the pipeline project under the railroad crossing as shown in Exh 1. The commission noted that no objections were filed or expressed at the public hearing. However, Gas Service, Inc., failed to publish the order of notice as required. Therefore, a second order of notice was issued on November 12, 1980, setting a public hearing for December 3, 1980, at 9:00 A.M.

An affidavit of publication was received on December 3, 1980, indicating that the order of notice was published in the *Laconia Evening Citizen* on November 20, 1980.

There were no objections filed or expressed at the second public hearing and proper notification was given to the public concerning the proposed natural gas pipeline under the railroad crossing in Northfield, New Hampshire.

Therefore, the commission concluded that said pipeline would be in the public interests. Our order will issue accordingly.

Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that authority be granted for the installation and continued maintenance of a sleeve and natural gas pipeline under the railroad tracks for Gas Service, Inc., said crossing is on Sargent Street, approximately 200 feet east of New Forest Road in Northfield, New Hampshire, as described in Exh 1.

By order of the Public Utilities Commission of New Hampshire this eighth day of December, 1980.

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NH.PUC\*12/08/80\*[78763]\*65 NH PUC 619\*Comex, Inc.

[Go to End of 78763]

### **Re Comex, Inc.**

DR 80-248, Order No. 14,604

65 NH PUC 619

New Hampshire Public Utilities Commission

December 8, 1980

PETITION of a utility to revise its tariff; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Comex, Inc., a public utility engaged in the business of supplying domestic public land mobile radio service in the state of New Hampshire, on December 1, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 3, providing for changes to its franchise area and its rates, effective January 1, 1981; 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 Title Pages 1 and 12-15 of tariff, NHPUC No. 3, of Comex, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighth day of December, 1980.

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NH.PUC\*12/09/80\*[78764]\*65 NH PUC 620\*Granite State Electric Company

[Go to End of 78764]

### Re Granite State Electric Company

IE 14,989, Order No. 14,607

65 NH PUC 620

New Hampshire Public Utilities Commission

December 9, 1980

PETITION of an electric company for authority to serve in a limited area; granted.

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SERVICE, § 198 — Service extension — Electric company.

[N.H.] The commission authorized an electric company to extend its service in a limited area, noting that service by the company would be the most economical and reliable way to provide the service, and would be for the public good.

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BY THE COMMISSION:

Order

Whereas, Granite State Electric Company, a corporation duly organized under the laws of this state and operating therein as an electric public utility under the jurisdiction of this commission, by petition filed December 1, 1980, seeks authority pursuant to Chap 374 RSA to extend its lines and service into a limited area in the town of Pelham; and

Whereas, the map marked as Exh A filed with the petition indicates only a very small change in the present area, in part, to follow lot lines in the Gordon Heights development; and

Whereas, Public Service Company of New Hampshire has, by letter, waived its rights to serve in the area sought by the petitioner, indicating that service by the petitioner would be the most economical and reliable way to provide the service; and

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

Ordered, that permission be, and hereby is, granted to Granite State Electric Company to do business as an electric utility in a limited area in the town of Pelham, as set forth on the map marked Exh A in this case, and for that purpose to construct and maintain the necessary lines and apparatus, such authorization to provide service being granted without hearing, as provided by RSA 374:26, when all interested parties are in agreement; and it is

Further ordered, that service territory

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maps of the town of Pelham (No. 187) revised as of October, 1980, filed by the petitioner on behalf of itself and Public Service Company of New Hampshire, are effective with the date of this order.

By order of the Public Utilities Commission of New Hampshire this ninth day of December, 1980.

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NH.PUC\*12/09/80\*[78765]\*65 NH PUC 621\*Concord Natural Gas Corporation

[Go to End of 78765]

## **Re Concord Natural Gas Corporation**

Additional petitioners: Gas Service, Inc., Keene Gas Corporation, Manchester Gas Company, Northern Utilities, Inc.

Intervenor: Community Action Program

DR 80-207 et al. Supplemental Order No. 14,608

65 NH PUC 621

New Hampshire Public Utilities Commission

December 9, 1980

ORDER denying a motion for rehearing.

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1. RATES, § 303 — Cost of gas adjustment — Function.

[N.H.] A cost of gas adjustment, like a fuel adjustment clause, is designed to provide recovery of fuel costs during times of escalating fuel costs, thus providing a significant cash-flow benefit as well as a stabilization of earnings; in addition, such a device minimizes the regulatory lag associated with frequent rate cases by providing recognition of the major cost for any utility. p. 622.

2. RATES, § 303 — Cost of gas adjustment — Interest on overcollections.

[N.H.] To provide necessary protection for consumers from cost of gas adjustments, the

commission has imposed an interest cost for overcollection, since adjustment clauses which track rising fuel costs are not designed to be a financing device, thereby allowing the companies the use of consumer supplied funds at a relatively low interest rate. p. 622.

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APPEARANCES: Charles H. Toll for Concord Natural Gas Corporation and Gas Service, Inc.; Kenneth Wood, vice president, for Keene Gas Corporation; James Hood for Manchester Gas Company; Eaton W. Tarbell for Northern Utilities, Inc.; Gerald Eaton for Community Action Program.

BY THE COMMISSION:

Report

The Manchester Gas Company (company) filed a motion for rehearing as to the commission's Report and Order No. 14,556 (65 NH PUC 536). This motion was filed at the close of business on November 26, 1980. This motion was followed by verbal inquiries as to the resolution of the order on December 8, 1980.<sup>1(71)</sup>

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The motion filed by the company objects to the change in the interest rate applied to overcollections in the cost of gas adjustment. The company contends that the commission's action is arbitrary, capricious, unsupported, unreasonable, and unlawful since the commission allegedly failed to provide notice or hold a public hearing. However, a review of the record and prior COGA orders reveals ample notice and hearing. Commissioner Riordan and Executive Director Iacopino clearly reinforced the commission's concern over interest rates during this proceeding. Transcript, p. 61 contains a quotation from the commission's last COGA decision this summer:

"Note that the commission requires 8 per cent interest on any over collected revenues. For future winter and summer periods the commission will give further consideration to increasing the interest rate to a rate closer to the prime rate." (65 NH PUC 187.)

This notice, together with the persistent questioning of Finance Director Sullivan, clearly set the hearing held on October 22, 1980, as a proper forum for the issue of interest. Counsel for Manchester Gas specifically recognized this notice in the commission's prior order at the hearing. (Transcript, p. 100.)

While noting that there was notice in the commission's then most recent COGA order, counsel for Manchester Gas proposed that the issue be resolved between the companies, staff, and any interested parties through a conference. (Transcript, p. 100.) All of the other gas utilities agreed to this procedure so as to work out a reasonable solution. (Transcript, pp. 129-130.) Subsequent to the hearing, such a meeting occurred. After reviewing the concerns of all parties, the commission rendered its decision.

The commission finds that there was adequate notice for resolution of the interest issue. The commission further finds that there was a hearing in which these concerns were properly addressed. Finally, the commission finds that the subsequent conference with all parties present

allowed Manchester Gas more than an adequate opportunity to present its case. Consequently, the commission does not find any violations of RSA 378:7 or 541-A:3.

Nor does the commission find any ambiguity to the term "average weighted cost of short-term borrowing." This mechanism is routinely used within the industry.

[1] Manchester Gas also contends that the failure to apply interest to undercollections results in an unfair and unlawful situation. However, Manchester Gas conveniently ignores the purpose of the COGA and the benefits to Manchester Gas from the use of such a device. The COGA, like the fuel adjustment clause, is designed to provide recovery of fuel costs during times of escalating fuel costs. *Re Fuel Adjustment Charge (1980) 65 NH PUC 40*. Such a mechanism provides a significant cash flow benefit, as well as a stabilization of earnings. Finally, such a device minimizes the regulatory lag associated with frequent rate cases by providing recognition of the mayor cost for any utility.

[2] These benefits are substantial in the case of the COGA since estimates are used for six months into the future. Such a mechanism without proper controls could easily be misused. To provide the necessary protection to consumers, the commission has imposed an interest cost for any overcollection. As this commission

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stated in another COGA opinion (*Re Concord Nat. Gas Corp. [1979] 64 NH PUC 370*) adjustment clauses which track rising fuel costs "are not designed to be a financing device thereby allowing the companies the use of consumer supplied-funds at a relatively low interest rate." (*64 NH PUC at p. 371.*)

While 8 per cent was justified in the past, rising interest costs result in the 8 per cent becoming outdated. Where companies like Manchester Gas can invest money in three and six-month certificates at rates in excess of 13 per cent, this commission must correspondingly adjust the level of interest paid to consumers for dollars held by utilities. If interest rates drop, then a readjustment downward would be appropriate.

The commission notes that often Manchester Gas has held refunds from suppliers for six to seven months rather than refunding immediately. While the commission has applied interest to these refunds, the use of that money during rising interest rates is of significant monetary advantage to Manchester Gas.

The commission has considered the various other arguments offered by Manchester Gas and finds them to be lacking in substance and not persuasive. Accordingly, the motion for rehearing is denied. Our order will issue accordingly.

Supplemental Order

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

Ordered, that the motion for rehearing filed by Manchester Gas Company is hereby denied.

By order of the Public Utilities Commission of New Hampshire this ninth day of December, 1980.

FOOTNOTES

<sup>1</sup>During this 12-day time period, there were six days in which the commission was closed due to weekends or holidays.

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NH.PUC\*12/10/80\*[78766]\*65 NH PUC 623\*Meriden Telephone Company

[Go to End of 78766]

## **Re Meriden Telephone Company**

IR 14,990, Order No. 14,609

65 NH PUC 623

New Hampshire Public Utilities Commission

December 10, 1980

PETITION of a telephone company for approval of a service contract; granted.

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BY THE COMMISSION:

Order

Whereas, the Meriden Telephone Company, a utility under the jurisdiction of this commission, has filed with this commission a copy of a special contract with Kimball Union Academy, effective on the date service first taken, which is October 1, 1980, 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

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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 October 1, 1980.

By order of the Public Utilities Commission of New Hampshire this tenth day of December, 1980.

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NH.PUC\*12/12/80\*[78767]\*65 NH PUC 624\*Connecticut Valley Electric Company, Inc.

[Go to End of 78767]

## **Re Connecticut Valley Electric Company, Inc.**

Intervenor: Legislative Utility Consumers' Council

DR 80-92, Second Supplemental Order No. 14,612

65 NH PUC 624

New Hampshire Public Utilities Commission

December 12, 1980

PETITION of an electric company for an increase in rates; granted.

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APPEARANCES: Donald A. Rushford for the petitioner; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

These proceedings were initiated on April 14, 1980, when Connecticut Valley Electric Company, Inc. (hereinafter referred to as the company), a public utility engaged in the business of supplying electrical service in the state of New Hampshire, filed with the commission revised pages to its tariff, NHPUC No. 4 — Electricity, which proposed an increase of gross annual revenue of \$219,130, or 3.7 per cent distributed uniformly across all rate blocks. A petition for temporary rates was filed simultaneously with the proposed tariff revision. On May 6, 1980, the commission ordered that notice to the public be given indicating that a hearing on temporary rates would be held at the commission's office on May 23, 1980. On June 2, 1980, the commission by its Order No. 14,260 (65 NH PUC 246) granted temporary rates in the amount of \$162,626 to be effective on all bills rendered on or after the effective date.

On November 25, 1980, the commission held a duly noticed hearing at 10:00 A.M. at the offices of the commission. On May 23, 1980, and November 25, 1980, discussions were held between the commission staff, company representatives, and the LUCC. As a result of those discussions, agreement was reached as the required increase in temporary and permanent rates prior to the duly noticed hearing.

*Fair Rate of Return*

The company claimed a fair rate of

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return of 11.1 per cent. As a result of the discussions held, the parties agreed to a 10.9 per cent rate of return, therefore, the commission will accept the agreed upon figure.

*Rate Base*

The company originally submitted a rate base of 53,646,000. As a result of the discussions held, the parties agreed to a rate base of \$3,638,901, calculated as follows:

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

Utility Plant in Service	\$4,644,685
Less: Accumulated Depreciation	1,100,800
	<hr/>

Net Utility Plant	\$3,543,885
Add: Working Capital	123,919
Less: Consumers Deposits	(28,903)
Total Average Rate Base	<u>\$3,638,901</u>

The commission will accept the calculation of the company rate base as agreed to by all the parties to this proceeding.

### *Revenue Requirement*

The revenue requirement is calculated as follows:

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

Rate Base	\$3,638,901
Cost of Capital	10.9%
Required Net Operating Income	<u>\$ 396,640</u>
Less:	
Adjusted Net Operating Income	312,892
Net Operating Income Requirement	\$ 83,748
Revenue Requirement ( ÷ 51.497%)	162,626

The revenue requirement of \$162,626 is the increase that this commission will allow from the date of the temporary rate order as permanent rates. As the permanent rates are the same as the temporary rates, no recoupment is necessary.

The company requested at the hearing that the wage increase which will become effective January 1, 1981, in the amount of \$43,661 be included as a known and measurable change. The wage increase was not allowed in the temporary rates because the expense was pro formed for a period longer than twelve months beyond the test year ended December 31, 1979. Additional data was presented by the company purporting to show that for the twelve months ending September 31, 1980, the allowed rate of return was not earned. The data presented is defective in that it does not reflect the increased rate level for a 12-month period and includes a period when purchased power costs were increased. The company further testified that unless the 1981 salary increase was allowed, the rate of return earned would deteriorate. It was further stated that barring some extraordinary reason; another rate increase would not be required in 1981 if the salary increase were allowed beginning in January, 1981. This commission will allow the rates to be increased by \$43,661 on an annual basis for all service rendered on or after January 1, 1981. That increase will be allowed uniformly across all rate blocks with the exception of the minimum charge.

Our order will issue accordingly.

### Supplemental Order

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

Ordered, that the temporary rates granted Connecticut Valley Electric Company by Order No. 14,260, be, and hereby are, made permanent rates; and it is

Further ordered, that said rates be increased by the additional amount of

\$43,661, effective with all service rendered on or after January 1, 1981; and it is

Further ordered, that Connecticut Valley Electric Company file appropriate tariff pages to reflect this added increase, on a uniform basis, said pages to become effective January 1, 1981; and it is

Further ordered, that public notice be given by publication on two occasions a summary of this order in a newspaper having wide circulation in the area served.

By order of the Public Utilities Commission of New Hampshire this twelfth day of December, 1980.

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NH.PUC\*12/12/80\*[78768]\*65 NH PUC 626\*New England Telephone and Telegraph Company

[Go to End of 78768]

## Re New England Telephone and Telegraph Company

DR 80-23, Sixth Supplemental Order No. 14,613

65 NH PUC 626

New Hampshire Public Utilities Commission

December 12, 1980

ORDER authorizing a telephone company to recover undercollections and requiring reparation for overcollections.

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### 1. REPARATION, § 43 — Overcollections — Repayment through credit.

[N.H.] The commission ordered a telephone company that had collected revenues in excess of allowed rates to repay the amount, pursuant to the terms of a bond filed by the company, together with interest of 8 per cent per annum to each business customer through a credit to each business exchange line, each such credit to be of identical amount. p. 627.

### 2. RATES, § 532 — Recovery of undercollections.

[N.H.] The commission ordered a telephone company where practicable, for those classes of service as to which it undercollected during the bonding period, to establish rates that would recover additional revenues over a period of not less than three nor more than six months equal to the amount of the under-collection, computed on the basis of test-year volumes, together with interest at the rate of 8 per cent per annum. p. 627.

### 3. REPARATION, § 43.1 — Repayment for overcollections — Residential customers.

[N.H.] The commission directed a telephone company to distribute, by way of a credit to each residence customer, an amount equal to revenues collected in excess of allowed rates plus 8 per cent interest to be accomplished as soon as practicable, each such credit to be of identical



amount. p. 627.

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BY THE COMMISSION:

Report

This proceeding was initiated by New England Telephone and Telegraph Company (the "company") by the filing for effect on March 1, 1980, of

**Page 626**

revised tariffs designed to generate increased annual revenues of \$22 million. The filed tariffs were suspended by the commission on February 19, 1980. On September 2, 1980, pursuant to RSA 378:6, the company put into effect portions of the revised tariffs originally filed in February, which portions generate, on an October 31, 1979, test year, additional revenues of \$15,125,000.

On December 1, 1980, the commission issued its report and order in this proceeding allowing the company increased annual revenues on an October 31, 1979, test year, of 514,877,637, and directing the company to file tariffs consistent with that order. Tariffs establishing a schedule of rates in compliance with the order (the "allowed rates") have been filed for effect on December 13, 1980.

The company was prevented by its voluntary compliance with the federal wage and price guidelines from putting into effect on September 2, 1980, all of the rates filed in February, 1980. As a result, with respect to certain classes of service, it collected less during the period September 2, 1980, to December 13, 1980, (the "bonding period") than it would have collected under the allowed rates. Conversely, with respect to other classes of service, it collected more than it would have collected under the allowed rates. The net result of these overcollections and undercollections is that, during the bonding period, the company collected, for all classes of service in the aggregate, approximately \$73,000 more in revenues than it would have collected under the allowed rates. Under RSA 378:6, and under the terms of the bond filed by the company, it is required to refund to its customers only that net over-collection of approximately \$73,000.

[1] Repayment of that amount, together with interest thereon at the rate of 8 per cent per annum, will be made as promptly as practicable to each business customer through a credit to each business exchange line, each such credit to be of identical amount.

[2] The commission has concluded, however, that in order to achieve a more just and reasonable distribution of required revenues further steps should be taken. The company is directed, where practicable, for those classes of service as to which it undercollected during the bonding period, to establish rates that will recover additional revenues over a period of not less than three nor more than six months equal to the amount of the undercollection, computed on the basis of test-year volumes, together with interest at the rate of 8 per cent per annum.

[3] The company is further directed to distribute, by way of a credit to each residence customer, an amount equal to the additional revenues thereby collected plus 8 per cent interest.

The commission understands that additional revenues collected in that manner will amount to approximately \$705,000. The distribution to residence customers pursuant to this paragraph will be accomplished as soon as practicable by a credit to each basic residence exchange line, each such credit to be of identical amount. Our order will issue accordingly.

### Supplemental Order

Whereas, New England Telephone and Telegraph Company has filed new tariff pages setting forth rates to produce an annual increase in gross revenues of \$14,877,637, as directed by the commission

### Page 627

Order No. 14,586 (65 NH PUC 564, 39 PUR4th 29), and

Whereas, after review and study of the proposed rates, the commission is satisfied that the company has complied with the provisions of Order No. 14,586; it is

Ordered, that the following listed tariff pages, filed with the commission on December 8, 1980, be, and hereby are, permitted to become effective with all telephone service rendered on and after December 13, 1980:

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

NHPUC – No. 70	
Definitions	– Revision of Pages 4 and 5
Part I – General Regulations	– Revision of Pages 2, 4, 5, and 6
Part II – Section I	– Revision of Pages 1, 2, 2A, 3, 6, and 12 through 16
Part III – Section I	– Revision of Pages 1 through 9, 12, 13, and 14
– Section 4	– Revision of Page 2
– Section 5	– Revision of Pages 23 and 26
– Section 6	– Revision of Pages 1 and 2
– Section 7	– Revision of Page 2
– Section 8	– Revision of Page 1
– Section 9	– Revision of Page 1
– Section 12	– Revision of Pages 1, 2, 3, 3A, 3B, 3C, 4, 5, 6, 7 8, and 9
– Section 13	– Revision of Page 1
– Section 14	– Revision of Pages 2, 3, and 4
– Section 15	– Revision of Pages 1, 2, 4, 5 and 6A through 18
– Section 16	– Revision of Pages 2 through 5 and 7
– Section 17	– Revision of Pages 1, 2, 4 through 19 57, 82, 87, 89, and 93
	– Original 96 and 97
– Section 18	– Revision of Pages 1 through 4
– Section 19	– Revision of Pages 3, 4, and 5
– Section 20	– Revision of Page 1
– Section 22	– Revision of Pages 2 and 3
– Section 23	– Revision of Pages 2, 3, 4, 6 through 12, 15, and 16
– Section 25	– Revision of Pages 1 through 4
– Section 27	– Revision of Page 1
– Section 28	– Revision of Pages 2 and 3
– Section 30	– Revision of Pages 2, 5, 6, and 7
– Section 31	– Revision of Pages 1, 2, and 3
Part III – Section 32	– Revision of Page 2
– Section 40	– Revision of Pages 1, 3, 3A, 3B, 4 through 11, and 13
	– Original Pages 1.2, 8.1 through 8.6, and 9.1 through 9.9

Part IV - Private Line	- Revision of Pages 34 through 39, 42 through 47, 49, 50, 51, 54, 55, 56, 61 through 64, 68, 69, 71 through 74, 76 and 77
Part V - Message Toll	- Revision of Pages 1 through 4
Part VI - WATS	- Revision of Page 4
NHPUC - No. 73	
Mobile	- Revision of Pages 9 and 10

and; it is

Further ordered, that the following listed tariff pages, also filed with this commission on December 8, 1980, be,

**Page 628**

and hereby are, permitted to become effective with all telephone service rendered on January 1, 1981:

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

NHPUC - No. 70	
Part II - Section 3	- Revision of Page 1
Part III - Section 2	- Revision of Page 1
- Section 23	- Revision of Page 13L

and; it is

Further ordered, that Supplement Nos. I through 12 be, and hereby are, permitted to be canceled, inasmuch as the material formerly in said supplements are now incorporated in the tariff changes approved above; and it is

Further ordered, that publication of these new rates be made, in the usual manner, in a newspaper having general circulation in the territory affected.

By order of the Public Utilities Commission of New Hampshire this twelfth day of December, 1980.

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NH.PUC\*12/15/80\*[78769]\*65 NH PUC 629\*New England Telephone and Telegraph Company

[Go to End of 78769]

**Re New England Telephone and Telegraph Company**

DR 80-23, Seventh Supplemental Order No. 14,614

65 NH PUC 629

New Hampshire Public Utilities Commission

December 15, 1980

ORDER requiring a telephone company to implement a commission report.

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BY THE COMMISSION:

Supplemental Order

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

Ordered, that New England Telephone and Telegraph Company implement the provisions of this report; and it is

Further ordered, that notice of credits be made in a manner which will assure customer awareness of the credits.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of December, 1980.

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NH.PUC\*12/16/80\*[78770]\*65 NH PUC 630\*Winter Brook Water Company, Inc.

[Go to End of 78770]

### **Re Winter Brook Water Company, Inc.**

DE 80-244, Order No. 14,617

65 NH PUC 630

New Hampshire Public Utilities Commission

December 16, 1980

PETITION of a water company to discontinue service; granted.

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BY THE COMMISSION:

Order

Whereas, Winter Brook Water Company, Inc., seeks authority to discontinue operations as a public utility; and

Whereas, the Waterville Estates Water District wishes to purchase certain assets of Winter Brook Water Company, Inc.; and

Whereas, there will be no interruption of water service to existing customers; and

Whereas, upon investigation and consideration, this commission is satisfied that the granting of the authority sought is in the public good; it is

Ordered, that Winter Brook Water Company, Inc., be, and hereby is, authorized to discontinue operations as a public utility upon the date of purchase by the Waterville Estates Water District; and it is

Further ordered, that this commission be notified in writing by Winter Brook Water Company, Inc., immediately upon such sale.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of

December, 1980.

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NH.PUC\*12/16/80\*[78771]\*65 NH PUC 630\*Concord Natural Gas Corporation

[Go to End of 78771]

## Re Concord Natural Gas Corporation

DR 80-252, Supplemental Order No. 14,618

65 NH PUC 630

New Hampshire Public Utilities Commission

December 16, 1980

PETITION of a gas company to revise its tariff; granted.

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### 1. RATES, § 307 — Meter setting and changing fees.

[N.H.] The commission accepted a gas company's proposed charges for transferring an account from one customer to another, and for turning on a new customer's meter, in order to place the cost of such services on those customers incurring them rather than spread among all ratepayers. p. 631.

### 2. PAYMENT, § 55 — Interest charges — Overdue accounts.

[N.H.] The commission accepted a gas company's proposed late payment charge of one and one-half per cent to be levied on all overdue

**Page 630**

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accounts over \$30 in order to offset the added administrative costs associated with delinquent and defaulted accounts from those involved. p. 631.

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APPEARANCES: Charles H. Toll for the Concord Natural Gas Corporation; Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On July 25, 1980, the Concord Natural Gas Corporation filed with the commission certain revisions to its tariff, NHPUC No. 13 — Gas, proposing changes and/or corrections to its terms and conditions. Included were interest rates and minimum on deposits to conform to recent changes in commission rules, addition of late payment charge, and increases in its connection-reconnection charges. On August 19, 1980, commission Order No. 14,440 (65 NH

PUC 388), was issued suspending the filing pending investigation and decision thereon. An order of notice was issued on November 17, 1980, setting the docket for hearing on December 11, 1980, at 1:00 P.M.. Public notice of said hearing was given and an affidavit attesting to same was filed with the commission on December 1, 1980.

The commission appointed Bruce B. Ellsworth, chief engineer, as hearing examiner for the docket. The company presented one witness, Ronald P. Bisson, assistant treasurer and office manager.

[1] Mr. Bisson testified that the proposal included the addition of charges for transferring an account from one customer to another and for turning on a new customer's meter (\$7 and \$10 respectively). Transfers and turn-ons annually amount to 20 per cent of the total accounts and require considerable administrative workload. The fees would place the costs on those incurring them rather than spread among all ratepayers. The commission accepts the charges as filed.

The witness also testified that deposit information in the tariff was updated to reflect the current commission rules. These changes are also accepted.

[2] Concord proposes to implement a late payment charge of 1.5 per cent to be levied on all overdue accounts over \$30. This charge may offer the incentive to slow payers to be more prompt and, therefore, improve the company's cash flow. The commission recognizes the difficulties that small companies such as Concord Natural Gas face with delinquent and defaulted accounts. Added administrative costs will be offset by the late payment fee rather than becoming a burden to those ratepayers who are prompt. The same rationale was the reason for proposing that costs of collection be levied against those involved. The commission accepts the company's proposal. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that Fourth Revised Page 1, Third Revised Page 5, First Revised Page 11, Second Revised Page 12, and Original Page 25 of the Concord Natural Gas Corporation's tariff, NHPUC No. 13 — Gas, be, and hereby are, approved for effect on the date of this order; and it is

Further ordered, that one-time public notice of this approval is given by

**Page 631**

publication of a summary of the changes in a newspaper widely read in the area served.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of December, 1980.

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NH.PUC\*12/16/80\*[78772]\*65 NH PUC 632\*Public Service Company of New Hampshire

[Go to End of 78772]

## Re Public Service Company of New Hampshire

IE 14,991, Order No. 14,619

65 NH PUC 632

New Hampshire Public Utilities Commission

December 16, 1980

PETITION of an electric company to transfer service; granted.

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BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire (hereinafter called Public Service) and New Hampshire Electric Cooperative, Inc. (hereinafter called the Cooperative), by letters filed December 8, 1980, seek authority to effect the transfer of electric service of one customer in Deerfield from the Cooperative to Public Service as a result of a recent service territory rearrangement under the provisions of RSA 374:22-a and b, and

Whereas, the customer involved, Robert J. Leonard, has signified in writing that he has no objection to the proposed transfer of service, such assent being on file with this commission; and

Whereas, such service can be more reasonably provided by Public Service thus being in the public interest; it is

Ordered, that pursuant to the provisions of RSA Chap 374, electric service to the above named customer be, and hereby is, authorized to be transferred from the Cooperative to Public Service effective on a date convenient to all parties concerned, such authorization being granted without hearing, as provided by RSA 374:26 when all interested parties are in agreement.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of December, 1980.

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NH.PUC\*12/17/80\*[78774]\*65 NH PUC 635\*Fuel Adjustment Charge

[Go to End of 78774]

**Re Fuel Adjustment Charge**

Intervenor: Public Service Company of New Hampshire

DR 80-46, Ninth Supplemental Order No. 14,621

65 NH PUC 635

New Hampshire Public Utilities Commission

December 17, 1980

ORDER denying a motion for rehearing.

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APPEARANCES: as previously noted.

BY THE COMMISSION:

Report

Community Action Program (CAP) filed a motion for rehearing as to the commission's Report and Order No. 14,555 (65 NH PUC 532). The first ground raised is that the commission used an estimated underrecovery figure and thereby the rate set is unreasonable. If CAP has attended the November hearings related to the December fuel adjustment charge, CAP would be aware that the actual underrecovery was higher than the estimate. The commission had determined this situation would more than likely exist, and the commission would encourage CAP to regularly attend our hearings so that they might be better informed.

The second allegation is that the commission does not have a factual basis for its order. Yet PSNH presented testimony indicating a complete reconciliation would be \$0.0182 per kwh, or higher.

Community Action Program takes great pride in criticizing the commission for allegedly not recognizing the concerns of consumers. Yet the reason that the fuel adjustment for October was reduced by more than one-half was because of the commission's own investigation and decision on the hydropower from the dams along the Connecticut river. It is interesting to note that CAP chose not to be concerned with a permanent solution to the problems experienced by consumers since it chose not to be a party to the commission's Connecticut river investigation.

Community Action Program does not dispute that there should be recognition of the underrecovery, but rather is only interested in chastising the commission for recognizing the effect of the supreme court order in November and December. However, if CAP had been involved in the commission's small power producers proceeding, CAP would be aware that staff and the commission found that oil prices would continue to rise in the months ahead. Certainly the recent actions of OPEC together with the Iran-Iraq war signify further problems ahead for consumers, which CAP wishes to aggravate by postponing recovery to midwinter or early spring.

Finally, the commission notes that CAP's memorandum attached to its motion is personal, inconsistent, frivolous, and unprofessional.

Community Action Program's motion for rehearing is denied. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing

**Page 635**

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report, which is made a part hereof; it is hereby

Ordered, that Community Action Program's motion for rehearing be denied.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of December, 1980.

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NH.PUC\*12/18/80\*[78775]\*65 NH PUC 636\*Public Service Company of New Hampshire

[Go to End of 78775]

## Re Public Service Company of New Hampshire

DF 80-239, Order No. 14,623

65 NH PUC 636

New Hampshire Public Utilities Commission

December 18, 1980

PETITION of an electric company to extend maturity of term notes and to issue and sell common stock; granted.

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### 1. SECURITY ISSUES, § 9 — Note maturity date — Extension.

[N.H.] The commission approved an electric company's proposal to extend the maturity date of \$25 million in principal amount of term notes, the commission noting that the extension would be consistent with the public good. p. 637.

### 2. SECURITY ISSUES, § 58 — Purposes of capitalization — Construction expenses.

[N.H.] The commission approved an electric company's proposal to issue and sell up to 1.8 million shares of \$5 par value common stock pursuant to the company's dividend reinvestment and common stock purchase plan, the proceeds to be used to pay off short-term notes, the proceeds of which having been expended in the purchase and construction of property reasonably requisite for present and future use, to finance the purchase and construction of additional such property, to defray the expenses and charges of issuing the shares pursuant to the plan, and for other proper corporate purposes. p. 638.

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APPEARANCES: Frederick J. Coolbroth for the petitioner; Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this unopposed petition filed November 20, 1980, 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 further extend the maturity of term notes aggregating \$25 million originally issued pursuant to our Order No. 12,991, dated December 19, 1977 (62 NH PUC 336), and now outstanding under Order No. 13,967,

dated December 28, 1979 (64 NH PUC 478), and to issue and sell up to 1.8 million shares of common stock, \$5 par value, pursuant to its dividend reinvestment and common stock purchase plan in addition to the 300,000 shares of common stock previously authorized to be so issued. A duly noticed hearing was held in Concord on December 12, 1980, at which the company submitted the testimony of two witnesses, John J. Lampron, its treasurer, concerning the extension of the maturity of the term notes and Peter B. O'Donnell, its assistant treasurer, concerning the issuance of additional common stock pursuant to the dividend reinvestment and common stock purchase plan.

Mr. Lampron stated that the company proposed to extend until January 7, 1982, the maturity of \$25 million in principal amount of term notes now outstanding and payable on January 5, 1981; the seven lending banks and the amount which each has lent 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 National Trust and Savings Association	2,000,000
Continental Illinois National Bank and Trust Company of Chicago	2,000,000
Shawmut Bank of Boston, N.A.	1,000,000

Mr. Lampron further stated that the company and the banks had agreed, subject to regulatory approval, to the proposed extension of maturity to January 7, 1982, upon the existing terms, which provide for interest to 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 percent, and that the principal or any portion in integral multiples of \$1 million may be repaid at any time upon three-days notice.

The company submitted a balance sheet as at October 31, 1980, actual and pro formed to reflect the sale of \$23 million of general and refunding mortgage bonds and the proposed extension of the maturity of the \$25 million term notes.

[1] Upon investigation and consideration, the commission is satisfied and finds that extension of the maturity of the term notes will be consistent with the public good.

Mr. O'Donnell testified that the company proposes to issue and sell up to 1.8 million shares of the company's common stock, \$5 par value, pursuant to its dividend reinvestment and common stock purchase plan, which allows existing shareholders of the company to invest in new common stock of the company by either reinvesting quarterly dividends paid on shares which they own and/or investing optional cash payments which they may elect to make on a quarterly basis. In addition, any employee of the company may request the company to make regular payroll deductions for purchase of shares under the plan. The per share purchase price under the plan is the average of the closing price for such stock on the New York Stock Exchange, as quoted in the eastern edition of the *Wall Street Journal*, for the last five

trading days immediately preceding the applicable dividend reinvestment date.

Mr. O'Donnell stated that since the adoption of the plan in 1978, the company has issued 266,643 shares out of the 300,000 shares authorized to be issued by this commission in Order No. 13,207, dated June 30, 1978 (63 NH PUC 199), and that the remaining 33,357 authorized shares would not be sufficient to continue the plan through the next dividend date. Mr. O'Donnell stated that the company projected that the authorization of the additional 1.8 million shares would allow the plan to continue for at least the next five years.

Mr. O'Donnell submitted a prospectus of the company dated October 30, 1980, containing a description of the plan. Additional exhibits were submitted showing the estimated expenses of issuance of the additional shares pursuant to the plan as well as the balance sheet and capital structure of the company.

[2] Upon investigation and consideration, the commission is satisfied that the continuation of the plan is consistent with the public good. The commission is further satisfied that the proceeds from the issuance and sale of the additional shares will be expended (1) to pay off short-term notes, 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 petitioner's business, (2) to finance the purchase and construction of additional such property, (3) to defray the expenses and charges of issuing the shares pursuant to the plan and (4) for other proper corporate purposes, and finds that the issue and sale of these securities upon the terms proposed will be consistent with the public good.

Our order will issue authorizing the extension of the maturity, on the terms presented, of the company's outstanding term notes in the amount of \$25 million payable to said group of commercial banks, and further authorizing the company to issue and sell up to 1.8 million shares of common stock, \$5 par value, pursuant to the said plan in addition to the 300,000 such shares previously authorized to be issued pursuant to said plan.

#### Order

Based 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 extend until January 7, 1982, the maturity of its term notes in the aggregate amount of \$25 million presently payable on January 5, 1981, to the 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 National Trust and Savings Association	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 Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell up to 1.8 million shares of common stock, \$5 par value, pursuant to the company's dividend reinvestment and common stock purchase plan, in addition to the 300,000 shares of common stock previously authorized by this commission to be issued pursuant to the said plan; and it is

Further ordered, that the proceeds from the sale of said common stock shall be used for the purpose of discharging and repaying outstanding short-term notes of said company, to pay for the purchase and construction of additional property, and for other lawful corporate purposes; 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 to by its treasurer or an assistant treasurer, showing the disposition of the proceeds of said common stock, until the expenditure of the whole of said proceeds have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of December, 1980.

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NH.PUC\*12/18/80\*[78776]\*65 NH PUC 639\*Ossipee Water Company

[Go to End of 78776]

## **Re Ossipee Water Company**

DR 80-258, Order No. 14,624

65 NH PUC 639

New Hampshire Public Utilities Commission

December 18, 1980

PETITION of a water company to increase rates; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Ossipee Water Company, a public utility engaged in the business of supplying water service in the state of New Hampshire, on December 5, 1980, filed with this commission its tariff, NHPUC No. 7 — Water, providing for increased annual revenue of \$21,481; 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. 7 — Water, of Ossipee Water Company be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of December, 1980.

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NH.PUC\*12/22/80\*[78777]\*65 NH PUC 640\*Small Energy Producers and Cogenerators

[Go to End of 78777]

### Re Small Energy Producers and Cogenerators

DE 79-208, Eighth Supplemental Order No. 14,628

65 NH PUC 640

New Hampshire Public Utilities Commission

December 22, 1980

ORDER setting forth standards to determine eligibility of rates paid for power generated by limited producers.

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ELECTRICITY, § 4 — Qualifications for sale of electric energy — Small wind-power producers.

[N.H.] The commission ordered that limited electric energy producers other than hydroelectric producers must adhere to commission guidelines regarding energy production and recordation in consideration of qualifications for sale of such energy.

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BY THE COMMISSION:

Supplemental Order

Whereas, on July 23, 1979, this commission issued Supplemental Report and Order No. 13,744 in DE 78-232 and DE 78-233 (64 NH PUC 244) setting forth standards to determine eligibility of rates paid for power generated by limited power producers; and

Whereas, those standards were limited to producers of hydroelectric generating facilities; and

Whereas, this commission now determines a need for standards applicable to producers of windpower generated by qualifying producers; it is

Ordered, that the following shall be met by limited electrical energy producers of other than for hydroelectric production in consideration of qualifications for sale of electric energy:

1. A generating station will undergo an annual audit to determine its estimated capability

during the period November 1st through February 28th each year. The audit shall be performed under the direction of this commission, at commission expense.

2. Generation output shall be recorded so as to provide accurate monthly production reports. Copies of production reports shall be submitted to this commission by the party responsible for reading and maintaining the metering equipment. Accuracy of the metering equipment shall be the responsibility of that party and shall be verified annually to this commission. If the producer is not required by this commission to have separate equipment for metering output, Par (2) shall be waived.

3. Each producer of over 100 kilowatt capacity shall implement procedures which will provide immediate notification to the purchaser in the event of plant shut-down and re-start.

4. Qualifying wind power producers will be eligible for rates applicable to energy produced from other than reliable capacity sources.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 1980.

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NH.PUC\*12/24/80\*[78773]\*65 NH PUC 633\*Utility Advertising

[Go to End of 78773]

### Re Utility Advertising

Intervenors: Northern Utilities, Inc., Manchester Gas Company, and Gas Service, Inc.

DE 79-63, Supplemental Order No. 14,620

65 NH PUC 633

New Hampshire Public Utilities Commission

December 24, 1980

ORDER setting forth commission viewpoints regarding utility advertising.

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1. COMMISSIONS, § 36 — Authority to promulgate rules.

[N.H.] The commission by statute has the ability and duty to promulgate rules which consider the interests of utilities and consumers. p. 633.

2. EXPENSES, § 52 — Expenses of nonutility business.

[N.H.] The commission stated that advertisement expense of a gas company primarily for the appliance business should not be assessed to consumers since any appliance business is nonutility. p. 634.

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APPEARANCES: as noted previously.

BY THE COMMISSION:

Report

Within the appropriate time frame, Northern Utilities, Inc., Manchester Gas Company, and Gas Service, Inc. (hereafter referred to as "the gas utilities"), filed a motion for rehearing to the commission's rule-making decision on utility advertising.

[1] The gas utilities allege that the commission's report and order is unreasonable, because these utilities are not governed by PURPA due to their level of revenues. The commission recognized this in its initial order in this proceeding. However, the commission also noted that the commission has a policy of treating all utilities by the same standard. Furthermore, PURPA did not vest this commission with rule-making powers. The commission by New Hampshire statute has the ability and duty to promulgate rules which consider the interests of utilities and consumers. In setting forth the rules on utility advertising, the commission is carrying forward this obligation. The fact that these standards are similar to the PURPA standards is of little consequence, since the commission is basing its decision on the necessity for just and reasonable rates. Finally, the gas utilities cannot ignore the goals of PURPA, which specifically elevate conservation, efficiency, and equity to legal national goals.

The gas utilities also contend that the commission failed to recognize the specific concerns of the gas industry. This allegation is simply not true.

Tariff pages of these gas utilities, as well as reports of this commission, reveal that all of the gas utilities impose partial curtailment policies on commercial and industrial customers. Furthermore, pursuant to the commission's duty to be informed, the commission is aware that the gas utilities have waiting lists of residential customers seeking to convert from oil to gas. Based on these factors, allocating the costs for promotional

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advertising to consumers would be highly unreasonable.

Other factors that substantiate rejection of this motion include the deregulation in the price of natural gas and the increased cost of new gas supplies. A clear example is the pending petition by two of these utilities for natural gas purchases from Canada at prices substantially in excess of those presently in existence. Re Gas Service, Inc. ERA Docket No. 80-18-LNG. While those prices may be reasonable given the other options available, the commission cannot find that costs for promotional advertising can be justified during the foreseeable future.

[2] The commission requested each company to provide its advertisements over the last two years. While Manchester Gas ignored the request, the other companies complied. These advertisements are primarily for the appliance business. Since any appliance business is nonutility by supreme court decision, *Legislative Utility Consumers' Council v Public Service Co. of New Hampshire* (1979) 119 NH — , 31 PUR4th 333, 402 A2d 626, these advertisements should not be assessed to consumers.

The costs of political advertising have been routinely excluded by this commission in its

decisions. This philosophy is supported by numerous other state commission decisions, as well as the chart of accounts used by this commission. Any suggestion that this rule is new in its effect is simply incorrect.

The commission considered the viewpoints of all parties in excluding institutional advertising costs from those chargeable to consumers. After this review, the commission reached the conclusion that there was not a compelling reason to assess these costs to consumers. Our experience with advertisements in cases before this commission is that numerous arguments are precipitated over the question of whether an advertisement is promotional and/or political, or is institutional. Since these rules are in part designed to remove obstacles from the orderly flow of regulation, the commission believes the rule as it relates to institutional advertisements to be proper.

The commission clearly recognizes that the utilities subject to our jurisdiction have the constitutional right to advertise. The commission is only seeking to regulate the allocation of the costs between, above, and below the line.

Upon consideration of all the arguments presented, the commission denies the motion for rehearing.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that the motion for rehearing filed by Concord Natural Gas Corporation, Gas Service, Inc., Manchester Gas Company, and Northern Utilities Inc., be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of December, 1980.

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NH.PUC\*12/24/80\*[78778]\*65 NH PUC 641\*Connecticut Valley Electric Company, Inc.

[Go to End of 78778]

## **Re Connecticut Valley Electric Company, Inc.**

DR 80-178, Third Supplemental Order No. 14,629

65 NH PUC 641

New Hampshire Public Utilities Commission

December 24, 1980

ORDER granting a motion for rehearing regarding a purchased power adjustment.

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BY THE COMMISSION:

Report



On August 11, 1980, the Connecticut Valley Electric Company, Inc., file with the commission a proposed purchased power adjustment by which it sought to recover increased costs of wholesale electric power. The company had proposed a surcharge of \$0.01008 per kwh on all bills rendered on or after September 8, 1980. The filing was suspended and subsequently brought to hearing on September 30, 1980. Following the duly noticed public hearing, Order No. 14,537 (65 NH PUC 495) was issued allowing the surcharge to become effective with all bills rendered on or after September 30, 1980. That effective date and a subsequent one-time surcharge apparently was adequate for residential customers who are billed bimonthly. Commercial and industrial customers, on the other hand, are billed monthly. Accordingly, the specified effective date only allowed recovery to September 1st at the most for these classes. Because of this fact and the resulting losses in revenue, the company filed with the commission a motion for rehearing on November 7, 1980. In that motion the company sought corrective action by the commission to remedy this discrepancy which had occurred between its monthly and bimonthly billed customers.

The commission accepts the company's arguments and will allow the motion. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that Connecticut Valley Electric Company, Inc., motion for rehearing be, and hereby is granted; and it is

Further ordered, that so much of commission Order No. 14,537 which reads " ... effective with all bills rendered on or after September 30, 1980 ... " be, and hereby is, amended to read " ... effective with all bimonthly bills rendered on or after September 30, 1980, and all monthly bills rendered on or after August 31, 1980 ... "; and it is

Further ordered, that Connecticut Valley Electric Company, Inc., filed with the commission, for effect on the date of this order, Third Revised Page 14 to its tariff, said page to document the necessary surcharge(s) to recover lost revenues from the monthly billed customers.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of December, 1980.

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NH.PUC\*12/26/80\*[78779]\*65 NH PUC 642\*Woodsville Water and Light Department

[Go to End of 78779]

## Re Woodsville Water and Light Department

DR 80-177, Second Supplemental Order No. 14,631

65 NH PUC 642

New Hampshire Public Utilities Commission

December 26, 1980

PETITION of a utility to recover lost revenues through the use of a surcharge; granted.

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RATES, § 332 — Purchased power adjustment — Surcharge for undercollection.

[N.H.] The commission authorized a utility to implement a surcharge over a 12-month period to recover lost revenues resulting from a delay in collections, pursuant to an approved purchased power adjustment.

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BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 14,574 (65 NH PUC 550) authorized the Woodsville Water and Light Department to implement a purchased power adjustment of \$0.009178 per kwh to be applied to all bills rendered on or after September 30, 1980; and

Whereas, said order could not be implemented until the November billing cycle, resulting in lost revenues of \$6,784.19 for the October billing cycle; and

Whereas, the department proposes that recovery of this revenue be accomplished by surcharge over a 12-month period in the amount of \$0.0719 per 100 kwh; it is

Ordered, that Woodsville Water and Light Department be, and hereby is, authorized to implement a 12-month surcharge of \$0.0719 per 100 kwh effective with all bills rendered on or after January 1, 1981; and it is

Further ordered, that accurate records be maintained by the department to ensure proper recovery of the \$6,784.19, terminating the surcharge in less than twelve-months should early recovery occur; and it is

Further ordered, that the department file with the commission a one-page supplement to its tariff, NHPUC No. 3 — Electricity, to document this surcharge, said supplement to become effective on January 1, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of December, 1980.

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NH.PUC\*12/26/80\*[78780]\*65 NH PUC 643\*Northern Utilities, Inc.

[Go to End of 78780]

**Re Northern Utilities, Inc.**

DE 80-87, DR 80-93, Second Supplemental Order No. 14,632

65 NH PUC 643

New Hampshire Public Utilities Commission

December 26, 1980

ORDER denying a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing on behalf of Northern Utilities, Inc. with respect to Supplemental Order No. 14,501 filed on October 10, 1980 (65 NH PUC 453); and

Whereas, after full consideration of the allegations in said motion and after weighing the reasons presented in said motion; it is hereby

Ordered, that the motion for rehearing on behalf of Northern Utilities, Inc. with respect to Supplemental Order No. 14,501 be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of December, 1980.

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NH.PUC\*12/29/80\*[78781]\*65 NH PUC 643\*Keene Gas Corporation

[Go to End of 78781]

**Re Keene Gas Corporation**

DR 80-188, Supplemental Order No. 14,635

65 NH PUC 643

New Hampshire Public Utilities Commission

December 29, 1980

PETITION of a gas company for an increase in rates; granted.

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1. VALUATION, § 25 — Date of valuation — Test-year period.

[N.H.] The commission stated a preference for the utilization of a 13-month test-year average when available but accepted the beginning and end-of-test-year methodology where the company's increase in rate base was roughly linear. p. 644.

2. VALUATION, § 290 — Working capital — Factors to be included.

[N.H.] The commission notified a utility that deferred taxes, investment tax credits, customer deposits, and an allowance for operation and maintenance should be included in the working capital computation of rate base. p. 645.

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APPEARANCES: Harold Sheldon, president, Keene Gas Corporation, for petitioner; Gerald L. Lynch for the Legislative Utility Consumers' Council.

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BY THE COMMISSION:

Report

On August 27, 1980, Keene Gas Corporation (hereinafter called the "company"), a duly organized New Hampshire corporation operating as a public gas utility in Keene, New Hampshire, filed with this commission revisions to its tariff, NHPUC No. 1, proposing to increase its rates by \$144,821 or 20.1 per cent effective October 1, 1980.

On September 23, 1980, the petition was suspended pending investigation and review.

On November 10, 1980, an order of notice was issued setting the petition for hearing on December 10, 1980, at the commission's offices.

On December 10, 1980, the duly noticed public hearing was held at the commission's offices in Concord.

The company prefiled exhibits based on the test period August 3, 1979, to July 31, 1980. In addition, a report of proposed rate changes, the budget for August, 1980, through July, 1981, and exhibits related to sales volumes and the LP division were prefiled.

*Cost of Capital*

The company in its Exh 2 requested a cost of capital including attrition of 12.5 per cent. This was comprised of a weighted cost rate on debt of 10.5 per cent, equity of 17.0 per cent, and 0.24 per cent for attrition.

Analysis of the debt rate shows the 10.5 per cent to be in error, and the commission will use 10.0 per cent.

As far as equity is concerned, the commission recognizes the company is not planning to issue any additional equity in the near future, or anticipating any sales in shares of its stock. The company tied its 17.0 per cent request to the current debt rates in the vicinity of 14 - 16 per cent being paid by Moody's rated companies. The commission realizes these debt rates are at or near all time historically high levels and anticipates the rates will decline in the near future. For this reason we will reduce the company's request to 13.5 per cent, which we deem a more reasonable figure and one closer to rates this commission has recently allowed for comparable utilities.

The commission accepts the attrition figure of 24 basis points.

The adjusted cost of capital is 11.19 per cent, as computed below.

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

	Amount	Rate	Weighted Cost Rate
Debt	\$200,000	10.0%	7.30%
Equity	74,121	13.5	3.65

Total Capital	\$274,121	10.95
Attrition		0.24
Cost of Capital		11.19%

### *Rate Base*

[1] The company in Exh 3 calculated the test-year average rate base to be \$154,454. The average utilized was based on beginning and end of test-year figures. The commission prefers utilization of a 13-month average when available, but in this case where the company's increase in rate base was roughly linear, we will accept the beginning and end of test-year methodology.

### Page 644

[2] In computing the average rate base, the company did not include or exclude any working capital items except materials and supplies. As this is the company's first rate request filing before this commission and it is not requesting the full increase it is entitled to request, the commission will accept a rate base of \$154,454, but notifies the company that in future filings deferred taxed, investment tax credits, customer deposits, and an allowance for operation and maintenance should be included in the working capital computation of rate base.

### *Test-year Revenues and Expenses*

Company Exh 5 showed gross revenues for the period of \$735,971, and expenses of \$881,419, resulting in a utility operating loss of \$145,448. This figure must be adjusted by \$30,280, which was the overcollection payment from Gas Service, Inc., the result is a loss of \$115,168.

An analysis of the figures which resulted in this loss shows that without a rate increase, even taking into account a 5 per cent growth in sales, a corresponding or greater loss can be anticipated in the year following the test year.

The utility did not pay any federal income taxes in the test year, however the LP division, which showed a gross profit, was able to take advantage of \$2,800 plus of the utility's ITC. In the future, ITC benefits arising from the utility should be used to benefit the utility's customers.

### *Required Rate Increase*

The company requested a rate increase of \$144,821, even though it thought it could substantiate a much larger increase.

Since the result of multiplying the accepted rate base by the accepted cost of capital or \$17,283, plus the adjusted utility loss for the test year, plus known increases for labor, pension, and rent, is in excess of the requested increase, without making any allowances for additional taxes, the commission will accept the company's request of \$144,821.

Our order will issue accordingly.

### *Rate Structure*

Since the company has not conducted a cost-of-service study; and is requesting the rate increase be spread evenly, on a percentage basis, the commission will accept the proposed rate changes as filed.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Keene Gas Corporation be, and hereby is, authorized to increase its rates 20.1 per cent or \$144,821; and it is

Further ordered, that the Keene Gas Corporation be, and hereby is, authorized to increase its rates as shown in NHPUC No. 1 — Gas, First Revised Page 20, First Revised Page 21, and First Revised Page 22; and it is

Further ordered, that this increase shall take effect with all service rendered on or after the 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 territory served.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of December, 1980.

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NH.PUC\*12/29/80\*[78782]\*65 NH PUC 646\*Exeter and Hampton Electric Company

[Go to End of 78782]

## **Re Exeter and Hampton Electric Company**

DR 80-256, Order No. 14,636

65 NH PUC 646

New Hampshire Public Utilities Commission

December 29, 1980

ORDER approving a tariff supplement.

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BY THE COMMISSION:

Order

Whereas, Exeter and Hampton Electric Company has filed with the commission Supplement No. 3 to its tariff, NH PUC No. 14, by which it proposes to credit all customer bills with moneys received from its wholesaler, Public Service Company of New Hampshire, as a result of settlement of Federal Regulatory Commission Docket Nos. ER76-285 ([1979] 29 PUR4th 242, Opinion No. 37) and ER78-339; and

Whereas, said refunds are to be received from the wholesaler over a six-month period beginning in January, 1981; and

Whereas, said credits to consumers appear to be in the best interest of those consumers,

particularly during these periods of high fuel adjustment; it is

Ordered, that Supplement No. 3 to Exeter and Hampton Electric Company tariff, NHPUC No. 14, be, and hereby is, approved for effect on January 1, 1981; and it is

Further ordered, that the company continue these credits until all refunds have been credited and full accounting made to the commission.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of December, 1980.

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NH.PUC\*12/29/80\*[78783]\*65 NH PUC 646\*Concord Electric Company

[Go to End of 78783]

### Re Concord Electric Company

DR 80-255, Order No. 14,637

65 NH PUC 646

New Hampshire Public Utilities Commission

December 29, 1980

ORDER approving a tariff supplement.

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Page 646

BY THE COMMISSION:

Order

Whereas, Concord Electric Company has filed with the commission Supplement No. 4 to its tariff, NHPUC No. 6, by which it proposes to credit all customer bills with moneys received from its wholesaler, Public Service Company of New Hampshire, as a result of settlement of Federal Regulatory Commission Docket Nos. ER76-285 ([1979] 29 PUR4th 242, Opinion No. 37) and ER78-339; and

Whereas, said refunds are to be received from the wholesaler over a six-month period beginning in January, 1981; and

Whereas, said credits to consumers appear to be in the best interest of those consumers, particularly during these periods of high fuel adjustment; it is

Ordered, that Supplement No. 4 to Concord Electric Company tariff, NHPUC No. 6, be, and hereby is, approved for effect January 1, 1981; and it is

Further ordered, that the company continue these credits until all refunds have been credited and full accounting made to the commission.

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

December, 1980.

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NH.PUC\*12/30/80\*[78784]\*65 NH PUC 647\*Granite State Electric Company

[Go to End of 78784]

### Re Granite State Electric Company

DR 80-245. Order No. 14,638

65 NH PUC 647

New Hampshire Public Utilities Commission

December 30, 1980

PETITION of an electric company to revise its tariff; 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 1, 1980, filed with this commission certain revisions of its tariff NHPUC No. 8 — Electricity, providing for purchased power cost adjustments W-3(C) and W-3; 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 there on; it is Ordered, that Original and First Revised Page 16-I, Second and Third Revised Page 41, and Eighth and Ninth Revised Page 40 of tariff, NHPUC No. 8

**Page 647**

— 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 thirtieth day of December, 1980.

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NH.PUC\*12/31/80\*[78785]\*65 NH PUC 648\*Exeter and Hampton Electric Company

[Go to End of 78785]

### Re Exeter and Hampton Electric Company

DR 79-91, Eighth Supplemental Order No. 14,641



65 NH PUC 648

New Hampshire Public Utilities Commission

December 31, 1980

ORDER resolving issues raised by an electric company's motion for rehearing.

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1. EXPENSES, § 60 — Insurance benefits — Exclusion from test-year expenses.

[N.H.] The commission disallowed from test-year expenses the cost associated with health insurance benefits; rather, the commission stated that there should be an addition to rate base because of the capitalization of the expenses. p. 649.

2. EXPENSES, § 89 — Rate case expense — Recoupment period.

[N.H.] The commission allowed an electric company an 18-month recoupment of rate case expenses rather than the normal three-year requirement because the company was not large and rate cases could easily result in a greater impact on operations. p. 649.

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APPEARANCES: as noted previously.

BY THE COMMISSION:

Report

In this proceeding counsel for Exeter & Hampton Electric has filed a 63-page motion for rehearing and subsequent motions related to rate case expenditures and the time period over which the aforementioned is to be collected.

The commission has, by previous orders, resolved some of the issues raised by the motion for rehearing, specifically, the areas of "unrecovered fuel costs and refunds" and "the cost-of-service study." Since these subsequent commission actions have resulted in no action by the company, the commission presumes that the issues raised are no longer in controversy.

The commission would note that the cost-of-service study lacks the essential load research to be relied upon and no error can be found in the commission's establishment of a minimum charge and the flat rates for residential customers, nor does the rate increase allowed fall disproportionately or illegally for any customer class.

The company complains that the commission's findings as to cost of capital are in error. The commission finds no substance to this assertion. The determination, made clearly, is within the studies conducted by staff. Furthermore, the company's presentation was correctly found to be wanting as to

Page 648

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significant risk measurement which, contrary to the assertion of the company, have been historically used by this commission. Re Public Service Co. of New Hampshire (1978) 64 NH

PUC 127.

Exeter & Hampton raises concern over the fact that no attrition allowance has been granted. The commission finds that this argument is missing certain adjustments made by the commission in arriving at just and reasonable rates. The commission has pro forma expenses that are known and measurable provided recovery of the lock up and approved a new design for the fuel adjustment clause. Each of these factors will contribute significantly to minimizing attrition especially in the first year of the rates.

The commission stated that at best a 0.20 per cent attrition allowance could be allowed. However, given these other factors no award of a specific attrition allowance was given. Since the pro forma expense adjustments mitigate against attrition for at most a year, the commission finds that some additional recognition of attrition a year from the date of Order No. 14,231 (65 NH PUC 209) should be allowed. At that time the commission will allow a 0.20 per cent attrition factor to be applied to the rate base times rate of return calculation used in that opinion. This additional allowance is to be collected on a per kwh basis from all customer classes.

The commission does not find merit in the company's assertions of an unfair burden of proof or confiscation. The burden to establish and quantify attrition is clearly established by the authorities cited by the commission. The aforementioned offsets to attrition do not lend support to any contention of confiscation. Evidence within the record clearly establish the rate base and cost of capital found by the commission which thereby leaves any contention of confiscation groundless.

Exeter & Hampton attacks the use of the balance sheet method. The method was employed by staff and the commission continues to find the staff calculation to be a reasonable balance between the utility and the consumer. Furthermore, the figure used is an accurate reflection of the working capital needs of this utility.

[1] Exeter & Hampton next asserts that the commission's disallowance from test-year expenses of \$21,903 associated with Blue Cross-Blue Shield benefits should have been matched by a \$21,903 addition to rate base. The commission agrees that there should be an addition to rate base because of the capitalization of these expenses. However, the figure of \$21,903 may not be correct since that is a year-end figure. The commission would welcome the monthly breakdown of this item for the test year so that an average could be used in adjusting the rate base.

The commission also accepts the company's contention that a typographical error compounded by a mathematical error should reduce the rate increase by \$ 1 ,440.

[2] Finally, the company objects to the commission's requirement to spread the rate case expenses over three years. The company seeks an 18-month recoupment. The commission has traditionally used a two-year recovery given the statutory considerations as to filing cases with the commission. Exeter & Hampton is not a large company and rate cases can easily result in a greater impact on operations than a larger company. Therefore, the commission will allow the recovery period to be changed

from thirty-six months to eighteen months.

The aforementioned changes in the commission's previous order, attrition allowance, revenue reduction from calculation error, rate case expense recoupment, and the second step attrition allowance are to be netted and applied to bills one year from the date of commission Order No. 14,231 on a per kwh basis. Our order will issue accordingly.

Supplemental Order

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

Ordered, that the motions for rehearing filed by Exeter & Hampton Electric Company are denied in part and approved in part.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1980.

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NH.PUC\*12/31/80\*[78786]\*65 NH PUC 650\*Public Service Company of New Hampshire

[Go to End of 78786]

**Re Public Service Company of New Hampshire**

DR 79-187, 45th Supplemental Order No. 14,642

65 NH PUC 650

New Hampshire Public Utilities Commission

December 31, 1980

ORDER authorizing a utility to recoup past undercollections.

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RATES, § 120 — Reasonable rates — Present and future.

[N.H.] Rates should be reasonable both at the date of issuance and for the foreseeable future.

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APPEARANCES: as noted previously.

BY THE COMMISSION:

Report

The commission requested further briefs by the parties on the question of whether or not Public Service Company of New Hampshire (PSNH) was entitled to recoup the difference between the rates allowed as of December 26, 1979, and those allowed under our decision of June 7, 1980.

The question must be divided into two parts. First, there is no reasonable dispute that the

differential between the higher bonded rates and the rates found as of June 7, 1980, must be refunded. However, the question of the difference between the emergency rates and the June 7th rates has not yet been addressed.

The parties argue over whether the rates effective December 26, 1979, are temporary, temporary and emergency, or emergency. The Legislative Utility Consumers' Council (LUCC) contends that the rates are emergency and, therefore, the provisions of RSA 378:29

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do not apply. The commission cannot find legal or rational support for this contention. Assuming that the rates are only emergency in nature, such a situation is far more critical than temporary rates. Whether one subscribes to the Kenison opinion or the Blandin opinion, 97 NH 549, it is clear that emergency rates are awarded under far more critical terms than temporary rates. To deny the protection of RSA 378:29, in a more critical financial situation is not logical or reasonable.

This commission is bound by statute to award recoupment by RSA 378:29 where applicable and refunds where applicable under RSA 378:30. In *Re New England Teleph. & Teleg. Co.* (1980) 65 NH PUC 564, 40 PUR4th 29, the commission ordered refunds because rates in effect resulted in a higher level of rates than was reasonable. The sword cuts both ways and PSNH is entitled to recoupment.

The commission, however, does not accept PSNH's contention that events after December 26, 1979, should be used in determining the level of rate recoupment. The commission in setting rates follows the standard set forth by the supreme court: that rates should be reasonable both at the date of issuance and for the foreseeable future. *New England Teleph. & Teleg. Co. v New Hampshire* (1973) 113 NH 92, 98 PUR3d 253, 302 A2d 814.

The commission in complying with this standard updated the capital structure through June of 1980. Furthermore, an attrition allowance was allowed as was recognition of a new utility assessment tax after June 30, 1980. Recognition was also given in the cost of common equity to reflect the Standard & Poor's rating reduction of PSNH and the worsening financial picture. These factors led to a higher cost of common equity than would have been the case as of December 26, 1979. However, the commission has noted that any attempt to establish a common equity cost rate anytime during the case was equivalent of attempting to pinpoint a rollercoaster.

The commission believes that a proper recoupment should not include the attrition allowance, the utility assessment tax, pro forma, or the updated capital structure. The capital structure should be as of December 31, 1979, and for lack of a better number, the cost rate as to common equity used in the June 7, 1980, decision can be used.

The commission believes that the excluded updated information is the aspect of the decision that sets the "reasonable rates for the foreseeable future" in the same fashion that secondary increases for any changes in wages or property taxes are allowed.

One other consideration must also be recognized in determining this question under the just and reasonable standard; namely, the rate of return earned in the months prior to the setting of emergency rates. Public Service Company of New Hampshire earned in excess of the allowed

rate of return nearly up to the time of setting emergency rates. Yet due to inflation and the increasing cost of capital, the return earned slipped dramatically before the setting of emergency rates and continued after the setting of emergency rates. In Dickens' words, the time period of January through June, 1980, were the "worst of times." The commission reflected this situation in setting rates for the future. However, the commission finds this level of recoupment to be proper given the aforementioned circumstances.

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 hereby

Ordered, that PSNH file tariff pages to collect this level of recoupment over a period of eight months on a per kwh basis beginning April 1, 1981.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1980.

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NH.PUC\*12/31/80\*[78787]\*65 NH PUC 652\*Connecticut Valley Electric Company, Inc.

[Go to End of 78787]

## **Re Connecticut Valley Electric Company, Inc.**

DR 80-92, Third Supplemental Order No. 14,643

65 NH PUC 652

New Hampshire Public Utilities Commission

December 31, 1980

ORDER approving tariff pages.

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BY THE COMMISSION:

Supplemental Order

Whereas, Connecticut Valley Electric Company, Inc. filed with this commission certain revisions of its tariff, NHPUC No. 4 — Electricity, said revisions to document an increase in revenue authorized by Order No. 14,612 (65 NH PUC 624); and

Whereas, said filing also included the roll-in of a purchased power cost adjustment of \$0.01008 per kwh which had been authorized as a surcharge by Order No. 14,537 (65 NH PUC 495); and

Whereas, actions by the Federal Energy Regulatory Commission have finalized Docket No. ER80-422 from which the PPCA resulted; it is

Ordered, that Third Revised Pages 17, 19.1 and 19.2; Fifth Revised Pages 19. 21, 23, 25, 28 and 32; and Sixth Revised Pages 20, 24, 30 and 31 of Connecticut Valley Electric Company, Inc. tariff, NHPUC No. 4 — Electricity, be, and hereby are, approved for effect as of January 1, 1981.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1980.

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NH.PUC\*12/31/80\*[78788]\*65 NH PUC 653\*Gas Service, Inc.

[Go to End of 78788]

**Re Gas Service, Inc.**

DR BO-208, Second Supplemental Order No. 14,645

65 NH PUC 653

New Hampshire Public Utilities Commission

December 31, 1980

ORDER approving a tariff page and requiring credits to erroneously billed customers.

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BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 14,556, dated November 6, 1980 (65 NH PUC 536), approved a cost of gas adjustment for the Laconia division of Gas Service, Inc., in the amount of \$0.0002 per therm; and

Whereas, Gas Service, Inc. now advises the commission that the adjustment of \$0.0002 per therm was calculated erroneously, using the summer-base cost of gas rather than the winter-base cost of gas; and

Whereas, the correct calculation of the winter 1980-81 cost of gas adjustment is a credit of \$0.0068 for the Laconia division, and the company has filed its corrected tariff page to reflect this correction; it is

Ordered, that Section 4, 19th Revised Page 3 be, and hereby is, approved for effect November 1, 1980; and it is

Further ordered, that Gas Service, Inc.; during the billing cycle for January, 1981, credit each erroneously billed customer with the difference between the \$0.0002 cost of gas adjustment and the \$0.0068 cost of gas adjustment credit.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1980.

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## Endnotes

### 1 (Popup)

<sup>1</sup>"Includes a joint service territory in which New Hampshire Electric Cooperative, Inc., is also authorized to serve."

### 2 (Popup)

<sup>1</sup>The commission incorrectly stated four quarters in the original order. However, this method is in keeping with the 13-month approach used with utilities that bill monthly.

### 3 (Popup)

<sup>1</sup>The Rhode Island Attorney General agrees with NEPCO on the matter of jurisdiction.

### 4 (Popup)

<sup>1</sup>New England Power Company coal conversion plans have raised significant environmental considerations that continually postpone the use of coal. Recently, a NEPCO representative testified before this commission that coal may never be burned in some of the units slated for conversion.

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### 6 (Popup)

<sup>2</sup>New England Power Company has a 90 mw entitlement in the Colson Cove unit through MEPCO. In 1928 New Hampshire had over 45 per cent of its electrical energy needs met by hydro. *Electrical World*, June 2, 1928, p. 1179. In 1951, the percentage was 49 per cent. By 1979 the percentage of hydro was 5 per cent with an actual drop in total mwh of 35 per cent.

### 7 (Popup)

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### 8 (Popup)

<sup>3</sup>The Congressional Budget Office has predicted that oil prices will rise to *at least* \$52 a barrel prior to 1985. While No. 6 residual may not rise as rapidly, the commission is dealing with estimates and the tenfold increase in the price of oil over the past decade is not easily forgotten; nor should it be.

### 9 (Popup)

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barrel prior to 1985. While No. 6 residual may not rise as rapidly, the commission is dealing with estimates and the tenfold increase in the price of oil over the past decade is not easily forgotten; nor should it be.

**10 (Popup)**

<sup>4</sup>Transcript, p. 6-60.

**11 (Popup)**

<sup>4</sup>Transcript, p. 6-60.

**12 (Popup)**

<sup>5</sup>The commission agrees with these latter arguments and believes that in the long run "overestimations" and "underestimations" of avoided costs will balance out. Volume 45, *Federal Register* No. 38, p. 12224.

**13 (Popup)**

<sup>5</sup>The commission agrees with these latter arguments and believes that in the long run "overestimations" and "underestimations" of avoided costs will balance out. Volume 45, *Federal Register* No. 38, p. 12224.

**14 (Popup)**

<sup>6</sup>Transcript, p. 2-12, February 8, 1980.

**15 (Popup)**

<sup>6</sup>Transcript, p. 2-12, February 8, 1980.

**16 (Popup)**

<sup>7</sup>The rules promulgated by the FERC clearly encourage this approach. Many commenters have stressed the need for certainty with regard to return on investment in new technologies. The commission agrees with these latter arguments. Volume No. 45, *Federal Register* No. 38, p. 12224.

**17 (Popup)**

<sup>7</sup>The rules promulgated by the FERC clearly encourage this approach. Many commenters have stressed the need for certainty with regard to return on investment in new technologies. The commission agrees with these latter arguments. Volume No. 45, *Federal Register* No. 38, p. 12224.

**18 (Popup)**

<sup>8</sup>"The commission intends that the rates for purchases be based, at the option of the qualifying facility, on either the avoided costs at the time of delivery or the avoided costs calculated at the time the obligation is incurred. This charge enables a qualifying facility to establish a fixed contract price for its energy and capacity at the outset of its obligation or to receive the avoided costs determined at the time of delivery." Volume 45, *Federal Register* No. 38, p. 12224.

**19 (Popup)**



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**20 (Popup)**

<sup>9</sup>Such a minute-by-minute evaluation was rejected by the Federal Energy Regulatory Commission, Volume 45, *Federal Register* No. 38, p. 12224. Where a contract is signed, as long as the total payment is not in excess of the estimated avoided costs over the duration of the contract, the PURPA standards are met. *Id.*, Volume 45, *Federal Register* No. 38, p. 12224, last paragraph.

**21 (Popup)**

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**22 (Popup)**

<sup>10</sup>Transcript, February 8, 1980, p. 19. Granite State Electric Company-New England Power Company's witness Newsham stated that he was unaware of any site in New Hampshire that could be brought into service at less than five cents per kwh. Inquiry as to higher levels of costs was not conducted.

**23 (Popup)**

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<sup>11</sup>FERC Project Nos. 3254, 3229, 3094, for example.

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**26 (Popup)**

<sup>12</sup>Transcript, pp. 6-53 and 54.

**27 (Popup)**

<sup>12</sup>Transcript, pp. 6-53 and 54.

**28 (Popup)**

<sup>13</sup>Volume 45, *Federal Register* No. 38, p. 12216.

**29 (Popup)**

<sup>13</sup>Volume 45, Federal Register No. 38, p. 12216.

**30 (Popup)**

<sup>14</sup>Re Niagara Mohawk Power Corp. Case 27538 et al. Opinion No. 80-7 Feb. 29, 1980 (NY); Re Kansas City Power & Light Co. Case No. ER-80-204, March 18, 1980 (Mo.); NARUC Bulletin, July 28, 1980, page 15.

**31 (Popup)**

<sup>1</sup>August 19, 1980, Tr. p. 34.

**32 (Popup)**

<sup>2</sup>August 19, 1980, Tr. pp. 26, 27.

**33 (Popup)**

<sup>3</sup>DF 79-100-6205 — August 6, 1979, Tr. pp. 3-13 through 3-24, of which commission takes administrative notice.

**34 (Popup)**

<sup>4</sup>DF 79-100-6205 — August 6, 1979, Tr. p. 3-14.

**35 (Popup)**

<sup>5</sup>DF 79-100-6205 — August 6, 1979, Tr. pp. 3-14, 15.

**36 (Popup)**

<sup>6</sup>DF 79-100-6205 — August 6, 1979, Tr. p. 3-15.

**37 (Popup)**

<sup>7</sup>The commission's evaluation reveals that the request would be approximately \$50 million or the amount of money needed to replace CWIP. Interestingly, the LUCC in its most recent federal grant request indicates that they anticipate a new rate request of \$35-40 million in October or November of 1980.

**38 (Popup)**

<sup>8</sup>Transcript, August 19, 1980, pp. 10, 13.

**39 (Popup)**

<sup>9</sup>In the future work papers should be attached to testimony of this nature. The nine days taken by PSNH to file the work papers created difficulty in allowing the commission a chance to evaluate the validity of the assumptions. The fact that Mr. Merrill initially submitted incorrect fuel estimates effectively precluded a competent analysis, prior to hearing. How any party could accept or reject the testimony without these underlying assumptions is beyond our comprehension. The commission would, in the future, expect more thoughtful analysis rather than mere acceptance or rejection of data based on considerations other than meaningful regulation.

**40 (Popup)**

<sup>10</sup>Volume V, p. 101 MDPU Nos. 20035, 20109 & 20172, September 24, 1979.

**41 (Popup)**

<sup>11</sup>Transcript, August 19, 1980, p. 38.

**42 (Popup)**

<sup>12</sup>Volume XXXI, p. 117, MDPU Nos. 20035, 20109 & 20172, January 30, 1980, and Tr. August 19, 1980, p. 75.

**43 (Popup)**

<sup>13</sup>Prospectus, July 9, 1980, pp. 6, 10. Transcript, August 19, 1980, p. 4.

**44 (Popup)**

<sup>14</sup>Transcript, August 19, 1980, p. 39.

**45 (Popup)**

<sup>15</sup>Transcript, August 19, 1980, pp. 41, 44.

**46 (Popup)**

<sup>16</sup>Transcript, August 19, 1980, pp. 41, 44, 75-77, 91, 92. If full scale construction on Seabrook will not continue until the transfers of interest are in hand, then even a January, 1981, starting date pushes the in-service dates to 1984 and 1986 for the two units.

**47 (Popup)**

<sup>17</sup>Transcript, August 19, 1980, p. 57-59.

**48 (Popup)**

<sup>1</sup>New England Power Company, first mortgage bonds, Series B, 3 per cent, dated July 1, 1948.

**49 (Popup)**

<sup>2</sup>New England Power Company Exh 1-D.

**50 (Popup)**

<sup>3</sup>Staff Exh No. 9 Schedule I.

**51 (Popup)**

<sup>4</sup>New England Power Company Exh 1-B.

**52 (Popup)**

<sup>5</sup>Re Grafton Power Co. (1929) 12 NH PSC 194, 201; Re Connecticut River Power Co. (1954) 36 NH PUC 302, 311, 312.

**53 (Popup)**

<sup>6</sup>Legislative Utility Consumers' Council Exh I.

**54 (Popup)**

<sup>7</sup>1980 United States census.

**55 (Popup)**

<sup>8</sup>Legislative Utility Consumers' Council Exh I.

**56 (Popup)**

<sup>9</sup>Legislative Utility Consumers' Council Exh I.

**57 (Popup)**

<sup>10</sup>Re Grafton Power Co. (1929) 12 NH PSC 194; commission file D-1222 Electrical World June 2, 1928, p. 1179. Re Small Power Producers and Cogenerators (1980) 65 NH PUC 415.

**58 (Popup)**

<sup>11</sup>Electrical World June 2 1928 p. 1179.

**59 (Popup)**

<sup>12</sup>Re Small Power Producers and Cogenerators (1980) 65 NH PUC 415.

**60 (Popup)**

<sup>13</sup>Staff Exh 9, Schedule VIII.

**61 (Popup)**

<sup>14</sup>Transcript, January 29, 1980, p. 24.

**62 (Popup)**

<sup>15</sup>Staff Exh 6, Schedule II.

**63 (Popup)**

<sup>16</sup>Staff Exh 9, Schedule IV.

**64 (Popup)**

<sup>17</sup>Commission dockets I-SF 14,829-14,831 (1979).

**65 (Popup)**

<sup>18</sup>Staff Exh 6, Schedule 4.

**66 (Popup)**

<sup>19</sup>DR 79-187 Report and Order No. 14-490 (65 NH PUC 433, 438, footnotes 12-16).

**67 (Popup)**

<sup>20</sup>Staff Exh 9.

**68 (Popup)**

<sup>21</sup>July 29, 1980, Tr. pp. 70-74.

**69 (Popup)**

<sup>22</sup>DR 79-187, Report and Order No. 13,962, ([1979] 64 NH PUC 458).

**70 (Popup)**

<sup>23</sup>DR 79-187, Report and Order No. 14,490 (65 NH PUC 433).

**71 (Popup)**

<sup>1</sup>Exhibit 16 — DR79-187.

**72 (Popup)**

<sup>1</sup>Transcript, Vol 20-138-139, March 10, 1980, and Emergency Proceeding, December 31, 1979, Transcript.

**73 (Popup)**

<sup>2</sup>Transcript, Vol 20-171-172.

**74 (Popup)**

<sup>1</sup>Transcript, Vol 20, pp. 171-173.

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<sup>1</sup>During this 12-day time period, there were six days in which the commission was closed due to weekends or holidays.