

NH.PUC\*01/02/81\*[78789]\*66 NH PUC 1\*Fuel Adjustment Charge

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## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Legislative Utility Consumers Council, Community Action Program, Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Littleton Water and Light Department, and Woodsville Water and Light Department et al.

DR 80-46, Tenth Supplemental Order No. 14,650

66 NH PUC 1

New Hampshire Public Utilities Commission

January 2, 1981

ORDER approving increases in several electric utilities' fuel adjustment clauses.

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1. RATES, § 303 — Use of another utility's estimates.

[N.H.] Where a utility's estimates were considered to be extraordinarily high, the utility's fuel adjustment charges were lowered to reflect the estimates of another utility whose figures were found to be prudent. p. 2.

2. RATES, § 303 — Effect of conservation.

[N.H.] Since fuel adjustments are affected directly by conservation, the commission adopted a 2.1 per cent growth in sales to reflect increase conservation and for use in calculation of an electric utility's fuel adjustment clause. p. 3.

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APPEARANCES: for Public Service Company of New Hampshire, Eaton W. Tarbell, and Philip Ayers; for the Legislative Utility Consumers' Council, William Shaine; for Community Action Program, Gerald Eaton; for the New Hampshire College and University Counsel, Henry Monroe; for Concord Electric Company and Exeter and Hampton Electric Company, Warren Nighswander; for Granite State Electric Company, Philip Cahill.

BY THE COMMISSION:

Report

The Public Service Company of New Hampshire (PSNH) originally filed a request for a fuel adjustment charge (FAC) of \$0.0291 per kilowatt-hour. On December 17, 1980, this was revised

to \$0.0289 per kilowatt-hour. The commission conducted an extensive investigation which culminated in many hours of hearings. Adding to the length of the proceeding was the commission's concern that this was the highest fuel adjustment clause ever requested by the company and would effect customer's bills during the highest usage time of the year. These issues were the subject of extensive analysis, testimony, and heightened interest by the commission in these matters.

Prior to the hearing, the PUC finance staff conducted a selective audit of Public Service Company's fuel costs as related to the FAC. Among other things, they reviewed the reconciling adjustment relating to the July-September, 1980,

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quarter and were satisfied that the company was handling it correctly.

The commission's finance staff reviewed the oil prices being paid by 48 utilities in 14 states including Public Service Company of New Hampshire and New England Power Company. The staff also reviewed PSNH's oil contract and purchases pursuant to the contract. As a result of the aforementioned audit, Mr. Traum of the finance department, presented direct testimony related to four areas of concern:

1. The financial results of delaying the scheduled outage of Merrimack Unit 2 from March 1, 1981, to either later in March or April 1, 1981.
2. Using a different sales growth projection than PSNH's estimate of approximately 4.1 per cent.
3. Calculating the fuel adjustment for each month of the quarter separately with corresponding escalation.
4. Examination of the price being paid by PSNH vis-a-vis other utilities on the eastern coast.

The review by staff reveals that there has indeed been a dramatic increase in the price of oil over the past few months. The jump in price, both in dollars and percentages, was adequately shown to have occurred to all 48 utilities examined.

The major factor in this month's dramatic increase is the aforementioned increase in the price of oil. The actions taken by OPEC, the acceleration of decontrol of price and the Iran-Iraq conflict have all contributed to the increase experienced by all utilities. However, these factors must be individually examined together with others so as to arrive at just and reasonable estimates for fuel adjustment purposes.

[1] The commission is concerned with the wide differential in price estimates given by PSNH and New England Power (Granite State Electric). Below is a comparison of these estimates.

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

*NEPCOPSNH*

January	\$35.65	\$33.11
February	\$37.86	\$34.34
March	\$40.06	\$34.84

New England Power's estimates which are 15 per cent higher than PSNH's have no justification in the record. New England Power Company is presently appealing the commission's decision in the Small Power Producers case. In that decision the commission used various estimates to arrive at an avoided cost rate. One of the estimates included an estimate as to the price of oil throughout 1981. The commission estimated that at PSNH's Newington station the price would be \$35. 17. New England Power Company contends on appeal that (1) their prices for oil will always be lower than PSNH's because they can burn oil with a higher sulfur content than PSNH and (2) that their fuel costs will never reflect oil at \$35 a barrel or fuel cost in mills of 6.1 cents.

Yet NEPCO, through its sister subsidiary is stating that both of those allegations are incorrect. New England Power Company simply cannot argue completely opposite view points before this commission.

Our staff analysis of 48 utilities reveals that: (1) PSNH is prudently purchasing oil and that they are doing better than the industry as a whole. (2) New England Power Company is not prudently purchasing oil in comparison to the utility industry generally. (3) In comparing NEPCO vis-a-vis other utilities that buy oil with higher sulfur content, NEPCO's estimates are extraordinarily high.

Consequently, the commission will use PSNH estimates as prudent for this quarter and lower Granite State's fuel adjustment clause to reflect PSNH's estimates adjusted for the ability to purchase higher sulfur oil. This results in a drop from

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\$0.0487 to \$0.0437 in Granite State Electric's filing.

Public Service Company of New Hampshire and the two utilities that buy all of their power from PSNH (Concord Electric and Exeter and Hampton Electric) have relied upon a scheduled outage of Merrimack II starting March 1, 1981. The commission staff recommends that the schedule outage should be delayed three weeks because of the high usage in this quarter and the dramatic increase in the price of oil. The commission agrees and will therefore make the appropriate adjustments in the calculations submitted by the three utilities. Substituting coal generation for the forecasted oil generation results in a 27 cents per 100 kilowatt-hours drop in PSNH's charge per month and a 28 cents per 100 kilowatt-hours in the other two utilities.

Staff also noted that PSNH's sales estimate was high in comparison to their experience over the last year. Staff submitted various sales forecasts for the commission's consideration.

[2] In today's economics fuel adjustments are higher or lower in direct relationship to the effect of conservation. The commission believes that there will be greater conservation than that forecasted by PSNH. Rather than a 4.1 per cent growth, the commission finds that a 2.1 per cent growth in sales is more accurate. This estimate is confirmed by the estimates submitted by the other utilities which are lower than PSNH's. If consumers conserve to a larger extent a credit will occur in the next succeeding quarter. If they do not, there will be an additional increase. This adjustment will reduce the fuel adjustment submission by PSNH by three cents per 100 kilowatt-hours. 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's Seventh and Eighth Revised Pages 23 and 24 to its tariff, NHPUC No.24 — Electricity, are hereby rejected; and it is

Further ordered, that as a consequence of the attached report, Public Service Company of New Hampshire (PSNH) should file revised tariff pages to recover \$00259 per kilowatt-hour for the months of January, February, and March, 1981; and it is

Further ordered, that Concord Electric 69th Revised Page 15-A to its tariff, NHPUC No.6 — Electricity, reflecting a \$0.0312 per kilowatt-hour charge is rejected; and it is

Further ordered, that as a consequence Concord should file revised tariff pages to recover \$0.0284 per kilowatt-hour; and it is

Further ordered, that Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, Sixth Revised Page 19-A, providing for a fuel adjustment rate of \$0.0299 per kilowatt-hour for the first quarter of 1981 is hereby rejected; and it is

Further ordered, that as a consequence Exeter and Hampton Electric Company should file revised tariff pages to recover \$0.0271 per kilowatt-hour; and it is

Further ordered, that Granite State Electric Company tariff, NHPUC No. 8 — Electricity, 76th Revised Page No. 15-A, providing for a fuel adjustment rate of \$0.0487 per kilowatt-hour for the first quarter of 1981 is hereby rejected; and it is

Further ordered, that as a consequence Granite State Electric Company should file revised tariff pages to recover \$0.0437 per kilowatt-hour; and it is

Further ordered, that 45th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 —

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Electricity, providing for the monthly fuel surcharge credit of six cents per 100 kilowatt-hours for the month of January, 1981, be, and hereby is, permitted to become effective January 1, 1981; and it is

Further ordered, that 12th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$2.96 per 100 kilowatt-hours for the month of January, 1981, net of refunds and adjustments, be, and hereby is, permitted to become effective January 1, 1981; and it is

Further ordered, that 84th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$2.48 per 100 kilowatt-hours for the month of January, 1981, be, and hereby is, permitted to become effective January 1, 1981; and it is

Further ordered, that 50th 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 kilowatt-hours for the month of January, 1981, be, and hereby is, permitted to

become effective January 1, 1981; and it is

Further ordered, that 28th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$3.16 per 100 kilowatt-hours for the month of January, 1981, be, and hereby is, permitted to become effective January 1, 1981.

By order of the Public Utilities Commission of New Hampshire this second day of January, 1981.

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NH.PUC\*01/05/81\*[78790]\*66 NH PUC 4\*Granite State Electric Company

[Go to End of 78790]

### **Re Granite State Electric Company**

DR 77-63, Seventh Supplemental Order No. 14,649

66 NH PUC 4

New Hampshire Public Utilities Commission

January 5, 1981

ORDER directing refund of overcollected revenues.

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BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 13, 849 directed that the Granite State Electric Company file " ... a plan for refund of the revenues related to the incorrect inclusion of customer deposits and customer advance in rate base ... "; and

Whereas, on December 17, 1980, the company did file such plan for refund, said plan proposing a one-time credit to customers of the "D" and "D-2" classes in the amount of \$0.00479 and \$0.01919 per kilowatt-hour respectively; and

Whereas, the commission finds such calculations accurate and the credit proposed in the public good; it is

Ordered, that Granite State Electric company be, and hereby is, to credit each "D" class by \$0.00479 per kilowatt-hour and each "D-2" sale by \$0.01919 during the billing cycle of January, 1981; and it is

Further ordered, that each customer receiving said refund credits be provided,

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by the most economical means, an explanation certified copies of which to be filed with the commission; and it is

Further ordered, that Granite State Electric Company maintain an accurate accounting of said refund, reporting results to the commission no later than March 1, 1981.

By order of the Public Utilities Commission of New Hampshire this fifth day of January, 1981.

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NH.PUC\*01/06/81\*[78791]\*66 NH PUC 5\*New England Telephone and Telegraph Company

[Go to End of 78791]

### Re New England Telephone and Telegraph Company

DR 80-23, Eighth Supplemental Order No. 14,653

66 NH PUC 5

New Hampshire Public Utilities Commission

January 6, 1981

ORDER accepting a telephone company's filed tariffs.

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BY THE COMMISSION:

Supplemental Order

Whereas, on December 15, 1981, this commission directed New England Telephone and Telegraph Company to implement the provisions of report and Order No. 14,614 ([1980] 65 NH PUC 629), providing for certain credits and charges; and

Whereas, on December 30, 1980, the company, in compliance with that order, filed:

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

Supplement No. 18	Effective 1/17/81
Supplement No. 14	Effective 4/27/81

Part II - Local, Section 1, Second Revised Page 2A	Effective 1/13/81
53rd Revised Page 3	Effective 1/13/81

Part IV - WATS, 17th Revised Page 4	Effective 1/17/81
18th Revised Page 4	Effective 7/8/81

To its tariff, NHPUC No. 70; and

Whereas, upon investigation we are satisfied that the filing conforms to the directives of the commission and is in the public interest; it is

Ordered, that the above listed tariff pages be, and hereby are, allowed to become effective as of the dates shown; and it is

Further ordered, that a one-time publication of the results of this filing be made in a manner which will reasonably assure customer understanding of the filing.

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

1981.

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NH.PUC\*01/06/81\*[78792]\*66 NH PUC 6\*Public Service Company of New Hampshire

[Go to End of 78792]

## Re Public Service Company of New Hampshire

DR 79-187 Phase II, 46th Supplemental Order No. 14,654

66 NH PUC 6

New Hampshire Public Utilities Commission

January 6, 1981

ORDER setting schedule for hearing and cross-examination of prefiled testimony.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission on June 30, 1980, made clear its desire to hear all testimony prefiled in this docket; and

Whereas, all data required to be filed under § 133 of PURPA by November 1, 1980, has been received by all present parties in this case; it is

Ordered, that the commission will set forth the following schedule for hearing prefiled testimony and cross-examination thereof;

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

January 26, 1981 10:00 A.M. George Sterzinger for  
Community Action  
Program (CAP)

January 29, 1981 10:00 A.M. Fred Wells for  
NHPA

February 6, 1981 10:00 A.M. Charles W. King and  
Stephen G. Sinwek  
for BIA;

and it is

Further ordered, that Public Service Company of New Hampshire will file its testimony on the rate-making standards of § III of PURPA and shall include such cost of service studies as pertinent to rate structures proposed thereto, mindful of the commission's orders in Phase I, by February 6, 1981; and it is

Further ordered, that Public Service Company of New Hampshire shall file its testimony concerning remaining disputes regarding the fuel adjustment clause by February 6, 1981; and it is

Further ordered, that persons wishing to appear as limited or full parties in this case make such desires known to the commission on or before January 26, 1981; and it is

Further ordered, that all parties will be permitted to submit supplemental testimony which shall be filed by March 20, 1981.

By order of the Public Utilities Commission of New Hampshire this sixth day of January, 1981.

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NH.PUC\*01/07/81\*[78793]\*66 NH PUC 7\*Union Telephone Company

[Go to End of 78793]

## Re Union Telephone Company

DR 81-4, Order No. 14,655

66 NH PUC 7

New Hampshire Public Utilities Commission

January 7, 1981

ORDER granting an extension of telephone service.

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BY THE COMMISSION:

Order

Whereas, Union Telephone Company, a utility operating under the jurisdiction of this commission, by a petition filed on December 30, 1980, seeks authority, pursuant to RSA 374:26, as amended, to extend its lines and service into a limited area in the town of Strafford; and

Whereas, the petitioner submits that the area in question will be served under its regularly filed tariff; and

Whereas, New England Telephone and Telegraph Company has waived its franchise rights in this limited area; 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 permission be, and hereby is, granted to Union Telephone Company to do business as a telephone utility in a limited area in the town of Strafford, said area outlined on a map on file in the office of this commission, and for that purpose to construct and maintain the necessary lines and apparatus; and it is

Further ordered, that revised exchange area maps, reflecting the change herein authorized be filed by both companies within thirty days of the date hereof.

By order of the Public Utilities Commission of New Hampshire this seventh day of January, 1981.

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NH.PUC\*01/09/81\*[78794]\*66 NH PUC 7\*Locke Lake Water Company, Inc.

[Go to End of 78794]

**Re Locke Lake Water Company, Inc.**

DR 80-198, Supplemental Order No. 14,657

66 NH PUC 7

New Hampshire Public Utilities Commission

January 9, 1981

PETITION for rate increase and temporary rates; granted with modification.

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1. PAYMENT, § 19 — Change of billing period.

[N.H.] A request to change a water utility's billing from arrears to advance was denied; however to improve cash flow the company was allowed to bill quarterly. p. 8.

2. RETURN, § 26 — Reflection of operational losses.

[N.H.] Especially where a utility has not sought a recent rate increase, cumulative loss from operations should be reflected in the calculation

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of the cost of capital. p. 8.

3. RATES, § 120.1 — Midyear data.

[N.H.] The average rate base for a utility was calculated by use of midyear data in addition to beginning and end-of-test year data. .Pg p. 8.

4. EXPENSES, § 81 — Radio telephone charges.

[N.H.] Fifteen per cent of the radio service charges associated with a mobile unit were allocated to a small water company, the commission used the same percentage claimed by the company for mileage expense. p. 9.

5. DEPRECIATION, § 7 — Customer contributed property.

[N.H.] Depreciation on plant paid for through customer's contributions in aid of construction was denied since in effect it was similar to rate base treatment for construction work in progress, which is not permitted in New Hampshire. p. 11.

6. EXPENSES, § 89 — Surcharge — Two-year period.

[N.H.] Rate case expenses were permitted to be surcharged by a water company over a two-year period. p. 11.

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APPEARANCES: Dom S. D'Ambruoso, for the petitioner.

BY THE COMMISSION:

Report

On September 10, 1980, the Locke Lake Water Company, Inc., a New Hampshire corporation engaged in the supply of water in Barnstead, New Hampshire, filed certain revisions to its tariff, NHPUC No. 1 — Water, seeking authority for an increase in rates pursuant to RSA 378:29 and for temporary rates.

The commission suspended the rate increase pending investigation and noticed a hearing for October 23, 1980. Prior to that hearing the commission finance staff conducted an audit of the company and data requests were sent and responded to.

On October 23, 1980, a hearing was held on the company's request for temporary rates. on November 21, 1980, a hearing was held on the company's request for permanent rates.

At the October 23, 1980, hearing, the company requested temporary rates for service rendered on or after September 10, 1980, the date it originally filed for a rate increase.

[1] In addition, the company requested it be allowed to change its billing from arrears to advance. The commission does not feel that the company has sufficiently proven that (1) billing has been in arrears since the granting of the company's franchise, (2) the financial effect of a one-shot double billing to customers is in the customers' best interest, (3) the company did not adjust its working capital request, and (4) the commission feels an argument can be made that billing should be for service provided; as rate base is for fixed assets in service, not construction work in progress.

The commission, therefore, denies the company's request from billing in arrears to in advance, but will allow the company to bill quarterly. This should improve the company's cash flow while enabling the customers to spread their payments more evenly throughout the year.

#### *Cost of Capital*

[2] The company in its revised Exh 1 showed a calculation of the cost of capital to be 12 per cent. This calculation did not include the cumulative loss from operations which the commission believes should have been included, especially in light of the fact that the company has not requested a rate increase since 1969.

The company in its Exh 5 corrected this and requested a cost of capital of 12 per cent. The commission will accept the company's requested rate for purposes of this case.

#### *Rate Base*

[3] The company requested a rate base

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of \$141,066 in its revised Exh 1. This was computed using beginning and end of test-year figures. Since data is also available for December 31, 1979, the midpoint of the test year, the commission feels utilization of the additional point will give a more accurate picture of assets used to serve ratepayers in the test year. Rate base was revised again in Exh 5 to \$177,760 due to

a recalculation of the depreciation reserve on a retroactive basis, which is inconsistent with the company's filings with this commission and the Internal Revenue Service. Therefore, the commission will not accept the rate base calculated in Exh 5.

The rate base we will accept is calculated as follows:

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

	June 30, 1979	Dec. 31, 1979	June 30, 1980	Average
Gross Plant	\$411,054	\$411,053	\$417,792	\$413,300
Less: Construction Work in Progress	-	-	-	-
Less: Depreciation Reserve	90,004	94,819	99,803	
Less: Contributions for Construction	186,664	186,664	186,664	
Net Plant in Service	\$134,386	\$129,570	\$131,325	\$131,760
Deferred Taxes	-	-	-	-
ITX	-	-	-	-
Customer Deposits	-	-	-	-
Materials and Supplies	-	-	-	-
Four Months Operation and Maintenance				\$ 8,565
Working Capital				\$ 8,565
Average Rate Base				\$140,325

#### *Operation and Maintenance Expense*

[4] The company showed test-year O&M expenses of \$25,694 pro formed to \$41,134, then revised to \$36,103 in Exh 5, p. 2. The commission accepts all of the adjustments except: rent, telephone, and repairs and maintenance.

The filing proposed that two-thirds of the office space occupied by Locke Associates, and therefore the rent, should be allocated to Locke Lake Water Company, Inc. During cross-examination, it was revealed that three full-time and two part-time employees work out of the aforementioned office space. of these, 20 per cent of Mr. Locke's time and 33.3 per cent of Ms. Belhumeur's time were allocated to the water company in this filing. Based on this, the commission feels an allocation of one-fourth of the rent to the water company is more appropriate, and our order will so issue. The difference is \$2,284.

#### *Telephone*

The water company seeks to charge 33.5 per cent of the Locke Associates telephone expense to the water company. Locke Associates is a real estate sales and development company that also shares these telephone lines with N.H. Earth Mechanics, Inc., a general contracting company owned by Mr. Locke. The business telephone maintained in Barnstead and that in Concord are both listed to Locke Associates and N.H. Earth Mechanics, Inc. The water company is not listed.

We cannot accept that telephones listed to, and used by, a real estate sales office and a general contractor, can be allocated at 33.34 per cent to a small water company, and would set the allocation

for maintaining the telephone at Barnstead and at Concord and the answering service charges at 20 per cent, which is the alleged per cent of Mr. Locke's time that is allocated to the water company for administration, financing problems, and purchasing of materials and supplies. The radio service charge, which we assume represents a mobile radio in Mr. Locke's car, would be allocated at 15 per cent, which is the per cent alleged by the company for Mr. Locke's mileage expense.

The charge or expense for telephone service would then be:

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

Basic Monthly Charge – Concord and Barnstead	\$154.80
Answering Service – Monthly	45.0
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\$199.80 at 20% = \$39.96	199.80
Radio Service – Monthly	\$ 34.00
\$34 at 15% = \$5.10	
or \$39.96 + \$5.10 = \$45.06 × 12 months = \$541 per year	

### *Repairs and Maintenance*

The company, in response to data request, provided a breakdown of its pro forma repairs and maintenance expense. The commission, after analyzing the transcripts in this case, has a number of concerns with the company's accounting and their particular effects on this adjustment. The company in the past had been expensing items which should have been capitalized and not retiring from the books assets which had been physically retired. This shall be corrected on an ongoing basis and all assets which are still on the books of account, but have been physically retired, shall be retired from the books, with any undepreciated balance amortized over an agreed upon length of time.

In arriving at the pro forma repair and maintenance figure of \$12,820, the company provided a breakdown which only totaled \$12,620, so the commission will use that as a starting point. Secondly, the figure included amounts for two pumps, an air compressor, and related labor which should be capitalized. This amounts to \$4,523, thereby reducing the accepted pro forma repairs and maintenance expense to \$8,097.

The company submitted petitioner's Exh 6 which is their estimate of this pro forma expense. If we accept the premise that there will be 15 "breaks" in company mains during the twelve months ending June 30, 1981, we must also take exception to some of the material the company would include in this account. Most water main breaks that will occur from frost action would be repairable with pipe repair clamps or dresser couplings. With this as a basis, we would then allow for 15, plus two spare, couplings. Using the water company prices:

10 — 2-inch at \$13.50 each = \$135.00 7 — 4-inch at \$64 each = \$448

As we have stated, most breaks can be repaired with clamps or couplings, and because of this we do not accept the estimate of 500 feet of 1-1/4 inches galvanized pipe or 100 feet of four inch PVC pipe. We would allow 50 feet of each at the company estimated prices:

50 feet — 1 1/4-inch Galvanized pipe at \$1.68 per foot = \$ 84 50 feet — 4-inch PVC pipe at \$2.30 per foot = \$115

We also take exception with the company's estimate of \$12 per hour labor charge to clean pump houses, etc. We would allow \$6 per hour as a maximum or: 20 hrs. at \$6 = \$120.

With these adjustments, the repair and maintenance expense becomes \$6,813.

#### *Depreciation on Contributions in Aid of Construction*

[5] Through cross-examination by staff, it was shown that the company is collecting depreciation on plant which was paid for through customer's contributions in aid of construction. In effect, this means the customer is being asked to pay for the same asset twice, and that is unjust and unreasonable.

If the argument is advanced that the depreciation expense is being used to build up a reserve to eventually replace the asset when retired, the result would be a concept similar to CWIP, which is illegal in New Hampshire. The commission will therefore disallow in the future depreciation on that portion of fixed assets contributed by customers. The amount is \$3,733 as shown on the company's Exh 5, revised depreciation schedule, p. 3 of 4.

We also take exception to the company's practice of depreciating water storage tanks over a 20-year life and recommend the median life of forty-five years as shown in the NARUC bulletin "Depreciation Practices for Small Water Utilities." This will result in a reduction of the annual depreciation expense as follows:

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

#### *Total Tank Investment*

\$12,071 at 20 years/5% =  
\$12,071 at 45 years/2.2% =

Reduction in annual  
depreciation expense

#### *Electricity*

We will accept the company's estimate for increased cost of electricity because of rising fuel costs as reflected in the fuel adjustment of all electric bills, however, we note that this estimate is pro formed using costs incurred during July, August, and September which are the peak months experienced by most water utilities.

#### *Taxes*

The company originally filed for pro formed FIT expense \$2,143 and \$1,458 of other taxes. The commission accepts the other taxes, but disagrees with the FIT expense. The reason for the disagreement is that the company should have a sufficient carry forward of past losses to zero out the pro formed tax expense of \$2,143. This amount was withdrawn in the company's Exh 5, and replaced with a figure of \$1,710 for New Hampshire Business Profits Tax. The commission accepts this figure.

#### *Rate Case Expense*

[6] The company has requested that its rate case expense be surcharged over a two-year

period. This is acceptable to the commission, but the amount submitted to the commission detailing the costs to be included in the surcharge for its approval are not. Attorney D'Ambruso's statement for legal services rendered includes amounts for affiliate contracts. The commission feels these should be considered ordinary legal expenses, not rate case ones, and will, therefore, exclude 3.5 hours or \$210 from his statement, reducing such to \$3,675.50. The account-ant's bill was for \$2,039.50. The commission feels that this expense would have been substantially reduced had the company's accounting records been in better shape prior to the rate case and commission audit and will, therefore, only allow 75 per cent of the bill to be included as rate case expenses. In summation, the

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commission will allow \$5,187 to be surcharged over two years.

*Revenue Requirement*

Taking all of the previous changes into account, the commission will accept a revenue requirement calculated as follows:

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

Approved Rate Base	\$140,32.5
Times Requested Rate of Return	× .12
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Required Net Operating Income	\$ 16,839
Plus Repairs and Maintenance	6,813
Plus Electricity	11,090
Plus Water Testing	120
Plus Management Fee	10,160
Plus Postage	300
Plus Office Supplies	500
Plus Insurance	327
Plus Licenses and Permits	20
Plus Telephone	541
Plus Rent (3,654 = 2,284)	1,370
Plus Auto Expenses	900
Plus Depreciation (9,800 - 3,733 = 338)	5,729
Plus Other Taxes	1,458
Plus Federal Income Taxes	-0-
Plus New Hampshire Business Profits Taxes	1,710
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Revenue Requirement	\$57,877

*Rate Schedule*

Staff presented testimony in support of a two-part rate schedule that would include a minimum charge to recover the fixed charges on the water company's investment and a user portion to recover the remaining operating costs plus a return on investment. We will accept staffs recommendation on the basis that the water company plant is constructed to serve each connected customer and certain fixed costs or charges such as taxes, depreciation, insurance, and interest on borrowed funds, continue over the life of this plant whether the connected customer makes any immediate use of such plant or not.

Staff also proposed a simplified fixture rate schedule and a change to a quarterly billing cycle. This schedule, and quarterly billing shall become effective at the next scheduled billing — i.e., April 1, 1981 — and shall be set as follows:

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

<i>Rates</i>	<i>Quarterly</i>
Kitchen Sink	\$10.75
Lavatory	5.40
Each Additional	2.75
Toilet	5.40
Each Additional	2.75
Bath or Shower	5.40
Each Additional	2.75
Sillcock	2.75
Washing Machine	5.40
Dishwasher	10.75
	<i>Annual Filing</i>
Pool - Small	\$35.00
Pool - Large	70.00

*Minimum Charge*

This charge shall be applied against each lot on which a structure exists that is connected to the water company mains and shall be in addition to the above fixture rates. When a customer has requested a temporary discontinuance of service from the company, and the company curbside has been closed, only the minimum charge will apply. 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. 1 — Water, as filed by Locke Lake Water Company, Inc., on September 10, 1980, which revisions were suspended by commission Order No. 14,518 dated October 7, 1980 (65 NH PUC 475), be, and hereby are, rejected; and it is

Further ordered, that in accordance with the revenues authorized by this report and order, Locke Lake Water Company, Inc., shall file new tariff pages, in accordance with this commission's tariff filing rules, setting forth therein, rates designed as specific in this report and designed to produce annual gross revenues of \$57,877; and it is

Further ordered, that these revised

**Page 12**

tariff pages shall be filed to become effective with all service rendered on or after April 1, 1981; and it is

Further ordered, that Locke Lake Water Company, Inc., give public notice of these new rates by the inclusion of a bill insert with the April 1, 1981, billing.

By order of the Public Utilities Commission of New Hampshire this ninth day of January, 1981.

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NH.PUC\*01/12/81\*[78795]\*66 NH PUC 13\*Pittsfield Aqueduct Company, Inc.

[Go to End of 78795]

## Re Pittsfield Aqueduct Company, Inc.

Intervenor: Legislative Utility Consumers' Council

DR 80-125, Order No. 14,660

66 NH PUC 13

New Hampshire Public Utilities Commission

January 12, 1981

PETITION for a rate increase; granted with an allowed attrition factor.

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1. DEPRECIATION, § 24 — Assets purchased in test year.

[N.H.] The commission adjusted a water utility's depreciation expense and rate base to reflect its denial of one full year's depreciation on fixed assets added during the test year; instead, an average of one-half of the annual depreciation rate was applied to those additions. p. 14.

2. DEPRECIATION, § 7 — Customer contributed assets.

[N.H.] Depreciation on assets paid for by customer contributed capital was denied since it was inequitable to ask customers to pay twice for the same asset. p. 14.

3. RETURN, § 26.4 — Cost of common equity.

[N.H.] A water utility with above average equity and interest coverage ratios was granted a 12 per cent return on equity, part of the granted return reflected the commission's inquiry into the company's management and operational efficiencies. p. 15.

4. RETURN, § 35 — Attrition allowance — Earnings story.

[N.H.] Based upon a water utility's historical earnings history a 0.6 per cent attrition allowance was granted; the utility had requested 0.9 per cent. p. 17.

5. RATES, § 604 — Water company — Meter installation plan.

[N.H.] A water utility was ordered to implement a plan for meter installation since the commission was of opinion that metered service was more equitable. p. 17.

6. RATES, § 596 — Water company — System design justifies flat rate.

[N.H.] A declining block rate for metered water service was denied; the commission's recent experience with other water utilities' cost-of-service studies, and the fact that pumps were not required to render service, justified the commission's order of a flat rate for all usage over a minimum charge. p. 18.

7. PAYMENT, § 20 — Billing period — Size of bill.

[N.H.] With the size of water bills increasing, the commission ordered that such bills should be rendered at least on a quarterly basis. p. 19.

8. SERVICE, § 210 — Water company — Extension of main — Customer costs.

[N.H.] For each customer requesting water service, the commission determined that a water utility economically could extend the main, only 25 feet at its own expense; when extensions were made under a deposit agreement, the commission determined that any connection made during the useful life of a customer paid extension should be subject to the computation. p. 19.

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APPEARANCES: Cedric H. Dustin, Jr., president, for the petitioner; Gerald

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Lynch for the Legislative Utility Consumers' Council (LUCC).

BY THE COMMISSION:

Report

On May 29, 1980, Pittsfield Aqueduct Company, Inc. filed certain revisions to its tariff, NHPUC No.4 — Water, providing for an increase in permanent rates of \$51,213. On June 27, 1980, the commission issued its Order No.14,305 suspending the rate request pending investigation. On September 3, 1980, an order of notice was issued setting the matter for hearing.

On November 6, 1980, a duly noticed hearing was held at the commission's offices in Concord. Prior to the hearing, the PUC finance staff conducted an audit of the company, data requests were sent, and the company upon pre-filing its testimony and exhibits reduced its request to \$34,238.

*Rate Base*

The company in its Exh 11 calculated a beginning and end-of-year average rate base of \$378,396. Since there are no other dates on which similar data is available, the commission will accept the beginning and end-of-year average.

Based on the cross-examination by the commission staff, several changes must be made to Exh 11: (1) Based on the PUC finance staffs audit, it was revealed that a contribution in aid of construction received from Globe Manufacturing Company was accounted for incorrectly. To adjust, the December 31, 1979, figures for contributions in aid of construction and materials and supplies should be increased by \$713. This results in zero net change in rate base. (2) The figure shown on Exh 11 for materials and supplies as of December 31, 1979, was incorrectly \$500 higher than shown on the source data. The result of this correction is to reduce rate base by \$250 to \$378,146.

The commission will reduce rate base to \$378,146 to reflect this adjustment.

*Depreciation*

The company requested \$7,181, unperformed, to cover the test year's depreciation expense.

[1] The company in 1979 took a full year's depreciation on fixed assets added during the year. An average of one-half of the annual depreciation rate should have been applied to those additions, and the commission hereby informs the company that it must comply in the future.

For 1979 data, an adjustment should be made to decrease the year's depreciation expense;

and accumulated depreciation reserve, which would increase the rate base. The two are partially offsetting, but should be recognized. The decrease in depreciation expense is \$531, while the rate base with this adjustment goes up by one-half of the amount, or from \$378,146 as shown above to \$378,412.

[2] The commission is also concerned that depreciation is charged on assets purchased with contributed capital. This is unjust and inequitable in that it asks customers to pay twice for the same asset.

The correction of this practice, which the company will do in the future, is again twofold. First, the depreciation expense for the test year, 1979, should be reduced by 1.5 per cent

[Equation below may extend beyond size of screen or contain distortions.]

\$7,264

460,769

or \$105 to \$6,545. Secondly, the average depreciation reserves decreases and the rate base increases by one-half of the reduced depreciation expense. This results in a rate base of \$378,465.

#### *Test-year Expenses*

The company used actual test-year expenses, pro formed for additional taxes related to increased revenue expected

### Page 14

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from an updating of customer fixture counts.

The commission will accept the figures as submitted except for bad debt expense, and certain tax calculations.

For the few years leading up to the test year, there was no write-off of bad debt expense, but \$1,491 was expensed in the test year. The commission will only allow one-third of that amount, or \$497, as a reasonable ongoing annual bad debt expense level.

With regard to taxes, cross-examination revealed errors in the company's calculations in Exh 6. These were corrected by the company through revised Exhs 4, 6, and 7.

The commission staff also revealed that income taxes on nonoperating income were allocated above the line. In our view, this is inconsistent and will be corrected. The federal income tax (FIT) and New Hampshire Business Profits Tax (NHBPT) related to this income was \$88 in the test year.

Summarizing these and previous adjustments yields the following revised revenue deductions:

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

Operation and Maintenance			
Expense	\$28,245 - 994	=====	\$27,251
Depreciation	7,181 - 531 - 105	=====	6,545
Amortization	555 -	=====	555
Federal Income Tax New Hampshire	1,218 58	=====	1,160
Business Profits Tax	2,071 30	=====	2,041
Other	12,149 -		12,149
			<u>\$49,701</u>
New Hampshire Business Profits Tax			
Adjustment of (\$994 + 531 + 105) × 0.08	=====		+ 130
Federal Income Tax			
Adjustment of (\$994 + 531 + 105 - 130) × 0.17	=====		+ 255
			<u>\$50,086</u>

### *Cost of Capital*

[3] The company requested a cost of capital of 13.3 per cent based on 9 per cent for long-term debt (LTD), 14 per cent for short-term debt (STD), and 15 per cent for equity.

The commission will accept the rates for LTD and STD, with notice taken of our comments later in this report.

As to the 15 per cent rate requested on equity, the company witness had no empirical studies or analyses to justify this figure. The commission recognizing the company's capital structure is very thick in equity (66.5 per cent) and that it has had no trouble in the past with coverage ratios.

The commission in determining a proper return on common equity has traditionally relied upon 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, 692, 693, 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 undertaking 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

### **Page 15**

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."

The court elaborated further in *Federal Power Commission v Hope Nat. Gas Co.* (1944) 320 US 591, 603, 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 of America case that 'regulation does not insure that the business shall produce net revenues.' (315 US 575, 590, 42 PUR NS 129 86 L Ed 1037, 62 S Ct 736.) 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."

Two of the risk measures which this commission has found reliable are: (1) equity ratios; and (2) interest coverage ratios. Re Pennichuck Water Works (1979) 64 NH PUC 206, 211.

Where a utility has used less common equity to finance assets, it has thereby assumed greater financial risk than other utilities or industry composites. In contrast, if a utility has a large equity percentage in its capital structure, it is less risky. Pittsfield has a higher equity ratio than other New Hampshire water utilities. A review of our files also reveals that Pittsfield exceeds the national average for water companies and, in fact, their ratio is above that of all 22 water companies monitored by the National Association of Water Companies (NAWC).

The commission has also relied upon interest coverage ratios as a measurement of risk. Re Pennichuck Water Works (1979) 64 NH PUC 206, 212. In the Pennichuck decision, the commission found Pennichuck's coverage ratio after taxes to be 2.59. Pittsfield has a coverage ratio of 3.80, or significantly above those of water utilities as well as utilities in general. Consequently, as to this risk measurement, Pittsfield is again significantly less risky.

In determining a proper return on common equity, Bluefield requires consideration of a proper return pursuant to "efficient and economical management." The commission is concerned with the apparent lack of safeguards or checks in the company's financial operations. For instance, the company treasurer loaned the company short-term funds without approval of the board of directors. The approval was given subsequent to the loan along with a reprimand.

An audit by the commission staff uncovered numerous errors in billing, holding customer deposits after the customers were off the system, crediting the materials and supplies account instead of contributions in aid of construction, etc.

The commission feels the company's board of directors should act to correct all the errors looking backward as well as forward, but they also were negligent in their duties by not being more aware of the company's activities prior to the commission's audit. Based upon the aforementioned factors, the commission finds

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12 per cent as a proper return on common equity for this utility.

The cost of capital is determined as follows based on Exh 12:

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

	Amount	Cost Rate	Cost of Capital	Total Cost Rate
Long-term Debt	\$109,073	9.0%	\$ 9,817	
Short-term Debt	25,000	14.0	3,500	
Equity	266,568	12.0	31,988	
	<u>\$400,641</u>		<u>\$45,305</u>	11.31%

### *Attrition Allowance*

[4] The company is requesting a 0.90 per cent or 90 basis points for attrition, but has not provided an empirical study to support the request.

The commission recognizes: the company, as well as the whole economy, is facing double digit inflation; the company is not requesting any pro forma expense adjustments other than those which are tax related; and the company is not anticipating much growth in the number of its customers.

On the other hand, the commission recognizes that many of the company's costs, — i.e., depreciation — are fixed; that the town of Pittsfield's property tax rate has declined; and that the company has not been before this commission for a rate increase since 1975.

The last increase granted by the commission was for all service rendered on or after October 1, 1975, and included a 12 per cent overall rate of return, no allowance for attrition, and 12.5 per cent on equity. Based on commission records, the company earned 11.92 per cent return on average common equity in 1976 and 11.26 per cent in 1977. This equates to an average erosion of approximately 0.6 per cent in equity earnings over the first two years of the last increase. The commission will use 0.6 per cent as an attrition allowance on equity, which raises the overall cost of capital from 11.31 per cent to 11.71 per cent calculated as follows:

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

Long-term Debt	\$109,073	9.0%	\$ 9,817
Short-term Debt	25,000	14.0	3,500
Equity and Attrition	266,568	12.6	33,588
	<u>\$400,641</u>		<u>\$46,905</u>

### *Revenue Requirement*

The commission calculated the additional revenue required as follows:

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

Approved Rate Base	\$378,465
Approved Cost of Capital Including Attrition	× 11.71%
Required Net Operating Income	<u>\$ 44,318</u>
Required Net Operating Income	44,318
Less: Adjusted Test-year Operating Income	- 31,067
Additional Operating Income Required	<u>\$ 13,251</u>
Tax Effect (New Hampshire Business	

Profits Tax and Federal Income Tax)	4,664
Additional Revenue Required	\$ 17,915
Adjusted Test-year Operating Revenue	\$81,153
Adjusted Test-year Operating Deduction	50,086
Adjusted Test-year Operating Income	\$31,067

### *Meters*

[5] It is staff's position that metered

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billing is the only fair and logical way to obtain revenues for utility service provided. For many years, this commission's rules or standards for water utilities has stated:

"Page 7, § 5a.

"\*Note: It is the policy of the commission that all nondomestic sales shall be metered, and ultimately domestic sales also."

Pittsfield's tariff section that speaks to meters has contained a provision that: "... meters will be installed in accordance with the provisions of a plan filed as part of this tariff, ... ." Company testimony in this case has been that no plan exists for further meter installations, that no residential customers are metered, and that it sees no need for metering them. We totally disagree with the company's position and recommend that an orderly plan for continuing meter installations be formulated and promptly initiated and that this commission be furnished such a plan by April 1, 1981.

### *PUC Rules and Regulations*

Cross-examination of company officials indicated a general unawareness of this commission's rules and regulations for water utilities. Subsequent to the hearings in this case, two copies of the rules were provided to Pittsfield, and we will expect compliance and the filing of all specified reports as required in the future. The following specific areas should be addressed:

- a. Rule 22 e. Hydrant inspection and flushing.
- b. Rule 22 f. Valve inspection.
- c. Rule 25 b. Quantity of water produced from source of supply.
- d. Rule 26. System map.

Further, this commission is vitally interested in the treatment finally approved for the surface water supply at Pittsfield and will expect to be so notified in accordance with Rule 9b.

### *Unmetered Rate Schedule*

The existing unmetered rate schedule for general service should be simplified as recommended by staff, which would include the elimination of:

- Additional set tubs or nonautomatic washers;
- Additional boilers;
- Other faucets or fixtures and additional faucets or fixtures.

Any billing that may have occurred under these headings should be included in the remaining categories of the rate schedule.

#### *Metered Rate Schedule*

[6] The existing, and proposed, metered rate schedule is of a declining block design with a wide variance between the first and last blocks. The company has no cost study in support of such a design. In recent decisions — i.e., Hanover and Manchester Water Works — this commission has approved or directed the flattening of the declining block rates as a result of cost studies performed by consultants and staff. It is our belief that future studies and usage data will show that in most cases, a flat metered rate schedule will be justified and, in fact, is now justified in many cases. In the instant case, the system is of a gravity feed design; i.e.: the system pressure is a result of the gravity head created by the elevation of the source of supply. Since there are no pumps involved in the distribution of the supply, there is little reason to support a lesser charge as usage increases as in a declining block rate.

Pittsfield is directed to refile its metered rate schedule in accordance with the

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revenue requirements as determined in this report and order, and designed with a flat rate for all usage over the minimum charge of 500 cubic feet per quarter. This filing should be made by April 1, 1981.

#### *Minimum Charge*

The minimum charge as existing and proposed is the same for metered or unmetered service. The water company investment is clearly greater in a metered service, and it is our conclusion that this charge should be redesigned to reflect such additional investment.

#### *Billing*

[7] All major water companies in New Hampshire bill quarterly in contrast to Pittsfield's semiannual billing. We believe that with the ever-increasing size of the water utility bill, it should be rendered at least quarterly.

#### *Fire Protection*

The hearing in this case produced considerable discussion relating to the fire protection capabilities of Pittsfield and action the company has taken since the last evaluation done by the Insurance Services Office of New Hampshire in 1982. The ISO, upon request, evaluates the total fire-fighting capability of a municipality and the results have a direct influence in the rates charged for fire insurance.

The 1972 report cited problem areas within the water company such as:

- (1) Lack of consumption records;

- (2) Less than adequate fire flows;
- (3) Undersized inadequate pipe;
- (4) No valve inspection program.

Upon questioning, company witnesses testified that some of these problem areas had been corrected or eliminated. If such is the case, the company should seek a further evaluation by ISO.

*Line Extension Plan*

[8] The present plan provides that the company will extend the main 100 feet at its expense, for each customer requesting an extension. In recent decisions involving Hampton, and Hanover Water Works, this commission has demonstrated that economically the water company can allow only 25 feet per customer. The same test applied to Pittsfield's operating data for the past three years also produced 25 feet as the maximum distance.

The plan also provides that when an extension is made under the deposit agreement, that such deposit will be subject to recomputation of additional customers are connected during a period of ten years following the original agreement. It is our opinion that any connection made during the useful life of such customer paid extension should be subject to recomputation and refunds as necessary.

Our order will issue accordingly.

Order

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

Ordered, that the revisions to its tariff, NHPUC No. 4 — Water, as filed by Pittsfield Aqueduct Company, Inc., on May 29, 1980, which revisions were suspended by commission Order No. 14,305 dated June 27, 1980, be, and hereby are, rejected; and it is

Further ordered, that in accordance with the increase in revenues authorized by this report and order, Pittsfield Aqueduct Company, Inc., shall file new tariff pages setting forth therein rates designed to produce an annual increase in gross revenues of \$17,915; and it is

Further ordered, that these revised tariff pages shall reflect a minimum charge that accounts for the difference in

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the company's investment in a metered and unmetered service; and it is

Further ordered, that the unmetered general service rate structure shall be restructured as noted in this report; and it is

Further ordered, that beginning with the scheduled billing at July 1, 1981, Pittsfield shall commence quarterly billing of its general service customers; and it is

Further ordered, that Pittsfield shall refile its main pipe extension plan to include only 25 feet as the distance the company will extend the main at its expense for each petitioning customer; and it is

Further ordered, that the main pipe extension plan shall provide that at any time an additional

customer is connected to an extension made under a deposit agreement, that the deposit shall be recomputed and refunds made to the original depositor; and it is

Further ordered, that these revised tariff pages shall be filed to become effective with all current bills rendered on or after July 1, 1981; and it is

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

By order of the Public Utilities Commission of New Hampshire this twelfth day of January, 1981.

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NH.PUC\*01/13/81\*[78796]\*66 NH PUC 20\*Wolfeboro Municipal Electric Department

[Go to End of 78796]

## Re Wolfeboro Municipal Electric Department

IE 14,976, Supplemental Order No. 14,661

66 NH PUC 20

New Hampshire Public Utilities Commission

January 13, 1981

ORDER providing for customer refunds plus accrued interest.

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BY THE COMMISSION:

Supplemental Order

Whereas, Wolfeboro Municipal Electric Department received moneys from the Public Service Company of New Hampshire as a refund of fuel adjustment costs paid that company and recovered by surcharge of customers during the period March, 1976, through March, 1977; and

Whereas, credit of said moneys to the affected customers of the department was deferred by this commission pending completion of the PSNH appeal process; and

Whereas, said appeal process being completed, such moneys which had been retained by the department in interest bearing accounts are now available for refund; and

Whereas, the department has maintained records of kilowatt-hour consumption of each customer affected by the 1976-77 surcharge of \$0.00155 per kilowatt-hour; it is

Ordered, that the Municipal Electric Department of Wolfeboro credit each

**Page 20**

affected customer during the billing cycle of February, 1981, his/her share of the surcharge paid plus any accrued interest thereon; and it is

Further ordered, that every attempt be made to locate former customers also affected by this 1976-77 surcharge and once located, to refund to these customers by check that amount due; and it is

Further ordered, that moneys unclaimed from former customers who could not be located by April 30, 1981, be used as an offset to the June, 1981, fuel adjustment charge; and it is

Further ordered, that any credit or refund check be accompanied by a full explanation of the credit/refund. A copy of said explanations shall be filed with this commission.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of January, 1981.

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NH.PUC\*01/14/81\*[78797]\*66 NH PUC 21\*Boston and Maine Railroad

[Go to End of 78797]

## Re Boston and Maine Railroad

DT 80-261, Supplemental Order No. 14,664

66 NH PUC 21

New Hampshire Public Utilities Commission

January 14, 1981

ORDER providing for improvement of a crossing and assessment of associated costs.

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### 1. CROSSINGS, § 61 — Allocation of improvement costs.

[N.H.] Three criteria must be evaluated in determining the proper allocation of railroad crossing improvement costs between a railroad and a municipality: (1) whether the railroad or the highway was first constructed, (2) nature and volume of highway traffic, and (3) railroad traffic. p. 22.

### 2. CROSSINGS, § 65 — Improved crossing — Burden of upkeep.

[N.H.] The commission imposed the maintenance costs of an improved crossing upon a railroad; statutory law required railroads to maintain all grade crossings. p. 23.

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APPEARANCES: John Pendleton for the Boston and Maine Railroad.

BY THE COMMISSION:

Report

On December 22, 1980, the commission initiated this docket pursuant to a request by the city of Manchester to have additional protection at the West Mitchell Street crossing. The

commission held a duly noticed public hearing in Manchester, New Hampshire, on January 2, 1981, at which time the commission heard the comments of an audience composed of 125 residents of the city of Manchester.

At that hearing, two formal witnesses were presented from the commission's staff. The first witness, Winslow Melvin, provided the commission with a detailed

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history of the creation of the crossing and the evidence that have shaped the protection at that crossing through the years. The commission's assistant transportation director, Walter King, presented for the commission's evaluation a verbal description of the crossing, together with pictures, and diagrams. In addition, Mr. King discussed the commission's efforts to monitor the compliance with the existing stop signs at the crossing. At the conclusion of his presentation, Mr. King proposed that automatic flashing lights and gates be installed at the West Mitchell Street crossing. The comments from the mayor of the city of Manchester, the aldermen, and the residents of the surrounding community supported the staff's recommendation. No one appeared in opposition to the staff's presentation.

The commission in deciding whether or not additional protection is needed at the crossing is governed by New Hampshire RSA 373:1, :10, and 374:1. If a finding is made that the public safety requires additional protection at a given crossing, the commission is then provided the authority to apportion those costs between the railroad and the municipality in accordance with the standards set forth in RSA 373:3. In analyzing whether or not to require additional protection at this crossing, the commission must examine the adequacy of existing protection at the crossing. Since the crossing provides a clear view of both tracks from either direction, there can be no suggestion that additional clearing or elevation of the crossing will improve the safety protection factor. The existing warning signs at the crossing are in compliance with commission standards. Consequently, the only additional protection that can be given the crossing is through the installation of automatic flashing lights and/or gates.

The commission staff recommends that there should be an installation of automatic flashing lights and gates. The commission, based upon an analysis of the evidence, the comments of the public and numerous visits to the site, finds that automatic flashing lights and gates should be installed. The commission believes that the dramatic increase in vehicular traffic necessitates a greater level of protection. In addition, the fact that 25 per cent of the traffic over the crossing fails to properly honor the existing stop signs further substantiates the need for greater protection.

[1] The question of cost allocation has been cast in terms of relative benefit by both the railroad and the public. Both have sought to convince the commission that either the city or the railroad will enjoy a greater relative benefit from greater protection at the crossing.

Revised Statutes Annotated 378:3 does not contain the standard of "relative benefit." While the predecessor statute enacted in 1937 and repealed in 1951 did contain a provision requiring apportionment of cost "in accordance with the relative benefit to be derived," the legislative history of the existing statute suggests no implication of intent to retain the "relative benefit" criterion of the former statute. *Boston & Main Corp. v New Hampshire* (1969) 109 NH 547, 549.

The existing statute contains three criteria to be evaluated in determining the proper allocation between a railroad and a municipality. The first standard requires a determination of whether the railroad or the highway was first constructed. The testimony of witness Melvin, together with the reports and orders of the commission, clearly establish that the railroad existed first. Re City of Manchester (1943) 25 NH PSC 141. The West Mitchell Street crossing was established pursuant to a request by the city of Manchester to open a crossing at this particular location. Furthermore, the establishment of this crossing was followed by the

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closing of another crossing except for the maintenance of a pedestrian crossing. The costs of closing the prior crossing and the maintenance of the pedestrian crossing were assessed to the Boston and Maine Railroad in 1943. Re Boston & Maine Railroad (1943) 25 NH PUC 145.

The second criteria is an evaluation of the nature and volume of highway traffic. The commission records reveal that at the time of the creation of the crossing, the amount of vehicular traffic was relatively minor. The Priority Index of the Association of American Railroads reveals estimates up to 150 vehicles a day. However, the commission staff report reveals that traffic has increased to in excess of 400 vehicles a day.

The final criteria is an examination of the railroad traffic at the crossing. In 1943, when the city of Manchester requested this crossing to be established, train traffic was substantially in excess of that present today. Railroad service consisted of milk trains, freight trains, and six to eight passenger trains a day. During the period from 1943 to 1981, train traffic followed a consistently downward trend.

Based upon an analysis of the foregoing standards, the commission finds that due to the fact that the city of Manchester originally requested the establishment of the crossing and where further highway or road traffic has increased dramatically, the costs of installation at the crossing should be allocated to the city of Manchester.

The commission has received varying estimates on the cost of installation. The most recent estimate based on two sets of lights and gates totaled \$93,775. The commission believes that one additional protective device should be required; a third set of lights. The southeast corner of the crossing is the first portion of the crossing for people coming from the east and proceeding in a westerly direction. Because of the decline down to the crossing, the commission finds that an additional set of lights should be installed in the southeast quadrant. This double set of lights on the eastern side of the crossing will provide a greater degree of safety than the proposed one set of lights. This additional equipment should add approximately \$2,000 to the total cost estimate.

[2] Boston and Maine contends that the city of Manchester should be responsible for the \$3,000 to \$5,000 of annual maintenance expense. The commission does not agree. Revised Statutes Annotated 373:10 clearly requires the railroad to maintain all grade crossings. Boston & Maine Corp. v City of Manchester (1969) 109 NH 521. The Boston and Maine Railroad will be required to maintain this revised crossing and incur the annual \$3,000 to \$5,000 maintenance costs.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that the Boston and Maine Railroad install automatic flashing lights and gates at the West Mitchell Street crossing, Manchester, New Hampshire; and it is

Further ordered, that the cost of installation of these additional protective devices be allocated to the city of Manchester; and it is

Further ordered, that the cost of maintaining the crossing on a yearly basis be allocated to the Boston and Maine Railroad.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of January, 1981.

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NH.PUC\*01/19/81\*[78798]\*66 NH PUC 24\*Wolfeboro Municipal Electric Department

[Go to End of 78798]

**Re Wolfeboro Municipal Electric Department**

Intervenors: Legislative Utility Consumers' Council

DR 80-181, Supplemental Order No. 14,671

66 NH PUC 24

New Hampshire Public Utilities Commission

January 19, 1981

PETITION for a rate increase; granted.

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RATES, § 276 — Flat rate versus declining blocks — Conservation.

[N.H] A utility was ordered to flatten its rates; the utility's reliance on oil-fired generation, coupled with the increasing cost of oil, justified the elimination of declining block rates in order to foster conservation.

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APPEARANCES: Dennis Bean for the petitioner; Gerald Lynch, for the Legislative Utility Consumers' Council (LUCC).

BY THE COMMISSION:

Report

By petition, filed August 1, 1980, the Wolfeboro Municipal Electric Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire,

insofar as it provides service outside its municipal boundaries, seeks approval of its tariff, NHPUC No. 6 — Electricity, providing for a fold-in of the present purchase power surcharge of \$0.0023 per kilowatt-hour and \$0.0045 per kilowatt-hour, plus an increase in rates of \$96,794 (9.2 per cent), to be effective September 1, 1980.

On August 21, 1980, the commission issued order No. 14,444 (65 NH PUC 390) suspending the filing pending investigation and hearing thereon. On November 7, 1980, the commission issued an order of notice setting a hearing for December 3, 1980, at 10:00 A.M. on December 3, 1980, a hearing was held at the commission offices.

Wolfeboro filed a rate study report which included three separate steps: a billing analysis, a financial analysis, and the proposed structuring of the new rates. The 1977 cost-of-service study was used for the study which was submitted. The study claims that system characteristics have not changed since that last analysis. The study recommends changes in the tariff which will: (1) roll the existing purchased power surcharges into the basic rates; (2) cover the increased costs of operation; and (3) change the form of the rate structure. Significant in the Wolfeboro proposal are the adoption of a customer charge and the reduction of energy blocks.

During cross-examination of Albert E. Hodsdon, a consulting engineer, the witness testified that the new rate design would tend to flatten the rates. Mr. Hodsdon testified that Wolfeboro felt that the new rate structure was a step toward flat rates; however, it was felt that the proposed variance between regular domestic customers and domestic heat customers

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could be eliminated in the next rate case.

The filed rates include the roll-in of the 1978 and 1980 purchased power surcharges in the amounts of \$61,399, or \$0.0023 per kilowatt-hour; and \$107,066, or \$0.0045 per kilowatt-hour. The increase requested in addition to the surcharge roll-in is \$96,794, or an increase of 9.2 per cent over the rates presently in effect. The 1979 results of operations show a loss of \$13,900, and the pro forma income statement estimates a surplus of \$5,748.

The pro forma expenses of Wolfeboro have been increased from \$1,434,507 to \$1,579,500, or an increase of \$144,993. Purchased energy increases in the amount of approximately \$119,000 are included in the increase. Nonoperating income has been reduced to reflect the repayment of the Public Service Company of New Hampshire refund. Cross-examination by staff pointed out that after 1980 the outstanding debt would be retired, resulting in an ongoing reduction of \$18,063. Wolfeboro witness Malcolm Horton, Jr. stated that the reduced debt payment would act as an offset to reasonable increases in expenses that would take place in the future. The commission will accept the pro forma expenses as filed, with one exception — revenues will be reduced by \$1,660 in accordance with the rate structure changes below.

The proposed rates are partially rejected. The commission has taken steps to flatten rates in an attempt to foster conservation. Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209. Wolfeboro's cost-of-service study is three years out of date and cannot be relied upon as reasonable. Wolfeboro's testimony was that they would flatten rates at the time of their next filing. The commission does not find any rationale to support the delay of this implementation. The commission has noted that any increased usage in New Hampshire will be satisfied by

further reliance upon oil-fired generation. Since the price of oil is increasing dramatically, there is little, if any, justification for rewarding increased usage by providing a discount. The cost-of-service considerations have dramatically changed since 1977, and the commission is obligated to reflect these in the rates. Wolfeboro will submit revised tariff pages to provide for a uniform rate for all kilowatt-hour sales in the following rate classes, as outline below.

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

Rate Class	1979 Kwh Sales	Proposed Revenue*	Approved Rate	Estimated Revenue*	Variance
Domestic	9,602,697	\$340,060	\$0.035	\$336,094	\$-3,966
Domestic Hot Water QR	205,948	6,721	0.033**	6,796	+ 75
Domestic Space Heating	4,510,347	138,184	0.031***	139,821	+1,637
Domestic Seasonal	350,413	13,168	0.038	12,965	- 797
General	4,596,350	177,534	0.039	179,258	+1,724
General Seasonal	419,248	16,689	0.040	16,350	- 339
Public Bodies	278,612	9,188	0.033	9,194	+ 6
Total Variance From Filed Rates:				\$-1,600	

Customer Charge Excluded

\*Rate Also Applies to General Uncontrolled Water Heating.

\*\*Rates Also Applies to Two-meter Heat and General Space Heating

## Page 25

The remaining rate schedules will be allowed to become effective as filed, as those rates provide for a relatively flat rate. The customer charge as proposed will be accepted, as it is consistent with rate structures previously approved by this commission for other utilities. The commission believes that the rate structure approved will serve as a signal to customers that energy conservation is a required goal for all electric utilities. In future rate filings by Wolfeboro, the commission will require a fully allocated cost study. The commission will further allow the fold-in of the two purchased power increases, which are presently being billed to customers under the purchased power adjustment clause. In the event the 1980 purchased power increase is settled at the Federal Energy Regulatory Commission at a rate below the filed rates, the commission will require a rebate of any overcollection.

Wolfeboro Municipal Electric Department shall file revised tariff pages for all rates which have been changed; such revised pages to be annotated "Issued in compliance with NHPUC Order No. \_\_\_\_" and will become elective with service rendered on or after January 1, 1981.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that tariff, NHPUC No. 6 — Electricity, Municipal Electric Department of Wolfeboro, New Hampshire, is approved in part; with Original Pages 12-16 rejected; and it is

Further ordered, that the department file with the commission First Revised Pages 12-16 in lieu of those rejected, said pages to reflect the rates specified in the accompanying report; and it is

Further ordered, that tariff, NHPUC No. 6 — Electricity, with First Revised Pages 12-16, be,

and hereby is, effective with all service rendered on or after January 1, 1981; and it is

Further ordered, that the department file with the commission a corrected report of proposed rate changes reflecting the approved rates; and it is

Further ordered, that one-time public notice be given by publication of a summary of the approved changes in a newspaper having wide circulation in the area served.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of January, 1981.

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NH.PUC\*01/20/81\*[78799]\*66 NH PUC 26\*Public Service Company of New Hampshire

[Go to End of 78799]

### Re Public Service Company of New Hampshire

DR 81-6, Order No. 14,672

66 NH PUC 26

New Hampshire Public Utilities Commission

January 20, 1981

ORDER suspending emergency rate surcharge filed by electric utility.

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**Page 26**

BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 16, 1981, filed with this commission Original Page 14-A of its tariff, NHPUC No. 24 — Electricity, providing for an emergency surcharge, designed to increase annual revenues by \$35,501,914 (10.2 per cent), filed for effect February 17, 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 Original Page 14-A of tariff, NHPUC No. 24 — Electricity, of Public Service Company of New Hampshire be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twentieth day of January, 1981.

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NH.PUC\*01/20/81\*[78800]\*66 NH PUC 27\*Kearsarge Telephone Company

[Go to End of 78800]

**Re Kearsarge Telephone Company**

DE 81-14, Order No. 14,676

66 NH PUC 27

New Hampshire Public Utilities Commission

January 20, 1981

PETITION for extension of telephone service; granted.

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BY THE COMMISSION:

Order

Whereas, Kearsarge Telephone Company, a utility operating under the jurisdiction of this commission, by a petition filed on January 2, 1981, seeks authority, pursuant to RSA 374:26, as amended, to extend its lines and service into a limited area in the town of Sutton; and

Whereas, Merrimack County Telephone Company has waived its franchise rights in this limited area, and the petitioner submits that the area in question will be served under its regularly filed tariff; 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 permission be, and hereby is, granted to Kearsarge Telephone Company to do business as a telephone utility in a limited area in the town of Sutton, said area outlined on a map on file in the office of this commission, and for that purpose to construct and maintain the necessary lines and apparatus; and it is

Further ordered, that revised exchange area maps, reflecting the change herein authorized be filed by both companies within sixty days of the date hereof.

By order of the Public Utilities Commission of New Hampshire this twentieth day of January, 1981.

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NH.PUC\*01/20/81\*[78801]\*66 NH PUC 28\*Merrimack County Telephone Company

[Go to End of 78801]

**Re Merrimack County Telephone Company**

DE 81-13, Order No. 14,677

66 NH PUC 28

New Hampshire Public Utilities Commission

January 20, 1981

PETITION for extension of telephone service; granted.

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BY THE COMMISSION:

Order

Whereas, Merrimack County Telephone Company, a utility operating under the jurisdiction of this commission, by a petition filed January 2, 1981, seeks authority, pursuant to RSA 374:26, as amended, to extend its lines and service into a limited area in the town of Webster; and

Whereas, Kearsarge Telephone Company has waived its franchise rights in this limited area, and the petitioner submits that the area in question will be served under its regularly filed tariff; 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 permission be, and hereby is, granted to Merrimack County Telephone Company to do business as a telephone utility in a limited area in the town of Webster, said area outlined on a map on file in the office of this commission, and for that purpose to construct and maintain the necessary lines and apparatus; and it is

Further ordered, that revised exchange area maps, reflecting the change herein authorized be filed by both companies within sixty days of the date hereof.

By order of the Public Utilities Commission of New Hampshire this twentieth day of January, 1981.

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NH.PUC\*01/21/81\*[78802]\*66 NH PUC 28\*Hanover Water Works Company

[Go to End of 78802]

**Re Hanover Water Works Company**

DR 81-15, Order No. 14,679

66 NH PUC 28

New Hampshire Public Utilities Commission

January 21, 1981

ORDER suspending rates filed by water utility.

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BY THE COMMISSION:

Order

Whereas, Hanover Water Works Company, a public utility engaged in the business of supplying water service in the state of New Hampshire, on December 22, 1980, filed with this commission certain revisions of its tariff, NHPUC No. 5 — Water, providing for increased annual revenues of \$95,983 (25.5 per cent); 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 3, 4, 10, and 12-16 of tariff, NHPUC No. 5 — Water, of Hanover Water Works Company, 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 January, 1981.

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NH.PUC\*01/23/81\*[78803]\*66 NH PUC 29\*Residential Conservation Service Program for Noncovered Utilities

[Go to End of 78803]

## **Re Residential Conservation Service Program for Noncovered Utilities**

DE 80-232, Order No. 14, 682

66 NH PUC 29

New Hampshire Public Utilities Commission

January 23, 1981

PETITION for recovery of expenses associated with a residential conservation service program; denied with leave to amend.

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BY THE COMMISSION:

Order

Whereas, the commission having considered the petition and having given careful consideration to the contemplated services requested to be furnished, the cost, and the distribution of same; and

Whereas, the commission finds that the services requested to be furnished are available for all customers of the utilities and not primarily designed for conservation of residential heating customers or those high users of energy, therefore; it is hereby

Ordered, that the petition filed in this docket be denied and the petitioners are granted leave

to file a more appropriate or limited petition.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of January, 1981.

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NH.PUC\*01/23/81\*[78804]\*66 NH PUC 30\*Pennichuck Water Works

[Go to End of 78804]

## Re Pennichuck Water Works

Intervenors: City of Nashua and Legislative Utility Consumers' Council

DR 79-3, Sixth Supplemental Order No. 14,681

66 NH PUC 30

New Hampshire Public Utilities Commission

January 23, 1981

PETITION for recoupment and treatment of appeal costs; granted with modification.

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1. EXPENSES, § 89 — Appeal costs.

[N.H.] Rate case expenses, including those associated with appeals, if reasonable, may be included in cost-of-service. p. 30.

2. RATES, § 249 — Effective date — Temporary rates.

[N.H.] The effective date for temporary rates was not for service on or after filing; temporary rates could only be effective (1) after filing, (1) after notice to customers had been made, and (3) where the effective date would be the same for all customers without regard to the utility's billing procedure. p. 31.

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APPEARANCES: John Pendleton for Pennichuck Water Works; Philip Howorth for the city of Nashua; Gerald Lynch for the Legislative Utility Consumers' Council (LUCC).

BY THE COMMISSION:

Report

The New Hampshire supreme court remanded this case to the commission for further hearings on November 6, 1980. The supreme court in its remand decision chose to establish parameters for the commission to use in the implementation of RSA 378:27, the temporary rate statute.

Pennichuck seeks recovery of additional revenue from all of its customers for service rendered on or after December 29, 1978, the date of the original filing in this proceeding.

Pennichuck relies on the language in the supreme court's decision, which states that the commission could allow such an adjustment to rates. Pennichuck also relies on its billing practice of the previous order which resulted in a group of customers being billed at the higher temporary rate in February and March of 1979; whereas other customers did not receive the additional levy. Finally, Pennichuck seeks to recover the legal costs associated with the appeal, or \$9,867.85. The total request made by Pennichuck is \$62,964.85.

[1] The city of Nashua and the LUCC offer three arguments against the request made by Pennichuck as to the temporary rate request of \$53,097. Neither of these parties objects to the allowance of attorney's fees related to the appeal. Pennichuck relies upon *New Hampshire v Hampton Water Works Co.* (1941) 91 NH 278, 296, 297, 39 PUR NS 15, 19 A2d 435, for the proposition that expenses of appeal are to be recognized by this commission in the rates charged consumers. The commission agrees that the supreme court has recognized that rate case expenses, including those associated with appeals,

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are proper for rate-making recognition. However, Hampton also clearly allows for disallowance in whole or in part for expenses incurred that are excessive, improper, unreasonably incurred, undue in amount, or chargeable to other accounts.

Applying this standard to this proceeding the commission finds the rate case expenses reasonable. The appeal clarified the law on a very important aspect of regulatory procedure.

[2] The question of the effective date of temporary rates remains to be resolved. The supreme court established a range for the commission to work within. There are three distinct principles in the supreme courts decision. First, no utility can collect increased rates for service rendered prior to the filing of a permanent rate request. Second, that rates are a contracting obligation as well as a legal obligation between the consumer and utility and as such notice is important if either is attempting an alteration of that relationship. Third, the effective date for temporary rates shall be the same for all customers and shall not depend upon the vagaries of a utility's billing procedure.

Pennichuck applied the temporary rate increase, pursuant to our order, to all bills rendered on or after April 30, 1979. Because Pennichuck bills quarterly but also has some customers being billed each month, the result of the commission order was to have increased rates applied to some customers for three months, January 31, 1979, to April, 1979. Other customers were only charged the increased rate for service for two months. While still others were billed the higher rate for only one month. Clearly, a correction requires that all customers be billed pursuant to the temporary rates for all service rendered after January 31, 1979.

Pennichuck contends that the effective date should be for service on or after December 28, 1978. The commission disagrees. Pennichuck, in its filing sought an effective date of January 31, 1979. Of even greater importance is the lack of notice to the public prior to mid-January, 1979. Consumers using Pennichuck's product cannot be found to have been properly notified of a potential change in their contracted and legal relationship until after the notice in the paper. A filing at the commission may not even be docketed for two weeks after receipt. Furthermore, consumers cannot be held accountable to have a daily working knowledge of filings before the

commission.

Pennichuck is to file tariff pages to collect by means of a one-time charge the lost revenue from the customers who received only one or two months of the discussed temporary rate increase. This procedure will thereby uniformly apply the temporary rates to all service rendered after January 31, 1979. The recovery of the rate case expenses are to be recovered over the same period as the rate case expense in the last Pennichuck Water Works proceeding. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made apart hereof; it is hereby

Ordered, that Pennichuck Water Works file tariff pages to implement the aforementioned report.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of January, 1981.

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NH.PUC\*01/26/81\*[78805]\*66 NH PUC 32\*Locke Lake Water Company, Inc.

[Go to End of 78805]

**Re Locke Lake Water Company, Inc.**

DR 80-198, Second Supplemental Order No. 14,685

66 NH PUC 32

New Hampshire Public Utilities Commission

January 26, 1981

ORDER setting the effective date of revised tariffs.

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BY THE COMMISSION:

Supplemental Order

Whereas, Locke Lake Water Company, Inc., has filed a motion for rehearing in this case; and

Whereas, a further review of the evidence submitted, and certain points raised in the motion for rehearing, has convinced us that the effective date of the increase granted in Order No. 14,657 ([1981] 66 NH PUC 7) should be revised to coincide with the issued date of Order No. 14,657; and

Whereas, Locke Lake's contention that our order did not address the company's request for temporary rates is unfounded and at the outset of these proceedings on October 23, 1980, it was recognized that a conflict existed between the commission's internal notice and the public notice as published by Locke Lake (T. pp. 3-6); and

Whereas, the October 23rd hearing proceeded with the understanding of all parties that

permanent and temporary rates would be addressed to the fullest extent possible (T. pp. 4, 5, and 6); and

Whereas, the final hearing in this case was held on December 18, 1980, and the commission's expedited order was issued on January 9, 1981; and

Whereas, Locke Lake's tariff, NHPUC No. 1, Original Pages 17 and 18, remain in effect until otherwise ordered by this commission and would thus be applicable for the ongoing period commencing October 1, 1980; and

Whereas, Order No. 14,657 did nothing to change or deny this, we reject Locke Lake's contention that it has been denied the right to collect revenues for service rendered on or after October 1, 1980; and

Whereas, the rate design as specified, in this report and Order No. 14,657 inadvertently omitted the rate for the minimum charge which should have been \$7.50 per quarter; and

Whereas, a more careful reading of the report in this case will show that an allowance of 75 per cent of the accounting rate case expense was allowed (66 NH PUC at p. 11, *supra*); and

Whereas, there is no evidence to support the remaining issues in this motion, the request for a rehearing is denied; and it is

Ordered, that the revised tariff pages to be filed as directed in Order No. 14,657, shall be filed to become effective with all service rendered on or after January 9, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of January, 1981.

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NH.PUC\*01/26/81\*[78807]\*66 NH PUC 33\*Public Service Company of New Hampshire

[Go to End of 78807]

**Re Public Service Company of New Hampshire**

DR 79-187, 47th Supplemental Order No. 14,687

66 NH PUC 33

New Hampshire Public Utilities Commission

January 26, 1981

ORDER granting limited party status.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Greater Manchester chamber of commerce has requested limited party status in Phase II in the above docket and;

Whereas, good cause being shown; it is hereby

Ordered, that the Greater Manchester chamber of commerce is admitted as a limited party in docket DR 79-187, Phase II ([1981] 66 NH PUC 6).

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of January, 1981.

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NH.PUC\*01/27/81\*[78806]\*66 NH PUC 33\*Public Service Company of New Hampshire

[Go to End of 78806]

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

DR 81-6, Supplemental Order No. 14,686

66 NH PUC 33

New Hampshire Public Utilities Commission

January 27, 1981

ORDER denying waiver of notice requirements

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BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire (PSNH) seeks a request for a waiver of the notice provisions of NHPUC Rule 303.03(d); and

Whereas, after due consideration, the commission finds no valid reason to depart from its rules; it is therefore

Ordered, that the request for waiver is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of January, 1981.

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NH.PUC\*01/28/81\*[78808]\*66 NH PUC 34\*Public Service Company of New Hampshire

[Go to End of 78808]

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

DR 79-187, 48th Supplemental Order No. 14,693

66 NH PUC 34

New Hampshire Public Utilities Commission

January 28, 1981

ORDER granting intervention.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Department of Defense has requested it participate as a full party intervenor in Phase II of the above docket ([1981] 66 NH PUC 6), and

Whereas, good cause is shown, it is hereby

Ordered, that the Department of Defense is admitted as a full party intervenor in Phase II in the above docket; it is

Further ordered, that the Department of Defense prefile testimony shall be filed by March 20, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of January, 1981.

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NH.PUC\*01/28/81\*[78809]\*66 NH PUC 34\*Small Energy Producers and Cogenerators

[Go to End of 78809]

### Re Small Energy Producers and Cogenerators

DE 80-246, Order No. 14,694

66 NH PUC 34

New Hampshire Public Utilities Commission

January 28, 1981

ORDER granting intervention.

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BY THE COMMISSION:

Order

Whereas, the governor's council on energy has requested to be a full party intervenor in the above docket; and

Whereas, good cause is shown; it is hereby

Ordered, that the governor's council on energy is admitted as a full party intervenor in the above docket DE 80-246.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of January, 1981.

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NH.PUC\*01/28/81\*[78810]\*66 NH PUC 35\*Lifeline Rates

[Go to End of 78810]

## Re Lifeline Rates

DP 80-260, Order No. 14,695

66 NH PUC 35

New Hampshire Public Utilities Commission

January 28, 1981

ORDER granting intervention

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BY THE COMMISSION:

Order

Whereas, the Department of Defense has requested to participate as a full party intervenor in the above docket; and

Whereas, good cause being shown; it is hereby

Ordered, that the Department of Defense is admitted as a full party intervenor in the docket DP 80-260.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of January, 1981.

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NH.PUC\*01/30/81\*[78811]\*66 NH PUC 35\*Fuel Adjustment Charge

[Go to End of 78811]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Woodsville Water and Light Department, Legislative Utility Consumers' Council, 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, and Littleton Water and Light Department

DR 80-161, Order No. 14,697

66 NH PUC 35

New Hampshire Public Utilities Commission

January 30, 1981

PETITION for authority to collect a fuel adjustment charge; granted.

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APPEARANCES: Eaton W. Tarbell for Public Service Company of New Hampshire; Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-a (II), the commission on January 22, 1981, 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 February, 1981, monthly billings to their customers at a constant rate for regular January, February, and March, 1981, 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 January 20, 1981, the company filed with the commission their affidavits and Exhs 1 through 11, schedules showing maintenance day outages at the company's generating units and major entitlement units for December, 1980, the reasons for unscheduled outages, and fuel data sheets for the period ending December 31, 1980. Exhibits 12, 13, and 14 were submitted at the hearing. Exhibits 12 and 13 updated Exhs 1 and 2, while Exh 14 reflects the company's best estimates of oil prices for January through June, 1981.

Based upon an agreement between the company, PUC staff, Legislative Utility Consumers' Council (LUCC), and Community Action Program (CAP), the company need not bring its witnesses to the hearings held in the two off months 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. No such request was made, but all parties reserved their rights of cross-examination on the reconciling adjustment until the March, 1981, hearing.

Based upon all the affidavits and evidence in the record of this proceeding and the aforementioned order, the commission finds that the fuel adjustment charge is approved for January, 1981, of \$2.59 per 100 kilowatt-hours is just and reasonable for February, 1981. Our order will issue accordingly.

Order

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

Ordered, that Public Service Company of New Hampshire Ninth Revised Pages 23 and 24 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly estimated fuel adjustment clause of \$2.59 per 100 kilowatt-hours for the month of February, 1981, be, and hereby is, permitted to become effective February 1, 1981; and it is

Further ordered, that 70th Revised Page 15-A of Concord Electric Company tariff, NHPUC

No. 6 — Electricity, providing for a quarterly fuel surcharge of \$2.84 per 100 kilowatt-hours for the month of February, 1981, be, and hereby is, permitted to become effective February 1, 1981; and it is

Further ordered, that Seventh Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$2.71 per 100 kilowatt-hours for the month of February, 1981, be, and

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hereby is, permitted to become effective February 1, 1981; and it is

Further ordered, that 46th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for a monthly fuel surcharge of 70 cents per 100 kilowatt-hours for the month of February, 1981, be, and hereby is, permitted to become effective February 1, 1981; and it is

Further ordered, that 13th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$3.46 per 100 kilowatt-hours net of refunds for the month of February, 1981, be, and hereby is, permitted to become effective February 1, 1981; and it is

Further ordered, that 77th Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$4.37 per 100 kilowatt-hours for the month of February, 1981, be, and hereby is, permitted to become effective February 1, 1981; 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 \$3.79 per 100 kilowatt-hours net of the Public Service Company of New Hampshire refund for the month of February 1, 1981, be, and hereby is, permitted to become effective February 1, 1981; and it is

Further ordered, that 85th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$3.52 per 100 kilowatt-hours for the month of February, 1981, be, and hereby is permitted to become effective February 1, 1981; and it is

Further ordered, that 51st 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 100 kilowatt-hours for the month of February, 1981, be, and hereby is, permitted to become effective February 1, 1981.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of January, 1981.

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NH.PUC\*02/03/81\*[78812]\*66 NH PUC 37\*Public Service Company of New Hampshire

[Go to End of 78812]

## Re Public Service Company of New Hampshire

Intervenors: Legislative Utility Consumers' Council

DF 81-2, Order No. 14,698

66 NH PUC 37

New Hampshire Public Utilities Commission

February 3, 1981

PETITION for authority to issue common stock; granted.

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APPEARANCES: Frederick J. Coolbroth and Martin L. Gross for the petitioner; Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this unopposed petition filed January 5, 1981, 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 January 22, 1981, at which the company submitted the testimony of John J. Lampron, its treasurer.

Mr. 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 \$129,350,000 on February 11, 1981), 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 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.

The company submitted a balance sheet as at November 30, 1980, actual and pro forma to reflect the sale of \$23 million of general and refunding mortgage 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, 1980, actual and pro forma to reflect the sale of \$23 million of general and refunding mortgage bonds and the proposed sale of the common stock. Estimated construction expenditures were outlined in testimony and a

certified copy of authorizing votes of the company's board of directors was put in evidence.

The pro forma capital structure reflecting the actual short-term debt outstanding as of November 30, 1980, and pro formed to reflect the sale of \$23 million of general and refunding mortgage bonds, Series D and the proposed sale of 2.5 million shares of common stock.

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

	<i>Per Cent</i>		<i>Pro Forma</i>
	<i>November Of</i>	<i>Total</i>	<i>Amount</i>
	<i>Actual</i>		
<i>Long-term Debt</i>	\$ 400,687	37.7	\$ 423,687
<i>Short-term Debt</i>	108,350	10.2	92,150
<i>Preferred Stock</i>	171,420	16.1	171,420
<i>Common Equity</i>	383,461	36.0	420,511
	<hr/>		<hr/>
<i>Total Capitalization</i>	\$1,063,918	100.0	\$1,107,768

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Mr. Lampron also testified that the company had, in accordance with this commission's Second Supplemental Order No. 14,601 in DF 80-229 ([1980] 65 NH PUC 617), put in place the adjustment period involving the increased ownership interest in Seabrook Station by Maine and Massachusetts investor-owner utilities. The commission finds that the agreement reached between the company and such utilities satisfies the expectation set out in that order.

Mr. Lampron testified that new arrangements have been negotiated with the participants in the Seabrook project concerning the commencement of the adjustment periods for the reduction of the company's ownership interest in the project. Those participants who have received the necessary regulatory approvals (6.25576 per cent) will commence their adjustment period as of January 31, 1981. The 13th amendment to the Seabrook joint agreement includes provisions that for implementing adjustment periods for the Massachusetts Municipal Wholesale Electric Company (MMWEC), Taunton, and the New Hampshire Electric Cooperative, Inc., in the event all regulatory approvals are received and financing arrangements are consummated.

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; (2) to finance the purchase and construction of additional property within the state of New Hampshire; and (3) for other proper corporate purposes, and further finds that the issue and sale of common stock for the purposes described will be consistent with the public good. Upon completion of the financing the company shall file an accounting of the expenses of the sale of the common stock and the concessions granted to the underwriters. 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 the common preferred 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 except as authorized in this commission's report and Order No. 14,505 in DF 80-195 ([1980] 65 NH PUC 457), and report and order No. 14,597 in DF 80-299 ([1980] 65 NHPUC 61 1), none of the proceeds from the common stock 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 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 third day of February, 1981

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NH.PUC\*02/03/81\*[78813]\*66 NH PUC 40\*New England Telephone and Telegraph Company

[Go to End of 78813]

**Re New England Telephone and Telegraph Company**

DE 80-257, Order No. 14,699

66 NH PUC 40

New Hampshire Public Utilities Commission

February 3, 1981

PETITION for a license to construct and maintain an aerial wire over state railroad right of way; granted.

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APPEARANCES: Wayne Snow, engineering manager, for the petitioner.

BY THE COMMISSION:

## Report

On December 16, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to place and maintain aerial wire on private property over state railroad right of way in Laconia, New Hampshire.

The commission issued an order of notice on December 18, 1980, directing all interested parties to appear at public hearing at 10:00 A.M. on January 22, 1981, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice copies were directed to John R. Sweeny, director, aeronautics commission; the New Hampshire Transportation Authority; George Gilman, commissioner, Department of Resources and Economic Development; John Bridges, director, safety services; William Shaine; Legislative Utility Consumers' Council; and the office of the attorney general.

An affidavit of publication indicating that a publication was made in the *Union Leader* on December 29, 1980, was received in the commission's office in Concord, New Hampshire, on January 16, 1981.

Wayne Snow, engineering manager, explained that the petition results from a customer request to relocate an existing utility pole to allow the customer to move his driveway to a different location. The company intends to install a new Pole No. 22/1 as indicated in Exh 2 and to install a six-pair multiple wire over property owned by the state of New Hampshire to an existing Pole No. 22/2. Mr. Snow testified the aerial wire will maintain a height of 26.5 feet over an

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existing railroad section and be installed and maintained in accordance with established safety standards.

The commission noted that no objections were filed nor expressed at the hearing and, in fact, no intervenors or interested parties were in attendance. The petition was properly publicized and proper notification was given to the public as to the proposed installation. The commission finds this petition for a license to place and maintain aerial wire over state railroad right of way in Laconia, New Hampshire, 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 New England Telephone and Telegraph Company to construct and maintain an aerial wire over state railroad right of way in Laconia, New Hampshire, as defined in petitioner's Exh 2.

By order of the Public Utilities Commission of New Hampshire this third day of February, 1981.

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NH.PUC\*02/03/81\*[78814]\*66 NH PUC 41\*New England Telephone and Telegraph Company

[Go to End of 78814]

## Re New England Telephone and Telegraph Company

De 80-236, Order No. 14,700

66 NH PUC 41

New Hampshire Public Utilities Commission

February 3, 1981

PETITION for authority to install and maintain a submarine telephone cable crossing state-owned public waters; granted.

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APPEARANCES: Wayne Snow for the petitioner.

BY THE COMMISSION:

Report

On November 19, 1980, New England Telephone and Telegraph Company, a telephone utility operating in the state of New Hampshire, petitioned the commission for authority to place and maintain telephone submarine plant under Squam Lake in Center Harbor, New Hampshire. This plant comprises a one-pair telephone cable running from Center Harbor Neck road to Mouse Island. An order of notice was issued on November 21, 1980, setting the matter for hearing on January 14, 1980; with publication. A duly noticed public hearing was held at the commission offices at 10 A.M. on January 14, 1981.

Representing the petitioner was Wayne Snow; no other persons appeared. Mr Snow testified that this authorization was being sought to properly license the replacement of a failed submarine cable which had been installed in 1978. For unknown

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reasons, the original cable was not licensed by the commission. Mr. Snow indicated that the line extended from Center Harbor Neck road at Pole No. 19/81, on property of Francis LeBaron. The submarine portion is about 1,200 feet terminating on the Mouse Island property of Charles Vogler.

The line had failed on August 26, 1980; service was restored on August 29, 1980. Company research of the line at that time revealed the licensed status, resulting in the petition to correct the discrepancy. As exhibits, Mr. Snow presented the company's petition, Diagram 28-20, water supply and pollution control commission and water resources board permits.

In the absence of any objection to this submarine cable installation, the commission finds that it is for the public good, and will issue its order accordingly.

Order

In 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, granted a

license to install and maintain a submarine cable for Pole No. 19/81 in Center Harbor, New Hampshire, beneath public waters of Squam Lake to the property of Charles Vogler on Mouse Island.

By order of the Public Utilities Commission of New Hampshire this third day of February, 1981.

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NH.PUC\*02/03/81\*[78815]\*66 NH PUC 42\*Public Service Company of New Hampshire

[Go to End of 78815]

## Re Public Service Company of New Hampshire

DF 80-239, First Supplemental Order No. 14,701

66 NH PUC 42

New Hampshire Public Utilities Commission

February 3, 1981

PETITION for authority to sell common stock and to extend the maturity of term notes; granted in part.

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BY THE COMMISSION:

Supplemental Order

Whereas, by its Order No. 13,207, dated June 13, 1978, issued in docket DF 78-90 (63 NH PUC 199), the commission authorized Public Service Company of New Hampshire (the company) to issue and sell up to 300,000 shares of its common stock, \$5 par value, pursuant to its dividend reinvestment and common stock purchase plan (the plan); and

Whereas, by Order No. 14,623, dated December 18, 1980 (65 NH PUC 636), in this docket, the commission authorized, inter alia, the company to issue and sell up to 1.8 million shares of its common stock, \$5 par value (the additional common stock) pursuant to the plan, in addition to the 300,000 shares of common stock, \$5 par value, the issuance and sale of which had been previously so authorized (266,643 shares having heretofore

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been issued and sold); and

Whereas, the said plan currently provides that the date on which shares of common stock of the company shall be purchased by The First National Bank of Boston, as agent for plan participants, through the investment of cash dividends, optional cash payments, or cash accumulated through employee payroll deductions (the reinvestment date) is the respective common stock dividend payment date; and

Whereas, the company has amended the plan to provide that the reinvestment date shall be

the applicable common stock dividend payment date or such later date as the company may select, but in no event later than ten calendar days following such dividend payment date and has selected February 24, 1981, as the reinvestment date in conjunction with the February, 1981, common stock dividend payment date in order to ensure that current information be available to plan participants; and

Whereas, the company has moved that said Order No. 14,623, be modified to permit the issue and sale of such of the additional common stock as may be necessary pursuant to the plan, as amended; and

Whereas, the commission finds, after investigation, that the issuance and sale of the additional common stock pursuant to the plan as so amended will be consistent with the public good; it is

Ordered that Public Service Company of New Hampshire be and hereby is authorized to issue and sell such number of the up to 1.8 million additional shares of its common stock, \$5 par value, the issue and sale of which has heretofore been authorized by this commission by its Order No. 14,623, dated December 18, 1980, as shall be required pursuant to the terms of the dividend reinvestment and common stock purchase plan, as amended; and it is

Further ordered that in all other respects Order No. 14,623 in this docket shall remain in full force and effect.

By order of the Public Utilities Commission of New Hampshire this third day of February, 1981.

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NH.PUC\*02/03/81\*[78816]\*66 NH PUC 43\*New England Telephone and Telegraph Company

[Go to End of 78816]

**Re New England Telephone and Telegraph Company**

DE 80-240, Order No. 14,702

66 NH PUC 43

New Hampshire Public Utilities Commission

February 3, 1981

PETITION for authority to install and maintain aerial telephone cable over state-owned railroad right of way; granted

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APPEARANCES: Alfred Ward for the petitioner.

BY THE COMMISSION:

Report

On November 19, 1980, New England Telephone and Telegraph Company a telephone utility operating in the state of New Hampshire, petitioned the commission for authority to install and maintain an aerial 50-pair telephone cable across the state-owned railroad right of way along Route 140 in Tilton, New Hampshire. An order of notice was issued on November 24, 1980, setting the matter for hearing on January 14, 1981; with publication. A duly noticed public hearing was held at the commission offices on the date specified.

Representing the petitioner was Alfred Ward, manager of outside plant engineering in the Concord area; no other persons appeared. Mr. Ward presented three exhibits; i.e. the petition describing the crossing, Plan No. 301 showing detail of the proposed crossing, and a map locating the crossing. He indicated hat addition of the 50-pair cable was to provide expanded telephone service for the company's Tilton exchange. Both petition and witness indicated that all installation would meet necessary safety codes.

In consideration of the need for expanding the Tilton exchange, and there being no objection to the crossing by intervenors, the commission finds said crossing to be for the public good, and will issue its order accordingly.

#### Order

In 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, granted authority to place and maintain a 50-pair aerial cable across state-owned railroad right of way along Route 140 in Tilton, New Hampshire.

By order of the Public Utilities Commission of New Hampshire this third day of February, 1981.

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NH.PUC\*02/03/81\*[78817]\*66 NH PUC 44\*New England Telephone and Telegraph Company

[Go to End of 78817]

## Re New England Telephone and Telegraph Company

DE 80-263, Order No. 14,703

66 NH PUC 44

New Hampshire Public Utilities Commission

February 3, 1981

PETITION for authority to install and maintain a submarine telephone cable crossing state-owned public waters; granted.

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APPEARANCES: Philip Blanchette, manager, engineering, for the petitioner.

## BY THE COMMISSION:

## Report

On December 30, 1980, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to place and maintain submarine plant crossing in state-owned public waters in Harrisville and Nelson, New Hampshire, under Silver Lake.

The commission issued an order of notice on January 2, 1981, directing all interest parties to appear at public hearing at 10:00 A.M. on January 28, 1981, at the commission's Concord, New Hampshire, offices. In addition to publication of said notice, copies were directed to John Bridges, director of safety services; George Gilman, commissioner, Department of Resources and Economic Development; New Hampshire Transportation Authority; William Shaine, Legislative Utility Consumers' Council; and the office of the attorney general.

An affidavit of publication indicating that a publication was made in the *Union Leader* on January 13, 1981, was received in the commission's office in Concord New Hampshire, on January 15, 1981.

Philip Blanchette, manager, engineering, Keene division, explained that the petition results from the company's analysis that existing lines under Silver Lake are inadequate to serve future customers. Currently, two single pairs serve two present customers. The company anticipates the addition of approximately twenty-five customers over the next twenty-five years. It proposes to install a single 27-pair submarine cable from Pole No. 16AD/1 on the eastern shoreline of Silver Lake in Harrisville to Pole No. 16AD/2 on the western shoreline in Nelson. The company testified that the nearest existing overhead facilities on the western side of Silver Lake are approximately 1.5 miles from Pole No. 16AD/2. The proposed underwater crossing will require only 2,800 feet of cable.

The commission notes that no objections were filed nor expressed at the hearing and, in fact, no intervenors or interested parties were in attendance. The petition was properly publicized, and proper notification was given to the public as to the proposed installation. The commission finds this petition for a license to place and maintain submarine plant crossing state-owned public waters in Harrisville and Nelson, New Hampshire under Silver Lake 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 New England Telephone and Telegraph Company to construct and maintain a submarine plant crossing state-owned public waters in Harrisville and Nelson, New Hampshire, under Silver Lake.

By order of the Public Utilities Commission of New Hampshire this third day of February, 1981.

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NH.PUC\*02/04/81\*[78818]\*66 NH PUC 46\*Walter J. Komisarek, Jr.

[Go to End of 78818]

**Re Walter J. Komisarek, Jr.**

DE 79-50, Second Supplemental Order No. 14,716

66 NH PUC 46

New Hampshire Public Utilities Commission

February 4, 1981

ORDER staying the termination of electric service.

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PAYMENT, § 33 — Service termination for nonpayment — Health of ratepayer.

[N.H.] The commission, aware of a serious health condition of a customer who had failed to abide by a previous order for the scheduled payment of electric service and arrears, reluctantly found it not to be in the best interest of the customer or the utility to have service terminated.

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BY THE COMMISSION:

Supplemental Order

[1] Whereas, Walter J. Komisarek, Jr. has requested the commission to issue an order to prohibit the Public Service Company of New Hampshire from terminating his electric service; and

Whereas, this request flows from a proceeding held by this commission in June, 1979, and Order No. 13,684 ([1979] 64 NH PUC 185), which set forth a payment schedule and directed Walter Komisarek, Jr., to abide by the terms of the order and failure to do so would permit the company to terminate service; and

Whereas, the commission finds that Walter J. Komisarek, Jr., did not abide by the terms of the order and the position of the company and the commission's consumer assistance office was correct and proper; and

Whereas, the commission is made aware of a serious health condition of Walter Komisarek, Jr., by Dr. Patrick J. Lawrence, MD, FACC, and reluctantly finds that it would not be in the interest of the customer or the company to terminate service at this time, therefore; it is hereby

Ordered, that Public Service Company of New Hampshire provide electric service to Walter J. Komisarek, Jr., subject to the following conditions:

A. The sum of \$118 be paid to the company immediately;

B. The sum of \$117.55 be paid on or before Monday, February 9, 1981, no later than 12:00 noon at the Public Service Company central office;

C. Dr. Patrick J. Lawrence, MD, FACC, by telephone verify the health condition of Walter J. Komisarek, Jr., to the executive director and secretary of the commission;

D. All arrears and current bills be paid by April 1, 1981; and it is

Further ordered, that if the conditions set forth in Pars A or B are not complied with immediately electric service shall be terminated; and it is

Further ordered, that if the conditions set forth within Par D is not complied with by April 1, 1981, service will be terminated immediately as of that date.

By order of the Public Utilities Commission of New Hampshire this fourth day of February, 1981.

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NH.PUC\*02/05/81\*[78819]\*66 NH PUC 47\*Claremont Gas Light Company

[Go to End of 78819]

### **Re Claremont Gas Light Company**

DE 81-27, Order No. 14,722

66 NH PUC 47

New Hampshire Public Utilities Commission

February 5, 1981

ORDER mandating a winter gas leak survey.

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BY THE COMMISSION:

Order

Whereas, on January 23, 1981, this commission instituted an inspection survey to determine the status of underground gas leaks associated with the regulated gas leaks associated with the regulated gas companies in New Hampshire; and

Whereas, results of that survey disclose that extraordinary measures must be taken in view of the potential underground damage resulting from the recent extreme winter cold weather; and

Whereas, Claremont Gas Light Company has taken no such measures to determine the status of their gas distribution system; it is

Ordered, that Claremont Gas Light Company take immediate steps to conduct a winter gas leak survey of its underground gas distribution system to be completed by March 1, 1981.

By order of the Public Utilities Commission of New Hampshire this fifth day of February, 1981.

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NH.PUC\*02/06/81\*[78820]\*66 NH PUC 47\*Boston and Maine Railroad

[Go to End of 78820]

## Re Boston and Maine Railroad

DT 80-261, Second Supplemental Order No. 14,721

66 NH PUC 47

New Hampshire Public Utilities Commission

February 6, 1981

ORDER providing for a hearing on the apportionment of a crossing's improvement costs.

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BY THE COMMISSION:

Supplemental Order

Whereas, the city of Manchester filed a motion for rehearing as to the portion of Order No. 14,664 ([1981] 66 NH PUC 21) requiring the city of Manchester to pay for the installation of additional protection devices at the West Mitchell Street crossing; and, the apportionment of costs between the city of Manchester and the Boston and Maine Railroad, and good cause being shown; it is hereby

Ordered, that the motion for a rehearing as to the apportionment of costs for

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protection devices at the West Mitchell Street crossing in Manchester is granted and a hearing shall take place on February 13, 1981, at 10:00 A.M. at the offices of the commission, 8 Old Suncook Road, Concord, New Hampshire 03301.

By order of the Public Utilities Commission of New Hampshire this sixth day of February, 1981.

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NH.PUC\*02/06/81\*[78821]\*66 NH PUC 48\*Concord Natural Gas Corporation

[Go to End of 78821]

## Re Concord Natural Gas Corporation

Additional petitioners: Gas Service, Inc., Manchester Gas Company, and Northern Utilities, Inc.

Intervenor: Community Action Program

DR 80-207 et al. Second Supplemental Order No. 14,724

66 NH PUC 48

New Hampshire Public Utilities Commission

February 6, 1981

PETITION by natural gas companies for proposed cost of gas adjustments; granted in part and denied in part.

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1. DEFINITIONS — Cost of gas adjustment.

[N.H.] "Cost of gas adjustment" is an estimate made prior to each winter and summer period as to the amount of gas that will be sold during that period and at what cost. p. 49.

2. RATES, § 253 — Procedure — Rate filing — Form and contents — Minimum requirements.

[N.H.] Due to a utility's refusal to permit access to its books, the commission, unable to determine the just and reasonableness of proposed rates and the underlying accounting methods used, rejected the utility's proposed rates until completion of the staff's independent investigation; the utility had been conducting several non-utility operations. p. 49.

3. EXPENSES, § 105 — Wages and salaries — Employee commissions.

[N.H.] The commission disapproved a utility's policy of paying commissions to employees on the installation of fuel conversion units (oil to gas) since demand for such units was more than adequate without the need for employees to promote conversions. p. 50.

4. RATES, § 373 — Natural Gas — Billing units — Cubic foot versus therm.

[N.H.] A gas utility's practice of billing on a per cubic foot basis rather than per therm basis was questioned by the commission since it did not appear to be cost justified; an investigation into the utility's practices was ordered. p. 51.

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APPEARANCES: Charles H. Toll for Concord Natural Gas Corporation and Gas Service, Inc.; 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

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terms outlined in the individual tariffs of each of the named companies and commission rules and regulations, the proposed cost of gas adjustments for the winter period November 1, 1980, through April 30, 1981, were filed for commission consideration. Due to increased usage and unusually cold weather, the commission was requested to reopen the proceedings on an emergency basis to alleviate an alleged undercollection problem. The following table demonstrates the differences between the filings of the New Hampshire gas utilities in January with the commission's order in October.

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

*October PUC Requested*

<i>Gas Utility</i>	<i>Decision</i>	<i>Change</i>
Concord Natural Gas	\$0.1212 per therm	\$0.3063 per therm
Gas Service – Nashua	\$0.0220 per therm	\$0.1213 per therm
Gas Service – Laconia*	(\$0.0068 per therm)	\$0.0925 per therm
Manchester Gas	\$0.2041 per therm	\$0.3089 per therm
Northern Utilities	0.1490 per therm	\$0.2163 per therm

Laconia was a credit per therm.

The differences above in terms of numbers is largely due to the different levels of gas costs built into the basic rates. Other differences can arise due to different mixtures of supply as well as different price levels for each type of supply used.

[1] The cost of gas adjustment (CGA) is an estimate made prior to each winter and summer period as to the amount of gas that will be sold during the period and at what cost. A reconciliation is made between actual and estimated with a subsequent recognition for any over- or undercollections. Undercollections are returned, together with interest.

During the course of the commission's investigation, all costs of gas supply are examined; not only those which are set forth in the CGA, but also the costs recognized through the basic rates. Because each utility presents a different situation, they will be discussed independently.

#### *Manchester Gas Company*

Manchester Gas seeks a substantial increase in its CGA. The effect of Manchester's proposal would be to raise the bill of an average gas customer (150 therms per month) by \$15.72.

Manchester Gas attributes this increase to higher send-out due to the cold weather, which required greater use of propane which is more expensive.

[2] Manchester Gas has numerous nonutility businesses, which recently have included bottled propane gas and merchandising gas appliances. Pursuant to a consumer complaint, the commission was made aware of a new nonutility business called Rent-A-Space. This storage business, which bloomed to existence with a \$100,000 investment, is operated by Manchester Gas employees. In an attempt to insure that proper accounting was

occurring and to protect gas consumers from subsidizing nonutility operations, the commission prior to the CGA hearing sent its assistant finance director and an accountant to investigate the books of Manchester Gas. this good faith attempt by the commission's employees was rebuked by officials of the Manchester Gas Company.

Revised Statutes Annotated 365:6 specifically sanctions the actions taken by the commission and its staff in attempting to discover the accounting method being employed by Manchester Gas.

Revised Statutes Annotated 378:7, 27, 28 all require the commission to maintain just and reasonable rates to the consumer at all times. The consumer receives a bill that often is segregated by basic rates and an adjustment clause for increases in the price of fuel. Because of the commission's inability to examine the books of Manchester Gas prior to the closing of the evidentiary presentations, the commission is unable to pass judgment on the reasonableness of

rates being charged Manchester Gas customers. The testimony given to date reveals commingling of funds, joint tax filings, and shared employees and officers between utility and nonutility portions of the company. Consequently, the commission will use its power pursuant to RSA 378:7 to reject any adjustment to Manchester Gas Company's rates until the completion of staff's independent investigation.

The staff is to broaden its examination into the bottled propane operations, which are also nonutility operations. Of concern to the commission is the increased use of propane on the utility side and the existing conversion program of Manchester Gas. If Manchester Gas is increasing the percentage of propane in its fuel mix because of conversions without increasing its supply of natural gas, inequity is bound to result. A fuel mix with a greater use of propane is more expensive and less efficient; i.e., more usage will result because of a lower heat factor.

These questions must be resolved before the commission can examine any adjustment to Manchester Gas Company's rates.

*Gas Service, Inc.*

Gas Service seeks to increase its CGA by \$0.0993 per therm. The result of Gas Service, Inc.'s proposal would be to increase the customer's bills in Laconia and Nashua by \$14.90.

[3] The commission has some concerns involving the operation of this company. During the course of the proceedings, the commission discovered that Gas Service is paying employees commissions on the installation of fuel conversion units designed to switch customers from oil to natural gas. Yet, Gas Service testified that a comparison of the present economics between oil and gas yields a result that natural gas costs one-third less even with the proposed increase. As the commission has noted in other proceedings, there are long lists of customers seeking to convert from oil to natural gas, and the gas companies cannot keep up with the demand.

The commission cannot comprehend the rationale behind awarding bonuses for conversions. If the gas utility did nothing to promote conversions, the economics of the present situation would result in the same demand for conversions. A private unregulated business would never be paying incentives to employees to encourage demand for a product where the company is faced with an existing extraordinary demand for the product that it could not meet by its best efforts. Such a practice would not exist in the private unregulated sector, and prudent utility practice should not differ from this standard.

The transcript reveals another disturbing aspect of Gas Service's practice vis-a-vis other gas utilities. Concord Gas accounts

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for expenses associated with fuel conversions on the nonutility side of the ledger.

[4] Another concern the commission has with Gas Service, Inc.'s practices is its policy of billing on a per cubic foot rather than per therm basis. Manchester Gas uses the per therm basis during the winter and Gas Service's practice does not appear to be cost justified. While the commission does not believe its job includes running a utility, the commission does attempt to make utilities respond to the same efficiencies dictated by competition in the unregulated business sector.

The commission believes, as with Manchester Gas, that there exists some expenses in basic rates (in this case commissions for conversions) that are unreasonable. Furthermore, the commission is aware that in the past major overcollections occurred during a six-month winter CGA period. Gas Service did not seek to return that money during the last three months of the period, but rather waited until the next winter adjustment period. Consequently, the commission will not grant the CGA requested by the company. Instead, the commission will allow only one-third of the amount requested to be collected at this time. This will allow the commission staff to further investigate the practices of Gas Service, as well as allow the commission to receive actual data. An adjustment of \$0.0330 will be allowed for each division of Gas Service; Nashua and Laconia.

*Concord Natural Gas Corporation*

Concord Gas sought a CGA, which would increase the cost per therm by \$0.1851. Since Concord bills on a two-month basis, the effect of Concord Natural Gas Corporation's proposal would have been to increase the average customer's bill by \$27.77 for two months, or nearly \$14 per month. The difficulty in evaluating Concord's proposal is that it seeks, because of a billing practice, to achieve two months of increased revenues while the other companies are seeking three months of increased revenue.

Concord Gas, like the other gas utilities, has experienced over- and undercollections in the past. Like other utilities, Concord did not seek adjustments in the CGA rate prior to the end of the winter period even though in some instances overcollection was obvious.

The commission will again allow only one-third of the estimated overcollection rate proposed by the company. Our concern is that actual numbers will soon be available, and the freak nature of this particular winter clearly establishes an inherent flaw in prediction. If the actual figures eventually support Concord's claim, then the CGA provides an appropriate mechanism for adjustment. If the actual figures reveal a contrary result, there exists a corresponding remedy.

Because of Concord's billing practice, a rate of \$0.1830 will be allowed to be charged to all bills rendered through May 31, 1981.

*Northern Utilities, Inc.*

Northern Utilities proposes to increase its CGA by \$0.0673, or \$10.10 per month to the average customer. Northern Utilities in the past has had overcollections in excess of \$300,000, which it has followed the usual CGA practice of holding until the next corresponding CGA. The commission consequently will only allow one-third of the estimated overcollection to be collected at this time. Again, the commission believes that actual data will reveal a substantial difference from that proposed by the company. Consequently, a CGA of \$0.1715 instead of the requested \$0.2163 is approved.

*General Considerations*

Any refunds received from suppliers

during the winter CGA time period are to accumulate interest at the rate which is the average of the weighted cost of the companies' short-term borrowing. Such a procedure, which will be closer to the prime interest rate, will more truly compensate consumers for any use of their money when refunds do occur. Any and all supplier refunds received during this time period are to be applied in the usual CGA practice.

Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that 19th Revised Page 21 and 17th 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 20th Revised Page 21 and 18th Revised Page 21-A of Concord Natural Gas Corporation, tariff, NHPUC No. 13 — Gas, providing for a cost of gas adjustment of \$0.1830 per therm for the period February 1, 1981, through May 31, 1981, be, and hereby are, approved and it is

Further ordered, that Section 2, 19th Revised Page 3; and Section 4, 19th Revised Page 3 of Gas Service, Inc., tariff, NHPUC No. 5 — Gas, providing for cost of gas adjustment of \$0.1213 per therm for Nashua; and \$0.0925 per therm for Laconia for the period February 1, 1981, through April 30, 1981, be, and hereby are, rejected; and it is

Further ordered, that Section 2, 20th Revised Page 3; and Section 4, 20th Revised Page 3 of Gas Service, Inc., tariff, NHPUC No. 5 — Gas, providing for a cost of gas adjustment of \$0.0550 per therm for Nashua; and \$0.0262 per therm for Laconia for the period February 1, 1981, through April 30, 1981, be, and hereby are, approved; and it is

Further ordered, that 19th Revised Page 20 of Manchester Gas Company, tariff, NHPUC No. 12 — Gas, providing for cost of gas adjustment of \$0.3089 per therm for the period February 1, 1981, through April 30, 1981, be, and hereby is, rejected; and it is

Further ordered, that 19th 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 20th Revised Page 22-A of Northern Utilities, Inc. — Allied Gas Division, tariff, NHPUC No. 6 — Gas, providing for a cost of gas adjustment of \$0.1715 per therm for the period February 1, 1981, 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 February 1, 1981, for Gas Service, Inc., and Northern Utilities, Inc. — Allied Gas Division; and it is

Further ordered, that revised tariff pages approved by this order become effective with all billings issued on and after February 1, 1981, to May 31, 1981, for Concord Natural Gas Corporation; 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 February, 1981.

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NH.PUC\*02/09/81\*[78822]\*66 NH PUC 53\*New England Telephone and Telegraph Company

[Go to End of 78822]

## Re New England Telephone and Telegraph Company

IC 14,993, Order No. 14,725

66 NH PUC 53

New Hampshire Public Utilities Commission

February 9, 1981

ORDER requiring service improvements in response to complaints of inferior and deficient telephone service.

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BY THE COMMISSION:

Order

Whereas, on December 10, 1980, a petition was submitted to this commission from residents of Westmoreland contending inferior and deficient service from the telephone company; and

Whereas, the petition requested a public hearing on their grievances; and

Whereas, a public hearing was held on February 4, 1981, at 7:30 P.M. at the Westmoreland town hall; and

Whereas, the commission is satisfied that customer concerns voiced at that hearing state the need for immediate attention by the New England Telephone and Telegraph Company; it is

Ordered, that the New England Telephone and Telegraph Company take immediate steps to rectify, as a minimum, the following problems:

1. Static on telephone lines;
2. Cross conversations;
3. Interruption of service;
4. Lack of dial tone; and it is

Further ordered, that the company submit weekly reports to this commission as to actions taken to rectify these problems; and it is

Further ordered, that this commission will set a further public hearing in Westmoreland at the convenience of all parties but prior to May 1, 1981, to give concerned customers an opportunity to comment on the improvements resulting from our order.

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

1981.

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NH.PUC\*02/10/81\*[78823]\*66 NH PUC 54\*City of Rochester v Boston and Maine Railroad

[Go to End of 78823]

## City of Rochester v Boston and Maine Railroad

DT 80-105, Order No. 14,728

66 NH PUC 54

New Hampshire Public Utilities Commission

February 10, 1981

PETITION for a determination of the safety status of rail-highway crossings and a request for installation of protective equipment; granted.

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BY THE COMMISSION:

Report

On May 9, 1980, a petition was received from the city of Rochester, New Hampshire, to determine adequate safeguards and protection for the following public railroad grade crossings located in the city of Rochester: Cross Road crossing, also known as Smith's crossing [and] Franklin Street crossing, also known as Cemetery Road crossing. By letter dated October 31, 1980, Portland Street crossing was requested to be made a part of the hearing. The highway travel surface condition was given as cause for inclusion in the petition.

On January 2, 1981, an order of notice was issued setting an evening hearing for 7:30 P.M. at the district courtroom, Wakefield Street, Rochester, New Hampshire, on January 19, 1981, together with publication.

Notice was sent to John E. O'Keefe, general attorney, Boston and Maine Corporation; John J. Knee, Boston and Maine Corporation; John Adams, agreement engineer, Boston and Maine corporation; V. R. Terrill, vice president and chief engineer, Boston and Maine Corporation; John V. Amrol, Rail/Highway crossing coordinator, Department of Public Works and Highways; Raymond Hancock, public works commissioner, Department of Public Works and Highways; John A. Clements, commissioner, New Hampshire Department of Public Works and Highways; Kenneth Hussey, chief of police, [city of] Rochester; Kathy E. Wallingford, assessor, city of Rochester; Richard Green, mayor, city of Rochester; and the Office of the Attorney General. An affidavit of publication was received on January 12, 1981, as having been published.

The petition was submitted in response to concern by the city of Rochester of several recent accidents involving automobiles at the crossing. An eight-page petition of concerned area residents' signatures requested that stop and protect action with flashing lights be installed if possible.

Walter King, assistant transportation director and railroad investigator for this commission,

explained the results of an inspection trip made on November 21, 1980, and submitted to the commission

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on December 28, 1980, as follows

*Cross Road Crossing*

The crossing is in good condition with good views in both directions for motor traffic north and south along the railroad right of way. There are no advance warning discs on either approach although on the cross buck is installed. There is brush growing along the highway and railroad rights of way. Mr. King recommends that advance warning discs should be installed on both approaches and that brush should be cleared along the highway and railroad rights of way.

*Franklin Street Crossing*

Franklin Street is protected by advance warning disc and cross bucks. The westerly advance warning disc is missing. The view from all quadrants is good with no obstruction visible at a distance of 20 feet from either rail, although eastbound traffic is perceived to have difficult view. There have been three accidents reported at the crossing in the last twelve months. Mr. King recommends that train activated flashing lights are necessary at this crossing in view of the difficulty in stopping a heavily laden train proceeding up the grade in a southerly direction.

*Portland Street*

A recent derailment and subsequent replacement of track in the crossing resulting in a six-inch bump which has contributed to difficulty in traversing the crossing. He recommends that the railroad place additional hot top material on both sides of the crossing, making the approach to the track area less abrupt.

Additional recommendations have been submitted since the hearing by Mr. King. They included at *Cross Road*, streetlights be installed if electric power is available; at *Franklin Street*, the highway surface be railed so that the crossing is approached on a higher street level, in an effort to improve the views, install cross bucks in the northeast and southwest quadrant, and install a streetlight in close proximity of the crossing. *Stop signs should be installed at the crossing pursuant to Order No. 14,625.* The Franklin Street recommendation would be in lieu of the train activated lights.

Mayor Green expressed particular concern about the Franklin Street and Cross Road crossings. He testified that it was difficult to know when a train was coming and asked for stop and protect equipment to alleviate the problem.

Concerned residents spoke to the difficulties in seeing passing trains and to the dangers of using the various crossings.

Based on the testimony received by both city officials, area residents, and its own staff, the commission is convinced that immediate steps must be taken to preclude any further accidents of the type already documented and to prevent any more serious accidents from occurring. Accordingly, it will direct that the following schedule be met:

*Cross Road Crossing*

Installation of advance warning discs at each approach.

Installation of stop signs at each approach.

Remove brush from railroad and highway rights of way a distance of 100 feet from intersection.

Installation of a streetlight if power is available.

Installation of cross bucks on westerly side of tracks.

*Franklin Street Crossing*

Installation of stop signs at each approach.

Installation of advance warning disc on westerly approach.

Regrade the street on the east and

**Page 55**

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west approaches at a higher level to improve the view of the crossing.

Install a streetlight in close proximity of the crossing.

*Portland Street Crossing*

Additional hot top material on both sides of crossing.

Installation and maintenance of the cross bucks and of the hot top will be the responsibility of the Boston and Maine Railroad. Installation of other protective devices will be the responsibility of the city of Rochester.

Our order will issue accordingly.

Order

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

Ordered, that the city of Rochester make the following corrections and additions at

*Cross Road Crossing:*

Install advance warning discs at each approach pursuant to RSA 373:11; install stop signs at each approach pursuant to Order No. 14,625; remove brush along the highway right of way 100 feet from the crossing; and install a streetlight at the crossing.

*Franklin Street Crossing:*

Install advance warning discs at each approach pursuant to RSA 373:11; install stop signs at each approach pursuant to Order No. 14,625; install a streetlight at the crossing; regrade the street on each approach to a higher level to improve the views at the crossing; and it is

Further ordered, that the Boston and Maine Corporation make the following corrections and additions at:

*Cross Road Crossing*

Remove brush within railroad right of way 100 feet from the crossing and install new cross

bucks.

*Franklin Street Crossing*

Install new cross bucks.

*Portland Street Crossing*

Place additional asphalt (hot top) material on each approach to lessen the abrupt transition over the crossing.

By order of the Public Utilities Commission of New Hampshire this tenth day of February, 1981.

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NH.PUC\*02/11/81\*[78824]\*66 NH PUC 56\*Boston & Maine Railroad

[Go to End of 78824]

**Re Boston & Maine Railroad**

DT 80-261, Third Supplemental Order No. 14,731

66 NH PUC 56

New Hampshire Public Utilities Commission

February 11, 1981

ORDER denying motion for continuance

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BY THE COMMISSION:

Supplemental Order

The commission having before a motion for continuance filed February 10, 1981, for, and on behalf of, the city of Manchester to continue the rehearing scheduled for February 13, 1981, for at least thirty days; and

**Page 56**

Whereas, after full consideration of the allegations in said motion and after weighing the reasons presented in said motion; it is hereby

Ordered, that said motion for continuance be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this eleventh day of February, 1981.

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NH.PUC\*02/12/81\*[78826]\*66 NH PUC 58\*Gas Service, Inc.

[Go to End of 78826]

**Re Gas Service, Inc.**

DF 80-150, Supplemental Order No. 14,739

66 NH PUC 58

New Hampshire Public Utilities Commission

February 12, 1981

ORDER authorizing increase in short-term debt.

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 14,459, dated August 28, 1980 (65 NH PUC 402), issued in the above entitled proceeding, authorized Gas Service, Inc., to issue and sell, and from time to time to renew for cash its notes or notes payable less than twelve months after the date thereof in an arregage principal amount not exceeding \$4 million; and

Whereas, due to the harsh winter and the significantly higher use of propane and liquid natural gas, Gas Service, Inc., anticipates the need to issue its notes or notes payable to a maximum amount of \$4 million for the period from February 15, 1981, to April 15, 1981; and

Whereas, the prior authorization of the short-term borrowing limit to \$4 million is effective until December 31, 1981; and

Whereas, Gas Service, Inc., will not recover the increased costs through its cost of gas adjustment beginning with

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February billings until the actual cash recovery from customers until late February or March, 1981; and

Whereas, upon due consideration, it appears that the issuance of notes and notes payable is consistent with the public good; it is

Ordered, that Gas Service, Inc., be, and hereby is, authorized to issue and sell and from time to time to renew, for cash its notes and notes payable in an aggregate amount of \$4 million for a period from February 15, 1981, to April 15, 1981, after which time the short-term borrowing limit will revert to the \$4 million level previously authorized until December 31, 1981; 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 twelfth day of February, 1981.

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NH.PUC\*02/12/81\*[78827]\*66 NH PUC 59\*Concord Natural Gas Corporation

[Go to End of 78827]

### **Re Concord Natural Gas Corporation**

Additional petitioners: Gas Service, Inc., Manchester Gas Company, and Northern Utilities, Inc.

DR 80-207 et al. Third Supplemental Order No. 14,740

66 NH PUC 59

New Hampshire Public Utilities Commission

February 12, 1981

ORDER adopting technical corrections amending previous order.

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BY THE COMMISSION:

Supplemental Order

Whereas, so much of commission Order No. 14,724 ([1981] 66 NH PUC 48) relating to Gas Service, Inc., as reads " ... 19th Revised Page 3 ... rejected ... " and " ... 20th Revised Page 3 ... approved ... "; it is hereby

Ordered, that said portion is amended to read " ... 20th Revised Page 3 ... rejected ... " and " ... 21st Revised Page 3 ... approved ... ."

By order of the Public Utilities Commission of New Hampshire this twelfth day of February, 1981.

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NH.PUC\*02/12/81\*[78828]\*66 NH PUC 60\*Exeter and Hampton Electric Company

[Go to End of 78828]

### **Re Exeter and Hampton Electric Company**

IE 14,987, Supplemental Order No. 14,741

66 NH PUC 60

New Hampshire Public Utilities Commission

February 12, 1981

ORDER revising electric rates for outdoor lighting.

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BY THE COMMISSION:

Supplemental Order

Whereas, the filing by Exeter and Hampton Electric Company of First Revised Page 33 to tariff, NHPUC No. 14 — Electricity, was suspended by Order No. 14,595 ([1980] 65 NH PUC 608), pending investigation by the commission; and

Whereas, said investigation is now complete and indicates the filing to be proper and for the public good; it is

Ordered, that commission Order No. 14,595 be, and hereby is, vacated, and First Revised Page 33 of tariff, NHPUC No. 14 — Electricity, alleged to become effective as of the date of this order.

By order of the Public Utilities Commission of New Hampshire this twelfth day of February, 1981.

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NH.PUC\*02/13/81\*[78825]\*66 NH PUC 57\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78825]

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

Additional applicant: Connecticut Valley Electric Company, Inc.

DE 81-29, Order No. 14,737

66 NH PUC 57

New Hampshire Public Utilities Commission

February 13, 1981

PETITION for authority to change service territories; granted.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc. (hereinafter called the cooperative), and Connecticut Valley Electric Company, Inc. (hereinafter called Connecticut), corporations duly organized under the laws of this state and operating therein as electric public utilities under the jurisdiction of this commission, by joint petition filed January 23, 1981, seek authority pursuant to Chap 374 RSA for the cooperative to discontinue service to nineteen customers, and for Connecticut to assume service to these same customers in Lyme, New Hampshire; and

Whereas, in order to render this service the cooperative maintains approximately 9,885 feet of cross-country feeder line over a mountain inaccessible to repair trucks, thus creating a problem of service continuity and restoration of service during winter storms; and

Whereas, its reconstruction cost will be disproportionately high with respect to current revenues; and

Whereas, Connecticut's line facilities are along the road within 100 feet of existing facilities of the cooperative, and Connecticut has agreed to provide this service and acquire usable facilities from the cooperative; and

Whereas, the nineteen active customers involved, located along the cooperative's 9F line and served from the pole locations indicated after names, in parenthesis; namely, Elliot D. Lerner (19C), Ernest Hathaway (19S), Ronald H. Jenks (19S2), John B. Glover (21A), Donald N. Randall (34), Robert K. Wickwire (35 1/2A), Robert K. Wickwire (35 1/2B), Morey Borovick (39A), Chester Jenks (44), Richard Pearce (44 1/2), Frederick B. Pearce (34D), Marion A. Dewar (44 1/2), Alec J. Wishinski (44S2), Leslie S. Jenks, Sr. (45 1/2) Wayne P. Bates (45S), Leslie F. Jenks, Sr. (46), George W. Bacon (47AS), Jean McLaughlin (47B), and Elizabeth F. Johnstone (47S) have signified in writing that they have no objection to the proposed transfer; except for one conditional signer, Richard Pearce, who conditioned his agreement "to no increase in rates," such assents to the transfer being on file with this commission; and

Whereas, the commission finds it to be

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in the public interest that the transfer of customer service take place on the evidence that improved service can be rendered through elimination of a difficult to maintain existing cross-country line and connection to facilities along a public highway, and that the currently effective rates, as approved by this commission, of both companies show the rates of Connecticut to be a little lower than those of the cooperative; it is

Ordered, that, pursuant to the provisions of Chap 374 RSA, the cooperative be, and hereby is, authorized to discontinue electric service, and Connecticut be, and hereby is, authorized to extend and provide service to the above named customers, including two idle service locations at Pole Nos. 41S and 41A now served from the cooperative's 9F line in Lyme, New Hampshire, effective on the proposed cutover date of February 5, 1981; such authorization for this transfer of service being granted without hearing, as provided by RSA 374:22 when all interested parties are in agreement; and it is

Further ordered, that Connecticut may collect accounts receivable of the cooperative relating to the customers who are subject to this transfer, as a condition of continued service by Connecticut; and it is

Further ordered, that each company, the cooperative and Connecticut, file a revised map No. 145 of the town of Lyme within thirty days, reflecting the above changes in service territories brought about by this transfer of customer service; effective on the date of this order, and by authority of the above NHPUC Order No. 14,737.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of February, 1981.

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NH.PUC\*02/13/81\*[78829]\*66 NH PUC 60\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78829]

## Re New Hampshire Electric Cooperative, Inc.

DR 81-11, Order No. 14,743

66 NH PUC 60

New Hampshire Public Utilities Commission

February 13, 1981

ORDER authorizing setoff of refunds received from a wholesale supplier against fuel costs.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., as a result of settlement of Federal Energy Regulatory Commission Docket Nos. ER78-285 and ER78-339, will receive refunds from one of its wholesale suppliers, Public Service Company of New Hampshire; and

Whereas, said refunds will occur monthly during January through June, 1981; and

Whereas, to facilitate return of these moneys to its customers, the cooperative proposes monthly credits against fuel expense in an amount equal to the moneys received from Public Service Company of New Hampshire; and

Whereas, the commission agrees that such method results in the least administrative expense; and

Whereas, the commission finds that application of these credits will be during the month subsequent to the month in which the cooperative receives its refunds from Public Service Company of

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New Hampshire, warranting payment of interest thereon; it is

Ordered, that New Hampshire Electric Cooperative, Inc., be, and hereby is, authorized to apply monthly refunds from Public Service Company of New Hampshire and interest accrued thereon at 8 per cent against fuel costs in the calculation of its fuel adjustment charge during the period March, 1981, through July, 1981; and it is

Further ordered, that New Hampshire Electric Cooperative, Inc., apply the January and February refund, plus interest, to bills rendered in March, 1981, and then begin monthly payments, plus interest, from April, 1981; and it is

Further ordered, that the cooperative offer explanation of the reduction of fuel cost in each of its newsletters accompanying bills during the affected period.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of February, 1981.

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NH.PUC\*02/13/81\*[78830]\*66 NH PUC 61\*Wolfeboro Municipal Electric Department

[Go to End of 78830]

## Re Wolfeboro Municipal Electric Department

DR 81-10, Order No. 14,744

66 NH PUC 61

New Hampshire Public Utilities Commission

February 13, 1981

ORDER authorizing setoff of refunds received from a wholesale supplier against fuel costs.

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BY THE COMMISSION:

Order

Whereas, Wolfeboro Municipal Electric Department, as a result of settlement of Federal Energy Regulatory Commission Docket Nos. ER76-285 and ER78-339, will receive refunds from one of its wholesale suppliers, Public Service Company of New Hampshire; and

Whereas, said refunds will occur monthly during January through June, 1981; and

Whereas, to facilitate return of these moneys to its customers, the Wolfeboro Municipal Electric Department proposes monthly credits against fuel expense in an amount equal to the monies received from Public Service Company of New Hampshire; and

Whereas, the commission agrees that such method results in the least administrative expense; and

Whereas, the commission finds that application of these credits will be during the month subsequent to the month in which the Wolfeboro Municipal Electric Department receives its refunds from Public Service Company of New Hampshire, warranting payment of interest thereon; it is

Ordered, that Wolfeboro Municipal Electric Department be, and hereby is, authorized to apply monthly refunds from Public Service Company of New Hampshire and interest accrued thereon at 8 per cent against fuel costs in the calculation of its fuel adjustment charge during the period March, 1981, through July, 1981; and it is

Further ordered, that Wolfeboro Municipal Electric Department apply the January and February refund, plus interest, to bills rendered in March, 1981, and then begin monthly payments, plus interest, from April, 1981; and it is

Further ordered, that Wolfeboro Municipal

Electric Department offer explanation of the reduction of fuel cost to its customers.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of February, 1981.

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NH.PUC\*02/13/81\*[78831]\*66 NH PUC 62\*Hampton Water Works Company

[Go to End of 78831]

### **Re Hampton Water Works Company**

DR 79-51, Fourth Supplemental Order No. 14,750

66 NH PUC 62

New Hampshire Public Utilities Commission

February 13, 1981

ORDER authorizing the purchase of a water main.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission in its report in docket DR 79-51, dated November 1, 1979, ordered Hampton Water Works Company to negotiate in good faith with the Hampton Beach precinct for the purchase of a 12-inch main in Ashworth avenue; and

Whereas, Hampton Water Works Company and the Hampton Beach precinct have arrived at a tentative agreement on the company's purchase and the precinct's sale of the mains and accessories, hydrants, and branches for a price of \$75,000; and

Whereas, the company has received an appraisal which values the property at a present worth value (original cost less accrued depreciation) of \$64,002; and

Whereas, the company stipulates that the purchase price has been arrived at on the basis of bona fide arm's-length bargaining; and

Whereas, the company requests authorization for the acquisition of the subject fixed assets and treatment of the difference of \$10,998 as an acquisition adjustment either as a pro forma test-year expense adjustment in the next rate case or as an immediate temporary surcharge over a one-year period; it is

Ordered, that Hampton Water Works Company is authorized to purchase the subject water main for a purchase price of \$75,000; and it is

Further ordered, that Hampton Water Works shall submit a detailed statement reflecting the allocation of the purchased assets to the accounts of the company.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of February, 1981.

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NH.PUC\*02/23/81\*[78832]\*66 NH PUC 63\*Claremont Gas Light Company

[Go to End of 78832]

## Re Claremont Gas Light Company

DR 80-171, Supplemental Order No. 14,754

66 NH PUC 63

New Hampshire Public Utilities Commission

February 23, 1981

PETITION for a rate increase; granted with modification.

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1. RETURN, § 92 — Natural gas company.

[N.H.] A gas utility's weighted cost of capital was set at 11.07 per cent which comprised of 13.0 per cent return on common equity and 6.0 per cent on customer deposits. p. 63.

2. VALUATION, § 296 — Cost of gas adjustments.

[N.H.] The cost of purchased gas was excluded from the calculation of a utility's working capital allowance because the company's monthly cost of gas adjustment would improve the company's cash-flow regarding purchased gas. p. 64.

3. RATES, § 303 — Cost of gas adjustments.

[N.H.] Disturbed by the methodology used by a utility to calculate its cost of gas adjustment, the commission ordered the utility to change its accounting procedure to one that generally corresponded to that recently adopted by the commission for other gas utilities. .Pg p. 64.

4. RATES, § 384 — Natural gas — Customer classes.

[N.H.] Absent a cost-of-service study, the commission imposed a natural gas rate structure similar to that imposed on similar utilities, with the same percentage increase applied to each class and to each usage classification within classes. p. 64.

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APPEARANCES: Herbert Lieberman, executive vice president and treasurer for Claremont Gas Light Company

BY THE COMMISSION:

Report

By this petition filed on July 29, 1980, Claremont Gas Light Company (hereinafter referred to as the "company") requested an increase in annual rates of \$41,515.

On August 18, 1980, the commission suspended the filing pending further review and investigation.

On November 10, 1980, an order of notice was issued setting the petition for public hearing on December 9, 1980.

On December 9, 1980, a duly noticed public hearing was held at the commission's offices in Concord, New Hampshire, at 10:00 A.M.

The company submitted prepared testimony of Herbert Lieberman as well as prefiled exhibits calculating the company's rate base, rate of return, cost of capital, actual and proformed income statements, historical capital structure, and the following revised pages to its tariff, NHPUC No. 9 — Gas, Seventh Revised Page 13, Seventh Revised Page 14, Seventh Revised Page 15, and Seventh Revised Page 16.

Cross-examination of the company witness was conducted by the commission staff.

#### *Cost of Capital*

[1] The company submitted a cost of capital utilizing the capital structure and rates as of December 31, 1979. Forty-seven and eighty-two one hundredths per cent of that capital structure was comprised of short-term debt, which was paid off in the third quarter of 1980. Since the company doesn't currently have any short-term debt outstanding and no

#### Page 63

definite plans to borrow any, we feel it appropriate to drop such from the capital structure.

Accepting the company's 13 per cent requested return on common equity and including customer deposits at 6 per cent, results in a weighted cost of capital of 11.07 per cent as calculated below.

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

	Amount	Cost Rate	Weighted Capital	Cost Rate
Long-term Debt	\$ 0	-	-	-
Customer Deposits	9,511	6%	\$ 571	
Equity	24,930	13	3,241	
	<u>\$34,441</u>		<u>\$3,812</u>	11.07%

#### *Rate Base*

[2] The company submitted an average rate base calculation for 1979 of \$120,474. Under cross-examination by the PUC finance staff, it was recognized that deferred taxes and investment tax credits were not deducted from rate base as they are flowed through. Since the company was operating at a loss, did not pay any federal income taxes in the test year, and has not pro formed for any federal income taxes in the instant case, the commission will accept the company's computation of rate base except for its working capital computation.

The company requested \$35,048 for working capital related to operation and maintenance expenses in the test year. In 1979, the total operation and maintenance expense was \$286,936 as shown in the company's filing. Of that amount, \$194,657 was for purchased gas, leaving \$92,279. Using forty-five days at an average, as utilized by the company in its filing, \$11,535 will be accepted by the commission.

Purchased gas is excluded in this computation as the company's monthly CGA, which we are herein revising, is used as a vehicle to improve the company's cash flow regarding purchased gas. In addition, the company's supplier does not charge Claremont interest on its accounts. The commission will utilize an average rate base of \$96,961, calculated as follows:

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

Company's Requested Average Rate Base	\$120,474
Less: Company's Requested Operations and Maintenance Allowance	(35,048)
Plus: Commission's Accepted Operations and Maintenance Allowance	11,535
	\$ 96,961

#### *Test-year Expenses and Cost of Gas Adjustment*

The company reported test-year revenue deductions of \$306,225 which included \$194,657 as the cost of gas. The commission will accept the nongas cost portion of this as a reasonable on-going expense level.

The company requested a \$4,000 pro forma adjustment for labor dollars increases, which the commission accepts.

[3] Regarding the cost of gas adjustment, the commission is disturbed with the accounting methodology being utilized by the company and wants it changed as follows:

Using February 10, 1981, as the hypothetical date for the company to file its CGA for March, 1981, it should estimate the cost of gas to be used by utility

#### Page 64

operations, sales, losses, and unaccounted for per a FIFO inventory pricing mechanism in March, 1981. Then the company should divide this figure by its best estimate of utility therm sales and company usage in March, 1981, to determine the estimated CGA rate per therm to bill customers in March, 1981.

As actual monthly gas utility costs and gas utility revenues from customers including a bookkeeping adjustment for company usage, from the CGA and base rates, become known, they should be kept track of in a separate deferred account. The balance in this account should be input into the calculation of the following CGA rate. For example, if there were a \$5,000 cumulative undercollection in this account as of March 10, 1981, this should be added to the estimate of April, 1981, costs in determining the April, 1981, cost of gas adjustment rate.

Regarding this cumulative over- or undercollection, the average balance overcollected during the month shall accrue interest at the rate of the company's outstanding short-term debt, or if

none is outstanding, then at the interest level it has the funds invested at. Any undercollection will not accrue interest. This method generally corresponds to that recently adopted by this commission on the CGA for other gas utilities under our jurisdiction.

When the company files its CGA calculations monthly with its filing, it should submit a copy of the under- overcollection amount and corresponding interest calculations.

Since this method of calculating the CGA enables the company to collect through the vehicle of the CGA its losses, vaporization, unaccounted for, etc., the commission feels an increase in the cost of gas in base rates per therm is necessary. In order to calculate the change, we have referred to the test year and believe the amount related to these amounts is \$34,350 (\$194,657 - \$160,307). Since 453,000 therms were billed or used by the company in the test year, this equates to an increase in the cost of gas per gallon in base rates from 25 cents to 32.6 cents.

#### *Rate Structure*

[4] The company has not done a cost-of-service study, while requesting this increase be spread fairly evenly between or within the rate classes on a percentage basis. Claremont Gas has not met its burden of proof as to rate structure. Absent any evidence by the utility, the commission must impose a rate structure similar to that imposed on similar utilities.

In filing new rates to comply with this order, the commission will require the company to adjust its rate structure. While the same percentage increase is to be applied to each class and to each usage classification within classes, the commission will require a new usage classification for domestic Class D, and water/space heating, Class H, so as to establish a set rate per therm for all therms after ten therms within each class. The commission will also require the company to establish a new rate classification for [over] ten therms and under 301 therms for commercial and industrial, Class G. There shall be one uniform charge per therm for all usage in the rate block of over ten therms and under 301 therms. Claremont is to file new rates in accordance with these instructions.

#### *Revenue Requirement*

The company's revenue requirement is calculated as follows:

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

Rate Base	\$96,961
Cost of Capital	.1107
	<hr/>
	\$10,734
Test-year Revenue Deductions	+306,225
Labor Pro Forma	+ 4,000
	<hr/>
Revenue Requirement	\$321,959

This allows the company to increase its base rates on an approximately equal percentage basis to all and within all customer classes, by \$30,778, while increasing the cost per gallon of gas in base rates from 25 cents to 32.6 cents.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Seventh Revised Pages 13, 14, 15, and 16 of tariff, NHPUC No. 9 — Gas, Claremont Gas Light Company, previously suspended, be, and hereby are, rejected; and it is

Further ordered, that Claremont Gas Light Company file Eighth Revised Pages 13, 14, 15, and 16 in lieu of the above, said revisions to reflect an overall increase in annual revenues of \$30,778, and to be spread as stated in the report; and it is

Further ordered, that the cost per gallon of gas in base rates will be revised upwards from 25 cents to 32.6 cents; and it is

Further ordered, that the company revise its cost of gas adjustment to correspond to the methodology outlined in the attached report; and it is

Further ordered, that said pages become effective with all service rendered on or after February 1, 1981; 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-third day of February, 1981.

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NH.PUC\*02/23/81\*[78833]\*66 NH PUC 66\*Locke Lake Water Company, Inc.

[Go to End of 78833]

**Re Locke Lake Water Company, Inc.**

DR 80-198, Third Supplemental Order No. 14,757

66 NH PUC 66

New Hampshire Public Utilities Commission

February 23, 1981

ORDER granting a rehearing.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed for, and on behalf of Locke Lake Water Company, Inc., for a rehearing on the commission decision rendered in Order No. 14,657 dated January 9, 1981 (66 NH PUC 7); and

**Page 66**

Whereas, after full consideration of the allegations in said motion and after weighing the reasons presented in said motion; it is

Ordered, that said motion for rehearing be, and hereby is, granted.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of February, 1981.

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NH.PUC\*02/23/81\*[78834]\*66 NH PUC 67\*Pittsfield Aqueduct Company

[Go to End of 78834]

### **Re Pittsfield Aqueduct Company**

DR 80-125, Second Supplemental Order No. 14,732

66 NH PUC 67

New Hampshire Public Utilities Commission

February 23, 1981

ORDER denying a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Whereas, Pittsfield Aqueduct Company has filed a motion for rehearing in this case; and

Whereas, the commission's report stated that it recommended that an orderly plan for continuing meter installation be formulated and initiated, and that such a plan be submitted to the commission by April 1, 1981, (66 NH PUC 13, 18); and

Whereas, Pittsfield's tariff, regarding metering of domestic customers, has had in effect since July 1, 1968, the provision that meters will be installed in accordance with a plan filed as part of its tariff; and

Whereas, this commission's Rules and Regulations Prescribing Standards for Water Utilities, has since 1960, stated in § 603.05 b that:

"Where both metered and fixture rate services are provided, the utility shall include in its tariff an orderly program setting forth the basis on which meters will be installed"; and

Whereas, staff Data Request No. 1, dated September 24, 1980, and submitted prior to the public hearing in this case, in Question Nos. 7 and 8, asked that Pittsfield furnish:

1. A copy of the company's meter installation plan.
2. The number of customers converted from unmetered to metered, each year for the last five years. and;

Whereas, it should be evident from the above that the commission was interested in and

indeed was questioning Pittsfield's policy regarding meter installations prior to the hearing; and

Whereas, the commission is requesting an orderly plan be submitted for review and approval, which does not imply nor does it intend to imply that all domestic customers shall be immediately equipped with a meter; and

Whereas, there is no evidence to support a rehearing in this case, the motion for rehearing is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of February, 1981.

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NH.PUC\*02/23/81\*[78835]\*66 NH PUC 68\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78835]

### Re New Hampshire Electric Cooperative, Inc.

Intervenors: Community Action Program and Legislative Utility Consumers' Council

DR 80-189, Supplemental Order No. 14,758

66 NH PUC 68

New Hampshire Public Utilities Commission

February 23, 1981

PETITION for electric rate increase; granted.

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1. EXPENSES, § 48 — Dues denied — Lobbying activities.

[N.H.] The commission denied \$1,250 of dues paid to the New Hampshire utility association since they were applicable to lobbying activities. p. 69.

2. RETURN, § 26.2 — Reasonableness — Interest coverage requirement.

[N.H.] A times interest earned ratio of 1.91, although considered high, was accepted as necessary to meet a utility's financing requirements. p. 70.

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

BY THE COMMISSION:

Report

These proceedings were initiated on August 28, 1980, 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. 10 — Electricity, providing for increased annual revenues in the amount of \$930,887 (4.23 per cent), effective October 1, 1980.

On September 12, 1980, the proposed increase was suspended pending investigation and decision per commission Order No. 14,482 (65 NH PUC 427).

A procedural hearing was held on November 5, 1980, at 10:00 A.M., at the commission office, to determine the procedure to be followed by all parties to the rate proceeding.

Following responses by the cooperative to data requests and the completion by the staff of an in-depth audit and financial analysis, a comprehensive prehearing conference was held on December 9, 1980, at which certain basic understandings were reached by all parties to cover all of the issues raised by the parties. The issues raised and settled related to the following subjects:

1. Vermont consumers who are subject to independent rates approved by Vermont Public Service Board for whom no allocation is provided hereunder.
2. Service charges.
3. Interest income.
4. Pole rental revenues.
5. Amortization.
6. Times interest earned ratio requirement.
7. Rate of return reasonableness.
8. Working capital and work in progress.
9. Methodology.
10. Design of the rates in residential class.
11. Effect of acquisition of an interest in Seabrook and related borrowing requirements.

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The duly noticed hearing was held on December 10, 1980, at 10:00 A.M.

*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.

Professor Williamson testified to a minimum cost of capital of 6.78 per cent, excluding any attrition allowance. The 6.78 per cent was based on a pro forma capital structure of 70 per cent debt and 30 per cent equity. The cost of debt used was 3.68 per cent, and equity was costed at 14 per cent, as a minimum.

*Revenues and Expenses*

[1] The cooperative submitted Exh 2, which depicted total operating revenues for the test year ending June 30, 1980, to be \$21,442,793, and total utility operating expenses of \$19,949,640. The figures were revised by seven pro forma adjustments which depict the adjusted utility operating expenses to be \$20,908,364.

As a result of the hearing and the conference it was pointed out that several adjustments should be made to both revenues and expenses. The wage and salary adjustment could have been adjusted upward by approximately \$115,427 for the 12-month period beyond the test year. Discussions between the staff, intervenors and the cooperative pointed out that it would be appropriate to ask for a rate increase for Vermont customers in order to fairly apportion the rate increase to all customers. The cooperative has filed a rate request with the Vermont Public Service Board in the amount of \$21,211, or approximately a 28.9 per cent increase in annual revenues. A recently negotiated joint pole use agreement between the cooperative and New England Telephone and Telegraph company would result in approximately \$60,000 of revenues net of increased rental costs to the cooperative. The cooperative estimates increased service charge revenues of \$40,000. A further reduction of \$11,180 should have been made to reflect an ongoing decrease in amortization expense applicable to the Goodrich Falls hydro station. The commission will make an additional adjustment to remove 1,250 of dues paid the New Hampshire Utility Association during the test year. It is our opinion that the largest share of this expense is applicable to lobbying which we will not allow as a part of utility operating expense. The net effect of the aforementioned adjustments would result in an increase of \$18,214 in adjusted net operating income.

Including the additional adjustments on an annual basis, the operating revenues and expenses would be changed as follows:

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

Adjusted Operating Revenue, as Filed	\$22,380.046
Vermont Rate Increase Effect	21,211
Increased Pole Rental Income	60,000
Increased Service Charge Revenue	40,000
Adjusted Operating Revenue	<u>\$22,501.257</u>
Less: Adjusted Operating Expenses, as Filed	20,908,364
1980 Payroll Increase (Including Taxes)	115,427
Reduced Amortization Expense	(11,180)
New Hampshire Utility Association Dues	(1,250)
Adjusted Operating Expenses	<u>\$21,011,361</u>
Adjusted Net Utility Operating Income	\$ 1,489,896

## Page 69

### *Rate Base*

The cooperative submitted schedules which calculate the rate base on the basis of the average of the 13-monthly balances for the test year adjusted for working capital in the amount of \$36,384,828. The commission accepts the filed rate base of \$36,384,828 while noting that it includes \$950,139 of average unrecovered fuel charges for the test year ending June 30, 1980.

### *Revenue Requirements and TIER Coverage*

[2] The commission determined that by applying a 6.90 per cent rate of return to a rate base of \$36,384,828 the required net operating income would be \$2,299,521. The rate of return calculated on adjusted net operating income is 6.44 per cent. The required increase in rates is calculated as follows:

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

Required Net Operating Income	\$2,513,359
Less: Other Income and Deductions	171,109
Adjusted Net Operating Income Requirement	\$2,342,250
Less: Adjusted Net Operating Income	1,489,896
Required Increase	\$ 852,354

From a times interest earned ratio (TIER) coverage viewpoint the adjusted revenue increase corresponds to a coverage of 1.91, or 0.41 above 1.50. Professor Williamson testified that the "cooperative must, subject to regulatory limitations, charge rates that will produce a TIER of at least 1.5 times." The Cooperative Finance Corporation (CFC) also has the same requirement.

The commission feels that the pro formed TIER coverage of 1.91 is high considering that required coverage of 1.5 times. However, if the coverage is looked at in the context of other items, it is our decision that a TIER coverage of 1.91 times is necessary at this time to meet financing requirements. The other items are: (1) The actual TIER coverage for the twelve months ended June 30, 1980, was 1.28 on an unadjusted test-year figure; (2) the TIER coverages since mid-1978 have reached 1.5 times on only one occasion; and (3) there is the immediate risk of an increase in the CFC interest rates, which is presently estimated will cost from 10.5 per cent to 11 per cent.

Recognizing these additional factors and the fact that interest rates have soared, along with general inflation, the commission accepts a rate increase of \$852,354 on an annual basis.

#### *Rate Structure*

In its filing of Tariff No. 10, the cooperative has no major change to its currently approved rate structure. While not available for this filing, a cost-of-service study has been underway through the R.W. Beck and Associates. Any restructuring based upon this study would be reflected in future filings.

The cooperative has proposed no change to existing customer charges, applying the increase fairly uniformly among energy blocks of all classes. Energy blocks are also impacted by the roll-in of the \$0.0040 per kilowatt-hour purchased power adjustment. Also increased are service charges to reflect more accurately the costs of such service. The commission finds this manner of application of the increase acceptable.

One area which continues to concern the commission is the discrepancy between controlled and uncontrolled water heating.

#### **Page 70**

For some time, both classes of water-heating service have been priced the same, failing to recognize any load management benefits from the off-peak system. The cooperative reported that it has undertaken an extensive remote controlled water heating experiment, the results of which should lead to correction of the pricing discrepancy in subsequent filings. This will be accepted with periodic reporting to the commission of experimental results.

During discussions with staff, it was pointed out that the cooperative does not have a fuel

adjustment clause of its Vermont customers. Any undercollections of fuel costs associated with sales to Vermont customers has been allowed to accumulate in the unrecovered fuel cost account. Monthly accounting entries should be made to write off those undercollections on a current basis. If the cooperative does not maintain reasonable parity between its Vermont and New Hampshire customers, an adjustment will be made by the commission to New Hampshire rates. While the cooperative has received an increase in Vermont, since the hearings, the commission will not tolerate any future discrepancies between jurisdictions.

Our Order will issue accordingly.

#### Supplemental Order

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

Ordered, that the New Hampshire Electric Cooperative, Inc., be, and hereby is, granted an increase in revenues in the amount of \$852,354; and it is

Further ordered, that Original Pages 16, 17, 18, 20, 23, 24, 26, 27, 28, 30, 31, and 33 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 — Electricity, be, and hereby are, rejected; and it is

Further ordered, that New Hampshire Electric Cooperative, Inc., file with the commission its First Revised Pages 16, 17, 18, 20, 23, 24, 26, 27, 28, 30, 31, and 33; said revised pages to reflect rates which provide the allowed increased revenue; and it is

Further ordered, that the amended tariff, NHPUC No. 10 — Electricity, become effective with meter readings on or after February 20, 1981; and it is

Further ordered, that the New Hampshire Electric Cooperative, Inc., give public notice of this order by publication on two occasions of a summary of the allowed changes in a newspaper widely read among the areas served.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of February, 1981.

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NH.PUC\*02/24/81\*[78836]\*66 NH PUC 71\*Exeter and Hampton Electric Company

[Go to End of 78836]

## Re Exeter and Hampton Electric Company

DR 81-32, Order No. 14,760

66 NH PUC 71

New Hampshire Public Utilities Commission

February 24, 1981

ORDER suspending a proposed electric rate schedule.

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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 February 18, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 14 — Electricity, providing for increased annual revenues of \$447,758; and

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

Ordered, that Second Revised Pages 23-25, 29, 36, and 38; and Third Revised Pages 20, 21, 31, 32, and 34 of tariff, NHPUC No. 14 — Electricity, of Exeter and Hampton Electric Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of February, 1981.

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NH.PUC\*02/24/81\*[78837]\*66 NH PUC 72\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78837]

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

DR 80-189, Second Supplemental Order No. 14,761

66 NH PUC 72

New Hampshire Public Utilities Commission

February 24, 1981

ORDER modifying the implementation of electric rates.

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BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 14,758 ([1981] 66 NH PUC 68) rejected Original Pages 16, 17, 18, 20, 23, 24, 26, 27, 28, 30, 31, and 33 of the New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10; and

Whereas, said order further directed filing of First Revised Pages 16, 17, 18, 20, 23, 24, 26, 27, 28, 30, 31, and 33 of said tariff; and

Whereas, said order specified that New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 as amended would become effective with meter readings on or after February 20, 1981; it is

Ordered, that commission Order No. 14,758 be, and hereby is, amended to read that Original Pages 16, 18, 20, 23, 24, 26, 30, and 31 be, and hereby are, rejected; and it is

Further ordered, that commission Order No. 14,758 be, and hereby is, amended to direct the filing of First Revised Pages 16, 18, 20, 23, 26, 30, and 31; and it is

Further ordered, that New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 as amended be, and hereby is, effective with all bills rendered on or after March 2, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of February, 1981.

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NH.PUC\*02/24/81\*[78838]\*66 NH PUC 73\*Pembroke Water Works

[Go to End of 78838]

## Re Pembroke Water Works

DR 81-33, Order No. 14,762

66 NH PUC 73

New Hampshire Public Utilities Commission

February 24, 1981

ORDER suspending a proposed water rate schedule.

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BY THE COMMISSION:

Order

Whereas, Pembroke Water Works, a public utility engaged in the business of supplying water service in the state of New Hampshire, on February 17, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 1 — Water, providing for increased annual revenues of \$35,840 (23.8 per cent), effective April 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 Second Revised Pages 4-A and 10, Third Revised Page 8, Fourth Revised Pages 15-A, and Sixth Revised Page 4 of tariff, NHPUC No. 1 — Water, of Pembroke Water Works be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of February, 1981.

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NH.PUC\*02/26/81\*[78839]\*66 NH PUC 73\*Harland F. Phalin et al.

[Go to End of 78839]

**Re Harland F. Phalin et al.**

DE 81-38, Order No. 14,763

66 NH PUC 73

New Hampshire Public Utilities Commission

February 26, 1981

ORDER granting a water utility an exemption from public utility statutes.

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BY THE COMMISSION:

Order

Whereas, Harland F. and Nancy C. Phalin, operating a central water system furnishing water service in a limited area in the town of Newbury, New Hampshire, by a petition filed February 23, 1981, seeks exemption from the provisions of RSA 362:4, as amended; and

Whereas, the petitioner states that he is now furnishing water to six customers, and has no immediate plans for expansion of his system to serve ten or more customers; 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 utility statutes be, and hereby is, granted

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to Harland F. and Nancy C. Phalin; and it is

Further ordered, that Harland F. and Nancy C. Phalin shall notify this commission if at some future time they shall expand the water system to serve ten or more customers.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of February, 1981.

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NH.PUC\*02/27/81\*[78840]\*66 NH PUC 74\*Fuel Adjustment Charge

[Go to End of 78840]

**Re Fuel Adjustment Charge**

Intervenors: Public Service Company of New Hampshire, Legislative Utility Consumers' Council, 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

DR 81-19, Order No. 14,765

66 NH PUC 74

New Hampshire Public Utilities Commission

February 27, 1981

PETITION for authority to apply a fuel adjustment charge to monthly billings; granted.

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APPEARANCES: Eaton W. Tarbell for Public Service Company of New Hampshire; William L. Shaine for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-a (II), the commission on February 18, 1981, 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 March, 1981, monthly billings to their customers at a constant rate for regular January, February, and March, 1981, 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 February 13, 1981, the company filed with the commission their affidavits and Exhs 1 through 8, schedules showing maintenance day outages at the company's generating units and major entitlement units for December, 1980, the reasons for unscheduled outages, and fuel data sheets for the period ending December 31, 1980. Exhibits 9 and 10 were submitted at the

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hearing. Exhibits 9 and 10 updated Exhs 1 and 2.

Based upon an agreement between the company, PUC staff, LUCC, and CAP, the company need not bring its witnesses to the hearings held in the two off months 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. No such request was made, but all parties reserved their rights of cross-examination on the reconciling adjustment until March, 1981, hearing.

Based upon all the affidavits and evidence in the record of this proceeding and the aforementioned order, the commission finds that the fuel adjustment charge is approved for January, 1981, of \$2.59 per 100 kilowatt-hours is just and reasonable for March, 1981. 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 Ninth Revised Pages 23 and 24 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly estimated fuel adjustment clause of \$2.59 per 100 kilowatt-hours for the month of March, 1981, be, and hereby is, permitted to continue in effect through March 31, 1981; and it is

Further ordered, that 70th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge of \$2.84 per 100 kilowatt-hours for the month of March, 1981, be, and hereby is, permitted to continue effective through March 31, 1981; and it is

Further ordered, that Seventh Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$2.71 per 100 kilowatt-hours for the month of March, 1981, be, and hereby is, permitted to continue in effect through March 31, 1981; and it is

Further ordered, that 47th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for a monthly fuel surcharge of \$1.09 per 100 kilowatt-hours for the month of March, 1981, be, and hereby is, permitted to become effective March 1, 1981; and it is

Further ordered, that 14th Revised Page 17 of New Hampshire electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$4.25 per 100 kilowatt-hours net of refunds for the month of March, 1981, be, and hereby is, permitted to become effective March 1, 1981; and it is

Further ordered, that 77th Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$4.37 per 100 kilowatt-hours for the month of March, 1981, be, and hereby is, permitted to continue in effect through March 31, 1981; and it is

Further ordered, that First Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$4.07 per 100 kilowatt-hours net of the Public Service Company of New Hampshire refund for the month of March, 1981, be, and hereby is, permitted to become effective March 1, 1981; and it is

Further ordered, that 86th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$3.21 per 100 kilowatt-hours for the month of March, 1981, be, and hereby is, permitted to become effective March 1, 1981; and it is

Further ordered, that 52nd Revised

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Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of \$3.35 per 100 kilowatt-hours for the month of March, 1981, be, and hereby is, permitted to become effective March 1, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of February, 1981.

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NH.PUC\*02/27/81\*[78841]\*66 NH PUC 76\*Public Service Company of New Hampshire

[Go to End of 78841]

## Re Public Service Company of New Hampshire

Intervenors: Legislative Utility Consumers' Council, Business and Industry Association, and Community Action Program

DR 81-6, Second Supplemental Order No. 14,766

66 NH PUC 76

New Hampshire Public Utilities Commission

February 27, 1981

PETITION for an emergency rate increase; denied.

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1. RATES, § 634 — Temporary increase — Burden of proof.

[N.H.] The burden of proof for a utility in justifying a rate increase is in direct relation to the method used by the utility in seeking such an increase; the lowest burden is accorded to a request for temporary rates; then progressively greater burdens apply in the case of requests for permanent rates and emergency rates. p. 77.

2. RATES, § 634 — Emergency increase — Burden of proof.

[N.H.] A request for emergency rates places a heavy burden of proof on a utility. p. 77.

3. RATES, § 634 — Emergency increase — Burden of proof.

[N.H.] Failure of a utility to file an accurate actual jurisdictional study evaluating the utility's business was sufficient cause for the commission to deny emergency rate relief. p. 77.

4. RATES, § 631 — Emergency increases — Factors considered — Earned rate of return.

[N.H.] A utility's failure to earn its authorized rate of return, by itself, will not justify the granting of emergency rates. p. 77.

5. RATES, § 634 — Emergency increase — Factors considered — Cost control.

[N.H.] A utility's failure to take necessary steps to curb expenses, such as wage and hiring freezes, hurt its chances of being granted emergency rate. p. 77.

6. RATES, § 634 — Emergency increase — Factors considered — Business practices.

[N.H.] Emergency rates were denied to a utility where there utility had failed to practice reasonable conservative emergency business practices. p. 78.

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APPEARANCES: Martin Gross, Philip Ayers, and Eaton Tarbell for Public Service Company of New Hampshire; William Shaine and Gerald L. Lynch for the Legislative Utility Consumers' Council; Dom S. D'Ambruoso for Business and Industry Association; Gerald Eaton for Community Action Program.

BY THE COMMISSION:

Report

Public Service Company of New Hampshire (PSNH) filed for an emergency rate increase of approximately \$35.7 million.

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Hearings were held on February 2, 9, and 20, 1981. A majority of the commission felt it necessary to review the proposed increase and ask specific questions as to whether or not a true emergency existed.

[1, 2] In New Hampshire there exists three avenues by which a utility can approach this commission for an increase in rates: temporary, permanent, and emergency. The burden of proof increases in direct relation to the aforementioned order of listing. The commission stated the burden required of a utility in an emergency rate proceeding in its emergency report and order in DR 79-187 ([1979] 64 NHPUC 467). The commission stated (64 NHPUC at p. 472):

"In an emergency rate relief situation, there is a heavy burden upon the utility seeking relief to allege and establish the existence of circumstances which would warrant departure from the normal rate-making process. *Re Potomac Electric Power Co.* (DC 1975) 9 PUR4th 363. While the burden of establishing the need for rate relief is always upon the applicant in a rate proceeding, that burden bears more heavily upon the applicant in a request for extraordinary relief. *Re Arkansas Power & Light Co.* (Ark 1975) 10 PUR4th 474.

"Since the commission does not have the benefit of a complete independent analysis by its staff on the financial posture of the utility, the evidence submitted by an applicant for emergency rate relief must clearly and convincingly demonstrate that a situation exists which warrants an exercise of the commission's emergency powers."

[3] Public Service Company of New Hampshire has not provided the necessary data to justify any emergency at this time. Of special concern to the commission is the failure to file an accurate actual jurisdictional study so as to allow the commission to evaluate the financial situation in the aspect of PSNH's business that is subject to our regulation. Other multistate utilities such as New England Telephone routinely file New Hampshire and total company data. Yet PSNH chose in this proceeding to use estimated adjusted data. Such a presentation fails to satisfy the necessary burden of proof for any rate proceeding much less one of an emergency nature. Public Service Company of New Hampshire filed the emergency rate proceeding prior to the Massachusetts Department of Public Utilities approving the purchase by MMWEC of additional interests in Seabrook. When the commission found an emergency in DR 79-187 a part of our rationale was the unsettled nature of PSNH's proposed divestiture. Yet PSNH failed to

make any adjustment in its exhibits, testimony or data request based on the recent significant approval of the Massachusetts DPU of the MMWEC petition. Simply stated, PSNH's financial situation dramatically improved with the receipt of the Massachusetts DPU approval yet their presentation before us was as if nothing had changed. Such a presentation lacks the requisite financial consistency to be convincing.

The commission attempted to develop the jurisdictional rate of return being earned by PSNH. While actual figures are more reliable, based on the evidence in this proceeding it is apparent that PSNH is earning relatively close to the return found to be reasonable months ago. Even if the actual return is slightly below a reasonable rate of return PSNH is well aware that this commission provides an opportunity *not* a guarantee that a reasonable rate of return will be earned.

[4, 5] The failure to earn a reasonable rate of return can fall into two categories within and outside a company's ability to control. A majority of the commission addressed the costs within the control of

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PSNH during the course of these proceedings. Public Service Company of New Hampshire's response was not satisfactory. The majority of the commission believes that any utility in an emergency should be taking the necessary steps to curb expenses and to cut all costs to the barest of minimums. Such actions in PSNH's case should have resulted in a hiring freeze, not the addition of 228 employees. Public Service Company of New Hampshire could have responded to economic difficulty in the same fashion as have private unregulated businesses in industries such as automobile. Such actions should have included (1) a freeze on wages for upper level management, (2) a hiring freeze, (3) a reduction in temporary employees, (4) a reduction of expenses unnecessary to the actual generating and rendering of the product, (5) elimination of the benefits such as employee discounts, (6) delay or elimination of maintenance projects such as renovating offices, and finally, (7) a elimination of these aspects of the business in which it is no longer economical to support.

Public Service Company of New Hampshire, should, in an emergency situation, be setting priorities if the top priority is to maintain financial stability so as to continue to attract bondholders and stockholders into investing in Seabrook, then less consequential projects should be delayed or scrubbed. For example, PSNH's own testimony in this as well as other proceedings clearly states that PSNH can hold on to a greater per cent of Seabrook without Millstone 3 and Pilgrim 2 interests. Yet nearly two years later PSNH is still holding interests in Millstone 3 and Pilgrim 2. Public Service Company of New Hampshire still maintains the need to be involved in Pilgrim 2 yet there is not any evidence to support the concept that Pilgrim 2 will in fact be constructed. An elimination of the payments to Pilgrim 2 major owner Boston Edison, coupled with a dramatically reduced maintenance program would reduce the need to finance at today's extraordinary interest levels.

[6] When the Public Service Company of New Hampshire begins to respond in its daily activities as if there is an emergency, this commission will have greater reason to find an emergency exists. However, if this utility fails to practice reasonable conservative emergency

business practices, then any and all requests for action will fall upon an unreceptive audience. 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 emergency rate increase is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of February, 1981.

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NH.PUC\*03/03/81\*[78842]\*66 NH PUC 78\*New England Power Company

[Go to End of 78842]

**Re New England Power Company**

DF 80-213, Supplemental Order No. 14,767

66 NH PUC 78

New Hampshire Public Utilities Commission

March 3, 1981

PETITION for authority to increase and issue debt and equity financing instruments; granted.

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**Page 78**

**BY THE COMMISSION:**

Supplemental Order

Whereas, by Order No. 14,561 of this commission, dated November 10, 1980 (65 NH PUC 539), issued in the above entitled proceeding, New England Power Company was authorized to issue and sell \$50 million principal amount of general and refunding mortgage bonds, the Series EGR bonds, to mature is 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 this commission approves a 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

Whereas, by Order No. 14,561 of this commission, dated November 10, 1980, issued in the above entitled proceeding, New England Power Company was authorized to issue and pledge \$25 million in amount of first mortgage bonds, and 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

Whereas, by Order No. 14,561 of this commission, dated November 10, 1980, issued in the above entitled proceeding, New England Power Company was 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 this commission), and this commission consented to the issue, disposition, and sale of said additional preferred stock of the company at competitive bidding; and

Whereas, by Order No. 14,561 of this commission, dated November 10, 1980, issued in the above entitled proceeding, New England Power Company was authorized to issue securities contained therein on or before April 1, 1981, and not thereafter, unless such period was extended by order of this commission; and

Whereas, New England Power Company has not issued the securities authorized in Order No. 14,561 due to the highly volatile financial markets. Upon consideration, it is;

Ordered, that New England Power Company be, and hereby is, authorized to issue and sell \$50 million principal amount of GR mortgage bonds, the Series EGR bonds, and to issue and pledge \$25 million principal amount of first mortgage bonds, the Series Z bonds, and/or to issue and sell 500,000 shares of preferred stock, par value \$100, on or before May 15, 1981, and not thereafter, unless such period is further extended by order of this commission; and it is

Further ordered, that except as previously 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 third day of March, 1981.

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NH.PUC\*03/03/81\*[78843]\*66 NH PUC 80\*New England Telephone and Telegraph Company

[Go to End of 78843]

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

DE 81-12, Order No. 14,768

66 NH PUC 80

New Hampshire Public Utilities Commission

March 3, 1981

PETITION to construct and maintain aerial telephone line crossing state-owned waters; granted.

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APPEARANCES: Wayne Snow for the petitioner.

BY THE COMMISSION:

Report

On January 16, 1981, the New England Telephone and Telegraph Company filed with the commission a petition seeking license to place and maintain aerial plant crossing state-owned public waters of Squam Lake in Holderness, New Hampshire. An order of notice was issued on

January 20, 1981, setting the matter for public hearing on February 26, 1981, at 1:00 P.M. In addition to directing public notice, the order was sent to John Bridges of safety services; George Gilman of Department of Resources and Economic Development (DRED); the New Hampshire Transportation Authority; John R. Sweeney of the New Hampshire Aeronautics Commission; William Shaine of the Legislative Utility Consumers' Council; and the Office of Attorney General.

An affidavit attesting to the public notice was filed with the commission on February 3, 1981.

At the public hearing held at the commission offices on the appointed date, Wayne Snow represented the company. No other intervenor appeared, nor was written opposition filed. Mr. Snow explained that the line had been installed earlier, but records failed to reveal commission license.

The crossing consists of one pair of telephone wire providing telephone service to F. Bryce Blanchard. The line proceeds from Pole No. 30FF/1 on Point Finisterre situated on the private property of Katherine C. Olen. The first portion of the crossing is 345 feet across a cove to Pole No. 30FF/2 on the private property of Merlin and Jeanette Connary. The next portion of the crossing is 405 feet across a second cove to Pole No. 30FF/3 situated on property of said Blanchard.

Mr. Snow advised that the line had been reconstructed with 55-foot poles in lieu of the former 35-foot poles. While the latter met the requirements of the National Electric Safety Code ( § 232-1) where sailboating was prohibited, the company felt a sailboat might wander into the coves involved so opted for taller construction. (The new line has clearance of 38 feet four inches, compared to the former 22 feet two inches.) It should be noted that, while these poles are owned and maintained by New England Telephone and Telegraph Company, they are shared by the New Hampshire Electric Cooperative, Inc.

Noting no objections to this crossing, the commission finds it in the public good. Our order will issue accordingly.

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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, granted authority to install and maintain aerial plant over state-owned public waters and described in the accompanying report.

By order of the Public Utilities Commission of New Hampshire this third day of March, 1981.

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NH.PUC\*03/03/81\*[78844]\*66 NH PUC 81\*Pennichuck Water Works

[Go to End of 78844]

## Re Pennichuck Water Works

DR 79-3, Seventh Supplemental Order No. 14,769

66 NH PUC 81

New Hampshire Public Utilities Commission

March 3, 1981

ORDER providing for a one time recoupment of revenues by a water utility.

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BY THE COMMISSION:

Supplemental Order

Whereas, Pennichuck Water Works, on February 9, 1981, issued Supplement No. 1 to its tariff, NHPUC No. 4 — Water, said supplement documenting a one-time surcharge for recovery of revenues lost during the period in which temporary rates were effective; and

Whereas, said supplement was issued in compliance with commission Order No. 14,683 ([1981] 66-NH PUC 30), it is approved for effect with billings rendered between February 17, 1981, and April 10, 1981, such that recover will total \$23,508; and

Whereas, Pennichuck Water Works also issued 11th Revised Pages 21-24, the purpose of which is solely to extend the effective period of said pages in order to recover rate case expense; and

Whereas, said extension will allow these rate pages to continue to be effective from April 1, 1981, through October 31, 1981, a seven-month period; and, while the commission's order originally directed recovery over an eight-month period to avoid administrative costs and customer confusion; the commission finds such time reduction clearly in the interest of the general public; it is

Ordered, that Supplement No. 1 and 11th Revised Pages 21-24 be, and hereby are, approved for effect on the dates specified thereon; and it is

Further ordered, that Pennichuck Water Works file with this commission, no later than October 1, 1981, 12th Revised Pages 21-24, said pages to reflect rates without the added rate case expense components; and it is

Further ordered, that Pennichuck Water Works give public notice of this order by one-time publication of a summary of the changes in a widely circulated newspaper in the area served.

By order of the Public Utilities Commission of New Hampshire this third day of March, 1981.

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NH.PUC\*03/09/81\*[78845]\*66 NH PUC 82\*Public Service Company of New Hampshire

[Go to End of 78845]

**Re Public Service Company of New Hampshire**

DE 80 47, Second Supplemental Order No. 14,788

66 NH PUC 82

New Hampshire Public Utilities Commission

March 9, 1981

ORDER setting forth a hearing schedule for investigation of peak demand.

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BY THE COMMISSION:

Supplemental Order

Whereas, this docket was initiated by the commission; and

Whereas, the commission desires to expedite the hearing process; it is hereby

Ordered, that the following schedule be set:

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

<i>Date</i>	<i>Subject Matter</i>
Tuesday, March 17th	Cross-examination of Public Service Company of New Hampshire Witnesses
Thursday, March 19th	Cross-examination of Energy Systems Research Group Witnesses
Wednesday, March 25th	Cross-examination of Governor's Council On Energy Witnesses
Monday, March 30th	Prefiled Testimony of Staff Due
Monday, April 13th	Cross-examination of Staff Witnesses
Monday, April 20th	Rebuttal Presentation of Witnesses
Monday, May 18th	Briefs Due
Monday, May 25th	Reply Briefs, if any, Due

By order of the Public Utilities Commission of New Hampshire this ninth day of March, 1981.

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NH.PUC\*03/10/81\*[78846]\*66 NH PUC 82\*Manchester Gas Company

[Go to End of 78846]

**Re Manchester Gas Company**

Intervenor: Amoskeag Leather, Inc.

DR 81-55, Order No. 14,783

66 NH PUC 82

New Hampshire Public Utilities Commission

March 10, 1981

ORDER approving a special contract for gas service.

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. 25 with Amoskeag Leather, 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 hereof.

By order of the Public Utilities Commission of New Hampshire this tenth day of March, 1981.

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NH.PUC\*03/17/81\*[78847]\*66 NH PUC 83\*Public Service Company of New Hampshire

[Go to End of 78847]

## Re Public Service Company of New Hampshire

DE 80-47, Third Supplemental Order No. 14,793

66 NH PUC 83

New Hampshire Public Utilities Commission

March 17, 1981

ORDER modifying a hearing schedule for investigation of peak demand.

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BY THE COMMISSION:

Supplemental Order

Whereas, Order No. 14,778 was issued by the commission on March 9, 1981 (66 NH PUC 82); and

Whereas, it now appears that the schedule contained in said order is in conflict with the commission calendar; and

Whereas, for good cause being shown; it is hereby

Ordered, that Order No. 14,778 be vacated and set aside; and it is

Further ordered, that the secretary of the commission is directed to prepare a new schedule and distribute same to the parties in this proceeding.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of

March, 1981.

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NH.PUC\*03/20/81\*[78848]\*66 NH PUC 83\*Small Power Producers and Cogenerators

[Go to End of 78848]

## Re Small Power Producers and Cogenerators

Intervenors: Public Service Company of New Hampshire, Granite State Electric Company, Exeter and Hampton Electric Company, Concord Electric Company, Monadnock Paper Mills, Inc., East Coast Engineering, Community Action Program, Governor's Council on Energy, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., James River Corporation, Franklin Falls Hydroelectric Corporation, Municipal Electric Department of Wolfeboro, C.P.M., Inc., Seaward Construction Company, Sunnybrook Hydro, Eneritech Corporation, Inc., New England Geosystems, Windmaster Corporation, and Homestead Engineering Systems et al.

DE 80-246, Supplemental Order No. 14,797

66 NH PUC 83

New Hampshire Public Utilities Commission

March 20, 1981

COMMISSION consideration of rates, policies, and operating practices regarding regulatory small power producers and cogenerators.

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1. ELECTRICITY, § 4 — Generating plants — Interconnections and sales — Cogeneration.

[N.H.] A qualifying cogeneration or small power production facility has the option of selling

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its entire output of electricity to a public utility on a simultaneous purchase and sale basis or on a net basis. p. 86.

2. ELECTRICITY, § 4 — Generating plants — Interconnections and sales — Cogeneration.

[N.H.] Unless mutually agreed by a utility and a qualifying cogenerator or small power producer, reverse metering is prohibited for energy only transactions. p. 86.

3. ELECTRICITY, § 4 — Generating plants — Interconnections and sales — Cogeneration.

[N.H.] Magnetic tape meters were not required in the case of wheeling transactions between a public utility and a qualifying cogeneration or small power production facility, but were allowed if mutually agreed upon, or if installed at the purchasing utility's expense. p. 86.

4. ELECTRICITY, § 4 — Generating plants — Interconnections and sales — Cogeneration.

**[N.H.]** In a simultaneous purchase and sale situation between a public utility and a qualifying cogenerator or small power producer, there is no need for additional tariff services for such qualifying facilities, thus total purchases should be billed as if the qualifying facility had no generation. p. 88.

5. ELECTRICITY, § 4 — Generating plants — Interconnections — Cogeneration.

**[N.H.]** A qualifying cogeneration or small power production facility should finance, at the time of installation, all interconnection costs, as defined by Public Utility Regulatory Policies Act, that are a direct result of interconnection; however, a utility may provide financing to a qualifying facility as long as any loan or construction provided by the utility was reasonably amortized, reflected the utility's cost of money, and did not burden other ratepayers. p. 89.

6. ELECTRICITY, § 4 — Generating plants — Interconnections — Cogeneration.

**[N.H.]** The commission has adopted minimum guidelines for interconnection reliability of qualifying small power producers and cogenerators. p. 90.

7. ELECTRICITY, § 4 — Generating plants — interconnections — Cogeneration.

**[N.H.]** FERC rules that outlined circumstances under which utilities were not required to purchase the generating output of qualifying cogenerators and small power producers were adopted by the state commission. p. 92.

8. ELECTRICITY § 4 — Generating plants — Interconnections — Cogeneration.

**[N.H.]** The commission has determined that a utility shall install necessary interconnection equipment or supervise the installation, and that the qualifying facility will pay for any services by providing to the utility a deposit. p. 92.

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APPEARANCES: Philip Ayers and Debbie-Ann Sklar for Public Service Company of New Hampshire; Michael Flynn for Granite State Electric Company; Warren Nighswander and Stuart Aither for Exeter and Hampton Electric Company; Joseph Ransmeier for Concord Electric Company; Dom D'Ambruoso for Monadnock Paper Mills, Inc.; George Sanosucy for East Coast Engineering; Gerald Eaton and Ron Serino for Community Action Program; Paul A. Ambrosino for Governor's Council on Energy; Charles Whitehair for Connecticut Valley Electric Company, Inc.; Hervy Scudder, pro se; John Pillsbury for New Hampshire Electric Cooperative, Inc.; James E. Watson, Jr., for James River Corporation; Ted Larter for Goodrich Falls and Franklin Falls Hydro; Dennis Bean for Wolfeboro Municipal Electric; Howard Moffett for C.P.M., Inc.; Eugene Garceau for Seaward Construction Company; Bruce Sloat for Sunnybrook Hydro; John Van Horn for Enertech Corporation, Inc.; Jeffrey Orchard for New England Geosystems; Kev Devejian for Windmaster Corporation of Carlstadt, New Jersey; Robert Greenwood for Waterloom; Mark Drabick for Hoemstead Engineering Systems.

BY THE COMMISSION:

Report

I. Procedural History

This proceeding was initiated by order of notice of the public utilities commission (commission) dated December 8, 1980. Pursuant to duties and authority granted by the Limited Electrical Energy

Producers Act (LEEPA) RSA 362-A, the Public Utility Regulatory Policies Act of 1978 (PURPA) and its general statutory authority, the commission's order of notice provided for commencement of investigation into the following matters.

1. Rates for sale of power by public utilities to small power producers and cogenerators.
2. Engineering and financial policies governing interconnection of small power producers and cogenerators to public utilities.
3. Operating and safety standards for small power producers and cogenerators.
4. Certain unresolved issues relating to the commission's work under DE 79-208 ([1979] 64 NH PUC 361), setting rates for purchases by public utilities from small power producers and cogenerators. These issues include: definition of total and surplus output, possible further refinement of purchase rates, policy for periods when purchases are not required, possible differentiation of rates for existing producers not covered by contract, and certain other issues.
5. Examination of how progress by public utilities shall implement commission policy on small power producers and cogenerators.

On February 5, 1981, the commission issued a supplement to its order of notice describing certain procedures to be followed in this docket. The supplement also stated "the hearings in DE 80-246 ([1981] 66 NH PUC 34) will not address the question of rates paid to cogenerators or small power producers, said issue having been finalized in DE 79-298 ([1981] 65 NH PUC 640).

Hearings for this docket were held on four days, February 10, 23, and 27, and March 4, 1981. Testimony was presented by utilities subject to the order of notice, supplementary order of notice, and Exh 13, "issues requiring direct testimony by utilities to be filed by or on February 17, 1981"; utility witnesses were cross-examined on their testimony during the hearings. A number of other parties also participated through written and oral testimony. Commission staff prefiled testimony in this docket and was cross-examined during the hearings. Final briefs were submitted pursuant to a March 16, 1981, deadline. The commission is laboring under a March 20th deadline for implementation of PURPA § 210.

## II. Commission Analysis

Although this docket, as is generally true of such proceedings, produced issues ancillary to those originally contemplated, the commission will address these within the framework of the broader issues originally perceived by the commission. A compendium of those broader issues is produced from perusal of the order of notice of December 8, 1980, and of Exh 13. Exhibit bound into the record on February 10, 1981, explained that the commission sought additional testimony in specific areas believing proofs submitted up to and including February 10, 1981, failed to adequately explore those issues of concern to the commission.

Following is a compendium of the broader issues:

- A. Simultaneous Purchase and Sale Versus Net Purchase or Sale.
- B. Metering and Wheeling.
- C. Rates for Sale of Power to Qualifying Facilities (QF's).
- D. Financial Policies and Ownership.
- E. Interconnection Reliability and Safety Standards.
- F. PUC Oversight.
- G. Procedures Permitting a Utility to Cease Purchasing From a Qualifying Facility (QF).
- H. Installation of Interconnection Equipment.
- I. Production Reports.
- J. Commission Interpretative and Informational

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Statements Regarding Resolutions of Certain Issues in this Docket but Germane to DE 79-208.

*A. Simultaneous Purchase and Sale Versus Net Sales or Purchases:*

[1] Public Utility Regulatory Policies Act rules § 292.303 provides that each electric utility shall purchase "any" energy and capacity made available by a qualifying small power production or cogeneration facility (QF). The provision for purchase of "any," combined with § 292.303(e) regarding a QF's right to operate in parallel, plus frequent reference in PURPA rules to simultaneous purchase and sale agreements produces the conclusion that a QF has the option of selling on a simultaneous purchase and sale basis or on a net basis. Viewed in light of the legislative intent underlying LEEPA, as well as that act's declaration of purpose, LEEPA at 362-A:3 requires that up to all of a QF's "entire output" be purchased by a utility, making no distinction between simultaneous purchase and sale or net sale.

It is also found that a QF interconnected in parallel operation with a utility and therefore capable of only delivering or receiving production on a net basis can nonetheless be treated for billing purposes on a simultaneous purchase and sale basis providing proper metering is installed. Moreover, this commission, pursuant to other statutory provisions, can provide this optional billing treatment to QF's. Having found within this record that such an option will assist in implementing the public policy underlying PURPA, LEEPA, and the commission's duty respecting just and reasonable rates, it is so ordered that any QF, at its option, may be treated on either a simultaneous purchase and sale basis or a net purchase or sale basis for billing purposes. However, a QF in parallel operation, desiring billing treatment on a simultaneous purchase and sale basis, must provide, at its own expense, whatever reasonable metering is required by the utility to effect this bookkeeping transaction.

*B. Metering and Wheeling*

[2] With respect to permitting energy only transactions to be accounted for by allowing a meter to run backwards, it is found that, among other reasons, the accuracy of reverse metering is

likely below previously established commission standards and is therefore prohibited unless reverse metering is mutually agreed upon by the QF and the utility. It is found that, unless mutually agreed otherwise, energy only transactions shall be measured by two watt-hour meters, the estimated cost of an additional meter being approximately \$60 — \$100 installed, and it is so ordered. Qualifying facilities, desiring to obtain additional five mills per kilowatt-hour for capacity shall be required to purchase meters as determined necessary by the purchasing utility and the commission in order to record capacity supplied by the QF, and it is so ordered. All the above QF's are to pay fully the cost of any metering prior to installation thereof, except where the meter would normally be provided by the utility pursuant to its tariffs if the QF were a nongenerating ratepayer. Additional meter reading charges beyond those indirectly or directly included in the applicable rate are prohibited in the above situations, except in the case of necessary magnetic tape meters, for which the additional charge shall be \$25 per month.

[3] Although the record demonstrates the majority of party utilities desire that the QF install a magnetic tape meter when wheeling is involved, the commission is not persuaded that a magnetic tape meter is necessary. Arguments set forth in support of magnetic tape meters submit that the purchasing utility will

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lose revenue from its wholesale customer when the wholesale customer's QF capacity reduces the wholesale customer's demand requirements. However, assuming revenues do not sufficiently recover capacity costs, the record indicates that the purchasing utility could recoup any such loss by requesting an adjustment from FERC of its wholesale rate. If there is in fact justification for increased rates, it must be presumed the purchasing utility's wholesale rates would be adjusted accordingly.

The difficult question for this commission involves the utility that wheels — i.e. the nongenerating utility — not the purchasing utility. That question is whether qualifying-facilities-caused demand reductions for the nongenerating utility, as eventually passed on to its customers in lower costs, are more than offset by any eventual FERC increases in the nongenerating company's wholesale purchase rates, as also passed on to customers. The record does not answer the second part of the question although it does provide evidence that the nongenerating utility's billing demand will decrease. Considering that the record does demonstrate that the purchasing utility will be made whole and the nongenerating utility's demand will decrease, and that expensive magnetic tape meters are a disincentive to QF production, thereby not promoting the public policy underlying PURPA and LEEPA, this commission finds magnetic tape meters are not to be required of wheeling QF's who sell only energy. Public Utility Regulatory Policies Act does permit, and this commission so finds and orders, that a magnetic tape can be installed if mutually agreeable, if the QF desires to sell capacity, or if the purchasing utility installs it at its own expense assuming the purchase-ing utility can cost justify such an expenditure. Further, whenever a QF operating in parallel is to be billed on a simultaneous purchase and sale basis, said facility must provide at its own expense, in advance, whatever reasonable metering the utility requires to effect such billing.

With respect to wheeling it must be recognized that pursuant to LEEPA RSA 362-A:2-a this commission, prior to issuing any order for wheeling or before the commission approves any

contract for wheeling, must find that specific standards are met. Directing its attention to those standards the record in this case indicates QF production in a wheeling situation will not actually be transmitted any appreciable distance but will, by displacement, be used close to the QF's generation site. Therefore, with no other evidence of record on wheeling costs, the commission finds wheeling is not likely to result in a reasonably ascertainable uncompensated loss nor for the same reason will any undue burden be placed on any party affected by wheeling. The record contains no evidence that wheeling will affect the reliability of the wheeling utility. However, the record does evidence the requirement that utilities are at all times, under all circumstances required to protect their system reliability. Since the commission's reliability standards would also cover wheeling even if it required dropping the load being wheeled, the commission finds wheeling will not effect the wheeling utility's system reliability. Further, it is found that the wheeling utility's ability to serve its other customers will not be impaired and in fact may be improved due to the availability of QF capacity.

The constraints of LEEPA having been satisfied as demonstrated by the record, whereas PURPA only requires QF permission in order that a utility be permitted to wheel, it is provided by order that wheeling, as permitted by law and this order, will be accomplished without charge. Purchases from the QF will be at the

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rates established in DE 79-208.

#### *C. Rates for Sale of Power to QF's*

[4] Federal Energy Regulatory Commission rules lead to anomalous conclusions in this area. Federal Energy Regulatory Commission regulations § 292.305 prohibits discriminatory rates for sales to QF's when not cost justified. At the same time FERC regulations § 292.305(b) mandates additional service to QF's when requested, to wit: supplementary power, backup power, maintenance power and interruptible power. However, since a simultaneous purchase and sale QF has exactly the same purchase characteristics and needs subsequent to becoming a QF as it had prior thereto, the cost of service to the QF does not change. All parties agree that in the simultaneous purchase and sale situation there is no need or justification for additional tariff services for such QF's, and that total purchases shall be billed as if the QF had no generation.

Since the record evidences the difference between a net QF and a simultaneous purchase and sale QF is simply a matter of bookkeeping, treating the net QF differently by providing it "additional services" while not providing those same services to a simultaneous purchase and sale customer is arguably discriminatory pursuant to PURPA's other rules mandating availability of additional services. Therefore, the commission finds that since the record fails to establish any cost justification to provide simultaneous purchase and sale QF's with "additional services" finding instead all parties agree these QF's should receive all purchased power needs on the tariff they would be on without generation capacity, there appears to be no justification for treating net QF's differently, other than the PURPA requirement that such "additional services" be available when requested.

To state it somewhat differently, to prevent discrimination it appears the net QF's should pay for all purchases on the tariff that would apply if they had no generating capacity. However, it is

also clear from the record that at least some net QF's, particularly those who have historically provided for their own needs and sold surplus to the utility, may have been billed on a rate providing the type of service that fulfills the same functions as PURPA's "additional services." Presumably certain plant and costs have been committed by the utility to provide the service charged for in such rates. The commission recognizes that in this circumstance it would be a hardship on the providing utilities and its customers, as well as a windfall to the QF, for the commission to order cessation of these charges because they are not cost justified on this record. Instead, the commission recognizes it is highly possible, given the testimony in this case, that research by the utilities will prove additional services can be provided on a cost justified basis. Therefore, it is ordered that where a QF purchasing or selling on a net basis has prior to this order, been supplied the type of additional services envisioned by the FERC regulations § 292.305(b), the QF will remain on the rate under which it currently receives such services until revised rates are approved by the commission. For arrangements made subsequent to the date of this order, QF's will be provided all their purchase requirements including backup, maintenance, and supplementary power at the rate they would be on if they had no generation capability. Under this procedure no QF will be permitted to purchase at a rate lower than would apply if it had no generation; i.e. when observations of only the net portion of such purchases would entitle the QF to a less expensive tariff. This latter situation does not violate PURPA provisions and this result is in fact required

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by FERC in its preamble to § 210 rules where it is found, for example, that a net billing industrial customer cannot obtain a residential rate by virtue of the net requirement alone allowing selection of a residential rate. Instead, the industrial customer must take its net only needs on whatever tariff would be appropriate without QF standing.

The commission will not at this time direct all utilities to investigate cost based "additional service" tariffs. Instead the commission directs that in Phase II of DR 79-187 ([1979] 64 NHPUC 336) Public Service Company of New Hampshire shall address the issue of tariffs for additional service described in the FERC regulations § 292.305(b). At the time of the order in Phase II the data and results of that effort will permit the commission to determine what measures should be taken by other New Hampshire utilities. The commission will then initiate whatever reasonable measures are indicated to ensure the issue is addressed by other utilities.

Utilities are ordered to make such changes to their filed tariffs as required to reflect clearly these policies regarding rates for sales to QF's.

*D. Financial Policies and Ownership*

[5] The record indicates that for residential size QF's interconnection costs will be minimal. For residential size QF's, utility financing is not justified on the record inasmuch as the cost to the utility and its general ratepayers of such a utility program may outweigh any incentive to production that might be provided by such financing. The record also evidences that, in the situation where substantial interconnection costs are involved, the ability of the QF to finance the concomitant generating plant demonstrates an equal ability to finance the interconnection costs. In either event the record does not justify utility financing. Therefore, it is found in the public

interest that the QF shall finance, at the time of installation, all interconnection costs, as defined in PURPA rule § 210.101(b)(7), that are a direct result of interconnection. Nothing herein shall prevent a utility from voluntarily providing financing to a QF as long as any loan or construction provided by the utility on behalf of the QF is amortized over a reasonable period of time, accrues money costs reasonably reflecting the cost of money to the utility, and does not burden other ratepayers.

Ownership of interconnection property presents a problem of maintenance and control inasmuch as control and maintenance of property is generally considered to be the responsibility of the ownership which naturally flows from purchasing property. Permitting QF control of interconnection equipment purchased by the QF but situated on a utility's property or rights of way would remove from the utility the control it must have to comply with reliability and safety standards previously mandated by this commission for all utilities. In sum, it is ordered that interconnection property is owned by the purchaser. Further, without any change in ownership it is ordered that all interconnection property on utility property or utility rights of way as well as any other interconnection property over which the utility requires control to ensure commission standards of safety and reliability, will be under utility control. Maintenance of such property will be by the utility or under its supervision with the reasonable cost thereof charged to the QF and it is so ordered.

A variety of financing vehicles appear to be employed by QF's and potential QF's in purchasing qualifying-facility-related facilities or services. The commission believes that a minimal amount of expense and effort would be required for

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utilities to become familiar with feasible avenues and procedures for QF's to obtain financing. Ready availability of this information to potential or current QF's would assist the formation or expansion of QF's. It is therefore ordered that each utility provide information and make known the availability of such information to QF's and potential QF's.

*E. Interconnection Reliability and Safety Standards*

[6] As part of this hearing, operating, and safety standards for small power producers and cogenerators were considered in order to fulfill the requirements of the Federal Energy Regulatory Commission (FERC) regulation § 292.308 Standards for Operating Reliability. The commission staff recommended that the commission establish minimum guidelines to be used by the commission and others to ensure the integrity and safety of the interconnected system as required by previously established commission operating standards. There was general consensus that the proposed interconnection policy as submitted by staff witness Johnson in his prefiled testimony on p. 4 be adopted in total without change. Since the commission has already established construction standards for the electric utilities, it is understood that Mr. Johnson's guidelines are in the nature of information to explain the scope of standards applicable to various QF's.

The guidelines proposed by Mr. Johnson and adopted by this commission are as follows:

(1) Interconnection equipment shall be constructed, installed, operated and maintained according to national electric standards and local codes.

(2) For proper interconnection and reliable operation, the qualifying facility shall be responsible for any revisions necessary to the distribution system.

(3) The quality of service, as prescribed by commission rules and regulations, shall not be reduced by the connection and operation of the qualifying facility.

(4) The connection and operation of the qualifying facility shall not cause an unsafe condition.

(5) A visible disconnect device located between the utility and generating facility must be provided for utility use at any time and without restricted access.

(6) The qualifying facility shall not energize a de-energized utility system.

(7) Protective devices with associated relays shall be provided by the qualifying facility to separate the generating unit from the utility system whenever required by a fault, frequency or voltage condition.

Mr. Johnson also proposed that each electric company make available and have on file at the commission, written technical guidelines regarding specific company requirements and outlining QF responsibilities. This recommendation makes a distinction between commission standards and technical guidelines. These guidelines would be developed to fulfill commission standards. Public Service Company of New Hampshire, Granite State Electric and Concord Electric submitted into evidence written general guidelines and technical specifications on interconnection. The commission notes these specifications have evolved and may not reflect the requirements of the residential size energy producer due to the lack of experience with their particular minimum interconnection and protection needs. Because of the commission's concern that alternative energy be developed in an efficient manner, the commission believes that utilities must develop guidelines which encompass the special technical characteristics aspects of the residential size energy producer and so orders.

During this hearing, concern was expressed

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that final interconnection design must be determined on a site-specific case. Moreover, standards and guidelines which are overly specific would have a negative effect by causing unnecessary equipment to be required. Witnesses for the small producers and the utilities cautioned against this situation and contended that the final technical design of the interconnection must be site-specific.

The commission finds that these recommendations by witness Johnson should be adopted to the extent they are consistent with other provisions of this order. Further, the commission finds that flexibility is necessary as to the technical design of interconnection and hereby provides that issues, arising out of such technical requirements which cannot be resolved by the utility and the QF, will be resolved by arbitration as set forth elsewhere in this order.

#### *F. Public Utilities Commission Oversight*

The record indicates a high degree of cooperation to date between QF's and utilities. At the same time the record presents a clear consensus that all parties believe a flexible approach on a

case by case basis is necessary due to the complex and quickly changing nature of the interconnection process and the inability of fixed rules to address all conceivable scenarios, in light of such factors as different QF capacities, different QF generation, various metering needs, and the innumerable permutations thereby produced. Since the record indicates a likelihood that cooperation between QF's and utilities will prove fruitful, this commission finds it will prove expedient in resolving issues for the commission to provide arbitration on both an informal and formal basis, to the extent such arbitration is consistent with commission authority pursuant to PURPA, LEEPA, and other provisions of this order.

On an informal basis the parties need only to agree among themselves, in writing, that the commission shall arbitrate any areas of dispute and forward said written agreement to the commission where upon the staff of the commission will informally resolve the issues delineated in the agreement of the parties or will establish any other reasonable process by which to resolve such issues described.

Regarding formal arbitration, LEEPA provides the commission with authority to resolve any disputes arising under the provisions of said act. Public Utility Regulatory Policies Act rules § 292.401(a) provides that the state regulatory agency may implement PURPA § 210 by undertaking to resolve disputes between qualifying facilities and utilities arising under that portion of the rules which deals with arrangements such as rates for sale by utilities, rates for sale by QF's, interconnection costs, system emergencies and system operating reliability as well as other utility obligations; e.g. wheeling on demand. Therefore, it is ordered that, to the extent consistent with the above described scope of this commission's authority to arbitrate the commission, upon motion of any party, may arbitrate any or all issues including those addressed by this order, if the commission perceives its arbitration authority is required to expedite matters and reduce litigation expense to all parties. The commission retains absolutely the prerogative to deny any motion request on arbitration without stating its reason for denial inasmuch as the commission finds that upon publication of this order sufficient legal and administrative guidelines will be available to the parties to resolve all possible issues that may arise. If a party maintains that there are not sufficient guidelines to resolve interconnection disputes, that party can petition the commission to provide additional authority, submitting at the same time its proofs.

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Finding the complexity of interconnection and attendant flexible procedures requires oversight by the commission to prevent abuses it is ordered that details of all interconnection arrangements be provided the commission in writing denoting clearly in bold lettering upon the first page thereof whether the agreement is in fact a contract.

The record in this case with regard to some issues is perhaps not as inclusive as the commission would prefer due to the unavailability of data or relevant experience. Thus the findings the commission must arrive at are in some instances based on a record that fails to admit any other course of commission action. Additional interconnection experience and data might lead to other conclusions. Therefore, it is ordered that, not later than one year from the date of this order, staff is to make recommendations to the commission on any need for additional commission orders or rules necessary to further implement interconnection policies underlying

PURPA, LEEPA, and the commission's other statutory responsibilities.

*G. Procedures Permitting Cessation of QF Production*

[7] At § 292.304(f), the FERC regulations state that under certain circumstances, purchases from qualifying facilities are not required.

The commission accepts the uncontroverted testimony of witness Ringo regarding such circumstances. He stated that such periods will occur only when power supplied to a utility during a period of light loading, (when base load units are supplying energy on the margin) might result in negative avoided costs. Negative avoided costs could occur if the utility had to back down base load to accommodate purchases from the QF and then upon increased system demand had to use energy more expensive than if the base load had not been backed off. Cessation of purchases under § 292.304(f) would not be justified by normal fluctuations in utility generation. Although such normal fluctuation results in positive and negative variations from average avoided costs, such variations have already been taken into account in establishing avoided costs purchase rates. The commission orders that cessation of purchases from QF's is permitted under the circumstances outlined above. Further, a utility shall notify QF's, to the best of its ability, as soon as it realizes it may cease purchases. Subsequent failure to demonstrate to the commission adherence to the limitations described herein shall require payment to all affected QF's for purchases that would have been made by the utility. It is believed that such cessations will rarely be justified.

*H. Installation of Interconnection Equipment*

[8] Public Utility Regulatory Policies Act regulation § 292.306 requires that a utility shall make such interconnection as may be necessary to effect purchases and sales to a QF. Said regulation does not say the utility shall permit such interconnections by someone other than the utility nor does the record persuade the commission otherwise. However, the commission does find that where a utility supervises the actual installation and actually approves or disapproves the installation as completed, the similarity between this supervision and the utility's actual crew performing the tasks is sufficient to conclude that the utility had made the interconnection.

Therefore, the commission orders that the utility shall physically install necessary interconnection equipment or supervise the installation and that the QF will pay for any services, by providing to the utility a deposit sufficient to cover the estimated cost, and then receiving from the utility any deposit in excess of the

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actual costs or paying immediately to the utility costs in excess of the deposit.

*I. Production Reports*

The record indicates current commission orders on production reports are satisfactory to the parties. Therefore, the commission orders that production reports will be made pursuant to present commission orders.

*J. Commission Interpretative and Informational Statements Regarding Resolution of Issues Raised in this Docket but Germane to DE 79-208*

The order in DE 79-208 covers purchases of all generation from qualifying small production facilities both new and existing including that of Monadnock Paper Mills. Based on the record in De 79-208, any other treatment would be discriminatory. However, the commission is provided by statute continuing jurisdiction should any utility believe that the provisions of said order are inapplicable. Therefore, should a utility believe that the public policy underlying De 79-208 is in fact not furthered in a given case, the utility may petition this commission and offer proofs as to why the rate should differ with respect to any particular case or circumstance.

In the same vein, if a nongenerating utility believes costs avoided by purchases from a QF are different than those specified in DE 79-208, such utility should petition the commission and offer proofs as to its actual avoided costs. This is the proper procedure and no petitions have been filed. However, the commission does note that the record in these hearings is replete with concern about the nongenerating utilities, avoided costs. Therefore the commission directs staff to commence a generic hearing on proper calculation of the avoided cost to a nongenerating utility by publishing a timely order of notice on said issue.

Although the commission's supplemental findings and thereby its amendment to DE 79-208 dated September 3, 1980, provided for wheeling by certain utilities, said supplemental order does not require QF's to wheel nor can this commission so provide given the constraints of PURPA rules and regulations.

Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report which is made a part hereof, it is hereby, Ordered that,

- A. Any QF at its option may be treated on either a simultaneous purchase and sale basis or on a net purchase or sale basis for billing purposes;
- B. 1. Reverse metering is permitted subject to mutual agreement by each affected utility and the QF;
2. Unless mutually agreed otherwise, two watt-hour meters shall be required for energy-only transactions;
3. Meters as determined reasonably necessary by the utility shall be required for QF sales of capacity, except where wheeling is involved;
4. Magnetic tape meters are required of QF's which sell capacity by wheeling;
5. Notwithstanding other provisions of this order, magnetic tape meters may be installed if mutually agreeable or if installed and read by the purchasing utility at its own expense;
6. A QF operating in parallel when billed on a simultaneous purchase and sale basis will provide at its expense, in advance, reasonably necessary metering as required by the utility;
7. The only additional meter reading charge to QF's will be a charge of \$25 per month in the case of a magnetic tape meter;
8. Qualifying facilities, are to pay for meters supplied by a utility at the time

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of installation, except when the cost of the meter is included in the tariff under which the QF purchases power from the utility;

9. There shall be no charge for wheeling by a QF's franchised utility;

C. 1. All utility sales to QF's shall be billed according to the tariff provision that would apply if the QF had no generation, except as described in C-2 and C-3;

2. A net purchase or sale QF who has been receiving service prior to this order, shall remain on the rate under which it has been receiving such service;

3. No QF may purchase on a less expensive tariff than would be available if it had no generation;

4. Public Service Company in Phase II of DR 79-187 shall address the issue of "additional service" tariffs to the extent compatible with present notice in DR79-187;

D. 1. The QF shall finance, at the time of installation, all interconnection costs as defined in PURPA rule 210, 101(b)(7), directly resulting from interconnection;

2. All interconnection property shall be owned by the purchaser thereof;

3. The utility shall have control over all interconnection property on its property or rights of way and over other interconnection property for which the utility requires control to insure commission standards of safety and reliability;

4. Installation of all interconnection property will be by the utility or under its supervision with the reasonable cost thereof charged to the QF;

5. Each utility shall make available to QF's and potential QF's information regarding sources of financing and procedures to justify and obtain such financing;

E. 1. The proposed interconnection standards submitted by staff witness Johnson in his prefiled testimony shall be adopted in total without change; pursuant to these standards each utility shall make available and have on file at the commission written technical guidelines regarding specific company requirements which outline QF responsibilities; such guidelines shall encompass the special technical characteristics of residential size energy producers;

2. Interconnection guidelines filed by utilities pursuant to this order shall be subject to flexible case-by-case application; issues relating to technical interconnection requirements which cannot be resolved by the utility and the QF will be resolved by arbitration as set forth below;

F. 1. The commission will provide both formal and informal arbitration on issues which cannot be resolved by utilities and QF's; such arbitration shall be provided to the extent consistent with commission authority pursuant to PURPA, LEEPA, and other provisions of this order;

2. For informal arbitration, the parties must agree among themselves, in writing, that the commission shall arbitrate areas of dispute and forward said written agreement to the commission whereupon the staff of the commission will informally resolve the issues delineated in the agreement of the parties or will establish any other reasonable process by which to resolve those issues;

3. The commission upon motion of any party may formally arbitrate any or all issues including those addressed by this order, if the commission perceives its arbitration authority is required to expedite matters and reduce litigation expense to all parties; the commission retains absolutely the prerogative to deny any motion requesting arbitration without stating its reason for denial;

4. Details of all arrangements between QF's and utilities shall be provided to the commission in writing denoting clearly in bold lettering upon the first page thereof whether the agreement is in fact a contract;

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G. Pursuant to the FERC regulations § 292.304(f) cessation of purchases from QF's is permitted when power supplied to a utility during a period of light loading, (when base load units are supplying energy on the margin) will result in negative avoided costs; in this case, the utility shall notify QF's to the best of its ability, as soon as it realizes it may cease purchases; subsequent failure to demonstrate to the commission adherence to the limitations described herein shall require payment to all affected QF's for purchases that would have been made by the utility;

H. Utilities shall physically install necessary interconnection equipment or supervise such installation; the QF shall pay for such services by providing to the utility a deposit sufficient to cover the estimated cost, upon completion receiving from the utility any deposit in excess of the actual costs or paying immediately to the utility costs in excess of the deposit;

I. Staff shall publish a timely order of notice, commencing a generic hearing on proper calculation of the avoided costs for nongenerating utilities and it is,

Further ordered that, utilities shall make appropriate tariff changes to reflect the provisions of this order including the following definitions: "simultaneous purchase and sale" is an arrangement whereby a QF's entire output is considered to be sold to the utility, while power used internally by the QF is considered to be simultaneously purchased from the utility by the QF; "net purchases or sale" is an arrangement whereby output of a QF is considered to be used to the extent needed for the QF's internal needs, while any additional power needed by the QF is purchased from the utility whereas any surplus power generated by the QF is sold to the utility as surplus and it is,

Further ordered that, not later than one year from the date of this order, the commission staff shall make recommendations to the commission on the need for additional commission orders or rules to further implement interconnection policies underlying PURPA, LEEPA, and the commission's other statutory responsibilities.

The commission specifically reserves jurisdiction of the matter herein contained and the authority to issue such further order or orders as the facts and circumstances may warrant.

By order of the Public Utilities Commission of New Hampshire this twentieth day of March, 1981.

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[Go to End of 78849]

## Re Pembroke Water Works

DR 81-33, Supplemental Order No. 14,798

66 NH PUC 95

New Hampshire Public Utilities Commission

March 23, 1981

PETITION for an increase in water rates; granted.

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APPEARANCES:: William Stanley and Armand J. Nolin, Jr., commissioners, and Gerald L. Brasley, superintendent, for the petitioner.

BY THE COMMISSION:

Report

On February 17, 1981, Pembroke Water

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Works, filed certain revisions to its tariff, NHPUC No. 1 — Water, providing for an increase in annual revenues of \$35,840 (23.8 per cent), to become effective April, 1981. On February 24, 1981, the commission issued its Order No. 14,762 (66 NH PUC 73), suspending the revisions pending investigation. A hearing on this matter was held on March 17, 1981.

Pembroke Water Works is a municipal water system and a public utility under the jurisdiction of this commission only for the service it provides to customers in limited areas in the towns of Allenstown and Hooksett.

### *Revenues Requested*

The Water Works is requesting a 23.8 per cent overall rate increase to be passed on to all of their general metered service customers in the service territory.

The vast bulk of the Water Work's customers are located in Pembroke and do not fall under our jurisdiction, as the Water Works commissioners are elected by the town voters and the budget is approved by the Pembroke Budget Commission. The Water Works is requesting the same rates be charged to the few customers outside of the town's borders, as those inside them.

The Water Works 1980 operating revenues were approximately \$139,000, 1980 expenses were \$130,000, and interest expense was another \$10,000. Only because of nonoperating income did the Water Works show a net income of \$2,000 on equity of approximately \$585,000.

Due to anticipated increases in the Water Works 1981 budget, which our staff had reviewed on several occasions with the Water Works officials prior to their filing, the commission feels

the requested increase was needed to enable the Water Works to simply stay out of a loss situation.

*Rates*

Pembroke has requested an approximate 30 per cent increase in the blocks and scaled minimum charge of its general metered service rate schedule. No increase was requested in its general domestic service rate (unmetered) which we are informed is not in use at this time. If it is to remain in the Water Works tariff for possible use at some future time, then its various steps should be increased at the same percentage as the metered rate.

The municipal fire protection rate schedule was also not increased as the Water Works was mindful of the fact that this case would not be completed prior to the approval of town budgets. We respect this conclusion, however, we note that in the last rate increase granted in 1976, no increase was made in fire protection rates. In any future filing we would expect that Pembroke will apply an equal percentage increase in this rate schedule as in others.

*General*

We concur in the change to actual cost as that billed the customer for the installation of a new service connection and in the increase from \$5 to \$10 for a reconnect charge and a meter testing fee from \$5 to \$15. 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. 1 — Water, filed on February 17, 1981, and suspended by commission Order No. 14,762 on February 24, 1981, shall be allowed to become effective with all service rendered on or after April, 1981; and it is

Further ordered, that Pembroke Water Works shall give notice of the approved

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rate schedule by publishing the same in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of March, 1981.

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NH.PUC\*03/24/81\*[78850]\*66 NH PUC 97\*Chalk Pond Water System

[Go to End of 78850]

**Re Chalk Pond Water System**

DE 81-67, Order No. 14,801

66 NH PUC 97

New Hampshire Public Utilities Commission

March 24, 1981

ORDER directing water utility to appear to respond to service complaints of customers.

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By the COMMISSION:

Order

Whereas, it has come to the attention of this commission that a water system is supplying homes in the vicinity of Chalk Pond in Newbury, New Hampshire; and

Whereas, New Hampshire Statute RSA 362:4 states in part that the ownership or operation of any water system or part thereof, shall be deemed a public utility; and

Whereas, this commission has received complaints regarding the level of service provided by this water system; it is

Ordered, that the owner of this water system, or his representative, appear before this commission on April 22, 1981, at 10:00 A.M., at the offices of the commission on 8 Old Suncook Road, Building No. 1, Concord, New Hampshire, to explain its operation now and for the future.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of March, 1981.

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NH.PUC\*03/26/81\*[78851]\*66 NH PUC 97\*Granite State Electric Company

[Go to End of 78851]

### **Re Granite State Electric Company**

DF 79-38, Second Supplemental Order No. 14,804

66 NH PUC 97

New Hampshire Public Utilities Commission

March 26, 1981

ORDER authorizing the issuance of short-term notes.

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BY THE COMMISSION:

Supplemental Order

Whereas, by Order No. 13,500 (DF 79-38) of this commission dated February 27, 1979 (64 NH PUC 32), Granite State Electric Company was granted an exemption from commission regulations permitting

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it to issue and renew, from time to time, its bonds, notes, and 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, by Supplemental Order No. 14,114 (DF 79-38) of this commission dated March 6, 1980 (65 NH PUC 115), the commission authorized Granite State Electric Company to increase its short-term notes to \$2 million and extended the exemption to expire on March 31, 1981.

Whereas, Granite State Electric Company, on February 23, 1981, sought authority to continue the exemption in said Order No. 13,500 to March 31, 1982, but, to increase its authority to issue its short-term notes in an amount not to exceed \$3.5 million; and

Whereas, the aforementioned docket DF 79-38 shall be amended by this Second Supplemental Order No. 14,804 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 \$3.5 million; and it is

Further ordered, that the exemption contained herein shall expire March 31, 1982, 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 twenty-sixth day of March, 1981.

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NH.PUC\*03/26/81\*[78852]\*66 NH PUC 98\*New England Power Company

[Go to End of 78852]

## **Re New England Power Company**

DF 79-33, Second Supplemental Order No. 14,805

66 NH PUC 98

New Hampshire Public Utilities Commission

March 26, 1981

ORDER authorizing the issuance of short-term notes.

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BY THE COMMISSION:

Supplemental Order

Whereas, by Order No. 13,502 (DF 79-33) of this commission dated February 27, 1979 (64 NH PUC 33), New England Power Company was granted an exemption from commission regulations to issue

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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, by Supplemental Order No. 14,141 (DF 79-33) of this commission dated March 24, 1980 (65 NH PUC 137), the commission authorized New England Power to increase its notes payable to \$143 million and extended the exemption to expire on March 31, 1981. 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 \$195 million and that such exemption be extended to March 31, 1982, 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 issue and renew its bonds, notes, and other evidences of indebtedness payable less than twelve months from the date thereof, in an aggregate amount thereof outstanding at any one time (not including any such indebtedness which is to be retired with the proceeds of any such issue or renewal), not in excess of \$195 million; and it is

Further ordered, that the exemption herein shall expire March 31, 1982, unless extended by order of this commission; and it is

Further ordered, that on January 1st 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 shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of March, 1981.

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NH.PUC\*03/26/81\*[78853]\*66 NH PUC 99\*Public Service Company of New Hampshire

[Go to End of 78853]

## Re Public Service Company of New Hampshire

DR 81-6, Third Supplemental Order No. 14,806

66 NH PUC 99

New Hampshire Public Utilities Commission

March 26, 1981

PETITION for rehearing of a request for emergency rates; denied.

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### 1. RATES, § 634 — Temporary increase — Burden of proof.

[N.H.] While a request for temporary rates carries a lesser burden of proof than other rate relief requests, a utility must do more than merely ask for temporary rate relief; a utility should

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be able to demonstrate that it is failing to earn a reasonable rate of return within its New Hampshire jurisdiction. p. 100.

### 2. RATES, § 198 — Multijurisdictional operation — Subsidization.

[N.H.] In approving rate requests the commission has a right and the duty to assure itself that a utility operating in more than one jurisdiction is not receiving subsidizations; a commission may request a jurisdictional study and may require a utility to make specific answers to questions upon which it may need information. .Pg p. 100.

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APPEARANCES: As noted previously

BY THE COMMISSION:

Report

On March 17, 1981, Public Service Company of New Hampshire (PSNH) filed a motion for rehearing pursuant to RSA 541 :3. The motion relates to the commission's order dismissing PSNH's request for emergency rates, issued February 27, 1981.

Public Service Company of New Hampshire states that the order is deficient because the commission only addressed the provisions of the emergency rate statute, RSA 378:9, and failed to address RSA 378:27, the temporary rate statute.

The temporary rate statute carries an easier burden of proof than the emergency rate statute. The statute created by legislative action in 1941 has been interpreted by the supreme court to require hearings on an expedited basis and without such investigation as would be required for the determination of permanent rates. *New England Teleph. & Teleg. Co. v. New Hampshire*

(1949) 95 NH 515, 82 PUR NS 296, 68 A2d 114.

[1, 2] However, while temporary rates represent a lesser burden of proof, there is no reasonable interpretation of RSA 378:27 to suggest that they are available simply for the asking. Public Service Company of New Hampshire, like all other utilities that come before this commission, must demonstrate that they are failing to earn a reasonable rate of return within their New Hampshire jurisdiction. While many utilities subject to the commission's jurisdiction serve only within the boundaries of the state of New Hampshire, there exists a few utilities, such as PSNH, that provide service in more than one state or to both retail and wholesale customers. See *Re New England Teleph. & Teleg. Co.* (1980) 65 NH PUC 564, 40 PUR4th 29. The commission must be concerned with possible subsidizations in situations where a utility services customers in more than one jurisdiction.

Public Service Company of New Hampshire did not provide the commission with an accurate jurisdictional breakdown of its operations. What was provided was estimated, adjusted, and of no evidentiary value. Any utility seeking temporary rates must demonstrate that despite all commission action *and* prudent management, the allowed rate of return is not being earned. Furthermore, the calculation as to rate of return must follow the practice used by the utility in its last proceeding. Public Service Company of New Hampshire's decision to use estimated figures, together with its failure to recognize recent commission decisions both as to monetary result and regulatory principle, does not satisfy the necessary standard of proof for temporary or emergency rates.

The next set of arguments offered by PSNH is that the commission failed to use the proper standard when it demanded PSNH to cut expenses and delay maintenance projects. This commission has the obligation to set a reasonable rate of return and to offer an *opportunity*, not a guarantee, that the reasonable rate of return will be earned. Increasing expenses by increasing employees by 15

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per cent in two years cannot be found to be prudent where the utility has twice sought emergency rates during a period of eighteen months.

Nor can the commission find prudence in a financing program that continues a business-as-usual practice when confronted with prime interest rates of an extraordinary nature. Public Service Company of New Hampshire stated that it could not deviate from its financing program despite recognizing there were definite priorities within the financing program. Such inflexibility cannot be sanctioned by responsible regulation.

Public Service Company of New Hampshire raises a third concern — that without action, the company will not be able to issue debt instruments in late fall. The reason offered is coverage ratios. Again, such calculations are based on a companywide basis. This commission can and will only respond to figures reflecting intrastate operations, if coverage tests cannot be met because of action in other jurisdictions that is beyond our legal authority to address.

Finally, the commission has the right by statute, RSA 365:15, to require any public utility to make specific answers to questions upon which the commission may need information. This commission made the requests for a jurisdictional study and to address the question of why the

first mortgage indenture should not be altered to allow use of this device for financing major construction projects. To date, these questions have not been responded to and absent a response no relief can or will be granted. Furthermore, the data presented to the commission as to the cost of Seabrook, the necessary financings, the assumptions behind the financial model, the cumulative effect of strikes on completion dates, and the effect of the Massachusetts Department of Public Utilities' decision on divestiture fall into the category of either antiquated or nonexistent. To have continued further under this docket would have resulted in the commission violating its statutory obligation to be kept informed with the most recent data available.

Based upon the foregoing and after consideration of all the points raised by PSNH in its motion for rehearing, the commission finds that the motion must be denied in its entirety.

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 Public Service Company of New Hampshire motion for rehearing in docket DR 81-6 is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of March, 1981.

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NH.PUC\*03/26/81\*[78854]\*66 NH PUC 102\*CPM, Inc. v Connecticut Valley Electric Company, Inc.

[Go to End of 78854]

## **CPM, Inc. v Connecticut Valley Electric Company, Inc.**

DC 81-68, Order No. 14,807

66 NH PUC 102

New Hampshire Public Utilities Commission

March 26, 1981

ORDER directing electric utility to appear to respond to a complaint concerning electric rates.

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BY THE COMMISSION:

Order

Whereas, the commission is in receipt of a complaint concerning the present rates charged by Connecticut Valley Electric Company, Inc., to CPM, Inc.; and

Whereas, the commission is also aware that there is some difficulty in arranging energy sales from CPM, Inc., to Connecticut Valley Electric Company, Inc.; it is hereby

Ordered, that docket DC 81 68 is opened for resolution of this conflict; and it is

Further ordered, that a hearing on these matters will be conducted at the offices of the

commission, Old Suncook Road, Concord, New Hampshire, on April 9, 1981, at 9:00 A.M.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of March, 1981.

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NH.PUC\*03/27/81\*[78855]\*66 NH PUC 102\*Locke Lake Water Company, Inc.

[Go to End of 78855]

### **Re Locke Lake Water Company, Inc.**

DR 80-198, Fourth Supplemental Order No. 14,809

66 NH PUC 102

New Hampshire Public Utilities Commission

March 27, 1981

ORDER authorizing recoupment prospectively from date of adequate notice of temporary rates.

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BY THE COMMISSION:

Report

Locke Lake Water Company, Inc., raises three issues in its motion for rehearing. The first is whether the rate structure set forth by the commission in its order will achieve the revenue level set by the commission. A review of the record in this proceeding clearly demonstrates that together the minimum and fixture charges will achieve the desired revenue figure.

The second question involves the question of temporary rates. The commission

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finds that there was adequate notice as to temporary rates. However, the commission finds that the requirements for adequate notice and hearing were not satisfied until December 18, 1980. Therefore, for service taken on or after December 19, 1980, the commission will allow recoupment of the differential between the new rate and the old rate for the time period of December 19, 1980, to April 1, 1981. On April 1, 1981, the new quarterly rate is to be implemented.

The third question is whether or not the company is billing in arrears or prospectively. This question did not receive the evidentiary discussion necessary and is truly relevant only at the beginning and end of a corporation's existence. Since Locke Lake Water Company, Inc., is still in transition between these two stages, the commission will reserve judgment on this question.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Locke Lake Water Company, Inc., charge a recoupment for the difference between the temporary existing rates and the increased permanent rates for all service taken on or after December 19, 1980.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of March, 1981.

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NH.PUC\*03/30/81\*[78856]\*66 NH PUC 103\*Public Service Company of New Hampshire

[Go to End of 78856]

## Re Public Service Company of New Hampshire

DE 78-106, Third Supplemental Order No. 14,810

66 NH PUC 103

New Hampshire Public Utilities Commission

March 30, 1981

PETITIONS for the establishment of electric service territories; granted.

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APPEARANCES: Pierre O. Caron 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 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 Annotated Statutes 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

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the distribution of electrical energy within the same franchise area. Revised Annotated Statutes 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 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:

February 27, 1981 — Alexandria (3), Allenstown (4), Auburn (13), Belmont (21), Bridgewater (30), Bristol (31), Campton (35), Candia (37), Canterbury (38), Chester (44), Clarksville (48), Colebrook (49), Columbia (50), Croydon (55), Danbury (58), Derry (62), Easton (72), Goshen (94), Grafton (95), Grantham (96), Hebron (112), Laconia (129), Landaff (131), Lincoln (136), Lisbon (137), Littelton (139), Londonderry (141), Madison (148), Marlow (151), Meredith (154), New Hampton (171), Newport (176), Northfield (178), Ossipee (186), Pembroke (188), Pittsburg (192), Salisbury (208), Sanbornton (209), Sandown (210), Sandwich (211), Springfield (219), Stewartstown (221), Sugar Hill (227), Sunapee (229), Sutton (231), Tamworth (233), Thornton (236), Tuftonboro (239), Unity (240), Wakefield (241), Wilmot (253).

A duly noticed public hearing was held on March 26, 1981, 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 Alexandria, Belmont, Bristol, Candia, Chester, Clarksville, Goshen, Ossipee, Thornton, and Tuftonboro it was necessary to establish a joint service 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 Fourth Supplemental Order No. 14,589 of the commission ([1980] 65 NH PUC 604).

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 Alexandria, Belmont, Bristol, Candia, Chester, Clarksville, Goshen, Ossipee, Thornton, and Tuftonboro, established as 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:

Alexandria (3),<sup>1(1)</sup> Allenstown (4), Auburn (13), Belmont (21),<sup>1(2)</sup> Bridgewater (30), Bristol (31),<sup>1(3)</sup> Campton (35), Candia (37),<sup>1(4)</sup> Canterbury (38),<sup>1(5)</sup> Chester (44),<sup>1(6)</sup> Clarksville (48),<sup>1(7)</sup> Colebrook (49), Columbia (50), Croydon (55), Danbury (58), Derry (62), Easton (72), Goshen (94),<sup>1(8)</sup> Grafton (95), Grantham (96), Hebron (112), Laconia (129), Landaff (131), Lincoln (136), Lisbon (137), Littelton (139), Londonderry (141), Madison (148), Marlow (151), Meredith (154), New Hampton (171), Newport (176), Northfield (178), Ossipee (186),<sup>1(9)</sup> Pembroke (188), Pittsburg (192), Salisbury (208), Sanbornton (209), Sandown (210), Sandwich (211), Springfield (219), Stewartstown (221), Sugar Hill (227), Sunapee (229), Sutton (231), Tamworth (233), Thornton (236),<sup>1(10)</sup> Tuftonboro (239),<sup>1(11)</sup> Unity (240), Wakefield (241), Wilmot (253);

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 thirtieth day of March, 1981.

#### FOOTNOTE

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

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NH.PUC\*03/30/81\*[78857]\*66 NH PUC 105\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78857]

## Re New Hampshire Electric Cooperative, Inc.

DE 78-105, Fourth Supplemental Order No. 14,811

66 NH PUC 105

New Hampshire Public Utilities Commission

March 30, 1981

PETITIONS for the establishment of electric service territories; granted.

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APPEARANCES: Mayland H. Morse, Jr., 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 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 Annotated Statutes 374:22-a II provides that existing franchise areas shall

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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 Annotated Statutes 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 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:

February 26, 1981 — Alexandria (3), Allenstown (4), Auburn (13), Belmont (21), Bridgewater (30), Bristol (31), Campton (35), Candia (37), Canterbury (38), Chester (44), Clarksville (48), Colebrook (49), Columbia (50), Croydon (55), Danbury (58), Derry (62), Easton (72), Goshen (94), Grafton (95), Grantham (96), Hebron (112), Laconia (129), Landaff (131), Lincoln (136), Lisbon (137), Littelton (139), Londonderry (141), Madison (148), Marlow (151), Meredith (154), New Hampton (171), Newport (176), Northfield (178), Ossipee (186), Pembroke (188), Pittsburg (192), Salisbury (208), Sanbornton (209), Sandown (210), Sandwich (211), Springfield (219), Stewartstown (221), Sugar Hill (227), Sunapee (229), Sutton (231), Tamworth (233), Thornton (236),

Tuftonboro (239), Unity (240), Wakefield (241), Wilmot (253).

A duly noticed hearing was held on March 26, 1981, 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, 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 Alexandria, Belmont, Bristol, Candia, Chester, Clarksville, Goshen, Ossipee, Thornton, and Tuftonboro 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 Public Service Company of New Hampshire, because the distribution facilities were so intertwined or comingled 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.

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These applications have been timely made under the extension granted by Fourth Supplemental Order No. 14,589 of the commission ([1980] 65 NH PUC 604).

In accordance with the provisions of RSA 274:22-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 of Alexandria, Belmont, Bristol, Candia, Chester, Clarksville, Goshen, Ossipee, Thornton, and Tuftonboro, 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:

Alexandria (3),<sup>1(12)</sup> Allenstown (4); Auburn (13), Belmont (21),<sup>1(13)</sup> Bridgewater (30), Bristol (31),<sup>1(14)</sup> Campton (35), Candia (37),<sup>1(15)</sup> Canterbury (38), Chester (44),<sup>1(16)</sup> Clarksville (48), Colebrook (49), Columbia (50), Croydon (55), Danbury (58), Derry (62) Easton (72), Goshen (94),<sup>1(17)</sup> Grafton (95), Grantham (96), Hebron (112), Laconia (129), Landaff (131), Lincoln (136), Lisbon (137), Littelton (139), Londonderry (141), Madison (148), Marlow (151), Meredith (154), New Hampton (171), Newport (176). Northfield (178), Ossipee (186),<sup>1(18)</sup> Pembroke (188), Pittsburg (192), Salisbury (208), Sanbornton (209), Sandown (210), Sandwich (211). Springfield (219), Stewartstown (221), Sugar Hill (227), Sunapee (229), Sutton (231), Tamworth (233), Thornton (236),<sup>1(19)</sup> Tuftonboro (239),<sup>1(20)</sup> Unity (240), Wakefield (241), Wilmot (253);

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 thirtieth day of March, 1981.

FOOTNOTE

<sup>1</sup>Includes a joint territory in which Public Service Company of New Hampshire is also authorized to serve.

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NH.PUC\*03/30/81\*[78858]\*66 NH PUC 107\*Fuel Adjustment Charge

[Go to End of 78858]

**Re Fuel Adjustment Charge**

Intervenors: Public Service Company of New Hampshire, Legislative Utility Consumers' Council, Community Action Program, Granite State Electric Company, Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Littleton Water and Light Department, Woodsville Water and Light Department, and Municipal Electric Department of Wolfeboro

DR 81-39, Order No. 14,813

66 NH PUC 107

New Hampshire Public Utilities Commission

March 30, 1981

PETITION by electric utilities for authority to collect fuel adjustment charges; granted in part with modification.

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1. RATES, § 303 — Fuel cost adjustment charges — Factors affecting adjustment.

[N.H.] Key factors in evaluating the reasonableness of a utility's fuel adjustment clause were the sales growth projections and oil price projections. p. 109.

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2. RATES, § 303 — Fuel cost adjustment clauses — Factors affecting adjustment — Schedule outages.

[N.H.] The commission has put a utility on notice that in future proceedings concerning fuel adjustment clauses the utility's scheduled out-ages will be a valid subject for review. p. 109.

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APPEARANCES: Eaton W. Tarbell and Philip Ayers for Public Service Company of New Hampshire; Gerald Lynch for the Legislative Utility Consumers' Council; Gerald Eaton for Community Action Program; Michael Flynn for Granite State Electric Company.

BY THE COMMISSION:

Report

The Granite State Electric Company (GSEC) filed on March 31, 1981, its request for a fuel adjustment clause of \$3.81 per 100 kilowatt-hours for the months of April, May, and June, 1981. With the filing were submitted seven exhibits supporting the development of the fuel factor, estimates, and invoices from New England Power Company to GSEC for purchased power.

Two witnesses were presented at the March 19, 1981, hearing at the commission offices.

In the commission's report and order in DR 80-46 for the month of January, 1981 ([1981] 66 NH PUC 1), the company had submitted a price estimate for March, 1981, of 2.2 per cent sulfur oil of \$40.06. The commission felt the estimate was too high. Based on testimony supplied by Mr. Traum of the public utilities commission finance department and Mr. Hines of Public Service Company of New Hampshire, the commission lowered the figure significantly. Granite State Electric Company, in Exh GS-3, in the current proceeding stated the updated estimate to be \$32.05 which the commission deems reasonable, as it does the company's cost estimates for coal as well as oil for the second quarter of 1981.

Based on acceptance of the fuel cost estimates, growth in sales estimates, and a review of the company's filing, the commission accepts \$3.81 per 100 kilowatt-hours as the fuel adjustment charge for the second quarter of 1981.

The Public Service Company of New Hampshire (PSNH) originally filed a request for a fuel adjustment charge of \$0.0289 per kilowatt-hour. On March 17, 1981, this was revised to \$0.0274 per kilowatt-hours. Prior to the hearing, numerous data requests were sent to PSNH by the PUC finance staff and Community Action Program (CAP), and were responded to in a timely manner by PSNH.

Public Service Company of New Hampshire submitted 30 exhibits and five witnesses. The

Legislative Utility Consumers' Council (LUCC) submitted one exhibit and one witness on the subject of the calculation of PSNH's reconciling adjustment for the fourth quarter of 1980.

During the course of the hearing on March 19, 1981, concern was expressed by the commission about the effect of the volatile quarterly FAC rate on the company's customers. As a result, the commission ordered the company and any other interested parties to make submittals before the end of March, 1981, on ways to alleviate this problem, in particular by adopting an annual rate thus eliminating the fuel adjustment from consumers' bills.

Public Service Company of New Hampshire is to be commended for lowering its estimate from \$0.0289 per kilowatt-hour to the revised \$0.0274 per kilowatt-hour because it chose to use the most recent data available. In particular, PSNH is forecasting a temporary softening of the oil market due to the present glut on world markets. The difference between this revised figure and the past quarter,

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\$0.0259 per kilowatt-hour, results from consideration of numerous factors. These include: the scheduled outage of Merrimack Unit II and the reduction in generation from nuclear plants. These negative factors are partially offset by lower oil price estimates, lower loads, and more hydroelectric generation.

[1] In evaluating the reasonableness of PSNH's proposed fuel adjustment two key factors are sales growth projections and oil price projections. The company has used a 4.4 per cent sales growth assumption. In particular, the company has highlighted the fact that there was no growth experienced during the second quarter of 1980 vis-a-vis the second quarter of 1979.

While the completion of DE 80 47 will no doubt assist in determining the reasonableness of sales growth projections, the commission believes a continuation of the zero growth projection to be more reasonable.

Public Service Company of New Hampshire used the 4.4 per cent because of the no growth situation in 1980 versus 1979 and the assertion that April to June, 1980, reflected a mini recession. While this assertion may well be true, the prime vacillated from 19 to 14 per cent, the existing and stable 17 per cent is not significantly better. Therefore, the commission will adjust the fuel adjustment downward to reflect a lower sales forecast. Furthermore, such action sends an appropriate signal that if consumers conserve fuel costs will be lower.

Another key projection in the fuel adjustment calculation is the price of oil. Public Service Company of New Hampshire has received its shipments for April and the figure submitted is reasonable. The commission also accepts the figure for May which reflects the softening of the oil market due to a temporary glut. The commission, from experience, believes a temporary glut will usually hold price levels at steady for two months. Therefore, the commission will use PSNH's May estimate for oil price for June as well.

The submission for this quarter reflected costs for operation of Manchester Steam and Danel Street in June. These plants are significantly more expensive than PSNH's other units. The units are antiquated and the commission would ask PSNH to review the retirement of these units. The commission is prepared to recognize whatever undepreciated investment remains but the fuel

costs will be excluded. The effect of this reduction is approximately \$18,281 for NH retail sales when greater use of Wyman No. 4 and Middletown No. 4 are used.

Together these adjustments result in a fuel adjustment of \$0.0267 per kilowatt-hour.

[2] An issue raised by Attorney Eaton, representing CAP, questioning the decision by the company's management in 1980, to delay removing Merrimack Unit II from service due to turbine problems and scheduling those repairs for the Spring of 1981.

Attorney Eaton attempted to establish the following facts: (1) customers paid more for coal due to an extension of the inefficient running of the turbine; (2) inflation raises the cost of doing the work six months later; (3) oil costs are higher as time passes; and (4) more generation needs to be replaced in the spring than in the summer.

The commission recognizes the first three reasons as being reasonable as well as the fact pointed out by attorney Eaton that since the company must perform the turbine repairs every two to three years, they should have had the replacement parts on order or on hand so that the turbine outage could have been handled in the same amount of time in 1980 or 1981.

On the other hand the decision by

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management in mid-1980 was not strenuously questioned at the time it was made and the commission does not believe in regulation by hindsight. In addition, if the company is able to schedule the turbine related outage every 2.5 years instead of every two years, then over a ten-year period one costly outage can be avoided thus saving customer's money.

The commission therefore denies the CAP's request this time, but also puts the company's management on notice that in the future, planning for scheduling out-ages will be a valid subject of review in FAC proceedings.

Another issue deals with the reconciling adjustment for the quarterly period ending December 31, 1980. The commission allowed a fuel adjustment charge of 60 cents per 100 kilowatt-hours for October, 1980, and raised that to \$1.80 for November and December, 1980. Because two separate rates were utilized in the quarter, the commission feels that two separate reconciling adjustments should be made; accordingly, we accept the LUCC's approach and will reduce Public Service Company's reconciling adjustment by \$56,129.

This reduction, when added to the previous adjustments does not alter the result, thus the rate approved is \$0.0267 per kilowatt-hour. While the adjustment because of it's size doesn't affect the fuel adjustment this time, it is clear that the possibility exists that such an adjustment may be of greater value in the near future.

The commission is making an attempt to provide an orderly process to recover fuel costs. The commission is seeking to examine the issue of an annual fuel adjustment to provide greater stability to those on fixed incomes and to those businesses that must estimate costs for inclusion in their own estimates. Institutions such as colleges and local governments cannot adjust for or tolerate wide variations in the rate charged. The commission will know within a week whether or not the United States Supreme Court will exercise jurisdiction in the Connecticut River

proceeding. If the commission is free to use the resources of the Connecticut River in calculating the fuel adjustment then there will be even greater stability provided all customers.

The commission is gravely concerned by the ever increasing oil estimates being supplied by its staff. The estimates support the commission's program designed to alleviate the state of New Hampshire's dependence on oil-fired generation.

Recently, the commission has attempted to reduce the effect of the fuel adjustment on consumers by implementing three orders. These actions have resulted in: (1) an order to convert Schiller Station from oil to coal; (2) an encouragement for the development of alternative energy in the state; and (3) a return of benefits of low cost Connecticut River hydroelectric generation to New Hampshire consumers. In addition, the commission is studying the possibility of converting another oil-fired station, Newington, from oil to coal.

Despite these efforts, none to date has borne fruition. The obvious question is, why not? While the Connecticut River decision is at the United States Supreme Court, the other orders are frustrated by the exorbitant high cost of money.

Since most experts agree that the prime interest rate will remain in double figures over the foreseeable future, there is every likelihood that this problem will persist. The consequence of high interest rates are simple; some New Hampshire utilities will be able to finance at extraordinarily high rates and others will not be able to finance at all. The impact of this horrendous situation will be to eventually increase the cost to consumers.

The commission cannot control the prime interest rate; nor can it control

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the actions of the OPEC countries, or the oil companies. Yet, if this state does not embark upon a program to provide utilities access to lower interest rates, utility bills will soon move from a hardship to an insurmountable and insufferable burden on consumers.

While the commission cannot offer an option of lower cost financing, the legislature can through the opportunity presented in House Bill 424. Such a mechanism could significantly reduce the cost of converting Schiller Station and could very possibly provide the difference between converting or not converting Newington. If coal was burned at these units instead of oil, the fuel adjustment approved today would be significantly lower. Oil is three to four times the cost of coal in existing units. Yet, if the utility cannot raise the necessary capital or the capital costs 15 to 20 per cent, the fuel savings do not occur or are eroded by the high level of interest payments.

Small power production has received a tremendous boost by the state legislature. The commission has followed this lead by setting rates that all agree should encourage the development of alternative energy. our recently concluded docket, DE 80-246 ([1981] 66 NH PUC 83), provides ample demonstration that Public Service Company has done everything possible and then some to accelerate the pace by which alternative energy becomes a reality for those seeking to establish these facilities. To date there have been no new additions to the hydroelectric generation within the state because many lending institutions are refusing to lend to these small power producers and still others are concerned that PSNH will not have the cash

to buy the small power production.

Nor does federal funding seem likely under the new federal austerity programs. The city of Nashua's attempt at hydroelectric generation is only the most recent example of a valuable project halted because of the lack of accessibility to the financial markets. Completion of Seabrook has been continuously found by the site evaluation committee and this commission to be in the public good. Yet, accessibility to funds or their extremely high cost rate has led to delays in construction further increasing our unhealthy reliance upon foreign oil.

Many state public utility commissions are requiring their electric utilities to provide low interest loans to consumers for conservation measures; such as insulation, weather stripping and the like. However, it would appear highly unreasonable for this commission to require utilities to borrow at the level of 17 to 20 per cent to provide low cost loans at 8 to 10 per cent despite the obvious benefits to everyone from greater conservation.

While reasonable minds may differ as to what avenue (coal, hydro, wind, nuclear, or conservation) may best solve our energy problem, it is clear that absent the passage of House Bill 424 or its equivalent, the fuel adjustment will continue to escalate. The commission can only hope that the legislature seriously wants to hold the fuel adjustment down by providing a financial tool to accelerate the day when oil is eliminated from the electric bills of consumers.

While this opinion deals with electric utilities, lower cost financing is equally justified for the other industries the commission regulates. New Hampshire is somewhat unique in the number of telephone companies that service the state. Many of these smaller independent telephone companies have in the past used REA financing and have financed at cost rates ranging from 3 to 8 per cent. However, this program is scheduled to be cut in half this year, and eliminated in 1982. Since companies like Dunbarton, Merrimack and Granite State Telephone are not well known in financial circles, it

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is likely their costs will significantly increase without some financial mechanism to replace the low cost REA funding. While the energy finance authority debate has not focused on this question, it is clear that a rejection of this proposal, together with an elimination of REA funding, will cause financial problems for telephone customers in Dunbarton, Hopkinton, Chester and Weare.

Recent public attention has been focused on pollution, both natural and man-made, of water supplies. The 35 water utilities in the state are as a general rule small systems with little capital backing. If one of these systems has a pollution problem, such as arsenic in their wells, there is simply no way that these small utilities will be able to raise capital to develop new sources of water. Consequently, absent access to a financing mechanism basic water service could be stopped in certain of our communities.

Those water utilities that are somewhat larger can find capital for new sources or to improve existing sources. However, the state's largest water utility, Pennichuck, is facing the difficult problem of borrowing at 17 per cent to provide the citizens of Nashua with better quality and larger quantities of water. Obviously, access to lower cost financing would significantly reduce the eventual effect of these costs on consumers.

The gas utilities within the state are also small in relation to their counterparts in other states. These companies have recently appeared before the commission seeking approval of financings in the 15 to 16.5 per cent range. Worthy projects, such as Manchester Gas Company's attempt to build a methane plant, have been held in abeyance because of the inability to obtain federal funds or low cost financing. Absent positive action by the legislature on House Bill 424, the gas utilities will also face higher costs and delayed projects because of the inability to finance at inexpensive rates.

Canadian energy supplies, either electricity or gas, will require transmission lines or mains. Such capital expenditures would be extensive, and absent low cost financing the likelihood of their construction is significantly reduced.

In conclusion, the state of New Hampshire is served by utilities that are smaller in terms of revenue and customers than their nationwide counterparts. The absence of financial recognition due to size causes problems even during the best of economic times. During times of high interest rates, the ability to alter the status quo becomes nearly impossible. If rates for all utilities are to stabilize over the long term, the legislature must provide the commission with the tools to order the necessary improvements.

Only through mechanisms like the energy finance authority can this commission continue to provide adequate utility service at rates that people can afford.

Our order will issue accordingly.

Order

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

Ordered, that Public Service Company of New Hampshire's Tenth and 11th Revised Pages 23 and 24 to its tariff, NHPUC No. 24 — Electricity, are hereby rejected; and it is

Further ordered, that as a consequence of the attached report, Public Service Company of New Hampshire (PSNH) should file revised tariff pages to recover \$0.0267 per kilowatt-hour for the months of April, May, and June, 1981; and it is

Further ordered, that Concord Electric Company, 71st Revised Page 15-A to its tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge of \$2.48 per 100 kilowatt-hours for the month of April, 1981, be, and hereby is,

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permitted to become effective April 1, 1981; and it is

Further ordered, that Exeter and Hampton Electric Company, Eighth Revised Page 19A, tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$2.70 per 100 kilowatt-hours for the month of April, 1981, be, and hereby is, permitted to become effective April 1, 1981; and it is

Further ordered, that Granite State Electric Company tariff, NHPUC No. 8 — Electricity, 78th Revised Page No. 15-A, providing for a fuel adjustment rate of \$0.0381 per kilowatt-hour for the month of April, 1981, be, and hereby is permitted to become effective April 1, 1981; and

it is

Further ordered, that 48th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.75 per 100 kilowatt-hours for the month of April, 1981, be, and hereby is, permitted to become effective April 1, 1981; and it is

Further ordered, that 15th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 9 — Electricity, providing for the monthly fuel surcharge of \$3.51 per 100 kilowatt-hours for the month of April, 1981, net of refunds and adjustments, be, and hereby is, rejected; and it is

Further ordered, that as a consequence, the New Hampshire Electric Cooperative, Inc., should file revised tariff pages to recover \$0.0350 per kilowatt-hour which excludes the fuel charges for Goodrich Falls Electric Company; and it is

Further ordered, that if the New Hampshire Electric Cooperative, Inc., desires to change the input into the calculation of its FAC, the company should notify the commission of its intention in writing and present such changes at the regularly scheduled monthly FAC hearings; and it is

Further ordered, that 87th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$2.62 per 100 kilowatt-hours for the month of April, 1981, be, and hereby is, permitted to become effective April 1, 1981; and it is

Further ordered, that 53rd Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 75 cents per 100 kilowatt-hours for the month of April, 1981, be, and hereby is, permitted to become effective April 1, 1981; and it is

Further ordered, that Third Revised Page 10-B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$4.05 per 100 kilowatt-hours for the month of April, 1981, be, and hereby is, permitted to become effective April 1, 1981.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of March, 1981.

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NH.PUC\*03/31/81\*[78859]\*66 NH PUC 114\*Manchester Gas Company

[Go to End of 78859]

## **Re Manchester Gas Company**

DR 81-75, Order No. 14,816

66 NH PUC 114

New Hampshire Public Utilities Commission

March 31, 1981

ORDER suspending a change in the rates for interruptible gas.

-----

BY THE COMMISSION:

Order

Whereas, on March 27, 1981, Manchester Gas Company filed with the commission a revised Schedule A to each of its 18 special contracts under which it sells interruptible gas; and

Whereas, said revised schedule drastically changes the method by which such gas is priced; and

Whereas, the commission feels the need for detailed investigation of the proposal, presently impossible before the proposed effective date of April 1, 1981; it is

Ordered, that the revised Schedule A to Manchester Gas Company's 18 interruptible gas contracts be, and hereby is, suspended pending completion of investigation by this commission.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of March, 1981.

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NH.PUC\*04/01/81\*[78860]\*66 NH PUC 114\*Public Service Company of New Hampshire

[Go to End of 78860]

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

DR 79-187, 49th Supplemental Order No. 14,818

66 NH PUC 114

New Hampshire Public Utilities Commission

April 1, 1981

ORDER suspending a change in an electric utility's optional time-of-day rate.

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BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 23, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 24 — Electricity, providing for changes to its optional time-of-day rate D-OTOD, and initiating a new service class entitled load management service — Rate LMS; filed for effect May 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 Original Pages 55, 56,

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and 57; First Revised Pages 32 and 25; and Second Revised Page 34 of tariff, NHPUC No. 24 — Electricity, of Public Service Company of New Hampshire be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1981.

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NH.PUC\*04/01/81\*[78861]\*66 NH PUC 115\*Mountain Springs Water Company

[Go to End of 78861]

### **Re Mountain Springs Water Company**

DE 6481, Fifth Supplemental Order No. 14,819

66 NH PUC 115

New Hampshire Public Utilities Commission

April 1, 1981

ORDER preventing the termination of service to customers while rates subject to refund were in effect.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, Mountain Springs Water Company has chosen to avail itself of its statutory rights to put its rates into effect subject to refund until the commission renders a final decision; and

Whereas, the commission will be issuing a decision before the end of the month; and

Whereas, the dollar level per customer involved is substantial; it is hereby

Ordered, that no customer of Mountain Springs Water Company can be terminated between the date rates go into effect subject to refund and the time of the commission's final decision in this proceeding.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1981.

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NH.PUC\*04/01/81\*[78862]\*66 NH PUC 115\*Eastman Water Company

[Go to End of 78862]

### **Re Eastman Water Company**

DE 6374, Supplemental Order No. 14,820  
66 NH PUC 115  
New Hampshire Public Utilities Commission  
April 1, 1981

ORDER releasing a community water association from commission jurisdiction.

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BY THE COMMISSION:

Supplemental Order

Whereas, Eastman Water Company, is a public utility operating under the jurisdiction of this commission in limited areas in the towns of Enfield, Grantham, and Springfield; and

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Whereas, Eastman has notified this commission as of April 1, 1981, that the stock of the water company will be transferred to the Eastman Community Association; and

Whereas, the water system, as owned by the — Eastman Community Association, will be providing water service only to members of the Association; it is

Ordered, that Eastman Water Company, as of April 1, 1981, will no longer be a public utility under the jurisdiction of this commission.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1981.

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NH.PUC\*04/01/81\*[78863]\*66 NH PUC 116\*Littleton Water and Light Department

[Go to End of 78863]

**Re Littleton Water and Light Department**

DR 81-51, Order No. 14,821

66 NH PUC 116

New Hampshire Public Utilities Commission

April 1, 1981

ORDER suspending the effective date for an electric utility's proposed rates.

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BY THE COMMISSION:

Order

Whereas, Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 4, 1981, filed with this

commission certain revisions of its tariff, NHPUC No. 1 — Electricity, providing for increased annual revenues of \$139,427.75 (9 per cent), filed for effect May 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 Third Revised Pages 11 and 12; Fourth Revised Pages 7 and 8; Fifth Revised Pages 9, 10, and 13; and Sixth Revised Page 15 of tariff, NHPUC No. 1 — Electricity, of Littleton Water and Light Department be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1981.

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NH.PUC\*04/01/81\*[78864]\*66 NH PUC 117\*Fryeburg Water Company

[Go to End of 78864]

## **Re Fryeburg Water Company**

DE 81-84, Order No. 14,822

66 NH PUC 117

New Hampshire Public Utilities Commission

April 1, 1981

ORDER authorizing a special contract for water service.

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BY THE COMMISSION:

Order

Whereas, Fryeburg Water Company, a utility providing water service under the jurisdiction of this commission, has filed a contract which shall be designated Special Contract No. 1, for the installation of certain water mains and associated fittings and valves, so as to permit Fryeburg to provide water service to a subdivision located off the Green Hill road in Conway, New Hampshire; and

Whereas, upon investigation and consideration, this commission is of the opinion that the manner of construction and billing of this extension require the issuance of a special contract; it is

Ordered, that this contract may become effective as of the date of its signing; and it is

Further ordered, that a signed copy of this contract shall be filed with the commission as soon as possible after signing; and it is

Further ordered, that upon any increase in the general service metered rate schedule, during the effective period of this contract, that such percentage increase allowed shall also be applied against the minimum charge allowed in this contract.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1981.

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NH.PUC\*04/02/81\*[78865]\*66 NH PUC 117\*Boston and Maine Railroad

[Go to End of 78865]

## Re Boston and Maine Railroad

DT 80-261, Fourth Supplemental Order No. 14,824

66 NH PUC 117

New Hampshire Public Utilities Commission

April 2, 1981

MOTION for rehearing concerning assessment of costs for installation of crossing protection devices; denied.

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CROSSINGS, § 61 — Assessment of crossing costs — Municipality.

[N.H.] Responsibility for the installation costs of crossing protection devices was placed on a municipality since (1) the crossing came into existence after the railroad's construction, (2) there had been a significant increase in highway traffic, and (3) the number of trains passing through had decreased.

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APPEARANCES: John B. Pendleton for the Boston and Maine Railroad; Elmer

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Bourque and Charles Flower for the city of Manchester.

BY THE COMMISSION:

Report

The commission issued its Supplemental Order No. 14,664 requiring flashing lights and gates on January 14, 1981 (66 NH PUC 21). A motion for rehearing was filed by the city of Manchester on February 3, 1981, as to the portion of that order that assigned the city of Manchester the costs of the installation of protection devices. No party appealed the assessment of maintenance costs to the Boston and Maine Railroad.

Two hearings were held on February 13 and 20, 1981. Memorandums were filed during late February and early March, 1981. Staff witness Melvin filed an informative index of thirty years of commission decisions on railroad crossings in mid-March. All parties had agreed that such information was of critical value.

The statutes in question are RSA 373:3 and 10, which require the commission to give consideration to the following:

- (1) "to whether the railroad or the highway was first constructed";
- (2) "to the nature and volume of highway traffic";
- (3) "to the number of trains operated by the railroad at the crossing, and";
- (4) all other facts and circumstances."

#### *I. Prior Existence of Railroad or Highway*

The testimony in this docket, together with the commission records, establish that the Westland crossing, as well as its replacement, the West Mitchell street crossing, came into existence after the construction of the railroad in this area of the state. Both the Westland crossing and the West Mitchell street crossings were the major crossings used by the public in this area.

The city of Manchester's reliance upon a third crossing, Smyth Ferry road, is not persuasive. The hearings held on that crossing, *Re Boston & Maine Transportation* (1941) 23 NH PSC 365, as well as the evidence in this proceeding reveal that Smyth Ferry was rarely used by the public since it was a dirt road as compared to the surface treated highways first at Westland and later at West Mitchell street. Thus this prong of the statutory test would place the burden of additional protection on the city of Manchester.

#### *II. Volume of Highway Traffic*

The testimony in this proceeding reveals that presently in excess of 400 cars traverse this crossing on a daily basis. This compares to the average of 196 vehicles found in a highway traffic count taken in 1941 at the predecessor of the West Mitchell street crossing; the Westland crossing. See *Re Boston & Maine Railroad* (1942) 24 NH PSC 26, 28.

This significantly higher level of highway traffic again justifies the allocation of the costs to the city of Manchester.

#### *III. Number of Trains*

Train traffic in 1941 averaged slightly in excess of 17 trains a day. *Re Boston & Maine Railroad* (1942) 24 NH PSC 26, 28. In this proceeding, staff witness King testified that there were ten train movements a day.

Since the conclusion of this case, the railbus service has been discontinued leaving a total of six trains per day. While the initial testimony clearly shows a substantial reduction in train traffic since 1941, recent history reveals further deterioration in the level of train traffic.

Again, this third prong of the statutory test properly places responsibility for the installation costs in the hands of the city of Manchester.

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#### *IV. Other Factors*

The city of Manchester argues that the commission should focus its attention on the Smyth

Ferry crossing instead of the Westland crossing as the predecessor of West Mitchell street. While the Smyth Ferry road crossing does precede the placement of the railroad traffic, the testimony in this proceeding clearly demonstrates its lack of use. Further more, the commission's decisions reveal the reason for its lack of use was the fact that it was unpaved. The early commission decisions issued in the 1940s support our finding that West Mitchell street was designed to eliminate the dangerous West-land crossing, which was in constant public use.

Any procedural defects raised by the city of Manchester were more than remedied by the opportunity presented in the hearings held after the grant of rehearing.

#### *V. Requested Findings of Fact and Law*

The city of Manchester made three requests for rulings of law. These requests are denied. However, the previous relative benefit test survives to the extent that RSA 373:3 states what measurements should be used in terms of cost allocation.

The city of Manchester filed 12 requests for findings of fact. Finding No. 11 has not been in dispute in the rehearing process, so to that extent the commission accepts this finding. The commission accepts the requested Finding Nos. 1 through 4. Requested Finding No. 5 is accepted with the caveat that the prior Westland crossing was private in name only and in fact was the major public crossing during its existence.

Request Nos. 6 through 10 and 12 are rejected.

#### *VI. Time Table*

The city of Manchester is to tender the allocated cost of the installation to the Boston and Maine Railroad no later than thirty days from the date of this order. The Boston and Maine Railroad is to immediately begin the installation process, said process to be completed within ninety days. Any allegations as to unreasonable costs, waste, etc., may be brought to the commission's attention after the completion of the installation.

#### *VII. Other Cases*

The excellent presentation offered by staff witness Melvin clearly demonstrates that the commission has in the past chosen different allocations between railroad and governmental entities. Obviously, the present statutory test reasonably balances the interest of both parties and allows different allocations depending on the factual circumstances associated with each case.

Therefore, the commission finds that the motion for rehearing is denied, and that the allocation approved in Supplemental Order No. 14,664 is reaffirmed.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that the city of Manchester's motion for rehearing is denied; and it is

Further ordered, that the city of Manchester render to the Boston and Maine Railroad the cost of installation of flashing lights and gates at the West Mitchell street crossing no later than one month from the date of this order; and it is

Further ordered, that the Boston and Maine Railroad begin the installation process at the

West Mitchell street crossing immediately, and that the installation process is to be completed within ninety days from the date of this order.

By order of the Public Utilities Commission of New Hampshire this second day of April, 1981.

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NH.PUC\*04/03/81\*[78866]\*66 NH PUC 120\*Union Telephone Company

[Go to End of 78866]

### **Re Union Telephone Company**

DF 80-184, Supplemental Order No. 14,826

66 NH PUC 120

New Hampshire Public Utilities Commission

April 3, 1981

PETITION by telephone utility to increase the levels of its short-term and long-term debt authorization; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, by Order No. 14,539 of this commission dated October 20, 1980 (65 NH PUC 497), Union Telephone was authorized to issue and have outstanding up to \$1.4 million of short-term and other intermediate long-term debt, and

Whereas, Union Telephone Company states that they are within \$70,000 of their current authorized level of short-term debt; and

Whereas, the company further states they have \$50,000 of engineering service already committed; and

Whereas, the company further states that their 1981 construction budget is a bare minimum of \$324,220, and will create a need of \$177,423 above internally generated funds; and

Whereas, the company further states that they are proceeding as expeditiously as possible with its REA-RTB loan application, and the area coverage design will be submitted to the REA by April 15, 1981; and

Whereas, the company will request interim construction financing guarantees to assure inclusion of the 1981 construction plans as part of the REA program; it is

Ordered, that Union Telephone Company be and hereby is, authorized from date of this order to increase its short-term and other intermediated long-term debt from \$1.4 million to \$1.6 million; and it is

Further ordered, that the proceeds from said debt increase will be expended for those

purposed notes in this order and Order No. 14,539; and it is

Further ordered, that on January 1st and July 1st in each year, the Union Telephone Company shall file with this commission detailed statement, duly sworn by its Treasurer, showing the disposition of the proceeds of the increase herein authorized until the expenditure of the whole of said proceeds shall have been fully accounted for; and it is

Further ordered, that this approval is conditioned upon Union Telephone actually submitting the area coverage design to the REA by April 15, 1981, and Union Telephone continues to expeditiously and diligently pursue its REA-RTB loan application.

The secretary of the commission is hereby directed to issue the above order this third day of April, 1981.

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NH.PUC\*04/07/81\*[78867]\*66 NH PUC 121\*Public Service Company of New Hampshire

[Go to End of 78867]

### Re Public Service Company of New Hampshire

DR 79-187, 50th Supplemental Order No. 14,829

66 NH PUC 121

New Hampshire Public Utilities Commission

April 7, 1981

ORDER granting a motion to extend the date for filing supplemental testimony; granted with schedule attached.

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BY THE COMMISSION:

Supplemental Order

Whereas, a motion to extend the date for filing supplemental testimony of at least thirty days by the Community Action Program and joined by the Legislative Utilities Consumers' Council, and

Whereas, the commission finds that said request is reasonable and in the best interest of the public and for good cause shown, it is hereby

Ordered, that the motion filed by the Community Action Program is granted; and it is

Further ordered, that the following schedule shall be adhered to and all prior schedules inconsistent with the following schedule are set aside.

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

- May 11 All written testimony and exhibits shall be filed except staff's rate design testimony (staff shall file its cost studies and class allocations)
- June 1 Staff to file proposed tariffs and related

written testimony  
June 8 Cross-examination of all witnesses, re:  
written testimony and exhibits  
June 18 Optional rebuttal testimony of witnesses  
June 23 Cross of rebuttal testimony of witnesses  
August 7 Briefs filed

By order of the Public Utilities Commission of New Hampshire this seventh day of April, 1981.

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NH.PUC\*04/07/81\*[78868]\*66 NH PUC 121\*Granite State Electric Company

[Go to End of 78868]

### Re Granite State Electric Company

DR 81-86, Order No. 14,830

66 NH PUC 121

New Hampshire Public Utilities Commission

April 7, 1981

ORDER suspending the effective date of an electric utility's proposed rates.

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BY THE COMMISSION:

Order

Whereas, Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 1, 1981, filed with this commission its tariff, NHPUC No. 9 — Electricity, providing for increased annual revenues of \$1,706,450,

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as well as other changes in terms and structure, proposed for effect May 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 tariff, NHPUC No. 9 — Electricity, of Granite State Electric Company be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of April, 1981.

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NH.PUC\*04/07/81\*[78869]\*66 NH PUC 122\*Public Service Company of New Hampshire

[Go to End of 78869]

## Re Public Service Company of New Hampshire

DR 81-87, Order No. 14,831

66 NH PUC 122

New Hampshire Public Utilities Commission

April 7, 1981

ORDER suspending the effective date of an electric utility's proposed rates.

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BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 2, 1981, filed with this commission its revised tariff, NHPUC No. 25 — Electricity, providing, among other things, for an increase in revenues of \$34,962,094, effective May 4, 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 tariff, NHPUC No. 25 — Electricity, of Public Service Company of New Hampshire be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of April, 1981.

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NH.PUC\*04/07/81\*[78870]\*66 NH PUC 123\*New England Telephone and Telegraph Company

[Go to End of 78870]

## Re New England Telephone and Telegraph Company

DE 81-47, Order No. 14,832

66 NH PUC 123

New Hampshire Public Utilities Commission

April 7, 1981

PETITION for authority to install and maintain submarine telephone line crossing state-owned public waters; granted.

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APPEARANCES: Wayne Snow, engineering manager, for the petitioner.

## BY THE COMMISSION:

## Report

On March 3, 1981, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to place and maintain submarine plant crossing state-owned public waters in Laconia and Gilford, New Hampshire, under Lake Winnepesaukee, said crossing from Pole No. 14/7 on the shoreline in Laconia, New Hampshire, to Pole No. 14/14 on Governor's Island, in Gilford, New Hampshire.

The commission issued an order of notice on March 4, 1981, directing all interested parties to appear at a public hearing at 10:00 A.M., on March 2, 1981, at the commission's Concord, New Hampshire, offices. Notices were sent to John J. Coleman, general manager, New England Telephone and Telegraph Company, for publication; John Bridges, director, safety services; George Gilman, commissioner, Department of Resources and Economic Development; the New Hampshire Transportation Authority; William Shaine, Legislative Utility Consumers' Council; and the Office of Attorney General.

An affidavit of publication indicating that a publication was made in the *Union Leader* on March 12, 1981, was received at the commission's office in Concord, New Hampshire, on March 20, 1981.

Wayne Snow, engineering manager, explained that the petition results from a request by the state of New Hampshire Department of Public Works and Highways to remove existing facilities on the present Governor's Island bridge in order to allow replacement of that bridge. As a temporary measure the company will install a submarine cable, approximately 800 feet in length, in Lake Winnepesaukee, 100 feet east of the center line of the existing road. Four existing joint-owned utility poles also will be removed to facilitate construction of the new bridge. Construction of the temporary submarine facility will be complete by May 1, 1981.

The company also asks for authority to install a new permanent facility on the new bridge when it is completed in 1982. Conduit facilities will be placed by the New Hampshire Department of Public Works and Highways during construction. Submarine facilities will be moved at that time.

The commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance. The petition was properly publicized and proper notification was given to the public as to the proposed installation. The

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commission finds this petition for license to place and maintain a submarine plant across state-owned public waters in Laconia and Gilford, New Hampshire, under Lake Winnepesaukee, and subsequently, in conduits in a new Governor's Island bridge 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 to the New England Telephone and Telegraph Company,

to construct and maintain submarine plant crossing state-owned public waters in Laconia and Gilford, New Hampshire, under Lake Winnepesaukee, said crossing from Pole No. 14/7 on the shoreline in Laconia, New Hampshire, to Pole No. 14/14 on Governor's Island, in Gilford, New Hampshire; and it is

Further ordered, that authority be granted, subsequent to the construction of a new Governor's Island bridge, for the company to construct and maintain cable and conduits in the new bridge as defined in petitioners exhibits.

By order of the Public Utilities Commission of New Hampshire this seventh day of April, 1981.

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NH.PUC\*04/07/81\*[78871]\*66 NH PUC 124\*Public Service Company of New Hampshire

[Go to End of 78871]

## Re Public Service Company of New Hampshire

DE 81-49, Order No. 14,833

66 NH PUC 124

New Hampshire Public Utilities Commission

April 7, 1981

PETITION for authority to construct and maintain electric transmission on lines over state railroad right of way; granted.

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APPEARANCES: Pierre O. Carons for the petitioner.

BY THE COMMISSION:

Report

On March 3, 1981, the Public Service Company of New Hampshire, filed with this commission a petition seeking authority to construct and maintain electric transmission lines over and across land of the New Hampshire State Transportation Authority, in the town of Colebrook, New Hampshire.

The commission issued an order of notice on March 4, 1981, directing all interested parties to appear at a public hearing at 10:00 A.M., on April 2, 1981, at the commission's Concord, New Hampshire, offices. Notices were sent to Pierre O. Caron, esquire, Public Service Company of New Hampshire, for publication; John Bridges, director of safety services; George Gilman, commissioner, Department

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of Resources and Economic Development, the New Hampshire Transportation Authority; John R. Sweeney, director, New Hampshire Aeronautics Commission; William Shaine, esquire,

Legislative Utility Consumers' Council; and the Office of the Attorney General.

An affidavit of publication indicating that a publication was made in the *Union Leader* on March 17, 1981, was received in the commission's offices in Concord, New Hampshire, on March 26, 1981.

The company's witness, William Norton, division electrical engineer, northern division, offered an exhibit describing the proposed construction.

A new three-phase 34.5/19.9 kilovolt electric distribution line will extend over and across the land of the state of New Hampshire Transportation Authority's Beecher Falls branch, in Colebrook, New Hampshire, in order to provide power to the town of Colebrook's sewage treatment facility.

The distribution line will cross the railroad track at a point approximately 492 feet from the easterly bank of the Mohawk river on easement provided by the town of Colebrook, New Hampshire. A transformer bank will be installed on the northerly side of the railroad and the distribution line will extend underground to the sewage plant.

Estimated cost of the facility, which includes approximately 218 feet of aerial cable between Pole No. 255/520 and Pole No. 355-520-A, is estimated at \$2,737. Transformers and meters will cost approximately \$1,375.

The company testified that there are no known existing crossings within one mile of the proposed location.

The aerial facility will be installed at a height of 29 feet. The commission notes that height to be one foot higher than the minimum established by the National Electric Safety Code.

The commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance. The petition was properly publicized and proper notification was given to the public as to the proposed installation. The commission finds this petition for a license to place and maintain aerial cable over state railroad right of way in Colebrook, New Hampshire, 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 electric transmission lines over and across land of the state of New Hampshire Transportation Authority in the town of Colebrook, New Hampshire, as defined in petitioner exhibits.

By order of the Public Utilities Commission of New Hampshire this seventh day of April, 1981.

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NH.PUC\*04/07/81\*[78872]\*66 NH PUC 126\*New England Telephone and Telegraph Company

[Go to End of 78872]

## Re New England Telephone and Telegraph Company

DE 81-48, Order No. 14,834

66 NH PUC 126

New Hampshire Public Utilities Commission

April 7, 1981

PETITION for a license to install and maintain aerial cable; granted.

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APPEARANCES: Alfred Ward, manager, outside plant — engineering, for the petitioner.

BY THE COMMISSION:

Report

On March 3, 1981, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to place and maintain aerial cable along West road in Canterbury, New Hampshire.

The commission issued an order of notice on March 4, 1981, directing all interested parties to appear at a public hearing at 10 A.M. on April 2, 1981, at the commission's Concord, New Hampshire, offices. Notices were sent to John J. Coleman, general manager, New England Telephone and Telegraph Company, for publication; John Bridges, director of safety services; George Gilman, commissioner, Department of Resources and Economic Development; the New Hampshire Transportation Authority; John R. Sweeney, director, New Hampshire Aeronautics Commission; William Shaine, Legislative Utility Consumers' Council; and the Office of the Attorney General.

An affidavit of publication indicating that a publication was made in the *Union Leader* on March 12, 1981, was received in the commission's office in Concord, New Hampshire on March 20, 1981.

Alfred Ward, manager, outside plant — engineering, explained that the petition results from a need to respond to increased customer demands. There presently exist two 25-pair cables extending from Pole No. 6/65 to Pole No. 6/64 over state railroad right of way along West road. The company proposes to install an additional 25-pair cable one foot below the existing strapped cables. The minimum height will be 27.5 feet. The commission notes that the proposed aerial cable will be higher than the minimum 25 feet required by the National Electric Safety Code Standard.

The additional cable is installed in lieu of a larger replacement cable for economic reasons.

The commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance. The petition was properly publicized and proper notification was given to the public as to the proposed installation. The commission finds this petition for a license to place and maintain aerial wire over state railroad right of way in Canterbury, New Hampshire, 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

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the New England Telephone and Telegraph Company to construct and maintain aerial wire over state railroad right of way in Canterbury, New Hampshire, as defined in petitioner's exhibits.

By order of the Public Utilities Commission of New Hampshire this seventh day of April, 1981.

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NH.PUC\*04/10/81\*[78873]\*66 NH PUC 127\*New England Power Company

[Go to End of 78873]

## **Re New England Power Company**

DF 81-59, Order No. 14,836

66 NH PUC 127

New Hampshire Public Utilities Commission

April 10, 1981

PETITION by an electric utility for authority to issue debt and security instruments; granted.

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APPEARANCES: Robert King Wulff and David C. Tomlinson for New England Power Company.

BY THE COMMISSION:

Report

New England Power Company (the company) is a utility subject to our jurisdiction. On March 9, 1981, New England Power filed a petition requesting authorization and approval of the commission for the issue and sale of one or more series, aggregating not exceeding \$100 million principal amount, of general and refunding mortgage bonds (the additional G&R bonds), for the issue and pledge of one or more additional series, aggregating not exceeding \$100 million principal amount, of first mortgage bonds (the pledge bonds), and for the issue and sale of one or more additional series of its preferred stock with an aggregate par value of not exceeding \$50 million (the new preferred stock).

A public hearing was held on the petition on April 7, 1981.

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, December 31, 1980, long-term debt outstanding, net of unamortized premium or discount, amounted to

\$488,348,912, 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 1981 to 2008. Not shown in the capitalization was \$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 950,000 shares of preferred having a par value of \$25 per share, or an aggregate par value of \$108,767,940. 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

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\$87,191,650; other paid-in capital was \$148 million; retained earnings were \$25,573,943; and unappropriated undistributed subsidiary earnings were \$5,067,698. Short-term borrowings were \$90,855,000.

The company reported that as of December 31, 1980, its utility plant was \$943,607,220. The accumulated depreciation reserve against such property amounted to \$262,106,414. Other property and investments, of which a major part of the amount was authorized investments in securities of nuclear generating companies, was shown as \$46,672,464.

The company is unable to predict when the financings will occur because of currently high interest rates, and its desire to take advantage of rapidly changing market conditions. It is believed, however, that these financings will occur during the remainder of calendar year 1981. The proposed preferred stock issues and G&R bond issues are separate transactions and not contingent one upon the other.

The proposed additional G&R bonds, aggregating not exceeding \$100 million principal amount, 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 additional G&R bonds will have a lien subordinate to the company's first mortgage bonds.

The additional G&R bonds will bear interest from the date of authentication 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. Only fully registered bonds will be issued. They will be redeemable at the option of the company in whole or in part at any time prior to maturity upon thirty days notice at general redemption prices; however, none of the additional G&R bonds shall be redeemable at general redemption prices for a period of five years, at a lesser effective interest cost. The additional G&R bonds will also be redeemable for sinking fund and other specific purposes at special redemption prices.

It is currently anticipated that the additional 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 additional 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 16.5 per cent per annum unless a

higher rate is subsequently approved by the commission. The maximum interest rate of 16.5 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. If market condition (\m because of the size of any series or other circumstances (\m make competitive bidding impracticable or undesirable, the company will seek a supplemental order from the commission authorizing either private placement with institutional investors or negotiations with underwriters.

The proposed pledged 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 each new series of additional G&R bonds. They will bear the

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same interest rate and have the same maturity date as the contemporaneously issues series of additional B&R bonds. The pledged bonds will not pay interest as long as interest payments are made on the G&R bonds.

The new preferred stock will be cumulative preferred stock. The cumulative preferred stock is composed of two classes: dividend series preferred stock (par value \$100) or preferred stock (\m cumulative (par value \$25); their only difference is the par. Except for such variables as the dividend rate, redemption prices, limitations on redemptions, and a possible sinking fund and other variables not requiring a vote of the holders of the company's preferred stock, the terms and preferences for each series within the two classes of cumulative preferred stock are the same.

It is currently anticipated that 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 per cent of par nor more than 102.75 per cent of par, and the dividend rate will not exceed 15 per cent per annum unless an order of the commission be issued approving a higher rate. The maximum dividend 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 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. If market conditions — because of the size of any series or other circumstances — make competitive bidding impracticable or undesirable, the company would seek a supplemental order from the commission authorizing private placements with institutional investors or negotiations with underwriters.

Massachusetts statutes limit the ability of NEP to sell to underwriters at less than par. Therefore, the terms and conditions for bids — or the agreement of sale if the new preferred stock is sold by negotiation — may provide for compensation to be paid to the underwriters.

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 of the company for, uncapitalized expenditures of the company or for the refinancing of matured Series C or D first mortgage bonds.

It is currently anticipated that in addition to the issuance of the securities, the company will receive one or more capital contributions from New England Electric System, its parent, aggregating up to \$40 million.

After the completion of the issue of the proposed securities, bonds (excluding pledged bonds) will comprise 50 per cent of the total capitalization, preferred stock 13 per cent, and common equity 37 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 Orders No. 14,020 and 14,128, dated January 29, 1980 (65 NH PUC 57), and March 13, 1980 (65 NH PUC 125), respectively.

The commission, by Order No. 14,561, dated November 10, 1980 (65 NH PUC 539), extended by Order No. 14,767, dated March 3, 1981 (66 NH PUC 78), granted authorization and approval for an additional

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issue of Series E G&R bonds, the issue and pledge of additional first mortgage bonds, and the issue and sale of dividend series preferred stock. If the company sells either or both of these issues prior to the expiration of that authority, the amount of securities authorized hereunder would be reduced in an equal amount.

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**

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

Ordered, that New England Power Company, be and hereby is authorized to issue and sell one or more series, aggregating not exceeding \$100 million principal amount, of general and refunding mortgage bonds, to mature in not more than thirty years from the first day of the month as of which the bonds are issued, to be sold at not less than 98 per cent of the principal amount nor more than 101.75 per cent of the principal amount, to bear interest at a rate not in excess of 16.5 per cent per annum (unless a subsequent order of the commission approves a 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 one or more additional series, aggregating not exceeding \$100 million principal amount, of first mortgage bonds to bear the same interest rate and to have the same maturity as the contemporaneously issued series of general and refunding mortgage bonds; and it is

Further ordered, that the New England Power Company, be and hereby is, authorized to issue

and sell one or more additional issues of preferred stock with an aggregate par value of not exceeding \$50 million consisting of either dividend series preferred (par value \$100) or preferred stock (non cumulative (par value \$25) or both, at a dividend rate not in excess of 15 per cent (unless a higher rate is subsequently approved by the commission), and the commission 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 general and refunding mortgage bonds and the 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 of the company for uncanceled additions and improvements to the plant and property of the company and any other uncanceled expenditures of the company or for the payment of matured Series C or D first mortgage bonds; and it is

Further ordered, that if the company sells the series authorized by Order No. 14,767, the amount of securities authorized hereunder will be reduced in an equal amount; and it is

Further ordered, that this authorization to issue securities contained herein shall be exercised on or before December 31, 1981, and not thereafter, unless such period is extended by order of this commission; and it is

Further ordered, that on or before January first and July first in each year, said New England Power Company shall file with this commission a detailed statement, duly sworn to by its treasurer

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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 April, 1981.

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NH.PUC\*04/10/81\*[78874]\*66 NH PUC 131\*White Rock Water Company, Inc.

[Go to End of 78874]

### **Re White Rock Water Company, Inc.**

DR 80-235, Supplemental Order No. 14,837

66 NH PUC 131

New Hampshire Public Utilities Commission

April 10, 1981

PETITION by a water utility for a rate increase; granted with modification.

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## 1. VALUATION, § 192.1 — Unused investment tax credits.

[N.H.] Unused investment tax credit carryovers are a nondeferred item and should not be included as a deduction from rate base. p. 131.

## 2. RETURN, § 6 — Basis for calculation — Net income.

[N.H.] It was improper to calculate a utility's rate of return based upon net income, since a proper return rate must compensate utility investors for the investment they have provided. p. 132.

## 3. RATES, § 604 — Water utility — Flat rate with minimum charge.

[N.H.] The commission accepted a proposed flat metered rate for consumption over a certain minimum charge; the flat rate replaced a declining block rate. p. 133.

## 4. SERVICE, § 210 — Extension of main.

[N.H.] The commission accepted a tariff for main extensions that contained no free footage allowance or installation at company expense; it was the commission's opinion that small water companies could not economically continue the practice of free footage allowances. p. 133.

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APPEARANCES: Robert D. Branch for the petitioner.

BY THE COMMISSION:

Report

On November 14, 1980, White Rock Water Company, Inc., a New Hampshire corporation and a public utility engaged in the supply of water in the town of Bow, New Hampshire, filed certain revisions to its tariff, NHPUC No. 1 (m Water, seeking authority for an increase in rates of \$4,520 or a 27.48 per cent increase.

On November 18, 1980 the commission issued its Order No. 14,575 (65 NH PUC 551), suspending the rate increase pending investigation and hearing. On January 6, 1981, a duly noticed hearing was held at the commission office in Concord.

*Rate Base*

[1] The company submitted a rate base calculation of \$72,510 while the commission staff recommends \$72,606. The difference between the company's and staff's rate base of \$96 results from an unused investment tax credit carry over from 1979. This item is not a deferred item as shown on the balance sheet and should not be included as a deduction in rate base. The commission will accept staff's rate base of \$72,606, calculated as follows:

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

Gross Plant in Service	\$89,201
Less: Depreciation Reserve	19,484
Net Plant in Service	\$69,717
Working Capital	2,889

Rate Base \$72,606

### *Rate of Return*

[2] The company requested an overall rate of return based upon net income. That method of calculation was erroneous as the return is a calculation of the amount required to compensate the investors in a utility, for the investment they have provided. The commission will accept the filed cost of capital as proposed by the company and will calculate the cost of capital as follows:

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

	Amount	Ratio	Weighted Cost of Rate Capital	Cost of Capital
Long-term Debt	\$ 9,093	12.6%	9.5%	1.20%
Common Equity	62,829	87.4	10.0	8.74
Total	\$71,922	100.0%	19.5%	9.94%

The amount which the company has requested (\$5,000) results in an overall rate of return of 6.89 per cent which the commission will accept in this case.

### *Pro Forma Adjustments*

The company submitted several pro forma adjustments to increase the operating expenses from \$13,865 to \$15,972, or an increase of \$2,107. Staff questioned several of the expense items proposed by the company. The company, however, submitted further justification for its requested increase by presenting updated cost figures, which included actual increased power and maintenance costs for 1980. The commission will accept the pro forma expenses as filed by the company.

### *Revenue Requirements*

The commission has calculated the revenue requirements as follows:

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

Rate Base	\$72,606
Requested Rate of Return	6.89%
Required Rate of Return	\$ 5,000
Less: Adjusted Net Operating	1,652
Income	
Net Operating Income Requirement	3,348
Income Taxes	1,172
Revenue Requirement	\$ 4,520

### *General*

Testimony and exhibits presented in this case indicate a lack of adherence by White Rock, to the commission's system of accounts for water utilities, in the classification of its fixed capital investment. The company investment in accounts such as meters, services, and water storage tanks have been included in other accounts and should be segregated. We shall expect the company to file a reclassification of its fixed capital and depreciation accounts that is in conformity with the commission system of accounts by July 15, 1981. Also, in all future filings

the commission shall expect that its operation and maintenance expenses will be properly segregated as to maintenance of mains, structures, meters, etc.

White Rock should also be aware that it has the responsibility to upgrade its exhibits filed in each case so that the evidence before the commission represents current conditions such that any revenue adjustments granted will enable the company to operate its system over a reasonable period without further rate hearings.

Subsequent to the hearing in this case,

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a copy of the commission rules and regulations for water utilities was provided to White Rock, and we will expect compliance and the filing of all specified reports as required, in the future.

#### *Depreciation*

Depreciation services lives were questioned by staff with the observation that some accounts should be reviewed. Depreciation lives and rates are subject to review as are all utility rates and any proposed change should be filed at least thirty days in advance on such forms as provided by the commission.

#### *Rates and Tariff*

[3] The revised metered rate schedule filed in this case is a flat rate for all consumption over the allowance granted under the minimum charge of 500 cubic feet. The metered rate schedule presently in force is of a declining block design and it was the opinion of staff that this design was inappropriate, especially since this system serves only one class of customer; i.e., residential. The commission will accept the rate structure as filed.

The minimum charge has remained at its existing price level which is of a higher unit charge than most other utilities subject to our jurisdiction. Future filings are to focus on the charge for usage in excess of 500 cubic feet.

The commission will expect future filings to place greater percentages of any proposed increase on usage above the minimum. Not only will this reflect proper cost allocation principles but also such allocations will send the proper conservation signals. Such signals are important in a small water utility where supply must always be constantly monitored both as to quantity and quality. Such an increase will be added a year from today to reflect increased costs from electricity increases in 1980. The adjustment will only be made for the same level of energy usage or less vis-a-vis the test year.

[4] The tariff main extension plan submitted with this case contains no free distance or main installed at company expense for each petitioning customer, in which the commission concurs. It is our opinion that small water companies cannot economically continue the practice of free distance which erodes earnings and further places the burden of subsidizing new customers on the old existing customers. Recent cases before this commission, brought by the state's largest water companies, have resulted in commission decisions reducing free distance to 25 feet.

The revised plan has also eliminated the practice of allowing refunds only over a five-year

period, on customer paid extensions. The plan now allows a refund or recalculation of the deposit agreement at any time a subsequent extension is made from the original. The commission accepts this plan.

*Other Considerations*

The commission requests White Rock to notify the commission within one month of today as to whether or not White Rock is interested in selling its company to a larger concern.

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 revisions to its tariff, NHPUC No. 1 — Water, as filed by White Rock Water Company, Inc., on November 14, 1980, which revisions were suspended by Commission Order No. 14,575, dated November 18, 1980, shall be allowed to become effective with all

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service rendered on or after February 1, 1981; and it is

Further ordered, that White Rock Water Company, Inc., give public notice of the rates allowed by this report and order, by either a one time publication in a newspaper having general circulation in the territory served, or by individual notice to its customers.

By order of the Public Utilities Commission of New Hampshire this tenth day of April, 1981.

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NH.PUC\*04/10/81\*[78875]\*66 NH PUC 134\*Ossipee Water Company

[Go to End of 78875]

## **Re Ossipee Water Company**

Intervenors: Town of Ossipee

DR 80-258, Supplemental Order No. 14,839

66 NH PUC 134

New Hampshire Public Utilities Commission

April 10, 1981

PETITION by a water utility for a rate increase; granted with modification.

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1. VALUATION, § 293 — Working capital — Effect of billing frequency.

[N.H.] A water company's rate base was reduced to reflect a reduction in working capital caused by the commission only allowing three months of operation and maintenance expense

since the utility billed on a quarterly basis. p. 134.

2. PAYMENT, § 55 — Outstanding accounts — Interest charges.

[N.H.] To improve a water utility's accounts receivable, the commission ordered that monthly interest of 1.5 per cent be charged on all outstanding balances greater than ninety days, p. 135.

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APPEARANCES: Richard Cooper for the petition; Douglas Meader selectman, for the town of Ossipee.

BY THE COMMISSION:

Report

On December 5, 1980, the Ossipee Water Company filed certain revisions to its tariff, NHPUC No. 7 — Water, providing for an increase in annual revenues of \$21,481. On December 18, 1980, the commission issued its Order No. 14,624 (65 NH PUC 639) suspending the filing, pending investigation. On January 23, 1981, an order of notice was issued setting the matter for a hearing.

On February 19, 1981, a hearing was held at the commission offices.

*Rate Base*

[1] The company's Exh 3 calculated a beginning and end of 1979 rate base of \$62,083. The commission will accept the calculations except for the twelve months of operation and maintenance expense in working capital. the commission will reduce that figure from \$11,456 to \$3,819, since the company bills quarterly.

This adjustment reduces rate base to \$54,446 which is the figure we will accept.

*Test-year Revenue and Expenses*

For 1979, the company in Exh 4 reported operating revenue of \$14,944 and

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revenue deductions of \$16,071 for an operating loss of \$1,127.

The company has experienced insignificant growth in its number of customers while updating its fixture count in 1980.

It pro formed expenses from \$16,071 to \$33,099 for various and acceptable reasons; i.e., wage increases, purification materials' price increases, higher and necessary increases in maintenance levels, property tax increases. Based on the company's filing its data responses to the PUC staff, and testimony at the hearing, we accept the pro formas as provided by the company. These result in an \$18,155 pro formed loss for the company.

*Cost of Capital*

The company has tried in recent years to acquire loans from local banks and was refused unless a company official personally signed the note. Because of this, the current structure is

made up 100 per cent of common equity. The commission will allow a 5.78 per cent rate of return at this time.

### *Revenue Requirement*

[2] Based on the company's filing, our staff had some concern about how prudently the company was being run, because of time factors such as accounts receivable being at a level of approximately \$10,750 at January 1, 1979, and December 31, 1979, while 1979 annual revenues were only \$14,944, and the company spoke of cash-flow problems. During the course of the hearing, it was pointed out that since 1979 the company had changed its policy and has significantly reduced its level of accounts receivable. To improve the accounts receivable situation, the commission orders the company to begin applying a monthly interest of 1.5 per cent on all outstanding balances greater than ninety days beginning June 1, 1981. Notice of this new provision is to be conveyed to consumers in a manner deemed appropriate by the company. The company is to file the appropriate tariff pages to reflect this change.

The commission will allow a revenue increase of \$21,300 as requested by the company and suggested by the town according to Douglas Meader, representing the Ossipee board of selectmen, who stated, "we support the increase in the rate," as follows:

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

Operating Revenues – Pro Formed	\$14,944	Rate Base	\$54,446
Revenue Deductions – Pro Formed	33,099	Adjusted Cost	
			of Capital x 5.78%
Operating Loss – Pro Formed	(\$18,155)	Return on	
No federal income tax adjustment necessary due to loss carry-backs –		Capital	\$ 3,145
Required Return on Capital	\$ 3,145		
Less: Net Utilities Operating Increase	-(18,155)		
Additional Revenue Required	\$21,300		

### *General*

Testimony was presented in this case that the town of Ossipee has some interest in the purchase of the water system and in fact had consulting engineers conduct a study of the existing system, dated January, 1980, with recommendation for its upgrading, should it be purchased.

The study and data furnished in this case portray a water system badly in need of upgrading from its source of supply at its mains, services, hydrants, and valves.

Complaints made to the commission prior to and during the hearing disclose that service on Massachusetts avenue has been disrupted this year, and every year for several prior years. The problem is the result of tuberculated pipe, low flows, and possibly pipe that has not been installed to proper depth. We will expect that the water company will replace the pipe in this road, and any other chronically affected roads, during the spring or summer of 1981.

Witnesses spoke of the difficulty of obtaining financing necessary for system improvements; however, if the company is earning a reasonable rate of return, some of this difficult should be

relieved.

The commission would encourage the town of Ossipee to buy this system. The inability of this utility to raise debt clearly negates their ability to make the necessary capital improvements for better service. If the town of Ossipee owned the system, there could be some immediate cost savings in terms of regulatory expenses, as well as the potential for tax-free or low interest debt.

In light of the demonstrated need for capital improvements, it is our judgment that if the town of Ossipee has not purchased the water system or begun serious negotiations for its purchase one year from the date of this report and order, the commission will expect that Ossipee will actively pursue capital sources to enable it to begin a planned program, to be filed at this office, of system upgrading as recommended in the study prepared for the town of Ossipee.

If the town of Ossipee does not buy the system within a year, the commission will order the necessary capital improvements to improve the quality of service. The cost of these improvements may be costly, especially if the utility rather than the town is required to implement the program. However, this commission is required to insure that adequate service is maintained. At the present time, this system needs a dramatic overhaul, which will be ordered together with the subsequent rates to pay for the additions.

#### *Rates*

The company is requesting a 157 per cent increase in its "G" or general service rate, which is a fixture rate and applied against all accounts except municipal fire protection. A 157 per cent increase is extremely large; however, we note that the last increase sought after and granted was made effective on January 1, 1971. The interval and the percentage sought in this case, as we have said, are extreme, and the company is hereby put on notice that this commission will expect it to monitor its financial conditions and seek more timely relief, as needed, in the future.

#### *"G" Rate*

The increase sought will change a typical customer's bill from \$49.99 to \$125 based on a minimum of water outlets. Rates such as "water cooled air conditioner" should be eliminated since there is no requirement for it.

We will allow the increase and direct that it shall be applied equally to all rates in this schedule.

#### *"FP-M" Rate*

The increase sought will change their municipal hydrant charge from \$80 to \$130 per hydrant, or an increase of 62.5 per cent.

We will allow the increase, noting that the area served by the water company has been given the lowest rating category allowed for fire insurance purposes. Unquestionably, a portion of this poor rating is based on the very low flows available from the water company fire hydrants. The company shall be aware that in any future filing for rate adjustment,

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the commission will not look favorably upon any increase in this rate unless significant improvement is made in fire flows. Furthermore, the company is ordered to place into effect the

necessary capital improvements to increase fire flows threefold prior to seeking any further increase from the commission.

*Connection and Reconnection Charge*

We will allow the increase in this charge from \$5 to \$8.

*Master Meter*

Ossipee has, or had, a master meter to record total system flow from the present source at Dan Hole pond. If this meter is not now functioning properly, we will expect it to be repaired and monthly total flows recorded and reported in the annual report to this commission.

*Other Considerations*

The commission requests Ossipee Water to notify the commission within one month of today as to whether or not Ossipee is interested in selling its company to a larger concern.

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 revisions to its tariff, NHPUC No. 7 Water, as filed by Ossipee Water Company, on December 5, 1980, and which revisions were suspended by commission Order No. 14,624 dated December 18, 1980, be and hereby are rejected; and it is

Further ordered, that in accordance with the increase in revenues authorized by this report, Ossipee Water Company, shall file a new tariff designated, NHPUC No. 8, and containing rates designed as specified in this report, and such as to produce an annual increase in revenues of \$21,481; and it is

Further ordered, that these revised tariff pages shall be filed to become effective April 1, 1981.

By order of the Public Utilities Commission of New Hampshire this tenth day of April, 1981.

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NH.PUC\*04/10/81\*[78876]\*66 NH PUC 137\*Public Service Company of New Hampshire

[Go to End of 78876]

**Re Public Service Company of New Hampshire**

DA 81-94, Order No. 14,840

66 NH PUC 137

New Hampshire Public Utilities Commission

April 10, 1981

ORDER concerning an electric utility's request for a change in its accounting practice for allowance for funds used during construction.

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BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire, by letter, petitions the New Hampshire Public Utilities Commission to allow a change in its method of accounting for allowance for funds

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used during construction (AFUDC) from the gross rate normalized method to the net rate method; and

Whereas, this request is a change in the accounting practice of the company; it is therefore Ordered, that docket DA 81-94 is hereby opened for analysis of this question.

By order of the Public Utilities Commission of New Hampshire this tenth day of April, 1981.

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NH.PUC\*04/10/81\*[78877]\*66 NH PUC 138\*Public Service Company of New Hampshire

[Go to End of 78877]

**Re Public Service Company of New Hampshire**

DA 81-94, Supplemental Order No. 14,841

66 NH PUC 138

New Hampshire Public Utilities Commission

April 10, 1981

ORDER permitting an electric utility to change its method of accounting for allowance for funds used during construction from the gross rate normalized method to the net rate method.

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1. VALUATION, § 139 — Allowance for funds used during construction — Net of tax rate.

[N.H.] An electric utility was authorized to adopt the net of tax method of accruing allowance for funds used during construction.

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BY THE COMMISSION:

Report

Public Service Company of New Hampshire requested permission to alter its method for accounting for allowance for funds used during construction (hereafter referred to as AFUDC)

from the gross rate normalized to the net rate method.

Within the industry, our research reveals greater use of the net rate method especially among utilities faced with construction programs.

Allowance for funds used during construction per cent has been recognized by this commission as a risk factor in determining the cost of common equity. The higher the percentage of AFUDC the more risk associated with the utility. In PSNH's case an alteration to the net of taxes method reduces the AFUDC percentage. Since investors compare this figure, it is important that companies be compared using similar accounting standards. Otherwise reliance upon this risk factor would be fruit salad rate making (mixing apples and oranges).

Another disturbing aspect of the percentage of AFUDC in New Hampshire is the unfair franchise tax the state legislature has placed on AFUDC earnings. The tax, which increases as this accounting only revenue accelerates drew our sharp criticism in Re Public Service Co. of New Hampshire (1980) 65 NH PUC 251.

Because the methods develop the same revenue requirement both during and after the construction, the commission will accept the change petitioned for by Public Service Company of New Hampshire.

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 Public Service Company of New Hampshire is given permission to change its method of accounting from the gross rate normalized method to the net rate method.

By order of the Public Utilities Commission of New Hampshire this tenth day of April, 1981.

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NH.PUC\*04/13/81\*[78878]\*66 NH PUC 139\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78878]

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

Intervenors: Co-op Members for Responsible Investment and Community Action Program et al.

DF 81-52, Order No. 14,842

66 NH PUC 139

New Hampshire Public Utilities Commission

April 13, 1981

PETITION by an electric utility for authority to borrow funds through the Rural Electrification Administration; granted.

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APPEARANCES: Mayland Morse for New Hampshire Electric Cooperative, Inc.; Michael Conklin for the Co-op Members for Responsible Investment; Gerald Eaton for Community Action Program; Dan Cooper, Governor's Council on Energy.

BY THE COMMISSION:

Report

The New Hampshire Electric Cooperative (hereinafter referred to as the cooperative) filed a petition for authority to borrow \$75,750,000 through the Rural Electrification Administration on March 2, 1981. On March 10, 1981, the commission issued an order of notice setting March 31, 1981, as the hearing date in this matter. On March 16, 1981, the notice of the hearing appeared in the *Union Leader*, a paper of general circulation within the state as well as the cooperative's service territory.

*Notice*

The Co-op Members for Responsible Investment (hereinafter referred to as CMRI) challenged the notice procedure and together with Community Action Program (hereinafter referred to as CAP) suggested that the commission postpone any consideration of the petition until greater notice could be provided the cooperative membership.

Commission Rules 203:01 was followed in every fashion and RSA 369:4 allows the commission to determine the extent of the investigation including the proper notice. However, rather than demonstrating a lack of notice, the record demonstrates a virtual wealth of notice. Letters submitted by CMRI reveal actual notice as early as fourteen months prior to the hearing in this proceeding. Further evidence to support the adequacy of the notice is shown by the appearance of the LUCC prior to the commission's issuance

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of an order of notice. As was stated at the hearing, the commission finds the notice adequate for purposes of satisfying RSA 369.

*Investment in Seabrook*

Community Action Program and CMRI ask the commission to review the question of the advisability in investing in Seabrook. The arguments offered include completing an analysis of demand and how best to meet that demand, seeking vote of the cooperative membership, and examination of other energy options. The commission approved the divestiture by PSNH to other utilities in three decisions during 1979. Re Public Service Co. of New Hampshire (1979) 64 NH PUC 262, 64 NH PUC 286, 64 NH PUC 485. In the last of these proceedings, as to the divestiture of a Seabrook interest by PSNH to the cooperative, the commission "approved the reduction in ownership interest of Public Service Company of New Hampshire and the increase of ownership set forth" by the other utilities. (See 64 NH PUC at p. 486.)

The commission had previous to the aforementioned decision found that ownership by the cooperative was superior to ownership by PSNH due to the cooperative's ability to avail itself of lower cost REA financing. (54 NHPUC 262, 265.) In fact the record in this proceeding reveals

that the rate the cooperative can receive from the REA is almost half the rate paid by PSNH to do comparable financing. Clearly, the public good as well as the purpose of this financing has been found by this commission to lie in the cooperative having an ownership interest in Seabrook.

Recently the Maine and Massachusetts commissions have conducted studies which reveal that investment in Seabrook is superior to initiating construction of other base load plants and better than continued reliance upon oil. This action outside our borders lends further support to our findings.

*Cost of Financing and Amount*

The rate obtained by the cooperative is tied to a fluctuating rate at the REA, significantly below the prime rate. A small portion of the financing is at an even lower rate of 5 per cent which is significantly below the prime interest rate. Such cost rates are significantly below those being approved for other utilities both at this commission as well as other regulatory commissions. No party disputes the testimony submitted by the cooperative which states that the cooperative can finance a given level of Seabrook at a much lower rate than it can buy it from PSNH. The cooperative does not have to pay a return to stockholders, income taxes, or debt service in excess of the prime. Therefore, the commission finds the cost rate to be in the public good.

Community Action Program and CMRI both raised the question of whether or not the \$75,750,000 would be enough to cover the cooperative's responsibilities of a 2.17 per cent ownership interest. Testimony was offered that there were contingencies built into the loan for inflation or unexpected costs. However, both intervenors raised the possibility that escalating costs of Seabrook might necessitate more financings. While this possibility does exist, it is not enough to negate a finding of the public good. This amount of money at this cost rate is reasonable for the knowledge to date. Furthermore, the standard for financings can never guarantee protection from all factors. No one has a crystal ball to determine the actual final cost of any plant. However, this \$75,750,000 is a reasonable level at this time and at a cost rate significantly below that of any other New England utility. Therefore, the petition for the authority to issue \$75,750,000 is granted. Our order will issue accordingly.

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Order

Upon consideration of the foregoing report which is incorporated and made a part of this order, it is hereby

Ordered, that the cooperative petition for authority to borrow \$75,750,000 is approved.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of April, 1981.

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NH.PUC\*04/14/81\*[78879]\*66 NH PUC 141\*New England Telephone and Telegraph Company

[Go to End of 78879]

## Re New England Telephone and Telegraph Company

DF 81-69, Order No. 14,843

66 NH PUC 141

New Hampshire Public Utilities Commission

April 14, 1981

PETITION a telephone utility for authority to accept an equity contribution from its parent corporation; granted.

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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 application, filed March 24, 1981, New England Telephone and Telegraph Company (the "company") seeks authority pursuant to RSA 369, insofar as the same pertains to property or expenditures of said company in this state, to accept an equity contribution of \$150 million from its parent, American Telephone and Telegraph Company ("AT&T") on April 15, 1981.

At the hearing on the application held, following due notice, in Concord on April 14, 1981, the company submitted that it is a corporation duly organized under the laws of the state of New York, engaged in the communication 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. The company is duly qualified under the statutes of this state and is presently authorized to do business herein, 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, copies of which have been filed as Exh 2 of the application.

The company represents that from time to time it has made expenditures in the states of Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont for the acquisition of property, the construction, completion, extension, and improvement of its facilities, and for the improvement of telephone service, all of which expenditures have been necessary and requisite for present or future use in the conduct of its business. In order to meet these continuing expenditures the

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company has obtained new moneys temporarily by means of advances from American

Telephone and Telegraph Company, payable twelve months after date or prior thereto on demand, commercial paper with maturity at the time of issuance of not more than nine months, bank loans with dates of maturity for a specified period of up to twelve months after the date or less time at the option of the company, and private placement notes due less than one year after issuance, or has expended from its treasury moneys other than moneys obtained from the issue of securities.

As a part of its Exh 4 the company submitted evidence of its securities outstanding as of December 31, 1980. At that date the company's total funded debt amounted to \$1,724,965,000.

As of December 31, 1980, the company had outstanding unsecured short term obligations in the aggregate amount of \$176.9 million, the proceeds of which have been used for corporate purposes as aforesaid in the five states in which the company operates. It is estimated that, unless refunded or repaid from the proceeds of the proposed equity contribution or the sale of permanent securities, the amount of such outstanding short-term obligations would be increased to approximately \$191 million by April 30, 1981.

Under its restated certificate of incorporation, as amended, the company's authorized stock is one common share without par value. The sole authorized and outstanding share is owned by AT&T and the company's capital stock account at December 31, 1980, was \$1,469,500,000. The company proposes to accept an equity contribution of \$150 million from AT&T and will not issue any additional shares of common stock in connection with that equity contribution.

The company submits that the equity contribution will be applied toward repayment and discharge of unsecured short-term and obligations outstanding at the time said proceeds are available, and the balance, if any, of such proceeds will be used for such lawful corporate purposes as need therefor arises. A pro forma balance sheet, before and after completion of the proposed equity contribution, was submitted as part of Exh 5.

The commission, upon consideration of the evidence submitted, is satisfied that the equity contribution of \$150 million on April 15, 1981, proposed herein will be consistent with the public good. Our order will issue accordingly.

The company has also requested that the commission issue an order authorizing it to accept similar contributions to equity in the future. The commission will take that request under advisement and will issue a further report and appropriate order at a later time.

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 (the "company") be, and it hereby is, authorized, insofar as it pertains to property or expenditures in the state of New Hampshire, to accept an equity contribution by its parent, American Telephone and Telegraph Company, in the amount of \$150 million on April 15, 1981; and it is

Further ordered, that the equity contribution will be used for the purpose of repaying and discharging outstanding short-term obligations, and the balance, if any, for other lawful corporate purposes; and it is

Further ordered, that the company shall file with this commission, as soon as reasonably practicable after the receipt of the equity contribution herein authorized, a detailed statement, duly verified by an officer of the company, showing

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the disposition of the equity contribution authorized herein, and thereafter a similar statement as of January first and July first in each year, until the disposition of the whole of the equity contribution shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of April, 1981.

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NH.PUC\*04/16/81\*[78880]\*66 NH PUC 143\*Concord Natural Gas Corporation

[Go to End of 78880]

## **Re Concord Natural Gas Corporation**

DF 81-99, Order No. 14,848

66 NH PUC 143

New Hampshire Public Utilities Commission

April 16, 1981

PETITION by a gas utility to increase short-term debt on a temporary basis; granted.

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BY THE COMMISSION:

Order

Whereas, Concord Natural Gas Corporation is presently authorized to issue short-term debt in the amount of \$292,236, or 10 per cent of the net fixed capital account as of December 31, 1980, in accordance with RSA 369:7; and

Whereas, Concord Natural Gas Corporation has been required to make large purchases of supplemental fuel due to the record-breaking cold winter and the present short-term borrowing totals \$360,000; and

Whereas, Concord Natural Gas Corporation will be spending approximately \$150,000 per month due to construction expense related to the Concord sewer project; and

Whereas, Concord Natural Gas Corporation expects to be reimbursed for the expenses related to the sewer project and cannot accurately predict when the reimbursement will occur; and

Whereas, Concord Natural Gas Corporation plans to submit an application for borrowing authority prior to July 1, 1981, accompanied by a detailed cash-flow analysis; it is

Ordered, that Concord Natural Gas Corporation be, and hereby is, authorized to issue and sell for cash its notes and notes payable in an aggregate amount of \$600,000 until July 1, 1981, after which time the short-term debt level will be reviewed by this commission; and it is

Further ordered, that on or before July 1st of this year, Concord Natural Gas Corporation shall file with this commission a detailed statement, duly sworn to by its treasurer showing the disposition of proceeds of the notes or notes payable, 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 sixteenth day of April, 1981.

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NH.PUC\*04/16/81\*[78881]\*66 NH PUC 144\*New England Telephone and Telegraph Company

[Go to End of 78881]

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

DF 77-121, Supplemental Order No. 14,849

66 NH PUC 144

New Hampshire Public Utilities Commission

April 16, 1981

PETITION by a telephone utility for authority to continue employee stock ownership plan; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, a petition has been filed by the New England Telephone and Telegraph Company for a supplemental order authorizing the company to continue the Bell system employee stock ownership plan authorized by Order No. 12,888 ([1977] 62 NHPUC 233); and

Whereas, Order No. 12,888 approved the company's participation including a contribution to the plan by issuing and selling to the trustee of the plan shares of the company's capital stock having an aggregate value equal to the additional investment credit tax credit elected; and

Whereas, the company no longer has authority to issue more than one share of common stock without par value as a result of a merger between the company and American Telephone and Telegraph Company effective December 22, 1980; and

Whereas, the commission finds it in the public interest to have the company continue to participate in its employee stock ownership plan; it is hereby

Ordered, that Order. No. 12,888 be amended to provide that the company's participation in the employee stock ownership plan be by contribution to the plan by disbursing funds to the plan trustee in an amount equal to the additional tax credit elected, which funds will be used by the

trustee to purchase shares of the American Telephone and Telegraph Company of an equal amount of equity capital to the company, in such manner as set forth in Par 3.5 of the company's petition dated April 13, 1981.

The secretary of the commission is hereby directed to issue the above order this sixteenth day of April, 1981.

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NH.PUC\*04/20/81\*[78882]\*66 NH PUC 145\*Small Power Producers And Cogenerators

[Go to End of 78882]

## Re Small Power Producers And Cogenerators

Intervenors: Public Service Company of New Hampshire, Granite State Electric Company, Exeter and Hampton Electric Company, Concord Electric Company, Monadnock Paper Mills, Inc., East Coast Engineering, Community Action Program, Governor's Council on Energy, Connecticut Valley Electric Company, Inc., New Hampshire

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Electric Cooperative, Inc., James River Corporation, Goodrich Falls and Franklin Falls Hydro-Electric Corporation, Municipal Electric Department of Wolfeboro, C.P.M., Inc., Seaward Construction Company, Sunnybrook Hydro, Enertech Corporation, Inc., New England Geosystems, Windmaster Corporation, Waterloom, and Homestead Engineering System et al.

DE 80 246, Second Supplemental Order No. 14,910

66 NH PUC 145

New Hampshire Public Utilities Commission

April 20, 1981

PETITIONS by electric utilities for rehearing of prior decision concerning small power producers and cogenerators; denied.

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### 1. PROCEDURE, § 23 — Notice — Sufficiency.

[N.H.] Notice varies according to circumstances; legally sufficient notice is that notice, given the circumstances, which is reasonably calculated to provide actual knowledge that a matter must be addressed; a notice providing for a hearing of financial policies governing interconnection was sufficient to encompass the contingent issues of transmission and distribution costs for wheeling. p. 146.

### 2. PROCEDURE, § 23 — Informal notice — Sufficiency.

[N.H.] Once an issue is raised, a party is on notice, however informed, and that party must object in a timely fashion; informality of notice will not nullify the notice so long as a party

receives actual knowledge. p. 147.

### 3. PROCEDURE, § 20 — Defective notice — Material prejudice.

[N.H.] Even if notice is defective, not all irregularities require an order to be set aside; material prejudice must be shown by the complaining party. p. 148.

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APPEARANCES: Philip Ayers and Debbie-Ann Sklar for Public Service Company of New Hampshire; Michael Flynn for Granite State Electric Company; Warren Nighswander and Stuart Aither for Exeter and Hampton Electric Company; Joseph Ransmeier for Concord Electric Company; Dom D'Ambruoso for Monadnock Paper Mills, Inc.; George Sansoucy for East Coast Engineering; Gerald Eaton and Ron Serino for Community Action Program; Paul A. Ambrosino for Governor's Council on Energy; Charles Whitehair for Connecticut Valley Electric Company, Inc.; Hervey Scudder pro se; John Pillsbury for New Hampshire Electric Cooperative, Inc.; James Watson Jr., for James River Corporation; Ted Larter for Goodrich Falls and Franklin Falls Hydro-Electric Corporation; Dennis Bean for Municipal Electric Department of Wolfeboro; Howard Moffett for C.P.M., Inc.; Eugene Garceau for Seaward Construction Company; Bruce Sloat for Sunny-brook Hydro; John Van Horn for Enertech Corporation, Inc.; Jeffrey Orchard for New England Geosystems; Kev Devejian for Windmaster Corporation of Carlstadt, New Jersey; Robert Greenwood for Waterloom; and Mark Drabick for Homestead Engineering System.

#### BY THE COMMISSION:

#### Motions For Rehearing

#### I. Procedural History

This proceeding was initiated by order of notice of the public utilities commission (commission) dated December 8, 1980. Pursuant to duties and authority granted by the Limited Electrical Energy Producers Act (LEEPA) RSA 362-A the Public Utility Regulatory Policies

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Act of 1978 (PURPA) and its general statutory authority, the commission's order of notice provided for commencement of investigation into the following matters:

1. Rates for sale of power by public utilities to small power producers and cogenerators.
2. Engineering and financial policies governing interconnection of small power producers and cogenerators to public utilities.
3. Operating and safety standards for small power producers and cogenerators.
4. Certain unresolved issues relating to the commissions work under DE 79-208 ([1980] 65 NH PUC 415), setting rates for purchases by public utilities from small power producers and cogenerators. These issues include: definition of total and surplus output, possible further refinement of purchase rates, policy for periods when purchases are not required, possible differentiation of rates for existing producers not covered by contract, and certain other issues.
5. Examination of how progress by public utilities shall implement commission policy on

small power producers and cogenerators.

On February 5, 1981 (66 NH PUC 34), the commission issued a supplement to its order of notice describing certain procedures to be followed in this docket. The supplement also stated "the hearings in DE 80-246 will not address the question of rates paid to cogenerators or small power producers, said issue having been finalized in DE 79-208."

Hearings for this docket were held on four days, February 10, 23, and 27, and March 4, 1981. Testimony was presented by utilities subject to the order of notice, supplementary order of notice and 13, "Issues Requiring Direct Testimony by Utilities to be Filed by or on February 17, 1981"; utility witnesses were cross-examined on their testimony during the hearings. A number of other parties also participated through written and oral testimony. Commission staff prefiled testimony in this docket and was cross-examined during the hearings. Final briefs were submitted pursuant to a March 16, 1981, deadline.

On March 20, 1981, report and Supplemental Order No. 14,797 (66 NH PUC 83), were issued by the commission addressing the areas of investigation of this proceeding in compliance with the deadline imposed by § 210 of PURPA.

On April 9, 1981, motions for rehearing and clarification were filed with the commission by Public Service Company of New Hampshire (PSNH) and Granite State Electric Company (GSE). Public Service Company of New Hampshire seeks additional guidance as to the price for purchases of energy and capacity from Monadnock Paper Company. Public Service Company of New Hampshire requests rehearing on the issue of wheeling of power on the basis that proper notice of the issue was lacking, as well as factual support on the record for the commission's order. Public Service Company of New Hampshire also requests reconsideration of the commission's order on magnetic tape metering and clarification of the order concerning ownership of interconnection property.

Granite State requests rehearing on the grounds that: (1) jurisdiction over some wheeling may be preempted by the FERC; (2) wheeling rates were not at issue in the proceeding; (3) wheeling rates were not fully explored on the record.

## II. Commission Analysis

### *Wheeling Charges*

[1] It is submitted upon motion by Public Service Company of New Hampshire (PSNH) and Granite State Electric (GSE) that they have been denied procedural

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due process. It is their position that the "notice" in the above captioned matter failed to adequately include the issue of wheeling costs. The commission disagrees.

It is the commission's understanding that proper notice varies according to the circumstances. Legally sufficient notice is that notice, given the circumstances, which is reasonably calculated to provide actual knowledge that a matter must be addressed. *V.S.H. Realty v City of Rochester* (1978) 118 NH 778. The commission maintains this was in fact accomplished.

The order of notice in question set forth sections of PURPA that would be relevant to the

commissions investigation. Review of PURPA §§ 201 and 210 will disclose the existence of related FERC regulations.

Interconnection costs are defined in FERC regulations § 292.101(b)(7). No party to these proceedings took issue with the definitions found therein and clarified by staff upon cross examination. Acceptance of the definitions in § 292.101(b)(7) is readily demonstrated by the voluminous record in this case directed at interconnection and interconnection costs. No objection was raised as to the propriety of these issues given the order of notice. Interconnection costs as defined in § 292.101(b)(7) include the cost of transmission and distribution. Presumably this definition includes transmission and distribution costs related to interconnection wheeling. Wheeling costs are not excluded nor can the commission find a distinction that would exclude wheeling costs. It is observed by the commission that the order of notice specifically lists among topics to be covered, "financial policies governing interconnection ... ." The commission can find no reason why this notice was not sufficient to inform all the parties of the numerous interconnection issues that were in fact decided and not objected to including wheeling charges. It is also difficult to understand why PSNH did not challenge the notice as to meter costs related to wheeling in addition to challenging meter requirements for wheeling. The two situations are at least difficult to distinguish, if not impossible. In its motion p. 5, PSNH implicitly, although unwittingly, concurs with the commission's opinion that its notice provides actual knowledge, when the company accepts the fact that notice as to interconnection meters encompasses the contingent issue of meters for wheeling. With equal logic, the commission's notice as to interconnection and distribution costs encompasses the contingent issue of transmission and distribution costs for wheeling.

[2] It is also observed that no objection was raised in the hearing as to any evidence related to wheeling including the costs of wheeling. Once an issue is raised, a party is on notice, however informal, and he must object in a timely fashion. Due process notice does not require a separate document with the title "notice." The New Hampshire court does not appear to be impressed with appeals based on specious technicalities and has said regarding notice that, "Informality will not nullify the notice so long as defendant receives actual knowledge." *Dupois v Smith Properties, Inc.* (1974) 114 NH 625, 630.

Attorneys hearing an issue in open court are noticed. This commission has previously followed the precepts of *Dupois, supra*, and has in fact done so in a predecessor case to the one at bar. In its report and order of September 3, 1980, the commission made a decision on motions filed for rehearing relative to DE 79-208, Re Small Energy Producers and (1980) 65 NH PUC 415. The order of notice in DE 79-208, did not address the issue of "financial policies

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governing interconnection ... ," as in the case at bar, nor did it specify relevant law as to interconnection. Nonetheless, based on the evidentiary record in DE 79-208, this commission orders that specific wheeling was to be afforded at "no cost or at a reasonable cost." The PURPA-related report and order in DE 79-208 reveals the scope of the issues concomitant to those specifically spelled out, letter for letter in that earlier PURPA hearing, and thus demonstrates that consideration of a wide scope of issues is not an unanticipated event to parties participating in PURPA hearings. Even outside of PURPA hearings, parties coming before the

commission are expected to be aware of the commission's relevant statutory authority and of the fact that complex administrative hearings are often of necessity expanded beyond the strict letter of the language used in an order of notice. Without this measure of flexibility, it is difficult to conceive how many of the complex cases before the commission would ever be completed. Dupois is but one example of this principle and provides specific precedent as to the usual degree of flexibility accorded to PURPA subject matter by notice thereof.

Furthermore, the parties pursuing this motion are advised and represented by well and able counsel who are fully cognizant of practice and procedure before this commission and who doubtless understood or should have understood, the full scope of the commission's investigation as to interconnection-related costs.

[3] Assuming *arguendo* that the notice as to wheeling costs is defective, the New Hampshire court has found that not all irregularities require an order be set aside. To do so requires material prejudice to be shown by the complaining party. *Patenaude v Town of Meredith* (1978) 118 NH 616. The order establishing wheeling at no charge is a reasonable conclusion based on a record which demonstrates no wheeling costs are incurred due to displacement. It is doubtful, considering the nature of displacement, that additional evidence would materially affect the conclusion. Even so, the commission is not unmindful of the possibility that there may be occasions when qualifying facilities (QF's) as well as wheeling utilities may be dissatisfied with the commission's order on wheeling costs. It is possible a QF may claim that its displacement of power reduces a wheeling utilities line loss thereby producing a profit which the QF might propose to share.

Directing attention to GSE's motion regarding wheeling charges, the commission considers its comments on PSNH's motion to be equally applicable to GSE's. As to the portion of GSE's motion that expresses concern that the commission's order may mislead existing or potential QF's as to the commission's authority, the commission's order is of course applicable only to the extent of the commission's statutory authority. Further, the commission readily acknowledges, using the language in GSE's motion, "that rates for wheeling QF power may, depending on whose transmission facilities are used, be set by FERC."

*Monadnock Paper Company*

Public Service Company of New Hampshire, on p. 2, of its motion for rehearing sets forth an area of concern for which it seeks clarification of the commission's statement regarding Monadnock Paper Company. Public Service Company of New Hampshire queries whether the commission has *found* that,

"[T]here is sufficient evidence in the record of this proceeding to distinguish Monadnock from other existing small power producers ... "; or

"(2) Has the commission specifically *found* that Monadnock cannot be distinguished

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from other existing producers ... ." (Emphasis supplied.)

In response, as to this order, the commission has *found* neither and has considered neither. To do otherwise would violate due process rights because of the supplemental notice in this hearing.

That supplemental notice, dated February 9, 1981, stated, "the hearings in DE 80 246 will not address the question of rates paid to cogenerators or small power producers, said issue having been finalized in DE 79-208."

This docket did not address these questions because they were answered in the Order in DE 79-208 based on the record in that case. This is not to say that a different record could not produce different results as to a particular QF.

The purpose of the commission's "Interpretative and Informational Statement" in the case at bar was to inform PSNH that the commission concludes, based upon the orders in DE 79-208, that Monadnock is entitled to the rates established therein. The commission then specifies the procedure that PSNH can follow if it believes that Monadnock should not receive the rates established in DE 79-208. The proper procedure is a petition to the commission based on new evidence. This is so for two basic reasons. First, the time for an appeal in DE 79-208 is obviously past. Second, a motion to reopen DE 79-208 for reconsideration based on the same record, would, it appears, logically produce the same results. However, if PSNH has new or additional evidence that would distinguish Monadnock by demonstrating electrical generation from Monadnock does not correspond with the purpose behind LEEPA or PURPA, then this commission would entertain a petition proffering such evidence. Moreover it is apparent PSNH sincerely believes it in fact can present evidence to the commission that would justify different treatment of Monadnock. Therefore, PSNH is ordered to file a petition establishing a new docket in which PSNH is to demonstrate to this commission the facts upon which it relies in requesting different treatment for Monadnock.

#### *Ownership of Interconnection Property*

Public Service Company of New Hampshire also raises the question on motion as to ownership of interconnection plant. If QF's are to be going concerns in an economic sense and thereby produce a benefit to society, they cannot be permitted to impose hidden costs on other ratepayers. The QF's decision to produce electricity for sale must be based on its willingness to pay for the total costs of production and incremental costs of transmission. That cost includes maintenance and repair of interconnection facilities as well as liability insurance if desired. The choice as to whether or not to carry liability insurance is simply another economic decision to be faced by the QF. The commission does not see how QF ownership will "needlessly complicate PSNH's agreement with telephone and cable companies for joint ownership of poles," inasmuch as the utility has control "over interconnection property or rights of way and over other interconnection property for which the utility requires control to assure commission standards of safety and reliability." (Order DE 80 246). Where a utility collects income due to use by other parties of qualifying-facilities-owned interconnection property, such income shall be applied to the extent necessary to the expenses of maintenance, repairs, and liability related to such property.

The benefit of the QF being the putative owner derives from income tax advantages. The commission hesitates to jeopardize this advantage as tax considerations are an integral component of any investment decision. Without the income

tax advantages attendant to ownership, incentive for QF production is reduced. If the QF desires to waive its ownership in exchange for assumption by the utility of maintenance, repairs and liability, such an exchange would appear acceptable. Also, if a utility demonstrates to the commission that relevant law would in fact not deprive the QF of tax advantages available by virtue of ownership, the commission would under that circumstance permit utility ownership to the extent requested by PSNH in its motion, if PSNH assumes liability, maintenance and repair responsibilities.

*Magnetic Tape Recording Meters*

The request by PSNH for reconsideration of the need for magnetic tape meters when PSNH receives wheeled power is denied based on the record. Furthermore, given the record in this case, a cut off provision, based on the size of the QF, would be arbitrary.

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 "control" addressed in Order No. 14,797, Part D.3, includes any use whatsoever of qualifying facility interconnection property including transmission and distribution property on a utility's property or rights of way; and consistent thereto where a utility receives income from the use of such property by others that income shall be owned by the utility to the extent necessary to cover the expense of maintenance, repair, and liability protection related to such property; and further consistent thereto upon mutual agreement a QF may divest itself of its ownership in exchange for assumption by the utility of the financial responsibility for maintenance, repairs, and liability; and it is

Further ordered, that any request by motion not granted herein or in the report attached hereto is denied.

The commission specifically reserves jurisdiction of the matter herein contained and the authority to issue such further order or orders as the facts and circumstances may warrant.

By order of the Public Utilities Commission of New Hampshire this twentieth day of April, 1981.

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NH.PUC\*04/21/81\*[78883]\*66 NH PUC 151\*Public Service Company of New Hampshire

[Go to End of 78883]

## Re Public Service Company of New Hampshire

Intervenors: Legislative Utility Consumers' Council

DF 81-76, Order No. 14,854

66 NH PUC 151

New Hampshire Public Utilities Commission

April 21, 1981

PETITION for authority to renew, extend, or issue debt and equity instruments; granted.

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APPEARANCES: Frederick J. Coolbroth and D. Pierre G. Cameron, Jr., for the petitioners; Gerald L. Lynch for the Legislative Utility Consumers Council.

BY THE COMMISSION:

Report

By this unopposed petition filed March 31, 1981, 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 (1) with respect to the issuance and renewal of short-term notes, (2) to further extend the maturity of term notes aggregating \$25 million issued on December 28, 1977, and to increase the amount of term notes to be outstanding, and (3) to issue and sell not more than 3 million shares of common stock, \$5 par value. A duly noticed hearing was held in Concord on April 15, 1981, at which the company moved to withdraw its request for authority to further extend the maturity of its term notes and to increase the amount of such notes to be outstanding, which motion was granted.

With respect to the issuance and renewal of short-term notes and the issuance and sale of common stock, the company submitted the testimony of John J. Lampron, its treasurer.

*Short-term Notes*

The company seeks authority to issue and sell for cash, and from time to time to renew, notes payable less than twelve months after the date thereof ("short-term notes") in such amounts that short-term notes outstanding at any time may aggregate up to but not exceed \$190 million said amount being the maximum aggregate amount of short-term unsecured indebtedness which the company was permitted to issue or assume at February 28, 1981, without a favorable vote of the companys preferred stockholders. That maximum is set forth in subdivisions 8(b) and 12H(b) of Art V of the company's articles of agreement as: "20 percentum of the total of (1) the total principal amount of all bonds or other securities representing secured indebtedness issued or assumed by the corporation, and then to be outstanding and (ii) the capital and surplus, less the amount, if any, by which electric plant adjustments exceed reserves provided therefor, as then stated on the books of account of the corporation."

Mr. Lampron testified that the company

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presently has lines of credit with banks aggregating \$135,350,000. All of the banks outside the state of New Hampshire are presently loaning monies under a "revolving credit agreement." Mr. Lampron stated that the company projected that at May 12, 1981, the company's short-term borrowings under the revolving credit and New Hampshire lines of credit will have increased to \$139.1 million which is in excess of the current lines of credit. The company is currently negotiating for a \$20 million increase in the revolving credit which, if agreed to by the banks

involved, would increase the available lines of credit to \$154,350,000, an amount in excess of the \$146.5 million limit set by this commission in its Order No. 13,973 in DF 79-23 ([1979] 64 NHPUC 487). The company also plans to pursue further increases in its lines of credit for the interim financing of its large construction program.

Mr. Lampron testified that the proceeds of the sale of the short-term notes will be used principally to finance on an interim basis the costs associated with the company's construction program, which is estimated by the company to be \$803.6 million for the period 1981-86 (exclusive of allowance for funds used during construction).

A balance sheet showing the net fixed capital of the company at February 28, 1981, was filed as an exhibit.

Based upon all the evidence, the commission finds that the short-term debt limit should be raised to \$190 million. 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.

#### *Common Stock*

The company further seeks authority to issue and sell not more than 3 million shares of its common stock, \$5 par value.

Mr. 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 \$139 million on May 12, 1981), the proceeds of which will have been principally expended to finance the purchase and construction of any property located in New Hampshire 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 within New Hampshire; 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 proposed a negotiated rather than a competitive sale.

The company submitted a balance sheet as at February 28, 1981, actual and performed to reflect 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 February 28, 1981, actual and pro forma to reflect the proposed sale of the common stock. Estimated construction expenditures were outlined in testimony.

The pro forma capital structure of the company reflecting the actual short-term debt outstanding as of February 28, 1981, and pro forma to reflect the proposed sale of 3 million shares of common stock is as follows (in thousands of dollars):

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

	<i>February</i>	<i>Per Cent</i>	<i>Pro Forma</i>	<i>Per Cent of</i>
			<i>of Amount</i>	

	<i>Actual</i>	<i>Total</i>		<i>Total</i>
Long-term Debt	\$ 423,176	37.4	\$ 423,176	36.7
Short-term Debt	119,100	10.5	94,693	8.2
Preferred Stock	171,309	15.1	171,309	14.9
Common Equity	418,310	37.0	462,608	40.2
	<u>\$1,131,895</u>	<u>100.0</u>	<u>\$1,151,786</u>	<u>100.0</u>

Based upon all 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; (2) to finance the purchase and construction of additional property located in New Hampshire reasonably requisite for present and future use in the conduct of the company's business; and (3) for other proper corporate purposes, not inconsistent with the above, and further finds that the issue and sale of the common stock for the purposes described will be consistent with the public good.

Upon completion of the financing the company shall file an accounting of the expenses of the sale of the common stock and the concessions granted to the underwriters.

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, and from time to time to renew, for cash its notes or notes payable less than twelve months after the date thereof in an aggregate principal amount not exceeding \$190 million; and it is

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

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell not exceeding 3 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 the common stock to be sold and the purchase price thereof; and it is

Further ordered, that prior to the issuance of such supplemental order, Public Service Company of New Hampshire shall file with this commission a certified copy of authorizing votes of its board of directors with respect to the common stock; 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 twenty-first day of April, 1981.

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NH.PUC\*04/22/81\*[78884]\*66 NH PUC 154\*Concord Electric Company

[Go to End of 78884]

**Re Concord Electric Company**

Dr 81-97, Order No. 14,855

66 NH PUC 154

New Hampshire Public Utilities Commission

April 22, 1981

ORDER suspending an electric utilities proposed rates.

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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 April 15, 1981, filed with this commission its tariff, NHPUC No. 7 — Electricity, providing for increased annual revenues of \$1,207,569 (8.64 per cent); and Supplement No. 5 (petition for temporary rates — \$337,992 (2.42 per cent)) to tariff, NHPUC No. 6; both filed for effect May 15, 1981; and

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

Ordered, that tariff, NHPUC No. 7, and Supplement No. 5 to tariff, NHPUC No. 6 — Electricity, of Concord Electric Company, be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of April, 1981.

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NH.PUC\*04/22/81\*[78885]\*66 NH PUC 154\*Public Service Company of New Hampshire

[Go to End of 78885]

## Re Public Service Company of New Hampshire

DE 80 47, Fourth Supplemental Order No. 24,856

66 NH PUC 154

New Hampshire Public Utilities Commission

April 22, 1981

ORDER considering a motion to expand the subject matter of a docketed proceeding.

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BY THE COMMISSION:

Supplemental Order

Whereas, a motion to provide a procedural schedule to expand the subject matter of this docket and to hold a procedural hearing has been filed by the Conservation Law Foundation; and

Whereas, Public Service Company of

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New Hampshire and commission staff have filed updated forecasts; and

Whereas, the commission recognizes the importance of this investigation and desires that a base case business as usual forecast be established as quickly as possible, thereby allowing an investigation to proceed on the opportunities for conservation, load management, and alternative electrical supply; it is hereby

Ordered, that the motion of the Conservation Law Foundation is accepted in part and denied in part, in accordance with the terms of the order; and it is

Further ordered, that the company and staff and all other parties file such original and supplemental testimony as necessary to introduce their respective base case forecasts into the record or to update and explain their original filing pertaining to a base case forecast, and that such testimony be filed by May 8, 1981; and it is

Further ordered, that the following hearing dates be set for hearing this testimony:

May 11 10:00 A.M. — Staff witness Gantz and any witnesses of the Legislative Utility Consumers' Council or the Governor's Council on Energy. May 15 10:00 A.M. — Public Service Company of New Hampshire witnesses June 3 10:00 A.M. — Conservation Law Foundation witness Raskin June 4 10:00 A.M. — Staff witness Camfield;

and it is

Further ordered, that briefs on the issue of a base case forecast be filed by July 1, 1981; and it is

Further ordered, that upon a decision of the commission establishing a base case forecast, a new docket will be opened to begin investigations into alternative demand and supply scenarios for the purpose of identifying the best choice of an electric energy future and the best means of

achieving that future.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of April, 1981.

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NH.PUC\*04/22/81\*[78886]\*66 NH PUC 155\*Manchester Gas Company

[Go to End of 78886]

## Re Manchester Gas Company

DF 81-37, Order No. 14,857

66 NH PUC 155

New Hampshire Public Utilities Commission

April 22, 1981

PETITION by a gas utility to issue first mortgage bonds; granted.

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APPEARANCES: James C. Hood and Peter Guenther, for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition, filed February 24, 1981, Manchester Gas Company (the "company") seeks authority to issue additional first mortgage bonds. At the hearing on the petition, held in Concord, New Hampshire, on March 31, 1981, the company represented that it is a corporation organized under the laws of the state of New Hampshire having a principal place of business in the city of

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Manchester, New Hampshire, engaged as a public utility in the purchase, manufacture, distribution, and sale of natural and manufactured gas.

As of December 31, 1980, the company had outstanding 249,750 shares of common stock of par value of \$5 per share; 6,986 shares of preferred stock of a par value of \$100 per share; \$1 million of first mortgage bonds, 6 per cent series, due 1992, \$720,000 of first mortgage bonds, 8.25 per cent series, due 1993; and \$250,970 secured notes.

As of December 31, 1981, the company also had outstanding unsecured notes payable to banks in the aggregate principal amount of \$3.2 million, \$1.5 million of which is due 1985, and the balance of which are demand notes.

Between January 1, 1981, and the date of the hearing, the company increased its short-term notes by \$300,000 so that on March 21, 1981, it had unsecured notes in the aggregate principal amount of \$3.5 million.

Since its last bond issue on September 1, 1978, the company has invested in fixed utility plant additions an amount, obtained primarily through unsecured borrowings, in excess of \$4 million.

The company proposes to issue and sell to Teachers Insurance and Annuity Association of America (TIAA) for cash at par \$2 million of first mortgage bonds, 15.5 per cent due 1996 under its present indenture of mortgage, and in accordance with a fourth supplemental indenture.

Teachers Insurance and Annuity Association of America is the principal holder of the company's presently outstanding bonds, and the company has had a relationship with TIAA since 1957. Discussions of the presently proposed bond issue began with TIAA late in 1979, and were resumed in the fall of 1980. In January, 1981, TIAA made a commitment to purchase the bonds on the terms set forth in the petition. Because the proposed sale has been privately negotiated, no underwriting fee or expense will be involved, and the interest rate, 15.5 per cent, compares favorably, both at the time of commitment and currently, with long-term rates of Baa-rated utility issues.

The company proposes to apply the proceeds from the sale of said bonds to the repayment of unsecured bank notes.

The company submitted in evidence its balance sheet as of December 31, 1980, as per books and pro forma to reflect the sale of the additional bonds.

Certified copies of the necessary corporate authorizations were submitted in evidence at the hearing.

Based on the foregoing balance sheet of the company and on the issuance of \$2 million principal amount of bonds, the pro forma capitalization ratios of the company is first mortgage bonds and notes 58.9 per cent, preferred stock 6.4 per cent, and common equity 34.7 per cent.

Upon investigation and consideration of the evidence submitted, the commission is of the opinion that the granting of the authorization 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 Manchester Gas Company be, and it hereby is, authorized to issue and sell to Teachers Insurance and Annuity Association of America for cash its first mortgage bonds, interest rate not to exceed 15.5 per cent, due 1996 in the aggregate principal amount not to exceeds \$2 million; and it is

Further ordered, that Manchester Gas Company shall submit to this commission the final terms of the issue, after which a supplemental order will be issued approving the issue; and it is

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Further ordered, that the proceeds from the sale of said bonds shall be used by Manchester Gas Company for the purpose of discharging and repaying various unsecured bank notes, and for other lawful corporate purposes; and it is

Further ordered, that Manchester Gas Company be, and hereby is, authorized to mortgage its present and future property, tangible and intangible, including franchises, and to further secure the present mortgage by its fourth supplemental indenture thereto as security for its outstanding first mortgage bonds; and it is

Further ordered, that on or before January 1st and July 1st in each year, said Manchester Gas Company 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 securities until the expenditures of the whole of said proceeds shall have been fully accounted for.

The secretary of the commission is hereby directed to issue the above order this twenty-second day of April, 1981.

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NH.PUC\*04/24/81\*[78887]\*66 NH PUC 157\*Western Union Telegraph Company

[Go to End of 78887]

### Re Western Union Telegraph Company

DR 81-109, Order No. 14,858

66 NH PUC 157

New Hampshire Public Utilities Commission

April 24, 1981

ORDER approving telegraph company's rate increase.

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BY THE COMMISSION:

Order

Whereas, the Western Union Telegraph Company, a public utility engaged in the business of supplying telegraph service in the state of New Hampshire, on April 2, 1981, filed with this commission certain revisions of its tariff, NHPSC No. 1, providing for increased rates for Telex, Teletypewriter Exchange Service (TWX), and certain related services; and

Whereas, upon investigation it appeared to the commission that public interest is served by allowing the requested rates to become effective as requested; it is

Ordered, that the following pages to its tariff, in page PSC No. 1 of the Western Union Telegraph Company be, and hereby are, approved effective May 8, 1981:

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

Ninety-second Revised Page 1	Third Revised Page 144
Fifth Revised Page 62	Third Revised Page 145
Twelfth Revised Page 64	First Revised Page 146
Second Revised Page 67B	First Revised Page 147
Third Revised Page 67C	First Revised Page 148
Third Revised Page 132	Second Revised Page 153
Second Revised Page 141	Third Revised Page 154
First Revised Page 143	

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of April, 1981.

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NH.PUC\*04/24/81\*[78888]\*66 NH PUC 158\*Campton Village Precinct

[Go to End of 78888]

### **Re Campton Village Precinct**

DR 81-105, Order No. 14,859

66 NH PUC 158

New Hampshire Public Utilities Commission

April 24, 1981

ORDER suspending a water utility's proposed rates.

BY THE COMMISSION:

Order

Whereas, Campton Village Precinct, a public utility engaged in the business of supplying water service in the state of New Hampshire, on April 16, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 1 — Water, providing certain changes to its terms and conditions as well as proposing increased rates in the amount of \$5,927.20 or 45 per cent; and

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

Ordered, that Second Revised Page 4, First Revised Pages 10 and 11, Third Revised Page 12, Second Revised Page 13, 15, and 16 of tariff, NHPUC No. 1 — Water, of Campton Village Precinct be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of April, 1981.

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NH.PUC\*04/24/81\*[78889]\*66 NH PUC 158\*New England Telephone and Telegraph Company

[Go to End of 78889]

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

Intervenors: Legislative Utility Consumers' Council

DF 81-70, Order No. 14,860

66 NH PUC 158

New Hampshire Public Utilities Commission

April 24, 1981

PETITION by a telephone utility to issue securities; granted.

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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 application, filed March 24, 1981, New England Telephone and Telegraph Company (the "company")

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seeks authority, pursuant to RSA 369, insofar as the proceeds of the same pertain to property or expenditures of the company in this state, to issue and sell an aggregate principal amount of up to \$175 million debt securities.

At the hearing on the application held, following due notice, in Concord on April 14, 1981, the company submitted that it is a corporation duly organized under the laws of the state of New York, engaged in the communications business 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 July 1, 1911. The company is duly qualified under the statutes of this state and is presently authorized to do business herein, 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, copies of which have been filed as Exh 1 of the application.

The company represents that from time to time it has made expenditures in the states of Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont for the acquisition of property, the construction, completion, extension and improvement of its facilities, and for the improvement and maintenance of telephone service, all of which expenditures have been necessary and requisite for present or future use in the conduct of its business. In order to meet these continuing expenditures, the company has obtained new moneys temporarily by means of advances from American Telephone and Telegraph Company payable twelve months after date or prior thereto on demand, commercial paper with maturity at time of issuance of not more than nine months, bank loans with dates of maturity for a specified period up to twelve months after the date or less time at the option of the company, and private placement notes due less than one year after issuance, or has expended from its treasury moneys other than moneys obtained from

the issue of securities.

As a part of its Exh 4 the company submitted evidence of its securities outstanding as of December 31, 1980. Under its restated certificate of incorporation, as amended, the company's authorized stock is one common share without par value. The sole authorized and outstanding share is owned by American Telephone and Telegraph and the company's capital stock account at December 31, 1980, was \$1,469,500,000. At that date the company's total funded debt amounted to \$1,724,965,000.

As of December 31, 1980, the company had outstanding unsecured short-term obligations in the aggregate amount of \$176.9 million the proceeds of which have been used for corporate purposes as aforesaid in the five states in which the company operates. It is estimated that, unless refunded or repaid from the proceeds of the debt securities, or other permanent securities, the amount of such outstanding short-term obligations would be increased to approximately \$229.6 million by June 30, 1981.

The company proposes to issue and sell an aggregate principal amount of up to \$175 million debt securities. The company submits that the proceeds of the debt securities will be applied toward repayment and discharge of unsecured short-term obligations outstanding at the time said proceeds are available, and the balance, if any, of such proceeds will be used for such lawful corporate purposes as need therefor arises. A pro forma balance sheet, before and after completion

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of the proposed financing, was submitted as a part of Exh 5.

The commission, upon consideration of the evidence submitted, is satisfied that the issuance and sale of an aggregate principal amount of up to \$175 million debt securities 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 (the "company") be, and hereby is, authorized, insofar as the same pertains to property or expenditures in this state, to issue and sell for cash its debt securities, the maturity date(s) to be determined during the second quarter of 1981 and the sale price and interest rate thereof to be determined in June, 1981 by this commission, in an aggregate principal amount of up to \$175 million; and it is

Further ordered, that the company shall submit to this commission the offerings of responsible competitive bidders for the purchase price and rate of interest of said debt securities, which bids shall be on a comparable basis, or the purchase price and rate of interest of said debt securities offered by a responsible buyer in the event the company elects to negotiate the sale of said debt securities rather than offer them to competitive bidders. Following the required submission, a supplemental order will issue establishing the price and interest rate at which said debt securities shall be sold; and it is

Further ordered, that the proceeds from the sale of said debt securities 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 completion of the issue of the debt securities herein authorized, a detailed statement, duly verified by an officer of the company, showing the disposition of the proceeds of the sale of the debt securities herein authorized, and thereafter a similar statement as of January 1st and July 1st in each year, until the disposition 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 April, 1981.

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NH.PUC\*04/24/81\*[78890]\*66 NH PUC 161\*Public Service Company of New Hampshire

[Go to End of 78890]

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

DR 79-187, 51st Supplemental Order No. 14,861

66 NH PUC 161

New Hampshire Public Utilities Commission

April 24, 1981

ORDER concerning the proposed use of an annual fuel adjustment clause.

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BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire has filed sample tariff pages pertaining to an annual fuel adjustment charge (FAC) as requested by the commission at the March 19th hearing on the quarterly fuel adjustment charge; and

Whereas, all parties in DR 79-187, Phase II are on notice that fuel adjustment charge design issues are included in the scope of Phase II; and

Whereas, the commission finds that it is in the best interest of the public to consider all FAC design issues at one time; it is hereby

Ordered, that the issue of an annual FAC will be considered in DR 79-187, Phase II; and it is

Further ordered, that the company shall distribute its letter of March 31, 1981, and sample tariff of April 10, 1981, to all parties in Phase II; and it is

Further ordered, that a hearing date of May 8, 1981, at 10:00 A.M. be set for the purpose of hearing the testimony of company witness Rodier on the FAC design issues and to discuss with all parties the procedures for dealing with all FAC design issues in Phase II.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of April, 1981.

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NH.PUC\*04/28/81\*[78891]\*66 NH PUC 161\*Chalk Pond (Sunapee Hills) Water System

[Go to End of 78891]

## Re Chalk Pond (Sunapee Hills) Water System

DE 81-67, Order No. 14,862

66 NH PUC 161

New Hampshire Public Utilities Commission

April 28, 1981

PROCEEDING concerning customer complaints of inadequate water service.

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BY THE COMMISSION:

Report

In March, 1981, this commission received complaints regarding the quality of service rendered by a water system serving in an area around Chalk Pond in Newbury, New Hampshire. Previous to these

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complaints, we had been unaware that a water system was operating in the area. A hearing was held at the commission offices on April 22, 1981, to resolve this matter.

The complaints received by letter and customer statements made at the hearing described a system that very often furnished water at low pressure or with no flow at all.

It was the position of the water system owner that much of the low pressure and total loss of service were the result of freeze-ups within customer homes, bursting of pipes, and subsequent thawing which allows uninhibited flow of water and drawdown of the system.

Some evidence was presented that indicated certain areas may have mains and services not installed below frost depths which have resulted in frozen pipes.

The source of supply for this system is from two wells, one of which, an infiltration well, has been declared unacceptable by the New Hampshire Water Supply and Pollution Control Commission because of the proximity of waste water disposal within the specified protective area. The other, a dug well, is considered a safe water source, however, a 200 foot protective radius has not been established and a pump test to determine yield has not been performed.

The owner of this water system and a potential buyer have been furnished sample documents and information that this commission will need to establish a franchise and to insure that fair and

equitable rates are established. We will expect prompt filing of this material.

Our order will issue accordingly.

Order

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

Ordered, that on or before May 15, 1981, the owner of this water system shall have performed a pump test to substantiate the yield of the dug well, in accordance with the requirements of the New Hampshire Water Supply and Pollution Control Commission; and it is

Further ordered, that a 200-foot protective radius be established and confirmed around the dug well and this commission and the New Hampshire Water Supply and Pollution Control Commission be so informed by July 1, 1981; and it is

Further ordered, that the plans for abandonment of the infiltration well and for the establishment of an additional source, should it prove necessary, be submitted to this commission and the New Hampshire Water Supply and Pollution Control Commission, by July 1, 1981; and it is

Further ordered, that the material necessary for the establishment of a franchise and rate levels, be submitted to this commission by July 1, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of April, 1981.

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NH.PUC\*04/28/81\*[78892]\*66 NH PUC 163\*Manchester Gas Company

[Go to End of 78892]

### **Re Manchester Gas Company**

DR 81-75, Supplemental Order No. 14,863

66 NH PUC 163

New Hampshire Public Utilities Commission

April 28, 1981

ORDER rejecting utility's proposed rates for interruptible gas.

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BY THE COMMISSION:

Supplemental Order

Whereas, on March 27, 1981, Manchester Gas Company filed with the commission a revised Schedule A to each of its interruptible gas contracts, proposed for effect with service on or after April 1, 1981; and

Whereas, said filing of contract revisions involved a completely new pricing scheme, said scheme requiring additional study by the commission; and

Whereas, such study could not be completed within the time constraints specified by the filing, the changed Schedule A was thus suspended by Commission Order No. 14,816 ([1981] 66 NH PUC 114); and

Whereas, investigation now supports that such a pricing scheme is, with certain exceptions, in the public good; it is hereby

Ordered, that Schedule A to Manchester Gas Company's interruptible gas contracts, filed on March 27, 1981, be, and hereby is, rejected; and it is

Further ordered, that a revised Schedule A be filed with the commission, said revision to include the following notice in addition to all other information on the rejected schedule — "At no time will the price per therm for interruptible gas be lower than the current commodity price billed by the company's supplier"; and it is

Further ordered, that Manchester Gas Company file with the commission each month the calculation of the gas price which was derived from the *Journal of Commerce*; and it is

Further ordered, that the decision in this docket is subject to revision according to any decision in docket DR 80-29 ([1980] 65 NH PUC 73); and it is

Further ordered, that Manchester Gas Company provide each interruptible gas customer a copy of this order; and it is

Further ordered, that said revised Schedule A, as modified by this order, be, and hereby is effective with all billings rendered on or after May 1, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of April, 1981.

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NH.PUC\*04/29/81\*[78893]\*66 NH PUC 164\*Manchester Gas Company

[Go to End of 78893]

## **Re Manchester Gas Company**

DF 81-37, Supplemental Order No 14,866

66 NH PUC 164

New Hampshire Public Utilities Commission

April 29, 1981

ORDER authorizing the issuance of first mortgage bonds.

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BY THE COMMISSION:

Supplemental Order

Whereas, Order No. 14,857 dated April 22, 1981, (66 NH PUC 155), issued in the above entitled proceeding, authorized Manchester Gas Company to issue and sell to Teachers Insurance

and Annuity Association of America for cash its first mortgage bonds, interest rate not to exceed 15.5 per cent, due 1996, in the aggregate principal amount not to exceed \$2 million; subject to submittal to this commission of the final terms of the issue for a further order of this commission; and

Whereas, in compliance with said Order No. 14,857, the company has submitted to this commission the final terms of the issue; and

Whereas, after due consideration it appears that the issue and sale of said first mortgage bonds upon the terms, including the interest rate, hereinabove set forth or referred to, is consistent with the public good; it is

Ordered, that Manchester Gas Company be, and hereby is, authorized to issue and sell for cash \$2 million of its first mortgage bonds at an interest rate of 15.5 per cent, due 1996; and it is

Further ordered, that all other provisions of said Order No. 14,857 of this commission relating to the sale of first mortgage bonds are incorporated herein by reference.

The secretary of the commission is hereby directed to issue the above order this twenty-ninth day of April, 1981.

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NH.PUC\*04/29/81\*[78894]\*66 NH PUC 164\*Fuel Adjustment Charge

[Go to End of 78894]

## Re Fuel Adjustment Charge

Intervenors: Legislative Utility Consumers' Council, Community Action Program, Public Service Company of New Hampshire, Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, Woodsville Water and Light Department, and Granite State Electric Company

DR 81-63, Order No. 14,867

66 NH PUC 164

New Hampshire Public Utilities Commission

April 29, 1981

PETITION for approval of the application by an electric utility for a fuel adjustment charge; granted.

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APPEARANCES: Eaton W. Tarbell for Public Service Company of New Hampshire; Gerald Lynch 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 April 21, 1981, 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, 1981, monthly billings to their customers at a constant rate for regular April and May, 1981, billings pursuant to its tariff, NHPUC No. 24 — 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 ([1980] 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 April 17, 1981, the company filed with the commission, their affidavit and Exhs 1 through 9 showing actual financial and electrical data through the month ended March 31, 1981, schedules showing maintenance day outages at the company's generating units and major entitlement units for March 1981, the reasons for unscheduled outages, and fuel data sheets for the period ending March 31 1981.

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. No such request was made, but all parties reserved their rights of cross-examination on the reconciling adjustment until the June, 1981, hearing.

Based upon all the affidavits and evidence in the record of this proceeding and the aforementioned orders, the commission finds that the fuel adjustment charge as approved for April, 1981, of \$2.67 per 100 kilowatt-hours is just and reasonable for May, 1981. 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 12th Revised Pages 23 and 24 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly estimated fuel adjustment clause of \$2.67 per 100 kilowatt-hours for the month of May, 1981, be, and hereby is, permitted to become effective May 1, 1981; and it is

Further ordered, that 71st Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge of \$2.48 per 100 kilowatt-hours for the month of May, 1981, be, and hereby is, permitted to become effective May 1, 1981; and it is

Further ordered, that Eighth Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$2.70 per 100 kilowatt-hours for the month of May, 1981, be, and hereby is, permitted to become effective May 1, 1981; and it is

Further ordered, that 49th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$0.43 per 100 kilowatt-hours

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for the month of May, 1981, be, and hereby is, permitted to become effective May 1, 1981; it is

Further ordered, that Second Revised Page 15 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 — electricity providing for the monthly fuel surcharge of \$1.84 per 100 kilowatt-hours net of refunds for the month of May, 1981, be, and hereby is, permitted to become effective May 1, 1981; and it is

Further ordered, that Fourth Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$2.38 per 100 kilowatt-hours net of the Public Service Company of New Hampshire refund for the month of May, 1981, be, and hereby is, permitted to become effective May 1, 1981; and it is

Further ordered, that 88th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$3.08 per 100 kilowatt-hours for the month of May, 1981, be, and hereby is, permitted to become effective May 1, 1981; and its

Further ordered, that 54th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a credit to the monthly fuel surcharge of \$0.48 per 100 kilowatt-hours for the month of May, 1981, be, and hereby is, permitted to become effective May 1, 1981; and it is

Further ordered, that Granite State Electric Company will be handled by a supplemental order.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1981.

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NH.PUC\*04/30/81\*[78895]\*66 NH PUC 166\*Lifeline Rates

[Go to End of 78895]

### **Re Lifeline Rates**

Intervenors: Public Service Company of New Hampshire, Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Business and Industry Association, Community Action Program, Volunteers Organized in Community Education, New Hampshire Electric Cooperative, Conservation Law Foundation, Governor's Council on Energy, New Hampshire Association for the Elderly, and New Hampshire Peoples' Alliance et al.

DP 80-260, Supplemental Order No. 14,872

## 66 NH PUC 166

## New Hampshire Public Utilities Commission

April 30, 1981

PROCEEDINGS concerning the desirability of implementing lifeline rates.  
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## 1. RATES, § 278 — Inverted blocks — Lifeline — Standards.

[N.H.] The goals of conservation, equity, and efficiency, as described in the Public Utility Regulatory Policies Act, must be incorporated in a lifeline ratemaking standard adopted by the commission pursuant to the Act. p. 169.

## 2. RATES, § 278 — Inverted blocks — Lifeline — Legality.

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[N.H.] The commission determined that there was no legal barrier to the adoption of lifeline rates. p. 169.

## 3. RATES, § 278 — Inverted blocks — Lifeline — Basic levels of service.

[N.H.] The commission has determined that some form of lifeline rates should be adopted to reflect basic levels of service. p. 170.

## 4. RATES, § 278 — Inverted blocks — Lifeline — Initial block.

[N.H.] The commission determined that as a form of lifeline rate, a reduced level for an initial block of energy usage, to cover basic human necessities, would focus greater attention on discretionary electrical usage and thus promote conservation. p. 170.

## 5. RATES, § 278 — Inverted blocks — Lifeline — Usage levels.

[N.H.] As a form for lifeline rates, the commission has adopted a general, lower rate for all residential customers at a set level of usage; rejected was a targeted lifeline rate based on income. p. 171.

## 6. RATES, § 278 — Inverted blocks — Lifeline — Determination of basic level of service.

[N.H.] "Minimum existence-associated usage" should reflect usage for which there is no substitute fuel and which is necessary for modern everyday life; this would include lights, refrigeration, clothes washing, and drying, a furnace fan, some small appliance usage, and cooking due to a lack of availability of natural gas service; therefore, the commission set a lifeline rate block for 200 kilowatt-hours per month. p. 171.  
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APPEARANCES: Philip Ayers and Debbie-Ann Sklar for Public Service Company of New Hampshire; Joseph Ransmeier for Concord Electric Company; Warren Nighswander for Exeter and Hampton Electric Company; Michael Flynn and Russell Holden for Granite State Electric Company; Dom D'Ambruoso for the Business and Industry Association; Gerald Eaton for

Community Action Program; Alan Linder and Judith Hotham for Volunteers organized in Community Education; John Pillsbury for New Hampshire Electric Cooperative; Lindsay Wells for Conservation Law Foundation; David LaPlante for the Governor's Council on Energy; Eldon Perkins for the New Hampshire Association for the Elderly; Roland Bone, pro se; Violetta Fry, pro se; Mildred McLaughlin, pro se; and Kathryn Wiggins, pro se.

BY THE COMMISSION:

Report

### I. Procedural History

On December 19, 1980, the commission issued notice that it would initiate an evidentiary hearing to answer the question of whether or not lifeline rates should be implemented by New Hampshire electric utilities. The notice apprised all interested parties that,

"Section 114 of the Public Utility Regulatory Policies Act (PURPA) of 1978, requires that if two years after the enactment of PURPA, a covered electric utility does not have a lower rate for essential needs of residential electric customers which is lower than a rate determined according to a cost of service, the state regulatory authority shall determine, after hearing, whether such a rate should be implemented ... ."

That notice expanded the scope of these proceedings to encompass all electric utilities subject to this commission's jurisdiction. Several times during the course of these proceedings, the commission upon request patiently supplied additional clarification as to its intention in this docket. It was, for example, the commission's intention that sufficient evidence be compiled on the record to permit it to answer simultaneously, if necessary, the question of should lifeline be implemented and how it would be accomplished. Unfortunately, the desired response from those affected, with the exception of Public Service Company of New Hampshire, did not materialize.

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This lack of response leaves the commission in a position that requires a decision more limited than the commission would prefer to render. As to this limited area, the commission required memorandums be submitted by March 2, 1981.

Hearings were held on February 3, 4, 5, and 10, 1981, requiring four transcripts consisting of a total of 457 pages of sworn testimony and statements. Additional evidence in the nature of 13 exhibits was accepted by the commission. Sworn testimony was taken from Nancy Wilbur on behalf of Public Service Company of New Hampshire; Charles W. King on behalf of the Business and Industry Association; Lorraine Sakowitz on behalf of Volunteers organized in Community Education (VOICE), and Janet Besser on behalf of the Community Action Programs.

In addition to sworn testimony the transcripts contain the oral statements of Representative Chris Spirou and Representative Nancy Proctor as well as the oral statements of twenty concerned rate-payers who spoke on behalf of themselves or as members of various associations.

Comments prior to the hearings were filed in writing by various interested parties including Concord Electric Company, Exeter and Hampton Electric Company, New Hampshire Peoples'

Alliance, Community Action Program and Granite State Electric.

Evidentiary hearings were closed on February 10, 1981, at which time the commission directed memorandums be filed to address the questions of: whether lifeline rates should be adopted, whether lifeline rates are legal in New Hampshire, and if adopted, what general form should they take.

On February 23, 1981, VOICE filed an affidavit by Pauline Anderson requesting said document be marked as Exh "O" pursuant to commission leave. The Business and Industry Association by letter dated February 26, 1981, objects to Exh "O" based on alleged evidentiary deficiencies.

Memorandums were filed pursuant to the March 2, 1981, schedule by Public Service Company, Community Action Program, Concord Electric Company, the Conservation Law Foundation, the Business and Industry Association, Granite State Electric Company, Exeter and Hampton Electric Company and the commission staff.

Public Service company, on March 11, 1981, filed a motion to clarify scope of hearings in response to the memorandum of the Conservation Law Foundation. This motion was in turn responded to by the Conservation Law Foundation, Exeter and Hampton Electric Company and Concord Electric Company.

Five public hearings regarding additional lifeline proceedings have been scheduled. The first will be held before the commission at the city auditorium, 168 Main Street, Berlin, New Hampshire, on the twelfth day of May at 7:30 P.M.; the second at the town hall, Route 3, Woodstock, New Hampshire, on the fourteenth day of May at 7:30 P.M.; the third at the fire station, 12 South Park Street, Lebanon, New Hampshire, on the twenty-seventh day of May at 7:30 P.M.; the fourth at the senior congress park, 67 Maple Street, Lebanon, New Hampshire, on the twenty-eighth at 7:00 P.M.; and the fifth at the city hall, 316 Central Street, Franklin, New Hampshire, on the third day of June at 7:30 P.M..

## II. Analysis

Pursuant to § 114 of the Public Utility Regulatory Policies Act (PURPA), this commission must "determine after and (sic an) evidentiary hearing, whether a lifeline rate should be implemented" by PSNH. The commission, in its order of notice, expanded the mandatory investigation

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of PSNH to include all electric utilities subject to its jurisdiction. The commission directed the parties to this proceeding to file, on or by March 2, 1981, memorandums answering the question of whether a lifeline rate "should" or "should not" be adopted, what form Lifeline should take if adopted, and whether Lifeline as defined by PURPA would conform to New Hampshire statutory prerogative.

A lifeline rate as perceived in PURPA is a rate set below the cost of providing "essential needs" whereby the "cost" may be marginal cost or some other standard of cost. When the commission, in the attached order, responds to the question of whether or not a lifeline rate "should" be adopted, the commission will have complied with PURPA directives. At that

juncture, any subsequent action must be based upon applicable state law or upon the authority granted this commission by PURPA to forward the purposes underlying PURPA, when not in conflict with state law.

The commission would like to make it abundantly clear that this report and order is addressed to lifeline rates as defined in PURPA. This hearing does not deal directly with all the attributes and drawbacks of innovative rates such as inverted rates or marginal cost rates which if adopted, might, as a by-product, provide cost justified rates sufficient to provide "essential needs." Nonetheless, the answer as to the merit of innovative rates is of great and immediate importance to this report and order.

The commission is presently examining various changes to electric rates in DR 79-187, Phase II ([1981] 66 NH PUC 6). The purpose of this investigation is to encourage the development of the three principles of PURPA (conservation, efficiency and equity) from theory to reality. Increasing costs of energy have led this commission to significantly alter electric rates so as to increase the level of conservation. As the commission recently noted, "the cost of increasing electricity by one unit is significantly more expensive than the existing average cost of electricity today." *Re Public Service Co. of New Hampshire* (1980) 65 NH PUC 251.

[1] In addressing the question of lifeline rates under PURPA, the goals of PURPA must be served. Conservation, equity and efficiency are the principles that must be incorporated in our standard for this proceeding. Since lifeline rates are specifically allowed by federal law, the remaining question is what considerations are imposed by state statutes.

The most important state statutes in this context are RSA 374:1, 378:7, 378:10, 378:11 and to a certain degree the remaining section of RSA 378.

#### A. Does New Hampshire Law Permit a Lifeline Rate?

[2] To determine whether New Hampshire law permits a lifeline rate, it is necessary to examine relevant statutes, case law, trends in the cost of electricity and the statutory scheme of regulation in this state.

Several of the memorandums in this proceeding claim the commission is prohibited from adopting a lifeline rate by RSA 378:10. Reference is repeatedly made to *Public Service Co. of New Hampshire v New Hampshire* (1973) 113 NH 497, 2 PUR4th 59, 311 A2d 513.

While Public Service does have some language on rate design, that language is couched in response to a perception that the appellant in that proceeding was seeking rates, which would "disregard cost of service." (113 NH at p. 510, 2 PUR4th 59.) The concept of cost of service has developed significantly since 1973. Whereas, cost of service was routinely defined in terms of embedded cost, newer concepts such as marginal

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costs, as well as different approaches to embedded cost which differ as to their allocations of demand, energy and customer components of cost are frequently used in rate proceedings.

The varying methodologies under the expanded umbrella of cost of service obviously lead to different rate structures. A rate structure under a marginal cost concept may allocate revenue

requirements differently between and within customer classes than would an embedded cost study. Consequently, while Public Service may require allegiance to cost-of-service principles, differing methods of arriving at cost of service may lead to flat, inverted or declining block rate structures. Therefore, the 1973 Public Service case is not a block to the establishment of lifeline rates as a matter of law.

A statute that was not considered in the 1973 proceeding is RSA 374:1. This statutory provision requires adequate service to be provided to all customers within a utility's franchise area. Adequate service includes the ability to have access to the minimum level of service needed for existence. Obviously, some minimum usage level of lights, refrigeration, cooking, and heat falls within the statutory language of adequate service.

Electricity prices are rising rapidly primarily because of New Hampshire and New England's heavy reliance upon oil fired stations for electrical generation. Organization of Petroleum Exporting Countries increases have crippled an average family's budget. Commission forecasts as to oil prices predict a general worsening of this situation. Oil prices and electricity prices are becoming a hardship for families with even what might be termed adequate income. Absent some measure, it is very likely that increasing numbers of families will be unable to afford the basic level of electricity usage needed for existence in today's society.

The New Hampshire utilities have recognized this ever increasing problem by offering budget plans, greater leniency on service disconnect and the like. For their excellent response they are to be commended. Their suggestion that federal and state government programs be established to render assistance is sound philosophically but unfortunately loses its force when confronted with the decreases in governmental assistance. These governmental cut-backs have focused on the short term; reduction in energy assistance; and the long term, a refusal to provide low cost financing for coal conversions and other measures designed to back out oil. Finally, the potential for governmental assistance, besides being remote, does not legally preclude the establishment of lifeline rates.

Revised Statutes Annotated 378:7 establishes the universal standard for regulatory practice; just and reasonable. If rates are to be truly just and reasonable, basic levels of service must be at rates that consumers can afford.

Finally, RSA 378:11 provides for a necessary degree of flexibility in setting rates so as to allow for the differing needs of the various customer classes. A recent example of the commission's concern for individual classes is our pending investigation into an annualized rate in response to concerns expressed by institutional and industrial consumers.

Therefore, the commission finds that there is no legal barrier to the establishment of a lifeline rate.

#### B. Should Lifeline Rates be Adopted?

[3, 4] In responding to this question the general objection raised to the establishment of lifeline rates is that there are other avenues to provide assistance to the residential consumer in meeting his or her electric bill. It is true that there

are federal, state, local, and charity programs which do provide an excellent service to those who are less economically advantaged than others. If the commission were prepared to adopt a "targeted" lifeline, one available only to an economic class, this argument would carry greater weight. A targeted lifeline, however, would fail to respond to the needs of all residential customers regardless of income. Furthermore, this assistance, while of a temporary help to some, is no assurance of its continuity. Furthermore, these targeted assistance programs have failed to increase in the same proportion that electric rates have increased. Organization of Petroleum Exporting Countries has demonstrated an uncanny ability to act with greater quickness and effect than any legislative body. Furthermore, continual assistance can remove a major conservation incentive, namely price. This state, this region and this nation can ill afford continued transmission of incorrect energy signals.

The commission finds that some form of lifeline rates should be adopted to reflect consideration for basic levels of service. The commission has established basic service options in the other industries it regulates and electricity can no longer be an exception. In the telephone industry the commission has steadfastly required the continuation of 2- and 4-party telephone service as well as the recent encouragement of options such as low-use measured service. *Re New England Teleph. & Teleg. Co.* (1980) 65 NH PUC 564, 40 PUR4th 29. This commission's philosophy is to allow an affordable rate for basic service and provide the option that if a consumer wishes to have service in excess of basic service that they will simply have to pay for it. There is no reason that we find acceptable to differentiate electric utilities from this concept.

The commission has repeatedly found that until the transition to coal, nuclear, hydro, and wind is made, any increased usage will be met by a greater dependence upon foreign and expensive oil. Such increased usage will increase the fuel adjustment for all customers. Conservation has been established as a national goal and PURPA has been enacted to implement this goal. A reduced level for an initial block of energy usage to cover basic human necessities will focus greater attention on discretionary electrical usage than will the present rate structure.

The argument is offered that the uniform lifeline rate of a set amount of kilowatt-hours will not solve all of the problems of those who are having difficulty matching their utility bills with their budget. This may well be true, but it will be of some assistance to all residential ratepayers. Regulatory decisions rarely, if ever, are a panacea for all the ills that may plague a consumer or a utility. However, regulatory decisions can be a source of improvement for both the consumer and the utility.

The commission finds that some form of lifeline rate should be adopted.

#### C. If Lifeline Rates are Adopted, What Form Should They Take?

[5] The two choices presented for lifeline rates were (a) a targeted lifeline rate based on income, or (b) a general lower rate for all residential customers for a set level of kilowatt-hour usage. The commission has adopted the second option so that all residential electric customers will have access to the rates for service for minimum existence associated with lifeline.

[6] The next question to solve is what level of energy usage reflects minimum existence-associated usage. Volunteers Organized in Community Education and the People's Alliance have used the number of 400-500 kilowatt-hours a month, a

figure that is very close to today's average usage, including space heating customers. The evidence submitted to date does not justify such a level. Minimum existence-associated usage should reflect usage for which there is no substitute fuel and which consists of a necessity of modern everyday life. This would include lights, refrigeration, clothes washing and drying, a furnace fan, and some small appliance usage. Because of the lack of significant penetration of natural gas service in New Hampshire, an addition is justified for the use of electricity for cooking as well. However, the energy level associated with these uses is closer to 200 kilowatt-hours a month than 400 or 500. Los Angeles Senior Citizens Lifeline Electricity Rate at p. 13 (1979). Consequently the commission will adopt a lifeline rate for 200 kilowatt-hours per month at this point in time.

The commission will hold further hearings to set a rate per kilowatt-hour for the first 200 kilowatt-hours of usage by residential electric utility customers for each electric utility in the state under this commission's jurisdiction. During these proceedings, any revenue loss associated with the institution of lifeline rates should be brought forth, and will at that time be dealt with according to cost-of-service principles. Parties will be notified as to the times and dates for these additional hearings.

Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that further hearings will be held at the call of the commission in which each utility will be expected to file a residential rate structure that contains a reduced rate for the first 200 kilowatt-hours compared to a presently effective residential rate, and it is;

Further ordered, that any revenue lost from such a filing is to be spread evenly on a per kilowatt-hour basis to all other kilowatt-hour usage levels within the residential class, said filings to be filed no later than forty-five days from the date of this order.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 1981.

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NH.PUC\*04/30/81\*[78896]\*66 NH PUC 172\*Gas Service, Inc.

[Go to End of 78896]

### **Re Gas Service, Inc.**

DF 81-34, Order No. 14,873

66 NH PUC 172

New Hampshire Public Utilities Commission

April 30, 1981

PETITION by a gas utility for authority to issue first mortgage bonds and cumulative preferred stock; granted.

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APPEARANCES: Charles Toll for Gas Service, Inc.

BY THE COMMISSION:

Report

By this petition, filed February 23, 1981, Gas Service, Inc. (the "company"),

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a corporation duly organized and existing under the laws of the state of New Hampshire, and operating therein as a gas utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369:1, RSA 369:2, and RSA 369:4 to issue and sell for cash equal to the aggregate principal amount thereof, its first mortgage bonds, Series H. 16.5 per cent due 1996, in the aggregate principal amount of \$2 million and to issue and sell for cash equal to the aggregate par value thereof 10,000 shares of 15.5 per cent cumulative preferred stock, \$100 par value, Series B.

At the hearing on the petition, held in Concord on March 24, 1981, the company submitted exhibits detailing its long-and short-term debts as of December 31, 1980; capital structure as of January 31, 1981, and pro forma to reflect the proposed issues; income statement as of January 31, 1981, and pro forma to reflect the proposed issues; tax effects, interest costs, estimated issuance expenses of the issues. The company asked permission to file the bond purchase agreement, the eighth supplemental indenture, a copy of the form of the Series "H" bond, a copy of the preferred stock purchase agreement, a copy of the terms of the Series "B" preferred stock, and a copy of the note of the board of directors as soon as they were available. The aforementioned exhibits were filed on April 20 and 22, 1981.

Proceeds from the sales will be used to replace short-term debt arising in connection with the construction or other acquisition of additions and improvements to the applicant's plant and facilities, and for other lawful corporate purposes.

The company testified that the terms of the sale of the bonds and preferred stock are the most favorable terms that could be obtained under the conditions prevailing in current money markets. The private sale of its first mortgage bonds, Series H, 16.5 per cent interest, due 1996, in the aggregate principal amount of \$2 million shall provide for amortization prior to maturity of 91 per cent of the original principal amount thereof by application of annual sinking fund payments equal in aggregate amount to 9.09 per cent of the original principal amount thereof commencing on May 15, 1986, with a noncumulative option to double the amount of the sinking fund payments without reducing the amount of subsequent mandatory sinking fund payments, provided that the aggregate amount of Series H bonds retired by voluntary sinking fund payments does not exceed \$500,000, and shall be otherwise as provided in, and shall be issued under, and shall be secured by, the indenture of mortgage and deed of trust dated as of February

1, 1959, by and between the applicant and the Second National Bank of Nashua, trustee (the "original indenture of mortgage"), as heretofore supplemented and amended (the "original indenture of mortgage" as so supplemented and amended being hereafter called the "amended indenture of mortgage"), under which all of the applicant's outstanding bonds referred to in Part 1 of Exh 1 have been issued and by which all of said bonds are secured, and as further supplemented by the following mentioned eighth supplemental indenture (the "eighth supplemental indenture") to be made by the applicant to Bank of New Hampshire, National Association, as trustee, into which said Second National Bank of Nashua was merged effective November 28, 1969.

To mortgage all the applicant's property, real, personal, and mixed, tangible and intangible, including franchises and after acquired property (other than property of the kind specifically reserved, excepted and excluded from the amended indenture of mortgage ["excepted property"]), as security for the payment of the

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Series H bonds and all other bonds issued heretofore or hereafter with the approval of this commission under the original indenture of mortgage as supplemented and amended heretofore or hereafter with the approval of this commission, all in and by, and as provided in, the amended indenture of mortgage as supplemented by the eighth supplemental indenture.

To make, execute and deliver to Bank of New Hampshire, National Association, as trustee, an eighth supplemental indenture dated as of a date in 1981 to be designated by the applicant providing for the creation of the Series H bonds and mortgaging, and confirming the lien of the amended indenture of mortgage on, the aforesid property as aforesaid.

The private sale of the 10,000 shares of preferred stock, Series B, 15.5 per cent interest, \$100 par value, for cash equal to the aggregate par value thereof — i.e. \$1 million — the rights, powers, and preferences of which, and the qualifications, limitations and restrictions of which will be provided as Exh 8 to be filed as soon as available. The proceeds from the sale of the preferred stock will be applied to the applicant's short-term indebtedness and for other lawful corporate purposes.

The 10,000 shares of new preferred stock, with a par value of \$100 will be dated as of May 15, 1982, and will carry 15.5 per cent dividend rate. Beginning on May 15, 1982, a sinking fund payment of 500 shares (five per cent) annually will be made, calculated to retire 95 per cent, prior to maturity, with the final payment of 500 shares due in 2001. The new preferred stock will be redeemable at any time, at the option of the company at 115.50 per cent in the first year, scaled down to 100 per cent in the twentieth year; however, prior to May 15, 1991, no redemption may be made through refunding at an effective annual cost to the company of less than the effective cost of the new preferred stock.

The company testified that the offering yields of the bonds and the preferred stock compare with the yields of similar issues by baa/ba rated utilities and that the cost appears to be reasonable in the light of conditions prevailing at the time of the pricing. Witness Halokowski stated that the size of the issues were too small to be offered through competitive bidding and there would be little investor recognition of the company. Staff witness Camfield testified that

the proposed financing plan does not minimize the cost of capital to consumers and that the pro forma income statement does not reflect changes which would occur at the margin. Witness Camfield asserts that the preferred stock issue will "lock" ratepayers into a large amount of equity capital at its high nominal cost, unlike common equity, which is generally costed at its marginal cost. Camfield recommends that the company finance with more debt and carry \$500,000 of short-term debt. He further recommended that the remaining short-term debt be financed with more common equity, which would thicken equity participation as opposed to being locked into extra ordinarily high nominal preferred stock cost.

The company, in its memorandum, claims that if it followed staff witness Camfield's recommendation it would be unable to meet its required coverage test of 2 times and would be unable to issue the \$2 million of long term debt. The company further claims that witness Camfield's testimony was written without knowledge of the short-term borrowing levels at the date of the hearing and later in the year and can only be viewed as a theoretical exercise which does not consider the company's need for capital. The company further claims that the preferred stock issue is consistent with its contractual limitations and should not

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be considered as equity requiring permanent financing as the issue will be amortized over twenty years. They state that to assume that common equity cost levels would be likely to decline over time when compared to the rate at which the preferred stock is to be issued would be speculative and imprudent.

The company further testified that the level of short-term debt was at the \$3.8 million level at the time of the hearing and estimated that by mid-May short-term debt would be \$3.4 million. Witness Mancini stated that if this commission were to adopt Mr. Camfield's recommendation, the interest coverage would drop to 17 or 1.8 times and the proposed bonds could not be issued.

After giving due consideration to the arguments of all parties, it is this commission's decision that the proposed financing is approved. The commission will expect the company to explore various means of financing in the future which will minimize the cost of capital to the ratepayer. Testimony was given which indicates that the short-term debt level would be between \$3.5 million to \$4 million by year-end (TR-75). As part of its financing program, the commission will expect the company to seriously consider common equity financing and timing additional issues of debt to take advantage of the lowest possible interest rates.

This commission is concerned with the high interest rate of the bond issue (16.5 per cent), when Manchester Gas is able to issue bonds during the same time frame at 100 basis points less. It is further disturbing that an interest rate was committed to in early February for issue on May 15th, during which time interest rates have declined. It has been the usual practice for interest rate of utility bond issues to be set at the time of issue. During recent times we have issued authorizations which permit utilities flexibility within a time frame in order to take advantage of the most favorable market conditions. This concern is, however, tempered by the knowledge that issues for small companies are somewhat limited by marketability and must depend upon negotiated financings with institutional investors.

This commission believes that the New Hampshire small gas distribution companies should

embark upon a path of merging or consolidation. A merged company would enable a greater visibility in the financial markets, provide greater flexibility in reaching those markets and lower cost rates upon completion of financings. The existing gas companies like Gas Service are effectively foreclosed from the common equity markets and the debt markets extract a premium for the small size of their operations. Obviously, a merger would allow for major savings in administration costs.

Staff witness Camfield's concerns are valid, Gas Service as well as the other gas utilities should not be forced into financial arrangements such as the preferred stock offering sought to be approved here. Therefore, Gas Service is placed on notice that, while the commission will approve these financings and finds the proceeds for the purposes stated to be in the public good, the burden of proof will be more difficult in any future financings.

A regulatory environment should not allow a utility to be shielded from the normal economic forces that are at work in the private unregulated markets in terms of attraction of capital. If Gas Service and the other gas utilities are serious about using greater levels of natural gas from new pipelines, they cannot hope to succeed absent a revised corporate structure. If the future belongs to the efficient then the motto should be reflected in a company size that produces efficiency.

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Our order will issue accordingly.

Order

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

Ordered, that the applicant, Gas Service, Inc., be, and hereby is, authorized to issue and sell at private sale, for cash, equal to the aggregate principal amount thereof, the applicants first mortgage bonds, Series H, 16.5 per cent due May 15, 1996, in the aggregate principal amount of \$2 million, said bonds to be dated the date on which they are to be issued, or interest from such date at the rate of 16.5 per cent, to mature May 15, 1996, to provide for amortization prior to maturity of 91 per cent of the original principal amount thereof by application of annual sinking fund payments equal in aggregate amount to 9.09 per cent of the original principal amount thereof commencing on May 15, 1986, with a noncumulative option to double the amount of the sinking fund payments without reducing the amount of subsequent mandatory sinking fund payments, provided that the aggregate amount of Series H bonds retired by voluntary sinking fund payments does not exceed \$500,000, and shall be otherwise as provided in, and shall be issued under, and shall be secured by, the indenture of mortgage and deed of trust dated as of February 1, 1959, by and between the applicant and the Second National Bank of Nashua, trustee (the "original indenture of mortgage") as heretofore supplemented and amended being hereafter called (the "amended indenture of mortgage") under which all of the applicant's outstanding bonds have been issued and by which all of said bonds are secured, and is further supplemented by the following mentioned eighth supplemental indenture (the "eighth supplemental indenture") to be made by the applicant to Bank of New Hampshire, which said Second National Bank of Nashua was merged effective November 28, 1969; and it is

Further ordered, that Gas Service, Inc., be, and hereby is, authorized to mortgage all of the applicant's property, real, personal, and mixed, tangible and intangible, including franchises and

after acquired property other than property of the kind specifically reserved, excepted and excluded from the amended indenture of mortgage ("excepted property") as security for the payment of the Series H bonds and all other bonds issued heretofore or hereafter with the approval of this commission under the original indenture of mortgage as supplemented and amended heretofore hereafter with the approval of this commission, all in and by, and as provided in the amended indenture of mortgage as supplemented by the eighth supplemental indenture; and it is

Further ordered, that Gas Service, Inc., be, and hereby is, authorized to make, execute, and deliver to Bank of New Hampshire, National Association as trustee, an eighth supplemental indenture dated as of date in 1981, to be designated by the applicant providing for the creation of the Series H bonds and mortgaging, and confirming the lien of the amended indenture of mortgage on, the aforesaid property as security as aforesaid; and it is

Further ordered, that Gas Service, Inc., be, and hereby is, authorized to issue and sell at private sale, for cash equal to the aggregate par value thereof — i.e. \$1 million — 10,000 shares of 15.5 per cent cumulative preferred stock, \$100 par value, Series B (the "Series B preferred stock"), the rights, powers, and preferences of which, and the qualifications, limitations, and restrictions of which, will be as provided in Exh 8 referred to in Par 6 (g) hereof; and it is

Further ordered, that the proceeds of

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the issuance and sale of the Series H bonds and the Series B preferred stock shall be applied toward payment of the applicant's short-term indebtedness to banks for borrowed money and, to the extent, if any, not required therefore, for the applicant's lawful corporate purposes; and it is

Further ordered, that on January 1st and July 1st of each year Gas Service, Inc., shall file with this commission, a detailed statement, duly sworn by its treasurer or assistant treasurer, showing the deposition of proceeds of Series H bonds and Series B preferred stock, 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 thirtieth day of April, 1981.

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NH.PUC\*04/30/81\*[78897]\*66 NH PUC 177\*Belmont Sewer Commission

[Go to End of 78897]

## **Re Belmont Sewer Commission**

DE 81-85, Order No. 14,876

66 NH PUC 177

New Hampshire Public Utilities Commission

April 30, 1981

PETITION for authority to install and maintain sewer facilities on state-owned land; granted.

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APPEARANCES: Richard Fournier, chairman, and Cedric Witham, member Belmont Sewer Commission for the petitioner.

BY THE COMMISSION:

On March 26, 1981, the Belmont Sewer Commission, a public board organized by the town of Belmont, filed with this commission, petitions for authority to (1) install and maintain a sewer under the railroad at the Jefferson road crossing in New Hampshire; (2) to install and maintain an ejection pump station in the right of way of the railroad south of the Jefferson road crossing in New Hampshire; (3) to install and maintain a sewer under the railroad at the Fox Hill road crossing in New Hampshire; (4) to install and maintain an ejection pump station in the right of way of the railroad north of the Jefferson road crossing in New Hampshire; (5) to install and maintain a sewer under the railroad at the Tucker Shore road crossing in New Hampshire; and (6) to install and maintain a sewer under the railroad tracks just north of the Grey Rocks crossing in New Hampshire. All of the aforementioned sewer to cross over or under land owned by the state of New Hampshire. Said petitions having been filed pursuant to provisions of RSA 371:17.

On April 1, 1981, the commission issued an order of notice directing all interested parties to appear at a public hearing at 10:00 A.M., on April 29, 1981, at the commission's office in Concord. Notices were sent to: Richard A. Fournier, chairman, Belmont Sewer Commission (for publication); John Bridges, director, Department of Safety; George Gilman, commissioner, Department of Resources and Economic Development; New Hampshire Transportation Authority; Gerald Lynch, esquire, Legislative Utility Consumers'

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Council; Representative John Hoar; John O'Keefe, esquire, Boston and Maine Corp., V. R. Terrill, vice president and chief engineer, Boston and Maine Corp.; John J. Knee, Boston and Maine Corp.; John Amrol, Department of Public Works and Highways; Timothy Drew; and the Office of the Attorney General. An affidavit of publication was filed with the commission on April 17, 1981.

The chairman of the Belmont Sewer Commission testified that the New Hampshire Transportation Authority, the present operator of the railroad, had no objection to the granting of the petitioner's filings. Representatives of the Boston and Maine Railroad appeared and confirmed that the section of the railroad involved was owned by the state of New Hampshire, and the Boston and Maine Railroad Corporation had no interest in the petitions. Mr. Fournier submitted six exhibits which depicted each easement required for the sewer and pump house installations across the railroad property. Each exhibit contained a location map and a letter from the New Hampshire Transportation Authority approving each request.

The commission finds that approval for licenses to cross over or under public lands of the state of New Hampshire, the New Hampshire Transportation Authority, as set forth in the petitions in the town of Belmont 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 Belmont Sewer Commission to cross over or under public lands of the state of New Hampshire, New Hampshire Transportation Authority, in the town of Belmont, New Hampshire, as set forth in the petitioner's exhibits.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 1981.

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NH.PUC\*05/01/81\*[78898]\*66 NH PUC 178\*Public Service Company of New Hampshire

[Go to End of 78898]

## Re Public Service Company of New Hampshire

Intervenors: Community Action Program, Legislative Utility Consumers' Council, and Business and Industry Association

DR 81-87, Supplemental Order No. 14,877

66 NH PUC 178

New Hampshire Public Utilities Commission

May 1, 1981

PETITION for a temporary rate increase; granted.

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1. RATES, § 634 — Temporary — Burden of proof.

[N.H.] Since temporary rates are to be established with expedition and without such investigation as is required for permanent rates, a lesser burden of proof and investigation, compared either to permanent rates or to emergency rates, is required. p. 179.

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2. EXPENSES, § 9 — Recovery of future costs — Allowance under temporary rates.

[N.H.] Temporary rates are not designed to reflect potential increases in the future; consequently, recovery expenses items related to future expenses was denied as part of a temporary rate increase. p. 181.

3. RETURN, § 26.4 — Cost of common equity — Allowance under temporary rates.

[N.H.] The commission determined that temporary rates should not include a higher return on common equity from that granted in the latest proceeding. p. 181.

4. RETURN, § 26.4 — Cost of common equity — Allowance under temporary rates.

[H.N.] Testimony on return on common equity was refused by the commission for purposes of setting a temporary rate, instead the commission substituted the return on common equity found to be reasonable in the last proceeding. p. 181.

5. RETURN, § 35 — Attrition factor — Allowance under temporary rates.

[H.N.] The commission determined that the nature of temporary rates and their proceedings made the use of an attrition factor inappropriate. p. 182.

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APPEARANCES: Martin Gross, Philip Ayers, and Eaton Tarbell, for Public Service Company of New Hampshire; Gerald Eaton on behalf of the Community Action Program; Gerald Lynch on behalf of the Legislative Utility Consumers' Council; Dom D'Ambruoso for the Business and Industry Association.

BY THE COMMISSION:

Report

On April 2, 1981, Public Service Company of New Hampshire (hereinafter referred to as "PSNH" or the "company") filed a request for temporary and permanent rate relief in the amount of \$34,962,094. The commission suspended the proposed tariff pages pending hearings and investigation. A hearing was scheduled on April 21, 1981, on PSNH's temporary rate request.

The temporary rate statute, RSA 378:27, was enacted in 1941 by the legislature. The New Hampshire supreme court has interpreted this statute on numerous occasions. In *New Hampshire v New England Teleph. & Teleg. Co.* (1959) 103 NH 394, 40 PUR3d 525 173 A2d 810, the supreme court found that the legislature enacted this statute to protect utilities against confiscatory rates.

[1] The supreme court noted in *New England Teleph. & Teleg. Co. v New Hampshire* (1949) 95 NH 515, 82 PUR NS 296 68 A2d 114, that temporary rates are to be established under this statute with expedition and without such investigation as is required for the determination of permanent rates. Thus temporary rates require a lesser burden of proof and investigation compared to either permanent or emergency rates. *Re Public Service Co. of New Hampshire* (1981) 66 NH PUC 76.

The burden of proof required by the temporary statute can be satisfied by the filing of reports with the commission unless there appears to be reasonable grounds to question the figures in such reports.

In denying PSNH's request for temporary and emergency rates two months ago, the commission noted that while temporary rates have a lesser burden of proof, they are not available simply for the asking. In that prior proceeding, the commission was provided estimated data. Estimated data as to jurisdictional allocations and return are a perfect example of the type of information envisioned by RSA 378:27 to be questioned and for which the request may be denied.

This time PSNH has filed an actual jurisdictional study reflecting a 1980 test year and providing a calculation of the earned rate of return for each aspect of its business. For PSNH's

Vermont and Maine jurisdictions there is now evidence that these portions of the business are not carrying their fair share. Public Service Company of New Hampshire

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has, however, taken steps to correct this situation with a major increase filed in Vermont and an agreement to sell its Maine operations. Such action responds to the commission's concerns expressed in DR 81-6 as well as DR79-187.

In its New Hampshire jurisdiction the return is higher but still below that found reasonable in the last proceeding. The next question to be evaluated is whether management has done all that was necessary to minimize costs. Our review of PSNH's Form 1 reveals actual reduction in major expense categories. Further, PSNH has eliminated more expenses in response to our rejection of the emergency rate increase. These factors demonstrate a positive response and satisfy the lesser burden of proof required for temporary rates. Whether the more extensive inquiry required in a permanent rate decision will yield the same result depends on the data the commission receives from all parties.

The question that must be considered before the conclusion of the proceedings is what has caused the need for an increase despite recent rate awards and management cuts in expenses. Two identifiable causes have already surfaced; the state franchise tax and expenses associated with cable television rentals of poles.

A portion of the state franchise tax relates to earnings. A portion of PSNH's earnings are not cash earnings but rather can be viewed as promises to pay in the future. Yet, the state franchise tax is leveled on these noncash earnings. The tax associated with these noncash, AFUDC earnings was \$861,132 in 1978, \$2,095,551 in 1979, and \$5,262,571 in 1980. This \$3.1 million increase since the last rate case is totally unreasonable. Even worse is that when the AFUDC costs are placed in rate base after 1984, the earnings from the return on this rate base entry will also have an associated franchise tax. The result, double taxation and higher electric rates.

House Bill 449, sponsored by Representative Arnold Wight, would eliminate this unfairness and lower electric rates. If the legislature is serious about cutting electric rates, they have an excellent opportunity to reduce rates by \$5.2 million.

Another aspect increasing electric rates is the widening differential between the expenses associated with cable television pole attachments and the revenues derived from the rental fees charged. The fees are set by the Federal Communications Commission (FCC) and as is typical of federal regulations, it is slow in responding to changed economics. The expenses associated with maintaining poles has risen, yet the pole rental revenue collected from cable television companies has remained stationary. If these expenses are not reflected by an increase in pole rental revenue, the electric consumer pays and thereby subsidizes the cable television customer. When so much concern is being voiced about the high costs of energy it is extraordinary that this state would elevate the rights of the cable television viewer over that of a poor person trying to heat his or her home.

This situation could have been remedied by passage of House Bill 531<sup>1(21)</sup> which have transferred authority for setting pole rental rates from the FCC to this commission. Public

Service Company of New Hampshire estimated that the failure of pole rental revenues to match expenses has cost ratepayers \$311,630. When similar figures are compiled for the other electric utilities and the 12 telephone utilities, a major subsidy for the cable television industry emerges. The commission believes that reducing

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PSNH rates by \$311,630 is far more important than holding down cable television costs. The commission would request the legislature to reconsider its rejection of this legislative proposal. Compassion and logic both dictate that society should place a higher priority on keeping people warm instead of television sets.

Hopefully the legislature will act to remove these two barriers which together would lower rates by approximately \$5.5 million.

The commission finds that based on the records of the company, submitted by witness Long and the testimony of witnesses Harrison and Littlefield, a temporary rate increase is justified.

The level of the increase is raised by all parties. Public Service Company of New Hampshire initially sought an increase of \$34,962,094 on April 2, 1981. During the interim, the commission issued its decision in DA 81-94 ([1981] 66 NH PUC 137), which changed the accounting practice allowed PSNH. The result of the change in accounting reduces the increase requested by \$1,342,151. All parties agree that the amount requested should be reduced by this amount. This \$1.3 million figure relates to a reduction in expenses.

[2] There are other expenses which have been placed in question as to temporary rates. Two of these expense items relate to expenses which will occur after August of 1981. One is a pro forma payroll expense and the other is a pro forma property tax adjustment. Both the commission staff and the Legislative Utility Consumers' Council (LUCC) questioned the reasonableness of including these expenses in temporary rates. The commission agrees that such expenses do not merit inclusion in rates at this time. The commission has demonstrated that it is prepared to recognize these expenses where reasonable after they have occurred, our most recent recognition being the secondary step increases for these items in DR 79-187. Temporary rates are not designed to reflect potential increases in the future. Consequently, the \$776,276 pro forma for real estate taxes and the \$1,729,123 pro forma for payroll taxes will be removed from the temporary rate request.

[3, 4] The next area of controversy is the proposal by Public Service Company to increase its return on common equity to 18.65 per cent. Both the Community Action Program (CAP) and the LUCC argue that temporary rates cannot include a higher return on common equity from that found in the last proceeding. The commission agrees.

Temporary rates are to be established with expedition and without such investigation as required for setting permanent rates. *New England Teleph. & Teleg. Co. v New Hampshire* (1949) 95 NH 515, 82 PUR NS 296, 68 A2d 114. The rate of return calculation and especially the return on common equity aspect require significant investigation and proof. A commission cannot obtain a just and reasonable return on common equity from just examining the records of a given utility. Rather, a complex analysis of the utility in question compared to other enterprises of corresponding risks is required. Expert testimony is necessary and judgment plays an

important role.

The New Hampshire supreme court has recognized this complexity by finding that during a temporary rate proceeding this commission can give consideration to a rate of return found to be reasonable in an earlier proceeding without finding its present reasonableness. *Public Service Co. of New Hampshire v New Hampshire* (1959) 102 NH 66, 28 PUR3d 404, 150 A2d 810. The commission will not accept PSNH's proposal for a 18.6.5 per cent return on common equity for purposes of temporary rates.

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Rather, the commission will substitute the return on common equity found to be reasonable in the last proceeding. ([1980] 65 NH PUC 303.)

The commission neither accepts or rejects the testimony offered on this subject. Rather, the commission refuses to read any return on common equity testimony during a temporary rate proceeding. All parties have the right to explore this topic through testimony, discovery and cross examination.

In its testimony, PSNH raises the possibility of further lines of credit by its bankers if the results are favorable from this commission decision. The recent history involving PSNH and its bankers do not substantiate this assertion. Public Service Company of New Hampshire's bankers have been slow to provide the necessary lines of credit for PSNH to function. Furthermore, the rates charged are high relative to others within the industry. The rate of progress by PSNH's bankers can only be described as glacial. If the commission is to seriously respond to such assertions, the banks will have to respond in a favorable fashion sometime in the very near future.

The use of our previous finding as to return on common equity leads to an overall rate of return of 13.6 per cent.

[5] Public Service Company of New Hampshire also seeks a one per cent attrition factor in its temporary rate request. Commission staff, CAP, and the LUCC all object to this. The supreme court established the standard for utilities as far as permanent rates are concerned. *New England Teleph. & Teleg. v New Hampshire* (1973) 113 NH 92, 98 PUR3d 253, 302 A2d 813. The standard set forth in that case requires recognition of attrition if established by a utility. In *Legislative Utility Consumers' Council v Granite State Electric Co.* (1979) 119 NH — , 402 A2d 644. The court further defined the standard by requiring elaborate findings to support a utilities allowance. Thus, the standard in New Hampshire is that an attrition will be recognized if proven by a utility and that such proof supports the adjustment requested. To restate the standard, not only must a utility prove attrition but it also must carry the burden as to quantifying the adjustment. *Re Hampton Water Co.* (1979) 64 NH PUC — .

The duration of a temporary rate proceeding does not allow for the necessary offers of proof that would lead to a quantified attrition adjustment. Furthermore, an attrition factor is an adjustment made at the end of a permanent rate proceeding to provide a greater likelihood that the utility will earn the return set by the commission. Consequently, an attrition adjustment would not be proper ratemaking at this time.

The commission believes that the test year filed by PSNH provides the greatest access of information because of its characteristic calendar year. Consequently, much of the information usually obtained by data requests are available in reports routinely filed with the commission.

This access to information will necessitate a tighter hearing schedule. Furthermore, since temporary rates have been established it is necessary to expedite the proceedings. This case will be finished prior to July 14, 1981, and the hearing schedule will be conducted accordingly.

The commission will allow temporary rates in the amount of \$17,435,268. The calculation for these rates is as follows:

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

New Hampshire Rate Base. Adjusted to Net of Tax AFUDC	\$362,430,797
Less: Working Capital Adjustment Due to Estimated Rate Increase (1,319,793 x 12.5% x NH Portion 80.52%)	132,837
Adjusted Rate Base	<u>\$362,297,960</u>
Cost of Capital (Using 15.9% Common Equity and No Attrition	x 13.6%
New Hampshire Net Operating Income Requirement	\$49,272,523
Less: Adjusted Net Operating Income	40,293,883
Required Increase in Net Operating Income	\$ 8,978,640
Tax Effect (+ 51.497%)	\$ 17,435,268

The adjusted net operating income

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has been calculated as follows:

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

REVISED NET OPERATING INCOME CALCULATION

Net Operating Income (Adjusted) Net Method  
 Plus: Salary Adjustment  
 Operation and Maintenance Expense:  
 Total Company  
 x New Hampshire Allocator

Real Estate Taxes  
 x New Hampshire Allocator

Adjusted Net Operating Income

The rate increase approved here refers to the overall increase for the New Hampshire retail rates and does not endorse any particular method of allocating those revenues to class. In making such allocations the commission believes that consideration must be given to cost of service principles and to rate design objectives such as conservation. For this reason, the commission has examined the issue of rate design under the temporary rates and made the determinations specified in the remaining sections of this report.

Rate Design

*A. Introduction*

The primary issues in rate design are the allocation of revenue responsibility to class and subclass and the setting of specific charges within those classes. In DR 79-187 ([1981] 66 NH PUC 6), the company's previous rate case, the commission established Phase II to allow for a detailed review of rate design and for the consideration of the rate-making standards of the Public Utility Regulatory Policies Act (PURPA). The proceedings are now under way and will culminate in an order pertaining to rate design sometime this summer. The rate design established will be based on a thorough and complete record and on a careful consideration of the objectives of fairness and equity, efficiency, conservation, consistency and other objectives of rate design.

However, the company has applied for a rate increase and, in particular, a temporary rate increase, prior to the establishment of a complete record in DR 79-187, Phase II. The granting of a temporary rate increase will require the allocation of the increased revenues to class and the assignment of these revenues to specific elements in the tariff. The choice of methods used to allocate or to assign the increased revenues constitutes rate design and must be carefully considered by this commission. The methods chosen must achieve, to the extent possible, the objectives of rate design and must not undermine or erode these objectives. This commission does not have the luxury of waiting for the completion of DR 79-187, Phase II to make a determination on rate design in DR 81-87. Temporary rates must be established immediately, based on the best sources of data and information available and based on the considered judgment of the commission.

#### *B. Allocation of Increased Revenues*

The company has proposed an across-the-board percentage increase in the revenues collected from each class. However, we note in the company's own time-differentiated accounting cost (TDAC) study submitted in DR 79-187, Phase II, that the calculation of the estimated actual rate of return by class indicates serious interclass subsidies. For example, the study indicates that the small commercial customers under the general service rate are being overcharged by a substantial amount. An across-the-board percentage increase not only fails to address the issue of interclass subsidies, it actually increases the subsidy. Therefore, the commission finds that an across-the-board percentage increase is an unacceptable method of allocating the increased revenues to class.

However, the commission notes that the company's TDAC study is not the only evidence that will be submitted in

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DR 79-187, Phase II, and that the assumptions used in any accounting cost study are subject to considerable judgment. The judgment the company has used in its TDAC study has not yet been subject to review in the record of DR 79-187, Phase II. In addition, the study is based on calendar year 1979 and is not specifically applicable to the test year in DR 81-87. For these reasons, the commission cannot adopt the company's TDAC study as the sole means of determining the allocation of increased revenues to class.

The commission finds that the allocation of the revenue increase to class must be based on a compromise that spreads the increase across all classes while heavily weighing the company's

TDAC study. By this means, the interclass subsidies will tend to be reduced, while leaving considerable room for error and for further refinements in DR 79-187, Phase II. In particular, the compromise means that the general service customers will receive a substantially lower percentage increase, that transmission general customers will receive a slightly higher percentage increase, and that outdoor lighting customers will receive the highest percentage increase. The compromise approved by the commission is specified in Table I, summary of rate changes, PSNH Tariff 25, and is based on an allocation of the revenue increase according to these percentages:

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

Residential	45%
General	4
Primary General	22
Transmission General	25
Outdoor Lighting	4

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

TABLE I – SUMMARY OF RATE CHANGES

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE TARIFF 25

Rate Class

Residential	
Rate D)	
General Service	
(Rate G)	
Primary General	
(Rate GV)	
Transmission General	
(Rate TR)	
Outdoor Lighting	
(Rate ML)	
Total	

Does not include 13,257 private area light customers already counted under other rates.

In addition to interclass subsidies, the company's TDAC study also indicated that serious intraclass subsidies exist. The commission is aware of the apparently severe intraclass subsidy in the general service class apparently due to the lower rates for space heating and uncontrolled water heating, and addresses that issue in the section on tariff provisions. For the residential class, the commission examined

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the TDAC study and data on 1980 class consumption and revenue filed by the company as a data response to PURPA staff data request, Set No. 4, Request 3, in DR 79-187, Phase II. Again, the commission determined that an across-the-board percentage increase was unacceptable. Based in part on the company's TDAC study, the commission finds that the increased revenues within the residential class should fall more heavily on the space heating customers and the uncontrolled water heating customers. There is no evidence to indicate that the lower rates for these subclasses substantially meet the objectives of rate design in today's environment. The

allocation of the revenue increase to the residential subclasses is designed to increase space-and water-heating subclass average revenues per kwh by approximately twice the increase of the power and light subclass average revenue per kwh. The subclass "other" does not include the categories which the commission feels should be exempted from the increase and is assigned an increase somewhere between the space heating and power and light increases. The allocation of increased revenues within, the residential class shall be based on the following percentages:

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

Power and Lighting	39%
Space Heating	35
Uncontrolled Water Heating	24
Other	2

### *C. Tariff Provisions*

The remaining issues in the design of rates under the temporary rate increase pertain to the review of the specific rates and terms of service and the assignment of the additional revenues to specific charges in the tariff. The assignment of revenues to particular charges cannot be completed without a detailed analysis of the billing determinants for those charges, followed in making those assignments can be specified. The commission has examined the existing tariff and other available information and has considered the many important objectives of rate making. The commission finds that the additional revenues from the temporary rate increase should be assigned in specific manners to the tariffs for the different classes, and that several changes in the terms and conditions of certain rates are required. The specific changes and revenue increase assignments approved by the commission are as follows:

#### *Residential*

1. Close out the space-heating rate and the G-option space-heating rate to new customers.
2. Close out the uncontrolled water heating rate to new customers.
3. Offer service to new space heating and uncontrolled water heating customers under the standard residential rate.
4. Do not apply any increase to the controlled water heating rate, the optional seasonal summer rate, the optional time-of-day off peak rate.
5. Assign the revenue increase to the energy charge portion of each rate.
6. For existing space heating customers, set the energy charge for the first block equal to the temporary residential energy charge.

#### *General Service*

1. Close out the space-heating rate to new customers.
2. Close out the uncontrolled water heating rate to new customers.
3. Offer service to new space heating and uncontrolled water heating customers under the standard general service rates.
4. Set the space heating rate energy charge equal to the energy charge for

the high use block under the residential space-heating rate, including G-option space heating taken by residential customers.

5. Set the uncontrolled water heating rate energy charge for all kilowatt-hours equal to the energy charge for residential uncontrolled water heating.

6. Do not assign any increase to the controlled water heating rate.

7. Assign any remaining revenue increase to the highest use block of the general service tariff, or apply any overcharge resulting from the above requirements to the two lowest use energy blocks of the tariff.

*Primary General Service*

1. Assign the entire increase to the energy charge by first eliminating the two-block differential and raising the resulting energy charge as needed.

*Transmission General Service*

1. Assign the increase on a mills per kilowatt-hour basis equally to all portions of the energy charges.

*Lighting Service*

1. Assign the increase to each element of the tariff on the basis of wattage.

These requirements are based on the commission's judgment as to the best means of furthering the objectives of rate design, including fairness and equity, efficiency, conservation, consistency and others. It is the judgment of the commission that the requirements are necessary and justified based on all the information available at this time. It is expected, however, that the final decision in DR 79-187, Phase II, based as it will be a complete and thorough record, will substantially improve upon these requirements. The rate design approved under the temporary rate increase represents a further preliminary step in implementing a new and updated rate design for the company. The decision in DR 79-187, Phase II to flatten the rates for residential service represented the first step.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that a new tariff for temporary rates as authorized in the aforementioned report, be filed to raise additional revenue in the sum of \$17,435,268 to become effective with all bills for services rendered on or after May 1, 1981; and it is

Further ordered, that the Public Service Company of New Hampshire shall file a bond pursuant to RSA 378:30 in such form and with such sureties, if any, as the commission may determine, to secure the repayment to the customers of the utility 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 Public Service Company of New Hampshire give public notice by

publication in a newspaper having general circulation in the territory served by the company in accordance with the tariff filing rules of this commission.

By order of the Public Utilities Commission of New Hampshire this first day of May, 1981.

FOOTNOTE

<sup>1</sup>Sponsored by Representative Barbara Bowler.

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NH.PUC\*05/04/81\*[78899]\*66 NH PUC 187\*Public Service Company of New Hampshire

[Go to End of 78899]

**Re Public Service Company of New Hampshire**

DF 81-76, Supplemental Order No. 14,878

66 NH PUC 187

New Hampshire Public Utilities Commission

May 4, 1981

PETITION for authority to issue or renew various forms of securities; granted

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 14,854, dated April 21, 1981 (66 NH PUC 151), issued in the above entitled proceeding, authorized Public Service Company of New Hampshire to issue and sell not exceeding 3 million shares of common stock, \$5 par value, subject to further order of this commission; and

Whereas, in compliance with said Order No. 14,854, the company has filed with this commission a certified copy of authorizing votes of its board of directors with respect to said common stock; and

Whereas, in compliance with said Order No. 14,854, 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 2.5 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 \$14,205 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 \$14,205 per share in cash 2.5 million shares of its common stock, \$5 par value, said stock to be sold at said price of \$14,205 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. 14,854 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 fourth day of May, 1981.

=====

NH.PUC\*05/05/81\*[78900]\*66 NH PUC 187\*Granite State Electric Company

[Go to End of 78900]

## Re Granite State Electric Company

DR 80-245, Supplemental Order No. 14,882

66 NH PUC 187

New Hampshire Public Utilities Commission

May 5, 1981

PETITION for authority to charge rates pursuant to revised tariff; granted.

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**Page 187**

APPEARANCES: Philip H. R. Cahill and Victoria A. Queeney for Granite State Electric Company.

BY THE COMMISSION:

Report

On December 1, 1980, Granite State Electric filed certain revisions of its tariff, NHPUC No. 8 — Electricity, providing for purchase power adjustments, W-3-C and W-3, as filed with the Federal Energy Regulatory Commission (FERC). On January 22, 1981, Granite State Electric amended its filing by letter in which it sought to reflect recent action taken by the FERC.

There are two FERC cases contained in this filing. The first, W-3-C, covers the estimated ongoing cost of Units 1, 2, and 3 at Brayton Point station. This rate has been approved by the FERC subject to further investigation and refund.

The Granite State Electric has been burning coal in Unit 1 since March. Unit 2 will be operational for coal during this quarter. Unit 3 will be operational for coal burning it, September.

Hearings were held at the commission on February 10 and 26, 1981. No other party appeared

except for staff.

These filings are allowed to become effective pending further investigation and possible refund. The W-3-C filing is for coal conversion. NEPCO has shown great leadership in converting to coal. Consumers in the various service territories have received the benefit of coal usage in reduced bills. While the W-3-C filing is based on estimates, actual data will be available before the FERC completes its investigation. Both the FERC and this commission will expect actual figures for purposes of reconciliation. However, because of this safeguard, the commission will allow the W-3-C filing to become effective on all bills rendered on or after April 30, 1981.

W-3 contains many aspects which are difficult to analyze in a purchasing power proceeding. Staff inquiries have raised some legitimate areas to explore. The commission believes the proper forums are Granite State Electric, pending the rate case DR 81-86 ([1981] 66 NH PUC 121) and the FERC docket from which these filings originate.

Because of the FERC approval, the commission will on a temporary basis allow the W-3 filing to become effective as of June 1, 1981, pending further investigation under bond and subject to refund. In DR 81-86, the commission will have the advantage of further information from the FERC, staff discovery and the record in this proceeding which is transferred and made a part of DR 81-86.

The commission is hopeful that the DR 81-86 investigation will yield the necessary regulatory tools to: (1) encourage NEPCO's excellent coal conversion program (2) provide greater data for purchase power adjustment hearings; (3) a thorough review of what are proper items of expense for inclusion in purchase power adjustments and what is proper for inclusion in basic rates; (4) a better understanding of all the factors that affect the customers of Granite State and Granite State itself; (5) honor all state regulatory statutes.

The commission also allows Granite State Electric to fold-in the same level of rates as was allowed PSNH in DR 79-187 ([1980] 65 NH PUC 251).

Both W-3 and W-3-C are to be applied to all customer classes including Outdoor Lighting Service Rate M. The commission and its staff have required this application to all rates in our past decisions. No customer can ever be excluded from paying the costs of a PPCA. As Granite State admits, this previous practice of theirs has caused an erosion of earnings which, depending on the month or year, has been borne by stockholders

**Page 188**

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or other ratepayer classifications.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report which is incorporated and made part of this order; it is hereby

Ordered, that Granite State Electric is given permission to collect rates pursuant to Original Page No. 16-I for its W-3-C filing on all bills rendered on or after April 30, 1981; and it is

Further ordered, that Granite State Electric is given permission to collect rates pursuant to the First Revised Page No. 16-I on all service rendered on or after June 1, 1981, pending further investigation, under bond and subject to refund; and it is

Further ordered, that the record in this proceeding is transferred and made a part of the proceedings and record in DR 81-86; and it is

Further ordered, that the PPCA must be applied to all customers and customer classifications evenly.

By order of the Public Utilities Commission of New Hampshire this fifth day of May, 1981.

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NH.PUC\*05/05/81\*[78901]\*66 NH PUC 189\*Fuel Adjustment Charge

[Go to End of 78901]

### **Re Fuel Adjustment Charge**

DR 81-63, Supplemental Order No. 14,883

66 NH PUC 189

New Hampshire Public Utilities Commission

May 5, 1981

ORDER authorizing fuel cost adjustment clause rate increase.

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BY THE COMMISSION:

Supplemental Order

Whereas, Order No. 14,867 was issued on April 29, 1981; and

Whereas, in said Order No. 14,867 ([1981] 66 NH PUC 164), it was ordered that the fuel adjustment charge of Granite State Electric Company would be issued in a supplemental order; it is hereby

Ordered; that 78th Revised Page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$3.81 per 100 kilowatt-hours for the month of May, 1981, be, and hereby is, permitted to become effective May 1, 1981; and it is

Further ordered, that bills submitted by Granite State Electric Company are to give effect to Order No. 14,882 ([1981] 66 NH PUC 187).

By order of the Public Utilities Commission of New Hampshire this fifth day of May, 1981.

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NH.PUC\*05/07/81\*[78902]\*66 NH PUC 189\*Continental Telephone Company of Maine

[Go to End of 78902]

## Re Continental Telephone Company of Maine

DR 81-126, Order No. 14,888

66 NH PUC 189

New Hampshire Public Utilities Commission

May 7, 1981

ORDER suspending a telephone utility's proposed rates.

-----  
**Page** 189

BY THE COMMISSION:

Order

Whereas, Continental Telephone Company of Maine, a public utility engaged in the business of supplying telephone service in the state of New Hampshire (East Conway and Chatham), on April 20, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 4 — Telephone, providing page revisions as shown in the attached letter, proposed to become effective June 10, 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 those revised pages listed in the attached letter which are proposed for tariff, NHPUC No. 4 — Telephone, of Continental Telephone Company of Maine, 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 May, 1981.

Mr. Vincent J. Iacopino State of New Hampshire Public Utilities Commission 8 Old Suncook Rd., Building 1 Concord, New Hampshire 03301

Dear Mr. Iacopino:

Enclosed for your review are eight copies of the following revised tariff pages for the Continental Telephone Company of New Hampshire/Maine general exchange tariff:

*Section 1*

Third Revised Sheet 1

*Section 2*

First Revised Sheet 1

Second Revised Sheet 2

First Revised Sheet 8

First Revised Sheet 15  
Third Revised Sheet 16  
*Section 3*  
Second Revised Sheet 1  
Third Revised Sheet 4  
Second Revised Sheet 6  
Second Revised Sheet 11  
*Section 4*  
Third Revised Sheet 3  
Fifth Revised Sheet 4  
*Section 5*  
Fourth Revised Contents  
First Revised Sheet 5  
Second Revised Sheet 6  
Second Revised Sheet 7  
First Revised Sheet 8  
Third Revised Sheet 9  
Fourth Revised Sheet 10  
Fourth Revised Sheet 11  
Fourth Revised Sheet 12  
Third Revised Sheet 13  
Third Revised Sheet 14  
Third Revised Sheet 15  
Second Revised Sheet 16  
First Revised Sheet 17  
Second Revised Sheet 18  
Second Revised Sheet 19  
Second Revised Sheet 20  
Second Revised Sheet 21  
Second Revised Sheet 22  
Second Revised Sheet 23  
*Section 6*

Third Revised Contents  
Third Revised Sheets 1-6  
*Section 6A*  
Contents  
Second Revised Sheets 1-9  
*Section 8*  
Third Revised Contents  
Fourth Revised Sheet 9  
*Section 100*  
Original Sheet 1-4

Recently Continental Telephone Company of Maine filed an application for an increase in rates with the Maine Public Utilities Commission. The purpose of this filing is to revise the tariff governing the exchanges of East Conway and Chatham, New Hampshire, which are served by Continental Telephone Company of Maine.

The rate application filed with the Maine commission provides for an overall increase in rates of 50 per cent with access lines being increased approximately

**Page 190**

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45 per cent. In addition to reflecting the rate application the enclosed pages also reflect the obsoleting of terminal equipment. (Re: Continental Telephone Company of New Hampshire tariff filing of December, 1980.) The proposed revisions have an issue date of May 1, 1981, and an effective date of June 19, 1981.

Please call if you have any questions.

Sincerely,

L. E. Beydler, Jr.

President

LB/dh

Enclosure

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NH.PUC\*05/07/81\*[78903]\*66 NH PUC 191\*Peter J. Landry

[Go to End of 78903]

**Re Peter J. Landry**

DE 81-125, Order No. 14,889

66 NH PUC 191

New Hampshire Public Utilities Commission

May 7, 1981

ORDER exempting a water system from regulation.

-----

BY THE COMMISSION:

Order

Whereas, Peter J. Landry, who operates a central water system furnishing water service in a limited area in the city of Laconia, by a petition filed April 15, 1981, seeks exemption from the provisions of RSA 362:4, as amended; and

Whereas, the petitioner states that he is now furnishing water to three customers, and has no immediate plans for expansion of his system to serve ten or more customers; 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 utility statutes be, and hereby is, granted to Peter J. Landry; and it is

Further ordered, that this commission shall be notified if at some future time the water system is expanded to serve ten or more customers.

By order of the Public Utilities Commission of New Hampshire this seventh day of May, 1981.

=====

NH.PUC\*05/07/81\*[78904]\*66 NH PUC 191\*Gas Service, Inc.

[Go to End of 78904]

### **Re Gas Service, Inc.**

DF 81-34, Supplemental Order No. 14,891

66 NH PUC 191

New Hampshire Public Utilities Commission

May 7, 1981

ORDER amending previous order on a gas utility's proposed debt financing plan.

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BY THE COMMISSION:

Supplemental Order

Whereas, on April 30, 1981, the commission issued its report (the "report") approving the financing proposed by Gas Service, Inc., and its Order No.14,873 (66 NH PUC 172), authorizing

the same ("Order No. 14,873"); and

Whereas, the report and Order No. 14,873 require minor revision; it is

Ordered, that the second through fifth paragraphs of Order No. 14,873 be revised to read as follows:

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Ordered, that the applicant, Gas Service, Inc., be, and hereby is, authorized to issue and sell at private sale, for cash, equal to the aggregate principal amount thereof, the applicant's first mortgage bonds, Series H, 16.5 per cent due May 1, 1996, in the aggregate principal amount of \$2 million, said bonds to be dated the date on which they are to be issued, to bear interest from such date at the rate of 16.5 per cent, to mature May 1, 1996, to provide for amortization prior to maturity of 91 per cent of the original principal amount thereof by application of annual sinking fund payments equal in aggregate amount to 9.09 per cent of the original principal amount thereof commencing on May 1, 1986, with a noncumulative option to double the amount of the sinking fund payments without reducing the amount of subsequent mandatory sinking fund payments, provided that the aggregate amount of Series H bonds retired by voluntary sinking fund payments does not exceed \$500,000, and to be otherwise as provided in, and to be issued under, and to be secured by, the indenture of mortgage and deed of trust dated as of February 1, 1959, by and between the applicant and the Second National Bank of Nashua, trustee (the "original indenture of mortgage"), as heretofore supplemented and amended (the original indenture of mortgage as so supplemented and amended being hereafter called the "amended indenture of mortgage"), under which all of the applicant's outstanding bonds have been issued and by which all of said bonds are secured, and as further supplemented by the following mentioned eighth supplemental indenture (the "eighth supplemental indenture") to be made by the applicant to Bank of New Hampshire, into which said Second National Bank of Nashua was merged effective November 28, 1969; and it is

Further ordered, that Gas Service, Inc., be, and hereby is, authorized to mortgage all of the applicant's property, real, personal, and mixed, tangible and intangible, including franchises and after-acquired property other than property of the kind specifically reserved, excepted and excluded from the amended indenture of mortgage ("excepted property") as security for the-payment of the Series H bonds and all other bonds issued heretofore or hereafter with the approval of this commission under the original indenture of mortgage as supplemented and amended heretofore hereafter with the approval of this commission, all in and by, and as provided in, the amended indenture of mortgage as supplemented by the eighth supplemental indenture; and it is

Further ordered, that Gas Service, Inc., be, and hereby is, authorized to make, execute, and deliver to Bank of New Hampshire, National Association, as trustee, an eighth supplemental indenture dated as of date in 1981, to be designated by the applicant providing for the creation of the Series H bonds and mortgaging, and confirming the lien of the amended indenture of mortgage on, the aforesaid property as security as aforesaid; and it is

Further ordered, that Gas Service, Inc., be, and hereby is, authorized to issue and sell at private sale, for cash equal to the aggregate par value thereof — i.e., \$1 million — 10,000 shares

of 15.5 per cent cumulative preferred stock, \$100 Par Value, Series B (the "Series B preferred stock") represented by certificates dated when issued, the rights, powers, and preferences of which, and the qualifications, limitations, and restrictions of which, will be as provided in the stockholders' resolutions of April 16, 1981, filed by Gas Service, Inc., with the commission; and it is

Further ordered, that the proceeds of the issuance and sale of the Series H

**Page 192**

Bonds and the Series B preferred stock shall be applied toward payment of the applicant's short term indebtedness to banks for borrowed money and, to the extent, if any, not required therefore, for the applicant's lawful corporate purposes; and it is

Further ordered that the report be, and it hereby is, revised in conformity with Order No. 14,873, as hereby revised.

By order of the Public Utilities Commission of New Hampshire this seventh day of May, 1981.

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NH.PUC\*05/08/81\*[78905]\*66 NH PUC 193\*Classic Cut v New England Telephone and Telegraph Company

[Go to End of 78905]

## **Classic Cut v New England Telephone and Telegraph Company**

DC 81-127, Order No. 14,893

66 NH PUC 193

New Hampshire Public Utilities Commission

May 8, 1981

ORDER instituting an investigation into alleged irregularities in commercial telephone service.

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BY THE COMMISSION:

Order

Whereas, the commission has received a letter from a commercial telephone customer, the Classic Cut; and

Whereas, that letter sets forth certain alleged irregularities that may have caused inconvenience and loss of business; and

Whereas, based on the above, the commission believes a formal investigation is necessary to determine whether any tariff violations, injustices, or unreasonableness has occurred; it is hereby

Ordered, that docket DC 81-127 is opened for purposes of resolving this apparent problem.

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

1981.

=====

NH.PUC\*05/08/81\*[78906]\*66 NH PUC 194\*Kearsarge Telephone Company

[Go to End of 78906]

**Re Kearsarge Telephone Company**

DF 74-229, Second Supplemental Order No. 14,894

66 NH PUC 194

New Hampshire Public Utilities Commission

May 8, 1981

ORDER authorizing a telephone utility to issue secured promissory notes.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 11,705, dated January 15, 1980, authorized Kearsarge Telephone Company to issue its secured promissory notes in the aggregate principal amount of \$2,709,000; and

Whereas, the secured promissory notes with the Rural Telephone Bank provided for advances to be drawn down prior to May 16, 1981, in the amount of \$2,103,000; and

Whereas, Kearsarge Telephone Company has a balance of \$631,000 for advances for construction outstanding and has obtained approval from the Rural Telephone Bank to extend the advances for a period of three years after the date of the proposed agreement; and

Whereas, the construction note in the amount of \$2,103,000 which was previously authorized by the commission is the same indebtedness covered by the previous agreement with the Rural Telephone; it is

Ordered, that Kearsarge Telephone Company, be, and hereby is, authorized to issue the secured promissory notes from time to time up to and including a period three years from the date of the agreement with the Rural Telephone Bank; and it is

Further ordered, that on January 1st and July 1st of each year, Kearsarge Telephone Company shall file with this commission a detailed statement, sworn to by its treasurer, showing the disposition of the proceeds of said notes until the whole of said proceeds shall be fully accounted for.

By order of the Public Utilities Commission of New Hampshire this eleventh day of May, 1981.

=====

NH.PUC\*05/13/81\*[78907]\*66 NH PUC 195\*Woodhaven Acres Residents v Public Service Company of New Hampshire

[Go to End of 78907]

**Woodhaven Acres Residents v Public Service Company of New  
Hampshire**

DC 81-129, Order No. 14,896

66 NH PUC 195

New Hampshire Public Utilities Commission

May 13, 1981

ORDER instituting an investigation of alleged price discrimination resulting from an electric utility's billing practices.

-----

BY THE COMMISSION:

Order

Whereas, the commission has received a petition from all the residents of Woodhaven Acres housing development in Goffstown, New Hampshire; and

Whereas, said petition alleges that the electric bills for the Woodhaven Acres housing development are exorbitantly high in comparison to similar cases of electricity usage in Manchester, Pinardville, and other parts of Goffstown; it is hereby

Ordered, that docket DC 81-129 is opened for purposes of investigating this complaint; and it is

Further ordered, that Public Service Company of New Hampshire respond to this complaint within the next three weeks.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of May, 1981.

=====

NH.PUC\*05/13/81\*[78908]\*66 NH PUC 195\*Granite State Electric Company

[Go to End of 78908]

**Re Granite State Electric Company**

DR 81-86, Supplemental Order No. 14,897

66 NH PUC 195

New Hampshire Public Utilities Commission

May 13, 1981

ORDER approving an electric utility's temporary rates.

-----  
BY THE COMMISSION:

Supplemental Order

Whereas, Granite State Electric Company presented testimony on May 13, 1981, on its need for temporary rates based on RSA 378:27; and

Whereas, Granite State Electric Company seeks to have their current rates made temporary on all service rendered after the date of this order; and

Whereas, no intervenors objected to the implementation of temporary rates; and

**Page 195**

Whereas the commission finds that Granite State Electric Company has satisfied its burden of proof pursuant to RSA 378:27; it is hereby

Ordered, that Granite State Electric Company's current rates are made temporary effective with all service rendered on or after May 13, 1981; and it is

Further ordered, that the following procedural schedule will be adopted for the purposes of disposing of this case:

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

Hearing on temporary rates	May 13, 1981
Deadline to submit data requests	June 1, 1981
Deadline to answer data requests	June 22, 1981
Hearing on company's testimony	July 1, and 2, 1981
	- 10:00 A.M.
Staff and intervenors file testimony	July 15, 1981
Deadline to submit data requests	July 31, 1981

By order of the Public Utilities Commission of New Hampshire this thirteenth day of May, 1981.

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NH.PUC\*05/14/81\*[78909]\*66 NH PUC 196\*Northern Utilities, Inc.

[Go to End of 78909]

**Re Northern Utilities, Inc.**

DR 80-104, Supplemental Order No. 14,898

66 NH PUC 196

New Hampshire Public Utilities Commission

May 14, 1981

ORDER rejecting filed tariffs and providing for a refund of overcollected revenues.  
-----

## BY THE COMMISSION:

## Supplemental Order

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

Ordered, that 13th Revised Page 23, 12th Revised Page 25, 11th Revised Page 27, Seventh Revised Page 30, Fifth Revised Page 31, and Ninth Revised Page 32, be, and hereby are, rejected; and it is

Further ordered, that 14th Revised Page 23, 13th Revised' Page 25, 12th Revised Page 27, Eighth Revised Page 30, Sixth Revised Page 31, and Tenth Revised Page 32 be filed with this commission, said pages designed to collect additional revenues of \$291,173; and it is

Further ordered, that, upon consideration of this commission, a refund of the money collected, according to RSA 378:6, by Northern Utilities, Inc., over and above that level approved within this order, be refunded with interest at a rate as explained in the attached report; and it is

Further ordered, that the refundable amount be returned to Northern Utilities, Inc.'s customers within reasonable time constraints via a just method, taking all parties rights into consideration, and that this time constraint and method will be presented to, and approved by, this commission

Page 196

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within two weeks of this order's approval; and it is

Further ordered, that Northern Utilities, Inc., supply documentation, to this commission, in support of the amount needed to recoup rate case expense; and it is

Further ordered, that upon conformation by this commission of the cost of rate case expense, that amount be equally distributed to all customer classes through a surcharge over a three year period; and it is

Further ordered, that Northern Utilities, Inc., prepare or have prepared, a cost-of-service study, copies of said study to be furnished to this commission; and it is

Further ordered, that such study be completed before any additional rate filing is made by Northern Utilities, Inc.; and it is

Further ordered, that public notice be given by one-time publication of a summary of this order in each of two newspapers widely read in the areas served with an appropriate affidavit filed with the commission attesting to such notice; and it is

Further ordered, that tariff, NHPUC No. 6 — Gas, Supplement No. 15, original Page 1 be discontinued and that a revised tariff page be filed with the commission that reflects the changes as issued in this Report and Order.

The Secretary of the Commission is hereby directed to issue the above order this fourteenth day of May, 1981.

=====

NH.PUC\*05/15/81\*[78910]\*66 NH PUC 197\*Pittsfield Aqueduct Company

[Go to End of 78910]

**Re Pittsfield Aqueduct Company**

DR 80-125, Third Supplemental Order No. 14,899

66 NH PUC 197

New Hampshire Public Utilities Commission

May 15, 1981

ORDER denying a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing and other relief filed for, and on behalf of Pittsfield Aqueduct Company, for a rehearing on the commission's decision in report and Supplemental order No. 14,660 dated January 12, 1981 (66 NH PUC 13), Second Supplemental Order No. 14,732 dated February 23, 1981 (66 NH PUC 67), and a letter to the petitioner dated April 20, 1981; 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 said motion for rehearing and other relief filed for, and on behalf of, Pittsfield Aqueduct Company, dated May 11, 1981, be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of May, 1981.

=====

NH.PUC\*05/18/81\*[78911]\*66 NH PUC 198\*Cathy Wombolt v Manchester Gas Company

[Go to End of 78911]

**Cathy Wombolt v Manchester Gas Company**

DC 81-102, Order No. 14,902

66 NH PUC 198

New Hampshire Public Utilities Commission

May 18, 1981

INVESTIGATION into complaints concerning the collection practices of a gas utility.

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APPEARANCES: Daniel F. Lyman for Manchester Gas Company; Peter Wright for Cathy Wombolt.

BY THE COMMISSION:

Report

The proceeding was initiated by the New Hampshire Legal Assistance office by letter dated April 4, 1981, on behalf of Cathy Wombolt, 271 Auburn Street, Manchester, New Hampshire, and Arthur Miller, 65 Laurel Street, Manchester, New Hampshire, who requested that this commission:

1. Investigate the aforementioned collection actions of Manchester Gas Company, pursuant to RSA 356.4
2. Schedule a hearing on this matter as soon as possible.

New Hampshire Legal Assistance further felt that Manchester Gas should be ordered to cease and desist from the following in order to be in compliance with PUC regulations and to protect their customers from misleading collection procedures:

(a) Communicating or threatening orally or in any written form that termination is imminent when such termination would be illegal under the rules of the New Hampshire Public Utilities Commission.

(b) Creating the impression or implication that termination is imminent by either direct communication, oral or written, or by a combination of actions and/or communications when such termination would be illegal under the rules of the New Hampshire Public Utilities commission.

(c) Demanding payment by any deadline either in writing or orally, unless termination of service can be legally accomplished on the deadline date given.

(d) Demanding payment either in writing or orally, unless such communication includes:

- (1) Such information that clearly states the demand is not a notice of termination.
- (2) A statement adequately outlining the customer's rights as has been set out by the New Hampshire Public Utilities Commission.

(e) Visiting customers' homes to inquire about collect or demand payments without calling the customer prior to the propose visit.

Finally, NHLA requests relief pursuant to RSA 365.41 and RSA 365.42.

This commission scheduled a public hearing on the matter for April 28, 1981, at 10:00 A.M.. Docket DC 81-102 was assigned the matter relative to Cathy Wombolt. Docket DC 81-103 was assigned the matter relative to Arthur Miller.

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At the hearing attorney Peter Wright, for NHLA, announced that the matter involving Arthur Miller had been resolved by the parties.

In the matter regarding Cathy Wombolt NHLA presented Cathy Wombolt as a witness.

Manchester Gas Company presented Stanley Shepard, credit manager.

Mrs. Wombolt testified that she had been sent a gas bill, dated December 16, 1980, in the amount of \$146.79. That bill included an arrearage of \$66.75 which was unpaid from the previous two months. On January 9, 1981, she found a doorknob notice advising that the company had attempted to contact her regarding her past-due account. She called Mr. Shepard who insisted that the arrearage had to be paid by January 15, 1981. She advised him that her family was eligible for energy assistance from the Home Energy Assistance Program (HEAP), on January 30, 1981. Mr. Shepard told her he could not wait until the 30th and she would have to pay the \$66.75 by January 15, 1981.

Mrs. Wombolt was able to expedite the HEAP meeting to January 12, 1981 but was informed the processing of the money would not be completed by January 15th. Mr. Shepard reaffirmed that the \$66.75 had to be paid by January 15th.

Mrs. Wombolt called Mr. Mattice, this commission's consumer assistant director. Mr. Mattice explained that the commission's winter termination rules prohibited the company from terminating service when arrearages totaled less than \$175. Mrs. Wombolt again called Mr. Shepard. He told her the reason someone was sent to her house was to have bills paid before they get too far behind and that she did not have to pay the \$66.75 by January 15, 1981.

Mrs. Wombolt subsequently received the HEAP assistance and paid the total gas bill.

Mr. Shepard testified that he does not remember any conversations with Mrs. Wombolt. He indicated that there is no significance to the January 15th date and that he would have had no reason to quote that date to her. His company recognizes its responsibilities under the winter termination rules. He also pointed out that the company specifically blocked out any reference to termination procedures when the doorknob notice was placed at Mrs. Wombolt's premises. No disconnect notices had been sent to Mrs. Wombolt, and in fact, during the winter period the company's policy is to refrain from sending *any* disconnect notices until \$175 arrears accumulate. During the period, however, the company collectors visit each customer to encourage them to pay their bills.

Upon consideration of the letter, affidavits, and testimony of both parties, the commission is satisfied that the company did not violate the commission's rules and regulations prescribing the procedures for termination during the winter period. Our rules do not prevent the company from sending representatives to make personal visits in an attempt to collect bills. The company has, in fact, established for itself a policy of not sending any disconnect notices to customers during the winter period — a policy which is more permissible than the commission rules require.

We cannot find that the company threatened Mrs. Wombolt that termination was imminent, or that the company's procedures were illegal. We do not find violations which justify relief pursuant to RSA 365:41 and RSA 365:42.

We do find, however, that the company created the impression that termination was imminent. Clearly, when a company representative makes a personal visit to a customer to request payment of a bill, that customer is left with the impression that termination will result if a bill is not paid.

The record is unclear as to whether a specific "pay by date" was given to the customer. Mrs. Wombolt clearly remembers such a date and refers us to conversations with our Mr. Mattice and Southern New Hampshire Services in response to that date. Mr. Shepard remembers giving no such date, but can offer no concrete assurance that such a date was not given, except that "it would make no sense to have done so." On the basis that Mrs. Wombolt's recollections are better documented than Mr. Shepard's, we will accept that a specific date was set.

The commission will require that the company establish procedures to assure that the policy of mandating "pay by" dates will be restricted to those situations where authorized termination of service on the stated date is actually warranted. We will further require that the company establish procedures to more accurately explain to visited customers the reasons for the collection visit and the actions — or lack of actions — which will result from the customer's failure to respond to those visits.

We will not find that the company should discontinue its policy of having collectors make personal visits to customers, and will not find, as NHLA requests, that the company should notify customers prior to a proposed visit.

Our Order will issue accordingly.

Order

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

Ordered, that the Manchester Gas Company establish procedures which will assure that the policy of mandating "pay by" dates will be restricted to these situations where authorized termination of service on the stated date is actually warranted; and it is

Further ordered, that the company establish procedures to more accurately explain to visited customers the reasons for the collection visits and the actions which will result from the customer's failure to respond to these visits.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of May, 1981.

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NH.PUC\*05/20/81\*[78912]\*66 NH PUC 200\*Public Service Company of New Hampshire

[Go to End of 78912]

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

DR 81-87, Second Supplemental Order No. 14,906

66 NH PUC 200

New Hampshire Public Utilities Commission

May 20, 1981

ORDER implementing the close-out of uncontrolled water-heating and space-heating rates.

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BY THE COMMISSION:

Order

Whereas, commission Order No. 14,877 directed the close-out of the uncontrolled water-heating and the space-heating rates of both the residential and general service classes; and

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Whereas, the commission recognizes such close-out requires gradual implementation to allow completion of projects now planned, or being constructed, which are committed to such services; it is

Ordered, that Public Service Company of New Hampshire accept only those signed applications for uncontrolled water-heating or space-heating service received through October 1, 1981; and it is

Further ordered, that applications for such services received after that date be rejected, with energy requirements met by other approved services; and it is

Further ordered, that tariff, NHPUC No. 24-A of Public Service Company of New Hampshire be, and hereby is, approved for effect with service taken on or after May 1, 1981.

By order of the Public Utilities Commission of New Hampshire this twentieth day of May, 1981.

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NH.PUC\*05/21/81\*[78913]\*66 NH PUC 201\*Fuel Adjustment Charge

[Go to End of 78913]

## **Re Fuel Adjustment Charge**

Intervenors: Public Service Company of New Hampshire, Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, Woodsville Water and Light Department, and Granite State Electric Company

DR 81-108, Order No. 14,911

66 NH PUC 201

New Hampshire Public Utilities Commission

May 21, 1981

PETITION by electric utilities for approval of monthly fuel adjustment surcharges; granted.

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APPEARANCES: Eaton W. Tarbell for Public Service Company of New Hampshire.

BY THE COMMISSION:

## Report

Pursuant to RSA 378:3-a(II), the commission, on May 20, 1981, 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, 1981, monthly billings to their customers at a constant rate for regular April, May, and June, 1981, billings pursuant to its tariff, NHPUC No. 24 — 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.

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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 May 18, 1981, the company filed with the commission, their affidavits and Exhs 1 through 8 showing actual financial and electrical data through the month ended April 30, 1981 schedules showing maintenance day outages at the company's generating units and major entitlement units for April, 1981, the reasons for unscheduled outages, and the fuel data sheets for the period ending April 30, 1981.

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. No such request was made, but all parties reserved their rights of cross-examination on the reconciling adjustment until the June, 1981, hearing.

Based upon all the affidavits and evidence in the record of this proceeding and the aforementioned orders, the commission finds that the fuel adjustment charge as approved for April and May, 1981, of \$2.67 per 100 kilowatt-hours is just and reasonable for June, 1981.

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 12th Revised Pages 23 and 24 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly estimated fuel adjustment clause of \$2.67 per 100 kilowatt-hours for the month of June, 1981, be, and hereby is, permitted to become effective June 1, 1981; and it is

Further ordered, that 71st Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge of \$2.48 per 100 kilowatt-hours for the month of June, 1981, be, and hereby is, permitted to become effective June 1, 1981; and it is

Further ordered, that Eighth Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$2.70 per 100 kilowatt-hours for the month of June, 1981, be, and hereby is, permitted to become effective

June 1, 1981; and it is

Further ordered, that 50th Revised page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for a monthly fuel surcharge of \$1.05 per 100 kilowatt-hours for the month of June, 1981, be, and hereby is, denied; and it is

Further ordered, that if Connecticut Valley Electric Company, Inc., wishes to revise its fuel adjustment calculation to include energy charges billed to it by small energy producers, the company should make a formal filing and appear at a regularly scheduled commission hearing in which the company would be able to present its case and be available for cross-examination, rebuttal testimony, etc.; and it is

Further ordered, that 51st Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, be filed, providing for a monthly fuel surcharge of 90 cents per 100 kilowatt-hours for the month of June, 1981, which will be permitted to become effective June 1, 1981; and it is

Further ordered, that third Revised Page 15 of New Hampshire Electric cooperative, Inc., tariff, NHPUC No. 10 — electricity, providing for the monthly fuel surcharge of \$2.79 per 100 kilowatt-hours net of refunds for the month of June, 1981, be, and hereby is, permitted to become effective June 1, 1981; and it is

Further ordered, that Fifth Revised

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page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$3.75 per 100 kilowatt-hours net of the Public Service Company of New Hampshire refund for the month of June, 1981, be, and hereby is, permitted to become effective June 1, 1981; and it is

Further ordered, that 89th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$2.32 per 100 kilowatt-hours for the month of June, 1981, be, and hereby is, permitted to become effective June 1, 1981; and it is

Further ordered, that 55th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a credit to the monthly fuel surcharge of \$0.20 per 100 kilowatt-hours for the month of June, 1981, be, and hereby is, permitted to become effective June 1, 1981; and it is

Further ordered, that 78th Revised page 15-A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for a monthly fuel surcharge of \$3.81 per 100 kilowatt-hours for the month of June, 1981, be, and hereby is, permitted to become effective June 1, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of May, 1981.

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NH.PUC\*05/22/81\*[78914]\*66 NH PUC 203\*Exeter and Hampton Electric Company

[Go to End of 78914]

## **Re Exeter and Hampton Electric Company**

Intervenors: Legislative Utility Consumers' Council

DR 81-32, supplemental Order No. 14,913

66 NH PUC 203

New Hampshire Public Utilities Commission

May 22, 1981

PETITION electric company for increase in rates and charges; granted as modified.

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1. RATES, § 39 — Procedural matters affecting commission's powers — Discretion to shorten period between rate cases — Factors considered.

[N.H.] Although, according to statute, the commission was not required to investigate any rate matter investigated previously within the preceding two years, it could exercise its discretion to do so based on the following: the test period used, the regulatory time used, the date of the final order, the number of test-year pro forma adjustments and the length of time they covered, and the attrition allowance used in the last proceeding rule making changes designed to alleviate attrition and adjustments in fuel clauses allowed in the interim; initiatives to lower costs through efficiency measures; events beyond the company's control which improved or worsened earnings; the company's size; and other factors. p. 204.

2. RATES, § 39 — Procedural matters affecting commission's powers — discretion to shorten period between rate cases — Application of factors.

[N.H.] Where the length of time between an electric company's rate proceeding and its last rate order was less than the statutorily required period, the commission found that it should exercise its discretion to hear the case

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because (1) the last test year had been nearly two and one-half years earlier, (2) the last rate case had been extraordinarily complex and time consuming, (3) the number of pro forma adjustments to the test year were small in number and short in duration beyond the test year, and (4) a 20 per cent reduction in total number of employees had occurred. p. 204.

3. EXPENSES, § 9 — Post-test-year adjustments — Wage Increase

[N.H.] In view of its policy of permitting only known and measureable wage expense adjustments beyond the test year, the commission, rather than accept an adjustment based on estimated data, permitted a second step increase to rates six months from the effective date of the wage increase on the condition that it would be applied only to the number of positions existing

at the time of the rate proceeding. p. 206.

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APPEARANCES: Warren Nighswander for Exeter and Hampton Electric Company, Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On February 18, 1981, Exeter and Hampton Electric Company (hereinafter, "Exeter and Hampton" or "the company") filed for an increase of \$447,758 on an annual basis or 2 per cent. Order No. 14,760 ([1981] 66 NH PUC 71) issued by the commission suspended the tariff filing pending investigation. A public hearing was held on April 6, 1981.

The filing reflects two distinct areas of concern. The first involves an increase of \$49,914 which was approved by the commission's Eighth Supplemental order No. 14,641 in DR 79-91 ([1980] 65 NH PUC 648). No party disputes this amount or its calculation and the commission accepts this portion of the filing. The remainder is in controversy.

The company seeks to adjust the level of its rates based on increases in payroll, payroll tax, pension and property taxes.

#### *I. Statutory Concerns*

[1, 2] The Legislative Utility Consumers' Council (LUCC) requests that the commission find against the utility based on RSA 378:7. In particular, the following statutory language is cited. "The commission shall be under no obligation to investigate any rate matter which it has investigated within a period of two years but may do so within said period at its discretion." The arguments offered by the LUCC that by acting upon a case within two years the commission will be using scarce administration resources inefficiently and provide a disincentive for the company to operate efficiently.

The concerns expressed by the LUCC are valid. This commission has recently rejected a rate request by Gas Service, Inc., which was submitted within six months of our most recent decision involving Gas Service. Gas Service has taken that case on appeal (supreme court Docket No. 80-424). The commission does have discretion and certain factors must be used in exercising other discretion so that the commission is neither arbitrary nor unreasonable.

Factors that are considered by the commission in operating under RSA 378:7 are as follows: (1) the test year period used in the last rate proceeding; (2) the regulatory time used in disposing of the last rate proceeding; (3) the date of issuance of the final report and order in the last proceeding; (4) the number of pro forma adjustments to the test year in the last rate proceeding; (5) the length of time covered by the pro forma adjustments in the last proceeding; (6) the attrition allowance allowed in the last proceeding; (7) interim measures such as rule-making changes designed to alleviate attrition; (8) Alterations or adjustments in adjustment clauses such as for

fuel, cost of gas, and purchase power allowed in the interim; (9) company initiatives to lower costs through efficiency measures; (10) events beyond the control of the company which have worsened or improved earnings; (11) the company's size; and (12) other factors.

Applying this criteria to Exeter and Hampton, the commission finds that the last test year was 1978, nearly 2.5 years ago. The last rate case was extraordinarily complex and time consuming. The number of pro forma adjustments to the 1978 test year were comparatively small in number and short in terms of duration beyond 1978. Exhibit 5 reveals a 20 per cent reduction in the total number of employees. This is in sharp contrast to other utilities that have appeared before the commission. See *Re Public Service Company of New Hampshire* (1981) 66 NH PUC 26. Based on these factors, the commission will exercise its discretion and decide the case.

## *II. Property Taxes*

The commission has found that cities and towns in New Hampshire have recently chosen to increase the tax burden on utilities at a rate far in excess of the inflation rate or any other economic measure. *Re Public Service Co. of New Hampshire* (1980) 65 NH PUC 142. The commission has uniformly allowed pro forma adjustments for actual property taxes. *Re Hanover Water Works Co.* (1979) 64 NH PUC 480, 483.

As the commission noted in *Re Union Teleph. Co.* (1979) 64 NH PUC 434, 446:

"The commission refuses to accept any adjustments based on estimated taxes because of its experience in *Re Concord Electric Co.* (1978) 63 NH PUC 240, and *Re Concord Nat. Gas Corp.* (1978) 63 NH PUC 303. In both of these cases, despite trends similar to those put forth by both staff and the company, actual property taxes for the year following the test year are substantially lower than for the test year. The commission has traditionally rejected the use of estimated property taxes and instead has opted for property taxes actually incurred."

Exeter and Hampton seeks to have the commission accept an estimated property tax adjustment. The LUCG cites our attention to our past rulings that allow only for known or measurable changes to test year expenses. The commission has, in the past, uniformly rejected estimated property taxes. *Re Union Teleph. Co.* (1979) 64 NH PUC 434, 446; *Re Hanover Water Works Co.* (1979) 64 NH PUC 480, 483; *Re Concord Nat. Gas Corp.* (1978) 63 NH PUC 303, 312. The facts presented in this case do not mandate a departure from this established principle.

The commission staff has endeavored to contact each of the towns that Exeter and Hampton serves in an effort to discover how close each is to an actual tax billing. The results of that effort reveal the usual practice of reevaluating the value of the land in the respective towns together with the tax rate. The issue of reevaluation was raised at the hearings. (Transcript pp. 50-53.) Staff's discovery that both the value of the property and fixtures, together with the tax rate, are both subject to change, reinforce the commissions concerns as was noted in *Re Concord Nat. Gas Corp.* (1978) 63 NH PUC 303, 312. A reevaluation can lead to a lowering of taxes.

The property tax adjustment requested by Exeter and Hampton is \$71,728. Exhibit 1 reveals property taxes of \$416,272 in 1978, \$422,876 in 1980 or a change of \$6,604. The remaining \$65,124 is based on an estimate for 1981. The commission rejects this estimate as not having the necessary actual foundation. Instead the commission will adhere to its traditional practice of allowing only known property

taxes and will thus allow an adjustment of \$6,604.

### *III. Payroll Expense*

[3] Exeter and Hampton seeks an adjustment for payroll expense of \$233,100. This figure is the difference between the 1978 payroll and the estimated payroll for 1981. The LUCC objects to the portion of these expenses that are based on estimates and contends that only actual expenses be allowed.

The commission has ardently followed the policy of allowing known and measurable changes. To the extent that test year figures can be accurately pro forma to reflect *established* and *current* changes in revenues or expenses, modification of test year figures is considered appropriate. *Public Service Co. of New Hampshire v New Hampshire* (1959) 102 NH 150, 30 PUR3d 61, 72, 153 A2d 80.

The figures submitted for 1981 are estimates. Furthermore, there is validity to the LUCC argument that the price for electrical usage in May should not reflect the cost of a wage increase awarded between one and three months later.

The commission has recognized wage adjustments for outside a test year, but only when they have been known and measurable. *Re Exter & Hampton Electric Co.* (1980) 65 NH PUC 648. However, the commission is cognizant of the potential for attrition resulting from increased payroll expense; a major expense item. The commission has recently allowed a second step increase to rates six months from the date of the wage increase effective date.<sup>1(22)</sup> Not only does this procedure provide an actual rather than estimated data, but also there is a more proper matching of revenues and expenses.

This method is not perfect, however, because it may encourage unreasonable hiring practices. To guard against the potential of this problem, the commission will allow a wage adjustment six months from its inception with the condition that it only will be applied to the existing 102 positions shown on exhibits in this proceeding. The commission will allow such an adjustment for the 1981 wage increase, because the contract has been negotiated and Exeter and Hampton has demonstrated the proper management practice of cutting expenses due to increased inflation and stagnant sales.

The commission will allow the expense increase that has occurred from the adjusted 1978 test-year levels, or \$148,030.

### *IV. Payroll Tax*

The company has sought an increase of \$26,250 associated with payroll taxes. The same concerns as to actual versus estimated and proper matching of revenues and expenses are present with this proposed adjustment as well. The commission will allow only the increase experienced through 1980 or \$15,509. The payroll tax associated with the 1981 wage increase will be deferred for the same six-month time period. This will allow recognition of only actual expenses and again will be restricted to the payroll tax increase associated with the positions shown for February, 1981 on Exh 5.

### *V. Pension Expense*

The commission will allow the increased pension expense through 1980 of \$59,359. The commission will defer recognition of any increases in pension expenses beyond 1980 level until the second

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step increase allowed six months from the wage adjustment.

### *VI. Conclusion*

The amount requested of \$446,695 had \$49,914 that was not disputed having arisen from our decision in DR 79-91 (65 NH PUC 648). The remaining \$396,781 was in dispute. Of this level, the commission will allow an increase of \$229,502. The estimated expenses for 1981 will not be presently allowed. However, a second step increase will be recognized six months from the date of the wage increase pursuant to the conditions discussed in this report.

### *VII. Rate Structure*

The company in its filing proposed to allocate the rate increase on a per kilowatt-hour basis to all customer classes. The reduced level of increase provided is to be allocated on a uniform per kilowatt-hour basis, as well as with the exception that no increase is to be applied to sodium vapor streetlights.

Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that Second Revised Pages 23, 24, 25, 29, 36, and 38; and Third Revised Pages 20, 21, 31, 32, and 34 of the Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, be, and hereby are, rejected; and it is

Further ordered, that Exeter and Hampton Electric Company file with this commission Third Revised Pages 23, 24, 25, 29, 36, and 38; and Fourth Revised Pages 20, 21, 31, 32, and 34 in lieu of those rejected, said pages designed to collect increased revenues in the amount of \$279,416, \$49,914 of which had been approved earlier by Order No. 14,641; and it is

Further ordered, that such increases be applied to energy charges in the manner proposed in rejected pages; and it is

Further ordered, that none of the allowed increase be applied to rates for high pressure sodium Vapor lamps in the OL class; and it is

Further ordered, that the increases specified herein become effective with all bills rendered on or after May 18, 1981; and it is

Further ordered, that Exeter and Hampton Electric Company file with the commission those revisions specified within the attached report to become effective six months from the date of this order.

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

May, 1981.

FOOTNOTE

<sup>1</sup>Re Public Service Co. of New Hampshire (1980) 65 NH PUC 650.

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NH.PUC\*05/26/81\*[78915]\*66 NH PUC 208\*New Hampshire Electric Cooperative, Inc.

[Go to End of 78915]

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

Intervenors: Community Action Program and Cooperative Members for Responsible Investment.

DF 81-52, Supplemental Order No. 14,918

66 NH PUC 208

New Hampshire Public Utilities Commission

May 26 1981

MOTION by an electric cooperative for rehearing of order approving purchase of an interest in a nuclear plant; denied.

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1. PROCEDURE, § 23 — Hearing and notice — Sufficiency of notice — Publication.

[N.H.] The commission found that due process did not require publication of notice in a newsletter distributed to cooperative members but recognized the continuing validity of notice in a newspaper of general circulation as it allowed for a uniform standard to all utilities. p. 208.

2. ELECTRICITY, § 3 — Generating plants — Plant ownership versus purchase of power — Determination of the public interest.

[N.H.] The commission incorporated by reference its earlier decision that the public interest of a cooperative and its consumers would be furthered by the purchase of an interest in a nuclear plant in view of the favorable terms at which the cooperative could secure an interest rather than purchase power from the plant through another utility. p. 209.

3. PROCEDURE, § 30 — Disposal of issues — Findings — Consideration of issues evinced by record.

[N.H.] An allegation that an intervenor's comments were not considered by the commission prior to rendering its initial decision was rejected by the commission where, even though the intervenor had filed its comments out of time, the record clearly demonstrated that the commission, rather than deny due process because of a technical violation had addressed issues raised in the comments. p. 209.

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APPEARANCES: Mayland Morse for the cooperative; Michael Conklin for the cooperative Members for Responsible Investment; Gerald Eaton for Community Action Program.

BY THE COMMISSION:

Report

On May 4, 1981, the Cooperative Members for Responsible Investment (CMRI) filed a motion for rehearing as to the commission's report and order No. 14,842 issued April 13, 1981. The petition for rehearing focuses on four specific allegations. These four areas of controversy will be discussed in the order presented.

*A. Notice*

[1] Cooperative Members for Responsible Investment argues that there has been inadequate notice to the purchase of an interest in Seabrook by the cooperative. This argument is similar, if not identical, to that offered in their original pleadings. The commission responded at that time that commission Rule 203:01 was followed in every fashion and that RSA 369:4 allows the commission to determine the extent of the investigation including what constitutes proper notice.

The commission does not require notice to be provided by a newsletter. Rather, the commission recognizes the

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the continuing validity of notice in a paper of general circulation. The question of notice is simply a question of whether or not there was a reasonable opportunity to be informed of the proceeding. Cooperative Members for Responsible Investment suggests that reasonable notice can only be provided in a newsletter. The commission disagrees. The publication of notice in a newspaper according to our rules allows for a uniform standard to all utilities.

The commission also noted in its original decision that there were numerous factors that increased the likelihood of actual notice; among them the activities of CMRI and the management of the cooperative. Assuming *arguendo* that the statements are true, the result is a further strengthening of the commission's position that the requirements of due process have been honored.

*B. Public Interest*

[2] Cooperative Members for Responsible Investment's second issue is that the public interest to be protected is the economic well-being of the cooperative and its members. The commission agrees that it is the public interest of the cooperative and its consumers at question in this case and not that of Public Service Company of New Hampshire (PSNH). The commission found that the public interest of the cooperative and its consumers would be furthered by the cooperative proceeding with an ownership interest in Seabrook and the financing, together with its terms approved in this proceeding. The commission incorporates by reference its earlier decision in this proceeding and in particular pp. 2 and 3. In that decision, the commission noted the favorable terms at which the cooperative could own an interest in Seabrook rather than purchasing power from the Seabrook station through PSNH.

The public interest was properly found, and the commission is not persuaded by the

arguments offered to the contrary.

*C. Limitation of Issues*

The third issue raised by CMRI is that the proceeding was too limited as to scope. Revised Statutes Annotated 369:4 clearly sets forth that the commission determines the scope of the investigation and that the issue is the actual or probable cost incurred or to be incurred. Thus, as the commission ruled in this proceeding, it is the cost rate and the terms of the proposed financing that are at issue.

Cooperative Members for Responsible Investment seeks to establish a principle that there should be a broad all-encompassing examination before any action is provided. However, neither the language of RSA 369:4 nor how it has been interpreted. Re New Hampshire Gas & Electric Co. (1936) 88 NH 5016 PUR NS 322, 184 Atl 602, require the type of broad inquiry advocated by CMRI.

The commission reviewed the terms of the issuance in its decision as well as the cost rate. Since the rate is lower than any rate approved by this commission in recent years for other utilities, it is clearly not unreasonable. While it is possible with any financing to suggest that the proceeds may need to be supplemented, such a situation does not invalidate the proposed financing.

*D. Consideration of CMRI's Comments*

[3] Cooperative Members for Responsible Investment alleges that its comments were not considered prior to the commission rendering its decision. The commission through the presiding commissioner, Chairman Love, established a briefing schedule requiring written comments by the end of the business day on April 9, 1981. On April 8, 1981, counsel for CMRI contacted the commission's

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executive director for an extension of time until Monday, April 13, 1981.

The commissioners were not informed of this request, which was granted by the executive director. However, PUC Rule 202.04 specifically reserves any extension of time to the discretion of the commissioners or the hearing examiner, which in this proceeding was one in the same. Furthermore, common legal courtesy requires both counsel for CMRI and the commission to contact the other parties.

After being informed of the action by the executive director, the commission ordered the executive director to contact counsel of CMRI to get any written comments into the commission early in the day of Monday, April 13, 1981. This message was relayed to CMRI counsel's office.

Cooperative Members for Responsible Investment next asserts that they filed their comments at about 2:45 P.M., and that Mr. McCool was informed that the executive director had left for the day and that within two hours Mr. McCool was confronted with a decision signed by the executive director. From this alleged scenario, CMRI alleges a failure by the commission to listen to its arguments and goes one step further and alleges that the commission prepared its order prior to the submission of CMRI's comments.

This allegation is false. To begin with, the facts set forth by CMRI have been distorted. Mr. McCool did not deliver his information at 2:45 P.M. but rather 4:45, or after the close of business at the commission according to PUC Rule 202.05. Further, this late filing was against the instructions of the chairman on March 31, 1981, the instructions of the executive director on April 8, 1981 and April 13, 1981. Thus, the commission could have ignored CMRI's filing. However, it chose not to deny due process because of technical violations.

Obviously, CMRI is not aware that the standard decision rendered by the commission is the work product of the commissioners themselves, not the executive director. The executive director's name appears on orders as only an internal procedure. All reports and orders are signed by all three commissioners and, for the most part, are written by the same.

Cooperative Members for Responsible Investment was acutely aware that time was of the essence in this financing. The commission sat and read the comments filed by CMRI and then wrote its decision. The comments of CMRI did not have their primary focus on the financing in question. Yet, the commission still addressed the issues raised by CMRI as the initial decision clearly demonstrates.

The first example of the commission examining the comments filed by CMRI is in the first page of the decision, where we discuss the allegation that the cooperative should have provided a greater degree of notice through its newsletter. This point raised both in the public hearing and in the written comment was again dealt with despite the fact that it was in essence an exception to the commission's ruling during the course of the proceeding.

Another point raised by CMRI was the power requirements of the cooperative, alternative energy sources and the positive effects of conservation. Careful examination of p. 2 of our initial decision reveals that these issues were again discussed and again found to be beyond the scope of these proceedings. Furthermore, the commission noted prior decisions by both this commission as well as other New England commissions supporting the investment in Seabrook. This question has to be relitigated every time a financing is about to be issued or regulation would be reduced to an immobile state. Cooperative Members for Responsible

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Investment, as well as Community Action Program (CAP), raised the question of whether or not the amount of the loan would be sufficient of the ownership interest obtained. Again, p. 3 of the initial decision addressed this concern. Cooperative Members for Responsible Investment raised the question of the cost of Seabrook, as well as their completion dates. The commission is not unmindful of these points, since it was the commission itself that raised these questions in DR 81-6, Re Public Service Co. of New Hampshire (1981) 66 NH PUC 99. Again, the commission handled this on p. 3 and found compelling reasons to allow the financing to proceed. As the commission noted, no one has a crystal ball to determine the actual final cost of any project whether it be solar, hydro, nuclear, or coal. Yet, all of them must be financed at some point in time to establish a burden of proof that a power in a financial proceeding would have to establish the actual cost of a project not yet completed, which would be a standard shortly lived or one totally ignored. Such a standard would be incorrect and the commission, therefore, rejected this contention. However, rejection is not the same as failing to consider. The questions

of the amount of evidence was also raised by CMRI. The commission again addressed this by noting that no party disputed the testimony that the cooperative could finance at a substantially less expensive rate than could PSNH or any other entity in New England.

Numerous other points raised by CMRI, such as the testimony of Dr. Richard Rosen before the New Hampshire House Science and Technology Committee, were not addressed. The reason is clear. Dr. Rosen appeared before another tribunal not under oath and not subject to cross-examination. The commission chose not to place any emphasis in Dr. Rosen's estimates as to the costs of the plant, because the commission is simply unable to test those estimates.

The remainder of CMRI's comments were from documents, which for the most part fall outside the scope of this commission's power of administrative notice. Furthermore, most of them have not been provided the necessary evidentiary support. Many of the articles are newspaper clippings, which this commission has been correctly criticized for considering in the past. See *Legislative Utility Consumers' Council v Granite State Electric Co.* (1979) 119 NH 359, 402 A2d 644.

In conclusion, the commission's decision did in fact review the late-filed comments by CMRI. A financial hearing must by its very nature be limited to the issues found to be reasonable by the commission. Cooperative Members for Reasonable Investment had an opportunity in the public hearing to make its presentation as to the scope of the proceedings. While they did not prevail, they certainly have the opportunity to take an exception from our rulings. However, both in the public hearing and in a review of their comments, the commission has afforded CMRI the fullest opportunity to present its views and to have those views considered.

Based upon the foregoing, the commission denies the motion for rehearing filed by CMRI.

Supplemental Order

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

Ordered, that the Cooperative Members for Responsible Investment's motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of May, 1981.

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NH.PUC\*05/26/81\*[78916]\*66 NH PUC 212\*Concord Electric Company

[Go to End of 78916]

## **Re Concord Electric Company**

DR 81-97, Supplemental Order No. 14,919

66 NH PUC 212

New Hampshire Public Utilities Commission

May 26, 1981

PETITION of an electric company for temporary rates; granted.

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APPEARANCES: Joseph S. Ransmeier and Dom D'Ambruoso for the petitioners; Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On April 15, 1982, Concord Electric Company, a public utility engaged in the business of supplying electrical service in limited areas of this state, filed a request for permanent rate relief in the amount of \$1,207,569 to be effective May 15, 1981. On April 15, 1981, a petition was submitted for temporary rate relief in the amount of \$338,746 in the event the commission suspended the permanent rate request.

The commission suspended the effective date of the new tariff for permanent rates by its Order No. 14,855 dated April 22, 1981 (66 NH PUC 154). An order of notice was issued setting a hearing for May 21, 1981, at 10:00 A.M. for the purpose of determining temporary rates and to discuss the procedural aspects of the permanent rate request:

At the hearing on May 21, 1981, Concord Electric Company presented witnesses who testified that the temporary rate increase was needed in order to allow the company to meet the interest coverage provisions of its indentures and provide the flexibility to enter the financial markets at the most opportune time. It was further testified that an overall rate of return of 9.93 per cent was earned in 1980 on average rate base, whereas, in May, 1978 this commission found a cost of capital of 10.5 per cent.

The company's request for temporary rates is based upon a cost of capital applied to the average rate base for the test year 1980. The cost of capital is calculated using a cost of common equity of 13.8 per cent which was allowed in the previous rate case (DR 77-142 [1978] 63 NH PUC 240), with the other elements of capital updated to current cost. It was further testified that it would be necessary for the company to issue approximately \$1 million of debt in late 1981, or early 1982, to reduce the level of short-term bank borrowings.

It was further requested that the requested temporary rate increase to be applied by increasing the 1980 base revenues (excluding surcharges) uniformly to each class of customers.

The temporary rates requested would enable the company to earn a rate of return commensurate with the rate of return in 1978. The testing and records provided reveal that the return allowed in 1978 is not being presently met. As such, Concord Electric has carried its burden of proof as to temporary rates.

The effective date of this order will be on all service rendered after the date of our order. Revised Statutes Annotated 378:27 requires notice and hearing prior to an allowance of temporary rates. The commission finds that establishing temporary rates effective on service after the date of order provides the strongest compliance

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with these statutory requirements. The following procedural schedule will be adopted for the

**purposes of disposing of this case:**

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

Deadline to submit Data Requests	June 4, 1981
Deadline to Answer Data Requests	June 26, 1981
Prehearing Conference	June 14, 1981
Staff and Intervenors File Testimony	August 3, 1981
Deadline to Submit Data Requests	August 14, 1981
Deadline to Answer Data Requests	August 28, 1981
First Hearing Dates	September 16 and 17, 1981

As the company plans to file restructured general and limited power rates, the schedule for discovery will be determined after which time the proposed rate structure is filed.

Our order will issue accordingly.

**Supplemental Order**

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

Ordered, that Supplement No. 5, to the Concord Electric Company tariff; NHPUC No. 6 — Electricity, be, and hereby is approved for effect with all service rendered on or after the date of this order; it is

Further ordered, that Concord Electric Company file a bond pursuant to RSA 378:30 in such form and with such sureties, it any, as the commission may determine, to secure the repayment to the customers of the utility 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.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of May, 1981.

=====

NH.PUC\*05/28/81\*[78917]\*66 NH PUC 213\*Exeter and Hampton Electric Company

[Go to End of 78917]

**Re Exeter and Hampton Electric Company**

DR 81-32, Second Supplemental Order No. 14,920

66 NH PUC 213

New Hampshire Public Utilities Commission

May 28, 1981

ORDER correcting prior order.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 14,913 ([1981] 66 NH PUC 203) specified that certain additional filings by the Exeter and Hampton Electric Company become effective six months from the date of that order; and

Whereas, that timing conflicted with that contained within the report accompanying said order; it is

Ordered, that so much of Order No. 14,913 that reads " ... to become effective six months from the date of this order" is amended to read " ... to become effective six months from the date upon which the wage increase becomes effective."

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of May, 1981.

=====

NH.PUC\*05/28/81\*[78918]\*66 NH PUC 214\*Exeter and Hampton Electric Company

[Go to End of 78918]

## **Re Exeter and Hampton Electric Company**

DR 79-91, Ninth Supplemental Order. No. 14,921

66 NH PUC 214

New Hampshire Public Utilities Commission

May 28, 1981

ORDER establishing effective date of a tariff revision and rejecting a vacated revision.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, Exeter and Hampton Electric Company has filed with the Commission Second Revised Page 1 to Supplement No. 2 of its tariff, NHPUC No. 14 — Electricity, and Supplement No. 4 to said tariff; and Whereas, these supplements implement the provisions of Order No. 14,641 ([1980] 65 NH PUC 648);

Whereas, the need for Supplement No. 4 is vacated by actions under Docket No. DR 81-32 ([1981] 66 NH PUC 203); it is

Ordered, that second Revised Page 1 of Supplement No. 2, of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, be, and hereby is, effective with all bills rendered on or after May 18, 1981; and it is

Further ordered, that Supplemental No. 4 to said tariff be, and hereby is, rejected.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of May, 1981.

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NH.PUC\*05/28/81\*[78919]\*66 NH PUC 214\*Northern Utilities, Inc.

[Go to End of 78919]

**Re Northern Utilities, Inc.**

DR80-104, Second Supplemental Order No. 14,924

66 NH PUC 214

New Hampshire Public Utilities Commission

May 28, 1981

ORDER staying filing of a refund plan pending determination of a motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Whereas Supplemental Order No. 14,898 ([1981] 66 NH PUC 196) of this docket directed the company to file a proposed refund plan within two weeks of the date of the order to refund the difference between amounts collected under the bonded rate and the additional revenues authorized in the order; and

Whereas, the company has indicated its intention to file a motion of rehearing for clarification purposes and requests that the refund plan be delayed until

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such time as the motion for rehearing is determined and for good cause being shown it is hereby

Ordered, that the refund plan directed by Supplemental Order No. 14,898 be stayed until the proposed motion for rehearing is terminated and until further order of this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of May, 1981.

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NH.PUC\*05/28/81\*[78920]\*66 NH PUC 215\*Campton Village Precinct

[Go to End of 78920]

**Re Campton Village Precinct**

DR 81-105, Supplemental Order No. 14,926

66 NH PUC 215

New Hampshire Public Utilities Commission

May 28, 1981

ORDER implementing tariff revisions following investigation.

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BY THE COMMISSION:

Supplemental Order

Whereas, Campton Village Precinct, a public utility engaged in the supply of water service in designated areas within the state of New Hampshire, filed with this commission on April 16, 1981, certain changes to its tariff, NHPUC No. 1 — Water, by which it sought to increase its revenues by \$5,927 or 45 per cent and revise certain terms and conditions; and

Whereas, this commission suspended said filing by its Order No. 14,859 ([1981] 66 NH PUC 158), pending investigation and decision thereon; and

Whereas, said investigation is now completed indicating the proposal is in the public good; and

Whereas, a duly noticed hearing on the matter was convened at 10:00 A.M. on May 28, 1981, at which no objections from the public were presented; it is

Ordered, that Second Revised Page 4, First Revised Pages 10 and 11, Third Revised Page 12, Second Revised Pages 13, 15, and 16 of the Campton Village Precinct tariff, NHPUC No. 1 — Water, be, and hereby are, approved for effect with all bills rendered on or after the date of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of May, 1981.

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NH.PUC\*06/02/81\*[78921]\*66 NH PUC 216\*New England Telephone and Telegraph Company

[Go to End of 78921]

## Re New England Telephone and Telegraph Company

DF 81-70, Supplemental Order No. 14,930

66 NH PUC 216

New Hampshire Public Utilities Commission

June 2, 1981

ORDER authorizing issuance and sale of debentures.

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 14,860 dated April 24, 1981 (66 NH PUC 158), issued in the above

entitled proceeding authorized New England Telephone and Telegraph Company (the "company") to issue and sell for cash its debt securities in an aggregate principal amount of up to \$175 million, insofar as this issue pertains to property or expenditures in the state of New Hampshire; and

Whereas, subsequent to said order, the company has established that the debt securities to be issued will be 37-year debentures, due June 15, 2018, in an aggregate principal amount of \$150 million; and

Whereas, in compliance with said order, the company has secured offerings of competitive bidders for the purchase of \$150 million principal amount of 37 year debentures due June 15, 2018, and has submitted those bids to this commission; and

Whereas, the lowest of said bids is at a purchase price of 98.33 per cent of the principal, plus interest from June 15, 1981, to the date of delivery, for debentures bearing interest at the rate of 15.25 per cent per annum, thereby establishing a cost of money to the company of 15.51 per cent to maturity; upon consideration; it is

Ordered, that the company be, and it hereby is, authorized to issue and sell its 37-year debentures in the principal amount of \$150 million at a price of 98.334 percent of the principal amount, plus accrued interest from June 15, 1981, said debentures bearing interest at the rate of 15.25 per cent per annum.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1981.

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NH.PUC\*06/03/81\*[78922]\*66 NH PUC 217\*Public Service Company of New Hampshire

[Go to End of 78922]

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

DR 81-87, Third Supplemental Order No. 14,931

66 NH PUC 217

New Hampshire Public Utilities Commission

June 3, 1981

ORDER establishing effective date of tariff revisions designed to eliminate revenue erosion caused by provisions of a temporary rate order.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire has issued its tariff, NHPUC No. 24-A, covering temporary rates allowed in this proceeding; and

Whereas, it now appears that certain provisions directed by this commission for the General

Rate G may cause substantial revenue erosion and complex administrative problems; and

Whereas, the company has filed First Revised Pages 41 and 42, by which it would eliminate said revenue erosion and administrative problems; and

Whereas, the commission finds such corrective action to be for the public good; it is

Ordered, that First Revised Pages 41 and 42 of Public Service Company of New Hampshire tariff, NHPUC No. 24-A, be, and hereby are, approved for effect as of June 8, 1981.

By order of the Public Utilities Commission of New Hampshire this third day of June, 1981.

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NH.PUC\*06/03/81\*[78923]\*66 NH PUC 217\*David Fineblit v Manchester Gas Company

[Go to End of 78923]

### David Fineblit v Manchester Gas Company

DC 81-136, Order No. 14,916

66 NH PUC 217

New Hampshire Public Utilities Commission

June 3, 1981

ORDER opening a docket for a formal resolution of a billing dispute.

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BY THE COMMISSION:

Order

Whereas, David Fineblit of Manchester, New Hampshire, has contacted the commission concerning a bill submitted to him by Manchester Gas Company; and

Whereas, both Manchester Gas Company and Mr. Fineblit have been contacted

**Page 217**

by the public utilities commission in an attempt to resolve the matter informally; and

Whereas, the public interest requires a formal docket in this proceeding; it is hereby

Ordered, that docket DC 81-136 is open for resolution of this conflict.

By order of the Public Utilities Commission of New Hampshire this third day of June, 1981.

=====

NH.PUC\*06/04/81\*[78924]\*66 NH PUC 218\*Granite State Electric Company

[Go to End of 78924]

**Re Granite State Electric Company**

DR 80-118, Supplemental Order No. 14,934

66 NH PUC 218

New Hampshire Public Utilities Commission

June 4, 1981

ORDER vacating suspension order and terminating proceeding.

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BY THE COMMISSION:

Supplemental Order

Whereas, this commission, in the report accompanying Order No. 14,211 dated May 6, 1980 (65 NH PUC 192), required Granite State Electric Company to file a new set of tariff changes reflecting its purchased power cost adjustment No. W-2(D), which were filed on May 20, 1980; and

Whereas, this proceeding was commenced upon the filing to those new tariff changes; and

Whereas, the Granite State Electric Company appealed this commission's report and order in docket DR 79-228; and

Whereas, the New Hampshire supreme court has remanded that proceeding to this commission; and

Whereas, the commission has vacated its Order No. 14,211, and terminated proceeding DR 79-228; and

Whereas, the commission has determined that no further useful regulatory purpose will be served by continuing this proceeding; it is therefore

Ordered, that New Hampshire Public Utilities Commission Order No. 14259, dated June 2, 1980 (65 NH PUC 246), is vacated; and it is

Further ordered, that this proceeding is terminated.

By order of the Public Utilities Commission of New Hampshire this fourth day of June, 1981.

=====

NH.PUC\*06/04/81\*[78925]\*66 NH PUC 219\*Granite State Electric Company

[Go to End of 78925]

**Re Granite State Electric Company**

DR 79-228, Third Supplemental Order No. 14,935

66 NH PUC 219

New Hampshire Public Utilities Commission

June 4, 1981

ORDER on remand from state supreme court vacating prior order and terminating proceeding.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission issued a report and order in this proceeding on May 6, 1980, which in due course, was appealed to the New Hampshire supreme court; and

Whereas, the New Hampshire supreme court has remanded that proceeding to the commission for a further order; and

Whereas, the commission has determined that no useful regulatory purpose will be served by continuing this proceeding any further; it is now therefore

Ordered, that New Hampshire Public Utilities Commission Order No. 14,211, dated May 6, 1980 (65 NH PUC 192), is vacated in its entirety; and it is

Further ordered, that this proceeding is terminated.

By order of the Public Utilities Commission of New Hampshire this fourth day of June, 1981.

=====

NH.PUC\*06/04/81\*[78926]\*66 NH PUC 219\*Omni Communications, Inc., d/b/a Page Call

[Go to End of 78926]

**Re Omni Communications, Inc., d/b/a Page Call**

DE 81-131 Order No. 14,936

66 NH PUC 219

New Hampshire Public Utilities Commission

June 4, 1981

ORDER scheduling certification hearing.

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Order

Whereas, Omni Communications, Inc., d/b/a Page Call has filed a petition to operate as a public utility in certain limited areas of the state of New Hampshire and other relief on May 15, 1981; and

Whereas, the rights of Comex, Inc., would appear on the surface to be affected by either positive or negative reactions to this petition; and

Whereas, the commission believes that a procedural hearing should be afforded

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both Omni Communications, Inc., d/b/a Page Call and Comex, Inc., to handle any matters pertaining to Omni Communications, Inc., d/b/a Page Call's petition; it is hereby

Ordered, that a procedural hearing is scheduled for July 14, 1981, at 10:00 A.M. and the commission will expect legal representatives from both Omni Communications, Inc., d/b/a Page Call and Comex, Inc., to be in attendance; and it is

Further ordered, the commission will entertain any comments, motions, concerns, or suggestions from either party at the aforementioned hearing; and it is

Further ordered, that the request submitted by executive director and secretary, Vincent J. Iacopino, and chief engineer, Bruce Ellsworth, to be relieved from any connection with this case, are hereby granted by the commission and these two employees are ordered to totally absent themselves from this proceeding.

By order of the Public Utilities Commission of New Hampshire this fourth day of June, 1981.

=====

NH.PUC\*06/05/81\*[78927]\*66 NH PUC 220\*Southern New Hampshire Builders Association v Public Service Company of New Hampshire

[Go to End of 78927]

## **Southern New Hampshire Builders Association v Public Service Company of New Hampshire**

Intervenors: Town of Windham and New Hampshire Municipal Association et al.

DE 80-151, Supplemental Order No. 14,938

66 NH PUC 220

New Hampshire Public Utilities Commission

June 5, 1981

MOTION by defendant utility for dismissal of proceedings based on petitioner's failure to comply with commission procedure; granted.

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APPEARANCES:: Frederic Greenhalge for Southern New Hampshire Builders Association; Urville Beaumont for the town of Windham; Eaton W. Tarbell, Jr. for Public Service Company of New Hampshire; Dom S. D'Ambruoso for various New Hampshire electric utility companies; Daniel D. Crean for New Hampshire Municipal Association.

BY THE COMMISSION:

Report

This docket has a history of litigation in the courts and in this commission which began in the early years of the 1970's. During this time a majority of the commission's staff has changed.

In an

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effort to fully address the problems presented, the commission opened a formal docket (DE 80-151) for the purpose of addressing who should bear the costs for underground installation and connections mandated by an ordinance of the town of Windham.

An order of notice was issued providing for public hearings to commence on September 10, 1980. The matter was, for cause, rescheduled and a public hearing was held on September 11, 1980. In response to procedural motions the matter was rescheduled to July 12, 1980, at which time a hearing was held.

During the hearing, the hearing examiner directed that briefs be filed by Southern New Hampshire Builders Association within thirty days and the remaining parties to file briefs within two weeks later. No briefs have been filed. The attorney for Southern New Hampshire Builders notified the commission that he withdrew as their attorney on February 10, 1981, and stated that the responsibility for filing the brief would be the client's. On April 14, 1981, the commission notified Southern New Hampshire Builders by letter that the commission would dispose of this docket within seven days if no brief was filed. As of this date a brief has not been received by the commission.

Under the circumstances it appears certain that Southern New Hampshire Builders Association has no further interest in this matter. On April 10, 1981, the Public Service Company of New Hampshire filed a motion to dismiss the proceeding and to close the docket. Having received no response from Southern New Hampshire Builders Association and considering the failure to file a brief, the commission finds that the motion to dismiss these proceedings should be granted and an appropriate order shall issue.

#### Supplemental Order

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

Ordered, that the motion to dismiss the proceedings in this docket is hereby granted and the docket shall be closed.

By order of the Public Utilities Commission of New Hampshire this fifth day of June, 1981.

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NH.PUC\*06/10/81\*[78928]\*66 NH PUC 221\*Lifeline Rates

[Go to End of 78928]

### Re Lifeline Rates

DP 80-260, Second Supplemental Order No. 14,944

66 NH PUC 221

New Hampshire Public Utilities Commission

June 10, 1981

ORDER extending time to submit filings on the rate structure for lifeline rates.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, some of the electric utility companies have requested the commission to extend the time to submit filings on the rate structure for lifeline rates as set forth in Supplemental Order No. 14,872 ([1981] 66 NH PUC 166); and

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Whereas, the commission having considered the request, finds that it is in the public interest to extend the time for said filing from June 14, to June 19, 1981; it is hereby

Ordered, that the time to submit filings on the rate structure for lifeline rates be extended from June 14, to June 19, 1981.

By order of the Public Utilities Commission of New Hampshire this tenth day of June, 1981.

=====

NH.PUC\*06/15/81\*[78929]\*66 NH PUC 222\*Donald B. Valentine Jr., et al. v New England Telephone and Telegraph Company

[Go to End of 78929]

**Donald B. Valentine Jr., et al. v New England Telephone and Telegraph Company**

IC 14,993, Supplemental Order No. 14,950

66 NH PUC 222

New Hampshire Public Utilities Commission

June 15, 1981

ORDER closing service complaint docket on the basis of substantial improvements.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, on September 30, 1980, Donald B. Valentine, Jr., advised this commission of poor telephone service at his home at Westmoreland, New Hampshire, and

Whereas, on December 1, 1980, Mr. Valentine forwarded a petition signed by over twenty-five Westmoreland residents supporting the complaint of poor general telephone service, and

Whereas, a hearing was held at the commission offices on January 28, 1981, to hear the complaints of Mr. Valentine, and

Whereas, a public hearing was held at the Westmoreland town hall on February 4, 1981, to hear the complaints of area residents, and

Whereas, a visit was made by the commission staff to the central office facilities at Westmoreland on March 9, 1981, and

Whereas, the New England Telephone and Telegraph Company, has documented extensive service improvement activities in the Westmoreland area by letter dated March 5, 1981, and

Whereas, a public hearing was held on May 26, 1981, at which time no complaints were received and testimony was given in support of substantial telephone quality improvements; and

Whereas, the commission is satisfied that the public has been served by the actions of the New England Telephone and Telegraph Company; and it is

**Page 222**

Ordered, that this docket be closed. By order of the Public Utilities Commission of New Hampshire this fifteenth day of June, 1981.

=====

NH.PUC\*06/22/81\*[78930]\*66 NH PUC 223\*Omni Communications, Inc., d/b/a Page Call

[Go to End of 78930]

## **Re Omni Communications, Inc., d/b/a Page Call**

DE 81-131, Supplemental Order No. 14,951

66 NH PUC 223

New Hampshire Public Utilities Commission

June 22, 1981

ORDER establishing time period for responding to motion for continuance.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, on June 18, 1981, the commission received a motion for continuance filed by Comex, Inc.; and

Whereas, the commission usually sets a time period for motions to be responded to; it is hereby

Ordered, that any party wishing to respond to the motion must do so by July 2, 1981.

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

June, 1981.

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NH.PUC\*06/22/81\*[78931]\*66 NH PUC 223\*Public Service Company of New Hampshire

[Go to End of 78931]

## Re Public Service Company of New Hampshire

Intervenors: Town of Hampton Falls

DE 78-34, Supplemental Order No. 14,952

66 NH PUC 223

New Hampshire Public Utilities Commission

June 22, 1981

PETITION for exemption from municipal zoning ordinance as applied to the use of company owned wells; granted.

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1. ZONING — Restrictions on water use — Granting of exemption — Required findings.

[N.H.] Prior to granting an exemption from a municipal zoning ordinance preventing a utility from diverting to other use a portion of the water allocated to serving the municipality, the commission was required to find (1) that the utility had done everything reasonable to find alternate water sources and (2) that the use of any alternate sources would impose unnecessary hardship upon the utility or its customers. p. 226.

2. ZONING — Restrictions on water use — Granting of exemption — Exploring alternate sources.

[N.H.] Where the granting of an exemption from an ordinance restricting water use was conditioned upon a finding that the utility had reasonably explored alternate sources, the commission accepted the utility's conclusion that its own wells provided the most reasonable source of water for its needs since the utility had explored both the availability of sources within the confines of its ownership boundaries and the possibility of purchases from sources outside its ownership boundaries. p. 226.

3. Zoning — Restrictions on water use — Granting of exemption — Unnecessary hardship.

[N.H.] Where the granting of an exemption from an ordinance restricting water use was conditioned upon a finding of unnecessary hardship to the utility or its customers, the commission found that use of alternate sources would burden the utility by requiring transportation of water by truck or through installation of new pipelines and, in turn, would place a future cost burden on customers. p. 226.

APPEARANCES: Lawrence E. Spellman for the petitioner; John T. Ryan and Robert Backus for the town of Hampton Falls.

Before Love (concurring and dissenting in part), chairman.

BY THE COMMISSION:

Supplemental Report

On November 28, 1978, this commission issued report and Order No. 13,407 (63 NH PUC 351), in the matter pertaining to a Public Service Company of New Hampshire petition under RSA 361:62 for exemption from an ordinance of the town of Hampton Falls. That order provided, among other things, that a testing program be established at the company's expense to evaluate the water supply at Brimmers lane with the intent to determine whether the use of company wells in the manner proposed by Public Service Company would have a detrimental effect on that water supply. It was further ordered that such testing program should be developed, administered and evaluated by a testing team composed of one representative of the company, one representative of the town, and one independent expert acceptable to both parties. Finally, the commission ordered that upon conclusion of the testing program, the results and recommendations of the testing should be submitted to this commission for further consideration.

On August 12, 1980, counsel for Public Service Company forwarded three copies of the Teams report which was entitled "Seabrook Station Pumping-Test Project" dated May 9, 1980. A public hearing was held on January 7, 1981, at 10:00 A.M. at the commission offices in Concord, New Hampshire. Appearing for the company were Lawrence Spellman and Frederick Coolbroth; John T. Ryan, represented the town of Hampton Falls.

Counsel for the company offered that the object of the proceeding was to comply with the concluding paragraph of the commission's order with respect to testing at company's expense. He referenced a committee report entitled "Sea-brook Station Pumping-Test Project" authored by Ward S. Motts, hydro geologist, Amherst, Massachusetts, dated May 9, 1980, which was forwarded to the commission on August 12, 1980. Mr. Motts was the company's representative on the committee. The report notes that the

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town expert was J. T. Morine and the third expert was G. W. Stuart, then state geologist of New Hampshire. As witnesses in this proceeding, the company offered Mr. Motts, Paul Arsenault, Anthony J. Stuart, identified as the geologist who testified previously; and Frank Wellini, the current company geologist.

Witness Arsenault testified to the current water requirements. Rescheduling some of the work on Unit 1 and additions of storage capabilities has reduced the previous need of 400,000 gallons of water a day to 200,000 gallons. The town of Seabrook is currently supplying up to a maximum of 50,000 gallons per day. The company's own wells, Nos. 5, 6, and 8, will provide an anticipated 72,000 gallons per day. The remaining 80,000 gallons per day must be drawn from the Hampton wells. Other potential available sources such as the American Water Works in Salisbury, the Exeter Water Works, and the city of Portsmouth are too expensive for the company to consider. Mr. Arsenault testified that earlier tests of the Seabrook wells disclosed a

yield of approximately 144,000 gallons per day, but that the Brimmers Lane tests had convinced them that the yield should be reduced to the 72,000 gallons noted earlier. The 144,000 gallon yield could, however, be sustained for periods of at least two days. Upon cross examination Mr. Arsenault noted that if Sea-brook Unit 2 is built, the daily water requirements will be in the vicinity of 100,000 gallons per day. No further attempts to develop additional wells on the Seabrook property have been made.

Mr. Motts testified that the advisory committee's three major guidelines included the location of the monitoring wells, the duration of the testing, and the time of the testing. Four wells and a test pit were constructed. The duration of testing was to proceed to the point where the levels of the wells started to decline very slowly and where this decline was at such a constant progressive rate that it was possible to determine what the future effect of pumping would be. The tests were conducted in the summer months at the time of greatest stress to the aquifer because the water levels were lowest. Mr. Motts noted that by coincidence the test period beginning June 5, 1979, included a drought. The studies determined that the Brimmers Lane wells could be pumped at rates of 100 gallons per minute for six months and longer, at 200 gallons per minute for thirty days, and 300 gallons per minute for fourteen days without notable effects on existing residential artesian wells in Hampton Falls. There is concern over the effect of salt water intrusion to the dug wells, however, Mr. Motts suggested continued monitorings of the test wells for chlorides and sodium at the existing shallow well sites. Upon cross examination, Mr. Motts responded favorably to the formation of a monitoring committee to make sure that the wells on Brimmers lane are not adversely effected. Reference was made to Mr. Mott's recommendation in the report (p. 3) as follows: "Therefore, if the Public Service Company of New Hampshire develops the test well site it will be necessary to deliver water or to drill artesian wells for Brimmers lane households who rely on dug wells and shallow aquifers for their water supply." Cross examination identified the area of concern to be from the Swain property easterly along Brimmers Lane and he recommended no future shallow wells be dug in that area.

Counsel for the town of Hampton filed a "Memorandum in Support of the Position of the Town of Hampton Falls" on January 15, 1981, in which he finds the following:

"It is the position of the town of Hampton Falls that the commission's initial order unequivocally states that if any

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negative affects upon the town's water system are found the exemption should not be granted. Since any dug wells on Brimmers lane will be adversely affected the issue must, therefore, be decided against the utility."

Counsel is in error in his interpretation of the commission's report and Order No. 13,407 dated November 28, 1978. The commission said:

"This commission is sensitive to the desire of the town and is particularly sensitive to the water needs of the inhabitants of the town. The commission concurs that acceptable use of the wells at Brimmers lane should be conditioned only upon and after reasonable tests have been made to prevent any negative affect to the town's water system."

The commission's concern was to assure that installation of the subject wells would not cause

negative affects on the water system of the town's customers. It did not tend to imply that a totally negative decision would result if any negative affects were found. Counsel is reminded that the very nature of the proceedings under RSA 361:62 is to weigh the needs of opposing parties and to determine whether the needs of a public utility are "... reasonably necessary for the convenience or welfare of the public." The commission will base its decision in this case on that statutory authority not on an arbitrary one to decide in the affirmative only if no adverse affects are found.

[1-3] Before granting an exemption we must ask whether the company has done everything it reasonably ought to have done to find alternate water sources. We find that it has. We are satisfied that it has made adequate exploratory tests on its property to assure itself that it has reasonably explored available water sources within the confines of its ownership boundaries. It has adequately explored the possibilities of purchases from sources outside of its ownership boundaries. We will accept its conclusion that its own wells at Brimmers lane provide the most reasonable source of water for its needs.

We must then consider whether our directing them to utilize any of those alternate sources will impose an unnecessary hardship either upon them or upon their customers. We find that it will. We return to our report of November 28, 1978: "... we must also be sensitive to the economic impact of unnecessary water expenses — expenses which will ultimately be borne by the ratepayers."

The additional expenses of delivering water by truck transport or by the installation of additional pipelines from adjacent communities has been documented in this case. The evidence clearly shows that water from the Brimmers lane wells will be cheaper and will result in future lower ratepayer costs than other methods. If that issue stood alone, the Brimmers lane wells would be selected.

To the extent that "unnecessary hardship" reflects the hardship imposed on customers to pay future water costs, we will accept the Brimmers lane water.

To the extent that "unnecessary hardship" relates to the company's difficulty in obtaining other water sources, we find that it would be "unnecessary" to explore these other sources if this case were not before us.

We find that the exemption from Hampton Falls zoning shall be approved.

Our concern for the needs of the residents of Brimmers lane continues. We will require the company to take steps to continually monitor the impact that use of their wells will have on existing water customers at Brimmers lane. We will accept the recommendation of the company that a monitoring committee keep itself advised by establishing a continuous monitoring program satisfactory to the company and to the town.

The testing committee recommends

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that "PSNH deliver water or drill artesian wells for the nearby Brimmers lane households who rely solely upon dug wells and the shallow aquifer." We concur in their recommendation. We will not argue the position taken by counsel for the town that the company has no authority

to deal with the property of any person who is not a party to the case; however, we will establish that those customers shall have the opportunity to have a well drilled on their property at no expense if they choose to do so. We will establish a time period of twelve months in which this offer may be accepted by the existing customers. The offer need not extend to future customers.

Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that the petitioner is exempt from the operation of the zoning ordinance of the town of Hampton Falls as it applies to the use of company owned wells in the town of Hampton Falls; and it is

Further ordered, that Public Service Company of New Hampshire shall develop and be responsible for a program which will monitor the impact that use of their wells will have on existing water customers at Brimmers lane; and it is

Further ordered, that the Public Service Company of New Hampshire shall offer to drill wells for the Brimmers lane households who rely solely upon dug wells, and that such offer shall extend for a period of twelve months from the date of this order, and shall extend only to existing homeowners.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of June, 1981.

LOVE, chairman, concurring in part and dissenting in part. I have not been on the commission during the entire length of this proceeding and therefore I am reluctant to address all the issues in this record. The parties seem to be addressing the construction of Seabrook without also addressing the necessary water need for the people of Brimmers lane. I agree that the record demonstrates adequate reason to exempt the Public Service Company from the operation of the town of Hampton Falls zoning ordinance as it applies to the company's wells in that town. However, the steps taken to assure the people of Brimmers lane adequate water does not go far enough in my opinion. The amount of water taken by PSNH will be significant. The possibility exists that if there is an adverse effect on the water supply of the consumers of Brimmers lane the drilling of new wells to the same water table will not be of a sufficient remedy. The only avenue that guarantees adequate service is interconnection with a major water utility system. Hampton Water Works is two miles from the Brimmers lane lots. I would require PSNH to pay the appropriate charges for interconnection through the construction of new mains less the amount that could be charged to other customers that appear willing to interconnect into this new main that presently lie between the Hampton Water Works System and the Brimmers lane sites. This method offers consumers an assurance of adequate service while allowing PSNH continuing access to the water table under Brimmers lane. Obviously the disadvantages are that the costs are greater for PSNH and the consumers since water bills come with interconnection to a water utility system. Still I believe that what is needed here is an assurance of water by both PSNH and the Brimmers lane lot owners. The procedure ordered while effective under ideal conditions does not provide the necessary fallback protection offered by my proposal.

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NH.PUC\*06/25/81\*[78932]\*66 NH PUC 228\*Claremont Gas Light Company

[Go to End of 78932]

**Re Claremont Gas Light Company**

DE 81-162, Order No. 14,954

66 NH PUC 228

New Hampshire Publication Utilities Commission

June 25, 1981

ORDER to show cause why gas company should not be penalized for failure to file annual report.

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BY THE COMMISSION:

Order

Whereas, statutes of the state of New Hampshire and rules of this commission require public utilities to file with the commission various reports throughout the year, including an annual report due on March 31st; and

Whereas, Claremont Gas Light Company has been a chronic violator of these requirements in past years; and

Whereas, Claremont Gas Light Company has failed to file its annual report for 1980, despite numerous written and telephonic reminders; it is hereby

Ordered, that Claremont Gas Light Company appear before this commission at its Concord offices on July 1, 1981, at 9:00 A.M. to show cause why it should not be penalized under provisions of RSA 374:18.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of June, 1981.

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NH.PUC\*06/25/81\*[78933]\*66 NH PUC 228\*Omni Communications, Inc., d/b/a Page Call

[Go to End of 78933]

**Re Omni Communications, Inc., d/b/a Page Call**

DE 81-131, Second Supplemental Order No. 14,956

66 NH PUC 228

New Hampshire Publication Utilities Commission

June 25, 1981

ORDER requesting bill of particulars in support of motion to disqualify a commissioner.

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BY THE COMMISSION:

Supplemental Order

Whereas, on June 18, 1981, Comex, Inc., by its attorneys, filed a motion to disqualify Commissioner Love on the ground that his prior actions and omissions to act have shown himself to be disqualified under RSA 363:19; and

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Whereas, said motion does not set forth any specifics upon which to evaluate the motion; it is hereby

Ordered, that Comex, Inc., file further information specifically listing, as in a bill of particulars, the prior actions or omissions to act by Commissioner Love that move them to file their motion to disqualify by July 6, 1981; and it is

Further ordered, that any and all parties that wish to respond to said motion must do so by July 10, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of June, 1981.

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NH.PUC\*06/25/81\*[78934]\*66 NH PUC 229\*Omni Communications, Inc., d/b/a Page Call

[Go to End of 78934]

### **Re Omni Communications, Inc., d/b/a Page Call**

DE 81-131, Third Supplemental Order No. 14,957

66 NH PUC 229

New Hampshire Publication Utilities Commission

June 25, 1981

ORDER directing that written material not be sent to commission staff not connected with the case and banning oral communications with commissioners.

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BY THE COMMISSION:

Supplemental Order

Whereas, on June 4, 1981, by Order No. 14,936 (66 NH PUC 219), the commission relieved two of its employees, Executive Director and Secretary Vincent J. Iacopino, and Chief Engineer Bruce Ellsworth, from any connection with this case; and

Whereas, attorneys for both Omni and Comex continue to send correspondence, motions, and other written material to these aforementioned people contrary to the intent of Order No. 14,936; it is therefore hereby

Ordered, that any further comments, written communications, letters, motions, briefs, written responses to any of the above or any other written material is not to be sent to the aforementioned employees, but rather should be sent to the public utilities commission in care of its commissioners; and it is

Further ordered, that all of the aforementioned written contacts with the commission are to be sent individually to each of the three commissioners; and it is

Further ordered, that all attorneys in this case are placed on notice and if this order is not adhered to in its most strictest sense that the New Hampshire Bar Association would be requested to begin disciplinary procedures against all attorneys who violate this order; and it is

Further ordered, that although to date there has been no oral communication between the attorneys involved in this case and the three commissioners, any attempt to orally communicate even a procedural matter will be turned over to the New Hampshire Bar Association for disciplinary action; and it is

Further ordered, that the aforementioned

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ban on oral communications regardless of whether they are procedural, substantive or otherwise, is extended to all members of staff whether they be clerical, professional, temporary, permanent, or any other classification; and it is

Further ordered, that any attorney violating this portion of the order will also find a request for disciplinary action by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of June, 1981.

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NH.PUC\*06/26/81\*[78935]\*66 NH PUC 230\*CPM v Connecticut Valley Electric Company, Inc.

[Go to End of 78935]

## **CPM v Connecticut Valley Electric Company, Inc.**

DC 81-68, Supplemental Order No. 14,960

66 NH PUC 230

New Hampshire Publication Utilities Commission

June 26, 1981

PETITION for rate relief based on reduced demand; granted.

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1. RATES, § 333 — Electricity — Demand charges — Rate relief based on reduced demand.

[N.H.] Where a customer's demand on a utility's system had been reduced, the commission found that relief from the operation of a demand clause was appropriate because rates based on a faulty, and in the future unreal, demand level were not in the public interest and the mere fact that the utility would still be required to pay demand-related payments to its parent was insufficient reason to deny the relief given the financial burden to the customer caused by the demand rates. p. 230.

2. RATES, § 333 — Electricity — Demand charges.

[N.H.] In order to safeguard a utility against return to a higher demand level by a customer granted relief from operation of a demand clause, the commission found that, should the customer seek to return to a higher demand level at any time within six months of the date on which the rate relief would begin, the utility would be permitted to bill for recovery of rates based on the higher demand and to add an interest component equal to the average of its short-term borrowing rates from the date of rate relief to the billing date. p. 230.

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APPEARANCES: Harvey Hill, president of CPM; Gerald Cook, Connecticut Valley Electric Company; Speaker John Tucker.

BY THE COMMISSION:

Report

[1, 2] CPM is an industrial customer of Connecticut Valley Electric Company, Inc. The primary business of CPM is the manufacturing of paper. CPM produces

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specialized consumer papers used in electrical insulating, medical packaging and explosives. CPM is a nonintergrated mill and purchases its power from Connecticut Valley Electric Company, Inc. (CONVAL), a wholly owned subsidiary of Central Vermont Public Service (CVPS).

CPM has three paper machines at Claremont, New Hampshire. These three machines have the capability of producing 17, 10, and 30 tons, respectively. On March 20, 1981, CPM shut down machines No. 1 and No. 2 leaving only its largest machine in operation. CPM terminated 36 employees as a result of these shutdowns.

CPM seeks to have electrical rates reduced to reflect their new economic situation which is described as nearing a demand of 1,500 kilowatts. When all three machines were in operation, demand rates reflecting 3,000 kilowatts were incurred. CPM is concerned that the ratchet clause in their rate structure will require payment of 85 percent of the peak billing demand incurred when all three machines were running. Over the next year CPM estimates that this one feature could cost over \$70,000.

CPM states that it is marginal in its operation and cites its layoffs and the ceasing of

operation of two of the three machines. Other enterprises in the Claremont area such as Wholesome Bakery, Garrison Stove, and Copstone Furniture are cited by CPM as industries who have recently closed their doors. CPM states that a customer with a reduced load is more valuable than no customer at all.

Connecticut Valley Electric in response warns that any consideration of CPS's request will open the floodgates and others will seek similar relief. Also offered for our consideration is that if the commission provides relief to CPM, Connecticut Valley Electric still will have to pay its parent, Central Vermont Public Service, based on last winter's demand peak. Connecticut Valley contends that this ratchet was approved by the FERC and that this provision has been a portion of FERC's policy for years. The utility does not question the difference in demand figures offered by CPM.

The testimony in this proceeding given under oath is that of the three machines; the first two are closed down presently and only the first machine has any chance of being used again 25 percent. Connecticut Valley correctly raises the possibility that others may seek relief if this request is granted. Furthermore, the possibility exists that the shutdown will only be temporary based on future circumstances unknown to either of the parties. Therefore, any relief must be narrowly drawn to assure that this decision is not used against the greater public good.

The New Hampshire supreme court has found that a bankrupt utility is not in the public interest. *Legislative Utility Consumers' Council v Public Service Co. of New Hampshire* (1980). The same reasoning would allow that neither is a bankrupt customer in the public interest.

CPM has adequately demonstrated that it is at a very critical economic point in its existence. If the demand is no longer on the system, a continuation of rates based on a faulty, and in the future unreal, demand level is not in the public interest. The mere fact that a parent utility may still require a demand-related payment from its subsidiary is not in of itself reason to deny CPM's request based on this factual situation.

While it is reasonable to allow CPM its requested relief, a blanket removal of the demand-related costs no longer achieved by the nonexistent demand leaves both Connecticut Valley and Central Vermont Public Service unprotected. Decisions by both utilities must be based on reasonable estimates of demand. These decisions involve whether to agree to new purchase power contracts, construction

of new generating stations, optimum generation mix, number of employees, as well as other considerations. A safeguard must be attached to this relief so that a customer who responds to a negative economic time does not obtain an advantage in rates and then because of changed economic situations returns to a higher level of demand a short time later. Obviously, the possibility of further use of the first machine (25 percent) highlights this possibility.

Therefore, the commission finds that rate relief should be accorded CPM starting from all service taken on or after May 1, 1981. This date is chosen as being after the required notice and hearing. The demand level is to be either that experienced by use of only the third machine (1,500 kilowatts) or use of both machines one and three. This option is left to CPM. However, if at anytime between May 1, 1981, and October 31, 1983, CPM seeks to return to a demand level

higher than the level chosen, Connecticut Valley will be allowed to submit a bill to recover rates based on this higher demand level from May 1, 1981, to October 31, 1983, or the advent of the new demand level, whichever is earlier in time. In addition, Connecticut Valley Electric will be allowed to add to this bill an interest component equal to the average of its short-term borrowing rates from May 1, 1981, to the time of the submission of this bill to CPM. CPM under such a situation will have sixty days to pay this obligation or have service terminated.

October 31st, is chosen because demand rates are based on the months of November through March for the Connecticut Valley System. The interest component is chosen as an assurance that this avenue will only be used by industrial customers who have made permanent decisions to reduce their demand on the electrical system.

If CPM believes that their number one machine may return to active production during the next two-and-one-half years, it is clear that they should opt for a present demand level that includes both units one and three running at full operation. If, as the testimony indicates, the 75 per cent likelihood of a permanent shutdown of machine No. 1 is an absolute certainty, then CPM should opt for a demand level based on the sole use of machine three.

Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is incorporated and made a part of this order, it is hereby

Ordered, that CPM immediately notify Connecticut Valley Electric of its decision on which machines are to be operational between the present and October 31, 1983; and it is

Further ordered, that Connecticut Valley Electric is to arrive at a demand level based on the aforementioned information and credit CPM with any over-collection for service rendered between May 1, 1981, and the date of this order; and it is

Further ordered, that this order is conditioned upon the acceptance by CPM of the terms stated in the attached report, including the potential for an interest payment.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of June, 1981.

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NH.PUC\*06/26/81\*[78936]\*66 NH PUC 233\*Omni Communications, Inc., d/b/a Page Call

[Go to End of 78936]

## **Re Omni Communications, Inc., d/b/a Page Call**

DE 81-131, Fourth Supplemental Order No. 14,961

66 NH PUC 233

New Hampshire Publication Utilities Commission

June 26, 1981

ORDER permitting parties to supplement written statements with oral presentations at hearing.

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BY THE COMMISSION:

Supplemental Order

Whereas, Comex, Inc., on June 26, 1981, filed a motion to dismiss the above captioned action; and

Whereas, the only party filed to date other than Comex, Inc., is Omni Communications, Inc.; it is hereby

Ordered, that if Omni Communications, Inc., has a response to the aforementioned motion, said response must be filed by July 7, 1981; and it is

Further ordered, that all parties will be accorded an opportunity to supplement their written statements with oral presentations at the hearing on July 14, 1981.

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NH.PUC\*06/26/81\*[78937]\*66 NH PUC 233\*Hanover Water Works

[Go to End of 78937]

## Re Hanover Water Works

DR 81-15, Supplemental Order No. 14,962

66 NH PUC 233

New Hampshire Publication Utilities Commission

June 26, 1981

PETITION for a rate increase; granted as modified.

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APPEARANCES: John S. Stebbins and S. John Stebbins for the company.

BY THE COMMISSION:

Report

On December 22, 1980, Hanover Water Works filed certain revisions of its tariff for effect January 22, 1980, and seeking increased annual revenues of \$95,983. In 1981, a petition for temporary rates was filed with a hearing held on this matter on June 25, 1981. In the interim, tariffs were filed raising the requested increase to \$102,741.

There were no appearances filed by intervenors and after marking of exhibits, the hearing was suspended for discussion of the issues by the commission staff and representatives of Hanover Water Works. The justification for additional revenues was established and recognized with the final determination showing the need for an increase in annual revenues of \$85,724.

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Hanover has proposed, and staff concurs, that fire protection revenues should first be returned to the levels as existed prior to this commission decision in DR 79-173 ([1979] 64 NH PUC 480), with the remaining revenues derived from an equal percentage increase in all rate schedules, or 16.8 per cent. The overall increase is 22.9 per cent.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Hanover Water Works file a tariff supplement including revised rate schedules to recover additional revenues of \$85,724 and as specified in this report; and it is

Further ordered, that the rate schedules filed as a part of this supplement, shall be effective with all bills rendered on or after July 1, 1981; and it is

Further ordered, that Hanover Water Works shall file a bond pursuant to RSA 378:30 in such a form and with such sureties, if any, as the commission may determine, to secure the repayment to the customers of the utility 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 Hanover Water Works give public notice by publication in a newspaper having general circulation in the area.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of June, 1981.

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NH.PUC\*06/26/81\*[78938]\*66 NH PUC 234\*Hudson Water Company

[Go to End of 78938]

## Re Hudson Water Company

Intervenors: Legislative Utility Consumers' Council and Town of Litchfield

DR 80-218, Supplemental Order No. 14,963

66 NH PUC 234

New Hampshire Publication Utilities Commission

June 26, 1981

PETITION to make existing rates temporary rates; granted.

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RATES, § 249 — Formalities relating to — Effective date — Temporary rates.

[N.H.] In resolving the question of when temporary rates should become effective, the,

commission found that a just and reasonable result was most likely to occur if after notice and a public hearing, temporary rates were established on all service as of a date after the hearing.

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APPEARANCES: John R. McLane, Jr., and Charles P. Bauer for Hudson Water Company; Gerald Lynch for the Legislative Utility Consumers' Council (LUCC); Jay Hodes for the town of Litchfield.

BY THE COMMISSION:

Report

Temporary Rates

On October 9, 1980, Hudson Water

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Company filed with the commission certain revisions in its water tariff, NHPUC No. 7 — Water, providing for an increase in rates for its customers designed to become effective as of November 9, 1980. By Order No. 14,531 (65 NH PUC 490), dated October 15, 1980, the commission suspended until further order from the commission the effective date of the proposed rates. On December 15, 1980, a procedural hearing was held by which time exhibits had been filed. Testimony was filed on January 7, 1981. Public hearings were held in Litchfield and Hudson on January 7 and 8, 1981, respectively. January 31, 1981, witnessed a petition for temporary rates as of January 1, 1981.

The statute to determine the standard involved in temporary rates is RSA 378:27. This statute has received a high degree of attention lately due mainly to the commission's attempt to develop a standard procedure to address the proper effective time period. The commission has felt a need to attempt to treat all utilities in a similar fashion. Past decisions have often varied from utility to utility.

During the time period of this transformation to uniformity, the supreme court has assisted in providing general guidelines to our statutory discretion. *Pennichuck Water Works v New Hampshire* (1980) 120 NH 155, 419 A2d 1080. The commission has recently been striving to achieve notice to the public that a rate proposal is pending and, therefore, to have their input prior to rendering a decision. By allowing for both notice of the rate increase and a hearing for the public, the commission is best able to balance the interests of all concerned. The legislature has set forth RSA 378:27, temporary rates, to be the easiest to obtain as far as standard of proof. A utility need only submit records of the utility demonstrating a failure to earn the rate of return last set by the commission.

There has also been some question as to when the effective date for temporary rates should begin. The continuation of this battle has spilled over into this proceeding. The LUCC argues that no temporary rates should be awarded because of inadequate notice. The LUCC asserts that consumers were unaware of any proposed adjustment to their rates during the first quarter of 1981. In the alternative, the LUCC states that any temporary rate increase should not begin until February 25, 1981, which was the first day the LUCC was aware of the company's petition.

Hudson Water Company contends that by virtue of the supreme court's decision in Pennichuck they could have filed for an effective date beginning with the application for permanent rates on October 9, 1981. Hudson notes that it is the commissions obligation to immediately fix, determine, and prescribe for the duration of a rate proceeding reasonable temporary rates. *Public Service Co. of New Hampshire v New Hampshire* (1959) 102 NH 66, 28 PUR3d 404, 150 A2d 810. The supreme court language of *New England Teleph. & Teleg. Co. v New Hampshire* (1949) 95 NH 515, 82 PUR NS 296, 68 A2d 114, is cited for the proposition that temporary rates should be given without the type of investigation normally reserved for the final decision associated with permanent rates.

An analysis of both parties presentations reveals strong arguments but a failure to fully comprehend the commissions philosophy on temporary rates. The commission has properly interpreted the statute that some notice and some hearing avenue should be open to the public. While Hudson is correct that the Pennichuck decision does allow for temporary rates to be filed and/or applied to rates beginning with the filing of a

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rate filing, the supreme court's language clearly sets this as an outer limit of the commission's power. It is highly unlikely that the commission would allow such an early effective date because of the inability of consumers to have been accorded proper notice and hearing. Such a situation would only be used in the gravest of circumstances. Rather, the commission has been attempting to establish a uniform procedure of filing, notice, hearing, and then the application of temporary rates only after such steps have been taken. Therefore, we cannot agree in this proceeding that Hudson was entitled to temporary rates as of October 9, 1980.

Nor can we agree with the LUCC contention that consumers were not aware of alterations to their bills during the first quarter of 1981. On January 7 and 8, 1981, public hearings were held making consumers aware of the proposed increase. The company's exhibits had been submitted indicating that the rate of return last found to be reasonable by the commission was not being earned. The hearings were well attended and well publicized. Furthermore, there was still another hearing on February 25, 1981. The LUCC participated in all three hearings.

The commission has attempted many avenues to resolve this continuing conflict. Some of our decisions have allowed an effective date after the hearing but service prior to the hearing. *Re Exeter & Hampton Electric Co.* (1979) 64 NH PUC 399, 400; *Re Hampton Water Works* (1979) 64 NH PUC 246, 250. These cases have allowed the rates to be applied to all "bills" rendered after the hearing. Other cases have placed the temporary rates on all "service" rendered on or after the hearing date or the order date. *Re Granite State Electric Co.* (1981) 66 NH PUC 195.

The commission finds that a just and reasonable result is most likely to occur if after notice and a public hearing is held, temporary rates are established on all service as of a date after the hearing.

This area is one of transition. During the course of these proceedings, the supreme court issued its order in the Pennichuck proceeding. Furthermore, the request made by Hudson is not totally contrary to past decisions; in fact some support Hudson's contention. It is these variations that the commission is attempting to eliminate.

For the present, the commission will allow Hudson's permanent rates to be temporary on all service taken on or after January 9, 1981. The filings by Hudson made before January reveal that they are not earning the rate of return allowed in their last rate proceeding. The public hearings in Hudson and Litchfield allowed for public input into the decision process and were properly noticed. Finally, Hudson is placed on notice that in all future proceedings it should file a petition for temporary rates for effect on service after a set hearing date with sufficient notice.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Hudson Water Company's existing rates are made temporary as of January 9, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of June, 1981.

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NH.PUC\*06/29/81\*[78939]\*66 NH PUC 237\*Public Service Company of New Hampshire

[Go to End of 78939]

### Re Public Service Company of New Hampshire

DR 81-166, Order No. 14,964

66 NH PUC 237

New Hampshire Publication Utilities Commission

June 29, 1981

ORDER expediting construction work in progress refund process.

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BY THE COMMISSION:

On April 10, 1980, this commission issued its report and 22nd Supplemental Order No. 14,175 in docket DR 79-187 ([1980] NH PUC 165), which directed the Public Service Company to refund \$11,301,245 of CWIP related charges to its New Hampshire consumers. The commission, in that order, specified the dollars to be refunded to the various customer classes as follows:

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

*Refund Amounts*  
*Customer Class Specified by NH PUC*

Residential

\*(23) \$ 4,829,225

Commercial (Rate G) 2,021,635

Industrial (Rate GV)	3,008,211
Industrial (Rate TR)	1,043,297
Rates GV and TR Combined	—
Outdoor Lighting (Rate ML)	398,877
Total Refund	<u>\$11,301,245</u>

## FOOTNOTE

\*Includes Rates D, DE, D-OS, and D-OTOD.

The initial time period set forth for refunding the aforementioned over-collection was thirty-six months. However, if and when the "adjustment period" began on the divestiture of PSNH's Sea-brook interest, the time period remaining would be cut in half and the rate of refund would double.

On July 1, 1981, the adjustment period for PSNH will begin in its totality. Consequently, our prior order now must be complied with to the fullest extent possible. The rates of refund filed as p. 13 of NHPUC No. 24-A-Electricity, issued on May 16, 1981, are to double so as to allow a more expedited refund process.

The result of this expedited refund process will vary by a given consumers usage because the original overcollection was collected on a per kilowatt-hour basis. The following illustrates the effect of doubling the rate on certain customers within the various rate classifications:

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

## Residential

500 KWH  
750 KWH  
1,000 KWH  
1,250 KWH

## Commercial

1,500 KWH  
2,000 KWH

## Industrial and Institutional

1,000 KWH  
10,000 KWH  
50,000 KWH

This expedited refund process will allow completion of the refund process in less than a year.

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Our order will issue accordingly.

## Order

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

Ordered, that effective on all Public Service Company of New Hampshire's bills rendered on or after July 1, 1981, the CWIP credit rate is to be doubled so as to effectuate the refund in a time frame that is half that used to date; and it is

Further ordered, that Public Service Company file revised tariff pages to reflect the new CWIP credit rate of 0.176 cents per kilowatt-hour for D customers, 0.186 cents per kilowatt-hour for GV/ TR customers, and 0.858 cents per kilowatt-hour for ML customers effective on all bills rendered on or after July 1, 1981; and it is

Further ordered, that docket DR 81-166 is opened to assure compliance with our past orders involving CWIP credits and to resolve any problems which arise.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of June, 1981.

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NH.PUC\*06/30/81\*[78940]\*66 NH PUC 238\*Manchester Gas Company

[Go to End of 78940]

## Re Manchester Gas Company

DF 81-157, Order No. 14,928

66 NH PUC 238

New Hampshire Publication Utilities Commission

June 30, 1981

ORDER authorizing a natural gas company to declare and issue a stock dividend.

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BY THE COMMISSION:

Order

Whereas, Manchester Gas Company (the "company"), a New Hampshire corporation doing business as a gas public utility under the jurisdiction of this commission, by petition filed June 18, 1981, represents that as of April 30, 1981, 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	
249,750 shares \$5 par value issued	\$1,248,750
Capital Surplus	454,174
Retained Earnings	2,437,296
Total Common Equity	<u>\$4,140,220</u>

Whereas, the company proposes to issue no more than 7,395 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

**Page 238**

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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 value of \$9 per share, the quoted bid price; and

Whereas, the company proposes that the record date for payment of this stock dividend will be the later of June 16, 1981, 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, 1981, 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 25, 1981; and

Whereas, the commission is satisfied, after having reviewed the allegations of the petition and the appended exhibits, that a public hearing on this petition is not necessary, and that payment of this common stock dividend will be consistent with the public good, and in conformity with the provisions of RSA 369:1; it is

Ordered, that the Manchester Gas Company be, and hereby is, authorized to declare and issue a stock dividend of three shares of \$5 par value common stock for each 100 shares presently outstanding; and it is

Further ordered, that Manchester Gas Company be and hereby is, authorized to pay in cash, to the stockholders entitled to fractional shares; an amount based upon \$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 thirtieth day of June, 1981.

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NH.PUC\*06/30/81\*[78941]\*66 NH PUC 239\*Concord Natural Gas Corporation

[Go to End of 78941]

## Re Concord Natural Gas Corporation

DF 81-160, Order No. 14,966

66 NH PUC 239

New Hampshire Public Utilities Commission

June 30, 1981

ORDER authorizing a natural gas company to issue and sell its notes and notes payable.

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BY THE COMMISSION:

Order

Whereas, Concord Natural Gas Corporation is presently authorized to issue short-term debt in the amount of \$600,000 by Order No. 14,848 issued in docket DF 81-99 ([1981] 66 NH PUC 143); and

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Whereas, Concord Natural Gas Corporation is endeavoring to obtain long-term financing in the amount of \$600,000 to refinance its short-term debt; and

Whereas, Concord Natural Gas Corporation alleges that in order to adequately finance its utility operation including providing storage gas and supplemental fuel and additional plant and facilities to accommodate reasonable growth; and

Whereas, Concord Natural Gas Corporation will be spending approximately \$150,000 per month due to construction expenses related to the Concord sewer project; and

Whereas, Concord Natural Gas Corporation expects to be reimbursed for expenses related to the sewer project during the months of July, 1981, through January, 1982; and

Whereas, Concord Natural Gas Corporation alleges that it will need to have an available line of short-term credits up to \$1.1 million to meet its cash requirement, and has this line of credit available from the Bank of New Hampshire, National Association; it is

Ordered, that Concord Natural Gas Corporation be, and hereby is, authorized to issue and sell for cash its notes and notes payable in an aggregate amount of \$1.1 million until June 30, 1982, or until such time as it can obtain long-term financing in the amount of \$600,000 whichever is earlier; it is

Further ordered, that Concord Natural Gas Corporation, after the above mentioned financing of its long-term debt, shall be authorized to issue and sell for cash its notes and notes payable in an aggregate amount of \$800,000, until June 30, 1982; and it is

Further ordered, that on or before January 1st and July 1st of each year, Concord Natural Gas Corporation shall file with this commission a detailed statement, duly sworn to by its treasurer showing the disposition of proceeds of the notes or notes payable, or other 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 thirtieth day of June, 1981.

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NH.PUC\*06/30/81\*[78942]\*66 NH PUC 240\*Fuel Adjustment Charge

[Go to End of 78942]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Community Action Program, Granite State Electric Company, Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Littleton Water and Light Department, Woodsville Water and Light Department, and Municipal Electric Department of Wolfeboro

DR 81-132, Order No. 14,968

66 NH PUC 240

New Hampshire Public Utilities Commission

June 30, 1981

PETITION by certain electric utilities for approval of monthly fuel adjustment surcharges; granted.

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APPEARANCES: Eaton W. Tarbell for Public Service Company of New Hampshire; Gerald Eaton for Community Action Program; Michael Flynn for Granite State Electric Company; Peter Stolgiss for Concord Electric Company and Exeter and Hampton Electric Company.

BY THE COMMISSION:

Report

The Granite State Electric Company (GSEC) filed on June 12, 1981, its request for a fuel adjustment clause of \$1.77 per 100 kilowatt-hours for the months of July, August, and September, 1981, which reflected a shift of 1.526 cents per kilowatt-hour from the fuel clause to base rates for a total of \$1.809 cents per kilowatt-hour. With the filing were submitted 8 exhibits supporting the development of the fuel factor, estimates, and invoices from New England Power Company to GSEC for purchased power, and revised tariff pages. A ninth exhibit was provided after the hearing at the request of Chairman Love.

Two witnesses were presented at the June 22, 1981, hearing at the commission offices. They stated that this FAC is approximately 52 cents per 100 kilowatt-hours lower than last quarter due mainly to lower oil prices, generation of electricity by natural gas instead of oil and one plant, more coal generation, and a smaller adjustment from the prior quarter.

The commission accepts the additional roll-in of fuel costs into base rates as ordered in DR 80-245 ([1981] 66 NH PUC 187). The company's submittal included a delivered oil price estimate for July through September, 1981, for 2.2 per cent sulfur oil of \$25.33 to \$28.15 and

\$26 for one per cent sulfur oil for its plants. The commission feels the estimates are reasonable. Under cross-examination, it was discovered that the oil price estimate for plants not owned by NEES, but providing electricity to NEES were generally higher than NEES's estimates. As an example, Colson Cove, which burns one per cent sulfur oil estimated oil to cost approximately \$32 per barrel.

The commission felt these estimates were too high and per the chairman's request, the company submitted GS-9. GS-9 revised the oil price estimates for the Colson Cove and Wyman units downward, but did not change the oil cost per barrel figures for Canal I and Mt. Tom, which also appear too high to this commission. Since the commission does not have the computer capability to run different scenarios through the company production cost models, all the commission can do is to arbitrarily reduce the company's request. That we will do by two cents per 100 kilowatt-hours.

The overall downward reduction in the FAC would have been considerably larger had GS-9 not recognized the 3.5 per cent reduction in Maine Yankee's capability and its extended outage. The company's estimated coal cost-ton is \$57 while PSNH estimates costs in the \$45 to \$48 per ton range, but will not act on that concern at this time.

The company assumed a zero per cent growth in sales estimate which the commission considers reasonable.

Our order will issue accordingly.

The Public Service Company of New Hampshire (PSNH) originally filed a request on May 20, 1981, for a fuel adjustment charge of \$0.0197 per kilowatt-hour. On June 18, 1981, this was revised downward in subsequent filings. Prior to the hearing, numerous data requests were sent to PSNH by the PUC finance staff and were responded to in a timely manner by PSNH.

Public Service Company of New Hampshire (PSNH) submitted 20 exhibits and numerous witnesses.

The difference between the estimated FAC for this quarter and the past quarter,

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\$0.0267 per kilowatt-hour, results from a consideration of numerous factors. These include: the return to service of Merrimack Unit II, and increase in generation from nuclear plants, continued lowering of oil price estimates, a smaller reconciling adjustment, and the possibility of replacing oil with natural gas as the fuel source for the Schiller combustion turbine.

In evaluating the reasonableness of PSNH's proposed fuel adjustment, two key factors are sales growth projections and oil price projections. The company has used a 0.2 per cent sales growth assumption.

While the completion of DE 80-47 ([1981] 66 NH PUC 154), will no doubt assist in determining the reasonableness of sales growth projections, the commission believes this growth projection to be reasonable.

Another key projection in the fuel adjustment calculation is the price of oil. The commission will use PSNH's estimate for oil prices for this quarter.

The submission for this quarter reflected costs for operation of Manchester Steam and Danel Street. These plants are significantly more expensive than PSNH's other units. The units are antiquated and the commission previously asked PSNH to review the retirement of these units. The company conducted such a review and plans to retire Manchester Steam as of November 1, 1981. The retirement of Danel Street is further down the road.

Based on the information added to the record in this proceeding, the commission will allow the fuel costs related to the two plants to be included in the FAC, but suggests the company take all actions within its ability to advance the retirement date of Danel Street.

After the hearings on June 24, 1981, the company submitted third Revised Pages 24 and 25 to its tariff, NHPUC No. 24-A — Electricity, calling for a FAC of \$0.0151 per kilowatt-hour for the quarter July-September, 1981.

This increase was due to the recognition of the extension of the annual outage at Maine Yankee and the 3.5 per cent decrease in plant capability.

Recognizing that the record in this case is limited as to the occurrences at Maine Yankee, and in effect the record would have been blank, had the commission not questioned the plant's status, as to which the company could not provide any information during the hearing, the commission feels it has no choice at this time but to accept the company's revised filing. By accepting the five cents per 100 kilowatt-hours increase in the quarterly FAC, the commission doesn't necessarily conclude that the Maine Yankee Corporation is to be rendered blameless — for the 3.5 per cent decrease in plant capability and the extension of the annual outage. A review may be forth-coming.

In conclusion, the commission feels the assumptions and estimates used in this revised filing are reasonable and, therefore, accepts \$1.51 per 100 kilowatt-hours for the upcoming quarter. Our order will issue accordingly.

Concord Electric Company filed for a FAC for the upcoming quarter of \$1.47 per 100 kilowatt-hours down from \$2.48 per 100 kilowatt-hours for the quarter ending June 30, 1981. This was based on lower estimates of the fuel charge from PSNH a small undercollection from the prior period, no estimated growth in sales, and a 6 per cent estimated line loss. The company then filed a revision to \$1.50 per 100 kilowatt-hours due to PSNH's revised estimates due to the recent 3.5 per cent reduction in the rated capacity of Maine Yankee as well as the extension of the annual outage at Maine Yankee.

Our order will issue accordingly.

Exeter and Hampton Electric Company

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filed for a FAC for the upcoming quarter of \$1.57 per 100 kilowatt-hours down from \$2.70 per 100 kilowatt-hours for the quarter ending June 30, 1981. This was based on lower estimates of the fuel charge from PSNH, a small under-collection from the prior period, no estimated growth in sales, and a 5 to 5.5 per cent estimated line loss. The company then filed a revision to \$1.61 per 100 kilowatt-hours due to PSNH's revised estimates due to the recent 3.5 per cent

reduction in the rated capacity of Maine Yankee as well as the extension of the annual outage at Maine Yankee. The adjustment for Maine Yankee should be the same for Exeter as Concord, and we will only allow a \$1.60 per 100 kilowatt-hours. Our order will issue accordingly.

The major reason for the lowered fuel adjustment charges for all New Hampshire utilities is conservation. Because of the strong reduction in energy usage, there has been created an oil glut, which has dramatically reduced the cost of a barrel of oil.

This strong display of conservation has led to reduced electric rates that will significantly reduce customers' bills for the next quarter. In New Hampshire, the reduction is even larger than that experienced nationwide, because consumers have slowed their growth in energy usage to almost no growth at all. Such conservation leads to the expensive, less efficient units not being operated as often and this acts to further reduce electric rates.

#### Order

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

Ordered, that Public Service Company of New Hampshire's First and Second Revised Pages 24 and 25 to its tariff, NHPUC No. 24 — Electricity, are hereby rejected; and it is

Further ordered, that Public Service Company of New Hampshire's (PSNH) Third Revised Pages 24 and 25 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly fuel surcharge of \$1.51 per 100 kilowatt-hours for the months of July, August, and September 1981, be, and hereby is, permitted to become effective July 1, 1981; and it is

Further ordered, that Concord Electric Company's 72nd Revised Page 15-A to its tariff, NHPUC No. 6 — Electricity, is hereby rejected; and it is

Further ordered, that Concord Electric Company, 73rd Revised Page 15-A to its tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge of \$1.50 per 100 kilowatt-hours for the month of July, 1981, be, and hereby is, permitted to become effective July 1, 1981; and it is

Further ordered, that Exeter and Hampton Electric Company's Ninth Revised Page 19-A tariff, NHPUC No. 14 — Electricity, is hereby rejected; as is its Tenth Revised Page 19-A tariff, NHPUC No. 14 — Electricity; and it

Further ordered, that Exeter and Hampton Electric Company, 11th Revised Page 19-A tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$1.60 per 100 kilowatt-hours for the month of July, 1981, be, and hereby is, permitted to become effective July 1, 1981; and it is

Further ordered, that Granite State Electric Company tariff, NHPUC No. 8 — Electricity, 79th Revised Page No. 15-A, providing for a fuel adjustment rate of \$0.0177 per kilowatt-hour for the month of July, 1981, is hereby rejected; and it is

Further ordered, that as a consequence, GSEC should file revised tariff pages to recover \$0.0175 per kilowatt-hour for the month of July, 1981; and it is

Further ordered, that Connecticut Valley Electric Company, Inc., 51st Revised

Page 18 to its tariff, NHPUC No. 4 — Electricity, is hereby rejected; and it is

Further ordered, that 52nd 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 kilowatt-hours for the month of July, 1981, be, and hereby is, permitted to become effective July 1, 1981; and it is

Further ordered, that Fourth Revised Page 15 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 — Electricity, providing for the monthly fuel surcharge of \$3.37 per 100 kilowatt-hours for the month of July, 1981, net of refunds and adjustments, be, and hereby is, permitted to become effective July 1, 1981; and it is

Further ordered, that 90th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$2.59 per 100 kilowatt-hours for the month of July, 1981, be, and hereby is, permitted to become effective July 1, 1981; and it is

Further ordered, that Woodsville Water and Light Department, 56th Revised Page 10-B to its tariff, NHPUC No. 3 — Electricity, is hereby rejected; and it is

Further ordered, that 57th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 12 cents per 100 kilowatt hours for the month of July, 1981, be, and hereby is, permitted to become effective July 1, 1981; and it is

Further ordered, that Sixth Revised Page 11B of the Municipal Electric department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$3.65 per 100 kilowatt-hours for the month of July, 1981, be, and hereby is, permitted to become effective July 1, 1981.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1981.

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NH.PUC\*06/30/81\*[78943]\*66 NH PUC 245\*Littleton Water and Light Department

[Go to End of 78943]

## **Re Littleton Water and Light Department**

DR 81-51, Order No. 14,969

66 NH PUC 245

New Hampshire Public Utilities Commission

June 30, 1981

PETITION by electric company for an increase in rates; granted.

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APPEARANCES: Robert LaBonte, commissioner and John Cassidy, superintendent for Littleton Water and Light Department.

BY THE COMMISSION:

Report

These proceedings were initiated on February 25, 1981, when Littleton Water and Light Department (hereinafter referred to as "the department"), a public utility engaged in the distribution of electric service in the town of Littleton and to approximately thirty-six customers outside the town limits of Littleton, filed with this commission certain revisions to its tariff, NHPUC No. 1, providing for the implementation of a 9 per cent increase to the present rates, with an effective date of May 1, 1981. By virtue of RSA 38:12, this commission has jurisdiction only over those customers which are not within the town limits.

On April 1, 1981, the commission issued Order No. 14,821 ([1981] 66 NH PUC 116), suspending the proposed rate increase pending an investigation and public hearing in compliance with RSA 378:5. The commission order of notice, dated April 7, 1981, provided that a hearing be held at the office of the commission on May 14, 1981.

On May 14, 1981, the commission held a hearing on the requested increase.

#### *Basis for Filing*

At the hearing, the department stated that the purpose for the increase was to cover an increase in New England Power Company wholesale rate W-3, effective June 1, 1981, in an amount of approximately \$207,653. The department has requested \$139,427 of this increase to be effective. The remaining amount of \$68,226 is to be covered by the reserve fund which the department has accumulated over a period of time.

The department further stated that the increase in rates to its Littleton customers, which is not subject to this commission's jurisdiction, were placed in effect on May 11, 1981.

The department stated that it estimated that the effect of the increase to its out-of-town customers would be approximately \$2,300.

The department stated that it had a purchase power clause, but chose not to pass the increase along through the PPA and opted for a rate increase instead.

#### *Customer Deposits*

The department reviewed its policy in regards to customer deposits, which is not in compliance with the commission's rules and regulations. We will, therefore, order the department to comply with the commission's rules and regulations in respect to customer deposits for its out-of-town customers.

#### *Rate Design*

The department reported that they were in the process of reviewing the

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possibility of flattening out their rates. This review, at the time of the hearing, was

approximately 30 per cent complete. We will, therefore, expect the department to have completed this review prior to their next filing for a rate increase and to submit a flattened rate structure for approval within six months of the date of this order.

The review of the rates should include an analysis of the streetlighting rates. The filed rates include no increase for streetlighting, and the commission is concerned whether the revenues from that source compensates the department for its costs and is not being subsidized by the out-of-town customers.

The commission will allow the filed rates for the out-of-town customers to go into effect effective with all billings issued on or after July 1, 1981. The department will be expected to complete its review of the rate structure as expeditiously as possible and submit the results to this commission.

Our order will issue accordingly.

Order

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

Ordered, that Fourth Revised Pages 7 and 8, Fifth Revised Pages 9 and 10, Third Revised Pages 11 and 12, Fifth Revised Page 13, and Sixth Revised Page 15 of the Municipal Electric Department of Littleton's tariff, NHPUC No. 1 — Electricity, be, and hereby are, approved for effect with all bills rendered on or after July 1, 1981; and it is

Further ordered, that the department file with the commission its Third Revised Page 3 to said tariff, such revision to incorporate the current commission provisions regarding customer deposits; and it is

Further ordered, that the Littleton Municipal Electric Department review all deposits of jurisdictional customers, making corrections as required for conformance with commission rules; and it is

Further ordered, that the department provide the commission with the results of its current study of rate structure upon its completion; and it is

Further ordered, that the jurisdictional customers of the department be given notice of this decision by providing a one-time bill insert summarizing the approved changes.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1981.

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NH.PUC\*06/30/81\*[78944]\*66 NH PUC 247\*Concord Natural Gas Corporation

[Go to End of 78944]

## Re Concord Natural Gas Corporation

Additional petitioners: Gas Service, Inc., Manchester Gas Company, and Northern Utilities, Inc.

DR 81-78 et al. Supplemental Order No. 14,971

66 NH PUC 247

New Hampshire Public Utilities Commission

June 30, 1981

ORDER requiring certain natural gas utilities to net refunds from suppliers plus interest accrued against under recoveries.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission on p. 4 of its report related to Order No. 14,879, stated, "Recognizing that several of the companies are faced with significant undercollections for the 1980-81 winter period, the commission wants each company to make a filing within one month of the date of this order, detailing the winter period over or under collection"; and

Whereas, the four companies involved in this hearing have so complied; and

Whereas, those companies have shown significant undercollections for the winter period, 1980-81 on which no interest is accrued; and are holding refunds from suppliers for which interest is accrued monthly based on the companies' average short-term borrowing rate; it is

Ordered, that all refunds applicable to the winter period, 1980-81, from suppliers plus interest accrued to date shall be netted against the undercollections for the winter period, 1980-81. And it is

Further ordered, that the remaining balance of over or under collections shall accrue interest monthly from the date of this order, at the average interest rate which the company must borrow short-term debt at, or at its investment rate if no short-term borrowings are outstanding. And it is

Further ordered, that this order only relates to the winter period, 1980-81 collections and refunds. In all other respects, the report and Order No. 14,879 still holds.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1981.

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NH.PUC\*07/01/81\*[78945]\*66 NH PUC 247\*Pennichuck Water Works

[Go to End of 78945]

## Re Pennichuck Water Works

DE 81-168, Order No. 14,970

66 NH PUC 247

New Hampshire Public Utilities Commission

July 1, 1981

ORDER establishing effective date for a tariff revision.

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**Page 247**

BY THE COMMISSION:

Order

Whereas, 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 increases in its service connection charge; and

Whereas, the increase requested relates to increases that Pennichuck, as all utilities, must bear, such as interest charges on borrowed funds, labor costs, fuel costs, and other; and

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

Ordered, that Second Revised Page 15C of Pennichuck Water Works tariff, NHPUC No. 4 — Water, shall become effective as of July 18, 1981.

By order of the Public Utilities Commission of New Hampshire this first day of July, 1981.

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NH.PUC\*07/06/81\*[78946]\*66 NH PUC 248\*Pittsfield Aqueduct Company

[Go to End of 78946]

### **Re Pittsfield Aqueduct Company**

DR 80-125, Fourth Supplemental Order No. 14,973

66 NH PUC 248

New Hampshire Public Utilities Commission

July 6, 1981

ORDER granting motion for rehearing and other relief.

BY THE COMMISSION:

Supplemental Order

Whereas, the commission at one point in time had before it a motion for rehearing and other relief dated May 11, 1981. The commission, by Third Supplemental Order No. 14,899 ([1981] 66 NH PUC 197), initially denied the motion for rehearing. This order, however, is currently under suspension by the supreme court of the state of New Hampshire; and

Whereas, after a second review of the allegations contained in said motion for rehearing, it is

clear that the cost of litigation may approach the cost of our order at least as far as 1981 is concerned; and

Whereas, the prime interest rate has again climbed from what it was during the course of this proceeding; and

Whereas, some of the customers of this system have belatedly requested an opportunity to present their information; information not offered during the course of the proceeding itself; and

Whereas, the commission believes that more can be accomplished through a rehearing than a relitigation of these issues at the supreme court; it is hereby

Ordered, that the motion for rehearing and other relief proposed by the Pittsfield Aqueduct Company on May 11, 1981, is hereby granted; and it is

Further ordered, that the portion of the commission's decision requiring petitioner to install 50 new meters by

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year-end is rescinded; and it is

Further ordered, a public hearing will be held at the commission offices at 8 Old Suncook Road, Concord, New Hampshire, on Tuesday, July 28, 1981, at 10:00 A.M. and that Pittsfield Aqueduct is to publish notice of this rehearing in a paper of general circulation in its service territory so that the needs and desires of its customers with respect to meter installation can be heard; and it is

Further ordered, that the commission will allow evidence to be submitted as to alterations necessary as to petitioner's cost of capital and return on common equity resulting from increased meter installation; and it is

Further ordered, that the portion of our Third Supplemental Order No. 14,899 requiring petitioner to commence quarterly billing of its general service customers is hereby rescinded; and it is

Further ordered, that the commission's decision to required petitioner to read meters monthly through December, 1981, is rescinded; and it is

Further ordered, that petitioner may present evidence concerning the cost of amortization of new meters and any current operating expenses connected therewith; and it is

Further ordered, that the commission will allow evidence to be offered concerning an adjustment to petitioner's rates to accomplish any increased meter installation requirement; evidence that can be offered may be focused on operating expenses, returns on common equity, cost of capital, and rate base; and it is

Further ordered, that nothing contained in our original orders, nor in this order, will act as a foreclosure to Pittsfield Aqueduct petitioning for additional rate relief in the future; either immediate, near or distant; and it is

Further ordered, that the commission will consider any offer of evidence as to any additional rate case expenses attributable to this proceeding to date; and it is

Further ordered, that the commission will allow the issue of temporary rates to be raised by the petitioner.

By order of the Public Utilities Commission of New Hampshire this sixth day of July, 1981.

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NH.PUC\*07/07/81\*[78947]\*66 NH PUC 249\*Northern Utilities, Inc.

[Go to End of 78947]

### **Re Northern Utilities, Inc.**

DR 81-170, Order No. 14,974

66 NH PUC 249

New Hampshire Public Utilities Commission

July 7, 1981

ORDER permitting special service contract to become effective and establishing minimum price.

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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. 43 with Public Service Company of New Hampshire, for gas service at rates other than those fixed by its

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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 June 22, 1981. And it is

Further ordered, that the minimum price under said contract shall be \$3.53 per Mcf.

By order of the Public Utilities Commission of New Hampshire this seventh day of July, 1981.

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NH.PUC\*07/07/81\*[78948]\*66 NH PUC 250\*Claremont Gas Light Company

[Go to End of 78948]

### **Re Claremont Gas Light Company**

DE 81-162, Order No. 14,975  
66 NH PUC 250  
New Hampshire Public Utilities Commission  
July 7, 1981

ORDER imposing monetary sanction against natural gas company for failure to file annual report.

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BY THE COMMISSION:

Order

Whereas, Claremont Gas Light Company has failed to file its annual report for 1980, such report having been due at this commission on March 31, 1981; and

Whereas, such failure is in violation of the "Rules and Regulations Prescribing Standards for Gas Utilities" (Chap PUC 500, Part PUC 509.05); and

Whereas, the company failed to respond to a commission reminder letter dated April 3, 1981; and

Whereas, the company failed to respond to a commission reminder letter dated May 4, 1981; and

Whereas, the company failed to respond after a commission telephone call dated May 21, 1981; and

Whereas, the company failed respond to a commission reminder letter dated May 27, 1981; and

Whereas, the company failed to respond to a commission telephone call on June 5, 1981; and

Whereas, the commission scheduled a public hearing on the matter by Order No. 14,954 dated June 25, 1981 (66 NH PUC 233); and

Whereas, the hearing was postponed subject to assurance by a company representative that an immediate filing would be made, in a telephone call on June 30, 1981; and

Whereas, at this date, no company response has been received; and

Whereas, the commission finds the company to be in flagrant violation of its rule; and

Whereas, the commission has statutory authority (RSA 374:17) to impose a fine upon a public utility which shall neglect or refuse to file a report within a time specified by the commission; it is

Ordered, that Claremont Gas Light Company shall be fined \$1 per day for each day after March 31, 1981, until the

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date the annual report is received at these commission offices; and it is

Further ordered, that Claremont Gas Light Company appear before this commission at its Concord offices on Wednesday, July 22, 1981, at 9:00 A.M. to show cause why it should not be further penalized under provision of RSA 374.

By order of the Public Utilities Commission of New Hampshire this seventh day of July 1981.

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NH.PUC\*07/10/81\*[78949]\*66 NH PUC 251\*Cheshire Bridge Corporation/ Springfield Terminal Railway Company

[Go to End of 78949]

## Re Cheshire Bridge Corporation/ Springfield Terminal Railway Company

DT 80-250, Supplemental Order No. 14,967

66 NH PUC 251

New Hampshire Public Utilities Commission

July 10, 1981

PETITION by toll bridge for an increase in rates; granted.

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1. PUBLIC UTILITIES, § 3 — Toll bridge — Termination of utility status — Failure to comply with safety statute.

**[N.H.]The commission found that, where a toll bridge company had failed to comply with a statutory requirement of safe and adequate facilities through thirty to forty years of knowing neglect of routine maintenance and through diverting revenue to the benefit of its parent companies, rather than to the efficient and safe operation of the bridge, continued failure to comply with the statutory safety requirement would be viewed as a willingness to rescind utility status. p. 252.**

2. RATES, § 156 — Toll bridge — Maintenance of service — Increase conditioned upon repair of bridge.

**[N.H.]Because the accounting practices of parent companies had for forty years diverted revenue from repair of a toll bridge to other corporate uses, the commission conditioned a secondary toll rate increase to passenger auto and motorcycle traffic upon both the waiver by the parent companies of their management fee for two years and the completion of a major portion of the bridge repair in order (1) to compensate for the improper siphoning of revenue by the parents, (2) to balance properly the interests of all concerned, and (3) to adhere to the requirement that fees be paid in relation to used and useful investment. p. 254.**

3. ACCOUNTING, § 5 — Duty to keep proper accounts — Monitoring daily receipts —

Revenue level.

**[N.H.]Where the commission believed that the revenue figure of a toll bridge company might have been artificially low due to the company's failure to implement adequate controls on daily receipts, it directed the company to maintain separate books and bank accounts for funds associated with the bridge and to install a system to monitor accurately daily receipts to minimize the potential for the disappearance of revenues. p. 256.**

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APPEARANCE: Robert T. Clark for the petitioner.

BY THE COMMISSION:

Report

### *I. History*

On December 1, 1980, Cheshire Bridge Corporation/Springfield Terminal Railway

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Company filed for an increase in rates pursuant to RSA 378. Cheshire Bridge Corporation sought to place the increase into effect on January 4, 1981. The commission suspended Cheshire Bridge Corporation's filing on December 12, 1980, by Order No. 14,610. A public hearing was held in Claremont on February 17, 1981. Additional hearings were conducted at the commission.

This proceeding is unique in two ways. First, the tariff presently in effect has been in effect since March 1, 1924. Second, this utility is the only remaining toll bridge in the state of New Hampshire.

Cheshire Bridge Corporation (hereinafter referred to as "Cheshire" or "CBC") is a subsidiary of the Springfield Terminal Railway Company which is a subsidiary of the Boston and Maine Railroad (B&M). Springfield Terminal Railway Company receives revenue from its railroad operations, the Cheshire Bridge Corporation, and another subsidiary referred to as Ayer Facility.

The first bridge constructed at the site was in 1833. This bridge was replaced in 1896 and later the abutment was reinforced in 1902. There was additional work performed to raise and improve the bridge in 1927. New approaches improved strength and major construction was carried forward in 1930. Occasional maintenance work has been performed since, but CBC freely concedes that major portions of regular maintenance was deferred for a number of years. This failure to maintain adequate maintenance and repair in the past has led to significant problems in the present. The effect of this deferred maintenance has culminated in a engineering report on the safety of the bridge and the major revenue increase sought in this proceeding.

### *II. Safety*

[1] The CBC hired an engineering firm to review the bridge and to make a structural analysis. The results of that inspection, which was taken in the winter of 1979, was updated by an inspection at the request of the commission during the course of these proceedings.

The overall report of the condition of the bridge, together with the testimony in this

proceeding, lead to the following findings.

First, the commission finds that the general disrepair of the bridge is the result of a knowing neglect of routine maintenance lasting at least thirty and likely forty of the last fifty years by the Cheshire Bridge Corporation as well as its parents. Everything from paint to major structural changes were deferred with the result that corrective action today is dramatically more expensive.

During the last half century no discernable thought was given to a program of maintenance of the bridge nor were funds set aside for future maintenance.

The commission also finds that during the last fifty years this failure to conduct proper maintenance was accelerated by a failure to maintain proper accounting practices and a failure to retain necessary revenue from the tolls collected to efficiently and safely operate the bridge. Rather, the commission finds that the toll money over the past fifty years has been used for the benefit of Cheshire Bridge Corporation's parent companies.

The CBC's situation over the last fifty years reveals scant financial data between 1939 and 1976. While it is difficult to state the overall rate of return earned during that time, it is clear that even as recently as the late 1970s the Cheshire Bridge was an extremely lucrative source of revenue for its parent companies. Proper accounting practices dictate changing some of Cheshire Bridge "expenses" to capital additions because of their tendency to prolong the life of the bridge. Based on proper accounting practices the commission finds that the approximate

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rate of return earned by the Cheshire Bridge operations independent of the Springfield Terminal was between 20 and 50 per cent during the 1970s. Such returns clearly provided the funds necessary for adequate maintenance and a reasonable return to the parent companies. The argument offered by CBC that there were Springfield employees loaned at no charge to CBC would not make a significant difference in these figures even if demonstrated to be accurate.<sup>1(24)</sup>

The testimony given by CBC's consultant necessitates major structural changes to the bridge. Revised statutes annotated 374:1 requires that every public utility, including those which operate toll bridges, shall furnish such service and facilities as shall be reasonably safe and adequate, and in all other respects, just and reasonable. The commission finds that as to adequacy, and in some instances safety, the service provided by Cheshire between 1924 and 1978 gradually fell into noncompliance with this statutory requirement. The commission also finds that the new B&M management, and to a certain extent CBC's management, has improved dramatically and is making concerted efforts to return the Cheshire Bridge to compliance with this statute.

The report by the engineering consultants submitted in this docket and the testimony provided at the public hearing force us to elevate safety as our major concern in this proceeding.

Witness Cook, one of the engineering consultants hired, was asked the question: "What is your impression about maintenance of the bridge over the last forty years, has it been maintained properly?" The answer provided was "No." Mr. Cook raised major concerns about truck traffic crossing the bridge in part because of their failure to honor the posted limits as to speed and load.<sup>2(25)</sup> No records of annual maintenance plans or a log of the repairs were provided to Mr.

Cook; nor were any found by the commission's audit team.<sup>3(26)</sup> The stringers on the bridge have been found by Mr. Cook in need of replacement due to poor maintenance.<sup>4(27)</sup> A simple coat of paint could have prevented the replacement of the stringers.<sup>5(28)</sup> Based on this testimony, the commission finds that safety and improvement of service are tied to insuring that the CBC spends the appropriate levels of their proceeds on maintenance and structural improvements.

The testimony in this proceeding reveals that major structural changes must be implemented immediately. The proposals suggested by witness Cook offer a wide variety of options but all require major changes. The four major alternatives offered (A, B, C, D) all include replacing the existing timber deck. Options are offered as to concrete or timber and even further categorized by type of timber.

The commission will require Cheshire Bridge Corporation to use either Alternative A with a spline deck or Alternative B, a new concrete-filled steel grating deck, whichever can be placed into service under a quicker timetable. Furthermore, the commission finds that all stringers are to be replaced with new stringers as soon as possible.

Witness Cook testified that various other repairs should also be undertaken. These include repair of the last abutment where the steel grillage is exposed, major substructure repair and a cleaning and painting of the entire structure. These repairs

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are ordered to be implemented with all deliberate speed.

The new management of Cheshire and B&M have finally broken with the practice of their predecessors, which was simply stated as neglect of this bridge. The commission supports and recognizes the efforts made by CBC counsel in this case, CBC management and B&M management to improve the structure, strength, and appearance of this bridge. Yet, the commission must state that any deviation from this new course will result in a loss of franchise. This commission expects utilities to comply with the statutory safeguard of adequate and safe service. Failure to comply with this statutory requirement will in the future be viewed as a willingness to rescind the status of a utility.

### III. *Expenses*

[2] The records of Cheshire Bridge purport to show actual expenses for 1980. This year will be treated as the test year in this proceeding. To arrive at a proper test year, it is necessary to recognize and remove any abnormalities or nonrequiring expenses. By imposing this scrutiny, the commission will have a greater assurance that the test year is reflective for the future. To assist in transforming the test year to a year reflective of the future, it is necessary to make adjustments for known or measurable changes. *Public Service Co. of New Hampshire v New Hampshire* (1959) 102 NH 150, 30 PUR3d 61, 153 A2d 801; *Re Hudson Water Co.* (1979) 64 NH PUC 35, 28 PUR4th 617.

The 1980 year data submitted reveals a total expense figure of \$261,080. Yet, the testimony in this proceeding fails to support this level of costs as a proper index for the future. Capital improvements designed to extend the life of the bridge have been improperly expensed. These incorrect accounting practices are most evident in the entry entitled "accrued bridge

construction" which relates to \$97,350.

Other expensed items more properly capitalized are "bridge work — Miller Construction" (\$2,316) "toll bridge signs" (\$500), and "toll booth, safe, plow hitch" (\$6,046). These items have not been demonstrated to fit within the commission's definition of expense as stated in its chart of accounts for utilities. The burden of proof, which is on Cheshire, has not been carried.

There are other adjustments necessary to adjust the test year to be both more equitable and more reasonable. The expense for the engineering study is not an expense normally incurred every year. Yet, it is a reasonable expense that should be expended every five years. Consequently, for accounting purposes only, \$4,853 will be recognized. The remaining \$14,559 is removed from test-year expenses.

Another expense questioned in this docket was the B&M management fee. At the present time, one-third [of] this cost is assigned to each company that comprises the Springfield Terminal Railway. As was noted by staff, a more proper allocation based on revenue would yield a \$13,500 charge rather than the \$15,000 that appears in the company records. The commission accepts revenue as a more proper allocation than the simple one-third allocation. Our finding is buttressed by the previous four decades of records in which the operations of the bridge were used to subsidize all other activities of the Springfield Terminal Railway.

The commission has noted throughout this opinion that despite the solid and efficient efforts of today's bridge management, this company was literally bled of its revenues for the last forty years by its parent companies. If those companies are prepared to waive any management fee for two years, the commission will

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allow a three cents raise per passenger auto and motorcycle as of November 30, 1981, after a major portion of the bridge repair is completed. This will provide greater revenues for the bridge, but also will help compensate for the improper siphoning of these revenues by the parent companies for the last forty years. By requiring additional revenues of consumers only in direct revenue foregone by the parent companies can this commission properly balance the interests of all concerned. By allowing this secondary increase only after major additions to the bridge does this commission adhere to the requirement that fees be paid in relation to investment that is used and useful.

As will be noted later in this opinion, all commuter discounts cease with this order. Consequently, the cost of \$6,000 associated with ticket books for commuters is eliminated.

The insurance costs shown in 1980 reflect costs for both 1979 and 1980. Consequently, the expenses for 1979 must be removed so as to make the test year reflective. Yet, acting in the opposite direction is an increase in the insurance costs looking forward into this year. The result is a slight reduction of \$95 to \$7,000.

The commission has historically recognized increases in payroll, and this utility is as entitled as is any other entity that we regulate. The 10 per cent increase allowed is a known and measurable change, which increases payroll by \$4,963 to \$54,000. Re Manchester Gas Co. (1979) 64 NH PUC 95, 109, 29 PUR4th 121.

Another expense item traditionally allowed as a pro forma adjustment is property tax adjustments. In 1980, the property taxes for CBC were \$25,130. The 1981 property tax increase is \$2,507 to arrive at a figure of \$27,637. This pro forma adjustment expense is accepted as a known and measurable change. Re Manchester Gas Co. (1979) 64 NH PUC 95, 109, 29 PUR4th 121.

Additional pro forma adjustments are proposed for utility assessment and franchise taxes (\$69), unemployment (\$114), retirement (\$917), and business profits tax (\$115). All of these expenses are known and measurable changes and will be accepted as reasonable pro forma adjustments.

There appears a good chance that property taxes in Charlestown will again be increased in 1982. If such an increase does occur and if CBC makes the repairs ordered in this decision, an adjustment will be made to the rates on July 1, 1982, to recover these costs.

Finally additional pro forma adjustments for benefits — uniforms, etc. (\$104), gasoline (\$21), insurance (\$55), telephone (\$234), electricity (\$234, auto expense (\$31), small repairs (\$39), office supplies (\$23), and claims (\$24) are also proposed. All have been demonstrated by the company to be known and measurable and will therefore be accepted.

The result of these alterations to the test year yield a pro formed test year consisting of \$94,555 in operating and maintenance expenses and \$40,157 in taxes for a total of \$134,712. If expenses are reduced by the remaining B&M management fee, the figure becomes \$121,212.

The depreciation expenses for the test year were \$2,665. New additions will increase the level of depreciation to \$26,334. Since only a portion of these new additions have been completed but recognizing others are being added continuously until winter, the commission will allow depreciation expenses of \$15,361 as seven-twelfths of the ultimate costs. If the appropriate capital improvements are made to the bridge, consideration will be given to recognizing the full depreciation costs as of July 1, 1982.

This results in a total for expenses of

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\$150,073, or \$136,573 if the management fees are excluded.

#### *IV. Revenues*

[3] The revenues collected in 1980 were \$175,630. This figure may have been artificially low due to the failure of CBC to adequately implement internal controls on daily receipts. The commission will require that CBC start separate books and bank accounts for funds associated with the Cheshire Bridge. Furthermore, the commission will require CBC to install a system to accurately monitor each day's receipts so that the potential for the disappearance of revenues is dramatically minimized from what exists today.

The vehicle count submitted would lead to a pro forma revenue of \$176,491, which the commission accepts. To be able to make repairs, financing must be arranged. Such a financing rate would be calculated into the overall rate of return. A \$500,000 loan at 15 percent would require an additional \$75,000 to be covered by revenues. This would lead to a revenue

requirement between \$211,573 and \$225,073 depending on the CBC election as to the B&M management fee.

The revenues are to be collected as are calculated as follows:

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

Tolls - Vehicles	\$212,156
Tolls - Railroad Cars	8,000
Howard Johnson Water	3,600
NET Cable Revenue	96
Young's TV Cable	60
Other - Rent	600
	\$244,512

Cheshire Bridge Corporation should actively attempt to increase the revenue from its cable transport and rent operations.

The collection from tolls concerning vehicle traffic are approved as follows:

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

Passenger Autos	\$178,102
Motorcycles	4,161
Other Motor Vehicles*	29,893
Total	\$212,156

Assumes average of three axles.

#### V. Rate Structure

The proposed rate structure submitted by Cheshire Bridge places major increases in all customer groups but does continue the commuter discount albeit at a substantial higher rate. The following chart compares the existing rate versus the proposed rate.

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

*Customer Group Existing Rate Proposed Rate*

Passenger	\$ .15	\$ .50
Passenger -		
Commuter	.10	.25
Motorcycles	.10	.50
Motorcycles -		
Commuter	.05	.25
Other Motor		
Vehicles	.25	.75
Railroad Car	0	\$5.00 round trip

The proposed increase would result in a revenue level in excess of that found to be reasonable by the commission. In determining a proper rate structure to fit the revenue figure the uniqueness of the bridge must be recognized. We also recognize the particular unsettling testimony on the need for substantial maintenance at the bridge.

The bridge supports a variety of traffic, some of which is railroad, the remainder consists of motorized vehicles, pedestrians and bicycles. A review of this record reveals no information to justify continuation of the two cent charge for pedestrians or bicycles. Consequently, the commission finds that these users of the bridge will be able to use the bridge at no cost.

The evidence clearly demonstrates that the heavier the traffic, the more wear and tear on the bridge's structure. The necessity for major maintenance and structural overall is primarily caused by the strain placed on the bridge by train

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and truck traffic. The need for additional strengthening of stringers as well as their replacement is to provide the necessary support for the weight imposed by these types of bridge traffic.

Prior to this proceeding the train traffic was allowed to traverse the bridge without charge. Yet, the most elementary of cost allocation reveals that there is no longer any justification for this practice. At least a portion of the capital improvements and maintenance is associated with the railroad side of the bridge. Therefore, the commission finds that a fee shall be levied per railroad car on a round trip basis. The evidence in this proceeding justifies as a minimum \$10 per railroad car per round trip. The Cheshire Bridge proposal of \$5 per railroad car per round trip does not properly allocate the necessary costs to this aspect of the bridge business.

The testimony by witnesses in this proceeding has led the commission to require that weight limits be posted for truck traffic. Evidence submitted reveals the necessity for greater structural change due to the weight of trucks crossing the bridge. Staff and company testimony reveal continuing disregard for both speed and weight limitations by those trucks using the bridge. The present charge of 25 cents is not cost effective for the additional costs imposed by truck traffic.

Cheshire Bridge Corporation proposes that the fee be increased to 75 cents per truck. Such a mammoth increase is not justified by the record in this proceeding. The size of the truck has relation to the structure necessary to support the truck. Consequently, it is found to be more reasonable to base this on a per axle basis. The rate approved is 15 cents per axle.

Historically, passenger vehicles and motorcycles have been treated differently by CBC. The present traffic required a 15 cent charge for passenger vehicles with a reduction to ten cents for specialized commuter rate, motorcycle riders were required to pay five cents. An additional passenger increased the fee to ten cents.

There is no evidence in this proceeding to substantiate the difference between motorcycles and automobiles. Based on the evidence in this, both should be charged the same rate. Nor does there appear any evidence to substantiate a commuter discount. Travel across the bridge carries the same costs with each trip. Travel across the bridge causes certain level of wear and tear which is maximized not minimized by increased traffic. Until the bridge has been returned to a better maintained state, the commission finds no justification for the commuter discount.

Cheshire Bridge Corporation proposed that the rate be 50 cents for automobiles and motorcycles with a commuter discount of 25 cents. The commission finds that the evidence does not support these charges. The revenue received from automobiles at the present time dictates a continuation of the 15-cent rate. Since there was no evidence offered to distinguish motorcycles from automobiles, the same rate will apply for motorcycles regardless of the number of passengers. Any commuter discounts for either vehicle have not been demonstrated to be either equitable or reasonable.

As has been noted previously, the claim that some rate increase is necessary for all users of the bridge because of the increase in the consumer price index (Exh 2) is faulty reasoning. While there has not been a fare increase since 1924, that does not in of itself prove the necessity for one now. Regulation is not tied to the consumer price index. Some utility rates are reasonable at a price higher than the index, while others are justified at a rate lower than the consumer price index. The statutory test is reasonableness

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affecting consumer's pockets. If anything, the evidence reveals that rates were unreasonably high for a major portion of the time period between 1924 and the present.

The commission has noted that the management of Cheshire Bridge Corporation and its parent, B&M has improved dramatically in the last three years. Improvements are now beginning to be made that will render the service provided by the bridge to be adequate. However, the commission must review the CBC in its efforts from 1924 to the present. The level of revenue allowed from that requested recognizes that customers have over the years done their share. Management of the CBC has only begun to shoulder its share of the burden recently. The rate design imposed will reflect a more accurate allocation of costs than that submitted by the company. Finally, the rate design eliminates previous discriminations among customers that have arisen over the years.

The commission has one final concern that has arisen during the course of this proceeding. All of the testimony provided in the proceeding reveals a continuing disregard for the load and speed limits shown on the bridge. This failure to honor the posted signs has occurred primarily with truck traffic. A continuation of this practice will increase maintenance costs, reduce the life of the bridge, increase the depreciation rate, and require greater levels of financing at higher-than-traditional rates. These factors will culminate in higher costs to present, as well as future, users of the bridge. At present, these abusers of these limits are directly causing direct costs to the bridge, which are being subsidized by all other users of the bridge. Consequently, the commission will set a rate of \$10 for all trucks crossing the bridge, which do not adhere to the load and speed limits posted by this commission. If a request for payment of this form is asked for and failed to be complied with, the license number is to be noted by Cheshire Bridge employees for submission to this commission. If CBC has any further plans to resolve this problem of compliance with load and speed limits, the commission would welcome its filing.

Our Order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part of this order; it is hereby

Ordered, that tariff pages entitled "Tariff of Toll Rates" identified as "NHPUC No. 3 Canceling NHPSC No.2" are hereby rejected; and it is

Further ordered, that Cheshire Bridge Corporation file revised tariff pages to reflect the following charges: passenger vehicle — automobiles, motorcycles, mopeds, 15 cents; other motor vehicles, 15 cents and axle; emergency vehicles (police, fire, ambulance) responding to or returning from a call, pedestrians, bicycles, no charge; railroad cars (including locomotive) per

round trip, \$10; and a rate of \$10 for any vehicle that exceeds either the speed or load restrictions posted at the bridge; and it is

Further ordered, that the load restrictions referred to in Exh 1 are to be posted, the signs maintained and enforced; and it is

Further ordered, that the following repairs are to be completed before January 1, 1982: an installation of a new concrete filled steel grating deck with new stringers replacing all the existing stringers, immediate repair of the east abutment where the steel grillage is exposed, repair and/or replace deteriorated parts of truss shoes at abutments and piers as required, addition of steel angles and wood shims at the top flange, the weld around the previously added web plates be made continuous, addition

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of plates to the new bearing stiffeners to place them in contact with the bottom flange, repairs to the lower lateral connection plates or replace if necessary, clean and paint entire structure, and all other necessary repairs that the Cheshire Bridge Corporation, the Springfield Terminal Railway, or the Boston and Maine Railroad believe are necessary to render the bridge safe for vehicle and train traffic of all types; and it is

Further ordered, that the Cheshire Bridge Corporation is to set up separate books and bank accounts and that funds should be separated for use only by the Cheshire Bridge Corporation within sixty days of this order; and it is

Further ordered, that the Cheshire Bridge Corporation install a method to be able to track the accuracy of each days receipts and take all necessary steps to dramatically improve internal controls; and it is

Further ordered, that a three cents raise in fees for passenger vehicles and motorcycles will be allowed as of November 30, 1980, if the conditions set forth in the order are met.

By order of the commission this tenth day of July, 1981.

FOOTNOTES

<sup>1</sup>Poor accounting procedures make it impossible to determine the validity of this assertion.

<sup>2</sup>Transcript — February 18, 1981, p. 40; Transcript — March 11, 1981, p. 11.

<sup>3</sup> Transcript — March 11, 1981, p. 49

<sup>4</sup> Transcript — March 11, 1981, p. 45

<sup>5</sup> Transcript — March 11, 1981, p. 47

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NH.PUC\*07/10/81\*[78950]\*66 NH PUC 259\*Cheshire Bridge Corporation/Springfield Terminal Railway Company

[Go to End of 78950]

**Re Cheshire Bridge Corporation/Springfield Terminal Railway  
Company**

DT 80-250, Second Supplemental Order No. 14,977

66 NH PUC 259

New Hampshire Public Utilities Commission

July 10, 1981

ORDER extending validity of outstanding commuter discount tickets.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission is aware that there are outstanding commuter discount rate books still in the hands of users of the Cheshire Bridge, and

Whereas, the commission has discontinued the use of discounted passage as of July 10, 1981, it is hereby

Ordered, that the existing commuter tickets are valid until September 1, 1981, and it is

Further ordered, that the use of these discounted tickets after September 1, 1981, will require their value to be ten cents and the user of the coupon will be required to pay the monetary difference between the ten cent level and the new rate established by Order No. 14,967 (66 NH PUC 251), and it is

Further ordered that the second step increase referred to in Order No. 14,967 as effective November 30, 1980, is amended to read November 30, 1981, and it is

Further ordered that this rate may change if the financing rate or the dollar level of financing assumed in the order is changed upon actual negotiation of the financing, and it is

Further ordered that the rate for the railroad cars traffic as of November 30, 1981, will revert back to the rate set forth

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in tariff pages NHPC No. 3, and it is

Further ordered that the commission transportation inspectors will monitor the speed of vehicles going across the bridge starting as of July 13, 1981, and will use the full extent of their power to assure enforcement, and it is

Further ordered that the rate set for the second step in November 30, 1981, will increase to the next cent level divisible by five if the financing is caused to be more expensive than assumed or the vehicles crossing the bridge continue to exceed the posted speed and load limits.

By order of the Public Utilities Commission this tenth day of July, 1981.

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NH.PUC\*07/14/81\*[78951]\*66 NH PUC 260\*Small Power Producers and Cogenerators

[Go to End of 78951]

## Re Small Power Producers and Cogenerators

DE 80-246, Third Supplemental Order No. 14,980

66 NH PUC 260

New Hampshire Public Utilities Commission

July 14, 1981

ORDER denying motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

A motion having been filed by Monadnock Paper Mills, Inc., for a rehearing and the commission having considered the motion and the reasons set forth therein and for good cause shown; it is hereby

Ordered, that the motion for rehearing be denied.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of July, 1981.

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NH.PUC\*07/15/81\*[78952]\*66 NH PUC 260\*Dover Water Department

[Go to End of 78952]

## Re Dover Water Department

DR 81-150, Order No. 14,981

66 NH PUC 260

New Hampshire Public Utilities Commission

July 15, 1981

ORDER suspending effective date of rate increase pending investigation.

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BY THE COMMISSION:

Order

Whereas, the Dover Water Department, a public utility engaged in providing water service to

limited areas of Madbury, Rollinsford, and Somersworth in the state of New Hampshire, filed with this commission certain tariff revisions proposing to increase its revenues from these jurisdictional

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customers by \$4,706.22 or 66 per cent with an effective date of September 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 hearing thereon; it is

Ordered, that the undesignated rate page of the Dover Water Department tariff bearing a filing date of June 15, 1981, be and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of July, 1981.

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NH.PUC\*07/15/81\*[78953]\*66 NH PUC 261\*Omni Communications, Inc., d/b/a Page Call

[Go to End of 78953]

**Re Omni Communications, Inc., d/b/a Page Call**

DE 81-131, Fifth Supplemental Order No. 14,982

66 NH PUC 261

New Hampshire Public Utilities Commission

July 15,1981

ORDER dismissing petition without prejudice.

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BY THE COMMISSION:

Supplemental Order

Whereas, Comex, Inc., on June 26, 1981, filed a motion to dismiss in the above captioned action; and

Whereas, Omni Communications, Inc., on July 7, 1981, filed a response; and

Whereas, oral arguments were heard on July 14, 1981, and the commission having heard the arguments of the parties hereby finds:

"A. pursuant to this commission's authority, Comex in 1971 was granted an exclusive franchise to the entire state of New Hampshire; and

"B. based on the record before this commission, Omni appears to be a utility subject to the jurisdiction of this commission, and as such has no authority to infringe upon the franchise

granted Comex;" it is hereby

Ordered, that the above captioned proceeding is dismissed without prejudice, and Omni Communications, Inc., may file an amended petition, which is neither encouraged nor discouraged by this commission.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of July, 1981.

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NH.PUC\*07/16/81\*[78954]\*66 NH PUC 262\*Omni Communications, Inc. d/b/a Page Call

[Go to End of 78954]

## Re Omni Communications, Inc. d/b/a Page Call

DE 81-131

66 NH PUC 262

New Hampshire Public Utilities Commission

July 16, 1981

OPINION of chairman giving notice of commission's belief that two certification dockets were not closed.

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Opinion of J. Michael Love, Chairman

The area of domestic, public land, mobile radio service, and its regulation is not new to this commission. In *Re Comex, Inc.* (1963) 45 NH PUC 196, this commission granted Comex, Inc. authority to operate as a "public utility providing domestic public land mobile radio service on a nonexclusive basis" in certain New Hampshire communities. (45 NH PUC at p. 199.) The franchise authorized by the commission was "nonexclusive" in certain New Hampshire communities (45 NH PUC at p. 198.) Probably the most important finding in this decision was the acceptance of Comex's operations as that of a "public utility." (45 NH PUC at p. 198.) As of June 21, 1963, this commission found that Comex, Inc., is to be classified "as a public utility under RSA 362:2" (45 NH PUC at p. 198.)

In 1963, Comex was seeking to serve a limited part of the state. This situation was primarily due to "operating limitations" of the existing system. (45 NH PUC at p. 197.) Consequently, Comex's entry into New Hampshire was limited to 57 communities. (45 NH PUC at pp. 199, 200.)

In 1965, in D-E4400, *Re Comex, Inc.*, 47 NH PUC 215, this commission again found that Comex, Inc., was a public utility. Pursuant to the provisions of RSA 362:2, Comex was granted "nonexclusive" authority to operate as a public utility providing domestic public land mobile radio service in 17 additional New Hampshire communities.

In 1970, this commission in D-E5784, *Re Comex, Inc.* (1970) 55 NH PUC 135, this commission again reinforced its finding that the operations performed by Comex were public

utility in nature as defined by RSA 362:2. Approval was given by that order to enter into 60 other New Hampshire communities on a nonexclusive basis so as to provide domestic public land mobile radio-telephone service on a nonexclusive basis. (55 NH PUC at p. 136.)

In 1971, a major decision in this area was issued by the commission. D-E5951, Re Comex, Inc. (1971) 56 NH PUC 162. In that docket the commission again found Comex to be a utility, but also found that as such Comex would have "exclusive" service in the 134 New Hampshire communities approved for Comex service in the previous Order Nos. 8015, 8408, and 9898. The commission stated its reasoning as follows:

"A public utility traditionally possesses a protected franchise area in order to promote the capital investment necessary to furnish service to prospective subscribers. A protected franchise also prevents unnecessary and uneconomic duplications of facilities." (56 NH PUC at p. 163.)

In this decision, the commission also set forth its criteria by which a franchise

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and authority to operate could be revoked or amended and the commission stated:

"Should any utility be unable or unwilling to meet the reasonable needs of the public, or to provide reasonably adequate service, then its franchise and authority to operate can always be revoked, or amended, to permit others to provide the service." (56 NH PUC at p. 163.)

The commission has held two other dockets that relate to Comex. The first is a proceeding in 1972, D-E5784, 57 NH PUC 27, Book II, in which the commission granted exclusive jurisdiction to operate as a public utility providing domestic public land mobile service to 61 additional New Hampshire communities in their entirety and four additional New Hampshire communities on a partial basis. (57 NH PUC at pp. 27, 28.) The other docket was DR 80-248, Comex, Inc., concerning a revision to its tariff and authority. This petition was subsequently withdrawn by Comex on May 20, 1981.<sup>1(29)</sup>

Omni Communications, Inc., besides this petition, filed another petition in DE 80-4. In that docket, Omni subsequently withdrew its petition. It is suggested that the withdrawal was in some fashion connected to a letter by a commission employee.

Both Omni and Comex are hereby noticed that this commission does not believe that either DR 80-240 Comex, Inc., nor DE 80-4 Omni is closed. There has been no acceptance by the commissioners of the closing of the docket or the withdrawal of the petitions. Furthermore, based on the history as I have outlined in this opinion, Omni does not have any authority to be operating in this state in any fashion.

As I have noted, Comex has the exclusive right to serve 205 New Hampshire communities completely and four other New Hampshire communities partially. Comex is a utility just like New England telephone, Public Service, or Gas Service are. The standard for any corporate entity seeking to serve a portion of the franchise allocated to these public utilities or to a public utility like Comex must be a demonstration that the franchised utility is not meeting the reasonable needs of the public. Further, a demonstration that a given utility is unable or unwilling to meet the needs of Alton Bay does not justify losing the franchise in Berlin. Each community must be accorded a separate proof.

Furthermore, a corporate entity seeking to disenfranchise an existing utility cannot seek the most economic communities without a willingness to serve communities that are small in nature and in the long run uneconomic to serve.

Omni Communications, Inc., has not to date shown any demonstration of proof to justify disenfranchising Comex. Omni Communications, Inc., seeks utility status as it must if it is to offer one-way or two-way service. Both of these services are utility in nature based on previous decisions cited in this opinion.

Both Omni and Comex have ignored the orders of this commission. If either continues after the date of this decision, the commission will take disciplinary action.

As to the subject of my disqualification, I find no rational basis. The arguments offered by Comex do not demonstrate any difference in my actions from those of past or present commissioners. As to my inactions, there are still two pending cases to resolve, DE 80-4 and DR 80-248, which only when completed can I be evaluated on this standard. As to the

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Comex suit against the commission, it was dismissed. Dismissed, by the way, without myself seeing any pleadings or evidence. The supreme court refused to hear any appeal and asked us to resolve this case. I do not see, nor have I felt, that I am a defendant, since I was never personally sued. I have no animosity towards Comex or Omni, and I am prepared to have any higher tribunal judge my actions.

The only possible incorrect action was not allowing myself the benefit of oral arguments. However, I have researched the cases cited and since I ruled as a matter of law, not fact, where further the oral arguments were going to be simply reinforcement of the written memorandum, I find no incorrect action.

#### FOOTNOTES

<sup>1</sup>Notice same as DE 80-4. Counsel for Omni filed before any notice in the paper.

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NH.PUC\*07/20/81\*[78955]\*66 NH PUC 264\*Northern Utilities, Inc.

[Go to End of 78955]

### Re Northern Utilities, Inc.

Intervenor: General Electric Corporation

DR 81-189, Order No. 14,992

66 NH PUC 264

New Hampshire Public Utilities Commission

July 20, 1981

ORDER permitting special service contract to become effective as of its effective date.

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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. 44 with General Electric Corp., effective on August 1, 1981, 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 twentieth day of July, 1981.

=====

NH.PUC\*07/20/81\*[78956]\*66 NH PUC 265\*Northern Utilities, Inc.

[Go to End of 78956]

### **Re Northern Utilities, Inc.**

Intervenor: Phillips Exeter Academy

DR 81-190, Order No. 14,993

66 NH PUC 265

New Hampshire Public Utilities Commission

July 20, 1981

ORDER permitting special service contract to become effective as of its effective date.

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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. 45 with Phillips Exeter Academy, effective on July 1, 1981, 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 twentieth day of July, 1981.

=====

NH.PUC\*07/20/81\*[78957]\*66 NH PUC 265\*Western Union Telegraph Company

[Go to End of 78957]

## Re Western Union Telegraph Company

DR 81-109, Supplemental Order No. 14,994

66 NH PUC 265

New Hampshire Public Utilities Commission

July 20, 1981

ORDER permitting tariff pages issued in lieu of rejected pages to become effective.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Western Union Telegraph Company, a public utility engaged in the business of providing telegraph service in the state of New Hampshire, on July 10, 1981, filed with this commission a tariff revision which the company requested to become effective on less than thirty days statutory notice; and

Whereas, the proposal resulted in adjustment of intrastate pricing of Telex service for conformance with the newly designed interstate Telex rates which had resulted from Federal Communications Commission decisions on American Telephone and Telegraph Company rates; and Whereas, the proposal increases slightly

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the cost of Telex service; and

Whereas, the filing appears to be for the public good, warranting approval in less than the normal filing period; and

Whereas, the filing bore the same page designation as two earlier filings, the commission thus finds it impossible to approve one without simultaneously approving the others; it is

Ordered, that 93rd Revised Page(s) 1 and 13th Revised Page(s) 64, bearing issue dates of May 9, 1981, be, and hereby are, rejected; and it is

Further ordered, that the filing bearing an issue date of July 7, 1981, is redesignated 94th Revised Page 1 and 14th Revised Page 64, said pages issued in lieu of those rejected; and it is

Further ordered, that said revised pages be, and hereby are, effective with all service rendered on or after the date of this order.

By order of the Public Utilities Commission of New Hampshire this twentieth day of July, 1981.

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NH.PUC\*07/20/81\*[78958]\*66 NH PUC 266\*Wentworth Cove Water Company

[Go to End of 78958]

### **Re Wentworth Cove Water Company**

DR 81-175, Order No. 14,996

66 NH PUC 266

New Hampshire Public Utilities Commission

July 20, 1981

ORDER suspending effective date of rate increase pending investigation.

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BY THE COMMISSION:

Order

Whereas, Wentworth Cove Water Company, a public utility engaged in the business of supplying water service in the state of New Hampshire, on June 30, 1981, filed with this commission a revision of its tariff, providing for increased annual revenues of \$4,028 (248 percent); 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. 2 — Water, of Wentworth Cove Water Company, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twentieth day of July, 1981

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NH.PUC\*07/20/81\*[78959]\*66 NH PUC 267\*Concord Electric Company

[Go to End of 78959]

### **Re Concord Electric Company**

DF 80-78, Supplemental Order No. 14,997

66 NH PUC 267

New Hampshire Public Utilities Commission

July 20, 1981

ORDER correcting previous order.

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BY THE COMMISSION:

Supplemental Order

It is hereby ordered, that that portion of Order No. 14,254 issued May 27, 1970 (65 NH PUC 237, 238), which reads:

"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;" it is hereby vacated and set aside; and it is

Further ordered, that the aforementioned paragraph should read as follows:

"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. 14, 254 and the time constraints of RSA 369:7."

By order of the Public Utilities Commission of New Hampshire this twentieth day of July, 1981.

=====

NH.PUC\*07/21/81\*[78960]\*66 NH PUC 267\*White Rock Water Company, Inc.

[Go to End of 78960]

**Re White Rock Water Company, Inc.**

DR 80-235, Second Supplemental Order No. 14,998

66 NH PUC 267

New Hampshire Public Utilities Commission

July 21, 1981

ORDER authorizing collection of rate case expenses by means of a surcharge.

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BY THE COMMISSION:

Supplemental Order

Whereas, White Rock Water Company, Inc., a New Hampshire corporation engaged in the supply and distribution of water in Bow, New Hampshire, has recently concluded a rate case before this commission; and

Whereas, at the conclusion of investigation and hearing in this matter, the recovery of the cost of the proceedings was not sought by White Rock Water Company, Inc., until after issuance of the commission's order; and

Whereas, it is commission policy that such cost be recovered as a surcharge over some reasonable period; and

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Whereas, White Rock Water Company, Inc., has now submitted that such costs total \$1,110.98; it is

Ordered, that this amount of \$1,110.98 be apportioned as a surcharge to each customer of White Rock Water Company, Inc., over the next four quarterly billing periods.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of July, 1981.

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NH.PUC\*07/21/81\*[78961]\*66 NH PUC 268\*Granite State Electric Company

[Go to End of 78961]

## Re Granite State Electric Company

DR 81-86, Second Supplemental Order No. 14,999

66 NH PUC 268

New Hampshire Public Utilities Commission

July 21, 1981

ORDER adopting procedural schedule.

BY THE COMMISSION:

Supplemental Order

Whereas, Granite State Electric Company, the commission's staff, and all intervenors have agreed to the following schedule; it is

Ordered, that the following procedural schedule will be adopted for the purposes of disposing of the remainder of the case:

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

Deadline to Submit Data Requests	July 22, 1981
Deadline to Answer Data Requests	July 29, 1981
Hearing on Staff and Intervenor Testimony	August 13, and 14, 1981 10:00 A.M.
Deadline to File Rebuttal Testimony	August 24, 1981
Hearing on Rebuttal Testimony	August 31, 1981 10:00 A.M.
Briefs Due	September 14, 1981

These Deadlines will not be applicable to the PPCA aspect of the rate case.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of July, 1981.

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NH.PUC\*07/21/81\*[78962]\*66 NH PUC 269\*Pennichuck Water Works

[Go to End of 78962]

## Re Pennichuck Water Works

DF 81-156, Order No. 15,000

66 NH PUC 269

New Hampshire Public Utilities Commission

July 21, 1981

PETITION by water company for authority to issue and sell unsecured debt; granted.

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SECURITY ISSUES, § 58 — Purposes for capitalization — Additions and betterments — Permanent financing.

[N.H.] The commission authorized a water company to issue and sell unsecured debt where it was satisfied that the proceeds from the financing would be expended (1) to finance the construction of a water treatment facility by taking out the company's interim financing and (2) to pay a portion of the expenses of the costs of the financing, and where it found that this issue of unsecured debt upon the terms proposed for the purposes stated would be consistent with the public good.

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APPEARANCES: John B. Pendleton and Gerald Lynch for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition, filed June 16, 1981, Pennichuck Water Works (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire, and operating therein as a water public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369:1, 369:3, and 369:4 to issue and sell unsecured debt for \$5 million of cash.

At the hearing on the petition, held in Concord on July 21, 1981, the company submitted that it plans to place this debt with Connecticut Mutual Life Insurance Company which has agreed to a commitment of \$2 million of the total funds required, Unionmutual Stock Life Insurance Company of America which has agreed to loan \$1 million, and New England General Life

Insurance Company which will loan \$1 million all of which companies are committed to the loan.

The city of Nashua, acting through the Nashua Industrial Development Authority, will issue \$5 million of industrial facility revenue bonds which the three lenders will purchase in the amounts indicated above. The funds from the purchase will be loaned to the company as unsecured debt subject to the terms of the bonds. The company will use these funds to take out its \$4,953,588 interim loan for the construction of its \$7 million plus water treatment facility. This facility was required by the Federal Safe Water Drinking Act, together with rules and regulations promulgated by the Environmental Protection Agency and the New Hampshire Water Supply and Pollution Control Commission. The balance of the funds will be applied to the cost of the issue. The loan will have a term of ten years.

The company presented evidence that the negotiated loan had been made on the most favorable terms available under the conditions prevailing both in today's money markets and in the money markets at the time the loan commitments were obtained.

The company submitted a balance sheet

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as of March 31, 1981, actual and pro formed to reflect the effect of the bond issuance and the infusion of the permanent loan funds. In addition, exhibits were also submitted showing: pro formed income statements; estimated expenses of the financing; statement of capitalization ratios at March 31, 1981, and pro formed to include the permanent construction loan; interest coverages; and commitment letters from the three lenders that were addressed earlier in this report. These submissions also satisfied the requirements of RSA 369:3 relative to a statement of costs incurred and to be incurred.

Upon investigation and consideration, the commission is satisfied that the proceeds from the proposed financing will be expended (1) to permanently finance the construction of the water treatment facility by taking out the interim financing in the amount of \$4,953,588 and (2) to pay a portion of the expenses of the costs of the financing, and finds that this issue of unsecured debt upon the terms proposed for the purposes as heretofore stated 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 Pennichuck Water Works be, and hereby is, authorized to issue and sell for cash, upon the terms proposed, \$5 million of its unsecured debt; and it is

Further ordered, that the proceeds from the sale of this debt shall be used to permanently finance the construction of its water treatment facility and to pay a portion of the costs of the issue; and it is

Further ordered, that on or before September 30, 1981, Pennichuck Water works shall file with this commission a detailed statement, duly sworn by its vice president or its treasurer, showing the complete disposition of the proceeds of said debt being authorized so that said

proceeds shall have been fully accounted for. By order of the Public Utilities Commission of New Hampshire this twenty-first day of July, 1981.

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NH.PUC\*07/21/81\*[78963]\*66 NH PUC 270\*Columbia Water Company, Inc.

[Go to End of 78963]

## Re Columbia Water Company, Inc.

DE 81-194, Order No. 15,001

66 NH PUC 270

New Hampshire Public Utilities Commission

July 21, 1981

PETITION for exemption from utility status and regulation; granted.

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PUBLIC UTILITIES, § 42 — Tests of utility character — Size of business — Factor in granting exemption.

[N.H.] Where a water company (1) had only four customers to whom it pledged continued service, (2) had no plans for expansion, and (3) recognized its obligation to notify the commission if customers reached a level of ten or more, the company was granted an exemption from utility status and regulation.

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BY THE COMMISSION:

This is a petition for exemption from utility status and regulation pursuant to RSA 362:4. The

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number of customers involved are four. Assurance is given that their customers will not lose service. Further assurances are given that if the service increases to ten or more customers, the system will immediately notify the commission and be under our regulation. Because of the following factors the petition is granted:

1. Continuation of service to existing customers,
2. No plans for expansion, and
3. An immediate obligation to contact the commission and be subject to our regulations if customers reach a level of ten or more.

Our order will issue accordingly.

Order

Whereas, Columbia Water Company, Inc., a central water system furnishing water service in a limited area in the town of Columbia, New Hampshire, by a petition filed June 24, 1981, seeks exemption from the provision of RSA 362:4 as amended; and

Whereas, the petitioner states that he is now furnishing water to four customers, and has no immediate plans for expansion of his system to serve ten or more customers; 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 utility status be, and hereby is, granted to Columbia Water Company, Inc.; and it is

Further ordered, that Columbia Water Company, Inc., shall notify this commission if at some future time it shall expand its water system to serve ten or more customers.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of July, 1981.

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NH.PUC\*07/21/81\*[78964]\*66 NH PUC 271\*Gas Service, Inc.

[Go to End of 78964]

**Re Gas Service, Inc.**

DR 81-193, Order No. 15,002

66 NH PUC 271

New Hampshire Public Utilities Commission

July 21, 1981

ORDER permitting special service contract to become effective as of its effective date.

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. 30 with Nashua Corporation, effective July 14, 1981, 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 July, 1981.

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NH.PUC\*07/23/81\*[78965]\*66 NH PUC 272\*New Bedford Gas and Edison Light Company

[Go to End of 78965]

## Re New Bedford Gas and Edison Light Company

DF 81-114-6205, Order No. 15,006

66 NH PUC 272

New Hampshire Public Utilities Commission

July 23, 1981

PETITION for authority to sell and transfer ownership interest in nuclear power plant; granted.

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CONSOLIDATION, MERGER, AND SALE, § 23 — Sale of interest in nuclear plant —  
Grounds for approval — Economy and efficiency.

[N.H.] The commission approved the transfer of an ownership interest in a nuclear plant from one subsidiary to another because the sale would be in the public good in that it would enable the parent company to complete a reorganization of its subsidiaries which would result in more efficient and economical service and because it was just and reasonable in accordance with state law.

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APPEARANCES: Sulloway Hollis & Soden, by Margaret H. Nelson, for the applicant.

BY THE COMMISSION:

Report

By this unopposed petition filed with the commission April 21, 1981, New Bedford Gas and Edison Light Company (New Bedford), a Massachusetts public service corporation known in Massachusetts as Commonwealth Electric Company, seeks authority to sell and transfer its ownership interest in the Seabrook Nuclear Power Plant to the Canal Electric Company, a Massachusetts public service corporation. Pursuant to notice duly given in accordance with the commission's order dated April 30, 1981, a hearing was begun on the matter at the offices of the commission on May 18, 1981, and continued on June 24, 1981.

The Seabrook Nuclear Power Plant is a nuclear power generating station which is being constructed in Seabrook, New Hampshire, by the Public Service Company of New Hampshire (PSNH) as a domestic electric utility company in association with a number of nonresident electric utilities, including New Bedford, pursuant to the provisions of RSA 374:30.

At the hearing, New Bedford's witness, Earl G. Cheney testified that New Bedford currently has a 1.34927 per cent undivided joint ownership interest in the Seabrook units, representing a capacity of approximately 31 megawatts. In addition, New Bedford has agreed under the terms

of the Seventh Amendment to the Seabrook agreement dated as of April 18, 1979, as amended, to acquire an additional interest in the Seabrook units from the lead participant, PSNH. Such acquisition is to become effective at the same time similar transfers are effected by PSNH to other Seabrook participants. The percentage

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amount of this additional interest is 2.17390 per cent, representing a capacity of approximately 50 megawatts.

New Bedford proposes to transfer both its original and additional ownership interests, totaling 3.52317 per cent or 81 megawatts, to the Canal Electric Company, pursuant to an agreement to transfer ownership shares which was marked as an exhibit. Canal Electric Company and New Bedford are both subsidiary corporations of Commonwealth Energy System, formerly known as The New England Gas and Electric Association, a Massachusetts trust.

Mr. Cheney testified that the transfer of New Bedford's ownership interest in the Seabrook project to Canal would facilitate a more efficient and economical reorganization of Commonwealth Energy System's subsidiary corporations by establishing Canal as the wholesale generating subsidiary for the systems retail electric subsidiaries. Canal will thereby substantially increase its generating capacity and expand the diversity of its sources. Such a transfer also aids planning on a systemwide basis, as is appropriate for Commonwealth Energy Systems group of associated utilities.

Mr. Cheney further testified that in addition to the administrative and organizational benefits, the transfer of the Sea-brook ownership interest to Canal would also have significant financial benefits. New Bedford's indenture does not include construction work in progress as bondable property. Therefore, short-term credit lines would be strained and the timing of permanent financing would be required at the time of the commercial operation of a new generating unit, eliminating all flexibility in the timing of financings. The transfer will improve substantially the quality of New Bedford's earnings. In addition, New Bedford will receive immediately the cash equivalent to the amount invested to date which will enable it to pay off the corresponding bank borrowings. The benefits of New Bedfords lower cost of capital would be passed on by New Bedford to its customers.

According to Mr. Cheney, Canal has a modern indenture which includes construction work in progress as bondable property. Therefore, Canal has much greater flexibility in the size and timing of its permanent financings. The major financial services would also be likely to be understanding toward Canal's needs in accepting high levels of capitalized interest during the construction period, which would be substantially reduced upon the commercial operation of the Seabrook unit. On a long-term basis, Canal will grow significantly in terms of asset base and capitalization, thereby improving its financial capability.

Mr. Cheney introduced a number of exhibits which depicted the income statements, balance sheets and sources of funds used for construction for both New Bedford and Canal for the year ending December 31, 1980. In order to demonstrate the effect of the transfer on Canal and New Bedford, the financial statements were pro formed to reflect the transfer of the Seabrook project using the investment in that project as of December 31, 1980, as the cost basis of the transfer.

These exhibits demonstrate that New Bedford's cash requirements for construction will be significantly reduced by the transfer of its interest in the Seabrook project to Canal.

Mr. Cheney was of the opinion that Canal Electric Company was an appropriate owner of New Bedford's Seabrook interests based on Canal's ability to obtain better financing and a judgement as to its potential for long-term growth. He testified that Canal would be able to fulfill its obligations under the Seabrook agreement.

Mr. Cheney further stated that New

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Bedford and Canal have already obtained approval from the Massachusetts Department of Public Utilities for the transfer. An application to the same effect has been filed with the Nuclear Regulatory Commission, but approval has not yet been received.

There was no testimony or other evidence to the contrary.

Based upon the foregoing testimony, as well as the entire record in this proceeding, the commission finds that the transfer of New Bedford's ownership interest in the Seabrook project to the Canal Electric Company, as proposed in the application, would be for the public good, in that it will enable Commonwealth Energy System to complete a reorganization plan of its subsidiary corporations which will result in more efficient and economical service and that it is just and reasonable in accordance with the provisions of RSA 374:30 as well as all other applicable provisions of New Hampshire law that said transfers should be approved. Our order will issue accordingly.

Order

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

Ordered, that the application of New Bedford Gas and Edison Light Company, a Massachusetts public service corporation to transfer a 3.52317 per cent ownership interest in the Seabrook units to the Canal Electric Company, is hereby approved; and it is

Further ordered, that the said transfer from the New Bedford Gas and Edison Light Company to the Canal Electric Company upon the terms proposed are hereby authorized in accordance with the authority vested in this commission under RSA 374:30

By order of the Public Utilities Commission of New Hampshire this twenty-third day of July, 1981.

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NH.PUC\*07/23/81\*[78966]\*66 NH PUC 274\*New England Telephone and Telegraph Company

[Go to End of 78966]

## Re New England Telephone and Telegraph Company

Intervenors: Office of Consumer Advocate

DF 81-69, Supplemental Order No. 15,009

66 NH PUC 274

New Hampshire Public Utilities Commission

July 23, 1981

APPLICATION for authority to accept additional equity contributions from parent; granted.

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APPEARANCES Peter Guenther, for the petitioner; Gerald Lynch for the office of consumer advocate.

BY THE COMMISSION:

Report

By its unopposed application filed March 24, 1981, New England Telephone and Telegraph Company (the "company") sought authority pursuant to RSA 369,

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insofar as the same pertains to property or expenditures of said company in this state, to accept an equity contribution from its parent, American Telephone and Telegraph company ("AT&T") in the amount of \$150 million on April 15, 1981. By this same application it sought also authority to accept, from time to time, similar additional equity contributions from AT&T. By its Order No. 14,843 of April 14, 1981 (66 NH PUC 141), this commission authorized the company to accept the proposed equity contribution of \$150 million on April 15, 1981, and by its accompanying report indicated that a further report and order would be issued with respect to the company's request for authority to accept similar additional contributions.

At the hearing on the application held in Concord on April 14, 1981, following due notice, the company submitted that it is a corporation duly organized under the laws of the state of New York, engaged in the communications 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. The company is duly qualified under the statutes of this state and is presently authorized to do business herein, and, in respect to such operations, is subject to the jurisdiction of this commission.

Under its restated certificate of incorporation, as amended, the company's authorized stock is one common share without par value. The sole issued and outstanding share is owned by AT&T and the company's capital stock account at December 31, 1980, was \$1,469,500,000. The company proposes to accept, from time to time, equity contributions from AT&T and will not issue any additional shares of common stock in connection with those equity contributions.

The commission, upon consideration of the evidence submitted, finds that, as long as the company remains a wholly owned subsidiary of AT&T with one share of no par value stock issued and outstanding, continued receipt of equity contributions from AT&T for lawful

corporate purposes is consistent with the public good. Our order will issue accordingly.

Supplemental Order

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

Ordered, that New England Telephone and Telegraph Company (the "company") be, and hereby is, authorized insofar as the same pertains to property or expenditures in the state of New Hampshire, and so long as the company remains a wholly owned subsidiary of American Telephone and Telegraph Company ("AT&T") with one share of no par value stock issued and outstanding, to accept additional equity contributions from its parent, AT&T, from time to time, for the purpose of repayment of temporary obligations or refinancing of long-term debt, provided that the company provides advance notice to this commission of each such proposed equity contribution by AT&T which shall include (1) a copy of the resolution of the board of directors requesting such contribution, (2) a pro forma balance sheet reflecting the proposed contribution; and, further, that the company provide a final report of the disposition of that contribution within sixty days after its receipt, and (3) a statement of the purposes for which the equity contribution will be used.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of July, 1981.

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NH.PUC\*07/24/81\*[78967]\*66 NH PUC 276\*Fuel Adjustment Charge

[Go to End of 78967]

### Re Fuel Adjustment Charge

Intervenors: Office of Consumer Advocate, Public Service Company of New Hampshire, 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

DR 81-158, Order No. 15,010

66 NH PUC 276

New Hampshire Public Utilities Commission

July 24, 1981

PETITION of certain electric utilities for approval of monthly fuel adjustment surcharges; granted.

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APPEARANCES: Eaton W. Tarbell for Public Service Company of New Hampshire, Gerald Lynch for the Office of Consumer Advocate.

BY THE COMMISSION:

## Report

Pursuant to RSA 378:3-a (II), the commission on July 22, 1981, 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, 1981, monthly billings to their customers at a constant rate for regular July and August, 1981, billings pursuant to its tariff, NHPUC No. 24 — 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. 14,1.35 ([1980] 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 20, 1981, the company filed with the commission, their affidavits and Exhs 1 through 9 showing actual financial and electrical data through the quarter ended June 30, 1981, schedules showing maintenance day outages at the company's generating units and major entitlement units for June, 1981, the reasons for unscheduled outages, and fuel data sheets for the period ending June 30, 1981.

Based upon an agreement between the company, PUC staff, 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. No such request was made, but all parties reserved their rights of cross-examination on the reconciling adjustment until the September, 1981, hearing.

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 fuel adjustment charge as approved for July, 1981, of \$1.51 per 100 kilowatt-hours is just and reasonable for August, 1981. 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 Third Revised Pages 24 and 25 to its tariff, NHPUC No. 24A — Electricity, providing for a quarterly estimated fuel adjustment clause of \$1.51 per 100 kilowatt-hours for the month of August, 1981, be, and hereby is, permitted to become effective August 1, 1981; and it is

Further ordered, that 73rd Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge of \$1.50 per 100 kilowatt-hours for the month of August, 1981, be, and hereby is, permitted to become effective August 1, 1981; and it is

Further ordered, that 11th Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel adjustment rate of \$1.60 per 100

kilowatt-hours for the month of August, 1981, be, and hereby is, permitted to become effective August 1, 1981; and it is

Further ordered, that 53rd Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 48 cents per 100 kilowatt-hours for the month of August, 1981, be, and hereby is, permitted to become effective August 1, 1981; and it is

Further ordered, that 79th Revised Page 15A, of Granite State Electric Company, tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.75 per 100 kilowatt-hours for the month of August, 1981, be, and hereby is, permitted to become effective August 1, 1981; and it is

Further ordered, that Fifth Revised Page 15 of New Hampshire Electric Cooperative, Inc. tariff, NHPUC No. 10 — Electricity, providing for the monthly fuel surcharge of \$4.05 per 100 kilowatt-hours net of refunds for the month of August, 1981, be, and hereby is, permitted to become effective August 1, 1981; and it is

Further ordered, that Seventh Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$4.67 per 100 kilowatt-hours net of the Public Service Company of New Hampshire refund for the month of August, 1981, be, and hereby is, permitted to become effective August 1, 1981; and it is

Further ordered, that 91st Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$2.45 per 100 kilowatt-hours for the month of August, 1981, be, and hereby is, permitted to become effective August 1, 1981; and it is

Further ordered, that 58th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a credit to the monthly fuel surcharge of 50 cents per 100 kilowatt-hours for the month of August, 1981, be, and hereby is, permitted to become effective August 1, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of July, 1981.

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NH.PUC\*07/24/81\*[78968]\*66 NH PUC 278\*Concord Electric Company

[Go to End of 78968]

## **Re Concord Electric Company**

DE 81-91, Order No. 15,011

66 NH PUC 278

New Hampshire Public Utilities Commission

July 24, 1981

ORDER establishing effective date for a tariff revision.

-----

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 April 6, 1981, filed with this commission a revision of its tariff, NHPUC No. 6 — Electricity, said revision to correct a discrepancy between the tariff and the rules of this commission; and

Whereas, the commission finds such correction for the public good; it is

Ordered, that First Revised Page 9 of tariff, NHPUC No. 6 — Electricity, of Concord Electric Company, be and hereby is, approved for effect April 6, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of July, 1981.

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NH.PUC\*07/24/81\*[78969]\*66 NH PUC 278\*Exeter and Hampton Electric Company

[Go to End of 78969]

## Re Exeter and Hampton Electric Company

DE 81-92, Order No. 15,012

66 NH PUC 278

New Hampshire Public Utilities Commission

July 24, 1981

ORDER establishing effective date for a tariff revision.

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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 April 6, 1981, filed with this commission a revision to its tariff, NHPUC No. 14 — Electricity, said revision to correct a discrepancy between the tariff and the rules of this commission; and

Whereas, the commission finds such correction for the public good; it is

Ordered, that First Revised Page 10 of tariff, NHPUC No. 14 — Electricity, of Exeter and Hampton Electric Company, be, and hereby is, approved for effect April 6, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of July, 1981.

=====  
NH.PUC\*07/27/81\*[78970]\*66 NH PUC 279\*Lakes Region Water Company, Inc.

[Go to End of 78970]

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

DR 81-203, Order No. 15,013

66 NH PUC 279

New Hampshire Public Utilities Commission

July 27, 1981

ORDER suspending effective date of rate increase pending investigation.

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BY THE COMMISSION:

Order

Whereas, Lakes Region Water Company, Inc., a public utility engaged in the business of supply water service in the state of New Hampshire, on June 30, 1981, filed with this commission certain revisions to its tariff, providing for a redesign of its rate schedules; 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 2,3, and 6 of tariff, NHPUC No. 2 — Water, of Lakes Region 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 twenty-seventh day of July 1981.

=====  
NH.PUC\*07/27/81\*[78971]\*66 NH PUC 279\*New England Telephone and Telegraph Company

[Go to End of 78971]

**Re New England Telephone and Telegraph Company**

DR 81-204, Order No. 15,015

66 NH PUC 279

New Hampshire Public Utilities Commission

July 27, 1981

ORDER establishing refund program.

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BY THE COMMISSION:

Order

Whereas, on July 14, 1981, the New England Telephone and Telegraph Company filed proposed tariff pages to its tariff NHPUC No. 70, Part II, Section 1, Revisions of Pages 12 through 16, to reflect corrections of errors regarding the municipalities of Carroll and Kingston, and to add Salisbury as a serving exchange for the municipality of Andover; and

Whereas, commission staff investigation discloses that previous tariff filings inadvertently omitted Carroll and Kingston in the tariff pages regarding municipal calling; and

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Whereas, further investigation discloses that customers in the town of Carroll have received the actual toll-free benefits of toll-free municipal calling service since its inception despite the tariff error; and

Whereas, customers in the town of Kingston did not receive the benefit of municipal calling service during the period of October, 1979, through October, 1980, and that calls made by those customers during that period were billed as toll charges; and

Whereas, the commission finds that those customers making municipal calls during that period are entitled to refunds; and

Whereas, the company has not retained records of the toll bills in question; it is

Ordered, that the New England Telephone and Telegraph Company notify each customer affected by this filing that they may be entitled to a refund subject to the customer's verification of specific toll calls made during the period; and it is

Further ordered, that a period of sixty days from the date of this order is provided for implementation of this program; and it is

Further ordered, that the company provides the commission a summary report of the results of this action by December 1, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of July, 1981.

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NH.PUC\*07/27/81\*[78972]\*66 NH PUC 280\*Claremont Gas Light Company

[Go to End of 78972]

## **Re Claremont Gas Light Company**

DE 81-162, Second Supplemental Order No. 15,016

66 NH PUC 280

## New Hampshire Public Utilities Commission

July 27, 1981

ORDER imposing monetary sanction for failure to respond to commission order.

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BY THE COMMISSION:

Supplemental Order

Whereas, on July 23, 1981, a hearing was held at the commission's offices at 8 Old Suncook road, at 9:00 A.M. so that officers of Claremont Gas Light Company could properly represent the company; and

Whereas, the two principal operating officers, Frank Stark, president, and Herbert Lieberman, vice president, did not appear before the commission as requested; and did not demonstrate that they were prepared to discuss and to take immediate action regarding a company improvement program; and

Whereas, the company failed to respond adequately to Order No. 14,975, dated July 7, 1981 (66 NH PUC 250), and is in flagrant violation of the commission's rules; and

Whereas, the commission finds the company to be unresponsive to its concerns regarding proper management, safety and general operating procedures; it is

Ordered, that Claremont Gas Light Company shall be fined an additional

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\$500 pursuant to statutory authority (RSA 374:17) of the commission; and it is

Further ordered, that Claremont Gas Light Company immediately eliminate the safety hazard at the Joy Manufacturing Plant by terminating the service line connection outside the building; and it is

Further ordered, that Claremont Gas Light Company prepare a plan by July 28, 1981, to conduct a leak survey and inspection of all inactive and active services in its system; and it is

Further ordered, that Claremont Gas Light Company implement the above mentioned survey and inspection by August 1, 1981; and it is

Further ordered, that Claremont Gas Light Company prepare a plan by September 1, 1981, to perform a meter test no later than June 1, 1982, of all large capacity meters (250 and over); and it is

Further ordered, that Claremont Gas Light Company plan a program by September 1, 1981, to train personnel to properly operate the company in accordance with the laws of the state of New Hampshire, and the rules of the Public Utilities Commission; and it is

Further ordered, that Claremont Gas Light Company be represented in the persons of its two principal operating officers, Frank Stark, president, and Herbert Lieberman, vice president, at a public hearing before the commission on August 6, 1981, at 9:00 A.M., at its offices at 8 Old Suncook Road, Concord, New Hampshire, to discuss the company's improvement plan.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of July, 1981.

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NH.PUC\*07/28/81\*[78973]\*66 NH PUC 281\*Hanover Water Works Company

[Go to End of 78973]

## **Re Hanover Water Works Company**

DR 81-15, Second Supplemental Order No. 15,027

66 NH PUC 281

New Hampshire Public Utilities Commission

July 28, 1981

PETITION by water company for a permanent rate increase; granted as modified.

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APPEARANCES: John S. Stebbins, and S. John Stebbins for the company.

BY THE COMMISSION:

Report

On December 22, 1980, Hanover Water Works Company filed certain revisions of its tariff for effect January 22, 1981, and seeking increased annual revenues of \$95,983. In 1981, a petition for temporary rates was filed with a hearing held on this matter on June 25, 1981. In the interim, additional tariffs were filed raising the requested increase to \$102,741.

No appearances having been filed by intervenors in the temporary rate hearing, the temporary rate hearing was suspended for discussion of the issues by the commission staff and representatives of the Hanover Water Works. The justification for additional revenues was established and recognized for an increase in annual revenues of \$85,724, the level of increased

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rates approved by the commission in its Temporary Rate Order No. 14,962 ([1981] 66 NH PUC 233).

Hanover proposed, and staff agreed in the temporary rate decision, that fire protection revenues should first be returned to the levels as existed prior to DR 79-173 ([1979] 64 NH PUC 480). In that proceeding, fire protection revenues were reduced in order to maintain the integrity of the metered general service rate structure produced by a staff cost-of-service study. Once that was accomplished, the additional revenue allowance was spread on an equal percentage basis to all rate schedules. That approach, as adopted in the temporary rate decision, will be continued in this permanent rate decision.

Based on the settlement agreement arrived at by the commission staff and company representatives, the commission fixes a permanent rate increase of \$85,724, but notes that

commission acceptance of that settlement does not necessarily constitute approval of or precedent regarding any principle or issue in this proceeding.

#### *Test-year Expenses*

The company, using 1980 as the test year in this case, incurred operation and maintenance expenses for the year of \$204,713. This figure was then pro formed to \$212,829, to reflect wage increases.

As part of the settlement arrived at between the company and commission staff, a proper figure for operating and maintenance expenses is \$208,129. This reflects a reduction in rate case expenses for the test year, while allowing a reasonable amount to cover amortization of the cost of this case over a two-year period.

Book depreciation for the test year was \$37,273, which was the final level requested by the company. After the settlement conference, the agreed proper level for book depreciation is \$31,302. The difference is due to the disallowance of depreciation on contributed capital. The commission has adopted this concept as it is not proper regulatory policy to require customers to pay twice for the same physical asset.

Taxes for the year were \$69,912, pro formed to \$100,967 to reflect the currently higher level of property taxes and the income tax effects of the rate increase requested. By agreement, this figure was reduced to \$96,121, to reflect the tax effects of other noted aspects of the adjustments made by agreement.

In summation the proposed total utility revenue deductions to be used in determining the rate increase were reduced from \$351,069 to \$335,552.

#### *Operating Revenues*

Utility operating revenues for the test year were \$376,844. this figure was then pro formed to \$374,700 to more correctly match the current situation. As part of the conference agreement, this figure was increased by \$1,500 to \$376,200, to more closely reflect the interest income from timber sales.

#### *Rate Base*

The company submitted an average rate base for 1980 of \$1,002,954. this figure, after being analyzed by staff, was accepted as a part of the settlement agreement and is accepted by the commission as it is shown in Schedule 9 to Exh 7.

#### *Cost of Capital and Attrition*

The company submitted Schedule 10 to Exh 7, substantiating a cost of capital of 12.6 per cent which includes 50 basis points for attrition. this includes 14 per cent as the cost of equity. The commission staff proposed 12.6 per cent, and the Commission fixes 12.6 per cent as the proper cost of equity.

#### *Revenue Requirement*

The additional revenue requirement is calculated as follows:

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

Rate Base	\$1,002,954
Rate of Return	12.6%
Required Net Operations Income	\$126,372
Pro formed Utility Revenue Deductions	335,552
	\$461,924
Pro formed Utility Operating Revenues	376,200
Approved Increase in Operating Revenues	\$85,724

### *Main Extensions*

Hanover has proposed the elimination of refunds to developers currently allowed under its main extension plan. It is our opinion that developer costs incurred for water main construction are generally recovered in the sale of lots or buildings and for that reason, will allow its elimination. Refunds will continue to be granted on individual petitions.

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. 5 — Water, as filed by Hanover Water Works Company on December 22, 1980, which revisions were suspended by Commission Order No. 14,679 dated January 21, 1981 (66 NH PUC 28), be, and hereby are, rejected; and it is

Further ordered, that in accordance with the increase in revenues authorized by this report, Hanover Water Works Company shall file new tariff pages setting forth therein, rates designed to produce an annual increase in revenue of \$85,724; and it is

Further ordered, that new tariff pages shall be filed to reflect changes to its main extension plan as authorized in this report and shall be effective as of August 1, 1981; and it is

Further ordered, that the revised rate schedules to be filed as a result of this report and order, shall be effective with all bills rendered on or after July 1, 1981; and it is

Further ordered, that Hanover Water Works company give public notice of these tariff changes by publication in a newspaper having general circulation in the area.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of July, 1981.

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NH.PUC\*07/28/81\*[78974]\*66 NH PUC 283\*David Fineblit v Manchester Gas Company

[Go to End of 78974]

## **David Fineblit v Manchester Gas Company**

DC 81-136, Supplemental Order No. 14,917

66 NH PUC 283

New Hampshire Public Utilities Commission

July 28, 1981

ORDER closing docket.

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BY THE COMMISSION:

Supplemental Order

Whereas, David Fineblit of Manchester, New Hampshire, has contacted the commission concerning a bill submitted to him by Manchester Gas Company; and

Whereas, through the efforts of Mr. Fineblit, Carolyn Huber of Manchester Gas company, and Dean Mattice of the public utilities commission a resolution has been agreed upon; it is hereby

Ordered, that docket DC 81-136 is closed.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of July, 1981.

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NH.PUC\*07/29/81\*[78975]\*66 NH PUC 284\*Mountain Springs Water Company

[Go to End of 78975]

## **Re Mountain Springs Water Company**

DE 6481, Sixth Supplemental Order No. 15,029

66 NH PUC 284

New Hampshire Public Utilities Commission

July 29, 1981

ORDER granting motion to release part of funds held in escrow.

BY THE COMMISSION:

Supplemental Order

Whereas, a motion to release part of funds held in escrow by Daniel A. Laufer attorney for Mountain Springs Water Company was filed with the commission seeking to release funds deposited in an escrow account representing moneys received for past due water service, past due standby charges, past due interest charges, and repair work; and

Whereas, after the requested release of funds the escrow account will contain funds representing the difference between the old rates on file and the temporary rates filed under bond; and

Whereas, the intervenors in this docket have no objection to the motion made and for good cause being shown; it is

Ordered, that Daniel A. Laufer may release from the Escrow Account 71471 in the Merrimack County Savings Bank the sum of \$5,350.40, the remaining balance of \$6,490.53 shall remain in escrow until further order of this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of July, 1981.

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NH.PUC\*07/29/81\*[78976]\*66 NH PUC 285\*New England Telephone and Telegraph Company

[Go to End of 78976]

## Re New England Telephone and Telegraph Company

DE 81-173, Order No. 15,035

66 NH PUC 285

New Hampshire Public Utilities Commission

July 29, 1981

PETITION for a license to place and maintain aerial telephone line crossing state owned public waters; granted.

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CONSTRUCTION AND EQUIPMENT, § 5 — Telephone lines — Aerial plant — Licensing.

[N.H.] Where in order to respond to a request for telephone service it was necessary to install aerial plant over public waters and where the telephone company had secured the permission of persons whose property would be affected and would provide a clearance for existing boating activity, the commission granted a license to place the telephone line.

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APPEARANCES: Wayne Snow, engineering manager for the petitioner.

BY THE COMMISSION:

Report

On July 1, 1981, the New England Telephone and Telegraph Company, filed with this commission a petition seeking authority to place and maintain aerial plant crossing state-owned public waters in Bartlett, New Hampshire, crossing from Pole No. 56/10 on private property of David Hayes, south of the Saco river, to Pole No. 56/11 on private property of the town of Bartlett, north of the Saco river.

The commission issued an order of notice on July 1, 1981, directing all interested parties to

appear at public hearing at 10:00 A.M., on July 29, 1981, at the commission's Concord, New Hampshire, office. In addition to publication of said notice copies were directed to John R. Sweeney, director, Aeronautics Commission; George Gilman, commissioner; Department of Resources and Economic Development (DRED); John Bridges, director, Division of Safety; and the Office of the Attorney General.

An affidavit of publication indicating that a publication was made in the *Union Leader* on July 9, 1981, was received in the Commission's office at Concord, New Hampshire, on July 17, 1981.

Wayne Snow, engineering manager, explained that the petition results from a customer request for telephone service at his property in the Wiles development, off Rte. 302, 1.5 miles east of the town of Bartlett, New Hampshire, on the southerly side of the Saco river. The company intends to install a single pair, covered wire on existing utility poles owned by the New Hampshire Electric Cooperative, Inc., Pole No. 56/10 is on the property of Herman Pfeuti, previously referred to as the property of David Hayes, and will extend across the Saco river, to Pole No. 56/11 on the property of the town of Bartlett. Permission has been requested and secured from both property owners to install the telephone line.

The company envisions that boating activity is limited to canoes and kayaks.

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the National Electric Safety Code requires a minimum installation height of 15 feet. The company will provide a clearance of 30 feet from the waters' surface.

The commission notes that no objections were filed or expressed at the hearing and, in fact, no intervenors or interested parties were in attendance. The petition was properly publicized and proper notification was given to the public as to the proposed installation. The commission finds disposition for license to place and maintain aerial plant across state-owned public waters in Bartlett, New Hampshire, 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 to the New England Telephone and Telegraph Company, to construct and maintain aerial plant crossing state-owned public waters in Bartlett, New Hampshire, crossing from Pole No. 56/10 on private property of Herman Pfeuti, south of the Saco river, to Pole No. 56/11 on private property of the town of Bartlett, north of the Saco river, as located on petitioner's Exh 3.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of July, 1981.

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NH.PUC\*07/30/81\*[78977]\*66 NH PUC 286\*Public Service Company of New Hampshire

[Go to End of 78977]

**Re Public Service Company of New Hampshire**

DR 79-187, 52nd Supplemental Order No. 15,036

66 NH PUC 286

New Hampshire Public Utilities Commission

July 30, 1981

ORDER permitting parties to participate in settlement conference.

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BY THE COMMISSION:

Supplemental Order

Whereas, all hearings on direct and supplemental testimony have been conducted in DR 79-187 Phase II, with a few minor exceptions for material that will be examined in the rebuttal phase; and

Whereas, parties have indicated an interest in exploring the possibility of agreement on issues raised in these proceedings; and

Whereas, the commission encourages the resolution of issue by the parties; it is hereby

Ordered, that a settlement conference on the issues of the company's proposal for load management service, conducted in a manner to preserve the rights of all parties, to protect the confidentiality of all participants and to attempt to resolve issues through formal stipulation be held on August 4, 1981, at 10:00 A.M., in the offices of this commission; and it is

Further ordered, that a settlement conference on the other issues in DR 79-187 Phase II, conducted under the same terms, be held on September 10, 1981, at 10:00 A.M. in the offices of this commission; and it is

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Further ordered, that all optional rebuttal testimony be filed by July 31, 1981, that hearings for the purpose of cross-examination of this testimony be held August 18th and 19th at 10:00 A.M., and that briefs be filed by October 1, 1981, or until further order of this commission.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of July, 1981.

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NH.PUC\*07/31/81\*[78978]\*66 NH PUC 287\*Sean David Sheedy v New England Telephone and Telegraph Company

[Go to End of 78978]

**Sean David Sheedy v New England Telephone and Telegraph**

**Company**

DE 81-214, Order No. 15,038

66 NH PUC 287

New Hampshire Public Utilities Commission

July 31, 1981

ORDER denying motion for a hearing.

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BY THE COMMISSION:

Order

Whereas, on June 23, 1981, the commission received complaint of Sean D. Sheedy, as complainant against the New England Telephone and Telegraph Company, and

Whereas, complainant details a telephone billing problem which occurred during the period April through June, 1981, and

Whereas, complainant acknowledges that the billing problem was rectified through the action of this commission at the time was brought to our attention, and

Whereas, the complainant now moves that this commission:

1. Order NET&T to either cease their present computer billing practices, or revamp them accordingly to reflect due dates consistent with the actual date of "rendering" therein of bills sent for a particular customer account.

2. Order NET&T to cease and desist any and all issuances of past due notices (notice of termination) until the account has actually been declared due (its actual thirtieth day of billing or rendering date therein) consistent with the published tariff.

3. Declare the present notices of past due accounts which threaten termination or interruption of services invalid as same do not comply with the published tariff as on file with the NHPUC at Concord, New Hampshire, in that they are issued prior to the actual date of the invoice being due according to the computer billing date with the termination date declared as that of the due date rather than the stipulation of the five-day notice period required after the due date of the bill rendering period expiration of thirty days therein.

4. Issue public notice for all parties

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not hereto defined to this action as complainants to come forth with their information pursuant to the allegations of this action and begin a review of the tariff and policies of the NET&T as it is presently administered.

5. Order the NET&T to cease and desist its present practices of termination actions until the review of the policy and tariff actions and applications as presently being used by the NET&T are reviewed to determine if any violations are in fact past and presently being carried out as determined by the response of the general public both as business and residential subscribers

therein.

5. And for other just relief this commission may see proper and just in this situation, and

Whereas, upon investigation this commission finds no proof that New England Telephone and Telegraph Company is deliberately or consistently violating its tariff or the commission rules regarding termination procedures, and

Whereas, this commission is satisfied that complainant's complaint was properly and fairly disposed at the time the complaint arose. It is

Ordered, that the motion for a hearing is denied by the order of the Public Utilities Commission of New Hampshire this thirty-first day of July, 1981.

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NH.PUC\*07/31/81\*[78979]\*66 NH PUC 288\*Sunapee Hills Water Company

[Go to End of 78979]

### Re Sunapee Hills Water Company

DE 81-165, Order No. 15,039

66 NH PUC 288

New Hampshire Public Utilities Commission

July 31, 1981

PETITION for authority to sell and transfer the assets of a water company.

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CONSOLIDATION, Merger, and Sale, § 19 — Grounds for approval — Public benefit — Sale to customer.

[N.H.] Where the owner of a water utility was financially unable to make the improvements necessary to meet the requirements for an acceptable public water system, the commission authorized the sale of the utility to a customer who had been maintaining the system for some time, had made investments of time and money in the system, and had sought sources of capital to enable him to make the necessary improvements.

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BY THE COMMISSION:

Report

By petition filed on June 22, 1981, Sunapee Hills Water Company, Fred W. Klose, proprietor, seeks authority to sell and transfer the assets of the water company to Donald Seymour. Donald Seymour seeks authority to purchase the water company assets and to operate as a public utility in a limited area in the town of Newbury, all as provided under RSA 374:22 and RSA 374:26.

A duly noticed public hearing on this petition was held on July 23, 1981. It was disclosed at the hearing that the water system is in need of immediate improvements in order that it meet the requirements of the New Hampshire Water Supply and Pollution Control Commission as an acceptable public water system. The most urgent need or improvement

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is for a new and adequate source of supply. Fred W. Klose has indicated that he is financially unable to make the necessary investment and Donald Seymour has indicated a desire to purchase the existing assets and to make such new investments as are necessary to provide good service. The commission has also been advised by letter dated July 7, 1981, and at the hearing by the Association of Sunapee Hills, Inc., that it is considering purchase of the water system. The association had made no formal offer as of the date of this hearing.

The instant petition before this commission must be decided on the merits of Donald Seymour as an owner/operator of a water public utility and in making its decision the commission is concerned that the customers of this system be furnished good and reliable service. Donald Seymour has completed a water system operators course given by the state of New Hampshire and has been certified as such.

In addition, Mr. Seymour is served by this water system, has for some months been maintaining the system for Mr. Klose, has made certain investments in time and money in the system, and has sought sources of capital to enable him to make the necessary improvements.

Of overriding concern is the worsening water supply situation in this utility. Immediate action is necessary for the drilling of a new well if the quantity problems experienced before commission regulation are to be avoided. Mr. Seymour is the only person or group that is proposing action rather than discussion. Whatever the ultimate ownership, a new well must be dug and after completion it must be reflected in the rates charged. Any questions as to blame for this deteriorated situation, while important, must receive secondary consideration until the new well is dug.

In view of the record in this case we see no reason to deny the authority sought. The Association of Sunapee Hills, Inc., should it desire in the future, has the right to seek purchase of the system or the formation of a village district for its purchase under applicable New Hampshire statutes.

Our order will issue accordingly.

Order

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

Ordered, that Sunapee Hills Water Company, Fred W. Klose, proprietor, be, and hereby is, authorized to sell and transfer its assets to Donald Seymour; and it is

Further ordered, that Donald Seymour is authorized to purchase the assets of Sunapee Hills Water Company and to operate as a water public utility in the area now served by Sunapee Hills in the town of Newbury; and it is

Further ordered, that a hearing shall be called in the near future to establish the selling price,

capital investment, operating expenses, and rates for this water system.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of July, 1981.

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NH.PUC\*08/04/81\*[78980]\*66 NH PUC 290\*Concord Natural Gas Corporation

[Go to End of 78980]

## **Re Concord Natural Gas Corporation**

DF 81-176, Order No. 15,044

66 NH PUC 290

New Hampshire Public Utilities Commission

August 4, 1981

APPLICATION for authority to issue and sell variable interest first mortgage bonds; granted.

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SECURITY ISSUES, § 49 — Financial conditions and prospects — Refinancing — Favorable interest rate.

[N.H.] The commission authorized a gas company to issue and sell variable interest first mortgage bonds for the purpose of refinancing short-term debt where it found that the proposed issue and proposed variable rate of interest provision were in the best interest of the company's stockholders, bondholders, and ratepayers, inasmuch as, if the rate of interest on distributed A rated public utility bonds declined, the interest rate on the proposed bonds will also decline, whereas, if the rate of interest on distributed A rated public utility bonds increased, the rate on the proposed series would also increase, but not in excess of 19 per cent.

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APPEARANCES: Charles Toll for Concord Natural Gas Corporation.

BY THE COMMISSION:

Report

By this application, filed July 2, 1981, Concord Natural Gas Corporation (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as a gas utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369:1, RSA 369:2 and RSA 369:4 to issue and sell for cash equal to the aggregate principal amount thereof plus accrued interest thereon to the date of issue, its first mortgage bonds, variable interest series due 2001, in the aggregate principal amount of \$600,00.

At the hearing on the application, held in Concord on July 30, 1981, the company submitted

exhibits detailing its long- and short-term notes as of June 30, 1981; its capital structure as of that date, and pro formed to reflect the proposed issue; its income statement for the 12-month period ended June 30, 1981, and pro formed to reflect the proposed issue; the estimated issuance costs of said series; and forms of the bond purchase agreement pursuant to which said series is to be issued, a registered bond without coupons of said series, an eighth supplemental indenture of mortgage describing the bonds of said series and mortgaging property of the company to secure them and other bonds issued and to be issued by the company with the approval of this commission, and votes of the company's board of directors authorizing the series.

The proceeds from the sale of the bonds will be used to pay short-term debt, any remaining balance of such proceeds to be used for the company's general purposes.

The company's evidence establishes that the bonds can be issued consistently with the limitations imposed by the company's indenture of mortgage; that the annual rate of interest currently payable on the company's outstanding short term is 20 per cent on some, 20.5 per cent on most, of such debt, with a weighted average

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annual interest rate on short-term debt of about 18.5 per cent for the 12-month period ended June 30, 1981; and that the weighted average annual rate of interest for the six-month period ended June, 1981, on distributed A rated public utility bonds (the rate which the proposed series would bear) was about 15.3 per cent.

The company's expert witness, Robert Jackson of Stone and Webster Management Consultants, Inc., testified that the terms and conditions of the proposed issue are in the best interest of the company's stockholders, bondholders and ratepayers, that the proposed variable rate of interest provision is in their best interest inasmuch as, if the rate on distributed A rated public utility bonds declines as seems likely, the interest rate on the proposed bonds will also decline, whereas, if the rate of interest on distributed A rated public utility bonds increases, the rate on the proposed series will increase but not exceed 19 per cent in any event. Mr. Jackson testified that the terms available to Concord Natural Gas Corporation are favorable and that the issue should be approved.

Mr. Jackson also testified that generally a smaller utility will have to pay more for a borrowing than will a larger utility, all other factors being equal. While this financing is enviable from even a large utility viewpoint, it is clear that long term Concord Gas should be giving consideration to a merger with another gas utility so as to minimize costs to its ratepayers.

After giving due consideration to the evidence, the commission approves the proposed financing. Our order will issue accordingly.

**Order**

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

Ordered, that the applicant, Concord Natural Gas Corporation, be, and hereby is, authorized to issue and sell at private sale, for cash equal to the aggregate principal amount thereof plus accrued interest thereon to the date of issue, its first mortgage bonds, variable interest series due 2001, in the aggregate principal amount of \$600,000, said bonds to be dated as of August 1,

1981, to bear interest from said date at a variable rate per annum equal to the average of the annual yields on distributed A rated public utility bonds, as published monthly in Moody's Bond Survey, during the period of six consecutive calendar months last ended prior to each interest payment date (which variable rate shall not in any event exceed 19 per cent per annum or be less than 11 per cent per annum), to mature October 1, 2001, to provide for amortization prior to maturity of not more than 64 per cent of the original principal amount thereof by application of sinking fund payments beginning October 1, 1984, not exceeding in aggregate amount in any year 4 per cent of said original principal amount and to be otherwise in form and substance as provided in, to be issued under and secured by, the indenture of mortgage dated as of July 1, 1952, made by Concord Gas Company to The Mechanics National Bank Concord, as trustee, as heretofore supplemented and amended and as further supplemented by the following-mentioned eighth supplemental indenture of mortgage; and it is

Further ordered, that Concord Natural Gas Corporation be, and hereby is, authorized to mortgage all its property, real, personal, and mixed, tangible and intangible, including franchises and after acquired property (other than property of the kind defined as "excepted property" in said indenture of mortgage dated as of July 1, 1952), as security for the payment of said first mortgage bonds, variable interest series due 2001 and all

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other bonds heretofore or hereafter issued with the approval of this commission under said indenture of mortgage dated as of July 1, 1952, as heretofore and hereafter supplemented and amended with the approval of this commission, all in and by, and as provided in, said indenture of mortgage as heretofore supplemented and amended and as further supplemented by said eighth supplemental indenture; and it is

Further ordered, that Concord Natural Gas Corporation be, and hereby is, authorized to make, execute and deliver to Bank of New Hampshire, National Association, as trustee, an eighth supplemental indenture of mortgage to be dated as of August 1, 1981, providing for the creation of said first mortgage bonds, variable interest series due 2001, mortgaging, and confirming the lien of said indenture of mortgage dated July 1, 1952, as heretofore supplemented and amended, on, said property as security as aforesaid; and it is

Further ordered, that the proceeds of the issuance and sale of said first mortgage bonds, variable interest series due 2001, shall be applied to pay all of Concord Natural Gas Corporation's short-term debt for borrowed money, and, to the extent not required therefore, for its general purposes; and it is

Further ordered, that on January 1st and July 1st of each year Concord Natural Gas Corporation 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 first mortgage bonds, variable interest series due 2001, 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 fourth day of August, 1981.

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[Go to End of 78981]

## Re Public Service Company of New Hampshire

Intervenors: Community Action Program

DF 81-188, Order No. 15,047

66 NH PUC 292

New Hampshire Public Utilities Commission

August 4, 1981

PETITION for authority to issue and sell unsecured notes; granted.

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SECURITY ISSUES, § 49 — Factors affecting authorization — Financial condition and prospects — Refinancing and new construction.

[N.H.] The commission authorized the sale by an electric company of its unsecured notes where it found that the proceeds from the proposed financing would be expended (1) to pay off a portion of short-term notes outstanding at the time of the sale; (2) to finance the purchase and construction of additional property reasonably requisite for present and future use in the conduct of the company's business; and (3) for other proper corporate purposes, and where it also found that the issue and sale

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under the terms proposed would be consistent with the public good.

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APPEARANCES: D. Pierre G. Cameron, Jr., for the petitioner; Gerald M. Eaton, for the Community Action Program; Gerald L. Lynch, consumer advocate.

BY THE COMMISSION:

Report

By this unopposed petition filed July 14, 1981, 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 its unsecured notes to PSNH International Finance N.V. and PSNH International Finance B.V. in a aggregate principal amount not exceeding \$35 million and to issue its guarantee of an equal amount of unsecured notes to be issued by PSNH International Finance N.V. and PSNH International Finance B.V. A duly noticed hearing was held in Concord on August 3, 1981, at

which the company submitted the testimony of Charles E. Bayless, its financial vice president.

Mr. Bayless stated that the company is in the process of organizing the following subsidiary corporations:

(a) Public Service Company of New Hampshire Overseas Finance N.V. (hereinafter referred to as "overseas finance"), a corporation to be organized under the laws of the Netherlands Antilles as a wholly owned subsidiary of the company;

(b) Public Service Company of New Hampshire Finance B.V. (hereinafter referred to as "Finance B.V."), a corporation to be organized under the laws of the Netherlands as a wholly owned subsidiary of overseas finance; and

(c) Public Service Company of New Hampshire International Finance N.V. (hereinafter referred to as "Finance N.V."), a corporation to be organized under the laws of the Netherlands Antilles as a wholly owned subsidiary of Finance B.V.

The company proposes to issue and sell to Finance N.V. and Finance B.V. for cash its unsecured notes (hereinafter "company notes") due more than one year from the date of issue in an aggregate principal amount not exceeding \$35 million, two-thirds of such aggregate principal amount to be notes issued to Finance N.V. and one-third of such aggregate principal amount to be notes issued to Finance B.V.

The company further proposes to unconditionally guarantee the payment of interest and principal on not exceeding \$35 million in aggregate principal amount of unsecured notes to be issued and sold by Finance N.V. and Finance B.V. to underwriters who will resell the same to investors outside of the United States (hereinafter referred to as "subsidiaries notes"). The subsidiaries notes and the related company guarantee will be issued pursuant to and entitled to the benefits of a certain indenture by and among the company Finance N.V., Finance B.V. and Morgan Guaranty Trust Company of New York, as trustee, a copy of the latest proof of which was submitted as an exhibit. The subsidiaries notes will be issued by both Finance N.V. and Finance B.V. and will provide that Finance N.V. will be severally liable for payment of two-thirds of the principal and interest and Finance B.V. will be liable for one-third of the principal and interest. The company's guarantee will extend to all interest and principal payments as well as to any other payments which may be required to be made by Finance N.V. and Finance B.V. under

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the terms of the subsidiaries notes or the indenture.

Mr. Bayless stated that the compensation to be paid to underwriters will be reflected in the price paid by the underwriters for the subsidiaries notes. The expenses of the issue will be paid by Finance N.V. and Finance B.V. The price paid by Finance N.V. and Finance B.V. for the company notes will reflect the estimated amount of such expense as well as the underwriting spread.

Mr. Bayless stated that the proceeds of the issue and sale of the company notes will be used (a) to pay off a portion of the short-term notes outstanding at the time of sale (estimated to be \$126 million on August 18, 1981), the proceeds of which will have been principally expended to

finance 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.

The company submitted a balance sheet as at May 31, 1981, actual and pro formed to reflect the proposed issuance of \$35 million of company notes. Exhibits were also submitted showing: disposition of proceeds; estimated expenses of the issue; and capital structure as at May 31, 1981, actual and pro formed to reflect the proposed issuance of \$35 million of company notes. Estimated construction expenditures were outlined in testimony and a certified copy of authorizing votes of the company's board of directors was put in evidence.

The pro forma capital structure of the company reflecting the actual short-term debt outstanding as of May 31, 1981, and pro formed to reflect the proposed issue and sale of \$35 million of company notes is as follows: (in thousands of dollars):

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

	May Actual	Per Cent of Total	Pro Forma Amount
Long-term Debt	\$ 422,922,562	39.69	\$ 456,922,562
Short-term Debt	106,100,000	9.20	92,100,000
Preferred Stock	171,286,300	14.86	171,286,300
Common Equity	452,385,510	39.25	452,385,510
Total	\$1,152,694,372	100.00	\$1,172,694,372

Based upon all the evidence, the commission finds that the proceeds from the proposed financing will be expended (1) pay off a portion of the short-term notes outstanding at the time of the sale; (2) finance the purchase and construction of additional property reasonably requisite for present and future use located within the state of New Hampshire in the conduct of the company's business; and (3) for other proper corporate purposes within the states of Maine, Vermont, and New Hampshire, and further finds that the issue and sale by the company of its unsecured notes in an aggregate principal amount not exceeding \$35 million to Finance N.V. and Finance B.V. and the issuance by the company of its unconditional guarantee of an equal aggregate principal amount of notes to be issued by Finance N.V. and Finance B.V. will be consistent with the public good. Upon completion of the proposed transactions, the company shall file an accounting of the expenses of the sale paid by Finance N.V. and Finance B.V. and the concessions granted to the underwriters.

The comments raised by observers from

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the public appear to result from a misunderstanding of regulatory practice. Consumers are not being asked to pay the interest charges on this issuance. Therefore the "CWIP" issue is not in question in this proceeding. While PSNH may use these *investor* funds for a new turbine at Garvin or converting of the Schiller station from oil to coal or further additions to Seabrook or some other corporate purpose, the consumers are not being asked to pay these interest costs.

As to the question of foreign financing, it would be a sad day in regulation if a lower cost financing was rejected in favor of a continuation of higher domestic cost financing. Consumers

will pay these accumulated financing costs (whether foreign or domestic) only on plant that is actually servicing their needs. Despite the public comment, there is no cost for a foreign financing being requested of ratepayers presently.

The foreign costs that ratepayers are paying for now is foreign oil costs. One would hope that reasonable people would seek all efforts to eliminate the costs of this foreign product rather than raising red herrings over foreign financings.

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 its unsecured notes to PSNH International Finance B.V. and PSNH International Finance N.V. in an aggregate principal amount not exceeding \$35 million in accordance with the foregoing report; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue its unconditional guarantee of an equal aggregate principal amount of unsecured notes to be issued by PSNH International Finance B.V. and PSNH International Finance N.V.; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this commission the terms of the proposed financing, including the term, the aggregate principal amounts and the respective purchase prices and interest rates of notes to be issued by the company and PSNH International Finance N.V. and PSNH International Finance B.V., after which a supplemental order will issue approving the terms of the proposed financing; and it is

Further ordered, that the proceeds from the sale of the notes to be issued by the company 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 said proposed financing until the expenditure of the whole of said proceeds shall have been fully accounted for; and it is

Further ordered, that Public Service Company of New Hampshire will provide a detailed accounting of all the transactions occurring related to the formation of its foreign subsidiaries and the expenses related to the issuance of the unsecured Eurobond notes.

By order of the Public Utilities Commission of New Hampshire this fourth day of August, 1981.

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NH.PUC\*08/05/81\*[78982]\*66 NH PUC 296\*Public Service Company of New Hampshire

[Go to End of 78982]

## Re Public Service Company of New Hampshire

DF 81-188, Supplemental Order No. 15,048

66 NH PUC 296

New Hampshire Public Utilities Commission

August 5, 1981

ORDER authorizing a utility to issue and sell its unsecured notes.

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### Supplemental Order

Whereas our Order No. 15,047 dated August 4, 1981 (66 NH PUC 292), issued in the above entitled proceeding, authorized Public Service Company of New Hampshire to issue and sell its unsecured notes to PSNH International Finance B.V. and PSNH International Finance N.V. in an aggregate principal amount not exceeding \$35 million and to issue its unconditional guarantee of an equal aggregate principal amount of notes to be issued by PSNH International Finance N.V. and PSNH International Finance B.V., subject to further order of this commission; and

Whereas, in compliance with said Order No. 15,047 following negotiations with underwriters, the company has submitted the following details concerning the proposed financing:

(1) Public Service Company of New Hampshire International Finance N.V. and PSNH International Finance B.V. will issue and sell their unsecured notes dated as of August 15, 1981, and due August 15, 1986, in an aggregate principal amount of \$30 million at a purchase price of 96.375 per cent of the principal amount to underwriters who will reoffer the same to foreign investors, said notes to bear interest at a rate of 17 per cent per annum, payable annually, all in accordance with the underwriting agreement, a copy of which is to be filed with the commission.

(2) The company will issue its unconditional guarantee with respect to such notes to be issued by PSNH International Finance N.V. and PSNH International Finance B.V.

(3) The company will issue and sell to PSNH International Finance N.V. and PSNH International Finance B.V. its unsecured notes dated as of August 15, 1981, and due August 15, 1986, at a purchase price of 96.375 per cent of the principal amount, the notes issued by the company to PSNH International Finance B.V. to be in an aggregate principal amount of \$10 million and to bear interest at a rate of 17.25 per cent per annum, payable annually, and the notes to be issued by the company to PSNH International Finance N.V. to be in an aggregate principal amount of \$20 million and to bear interest at a rate of 18 per cent per annum, payable annually; and

Whereas, after due consideration, it appears that the issue and sale by the company of \$20 million in principal amount of unsecured notes to PSNH International Finance N.V. and \$10 million in principal amount of unsecured notes to PSNH International Finance B.V. and the issuance by the company of its unconditional guarantee of \$30 million in principal amount of notes to be issued by PSNH International Finance

N.V. and PSNH International Finance B.V. as hereinabove described and upon the terms presented to this commission, including the term and the respective purchase prices and interest rates hereinabove set forth or referred to, are 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 unsecured notes dated as of August 15, 1981, and due August 15, 1986, to PSNH International finance N.V. in the principal amount of \$20 million at a price of 96.375 per cent of the principal amount, said notes to bear interest at a rate of 18 per cent per annum, payable annually; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell for cash its unsecured notes dated as of August 15, 1981, and due August 15, 1986, to PSNH International Finance B.V. in the principal amount of \$10 million at a price of 96.375 per cent of the principal amount, said notes to bear interest at a rate of 17.25 per cent per annum, payable annually; and it is

Further ordered, that Public Service Company of New Hampshire, be, and hereby is, authorized to issue its unconditional guarantee with respect to \$30 million in principal amount of unsecured notes to be issued and sold by PSNH International Finance N.V. and PSNH International Finance B.V.; and it is

Further ordered, that all other provisions of said Order No. 15,047 of this commission are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this fifth day of August, 1981.

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NH.PUC\*08/05/81\*[78983]\*66 NH PUC 297\*Public Service Company of New Hampshire

[Go to End of 78983]

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

DR 81-87, Fourth Supplemental Order No. 15,050

66 NH PUC 297

New Hampshire Public Utilities Commission

August 5, 1981

ORDER adopting procedural schedule.

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BY THE COMMISSION:

Report

Staff witness Robert Camfield has filed testimony in this proceeding as of July 31, 1981. All parties are given until August 10, 1981, to submit data requests. Mr. Camfield is to respond to

those data requests, timely filed, by August 20, 1981.

Finance staff has indicated that it also wishes to file testimony. The commission will allow an extension to August 13, 1981, for this testimony to be filed. All parties will have until August 20, 1981, to submit data requests concerning the finance testimony. Finance witnesses are given a week to respond to all timely data requests. Hearings on Mr. Camfield's testimony will precede those concerning financial staff testimony. All other parties must file testimony and exhibits by no later than August 13, 1981.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing

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report, which is made a part hereof; it is hereby

Ordered, that the procedural schedule adopted by the commission in its report is hereby adopted for purposes of resolving this case.

By order of the Public Utilities Commission of New Hampshire this fifth day of August, 1981.

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NH.PUC\*08/13/81\*[78984]\*66 NH PUC 298\*Exeter and Hampton Electric Company

[Go to End of 78984]

**Re Exeter and Hampton Electric Company**

DR 79-91, DR 80-256, Order No. 15,053

66 NH PUC 298

New Hampshire Public Utilities Commission

August 13, 1981

ORDER establishing effective date for tariff supplements.

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BY THE COMMISSION:

Order

Whereas, Supplement Nos. 1 and 3 of Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, documented recovery of moneys due, and refund credits to, consumers respectively; and

Whereas, reasonable recovery and credit of refunds have been completed to the satisfaction of this commission; it is

Ordered, that Supplement Nos. 1A and 3A to said tariff, which supplements cancel Supplement Nos. 1 and 3, be, and hereby are, approved for effect as of August 31, 1981.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of August, 1981.

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NH.PUC\*08/13/81\*[78985]\*66 NH PUC 298\*Concord Electric Company

[Go to End of 78985]

### Re Concord Electric Company

IE 14,423, DR 79-214, DR 80-255, Order No. 15,054

66 NH PUC 298

New Hampshire Public Utilities Commission

August 13, 1981

ORDER establishing effective date for tariff revisions.

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BY THE COMMISSION:

Order

Whereas, under dockets IE 14,423 — customer refunds, DR 79-214 — fuel clause investigation, and DR 80-255 — credit of wholesale refunds, this commission authorized Concord Electric Company certain temporary credits and surcharges; and

Whereas, all credits and surcharges have now been applied as closely as possible; it is

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Ordered, that First Revised Pages 15-B, 15-C, 15-D, and 15-E; and Supplement No. 5, of Concord Electric Company tariff, NHPUC No. 6 — Electricity, be, and hereby are, approved for effect August 11, 1981; and it is

Further ordered, that any balances remaining in these three matters be netted against purchased power expense (Account 555).

By order of the Public Utilities Commission of New Hampshire this thirteenth day of August, 1981.

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NH.PUC\*08/13/81\*[78986]\*66 NH PUC 299\*Cheshire Bridge Corporation/Springfield Terminal Railway Company

[Go to End of 78986]

**Re Cheshire Bridge Corporation/Springfield Terminal Railway  
Company**

DT 80-250, Third Supplemental Order No. 15,055

66 NH PUC 299

New Hampshire Public Utilities Commission

August 13, 1981

MOTION for reconsideration, modification, and clarification or prior reports and orders; granted in part.

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APPEARANCES: Robert T. Clark for the petitioner.

BY THE COMMISSION:

Report

Disposition of a Motion for Reconsideration, Modification and Clarification of Report and Order Nos. 14,967 and 14,977

Cheshire Bridge Corporation has filed a motion asking for reconsideration of our report and Order Nos. 14,967 (66 NH PUC 251) and 14,977 (66 NH PUC 259.) The first issue concerned the necessary repairs required by the commission to to be implemented by the Cheshire Bridge Corporation (CBC). Cheshire Bridge Corporation clearly points out certain changes that must be made so as to have internal consistency between the two orders. First, the new deck will be a splined wooden deck with a bituminous wearing surface. Second, 74 highway and 18 railroad stringers are hereby ordered for replacement, as well as any additional stringers that are found to be inadequate, decayed or damaged, which are discovered upon removal of the deck. Third, that the railroad stringers that have recently been replaced do not have to be replaced again.

The company's motion next raised the question of the time of these repairs. Commission Order No. 14,967 required that all ordered repairs be completed by January 1, 1982. Because of the possibility that major sandblasting and painting would interrupt or defer major structural work, the commission will allow a deferral of sandblasting and painting until a date no later than April 30, 1982, except for those areas of steel work which are only exposed when the deck is removed.

After years of neglect, we are inclined to believe that major sandblasting and painting should be done during the most favorable climatic conditions. This commission

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is interested in any efforts that can assure a quality long-lasting job in keeping with the high traditions recently established by the Boston and Maine Railroad in other ventures.

The commission in its Order No. 14,967 indicated that a second step increase would be allowed under certain conditions. Simply stated, those conditions have been met. Based upon continued monitoring by our staff, speed and weight restrictions continued to be ignored causing

further costs to be added to budget for refinishing and restructuring this bridge. Despite our warning and those of our staff, the bridge is continually deteriorating simply because the posted legal limits are being ignored.

Another item of concern to the commission is the total financing costs associated with the repairs. While the consumers are not to be asked to pay the costs of financing prior to the completion of the construction, it is clear that once completed, the financing costs are reasonable costs of doing business. Since the date upon which the testimony was received and even since the date of our orders, the finance markets have continued to deteriorate. Unfortunately, this has led to a more costly variable rate than was assumed in our initial projections. Since the two conditions in Order No. 14,977 have been met, the next cent level divisible by five referred to in Order No. 14,977 as applied to motorcycle and passenger vehicles rates will be allowed. The interest costs that have increased from \$75,000 to \$77,304 clearly reflect both the actual amount to be borrowed because of increased violation of speed and load limits and the deteriorating money markets.

The commission asked that the Boston and Maine defer any assessment of a management fee for two years. It is our belief that the neglect of the 1940s, 1950s, and 1960s should not go unrecognized. Boston and Maine proposes instead that the actual support staff services be recorded on a strict time and expense basis. The commission will allow an adoption of this approach so long as the combination of the time and expenses do not exceed the eliminated management fee. The commission believes that there is no hyperbole contained in our report. We believe and have so found that the revenues of the CBC have been deferred from proper bridge maintenance for use by the parent corporations. Our audit and all the evidence in this case clearly demonstrate a more than adequate rate of return since 1924 and clearly enough revenues to have properly maintained this bridge. The motion expresses the concern of senior management of our findings that the Boston and Maine bled the bridge of its revenues for the past forty years. This commission believes that concern to be misplaced. We have consistently found that recent endeavors by both the Springfield Terminal Railway Company and the Boston and Maine have been of an extremely supportive nature of this bridge. Independent of any commission action, recent management of both parent corporations have shown a willingness to correct the mistakes of their predecessors. No doubt this helps to explain, at least in part, the emergence of this railroad from bankruptcy. However, a review of the testimony by the company, the staff, and the users of the bridge clearly establishes a knowing neglect of routine, as well as major, structural maintenance for the last forty years. The figures in this record demonstrate rates of return between 20 to 50 per cent for the major portion of time since 1924. The commission is simply asking the Boston and Maine to provide as much free assistance as is possible to a subsidiary that it has historically shortchanged. The strength in maintenance commitment will be reviewed

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when we review the reasonableness in allowing a third step increase as of July 1, 1982.

This commission has steadfastly insisted that its major priority is an adequate and safe bridge for transport. We believe that this solidified clarification requires an immediate action by the reorganization court. If, however, that court should reject this decision, which has increased the

revenue to this utility not only once but twice, we will have no other recourse but to seek the lifting of the franchise with a subsequent award to the state. Adequate and safe service must be maintained, and we believe that the CBC with the Boston and Maine has the most experience and the greatest likelihood of accomplishing this goal. Yet, let it be understood that a refusal to make the necessary repairs to this bridge will not, and cannot, be sanctioned by this commission. The commission expects that a majority of the ordered improvements will be in place by November 30, 1981. If there are any unreasonable delays because of a reluctance of the CBC to improve the bridge, this secondary step may be delayed until December 15, 1981.

Finally, although the motion deals with expenses and disposing of other minor issues, the commission finds its original orders to be correct.

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 new deck will be a splined wooden deck with a bituminous wearing surface; and it is

Further ordered, that 74 highway and 18 railroad stringers are to be replaced, as well as any additional stringers needing replacement when the deck is removed; and it is

Further ordered, that the railroad stringers that have recently been replaced need not be replaced; and it is

Further ordered, that the company will be allowed to defer sandblasting and painting until a date no later than April 30, 1982, except for those areas of steel work, which are only exposed when deck is removed; and it is

Further ordered, that the two conditions set forth in Order No. 14,977 have been made both individually and together, therefore, resulting in the increase shown in Order No. 14,977 for passenger vehicles and motorcycles as of November 30, 1981, unless there is an unreasonable delay in construction, in which case the date becomes December 15, 1981.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of August, 1981.

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NH.PUC\*08/18/81\*[78987]\*66 NH PUC 301\*Dover Water Department

[Go to End of 78987]

### **Re Dover Water Department**

DR 81-150, Supplemental Order No. 15,058

66 NH PUC 301

New Hampshire Public Utilities Commission

August 18, 1981

ORDER directing water company to file new rate schedule.

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**Page 301**

BY THE COMMISSION:

Supplemental Order

Whereas, the Dover Water Department, a public utility engaged in providing water service to limited areas of Madbury, Rollinsford, and Somersworth in the state of New Hampshire, filed with this commission certain tariff revisions proposing to increase revenues by \$4,706,22, or 66 per cent; and

Whereas, this commission suspended said filing by its Order No. 14,981 ([1981] 66 NH PUC 260), pending investigation and decision thereon; and

Whereas, the Dover Water Board has agreed that the meter retail charge for customers served in Madbury, Rollinsford, and Somersworth, shall be at the same rate charged to customers in the city of Dover; and

Whereas, no objections have been received by the commission after publication of the filing in accordance with the tariff filing rules; it is

Ordered, that the Dover Water Department file a new schedule of rates reflecting the revised meter rental charge; and it is

Further ordered, that the water rates as filed and the revised meter rental rates be, and hereby are, approved for effect with all bills rendered on or after September 1, 1981.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of August, 1981.

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NH.PUC\*08/18/81\*[78988]\*66 NH PUC 302\*Public Service Company of New Hampshire

[Go to End of 78988]

**Re Public Service Company of New Hampshire**

DSF 79-102-6205, Supplemental Order No. 15,059

66 NH PUC 302

New Hampshire Public Utilities Commission

August 18, 1981

ORDER denying petition for further modification of transmission line routes.

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BY THE COMMISSION:

## Supplemental Order

Whereas, on January 26, 1981, the Public Service Company of New Hampshire filed with this commission a petition for further modification of transmission line routes in the vicinity of Kensington and South Hampton, New Hampshire; and

Whereas, such petition was distributed to all members of the site evaluation committee on February 4, 1981; and

Whereas, a public hearing on the matter was held in the Kensington, New Hampshire, town hall, on March 20, 1981; and

Whereas, in response to a request for a view on behalf of certain South Hampton residents, a view was conducted on June 1, 1981; and

Whereas, a further public hearing was held at the offices of the Water Supply and Pollution Control Commission, on June 22, 1981; and

Whereas, on June 22, 1981, the Site Evaluation Committee voted in public session to deny the petition of Public Service Company; and

Whereas, on July 10, 1981, the site evaluation committee issued its "Committee Report and Findings" and therein found that the commission should deny

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the petition of Public Service Company of New Hampshire because the proposed changes in the approved route of the transmission lines are inconsistent with the basic findings of fact made by the committee on November 9, 1979, in that they are considerably more extensive than the slight modifications referred to and are outside the corridor or bank as approved by the committee and set forth in the Certificate of Site and Facility; and

Whereas, RSA 162:-F:8 provides that a commission shall issue or deny a certificate and shall be bound by the findings of the site evaluation committee; it is

Ordered, that the petition of the Public Service Company of New Hampshire, for further modification of transmission line routes as authorized in the Certificate of Site and Facility for the Seabrook nuclear plant be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of August, 1981.

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NH.PUC\*08/19/81\*[78989]\*66 NH PUC 303\*Hudson Water Company

[Go to End of 78989]

## Re Hudson Water Company

Intervenors: Town of Litchfield and Legislative Utility Consumers' Council

DR 80-218, Second Supplemental Order No. 15,057

## 66 NH PUC 303

## New Hampshire Public Utilities Commission

August 19, 1981

PETITION by a water company for a rate increase; granted as modified.

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1. EXPENSES, § 22 — Treatment of particular kinds of expenses — Amortization of damage cost — Excess over settlement.

[N.H.] Where a water utility, which had experienced damage to its system caused by construction of a municipal sewerage project, sought a five-year amortization of the resulting costs, less the amount it collected in an out-of-court settlement, the commission allowed recognition of only those costs that either appeared completely reasonable on their face or that furthered reasonable regulatory policies, or both. p. 305.

2. EXPENSES, § 63 — Treatment of particular kinds of expenses — Legal expense — Litigation incentive.

[N.H.] A proper method to encourage further litigation by utilities in pursuit of the rights of consumers and stockholders would be to provide recognition of the costs of litigation. p. 305.

3. VALUATION, § 128 — Overheads — Accidents and damages — Unamortized balance.

[N.H.] Although permitting a five-year amortization of that portion of the amount in excess of a damage settlement found to be reasonably incurred, the commission found that rate base treatment of the unamortized balance would be unreasonable since ratepayers had already borne over two years of return on the excess and since continuation of the unamortized portion in rate base would transgress the balance between the ratepayer and the company p. 305.

4. VALUATION, § 25 — Date of valuation — Estimated pro forma rate base versus 13-month average rate base.

[N.H.] The commission rejected an estimated pro forma rate base because estimates, by their very nature, can lead to over or undercollections and thus reduce the opportunity to strike a reasonable balance between ratepayers and utilities; on the other hand, a 13-month average rate base provided a greater assurance of matching revenues, expenses, and investment. p. 308.

5. VALUATION, § 223 — Property used and useful — Incomplete and contemplated construction — Increase to rate base.

[N.H.] A second step increase to reflect inclusion in rate base of the cost of newly completed wells was permitted by the commission where it found that the proposal for the new wells and interconnection of two communities was sound business judgement responsive to the needs of consumers; the commission also ruled

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that when the interconnection was completed its cost would be immediately allowed into rate

base after a short hearing p. 308.

6. EXPENSES, § 92 — Treatment of particular expenses — Amortization of rate case expenses — Limitation of expense.

[N.H.] Finding no legitimate reason to allow a utility rate case expenses (above normal personnel expenses) that exceeded the level of expenses the commission had available to investigate the reasonableness of the petition, the commission consequently reduced the amount of rate case expense which a water utility was permitted to amortize and collect over a two-year period. p. 312.

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APPEARANCES: John McLane and Charles P. Bauer for Hudson Water Company; Jay Hodes for the town of Litchfield; Gerald L. Lynch for the Legislative Utility Consumers' Council (LUCC).

BY THE COMMISSION:

Report

Opinion authored by J. Michael Love, chairman.

#### *I. Procedural History*

On October 9, 1980, the Hudson Water Company (hereinafter referred to as either "Hudson" or the "company") filed a petition to increase rates by \$241,709. The commission suspended the requested increase pending investigation. On December 15, 1980, a procedural hearing was held at the commission's offices. This hearing was followed by public hearings in Litchfield and Hudson on January 7 and 8, 1981.

A petition for temporary rates was filed on January 30, 1981, by Hudson Water Company. The petition sought to have presently effective rates made temporary as of January 1, 1981.

Public hearings on the presentation of evidence by the company, the staff, and other parties were held on February 25, March 3, and 5, 1981. These proceedings included the testimony of witnesses Phelps and Noran for Hudson. Staff witness Camfield's testimony on rate of return and attrition became the cornerstone for the settlement of these issues.

In addition to the standard issues of rate of return, capitalization, expenses, depreciation, rate base, and rate structure, the town of Litchfield has raised serious questions as to the placement of hydrants in the town and the municipal fire protection charge.

Briefs were submitted by all parties on March 26, 1981, and reply briefs were submitted on April 10, 1981.

#### *II. Rate of Return and Attrition*

The parties have submitted a stipulated agreement as to rate of return and the attrition factor to be applied to provide a greater likelihood that the authorized rate of return will occur. Exhibit G in this proceeding reflects the agreement:

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

*Weighted*

Item	Amount** (000's Omitted)	Component Ratio	Cost Rate	Cost Rate
Common Equity	\$1,026	.3410	14.50%	4.94%
Long-term Debt	1,483	.4929	8.70	4.29
Short-term Debt	500	.1662*	15.50	2.58
Total	\$3,009	1.0000		11.81%
Attrition	Effective: Date of Order		0.25	12.06%
	Effective: Twelve Months After Date of Order		0.75	12.56%

Rounding problem such that the component ratios will not total unity. The difference, of course. Will be lost in rounding.

\*December 31, 1980.

### III. Rate Base

#### A. Sewerage Construction Damage

[1-3] Hudson Water Company experienced damage to its system by a sewerage construction project in the town of Hudson. The company sought damages in the amount of \$101,927. A decision was made during these court proceedings to settle for \$45,000. The question posed for consideration in this proceeding is the proper rate-making procedure for handling the remaining balance.

Hudson Water Company requests that the costs it incurred as a result of the sewerage construction work in Hudson, less the amount it collected through a settlement in the courts be collected over a five-year period from ratepayers with the average outstanding balance over a two-year period commencing January 1, 1981, be included in rate base.

To support its contentions, Hudson argues that the costs incurred were the result of actions by others and thereby beyond the control of the company. Hudson notes that it pursued its remedy against the responsible parties prior to seeking assistance from the ratepayers. Finally, Hudson justifies its settlement as reasonable due to the possibility of new recovery, substantial litigation costs, and the debilitating effects of litigations on the daily operations of the company.

The LUCC takes a directly opposite position in stating that there should not be any recognition of these costs in the rates charged by Hudson Water Company. To support its advocated position, the LUCC cites testimony by Hudson witnesses that neither the consumers or the stockholders are responsible. Contending that both are innocent victims, the LUCC states that the stockholders are compensated for this business risk while the ratepayers are not.

The LUCC contends that recognition of this difference between the damages incurred and the settlement will act as a disincentive for utilities in considering whether to pursue litigation. Preference is made to a pattern of failing to pursue legal remedies. Hudson counters these arguments by noting that it did pursue its legal remedies and did not simply seek funds from the ratepayers. Furthermore, the company notes that if the LUCC's position is accepted it would force utilities to proceed blindly down the path of litigation without proper consideration of

realistic factors such as legal expenses, the unpredictable notice of lawsuits and company personnel costs, all of which could seriously impact on the ratepayers of utilities.

Staff, through its questioning, appears to believe that some sharing of costs is reasonable. Staff witness Traum did not, however, include any allocation for these damages in his rate base calculation. Further, staff questioned the time period of recovery.

The perfect resolution to this problem could be handled by the legislation sponsored by the Association of New Hampshire Utilities this session. In that piece of proposed legislation, specific protections in terms of insurance and avoidance of court proceedings are given. Unfortunately, absent passage of this protective legislation initiative, the commission is faced with the task of allocating costs based on regulatory principles which are conflicting at best and at worst arbitrary. Both parties have raised legitimate concerns as to the type of message a decision in this proceeding will have upon regulation in general. While the amount in controversy, approximately \$18,000, is relatively small in terms of the overall regulatory policy the issues loom substantially larger on impact.

In the unregulated sector, an acceptance of a settlement is based on a decision to forego further litigation and an acceptance of something less than what

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was initially sought. If Hudson were an unregulated business concern, the difference between the \$45,000 settlement and the \$101,927 claimed would be lost. There would be no recourse such as recovery of \$56,927 through a five-year amortization. Even more unlikely would be a recovery of a working capital allowance while such charges awaited collection.

Ratepayers have paid in essence a working capital allowance of \$81,658 on all bills rendered since December 18, 1978. Re Hudson Water Co. (1979) 64 NH PUC 35, 37, 38, 28 PUR4th 617.

This commission is referred to its docket, DR 78-135, Re Hudson Water Co. (1979) 64 NH PUC 34. We are asked by Hudson to administratively notice our files in that proceeding. In that docket, which was dismissed, the commission never addressed the question of who was at fault, the actual level of expenses incurred, the validity of the expenses incurred or whether there were efforts that could have been undertaken to minimize the costs.

The evidence in this proceeding is more detailed as to the actual costs incurred by line item. However, the direction of the record has not focused on the question of liability except in the most general of terms. Therefore, the commission will allow recognition of those costs that either appear completely reasonable on their face and/or costs that further reasonable regulatory policies.

The LUCG has consistently warned that recognition of costs above the settlement would not be recognized, because then utilities will fail to pursue legitimate liability or contractual claims. As the LUCG states in its brief, the commission must be wary of not creating a disincentive for utilities in considering whether to pursue litigation. Obviously, the LUCG desires utilities to be in the courts fighting to protect the rights of its consumers and its stockholders. This commission has not always found utilities as responsive to proper litigation as prudence and reasonableness would dictate. Re Public Service Co. of New Hampshire, DR 76-46 (September-December of

1976).

Yet in this situation, Hudson has demonstrated a willingness to pursue the rights of both its consumers and stockholders. A proper method to encourage further litigation by this utility, as well as others, is to provide recognition of the costs of litigation.

Exhibit E-1 reveals the following costs to be reasonably incurred in attempting to legally protect the rights of Hudson Water consumers and stockholders.

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

Seaward Depositions	\$ 6,627
Seaward Settlement	377
Lawyers Fees	13,787
Miscellaneous Lawyers Expenses	2
	\$20,793

In attempting to prove the liability of both Seaward and Morgenroth, it was reasonably necessary to document the breaks of the system. Hudson Water Company sought to document the breaks by photographs, and the commission finds these expenses reasonably incurred. The level of these expenditures were approximately \$389.

If it was reasonable to incur the photographic costs to document the liability of the breaks, it is obviously reasonable to incur costs in an attempt to prevent the breaks from occurring in the first place. Such preventive type costs tend to allow for a greater likelihood that the pipes will survive to their designated service life. The marking of mains, services, etc., together with the expenses of the spray paint, will be allowed as reasonable. These expenses total \$20,951. While the costs associated with marking mains and services has been allowed, the commission cannot find any justification for the expenses labeled as "overhead on labor" at various rates.

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The company's presentation is deficient as to the rationale behind these costs. No evidentiary support has been given for the differing rates, which range from 23.92 per cent to 51.42 per cent. Nor has there been any demonstration that these overhead costs have not been recognized elsewhere. Finally, these costs have no associated detail that would allow their review as to reasonableness. This commission will not require the \$7,908 of these expenses to be included in rate base or to be recovered as an amortization adjustment. This finding is based on a failure to produce sufficient evidence to justify a requirement that consumers must compensate the company.

Another cost item submitted involves the time of various Hudson Water company officers. These entries cover a time period in which these officers were drawing a salary in some instances from Hudson Water alone and with others jointly from Consumers Water and Hudson Water. These entries were proper for seeking damage claims. A utility should attempt to recover the costs associated with its personnel who have been involved in addressing the damage claims. However, no adjustment has been made to the accounts involving salaries or fees paid to the parent corporation for service. Since this commission has not been shown records indicating adjustments to these accounts, there remains the possibility that consumers are being asked to pay twice. Consequently, the commission finds that the expenses associated with offices of the

company, \$2,590 as shown on Exh E-1, should be denied from being passed on to the consumers. This figure includes meals, travel, and other costs besides salaries. None of these accounts have been presented to demonstrate that credits were placed against these accounts. Rather, it appears that many, if not all, of these costs have been reflected in rates paid for by Hudson consumers.

There are additional costs that have been demonstrated as reasonable to pass on to consumers. These include \$109 for water during breaks, \$346 for locating and raising gate boxes, and \$22 for bundles of risers.

While the settlement should be applied first to the costs reasonably incurred to protect the interest of consumers, there are costs that can be directly linked to the negligence of Seaward that should also be included in the application of the settlement. Such expenses as curb or gate boxes pulled out by sewer crews, cutting two-inch service for Seaward, pulling a hydrant stub, and costs incurred by Seaward's errant use of a backhoe are all costs that belong in this category. This \$1,572 in costs, which properly relates to Seaward, is substantiated by the record. Another reasonable expense related to Seaward is the Seaward relocations account of \$1,438.

An expense that is grouped in the alleged amount of damages, \$101,927, consists of \$1,449 of materials sold to Seaward. While it is difficult to comprehend the logic of allowing costs of supplies to be a part of a damage proceeding, the accounting represents that these costs were never recovered. Obviously, materials were exchanged, and this expense will be allowed for application towards the settlement.

The results of the analysis reveals that of the \$101,927, \$10,498 has not been justified by Hudson as properly chargeable to consumers. However, \$47,069 of these costs has been found to be justified as costs to be chargeable to consumers. The remaining \$44,360 primarily consists of expenditures entitled "service break" or "main break." There remains questions as to whether these costs could have been avoided by both Seaward and Hudson. The record does not reveal a concerted attempt to isolate these individual breaks for analysis as to fault.

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Absent an adequate address by any party as to the question of avoidability of these costs, the commission will temporarily accept their reasonableness subject to a condition that in subsequent proceedings a party may raise this question as to any of the costs or as to all of them.

These costs have resulted in some benefit to consumers through replacement of older materials with ones of a newer vintage. This factor, based on the evidence submitted, allows for their recognition through an amortization adjustment. However, this is not plant that was contributed to satisfy consumer demands on the system. Consequently, the commission finds that an allowance in rate base with the effect of allowing a return on the unamortized balance cannot be viewed as reasonable. Consumers have already borne in excess of two years of return on this account in excess of the amount of the settlement. Furthermore, a continuation of the unamortized portion in rate base would transgress the delicate balance between the ratepayer and the company. Consequently, a five-year amortization adjustment of \$9,286 will be allowed but there will not be any adjustment (\$45,500) to rate base.

#### *B. Other Rate Base Issues*

[4] Hudson, Exh B, Schedule V, initially submitted an estimated pro forma rate base at December 31, 1980, of \$2,864,427. This submission included a working capital calculation based upon a 13-month balance sheet approach, but excluding dividends declared. Other notable inclusions in this proposal were an inclusion for an amount in the account for preliminary survey and investigation costs, which related to construction work in progress (CWIP) and an inclusion of the Seaward costs referred to previously.

The commission has not accepted estimates in the past for rate-making purposes. Re Union Teleph. Co. (1979) 64 NH PUC 434; Re Hudson Water Co. (1979) 64 NH PUC 35, 28 PUR4th 617. Estimates can lead to over or under collections by their very nature and thus reduce the opportunity to strike a reasonable balance between ratepayers and utilities.

The commission has also noted that a 13-month average rate base provides a greater assurance of matching revenues, expenses and investment. Union Telephone, *infra*.

The company next submitted Exh B-1 updating Exh B, Schedule V with actual figures showing a December 31, 1980, year end rate base of \$2,973,605. This rate base in its working capital calculation didn't exclude dividends declared or preliminary investigation and survey costs related to CWIP and included \$45,542 for the Seaward problem.

The NHPUC finance staff, represented by Mr. Traum, submitted Exhs L and M developing a rate base of \$2,789,710 based on a 13-month average ending June 30, 1980, also utilizing the 13-month balance sheet approach for working capital, including dividends declared, an amount in the account for PS&I costs which was later discovered to be CWIP related, and nothing for Seaward.

The commission would normally accept the 13-month average rate base for the test year, but in this case the company has endeavored to update many revenue, expense, investment figures, etc. to year-end 1980. The commission will, therefore, accept a 13-month average rate base for the period ending December 31, 1980, of \$2,818,152, which is calculated in similar fashion to our staff's Exhs L and M except the amount in PS&I related to CWIP was excluded, and no allowance was made for the Seaward situation.

### *C. Second Step Increase*

[5] Hudson seeks to receive permission for a second step increase to reflect new rate base additions. During the course

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of 1981-82, Hudson Water Company plans to develop additional water sources and to interconnect the Litchfield and Hudson systems.

These projects are designed to provide greater stability to the system, a more adequate water supply and a significantly higher level of water quality. The total cost is significant in terms of existing rate base. Consequently, Hudson references our decision in Re Pennichuck Water Works (1979) 64 NH PUC 206. In that decision, the commission allowed a second step increase to immediately compensate for a major addition to rate base which was significantly in excess of existing rate base. The plant in question in Pennichuck was a water treatment facility.

The LUCC contends that the commission should not view this request as a Pennichuck Water Works type situation. Furthermore, the LUCC contends that a second step attrition factor will already provide significant protection for additions to rate base.

If there is any lesson to be learned from the immediate regulatory past, it is that water utilities have not been accorded a proper level of regulatory concern. State after state, commission after commission, community after community have faced serious water problems as to either quality, quantity, or both. This in part has been the result of failing to set an appropriate water policy and failing to provide the necessary guidance and incentives to make the necessary system additions.

While the LUCC raises the issue of just and reasonable rates, it inadvertently fails to recognize the equal compelling need for an adequate and safe water supply as required by RSA 374:1.

New England and New Hampshire have traditionally been water rich. However, any tradition can be broken as can be seen from recent events. The communities of Bow, Hampton, Nashua, Boscawen, and Concord have faced water problems involving either the adequacy of supply or the quality of the supply.

In this proceeding, there were numerous complaints about deteriorating water quality in Hudson. High levels of iron and other metals can result in costs to consumers of a much higher dimension than a quarterly water bill. Inadequate supply can create very real problems for certain household appliances. Better quality water does not miraculously spring into existence. Higher quality wells must be located, drilled, and connected to existing systems. Otherwise, a community like Hudson or Litchfield will end up like so many other communities who failed to properly maintain their systems.

This commission, as well as others, is attempting to resolve numerous water problems that are the result of inaction for decades. Hudson and Litchfield will lose industries, homes, and the people who own each if they fail to recognize the importance of water in developing their communities. Both of these communities have experienced tremendous growth. This growth requires the addition of new plant, and new plant today far exceeds the cost of established plant.

Hudson's management has demonstrated that it is prepared to be responsive to the increasing needs of its consumers. The company's proposals for new wells and interconnection of the two communities is sound business judgement. This foresight will provide significant benefits to Hudson Water Company's consumer, both now and in the future. Consequently, the commission will allow a second step increase to reflect in rate base the cost of newly completed wells. When the interconnection between the systems is completed, these costs will also be immediately allowed into rate base. These costs will be allowed into rate base on an immediate basis, and not subject to our traditional practice of a 13-month average. A mini-hearing will be conducted only as to the

inclusion of these costs in rate base. The hearing is necessary because of the differences in costs given in this record and construction reports filed with the commission. Furthermore, only

upon completion can the utility know the actual cost.

To reiterate, this utility will be allowed immediate rate recognition of any new wells drilled and completed for improvements in water quality or quantity. The inclusion will be in rate base, and the last rate of return found by the commission in a rate proceeding will be used. This policy for Hudson will prevail for five years, at which time the commission will review this policy as to continuation.

#### *IV. Test Year*

Hudson Water Company submitted its actual operating revenues and expenses for the test year ending June 30, 1980. These figures were subsequently pro formed by the company. During the course of the hearings, the company presented additional exhibits seeking to update the test year to year-end 1980.

The New Hampshire supreme court has stated the test-year concept as follows in *Public Service Co. of New Hampshire v New Hampshire*: (1959) 102 NH 150, 30 PUR 3d 61,72,153 A2d 80:

"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."

In this proceeding discovery, cross-examination and staff testimony focused on a pro formed test year ending June 30, 1980. While the commission, endeavors to use the most recent data available, constant moving of the test-year base during the course of the proceeding forces the public, intervenors and staff to always be addressing a moving target. Such a scenario is found to be unjustifiable in striking the delicate balance between the interests of the utility and those of its consumers.

This proceeding has led to an agreement as to an attrition adjustment and a second step attrition adjustment a year from now. Furthermore, the commission has now allowed Hudson immediate rate base recognition for any completed additions involving new wells or interconnection between Hudson and Litchfield. Based upon these factors, the commission will set the test year as ending June 30, 1980, with appropriate pro forma adjustments to revenue and expenses.

#### *V. Revenue*

Hudson Water has presented a test-year revenue figure of \$866,466. Because of the multitude of pro formed expense adjustments offered by Hudson, it is necessary to make a revenue adjustment to reflect customers added in the last six months of 1980. This adjustment assures a more proper balance between revenues and expenses. Based upon PUC finance requests 11 through 15 and engineering No. 11, the revenue adjustment for the Hudson and Litchfield divisions is \$18,890 for a pro formed revenue figure of \$885,356.

#### *VI. Expenses*

##### *A. General*

Operations and maintenance expenses for the test year were \$372,822, which the company initially pro formed to \$416,713. The depreciation expense was similarly \$55,361, pro formed to \$59,412.

#### *B. Property Taxes*

The issue of property taxes was raised in this case, because of Hudson's request for estimated property taxes. The commission

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has generally found that property taxes do not serve as a proper subject for estimation. Reevaluation in property value have led to reduced tax bills, as well as extraordinary increases. Re Hanover Water Works Co. (1979) 64 NH PUC 480.

The actual property taxes for the test year was \$74,985, which was initially pro formed to \$76,392, then to \$92,578 and finally \$104,540, the latter two submissions being estimates.

At the close of the evidence, the commission received actual billings from the towns to the company that substantiate the inappropriateness of estimates. Recognizing that this property tax information is a known and measurable change, the commission will use the most recent actual figure of \$97,785.

#### *C. Dues to the Association of New Hampshire Utilities*

The LUCC raises concern over dues to the Association of New Hampshire Utilities. The dues during the test year were \$545. The commission has followed the activities of the association. These activities have included lobbying activities, educational activities and regulatory presentations. It is against the commission's prior decisions and the chart of accounts to require ratepayers to pay for lobbying expenses of the utilities. Since the break-down has not been provided except for recognition of a full-time lobbyist, the commission will strike the entire expense until such time that reasonable allocations are made by the association between lobbying and other activities. Test-year expenses will be reduced by \$545.

#### *D. Depreciation Expense on Contributed Capital*

The company has included \$1,687 in its depreciation expense for depreciation on plant supplied from customer contributed capital. Both the commission staff and the LUCC challenge this expense item. Testimony received in this proceeding reveals that a payment of depreciation expense on customer contributed capital amounts to a double payment by customers.

The commission has previously stated that depreciation expense on contributed capital will be eliminated from expenses chargeable to consumers in the usual case. Re Hudson Water Co. (1979) 64 NH PUC 357. The supreme court has clearly upheld the principle that a utility cannot earn a return on capital supplied by consumers. Legislative Utility Consumers' Council v Granite State Electric Co. (1979) 119 NH 359, 402 A2d 644; Windam Estates Asso. v New Hampshire (1977) 117 NH 419, 422, 374 A2d 645, 647. It is equally clear that a depreciation expense is designed to compensate the original investment. Where that investment is made by the ratepayer, there is no rational support for allowing a utility a depreciation recovery. The commission will remove \$1,687 from test-year expenses.

#### E. Seaward Costs

As the commission has noted, *infra* the amortization adjustment for the Seaward damages will be \$9,286 rather than the \$11,358 requested by the company.

#### F. Increased Pumping Costs

Hudson submitted a pro forma adjustment of \$921 for costs relating to the power to operate the system pumps. The commission finds the pro forma adjustment to be justified.

#### G. Tank Painting

The company had submitted a pro forma adjustment for the costs of tank painting of \$3,866. The record reveals that these expenses, if they occur at all, will result in late 1981. This expense pro forma is substantially beyond the test year and may not occur at all. Yet the commission is aware that the tank painting

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will be undertaken at a time period prior to the implementation of another rate request. A recognition of the entire level of these expenses would result in collection in a least two years for a one-time expense that occurs every five years, or thereabouts.

The commission will half the pro forma to recognize its one-time character and in the next proceeding will make a downward pro forma adjustment to remove this item from expenses. The pro forma requested of \$3,866 is denied, and a \$1,933 pro forma adjustment is substituted.

#### H. Audit Savings

The testimony revealed a proposal to pro form audit expenses to \$11,400. Further testimony provided later on revealed a test-year cost of \$10,400 and an average cost for two years of \$7,459. The commission will adopt this latter figure and reduce the pro formed test year by \$3,941.

#### I. Labor Costs

The company updated its labor costs to the pay level as of January 1, 1981. This adjustment results in a \$10,879 pro forma adjustment, which the commission finds to be a known and measurable change.

#### J. Overtime Costs

The company proposed an adjustment for overtime costs for all nonsalaried employees. The total cost submitted was \$11,775 for 1981 overtime. The first difficulty with this figure is the failure to properly recognize that historically 14 per cent of these costs are capitalized. Making this adjustment, the figure becomes \$10,126.

The commission recognizes that historically the company has incurred costs for overtime. However, the record reveals that certain cost savings measures or experiments are to be undertaken by the company. Such measures will include reductions in the number of personnel responding to service calls.

The test-year figure for overtime of \$10,871 reduced by the 14 per cent allocation resulted in

overtime costs of \$9,349. The measures taken by the company will reduce overtime expense. A reasonable management goal would be a reduction of 10 per cent of overtime costs, and the commission will make that adjustment to the test-year level. The commission will, therefore, reduce the pro formed expense level of \$11,775 by \$3,360.

*K. Expenses to Parent Corporation and Rate Case Expenses*

[6] The LUCC has raised concern over the level of expenses billed Hudson by its parent corporation, Consumers Water Corporation. This raised both as to test-year expenses and rate case expenses. The expenses are alleged to have dramatically increased and outpaced the increase in other expenses on a percentage basis.

The company, in response, notes the favorable reduction of expenses related to its parent subsidiary relationship. In particular, reduced audit and insurance expenses are cited. The commission has recognized these expense reductions and cannot find any evidentiary support to challenge the test year figures for expenses to the parent corporation.

The main thrust of the LUCC challenge is to the rate case expenses of \$30,898 of rate case expenses. Contained in this figure is a major subcategory of \$18,115.40 for expenses of Consumer Water personnel connected with the rate case. The only breakdown offered is 528 hours for executive managerial and professional time and 182 hours for administrative and secretarial time.

The LUCC challenges the entire level of rate case expenses as being unreasonably high especially given settlement on the issues of attrition and cost of capital. The company defends its figures as legitimate

**Page 312**

expenses incurred by its legal and other personnel. Transcript and publication costs are cited as contributing to \$1,752 of the total expenses.

Rate case expenses have been recognized as a legitimate expense item to be passed to consumers by the New Hampshire supreme court. *New Hampshire v Hampton Water Works Co.* (1941) 91 NH 278, 38 PUR NS 72, 18 A2d 765; 91 NH 278, 39 PUR NS 15, 19 A2d 435. However, the supreme court clearly preserved this commissions right to reject unreasonable rate case expenses.

A test of reasonableness would appear to be set forth by RSA 365:38. This statute limits the commission in investigating the reasonableness of a case to only those expenses that are less than three-fourths of one per cent of the existing valuation of the utility investigated. Since Hudson's rate base in this proceeding has been found to be \$2,818,152, this would restrict the commission's expenses above its standard salaries and expenses of staff and commissioners to \$21,136. There is no legitimate reason to allow a utility rate case expenses (above its normal personnel expenses) that exceeds the level of expenses the commission has available to investigate the reasonableness of the petition. Consequently, the commission will allow \$21,136 of the \$30,898 rate case expenses to be amortized and collected over a two-year period. The two years being the average length of time between cases and the time period generally referred to in RSA 378:7. The commission will allow these expenses to be collected as a temporary surcharge

for two years as of the date of this report and order.

*L. Hydrant Depreciation Expenses and Rate Base Adjustment*

The staff has raised some concerns relating to the fire protection charges in the town of Litchfield. Initially proposed was a rate base reduction and a depreciation expense adjustment. The commission will address the question of fire protection and the associated charges in the engineering section of this opinion. However, as to the question of either adjustment to expenses or rate base the commission finds against any such adjustment. The adjustment proposed would have been minimal as to its effect on average customer since the monthly affect of removing the hydrants from rate base and adjusting expenses would be less than 30 cents a month. Yet such a physical removal from the system would eliminate major fire protection service from the citizens of Litchfield. While further analysis of this historical dispute will be addressed later in this decision, it is sufficient to note that no adjustment is being made to either expenses or rate base as to this question.

*Tax Adjustment for Revenue and Expense Pro Forma's*

This adjustment is calculated in similar fashion to the company's Exh B, Schedule III, p. 9 of 12.

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

Operating Revenues	\$885,356	
Miscellaneous Revenues (Operating)	421	
Miscellaneous Revenues (Other)	3,750	\$889,527
Operation plus Maintenance plus Book Depreciation	\$479,995	
Taxes - Other	108,103	
Long-term Debt Expense	129,021	
Short-term Debt Expense (Less W & E)	72,850	
Excess of Tax Depreciation over Book Depreciation	53,515	
	\$843,444	(843,444)
State Taxable Income	\$ 46,083	
New Hampshire Corporate Profits at 8 Per Cent	(3,687)	3,687
Add Excess of Tax Depreciation over Book Depreciation	53,515	
Taxable Federal Income	\$ 95,911	
Federal Income Tax at 46 Per Cent	44,119	
Less Amount of Income Tax Credit	(2,434)	41,685
Total Federal and State Income Taxes		\$ 45,372

*Additional Revenue Requirement* The additional revenue requirement, based upon the information contained herein, is calculated as follows:

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

Cost of Capital plus Attrition	12.06%	
Times Rate Base	\$2,818,152	
Required Net Utility Operating Income		\$339,869
Adjusted Test Year		
Operating Revenues	\$ 885,356	
Less Operation plus Maintenance plus Depreciation	-479,995	
Less: Federal and State Income Taxes	- 45,372	

Less: Taxes – Other	-108,103	
Plus: Miscellaneous Utility Income	421	
		252,347
Pro Forma Net Utility Income		252,347
Deficiency in Net Utility Operating Income		\$ 87,522
Additional Revenue Requirement (Deficiency in net utility operating income divided by tax factor of 0.4968)		\$176,172
Rate Case Expense Amortization		_10,568
Required Increase in Operating Revenues		\$165,604

## VII. Engineering Concerns

### A. Dame Property Well — Litchfield

The commission has acknowledged, in this report and order, the need to interconnect the Hudson and Litchfield systems. This process should follow normal economic principles in that wells located close to the Hudson system should be interconnected first so as to ascertain whether any further interconnections are necessary.

During the course of these proceedings, Hudson Water suggested interconnection between the system lying in Hudson and the Dame property well. Staff inquiry led to estimates of an interconnection cost ranging from \$160,000, Exh E-2, to \$800,000 — Transcript p. 42. Clearly, this large differential must be reconciled before any interconnection between the Dame Property well and the town of Hudson system can be approved. Further, the costs which are presently allocated to Litchfield customers may be more appropriately borne by customers in Hudson

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since the iron and manganese problems are in the latter community.

Hudson Water is encouraged to develop first, wells within Litchfield that are closest to the system located in Hudson.<sup>1(30)</sup> While these wells will be given immediate inclusion in rate base once completed, the commission will require Hudson to notify the commission's engineering department of any proposed wells for drilling and await approvals from the commission before proceeding to complete any given project. In this fashion, the commission can assure itself that adequate service will be maintained but also that the most cost effective projects are completed first.

As to the Dame Property wells, the commission will require Hudson to submit its best estimate as to the cost to interconnect these wells with the system in place in the town of Hudson. Based upon our review of these figures, the commission will determine when and if such interconnection is approved. PUR4th 617), this commission granted Hudson Water Company the authority to charge for the investment made to provide fire protection in the area served in Litchfield. Since the submission of the first a billing for such service, the town of Litchfield has objected to the payment of the charges rendered. Several attempts were made to form a precinct or fire district that would have assumed the burden of payment. However, the voters on each occasion rejected this concept.

In its investigation of this matter, the commission staff, through a data request (Exh 5), sought to discover if the town had through its planning board or others required the installation

of fire hydrants by builders or developers. The response

*B. Fire Protection — Litchfield*

In DR 78-135 ([1979] 64 NH PUC 35, 28 indicated that Litchfield had adopted an ordinance requiring their installation in certain areas. There are other indications as in the minutes of a meeting between Litchfield town officials and representatives of the water company (Exh F), that the town required " ... new developments to have hydrants ... ."

It is the company's position (Transcript — p. 127) that good water works practice would require that a system built to serve an area such as that in Litchfield, would include provisions for fire protection. Such provision would, and did, include water main capacity, storage and pump capacity, in addition to hydrants.

It is the staff's opinion that town officials and the company bear dual responsibility for the fact that a fire protection capability exists in the area served by Hudson in Litchfield. The record shows that the Litchfield Fire Department has made use of this capability in fighting fires and, in fact, has done so on structures outside the area served by the Hudson Water Company.

The commission staff has proposed that the unwanted hydrants be removed; however, it is the commission's opinion that this would be a step backward and not in the best long-term interest of all the homeowner customers in this area served. We see a real need for better communication and coordination between the town, water company, and this commission as to the needs and plans of both as they are intermingled. In this regard, any future plant addition or investment planned by Hudson in the town of Litchfield that is chargeable in any way to fire protection capability must have prior approval from Litchfield and this commission.

Further, future use of the Hudson system — i.e., hydrants — by the town of Litchfield for the extinguishing of fires,

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or other purposes, outside of the area served by Hudson Water Company shall result in the payment of an \$800 charge to the Hudson Water Company, which shall be kept in a separate account and applied as a year-end credit to each customer on the Litchfield system.

*C. Fire Protection — General*

It is staff's opinion that water company policy should be, and tariffs should henceforth specifically state, that fire protection capability will only be built into a system upon receipt of a written order from properly authorized town, city, or village officials.

The fire protection rate schedule now used in the town of Hudson is made up of a charge for each hydrant installed and an "inch-foot" charge applied against all mains six inches or larger installed throughout the water system.

The use of the inch-foot charge creates a problem, in that the water company may be applying this charge against mains that are built by customer contributions or advances (Transcript — pp. 166 through 169) i.e., paid for by others. Hudson maintains that this problem is eliminated by a cost-of-service study (Transcript, p. 160). This is true. However, the commission does not require such a study at each rate increase request. Also, a cost study does

not normally need "restudying" on the rate change cycle, which very often is every two to three years.

Staff has suggested (Transcript, pp. 166-168) that Hudson revise its rate schedule to eliminate the inch-foot portion and to base the total revenue requirement on the number of hydrants installed. The total investment to be considered, in addition to mains and hydrants, includes a portion of storage capacity and pumping equipment. A rate structure to acknowledge all these items of plant would be a complicated vehicle. The hydrant is the one item that is almost totally devoted to fire protection and is the most visible.

The commission will not require Hudson to revise its municipal fire protection rate structure at this time; however, the company is advised that in future proceedings, this matter will be fully explored.

#### *D. Main Extension Plan*

Staff, in its cross-examination (Transcript — pp. 32-34), discussed various parts of the company's extension plan including the level of participation offered to the city or town in which it serves. This matter was also discussed by Representative Smith in his statement to the commission (Transcript, pp. 3-5, 6, 7).

It is staff's opinion that the tariff and commission rule should state that when any new main is to be installed, appropriate town or city officials shall be consulted as to any plans they may have in the area. In addition, when any new main six inches or larger is to be installed and any portion of such main will be charged to the fire protection investment, town or city officials shall be consulted as to the number and location of hydrants to be installed.

Hudson in its tariff allows 50 feet free distance per customer, and in answer to staff data request (Exh E-1 — No. 14), replied that the 50 feet is compensatory to the company if there is a "related facilities charge." There is no such charge in the tariff at this time.

The "related facilities charge" would require that a new customer contribute to the future needs of the company which would include: (a) source of supply; (b) storage; and (c) main transmission capacity. These components are the basic plant of any system and are generally paid for and installed by the utility and supported through depreciation charges and the various rate structures. The present tariff, which can require that an individual residential customer advance, or pay

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for, the continuation of a six- eight-, or possibly a ten-inch main, is in fact financing the growth of the water system.

#### *E. General Service Rate Structure*

Staff has questioned the use of the declining three-block rate structure used by Hudson in Litchfield, expressing the concern in a system such as this — i.e., serving only residential consumers — that costs are properly recovered. There is no evidence before us that will demonstrate or justify the reduction of the unit cost as consumption increases to one class of customer. In its dockets DE 79-134, Williamsburg Water Company, and DR 80-235, White Rock

Water Company, this commission has in fact approved flat metered rate schedules, as these water systems also served but one class of customers.

The commission finds in this case that staff's concern is justified and directs that Hudson revise its metered rate structure used in Litchfield to employ a flat metered rate for all usage over the present minimum allowance of 900 cubic feet per quarter. Further, the charge for the first 900 cubic feet shall be derived from the existing minimum charge increased by the same percentage as allowed in this report and order for the Litchfield system.

We are concerned that the rate structure of all water companies be designed to recover revenues from the proper source and in this regard, direct that Hudson submit cost studies to this commission prior to the next rate proceeding involving any of its system.

#### VIII. *Additional Allocations*

For purposes of spreading the \$165,604 rate increase between the Hudson and Litchfield divisions, the commission relied on the percentage allocation used by the company units report of proposed rate charges as filed on October 3, 1980, which showed an increase of \$201,282 for Hudson and \$40,427 for Litchfield, totalling \$241,709, or 83 per cent of the increase to Hudson and 17 per cent to Litchfield.

Equating the 83 per cent to Hudson and 17 per cent to Litchfield results in \$137,451 of this increase flowing to Hudson customers, and the remaining \$28,153 going to Litchfield customers.

#### IX. *Temporary Rate Surcharge*

The commission, in Supplemental Order No. 14,963 established the company's existing rates as temporary rates as of January 9, 1981.

Since this report and order establishes new permanent rates at a level of \$165,604 above the temporary rate level on an annual basis, the commission will allow the company to collect the properly documented short fall throughout the vehicle of a 12-month surcharge from the date of this report and order.

Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that all tariff pages filed in this proceeding are hereby rejected; and it is

Further ordered, that Hudson Water Company file revised tariff pages to comply with the revenue increase of \$165,604 to be collected in accordance with the report; and it is

Further ordered, that the commission will allow a second increase of \$28,363 twelve months from the date of this order; and it is

Further ordered, that immediate rate recognition of any new wells drilled and completed per the method stated on p. xxx of the report; and it is

Further ordered, that a surcharge of \$21,136 for rate case expenses be allowed over a two-year period as of the date of this order; and it is

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Further ordered, that the utility will be allowed to surcharge the short fall in the temporary rates over a 12-month period beginning August 19, 1981.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of August, 1981.

FOOTNOTE

<sup>1</sup>Such as the Weinstein properties.

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NH.PUC\*08/24/81\*[78990]\*66 NH PUC 318\*Northern Utilities, Inc.

[Go to End of 78990]

**Re Northern Utilities, Inc.**

DR 81-225, Order No. 15,060

66 NH PUC 318

New Hampshire Public Utilities Commission

August 24, 1981

ORDER permitting special service contract to become effective as of its stated effective date.

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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. 46 with Foss Manufacturing, effective September 15, 1981, 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-fourth day of August, 1981.

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NH.PUC\*08/24/81\*[78991]\*66 NH PUC 319\*Concord Electric Company

[Go to End of 78991]

**Re Concord Electric Company**

IE 14,423, DR 79-214, DR 80-255, Supplemental Order No. 15,062

66 NH PUC 319

New Hampshire Public Utilities Commission

August 24, 1981

ORDER amending previous order.

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By the COMMISSION:

Supplemental Order

Whereas, commission Order No. 15,054, dated August 13, 1981 (66 NH PUC 298), approves Concord Electric Company's Supplement No. 5 to its tariff, NHPUC No. 6 — Electricity; and

Whereas, it has been discovered that the designation of Supplement No. 5 was duplicative; it is

Ordered, that all references to Supplement No. 5 in commission Order No. 15,054 be, and hereby are, amended to read Supplement No. 4A.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of August, 1981.

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NH.PUC\*08/26/81\*[78992]\*66 NH PUC 319\*New England Telephone and Telegraph Company

[Go to End of 78992]

**Re New England Telephone and Telegraph Company**

DE 81-209, Order No. 15,063

66 NH PUC 319

New Hampshire Public Utilities Commission

August 26, 1981

PETITION for a license to install and maintain submarine telephone line across state-owned public waters; granted.

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APPEARANCES: Wayne Snow, engineering manager for the petitioner.

By the COMMISSION:

Report

On July 21, 1981, the New England Telephone and Telegraph Company filed with this commission a petition seeking authority to place and maintain a submarine plant across

state-owned public waters at Holderness, New Hampshire, under Squam Lake.

The commission issued an order of notice on July 30, 1981, directing all interested parties to appear at a public hearing at 10:00 A.M., on August 25, 1981, at the Concord offices of the commission. The petitioner was directed to publish a public notice in a newspaper having general circulation in the area concerned. In addition to the publication of said notice copies of the hearing notice were

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directed to: John Bridges, director of safety services; George Gilman, commissioner, Department of Resources and Economic Development (DRED); and the Office of the Attorney General.

An affidavit of publication indicating that publication was made in the *Union Leader* on August 7, 1981, was received in the commission's office at Concord, New Hampshire, on August 11, 1981.

Wayne Snow, engineering manager, explained that the petition results from a customer request for initial telephone service to his summer residence on Mooney Island. The company proposes to install a submarine wire from an existing utility Pole No. 45/26-1 on the shoreline at Holderness on property of Preston. The submarine line will extend underground approximately 50 feet on Mooney Island on property of the party requesting the service.

The commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance.

The petition was properly publicized, and proper notification was given to the public as to the proposed installation.

The commission finds this petition for a license to place and maintain a submarine plant across state-owned public waters at Holderness, New Hampshire, under Squam Lake, 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 to the New England Telephone and Telegraph Company, to place and maintain a submarine plant across state-owned public waters at Holderness, New Hampshire, under Squam Lake, said crossing from Pole No. 45/26-1 on the shoreline at Holderness, to the Thomas Hale Ham cottage on Mooney Island, at Holderness, as defined in petitioner's exhibits.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of August 1981.

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NH.PUC\*08/27/81\*[78993]\*66 NH PUC 320\*Public Service Company of New Hampshire

[Go to End of 78993]

## Re Public Service Company of New Hampshire

DR 81-87, Fifth Supplemental Order No. 15,064

66 NH PUC 320

New Hampshire Public Utilities Commission

August 27, 1981

ORDER requesting additional information.

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By the COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire on April 2, 1981, filed with this commission a petition for an increase in temporary and permanent rates in the amount of \$34,962,094; and,

Whereas, this commission wishes to investigate action by the company to minimize present and future fossil fuel expenditure; it is,

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Ordered, that the following information be provided on or before September 14, 1981.

(1) For each generating plant, for each month in the test year in which average fuel costs for that plant exceeded 6.181 cents per kilowatt-hour, provide (a) average fuel costs per kilowatt-hour, (b) total kilowatt-hour output (c) hours of operation (d) average price of oil for that unit. Include plants for which the company has entitlements.

(2) Explain any difference between information presented pursuant to items 1(a) — (d), and information provided in commission fuel adjustment proceedings.

(3) Provide information requested in 1(a) — (d) on an estimated monthly basis, for the twelve months beginning November 1, 1981.

(4) Provide copies of all contracts with small power producers or cogenerators, wherein the company agrees to purchase power for a period of at least ten years, at a fixed or escalating rate, or at a rate which has a specified relationship to the company's generating costs.

(5) Provide a list of names, addresses, and phone numbers of parties who have approached the company since January 1, 1980, to discuss contracts as described in (4).

(6) For all parties listed pursuant to (5), provide nameplate capacity and estimated annual output of small power production or cogeneration facilities discussed.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of August, 1981.

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NH.PUC\*08/28/81\*[78994]\*66 NH PUC 321\*Public Service Company of New Hampshire

[Go to End of 78994]

## Re Public Service Company of New Hampshire

DR 81-87, Sixth Supplemental Order No. 15,071

66 NH PUC 321

New Hampshire Public Utilities Commission

August 28, 1981

ORDER requesting additional information.

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By the COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire on April 2, 1981, filed with this commission a petition for an increase in temporary and permanent rates in the amount of \$34,962,094; and

Whereas, this commission wishes to investigate action by the company to minimize present and future fossil fuel expenditure; and

Whereas, this commission may, under RSA 365:15 require any public utility to make specific answers to questions upon which the commission may need information; it is

Ordered, that the following information be provided on or before September 14, 1981:

(1) Describe the dollar amounts of money spent on the conversion of Schiller station to coal to date by quarter. Categorize these expenditures as follows:

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construction equipment and labor, engineering, legal and administrative, and other and provide a brief explanation of the nature of the expenditures;

(2) Describe the progress to date on gaining clearance on environmental issues so that construction may proceed;

(3) Describe the steps necessary to complete environmental and other permitting processes from now until the converted units may begin to burn coal;

(4) Describe any and all administrative, legal, technical or political barriers you see to completion of the conversion of Schiller 4, 5, and 6 to coal burning;

(5) Describe your efforts to develop a plan to overcome the barriers previously described; and

(6) Provide the names of key personnel involved in the company's effort to convert the

Schiller units to coal, include their current title, division, office location, and a description of their responsibilities vis-a-vis the conversion to coal.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of August, 1981.

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NH.PUC\*08/28/81\*[78995]\*66 NH PUC 322\*Chichester Telephone Company

[Go to End of 78995]

### Re Chichester Telephone Company

DF 81-228, Order No. 15,073

66 NH PUC 322

New Hampshire Public Utilities Commission

August 28, 1981

ORDER authorizing a telephone company to issue and sell notes.

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By the COMMISSION:

Order

Whereas, Chichester Telephone Company, a New Hampshire corporation, operating as a telephone utility under the jurisdiction of this commission seeks authority to issue short-term notes not in excess of \$79,000; and

Whereas, this short-term borrowing is to purchase required central office equipment which will provide an additional 270 lines; and

Whereas, the company can purchase this equipment at reasonable terms for a limited period of time; and

Whereas, the company is in the process of seeking financing; it is

Ordered, that Chichester Telephone Company be, and hereby is, authorized to issue and sell for cash its note or notes in an aggregate amount not exceeding \$79,000; and it is

Further Ordered, that on or before January 1st and July 1st of each year, Chichester Telephone Company shall file with this commission a detailed statement duly sworn to by its treasurer, showing the disposition of proceeds of said note or 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-eighth day of August, 1981.

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NH.PUC\*08/31/81\*[78996]\*66 NH PUC 323\*New England Telephone and Telegraph Company

[Go to End of 78996]

## Re New England Telephone and Telegraph Company

DR 81-221, Order No. 15,075

66 NH PUC 323

New Hampshire Public Utilities Commission

August 31, 1981

ORDER suspending effective date of rate increase pending investigation.

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BY THE COMMISSION:

Order

Whereas, New England Telephone and Telegraph Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on August 10, 1981, filed with this commission for effect on September 9, 1981, certain revisions of its tariffs, NHPUC Nos. 70 and 73, providing for increased rates and charges, designed to produce additional annual revenues of approximately \$15 million; 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 (see list) of tariffs NHPUC Nos. 70 and 73 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 thirty-first day of August, 1981.

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

NHPUC - No. 70

Part II	- Section 1	- Revision of Pages 1 and 2A
Part III	- Section 1	- Revision of Pages 1 through 10 13, and 14
	- Section 4	- Revision of Page 2
	- Section 5	- Revision of Pages 9 through 20, 22, 23, 27
and 33		
	- Section 7	- Revision of Page 2
	- Section 8	- Revision of Page 1
	- Section 9	- Revision of Page 1
	- Section 11	- Revision of Page 1
	- Section 12	- Revision of Pages 2 through 5, 6D, 6E, and 6F
	- Section 14	- Revision of Pages 2, 3, 4, 16 through 25, and 33 through 37
	- Section 15-	Revision of Pages 1, 2, 4 through 18, and 21
	- Section 16-	Revision of Pages 2, 3, 4, 5, 7, and 9
	- Section 17	- Revision of Pages 2, 95, 96, and 97
	- Section 18	- Revision of Pages 2, 3, 4, 8, 9, and 10
	- Section 19	- Revision of Pages 3 and 4
	- Section 20	- Revision of Pages 1 and 2
	- Section 21	- Revision of Page 1
	- Section 22	- Revision of Page 3
	- Section 23	- Revision Pages 3, 4, 6 through 12, 12C through 12F, 13D through 13J, 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
	- Section 32	- Revision of Pages 2 through 10
	- Section 39	- Revision of Pages 7 through 41, 43, and 45 through 48
	- Section 40	- Revision of Pages 1 through 7, 8.1 through 9.3, 9.6 through 9.9, and 9.11 through 17
Part IV through	- Private Line	- Revision of Pages 32, 34 through 37, 42, 47, 49, 50, 51, 54, 55, 56, 61 through 64, 68, 69, 71 through 74A, 76 through 80A, 81, 82, 91, and 92
Part VI	- WATS	- Revision of Page 4
NHPUC - No. 73		
Mobile	-	- Revision of Pages 9 and 10

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NH.PUC\*08/31/81\*[78997]\*66 NH PUC 324\*Fuel Adjustment Charge

[Go to End of 78997]

## Re Fuel Adjustment Charge

Intervenors: Concord Electric Company, Exeter and Hampton Electric Company, Public Service Company of New Hampshire, Office of Consumer Advocate, and Community Action Program

DR 81-198, Order No. 15,077

66 NH PUC 324

New Hampshire Public Utilities Commission

August 31, 1981

PETITION of several electric utilities for approval of monthly fuel adjustment surcharges; granted.

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APPEARANCES: Joseph S. Ransmeier, for Concord Electric Company and Exeter and Hampton Electric Company, Eaton W. Tarbell, for Public Service Company of New Hampshire, Gerald Lynch, consumer advocate; Gerald Eaton, for Community Action Program.

BY THE COMMISSION:

Report

Concord Electric Company seeks to increase its fuel adjustment charge from \$1.50 per 100 kilowatt-hours to \$2.94 per 100 kilowatt-hours. The Exeter and Hampton Electric Company seeks to increase its fuel adjustment charge from \$1.60 to \$2.99 per 100 kilowatt-hours. Public Service Company of New Hampshire seeks to increase its fuel adjustment from \$1.51 to \$2.98 per 100 kilowatt-hours.

The three companies offer the same rationale for their proposed increases. These explanations involve three areas of change: (1) twelve days of unscheduled outage at PSNH's

most efficient fossil fuel operating plant, Merrimack II; (2) an underestimate in the price of oil; and (3) 29.6 days of unscheduled outage at Massachusetts Yankee.

The three utilities argue that an undercollection is established and that recovery should not be postponed. Various arguments are offered for recovering the undercollection immediately rather than over a time period in the future. The offerings include better matching of expenses to customers, avoidance of financing costs on uncollected balances and

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proper operations of the tariff provisions that allow for activation of change when actual expenses exceed estimates by 10 per cent or more. Also offered is that bills are usually lower in September and thus bills are likely to be more uniform than an undercollection deferred to the first quarter of 1982.

The Community Action Program and the consumer advocate have agreed with the position of the utilities that the undercollections for July and August should be collected in September, 1981.

The first focus of our analysis is procedural. This is the first time the 10 per cent undercollection provision has been used. The question that must be raised is the issue of notice. The notice given for these proceedings was a notice issued by PSNH. While the provision does indicate an adjustment in rates, there is no mention of adjustment to Concord Electric's or Exeter and Hampton Electric's rates. Nor is there any quantification of any utilities request.

Exeter and Concord both site the passage of recent legislation exempting them from the necessity of monthly hearings on their fuel adjustment. However, an exemption from the mandatory provisions of RSA 373:3-a does not necessarily allow the nongenerating utilities to pass along any cost increase through a fuel adjustment or purchased power clause. Rather, these nongenerating utilities still are governed by the just and reasonable provisions of state laws on utility regulation. Where as here a nongenerating utility seeks to have this commission alter a fuel adjustment rate or any other rate, published notice and a hearing are required. There was a hearing in this docket for the purposes of receiving evidence from the nongenerating utilities. In the future, any proposed alteration to a rate set within a quarter will require published notice. That notice should include a provision that rates are sought to be increased and should include a range to cover the outside limit that might be requested.

The substantive issues in this proceeding are of significance. While questions of who should pay the under collection are important, the validity of the entire undercollection should not be ignored. Commission staff has raised the issue that the unscheduled outage at Merrimack II may have been extended unnecessarily. No evidence has been offered as to the unreasonableness of the outage; nor has there been any evidence provided to substantiate its reasonableness. In fact, when the issue of the Merrimack II outage was raised, all parties were informed that it was a proper subject for the September hearings.

Since the September hearings will be used as an avenue to receive information on the reasonableness of the unscheduled outage, it would be premature to require ratepayers to pay the increased costs resulting from this outage. Ratepayers have the right to have the benefit of an investigation into the causes of this unscheduled outage. Furthermore, consumers can only be

required to pay the increased fuel costs from an unscheduled outage where the actions taken by a utility are reasonable and prudent. If the outage occurs in whole or in part due to utility mismanagement, imprudence, or unreasonable action, then consumers are excused from payment of these costs. The only proper regulatory vehicle is a fully litigated record, which is absent from this docket. Thus, this portion of the increased costs proposed by all three utilities will not be allowed recognition at this time.

The second reason offered for altering the fuel adjustment charge relates to an underestimated cost of oil of \$25.73 for the quarter. Testimony given reveals that \$27.16 was the price paid for a barrel of oil in fury. This underestimate has been

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documented and shown to be a major disruptive force. Due to the gravity of this underestimate, PSNH is to file its new revised fuel estimate for the cost of oil for as many months, quarters, and years as has been estimated by the company. This filing is to be tendered to the commission office as of noon on September 4, 1981. This filing is to be immediately updated whenever PSNH alters its projections as to the price of oil.

The underestimate of oil was shown to justify a higher rate than that intended to be charged by the utilities in the next quarter. This fact will be recognized in rates for this next month with one note of caution. Public Service Company of New Hampshire recently provided testimony in Phase II of our docket DR 79-187 ([1981] 66 NH PUC 6), which can only be described as a general hesitation to comply with our prior orders in DR 79-208 and DR 80-246 ([1981] 66 NH PUC 34). This commission has found that the displacement of oil is in the public interest. Further, that rates designed to replace oil with hydroelectric generation are just and reasonable. The transcript in DR 79-187, pp. 24-75 through 24-92 reveal a basic misunderstanding of our prior orders. Consequently, PSNH is notified that the fuel adjustment proceedings in September will focus on any request for rates to reflect fuel costs in excess of 7.7 cents per kilowatt-hour. In the September, 1981, hearings and all future fuel adjustment proceedings, PSNH will have the burden of establishing the reasonableness of its position that it is more just and reasonable to pay fuel costs for an oil fired generating unit in excess of 7.7 cents per kilowatt-hour than it does to pay a renewable small power producer 7.7 cents per kilowatt-hour. Public Service Company of New Hampshire will also be expected to provide testimony as to the accounting procedures it will undertake to separate these fuel costs from costs payable by ratepayers should the commission eventually find PSNH's position unreasonable.

The third factor given for the undercollection situation is an outage at the Massachusetts Yankee plant. This subject also will be kept on hold until the September, 1981, fuel adjustment hearing. The commission will allow the parties an opportunity to explore the reasonableness of this outage at the September, 1981, hearings.

Based on the use of actual higher figures for the price of oil and all other factors, except the two outages, the commission finds that the reasonableness of the fuel charges over the fuel charges in the base rates should be the following: Concord Electric and Public Service Company — \$2.27 per 100 kilowatt-hours and Exeter and Hampton Electric — \$2.37 per 100 kilowatt-hours. These charges are approved for all bills rendered during the month of September.

If the reasonableness of the increased fuel costs associated with the unscheduled outages is established in whole or in part in September, an adjustment will be made to reflect these costs over the next three or six months. If the costs are found to be the result of mismanagement, imprudence, or unreasonableness, the costs will not be allowed to be passed on to consumers of any utility and will be recognized by PSNH as below the line for accounting purposes.

This commission remains committed to bringing a certain level of stability to utility rates in general. For this reason, this commission is actively considering a set rate for fuel costs for a whole year. Filings that go from \$2.67 to \$1.51 to \$2.98 per 100 kilowatt-hours reveals a very confusing pattern to consumers. Furthermore, the fact that some fuel costs are in the basic rates and others are in the fuel adjustment is not widely known. Nor is the fact that the total fuel

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costs in an average person's bill has ranged from \$21 to \$24 over the past six months, but setting forth only the fuel costs above rates gives the impression that fuel costs are increasing and decreasing in percentages of 40 to 80 per cent, which is untrue.

The rates allowed in this proceeding will bring all the companies below the 10 per cent undercollection level regardless of the outcome of the proceeding on the unscheduled outages. This commission is mindful that undercollection, if valid, must be financed until recovery. This will be one of the factors in our deliberation as we continue to exercise our jurisdictional monitoring of the fuel costs and total electric rates of the three utilities involved in this proceeding.<sup>\*(31)</sup>

Our order will issue accordingly.

Order

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

Ordered, that the tariff pages filed by Concord Electric Company to collect a fuel adjustment charge of \$2.94 per 100 kilowatt-hours are hereby rejected; and it is

Further ordered, that Concord Electric Company is to file revised tariff pages collecting a fuel adjustment charge of \$2.27 per 100 kilowatt-hours effective with all bills rendered during the month of September, 1981; and it is

Further ordered, that the tariff pages filed by Exeter and Hampton Electric Company to collect a fuel adjustment charge of \$2.99 per 100 kilowatt-hours are hereby rejected; and it is

Further ordered, that Exeter and Hampton Electric Company is to file revised tariff pages collecting a fuel adjustment charge of \$2.37 per 100 kilowatt-hours effective with all bills rendered during the month of September, 1981; and it is

Further ordered, that the tariff pages filed by Public Service Company of New Hampshire to collect a fuel adjustment charge of \$2.98 per 100 kilowatt-hours are hereby rejected; and it is

Further ordered, that Public Service Company of New Hampshire is to file revised tariff pages collecting a fuel adjustment charge of \$2.27 per 100 kilowatt-hours effective with all bills rendered during the month of September, 1981.

by order of the Public Utilities Commission of New Hampshire this thirty-first day of August, 1981.

FOOTNOTE

\*The commission would note a transcript change on p. 40 of the August 20, 1981, transcript. The two bottom paragraphs should be attributed to Attorney Tarbell rather than Commissioner McQuade.

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NH.PUC\*08/31/81\*[78998]\*66 NH PUC 328\*Gas Service, Inc.

[Go to End of 78998]

**Re Gas Service, Inc.**

Intervenor: Office of Consumer Advocate

DR 80-179, Third Supplemental Order No. 15,078

66 NH PUC 328

New Hampshire Public Utilities Commission

August 31, 1981

ORDER granting petition for authority to implement temporary rates retroactively to date of prior court order.

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APPEARANCES: Charles Toll for the petitioner, Gerald Lynch for the Office of Consumer Advocate.

BY THE COMMISSION:

Report

On August 28, 1981, Gas Service, Inc., a duly organized New Hampshire Corporation, with its principle place of business in Nashua, New Hampshire, came before this commission in a duly noticed public hearing to be heard on its petition for temporary rates.

the request was to make the current level of rates, retroactive to July 7, 1981, temporary rates under bond.

The date of July 7, 1981, is significant in that on that day the company, with the approval of the New Hampshire supreme court, revised its rates by \$944,000 on an annual basis and posted a bond accordingly.

The company's updated filing shows the amount of the permanent requested increase to be \$2,040,538 which includes the \$944,000. Based on testimony, cross-examination, and analysis of the company's records, the commission is convinced that the reasonableness test of RSA 378:27 is being upheld.

As far as RSA 378:27 relating to retroactive orders is concerned, due to the length of this case, the supreme court ruling, etc., this commission is convinced that in this specific case, the court is requiring temporary rates as of July 7, 1981, and that timing is a nonissue. Since the company has updated its filing, the commission views the 12-month time period to have began as of July 7, 1981.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that the present rates and charges of Gas Service, Inc., as placed into effect on July 7, 1981, under bond be, and hereby are, permitted to become effective as temporary rates as of the date the bond went into effect on July 7, 1981; and it is

Further ordered, that Gas Service, Inc., give public notice of this order by publishing a copy of this order, upon receipt, in a newspaper having general circulation in the territory served by said company.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of August, 1981.

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NH.PUC\*08/31/81\*[78999]\*66 NH PUC 329\*Gas Service, Inc.

[Go to End of 78999]

**Re Gas Service, Inc.**

DR 80-179, Fourth Supplemental Order No. 15,079

66 NH PUC 329

New Hampshire Public Utilities Commission

August 31, 1981

ORDER adopting procedural schedule.

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Supplemental Order

Whereas, Gas Service, Inc., the commission's staff, and all intervenors have agreed to the following schedule; it is

Ordered, that the following procedural schedule will be adopted for the purpose of expediting the case:

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

Data Requests of Company Witnesses Mancini and Stagney	September 4, 1981
Data Responses Due on Witnesses Mancini and Stagney	September 14, 1981
Hearing on Testimony of Witnesses Mancini and	September 21, 1981 and

September 24, 1981	
Filing of Company's Cost of Capital Testimony if not Previously Stipulated by all Parties	September 14, 1981
Data Requests on Company's Cost of Capital Testimony	September 22, 1981
Data Responses due on Company's Cost of Capital Testimony	September 29, 1981
Hearing on Company's Cost of Capital Testimony	October 2, 1981

By order of the Public Utilities Commission of New Hampshire this thirty-first day of August, 1981.

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NH.PUC\*09/03/81\*[79000]\*66 NH PUC 329\*Fuel Adjustment Clause

[Go to End of 79000]

### Re Fuel Adjustment Clause

Intervenors: Connecticut Valley Electric Company, Inc., Granite State Electric Company, New Hampshire Electric Cooperative, Inc., Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, and Woodsville Water and Light Department

DR 81-198, Order No. 15,080

66 NH PUC 329

New Hampshire Public Utilities Commission

September 3, 1981

ORDER approving monthly fuel adjustment surcharges for several electric utilities.

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**Page 329**

BY THE COMMISSION:

Order

Whereas, the Connecticut Valley Electric Company, Inc., having filed 54th Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, providing for a monthly fuel surcharge of 14 cents per 100 kilowatt-hours for the month of September, 1981; it is

Ordered, that 54th Revised Page 18 is allowed to become effective with all billings during the month of September, 1981; and

Whereas, the Granite State Electric Company having filed 79th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, providing for a monthly fuel surcharge of \$1.75 per 100 kilowatt-hours as was for July and August, 1981, will continue for the month of September, 1981; it is

Ordered, that 79th Revised Page 15A is allowed to become effective with all billings during the month of September, 1981; and

Whereas, the New Hampshire Electric Cooperative, Inc., having filed Sixth Revised Page 15 to its tariff, NHPUC No. 10 — Electricity, providing for a monthly fuel surcharge of \$3.77 per 100 kilowatt-hours for the month of September, 1981; it is

Ordered, that Sixth Revised Page 15 is allowed to become effective with all billings during the month of September, 1981; and

Whereas, the Municipal Electric Department of Wolfeboro having filed Eighth Revised Page 11B to its tariff, NHPUC No. 5 — Electricity, providing for a monthly fuel surcharge of \$3.74 per 100 kilowatt-hours for the month of September, 1981; it is

Ordered, that Eighth Revised Page 11B is allowed to become effective with all billings during the month of September, 1981; and

Whereas, the Littleton Water and Light Department having filed 92nd Revised Page 6 to its tariff NHPUC No. 1 — Electricity, providing for a monthly fuel surcharge of \$2.53 per 100 kilowatt-hours for the month of September, 1981; it is

Ordered, that 92nd Revised Page 6 is allowed to become effective with all billings during the month of September, 1981; and

Whereas, the Woodsville Water and Light Department having filed 59th Revised Page 10-B to its tariff, NHPUC No. 3 — Electricity, providing for a monthly fuel surcharge of 16 cents per kilowatt-hour for the month of September, 1981; it is

Ordered, that 59th Revised Page 10-B is allowed to become effective with all billings during the month of September, 1981.

By order of the Public Utilities Commission of New Hampshire this third day of September, 1981.

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NH.PUC\*09/04/81\*[79001]\*66 NH PUC 331\*Cheshire Bridge Corporation/Springfield Terminal Railway Company

[Go to End of 79001]

## **Re Cheshire Bridge Corporation/Springfield Terminal Railway Company**

DT 80-250, Fourth Supplemental Order No. 15,081

66 NH PUC 331

New Hampshire Public Utilities Commission

September 4, 1981

ORDER granting conditional exception to bridge load limitation.

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BY THE COMMISSION:

## Supplemental Order

Whereas, Charlestown Ready Mix, owner of a concrete plant, has been a steady user of the Cheshire Bridge; and

Whereas, under the commission's decision Charlestown Ready Mix no longer uses the bridge because the weight of its trucks exceeds the load limits both full and empty of cement; and

Whereas, the nonuse of bridge is creating severe economic hardships for Charlestown Ready Mix and Cheshire Bridge; and

Whereas, the two aforementioned concerns have reached an agreement that only empty trucks of Charlestown Ready Mix will be allowed to cross the bridge and then only under the precautions agreed to by Cheshire Bridge and Charlestown Ready Mix; it is hereby

Ordered, that the commission will allow this exception to its ruling on load limits to occur with (three) conditions; the first being that the trucks from Charlestown Ready Mix proceed at their own risk with no liability resting in either the state, this commission or its individual members, for these crossings. The second condition is that any damage to the bridge resulting from the passage of these empty yet heavy trucks are to be settled between the two companies, Cheshire Bridge Corporation and Charlestown Ready Mix, as are the fares for crossing. Third, that the exception granted applies only to empty trucks, not semiempty or full trucks; and it is

Further ordered, that if any new evidence is revealed in repaving the bridge that would suggest to the Cheshire Bridge Corporation that continued use by the empty cement trucks could cause significant harm to either the truck and/or its driver or the bridge, then the permission for crossing is immediately lifted; and it is

Further ordered, that the commission is allowing but not approving this change to its order and that the risk of transit by empty cement vehicles is between the Charlestown Ready Mix and the Cheshire Bridge Corporation.

By order of the Public Utilities Commission of New Hampshire this fourth day of September, 1981.

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NH.PUC\*09/08/81\*[79002]\*66 NH PUC 332\*Compensation to Intervenors In Electric Rate-making Proceedings

[Go to End of 79002]

## Re Compensation to Intervenors In Electric Rate-making Proceedings

Intervenors: Concord Electric Company, Exeter and Hampton Company, Northern Utilities, Inc., Public Service Company of New Hampshire, Business and Industry Association, Legislative Utility Consumers' Council, New Hampshire Energy Coalition, New Hampshire People's Alliance, New Hampshire Legal Assistance, Granite State Electric Company, and Conservation Law Foundation et al.

DE 80-182, Order No. 15,082

66 NH PUC 332

## New Hampshire Public Utilities Commission

September 8, 1981

ORDER adopting ruled governing compensation to intervenors in electric rate-making proceedings.

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1. COSTS — Intervenor funding under PURPA — Commission's power to make award — Congressional grant of authority.

[N.H.] The commission rejected an allegation that separate state authority was required for implementation of the intervenor compensation provision of the Public Utility Regulatory Policies Act where it found that the broad right of intervention provided by § 121 and the three compensation mechanisms provided by § 122 — court disposition, commission proceeding, or alternative means — comprised a specific grant of legislative power by the Congress which did not require similar language at the state level p. 336.

2. COSTS — Intervenor funding under PURPA — Mechanisms for granting compensation — Court disposition.

[N.H.] Of the three options for granting compensation under Public Utility Regulatory Policies Act, the commission found that abandonment of the decision process to the courts was the least compelling, since reliance on the courts (1) would lead to multiplicity of civil litigation on matters which could be resolved more expeditiously in a regulatory rather than judicial context, (2) would have a chilling effect on consumer participation before the commission, and (3) could blunt the thrust of the act because of the lag between contribution to the case and payment caused by protracted and adversarial hearings. p. 336.

3. COSTS — Intervenor funding under PURPA — Mechanisms for granting compensation — Alternative means.

[N.H.] The commission found that the alternative means for granting compensation under the Public Utility Regulatory Policies Act available with the state — i.e., representation of the public interest by its own staff — was neither a valid alternative nor an avenue for proper representation since the staff's broad duty to represent the public interest would often require a compromise of many interests and since the public interest might not always be the same as the interests of the consumers described in the act. p. 336.

4. COSTS — Intervenor funding under PURPA — Mechanisms for granting compensation — Commission procedure.

[N.H.] Although the implementation of a commission procedure for the granting of intervenor compensation under the Public Utility Regulatory Policies Act was not without drawbacks, such as the potential for lengthening commission proceedings and for abusing the privilege of passing costs on to the ratepayers, the commission found that it should make determinations on consumer compensation on a case-by-case basis and should subject the prudence and propriety of the expenditures to its own judgement. p. 337.

5. COSTS — Intervenor funding under PURPA — Eligibility for compensation — Interests

represented.

[N.H.] The commission rejected a proposal to

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include compensation for presentation of environmental interests in Public Utility Regulatory Policies Act proceedings because it was overbroad, could result in unnecessary expense being levied on ratepayers, and would divert the course of proceedings from the act's goals of conservation, equity, and efficiency. p. 337.

6. COSTS — Intervenor funding under PURPA — Eligibility for compensation — Advocacy of staff position.

[N.H.] An intervenor seeking funding for advocacy of a position relating to one of the standards of the Public Utility Regulatory Policies Act would not be eligible for compensation for presenting the same or nearly the same evidence on the same issues as the commission staff. p. 337.

7. COSTS — Intervenor funding under PURPA — Eligibility for compensation — Definition of consumer.

[N.H.] To discourage the collection of duplicative charges in compensation paid to intervenors for hearing participation costs, the commission adopted a rule which would prevent a group from being considered a consumer if it included any person employed by any state or federal agency or by any organization, however constituted, funded in whole or in part by state or federal money, unless such organization could demonstrate that no state or federal funds had been provided for the representation of a Public Utility Regulatory Policies Act issue in a commission proceeding. p. 338.

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APPEARANCES: Franklin Hollis for Concord Electric Company, Exeter and Hampton Electric Company, and Northern Utilities, Inc.; Philip Ayers and Debbie R. Sklar for Public Service Company of New Hampshire (PSNH); Dom S. D'Ambruoso for the Business and Industry Association (BIA); Gerald Lynch for the Legislative Utility Consumers' Council (LUCC); Mary Metcalf for the New Hampshire Energy Coalition; Desiree Stuart and Maurice Routhier for the New Hampshire People's Alliance; Representative Edward Smith, pro se; Robert Gross and Alan Linder, for the New Hampshire Legal Assistance; Michael Flynn for Granite State Electric Company; Frederick Small for the Conservation Law Foundation.

BY THE COMMISSION:

Report

On November 9, 1978, President Carter signed the Public Utility Regulatory Policies Act of 1978, hereinafter referred to as PURPA or the act. Section 121 of the act authorizes any electric consumer (among others) to intervene and participate as a matter of right in any rate-making proceeding relating to rates or rate design which is conducted by a state regulatory authority. Section 122 of PURPA established electric utilities' liability to compensate such consumer

intervenors for certain fees and costs incurred to prepare and advocate their positions. The section further provides that a consumer may collect such fees and costs in a civil action unless the state regulatory authority has adopted a reasonable procedure for determining the amount of, and for including an award of, such fees and costs in its order in the proceeding.

On August 18, 1980 the commission commenced this proceeding to satisfy the requirements of PURPA and to assure that the interests of electric consumers would be represented in proceedings relating to electric utility rate making. The proposed rules relating to consumer compensation were issued as of August 18, 1980. Written comments were invited prior to September 19, 1980. This deadline was extended to September 26, 1980.

A public hearing was held on October 10, 1980, with briefs, comments and observations following on October 31, 1980.<sup>1(32)</sup>

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The briefs and comments filed by the parties made numerous cogent arguments which will require discussion and has necessitated amendment to the rules as proposed.

#### *I. The Public Utility Regulatory Policies Act*

##### A. Generally

To properly understand the context in which this decision is reached, it is essential to delineate the PURPA. Title I of PURPA establishes certain federal standards which must be considered in public hearings. The state regulatory authority must make determinations as to whether each standard is appropriate to carry out the purposes of the title. The federal standards are:

1. Cost of Service
2. Declining Block Rates
3. Time-of-day Rates
4. Seasonal Rates
5. Interruptible Rates
6. Load Management Techniques

In addition to the rate-making standards, the title establishes standards governing certain regulatory practices. In this category are the following:

1. Master Metering
2. Automatic Adjustment Clauses
3. Information to Consumer
4. Procedure for Termination of Electrical Service
5. Advertising.

##### B. Purposes

Title I of PURPA sets forth its purposes as the encouragement of (1) conservation of energy supplied by electric utility, (2) optimization of the efficiency of use of facilities and resources by electric utility, and (3) equitable rates to electric consumers.

##### C. Consumer Representation

Public Utility Policies Act contains explicit provisions for consumer representation in state regulatory proceedings considering PURPA issues. These provisions are found in §§ 121 and 122 of the act, 16 USC §§ 2631 and 2632.

The consumer representation provisions include the right to intervene,<sup>2(33)</sup> access to information,<sup>3(34)</sup> and compensation for costs of participation.<sup>4(35)</sup> This decision deals exclusively with the question of compensation for costs of participation.

## *II. Present Participation Levels in Commission Proceedings*

### A. Utilities

The New Hampshire supreme court has required this commission to recognize utility rate case expenses as a legitimate operating expense chargeable to ratepayers *New Hampshire v Hampton Water Works Co.* (1941) 91 NH 278, 38 PUR NS 72, 18 A2d 765; (1941) 91 NH 278, 39 PUR NS 15, 19 A2d 435. While rate case expenses must be allowed, the commission retains a limited power to reject any rate case expenses that are excessive or improper.

Recently the commission has issued a decision where an outer limit was placed on these rate case expenses *Re Hudson Water Co.* (1981) 66 NH PUC 303. In that decision the commission noted that one test of reasonableness results from the application of 365:38. This statute limits the commission in investigating the reasonableness of a case to only those expenses that are less than three-fourths of one per cent of the existing valuation of the utility investigated. In *Hudson*, the commission found that no legitimate reason existed to allow a utility rate case expense to exceed the level of expenses

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the commission would have available to investigate the reasonableness of the petition. 66 NHPUC at p. 303, *supra*.

Often utilities have spent in excess of \$100,000 in presenting and levels in excess of \$200,000 are not uncommon.

### B. Consumer Participation

Certain groups appear and litigate before this commission on a regular basis. These include New Hampshire Legal Assistance, Community Action Program, Conservation Law Foundation, and the Business and Industry Association. These participants have on occasion sponsored witnesses and are consistently represented by legal counsel. Other groups of concerned citizens have on occasion appeared on both revenue and rate design questions without counsel. During the course of these proceedings, the Legislative Utility Consumers' Council (LUCC), a representative of the legislature or the residential consumer, was sunsetted. The Office of Consumer Advocate has been transferred to the commission.

### C. Staff Participation

With increasing frequency our staff is conducting independent audits, analysis, and investigations with us in terms of presentations. This factor has significantly improved the professionalism of our hearings. This economic, accounting, financial, and/or engineering knowledge has been a significant contribution to a more complete record.

## *III. Notice*

This proceeding was notice pursuant to §§ 121 and 122 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and New Hampshire RSA 365:8, 365:10, and 365:38. Thus, this proceeding applies only to Public Service Company of New Hampshire as the only electric utility in this state to fall within the definition of utility contained in Title I of PURPA.

Since we decide this case based on the power provided in §§ 121 and 122, the commission will not address the issues raised concerning what power, if any, would allow recognition of public participation costs pursuant solely to state law.<sup>5(36)</sup> The cases of *Jacques v Manchester Coal & Ice* (1916) 78 NH 248, 100 Atl 47; *Morse v Ford* (1978) 118 NH 280; *Utica Mutual Insurance Co. v Plante* (1965) 106 NH 525; *Couture v Mammoth Groceries, Inc.* (1977) 117 NH 294; *Merrimack Farmers Exchange v Elliot* (1971) 111 NH 121, 276 A2d 258; *Mountain States Teleph. & Teleg. Co. v Colorado Pub. Utilities Commission* (1978) — Colo — , 576 P2d 554, are not reviewed in this decision. Nor is the question of power pursuant to quasi-judicial versus quasi-legislative proceeding, that so tormented the California supreme court, ripe for our review.<sup>6(37)</sup> The commission did not notice the reparation statutes in this proceeding. Revised Statutes Annotated 365:3, 34, and 35 or the recent additions to RSA 363. Consequently, the full scope of our powers under state law in this controversial area have not been adequately presented or reviewed.

#### *IV. Coverage of PURPA*

Public Utility Regulatory Policies Act § 102(a) states:

"This title applies to each electric utility

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in any calendar year and to each proceeding relating to each electric utility in such year, If the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year."

According to the analysis of this commission and the Department of Energy, only one utility in New Hampshire crosses this threshold; Public Service Company of New Hampshire.

#### *V. Federal-state Authority*

[1] Granite State, although found not to be covered by these rules, suggests that PURPA did not provide any power to the state commissions. Further, Granite State contends that there must be separate state authority to implement the compensation provisions of §§ 121 and 122. We disagree.

Section 121 is quite clear that there is a broad right of intervention. Section 122 is significantly more narrow and provides for a compensation mechanism to be established in one of three ways: (a) through court disposition, (b) commission procedure, or (c) alternative means. This specific grant of legislative power does not require similar language at the state level. *Re Costs of Participation in Electric Rate-making Proceedings* (Cal 1980) 37 PUR4th 259; *Re Costs of Participation in Commission Proceedings on PURPA* (Me 1980) 37 PUR4th 280; *Re Procedure for Compensation of Electric Consumers* (Alaska 1980) 38 PUR4th 127.

#### *VI. Options*

##### *A. Court Disposition*

[2] Of the three options presented the least compelling is an abandonment of the decision process to the courts. Reliance on the courts would lead to multiplicity of civil litigation on

matters which can be resolved more expeditiously in a regulatory rather than judicial context.

Compensation through civil litigation would have a chilling effect on consumer participation before state regulatory agencies. Even if successful, the time between contribution to the case and payment would be devastating to most consumer groups. A judicial second jump in the compensatory steepchase might well lead to protracted and adversarial hearings that few consumer groups could hurdle. Such a result would entirely blunt the thrust of §§ 122 specifically and PURPA generally.

#### B. Alternative Means

[3] Much of the comments of the utilities parties focused on the availability of alternative means. These "alternative means" as cited by the utilities are primarily a reliance upon RSA 363-C, the statute creating the Legislative Utility Consumers' Council (LUCC) and RSA 363:27, which divides staff into advisory and investigatory.

The provisions of RSA 363-C have been effectively negated by the legislature including the LUCC as an agency no longer approved for continuance pursuant to the sunset review process. Nor do we find the citation to the staff division statute persuasive. The commission cannot, however, say that in all cases the staff will adequately represent the interests and persons described in § 122 of PURPA. The staff of this commission is charged with representing the broad public interest. This broad duty will often be a compromise of many interests. Commission staff may conclude that the public interest is not the same as the interests of those consumers described in § 122 of PURPA. Further, our proceedings pursuant to both state and federal authority have revealed that there are many differing and often competing consumer

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interests in any proceeding. Such differences are likely to be more pronounced in dockets involving PURPA issues largely as the result of the rate design determinations. The Business and Industry Association raises a valid point in its presentation that focused on the differences between industrial and residential interests as to rate design. Other differences such as those of commercial, institutional, heating, and streetlighting customers are equally apparent from our experience in regulation. The commission finds that the "alternative means" are neither a valid alternative nor an avenue for proper representation.

#### C. Commission Procedure

[4-6] The commission staff presented a set of rules for our consideration that allows our determination on consumer compensation on a case by case basis. To avail ourselves of the third option is not an easy choice. While the first two options are inappropriate for effective § 122 compliance, a commission procedure is not without its drawbacks. Too liberal a provision might effectively lengthen our proceedings so that a decision was never reached. since these costs would ultimately be passed on to ratepayers, the potential for abuse cannot be discarded. As was previously noted this commission has been forced to restrict utilities on their expenditures involving rate case expense partially because of this concern.

Since ratepayer funds have been ordered by our supreme court to cover the representation of utility interests before this commission, it is entirely appropriate that some consideration be

given to allowing effective consumer representation to be funded by ratepayers as well.

In the course of these proceedings we have found sufficient justification to become concerned about the potential for abuse and therefore we will require these expenditures to be subject to our judgment regarding prudence and propriety. Further, we are compelled to reject some of the attempts to broaden the proposed rule.

Conservation Law Foundation requests that we amend the rules to include compensation for presentation of *environmental* and consumer interests. We must reject this proposal as overbroad. An allowance of compensation for raising of environmental issues would divert the course of PURPA proceedings from its stated goals of conservation, equity, and efficiency. Almost any participation in an electric rate proceeding could arguably fall under its rubric and thus qualify for compensation. Such a situation would result in additional and unnecessary expenses being levied on ratepayers which we simply will not allow.

A second concern that has arisen in these proceedings is the very real possibility that a "consumer group" might simply advocate an identical position to staff. If that position prevailed, then they might well seek compensation without providing the evidentiary support for the position. In many of our proceedings we have watched staff toil tirelessly only to find some other party taking credit for their efforts. Compensation under such a scenario would be a greater miscarriage of justice.

To avoid unreasonable burdens upon the public, we will amend our rules by adding Rule 66, which will state that "a consumer is not eligible for compensation for presenting the same or nearly the same evidence on the same issues as the commission staff."

#### *VII. Specific Provisions of the Proposed Rules*

##### A. PURPA Position — Rule 56C

Public Service Company of New Hampshire and the LUCG expressed some concern that the proposed rule may lead

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to some incorrect interpretations. The proposed PSNH change would allow compensation to be considered for raising the PURPA purposes (equity, efficiency, and conservation) only when the commission was considering one or more of the PURPA Title I, Subtitle B standards. The clarification is helpful and is adopted.

##### B. Definition of Consumer — Rule 56-d

[7] The first issue raised is whether to redefine the definition of consumer to include environmental and conservation groups. This offer by the Consumer Law Foundation is rejected. Such a definition would do a disservice to the noble purposes set forth in PURPA and would expand PURPA beyond its legislative limits.

The New Hampshire Peoples Alliance also desires a reformation of our definition of consumer. At present, the proposed rule would prevent a group from being considered a consumer if it included any person employed by any state or federal agency or by any organization, however, constituted, funded in whole or in part by state or federal money unless

such organization can demonstrate that no state or federal funds have been provided for the representation of a PURPA issue in a commission proceeding. New Hampshire Legal Assistance also seeks modification of this definition.

While the proposed rule does not totally preclude a group from receiving both (1) state or federal funds and (2) consumer compensation costs under PURPA, the rule does make the success of such an attempt difficult. The rationale is that the ratepayers are often taxpayers, and the commission is not seeking to encourage the collection of duplicative charges. Similar considerations are present in our concern that staff testimony, exhibits, and other evidence not be simply duplicated by some other group.

Further, § 122 has definite considerations for those who but for funding couldn't participate. Those with state or federal funding to conduct consumer representation don't need additional funds at the expense of those denied access to these funds. The rule as proposed is adopted.

#### C. Definition of Expert Witness Fees — Rule 56-e

Public Service Company of New Hampshire suggests an amendment to Rule 56-e that would add the words "to the extent that such costs are deemed reasonable by the commission." The commission has noted that the same protection against unreasonable utility rate case expenses will be applied to consumer compensation. Therefore, the amendment is adopted. See *Mountain States Teleph. & Teleg. Co. v Colorado Pub. Utilities Commission* (1978) — Colo — , 576 P2d 544.

#### D. Definition of Other Reasonable Costs — Rule 56-f

Public Service Company of New Hampshire and New Hampshire Legal Assistance both seek to amend this definition. Public Service Company of New Hampshire wishes to further define reasonable. The proposal would appear to offer too much constraint. Our decision-making process is neither mechanistic nor subject to mechanistic evaluations. Our proceedings are extremely complex and this adds greater complexity with no additional benefits.

The New Hampshire Legal Assistance objects to our limit on the level of these expenditures (25 per cent). The limit is necessary so that this commission is not involved in the impossible task of sorting through large amounts of other expenses. We are not prepared to be an

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auditing mechanism for consumer groups; nor do we wish to get into a time-consuming process of separating costs for a case other than attorney and expert fees from other costs incidental to the consumer group's operation. The definition is accepted as proposed.

All other proposed changes to Rule 56 for the most part minor in nature are rejected as unnecessary after consideration of the arguments offered.

#### E. Utility Liability for Payment — Rule 57

Public Service Company of New Hampshire raises the question that some of the proceedings involving PURPA have included only PSNH while others have been extended to include all electric utilities and in one instance all gas utilities. Public Service Company of New Hampshire correctly contends that there should be an amendment offered to Rule 57 to reflect these

situations. The amendment offered is adopted and reproduced as follows:

"In the event that the commission proceeding involves more than one utility, the liability of each utility for the award shall be determined by dividing the amount of the award among the utilities involved. If an award of compensation is granted in proceeding which involves a change in a utility's level of rates, the entire amount of the award shall be recovered by the utility as part of its rate case expense. If the proceeding does not involve a change in rates, the entire amount of the award shall be recovered by the utility in its next rate case."

#### F. Eligibility for Awards — Rule 58

Public Service Company of New Hampshire and the LUCC offer amendments to Rule 58. Public Service Company of New Hampshire offers an amendment to Rule 58(a) to provide further information as to the significant financial hardship question. While the theme of PSNH's amendment offers some valid consideration, its closing line asks for a potentially unlimited amount of information. Consequently, due to its scope, the amendment offered is rejected.

However, PSNH's amendment to Rules §§ 58, 58f would be a significant improvement in reviewing an application of an organization funded in part by federal or state funds. The amendment will be adopted as follows:

"(f) In the case of an organization funded in whole or in part by state or federal funds, a statement setting forth all facts and reasons known to the organization establishing that state or federal funds have not been provided for the presentation of a PURPA issue in a commission proceeding."

The LUCC concern is that the time provisions of proposed Rules 58(b), 58(c), 59(b), 61, and 61(c) may be too stringent and that deadlines may be missed. This may be a valid complaint, but we will await actual operation under the rules so as to be in a better position to ascertain what changes are necessary, if any.

#### G. Procedures For Establishing Eligibility — Rules 60 and 61

Public Service Company of New Hampshire suggests that amendments be offered to these rules to include the right of a hearing to either the utility or to a party that objects to the compensation request. Since a finding of an award would amount to an alteration in rates and charges and thus by state statute requiring a hearing, the commission finds the proposed amendments unnecessary.

Business and Industry Association proposes to change the wording from "substantial financial hardship" to "significant financial hardship." The latter term is used in Rule 58a and § 122(a) 31 (A) of PURPA. Business and Industry Association's suggestion is adopted for purposes of consistency.

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#### H. Request for Compensation — Rule 62

Public Service Company of New Hampshire expresses concern that a consumer may advocate a large number of positions yet only prevail on some. This is a valid concern, but the commission finds that Rule 62 as proposed is suitable.

## I. Other Proposals

The proposed additional recommendations of PSNH and the LUCC are rejected as being significantly different than those noticed in this proceeding.

Our order will issue accordingly.

### Order

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

Ordered, that the following rules are adopted:

#### Chapter PUC 200 Procedural Rules

#### F. Provisions Regarding Compensation for Costs of Participation of Intervention

56. When used in this section:

(a) "PURPA" means Public Utility Regulatory Policies Act of 1978.

(b) "Compensation" means reasonable attorneys' fees, expert witness fees, and other reasonable costs.

(c) "PURPA position" means a factual contention, legal contention, or specific recommendation promoting the following PURPA purposes (§ 101);

(A) Conservation of energy supplied by electric utilities

(B) Optimization of the efficiency of use of facilities and resources

(C) Equitable rates to electric consumers in connection with the consideration of one or more of the following PURPA Title I, Subtitle B Standards:

1. PURPA Rate-making Standards:

(A) Cost of Service — § 111(d)(10)

(B) Declining Block Rates — § 111(d)(2).

(C) Time-of-day Rates — § 111(d)(3)

(D) Seasonal Rates — § 111(d)(4)

(E) Interruptible Rates — § 111(d)(5)

(F) Load Management Techniques — § 111(d)(6)

(G) Lifeline Rates — § 114

2. Other PURPA Standards:

(A) Master Metering — § 113(d)(1)

(B) Automatic Adjustment Clauses — § 113(d)(2)

(C) Information to Consumers — § 113(b)(2)

(D) Procedures for Termination of Electric Service — § 113(d)(3)

(E) Advertising — § 113(d)(5)

(d) "Consumer" means any retail electric consumer of an electric utility, any authorized

representative of such a consumer, or any representative of a group or organization authorized, pursuant to articles of incorporation or bylaws, to represent the interests of consumers. This term shall not include any person employed by any state or federal agency or by any organization, however, constituted, funded in whole or in part by state or federal money unless such organization can demonstrate that no state or federal funds have been provided for the presentation of a PURPA issue in a commission proceeding.

(e) "Expert witness fees" means the recorded or billed costs incurred by a consumer for an expert witness with respect to a PURPA issue to the extent that such costs are deemed reasonable by the commission.

(f) "Other reasonable costs" means reasonable out-of-pocket expenses incurred by a consumer with respect to a PURPA issue not exceeding 25 per cent of the total of reasonable attorneys' fees and expert witness fees awarded.

(g) "Party" shall mean any interested party, respondent, utility, or commission staff of record in a proceeding.

(h) "Proceeding" shall mean any application, case, investigation, rule making,

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or other procedure of the commission in which a PURPA position is considered subsequent to the effective date of PURPA.

(i) "Reasonable fees" shall be computed at prevailing market rates for persons of comparable training and experience who are offering similar services. In no event shall such fees exceed those paid by the commission or the utility, whichever is greater, for persons of comparable training and experience who are offering similar services.

(j) "Utility" means an electric utility to which Title I of PURPA applies and with respect to which a PURPA issue is decided by the commission.

57. In any commission proceeding in which a consumer substantially contributes to the adoption by the commission, in whole or in part, of a position advocated by the consumer in that proceeding, and relating to a PURPA standard, or for judicial review of that proceeding, the utility shall pay the consumer an award of compensation if such award is granted by the commission in accordance with the procedures and requirements of this rule. The utility shall not be liable for any award of compensation except in accordance with the standards and procedures established by this rule.

"In the event that the commission proceeding involves more than one utility, the liability of each utility for the award shall be determined by dividing the amount of the award among the utilities involved. If an award of compensation is granted in proceeding which involves a change in a utility's level of rates, the entire amount of the award shall be recovered by the utility as part of its rate case expense. If the proceeding does not involve a change in rates, the entire amount of the award shall be recovered by the utility in its next rate case."

58. In order to receive an award of compensation pursuant to Rule 57, the consumer shall file with the commission, and parties in the proceeding, a "request for finding of eligibility for

compensation" setting forth the following:

- (a) A showing that, but for the ability to receive compensation under these rules, participation, or intervention in the proceeding may be a significant financial hardship for such consumer. Such showing shall include a specific budget for the representation;
- (b) A statement of the PURPA issues which the consumer intends to raise in the proceeding, together with a statement of the consumer's position on each such issue;
- (c) A showing addressing representation of persons with the same or similar interests by a common legal representative;
- (d) An estimate of the compensation to which the consumer believes it may be entitled to at any state of the proceeding and the basis for such estimate, including a budget;
- (e) For a consumer who claims to represent the interests of other consumers, a showing which includes the articles of incorporation, bylaws, membership structure, composition of board of directors, and newsletter circulation, if any, along with a summary description of the previous work of the consumer;
- (f) In the case of an organization funded in whole or in part by state or federal funds, a statement setting forth all facts and reasons known to the organization establishing the state or federal funds have not been provided for the presentation of a PURPA issue in a commission proceeding.

59. The "Request for Finding of Eligibility for Compensation": shall be filed:

- (a) Within thirty days after the effective date of this rule in the case of proceedings which were closed or which are in progress at the time this rule is adopted;
- (b) Within thirty days after the first prehearing conference, or by the date set

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by the commission, in any proceeding begun after the effective date of these rules.

60. Any party to the proceeding, including the commission staff may object to the filing, by filing its objection with the commission within seven days after the consumer's filing is complete, and serving a copy on all parties.

61. Within ten days after the receipt of objections, or if no objections are received, within ten days after the consumer's filing is complete the commission shall enter an order stating with respect to each consumer who has been filed:

- (a) Whether, but for the award of compensation, participation, or intervention in the proceeding would work a significant financial hardship on the consumer. Every consumer for which such hardship is found by the commission shall thereafter be deemed eligible for an award of compensation.
- (b) The degree, if any, to which such hardship exists, to be measured by ascertaining that portion of those fees and expenses that, without an award of compensation, would, if paid by the consumer, work a substantial hardship on him.
- (c) Those consumers who will advocate the same or similar positions with respect to any

PURPA issue. If it has not already done so, the commission may order those consumers to consolidate their presentations on such issue or issues by requiring common legal representation thereon. The common representative shall be chosen by the consumers themselves. No award of compensation shall be made to those consumers who fail to consolidate their presentations after being so ordered by the commission. This subsection shall not be deemed to preclude consolidated consumers from retaining more than one legal representative, so long as only one representative enters an appearance. Only one award of compensation may be made for any common presentation. In the case where more than one legal representative is retained, the consumers may divide the award among the legal representatives.

(d) In the case of an organization funded in whole or in part by state or federal money, whether state or federal funds have been provided for presentation of a PURPA issue in a commission proceeding.

62. Following issuances of a commission order or decision during a proceeding, a consumer may file a request for compensation with the commission. The filing shall have a certificate of service on appearances by mail attached. Such request shall include a detailed description of hourly services and expenditures or invoices for which compensation is sought and shall describe how the consumer has substantially contributed to the adoption, in whole or in part, in a commission order or decision, of a PURPA position advocated by the consumer relating to a PURPA standard. "Substantial contribution" shall be that contribution which, in the judgment of the commission, substantially assists the commission to promote a PURPA purpose in a manner relating to a PURPA standard by the adoption, at least in part, of the consumer's position.

63. At the direction of the commission, the commission staff may audit the records and books of the consumer to the extent necessary to verify that compensation sought is reasonable. Within twenty days after completion of the audit, if any, an audit report shall be filed with the commission.

64. Within thirty days of the filing of a request for compensation or within thirty days after the filing of the staff audit report, if any, the commission shall issue a decision describing the contribution found to have been made and the compensation awarded.

65. The electric utility shall pay any

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award of compensation to the consumer within thirty days after the commission's decision is issued, unless a timely application for rehearing with respect to the issue of compensation is filed, in which case no payment will be required until an order denying rehearing or an order after rehearing is issued. In the case of an order subject to judicial review, within thirty days after that review is complete.

By order of the Public Utilities Commission of New Hampshire this eighth day of September, 1981.

#### FOOTNOTES

<sup>1</sup>Any similarity between the date and the "trick or treat" rules normally adopted for this date

are purely accidental.

<sup>2</sup>Section 121(a).

<sup>3</sup>Section 121(b).

<sup>4</sup>Section 122 (a) and (b).

<sup>5</sup>The California supreme court in noting that state authority only allowed public participation in cases to be awarded in quasi-judicial cases, found that PURPA had provided new power to the state regulatory commissions. Consumers Lobby Against Monopolies v California Pub. Utilities Commission (1979) 25 Cal 3d 148, 33 PUR4th 148, 162 150 Cal 124, 603 P2d 41, footnote 9.

<sup>6</sup>Consumers Lobby Against Monopolies v California Pub. Utilities Commission (1979) 25 Cal 3d 148, 33 PUR4th 148, 160 Cal Rptr 124, 603 P2d 41.

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NH.PUC\*09/09/81\*[79003]\*66 NH PUC 343\*Continental Telephone of New Hampshire, Inc.

[Go to End of 79003]

## Re Continental Telephone of New Hampshire, Inc.

DR 81-239, Order No. 15,083

66 NH PUC 343

New Hampshire Public Utilities Commission

September 9, 1981

ORDER establishing effective date for tariff revision.

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BY THE COMMISSION:

Order

Whereas, on August 28, 1981, the Continental Telephone of New Hampshire, Inc., filed proposed tariff changes to its tariff, NHPUC 11, Section 6, First Revised Sheet 8; and

Whereas, the purpose of this filing is to provide custom calling services to its customers in the exchanges of Henniker and Hillsboro; and

Whereas, these selective calling services are now being provided to customers of all other exchanges of the company; and

Whereas, upon investigation and consideration the commission finds this offering to be in the public interest; it is

Ordered, that Continental Telephone of New Hampshire, Inc., tariff, NHPUC 11, Section 6, First Revised Sheet 8, be, and hereby is, authorized to become effective on September 14, 1981.

By order of the Public Utilities Commission of New Hampshire this ninth day of September,

1981.

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NH.PUC\*09/10/81\*[79004]\*66 NH PUC 344\*New England Telephone and Telegraph Company

[Go to End of 79004]

## Re New England Telephone and Telegraph Company

DF 77-121, Second Supplemental Order No. 15,084

66 NH PUC 344

New Hampshire Public Utilities Commission

September 10, 1981

ORDER permitting subsidiary telephone company to continue its participation in a parent company's employee stock ownership plan.

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BY THE COMMISSION:

Supplemental Order

Whereas, a petition has been filed by the New England Telephone and Telegraph Company for a supplemental order authorizing the company to continue the Bell system employee stock ownership plan authorized by Order No. 12,888 ([1977] 62 NH PUC 233); and

Whereas, Order No. 12,888 approved the company's participation including a contribution to the plan by issuing and selling to the trustee of the plan shares of the company's capital stock having an aggregate value equal to the additional investment tax credit elected; and

Whereas, the company no longer has authority to issue more than one share of common stock without par value as a result of a merger between the company and American Telephone and Telegraph Company effective December 22, 1980; and

Whereas, the commission finds it in the public interest to have the company continue to participate in its employee stock ownership plan; it is hereby

Ordered, the New England Telephone and Telegraph Company be, and hereby is authorized to continue its participation in the Bell system employees stock ownership plan, originally authorized by Order No. 12,888, and, insofar as the same pertains to property or expenditures in the state of New Hampshire, annually, so long as such plan remains in effect and so long as participation in an employees stock ownership plan is a requirement that must be met to establish the company's eligibility for a tax credit under any federal tax law, to receive equity contributions from the American Company in an amount equal to the additional investment tax credit available to the company by reason of its participation in the plan, in its present form or as it may hereafter be amended; and it is

Further ordered, that New England Telephone and Telegraph Company shall annually submit to this commission within sixty days of the receipt by it of equity contributions from the

American Company pursuant to its participation in the plan a report of the amount of equity contributions received; and it is

Further ordered, that except as modified hereby, Order No. 12,888 shall remain in full force and effect; and it is

Further ordered, that this order modifies Order No. 14,849 ([1981] 66 NH PUC 144), and any part of Order No. 14,849 inconsistent herewith is hereby set aside and vacated.

By order of the Public Utilities Commission of New Hampshire this tenth day of September, 1981.

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NH.PUC\*09/10/81\*[79005]\*66 NH PUC 345\*Termination of Electric Service

[Go to End of 79005]

## Re Termination of Electric Service

RM 81-216, Order No. 15,085

66 NH PUC 345

New Hampshire Public Utilities Commission

September 10, 1981

ORDER amending commission rule.

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BY THE COMMISSION:

Report

On July 24, 1981, this commission initiated a rule-making procedure relative to the rules and regulations prescribing standards for electric utilities. An order of notice was published on that date proposing to amend and supplement Chap 300 as follows:

"PUC 303.08 (f) *Procedure for Accomplishing Termination of Service now provides:*

"(1) A utility may terminate *residential* service only from ... ."

The commission invited comments to its executive director and secretary prior to August 3, 1981, and set a public hearing to be held on August 27, 1981, at 10:00 A.M., at the commission's Concord offices.

On July 31, 1981, a copy of the rule-making notice and of the proposed rule was forwarded to the Director, Office of Legislative Services, State House, Concord, for processing the rule-making register, by Friday, August 7, 1981.

No written comments were received from intervenors prior to the hearing.

The proposed rule was offered at the hearing by staff chief engineer, Bruce B. Ellsworth. Mr. Ellsworth testified that a previous revision of certain rules in November of 1980, relative to the termination of service of electric customers apparently inadvertently omitted the word

"residential," in its rule and regulations."

"PUC 303.08 (f) *Procedures for Accomplishing Termination of Service*:

(1) A utility may terminate *residential* service only from 8:00 A.M. to 3:00 P.M. ..."

The presently published wording provides:

"(1) A utility may terminate service only from 8:00 A.M. to 3:00 P.M. ..."

Witness Ellsworth, noted that as presently written the rule applies to all customers. Prior to the revision of the electric standards in 1980, it applied to only residential customers. He noted that similar rules for gas, water, and telephone utilities apply only to residential customers, and that the addition of the word, "residential," as noted will assure consistency in the treatment of all utilities.

No adverse comments were received by the intervening parties.

In accordance with the commission's desire to maintain uniformity in customer treatment to the extent possible, it will allow the word "residential," to be reinserted in its proper place.

Our order will issue accordingly.

Order

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

Ordered, that rules and regulations prescribing the standards for electric utilities, Chap 300 be amended to read as follows:

"PUC 303.08 (f) *Procedure for Accomplishing Termination of Service now provides*:

(1) A utility may terminate *residential* service only from ..."

By order of the Public Utilities Commission of New Hampshire this tenth day of September, 1981.

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NH.PUC\*09/10/81\*[79006]\*66 NH PUC 346\*Public Service Company of New Hampshire

[Go to End of 79006]

**Re Public Service Company of New Hampshire**

DR 79-187, 53rd Supplemental Order No. 15,086

66 NH PUC 346

New Hampshire Public Utilities Commission

September 10, 1981

ORDER authorizing filing of tariff following settlement conference.

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BY THE COMMISSION:

Supplemental Order

Whereas, the August 14, 1981, settlement conference on the issues of the company's proposal for a load management service culminated in a stipulation agreement filed with this commission; and

Whereas, the commission reviewed the proposal and finds it to be in the best interest of the company and its ratepayers; it is hereby

Ordered, that the company is authorized to file a tariff, effective immediately, implementing a load controlled service for storage space heating and storage water heating applications meeting the terms and conditions agreed to in the stipulation; and it is

Further ordered, that parties file such arguments as they deem appropriate, on the unresolved issues in this matter in their final briefs in DR 79-187, Phase II.

By order of the Public Utilities Commission of New Hampshire this tenth day of September, 1981.

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NH.PUC\*09/10/81\*[79007]\*66 NH PUC 346\*Proposed Rules Relative to Deposits For Telephone Service

[Go to End of 79007]

**Re Proposed Rules Relative to Deposits For Telephone Service**

Intervenors: Community Action Program, New England Telephone and Telegraph Company, and New Hampshire Legal Assistance

DRM 81-201, Order No. 15,087

66 NH PUC 346

New Hampshire Public Utilities Commission

September 10, 1981

ORDER amending rules relating to deposits for telephone service.

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BY THE COMMISSION:

Report

On July 24, 1981, this commission initiated a rule-making procedure relative to the rules and regulations prescribing standards for telephone utilities. An order of notice was published that date which proposed to amend and supplement Chap 400 as follows:

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1. PUC 403.04 (a) (2) *Existing Service*

For existing residential service, a utility may require a cash deposit or other guarantee only

when:

a. The customer, when billed monthly, has had *one* disconnect notice for nonpayment within a 12-month period; or

b. ...

c. ...

2. PUC 403.06 (a) (2) (a) *Discontinuance of Service*

Subject to these regulations the utility may disconnect service to a residential customer only after appropriate notice if:

1. ...

2. ...

3. ...

4. ...

5. ...

6. The customer incurred a toll bill of \$50 or more, at which time the company may require payment in full within ten days of written notice.

7. The customer has incurred a bill of \$500 or more, at which time the company may require payment in full within three days of written notice.

The commission invited comments to its executive director and secretary prior to August 15, 1981, and set a public hearing to be held on August 27, 1981, at 10:00 A.M., at the commission's Concord offices.

On July 24, 1981, a copy of the rule-making notice and of the proposed rules were forwarded to the Director, Office of Legislative Services, State House, Concord, for processing in the rule-making register, by Friday, July 31, 1981.

Written comments were received from John J. Coleman, general manager of the New England Telephone and Telegraph Company; Gerald M. Eaton, energy advocate, Community Action Program; and Margaret L. Popkin, staff attorney, New Hampshire Legal Assistance.

1. PUC 403:04 (a) (2) *Existing Service*

The rule was offered at the hearing by staff chief engineer, Bruce B. Ellsworth. Ellsworth testified that the rule change was initiated by the fact that excessive uncollectibles have resulted as an outcome of the commission's 1979 revision to the rules in DE 79-11, Order No. 13,558 ([1979] 64 NH PUC 66). He noted that since that date, deposits have been allowed to be imposed only for just cause. New customers having no credit references may not now be subject to the imposition of a deposit. Only after a customer, when billed monthly, has had four disconnect notices in any 12-month period, for nonpayment may the company impose a deposit requirement. Ellsworth said the staff found the rules to be permissive in the extreme and recommended that the number of disconnect notices be reduced from four to one. A customer would then have a deposit requirement imposed after receiving a single disconnect notice for nonpayment in any 12-month period.

Ellsworth noted that the commission felt strongly that deposits should be avoided unless grounds were firmly established whereby uncollectibles caused other ratepayers to carry an additional financial burden.

Gerald M. Eaton, appearing for the Community Action Programs, offered an alternative petition:

PUC 403.04 (a) (2) *Existing Service*

For existing residential service, a utility may require a cash deposit or other guarantee only when:

a. The customer, when billed on a monthly basis, received two disconnect notices within a 12-month period, provided, that the first of the two disconnect notices states in writing that the telephone utility may require a deposit upon the issuance of the second disconnect notice, and further provided that the

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first disconnect notice contains an estimate of the deposit which may be required, said estimate being calculated as provided in § 403.04 (b) (1) of these rules.

b. ...

c. ...

Mr. Eaton supported his position on the basis that sooner or later a customer may neglect to pay a bill for a variety of reasons including forgetfulness. His compromise proposal included a warning notice which would assure that on the second notice the customer would be expected to pay the bill on time.

The commission agrees with Ellsworth for the need to strengthen its deposit rules. It spoke of its awareness that the relaxation allowed in DE 79-11 might be extreme, and noted in its report in that docket, "The commission shall advise the staff to analyze the effect and impact of the rules as adopted and, if necessary, to report to the commission six months after the effective date hereof." Although we found that six-month reporting period was premature, and that a longer period was necessary to establish a trend, we now find it necessary to take a more firm position with regard to those few customers who continuously delay in paying their bills.

We find the proposal offered by the staff to be too extreme. We turn to Mr. Eaton's proposal as a more sensible compromise and accept his recommendation that deposits may be imposed only upon receipt of a second disconnect notice.

We further merit in Mr. Eaton's proposal that the first disconnect notice contain an estimate of the deposit which may be required upon receipt of the second notice, and which warns the customer that the deposit requirement may be imminent. We see the thrust of Mr. Eaton's plea to be that disconnect notices themselves should be better defined and should serve as better warnings of whatever subsequent actions the company may find it necessary to make. Commissioner Paul McQuade spoke to that issue during the hearing when he noted a need for better identification of disconnect notices, and requested consideration of notices in a different color.

As in the case of other petitions for changes spoken to later in this report, which will be denied on the basis of improper notice, we will not direct the companies in this proceeding to establish new disconnect notices in color. However, the commission stands ready to accept a petition for such change to be properly docketed in the future. The commission will not implement Mr. Eaton's proposal relative to the disconnect notice warning and deposit estimate only because it is satisfied that a subsequent petition for disconnect notices in color provide the necessary warning to the customers in the future.

## 2. PUC 403.06 (a) (2) (a) *Discontinuance of Service*

Staff Engineer Ellsworth proposed to make additions to PUC 403.06 (a) (2) (a) *Discontinuance of Service* by reducing the time period before a customer can be terminated for failure to pay extraordinarily high telephone bills. Under present rules, a telephone customer has a total of seventy-four days in which to pay his bill. Since customers have unrestricted opportunities to make toll calls, it is possible to accumulate extremely high toll bills at any time during the 74-day cycle, and not be held accountable for bill payment until the end of that cycle. Ellsworth finds the need to develop a tighter policy to enable telephone companies to more closely monitor the toll calling habits of its customers, and to assure that unusually high bills are paid promptly. He proposed that customers incurring a toll bill of \$50 or

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more at any time during the payment period may be required to pay that bill in full within ten days of a written notice by the company that such a bill exists. He also proposes that any customer who incurs a total bill of \$500 or more would be required to pay in full within three days of a written notice.

Community Action Program's Eaton expressed concern over an opportunity for confusion to arise as to whether the \$50 figure was intended to mean the total telephone bill or simply the toll portion of a telephone bill. He also was concerned as to the adequacy of a three-day notice period if notices were provided by mail. He expressed his concern that three days would not give adequate opportunity for the notices to reach the intended customers.

The commission will look upon this rule as a complement to its other termination rules. It sees the merit in establishing a tighter policy for high toll users, but it will not compromise the already existing rules which protect the general telephone customer from premature termination. The proposed rule relative to the \$50 bill will be limited to toll bill charges. In order to assure clarity we will change the proposed wording:

#### PUC 403.06(a)(2)(a) *Discontinuance of Service*

6. The customer has incurred a toll bill of \$50 or more, at which time the company may require payment in full of the amount of the toll charges in excess of \$50 within ten days of written notice.

We concur with Mr. Eaton's observation that three days is an inadequate termination period when a written notice is provided. We find the urgency of payment to be more important than a longer notice. We will require the company to make a personal or telephonic notice:

PUC 403.06 (a) (2) (a) *Discontinuance of Service*

7. The customer has incurred a bill of \$500 or more, at which time the company may require payment in full within three days of personal or telephonic notice.

Other proposed changes offered by other parties were not accepted for consideration on the basis that the public notice requirements of the New Hampshire Administrative Procedures Act, requires specific notice of each new proposal. The submitted proposals went beyond the notice of provisions in this docket.

Our order will issue accordingly.

Order

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

Ordered, that the rules and regulations prescribing the standards for telephone utilities, Chap 400 be amended to read as follows:

PUC 403.04(a)(2)(a) *Existing Service*

For existing residential service, a utility may require a cash deposit or other guarantee only when:

a. The customer, when billed monthly, has had two disconnect notices for nonpayment within a 12-month period, or

b. ...

c. ...

PUC 403.06(a)(2)(a) *Discontinuance of Service*

1. ...

2. ...

3. ...

4. ...

5. ...

6. The customer has incurred a toll bill of \$50 or more, at which time the company may require payment in full of the amount of toll charges in excess of \$50 within ten days of written notice.

7. The customer has incurred a bill of \$500 or more, at which time the company may require payment in full within

three days of personal or telephonic notice.

By order of the Public Utilities Commission of New Hampshire this tenth day of September, 1981.

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NH.PUC\*09/11/81\*[79008]\*66 NH PUC 350\*New England Telephone and Telegraph Company

[Go to End of 79008]

## Re New England Telephone and Telegraph Company

Intervenor: Office of Consumer Advocate

DR 81-221, Supplemental Order No. 15-099

66 NH PUC 350

New Hampshire Public Utilities Commission

September 11, 1981

PETITION for an increase in rates; granted.

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1. ACCOUNTING, § 54 — Telephones — Inside wiring costs — Flash-cut method.

[N.H.] The commission adopted use of the "flash-cut" method of expensing the inside wiring portion of station connection costs for a telephone company because it found that the flash-cut method was less costly to consumers overall than the "phase-in" approach, was more reflective of the new Federal Communications Commission policy, and promised the potential of fewer rate increases. p. 351.

2. RATES, § 539 — Telephones — Low-use measured service.

[N.H.] In the exercise of its power to create low cost options that allow access to the telephone network at a minimal charge for minimal service, the commission not only accepted a telephone company's plan to extend the offering of low-use measured service to various communities but also directed that the service be offered to other specific communities by the end of the next calendar year. p. 354.

3. RATES, § 593.1 — Telephone — Wide area telephone service — Narrowing rate differential.

[N.H.] A telephone company was permitted to implement an increase in its wide area telephone service (WATS) rates in order to narrow the rate differential between WATS and toll services and to put itself in a better position to restructure intrastate WATS in the future. p. 355.

4. RATES, § 532 — Telephone — Rate design — Application of increase.

[N.H.] Because the limited nature of a rate increase requested by a telephone company — that is, only to reflect changes in wages, depreciation, and station connection costs — affected all services, the commission required that half of the percentage increase applied to basic service rates be applied to message toll service, which the company had originally proposed to exempt from the increase. p. 355.

5. RATES, § 587 — Telephones — Night rates — Parity between interstate and intrastate

discounts.

[H.N.] The commission found that customers should be entitled to the same discount rates for intrastate calls as for interstate calls and required a telephone company to establish evening, night, and weekend rates equal to its interstate rates. p. 356.

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APPEARANCES: Peter Gunther, Jeanne S. Conroy, and Robert E. Jauron, for New England Telephone and Telegraph Company; Gerald Lynch, consumer advocate.

BY THE COMMISSION:

Report

*I. Revenue*

On August 5, 1981, New England Telephone and Telegraph Company filed tariff pages to reflect an annual increase in revenues of \$15,075,000.<sup>1(38)</sup> An order of notice was issued setting forth hearing days of August 24, 25, and subsequently August 28, 1981. The filing is a limited one, in that as to revenue there are clearly only three issues. This case does not represent a general rate petition where all expenses, rate base, and cost of capital are updated. Rather, this petition seeks to have rates reflect three new changes — wages, depreciation, and station connection costs.

New England Telephone had sought an allowance for their 1981 wage increase in the 1980 proceeding, DR 80-23 ([1980] 65 NH PUC 564). However, at that time the adjustment was rejected because the effect of the 1981 wage settlement was unknown. This commission places serious emphasis that changes to any utility rate should be based on known and measurable factors. In the fall of 1980, it was impossible to accurately reflect the cost of wage changes that did not become effective until a time period ranging from February 1, to September 1, 1981. To allow rates in the fall of 1980 to reflect wage adjustments occurring in the third quarter of 1981 would have been unreasonable. Revenues would have been collected substantially in advance of the occurrence of expenditures. Such a situation would be an unreasonable burden to place on consumers and one this commission chose to reject. In the same fashion it would be unreasonable now to deny the existence of these costs. The wage and benefit increases are known as are the number of employees to receive the increase.

Wages are a legitimate cost of doing business and one that has been historically found to be a just and reasonable expense. Re Public Service Co. of New Hampshire (1980) 65 NH PUC 251. A secondary wage step has the potential for abuse if it encourages indiscriminate hiring. A review of New England Telephone's hiring practices reveals stable employee numbers throughout the past three years despite rapid growth. Neither staff nor the consumer advocate dispute this adjustment.

Based upon the evidentiary presentation we find that the proposed wage and benefit adjustment of \$5,339,000 is valid.

The second adjustment to rates involves increased depreciation expenses. These expenses were the subject of extensive review by our staff, the staff of the other New England public utilities commissions and the Federal Communications Commission (FCC).

Upon completion of this review all parties agree that the net revenue requirement is between \$2,573,000 and \$2,569,000. The difference of \$4,000 between staff and the company results from different calculations used in the rate base reduction. Both staff and the company agree as to the gross intrastate allocation of \$2,860,624. Both suggest the appropriate rate base reduction by the average increase to the depreciation reserve. The company has used the cost of capital reached in the last proceeding,

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9.98 percent in compiling their reduction. The consumer advocate and the commission finance staff believe that the attrition factor of 0.14 percent or 10.12 percent should be used in compiling the rate base reduction. We agree with staff's position and accept the \$2,569,000 adjustment.

The third adjustment reflects an alteration by the FCC in the Uniform System of Accounts. Recently the FCC mandated the method of accounting for station connection costs. Basically, the change is directed at expensing rather than capitalizing such costs.

The federal government through the FCC and the Congress have set a new course in telephone regulation. Major portions of the telephone industry are being deregulated. What remains regulated will be under the auspices of federal rather than state regulation. Whether this dramatic change is better or not for society is largely academic since the new policy is firmly in place.

The third aspect of this increase, \$6,353,000, relates to the FCC's decision to have inside station connection costs expensed rather than capitalized, and thus recovered over 8.2 years in New Hampshire. One FCC commissioner stated that "it is imperative that telephone companies stop the continued capitalization of the costs of inside wiring."<sup>2(39)</sup>

The FCC through its accounting order has necessitated a major portion of this increase. The FCC has provided the states with an option to either implement on a "flash-cut" or a "phase-in" basis.

The flash-cut method would increase rates based on an immediate transfer of inside wiring costs from being capitalized to being expended. The phase-in approach would conduct this change over a four-year period.

The exhibits and presentations in this case reveal some of the consequences associated with both methods. Exhibit 6, p. 2 indicates that phase-in costs more than flash-cut over the next thirteen years \$7,344,349. This same study indicates that at the beginning "phase-in" is less oppressive but becomes increasingly burdensome with sizeable yearly increases.

The exhibit offered to compare the two methods and rests on certain assumptions. To their credit both New England Telephone, the consumer advocate, and staff explored and admitted the weakness of certain assumptions. Yet each party agreed that even a variation of these

assumptions did not alter the overall result that over the next thirteen years phase-in will cost New Hampshire ratepayers at least \$6.5 million more than would result under an adoption of the "flash-cut" method.

The consumer advocate properly raised the question of the time value of money. He offered exhibits that demonstrated that in some instances flash-cut was less expensive and in some instances more expensive depending upon the discount rate considered. His conclusion was that as far as the time value of money was concerned, both procedures arrived at near the same result. Refinements such as the tax consequences of various financial avenues of investment were not considered.

Another aspect of this question was the number of rate increase requests each accounting method would generate. The telephone industry is in a period of transition. The Congress, the FCC, and the general economic climate are all creating major changes in this industry.

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The FCC, for example, has numerous open dockets where it is considering changes in depreciation and accounting procedures which will lead to further increases in rates. Consequently, any predictions on rate increase requests based solely on "flash-cut" versus "phase-in" are tentative. However it is clear that an adoption of phase-in will assure significant increases in telephone rates every year for the next four years.

The "flash-cut" method results in a major increase at this time. Whether there are additional rate increase requests in the next four years will depend on factors such as further action from the Federal Communications Commission, inflation, or new federal legislative initiatives.

The possibility that some additional rate requests may be alleviated is a possibility worth pursuing since the supreme court has clearly stated that rate case expenses by a utility are to be chargeable to ratepayers. *New Hampshire v Hampton Water Works* (1941) 91 NH 279, 38 PUR NS 72, 18 A2d 765; (1941) 91 NH 279, 279, 38 PUR NS 15, 19 A2d 534. While due to FCC actions, fluctuations in rates cannot be avoided, adoption of the flash-cut method would minimize the number of fluctuations that could be expected over the next four years.

It is evident that the new federal policy is to reduce regulation, centralize remaining regulation and encourage competition by eliminating subsidization. If that policy is truly in the public interest, then the policy should be implemented as soon as possible. Too often regulatory policy is allowed to vascillate which is contrary to the general public interest. If regulation is to remain in the policy setting mode then those policies whether federal or state, must be implemented as quickly as is possible.

Finally, the proceedings before us have alleviated our concerns over the potential for conflict between state and federal decisions. Clearly, in *New Hampshire* rates may not be applied retroactively. *Pennichuck Water Works v New Hampshire Opinion* (1980). If *New England Telephone* had sought to reflect the FCC's decision of March, 1981, retroactively to that date, a conflict would have been created between a federal decision and a state one. The filing in this proceeding is applied prospectively and not retroactively. Consequently, the integrity of both the FCC decision and the state supreme court decision are preserved.

Because the "flash-cut" method is found to be overall less costly to consumers, more reflective of the new FCC policy, and promises the potential of fewer rate increase requests, the commission will adopt its use for New England Telephone.

The positions adopted throughout this opinion necessitates an approved increased revenue level of \$14,261,000. This result is supported by both the positions of staff and the consumer advocate. Furthermore, the evidence in this proceeding is uncontroverted as to our result.

The issue of federal tax cuts has been raised outside the hearing room by the Peoples' Alliance. The commission is acutely aware that the federal tax cuts may have an effect in rates once implemented. However, the effect would not be solely on New England Telephone but rather would affect all utilities subject to our jurisdiction. This commission monitors monthly, quarterly, and yearly, all financial records of all utilities. If, in fact, a major change occurs, this commission will be acutely aware of its duty to reassess reasonable rates.

## II. *Rate Design and Service Improvement*

### A. General

As has been noted, much of this increase relates to changes in the policy of the Federal Communications Commission.

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If state regulation is to continue to have a role involving the telephone industry it must actively seek methods to provide better quality local service and more diverse service options.

Neither the FCC, the Congress or those actively supporting telephone deregulation are concerned with the quality of local service. This commission however believes that the public interest requires both service that is reasonable in quality as well as price.

### B. Bedford, Epping, and Raymond — Improvements in Service Required

Since our last telephone proceeding involving New England Telephone, this commission has embarked upon a program designed to increase our awareness in which exchanges and communities need to have the quality of service upgraded. In *Re New England Teleph. & Teleg. Co.* (1980) 65 NH PUC 564, the commission assured better quality service by requiring increased calling areas for the communities of Bristol, Alexandria, Hebron, Bridgewater, Groton, Hill, and New Hampton.

In that proceeding and subsequent proceedings we required increased equipment to improve the service in Moultonboro and Westmoreland.

The letters that we have received since that case have led to investigations that have focused on three communities, Bedford, Epping, and Raymond. Exhibit 9 in this proceeding was NET's response to our concerns. While this exhibit reveals long-term solutions being planned we believe that the customers served in these exchanges are deserving of a higher quality of service.

Bedford is presently not served by an electronic switching system (ESS). The present system does not allow for the growth being experienced by Bedford nor does it accord Bedford residents and businesses access to the state-of-the-art technology that currently exists.

To improve the service in Bedford we will require New England Telephone and Telegraph Company to install a No. 5 ESS by October 1, 1982. Any and all other necessary equipment to improve service in this community are to be implemented as soon as possible but no later than September of 1982.

Epping and Raymond appear to have grown faster than the equipment necessary to serve them. A major portion of the problems encountered in these two communities results from a shortage of switching and trunking equipment. The commission will require the installation of significant amounts of new switching and trunking equipment in both of these communities.

Another portion of the telephone service situation in these communities is the absence of an electronic switching system (ESS). New England Telephone and Telegraph Company intends to place a system in Manchester that will assist Epping in the near future. We believe a plan should be formulated to bring ESS access to Raymond in 1982. Such equipment, like that ordered for Bedford, should be immediately added to New England Telephone and Telegraph Company's construction program. Simply stated we are ordering significant improvements in the quality of telephone service offered in the communities of Bedford, Epping, and Raymond.

#### C. Low-use Measured Service

[2] In the years ahead FCC action, congressional legislation, and inflation will gradually have an impact on basic telephone rates. While state regulation will receive the blame for the increase we as state regulators can ill afford to sit idle. We do have the power to create low cost options that allow for access to the telephone network for a minimal charge for minimal service.

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New England Telephone has, with a certain level of foresight, initiated a program of low-use measured service. At present New England Telephone and Telegraph Company offers this to eight communities. Thanks to our efforts in the last proceeding, low use measured service is about to become a reality in Berlin, Keene, and Lebanon.

New England Telephone and Telegraph Company has filed with us plans to expand the offering of this low cost (\$4.60 per month) option to other communities within the state. While we appreciate these efforts, we believe it necessary to act as a catalyst to accelerate the offering of low-use measured service into other New Hampshire communities. Consequently, we will require the offering of low-use measured service by the end of 1982 into the following communities: South Nashua, Wolfeboro, Rochester, and Laconia.

#### D. Princess and Trim-Line Telephones

The company proposes to delete nonrecurring charges for the Princess and Trim-Line telephones. Currently, a nonrecurring charge of \$5 applies to the purchase of such sets in addition to the applicable service connection charges. Witness Perkins testified (T-87) that this has created confusion to customers with the combination of service connection charges and nonrecurring charges and the company has decided to phase out the nonrecurring charges in all five New England jurisdictions. The phase-out has been completed in the four other states. We will allow the phase-out in New Hampshire. We note witness Perkins' testimony that this is the only rate design issue introduced in this case.

#### E. WATS Services

[3] The company proposes to increase full-time WATS' services from \$500 to \$575. For the measured WATS the initial rate period increases from \$105 to \$120, and the overtime rate increases from \$10 to \$11.50 for each additional hour. Upon cross-examination by the staff (T-94), witness Perkins explained the company's intent to narrow the differential between WATS and toll, and to put itself into a better position to restructure intrastate WATS in the future. The company's proposal will narrow the differential to approximately 25 per cent; i.e., the customer may receive up to a 25 per cent benefit by subscribing to WATS' service. We will allow the company to implement the increase in the WATS' rates.

#### F. Penalties for Bad Checks

The commission questioned the company policy relative to the treatment of customer checks forwarded with insufficient funds. Upon cross-examination, witness Perkins explained that the company has no policy to charge for checks that are returned for that reason. The commission finds it timely to establish penalties for those few customers who submit such checks. We direct the company to devise tariff provisions to stipulate a \$5 penalty for each check that is returned for insufficient funds.

#### G. Message Toll Service

[4] The proposed offered in this proceeding was to increase the major portion of telephone services while exempting certain areas of service from any increase. The message toll rate for intrastate calls was initially proposed as one of the areas to be exempted. New England Telephone and Telegraph Company's testimony cited studies that demonstrated that basic rates were being subsidized by intra- and interstate toll calls. While we were not presented the studies in this proceeding, we are aware that a certain subsidy exists. However, it has not been demonstrated to be of the

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consequence that would require virtually the entire increase to be placed on basic service.

The nature of this increase, wages, depreciation, and accounting changes affects all services offered by New England Telephone. The cost of service for all service options has been increased. Consequently, we will require that on a percentage basis half of the percentage increase applied to basic service rates be applied to message toll service.

#### H. Selective Calling Service and Rate Considerations

[5] We will accept the company's contention that since its selective calling services are tied to message toll rates, that the same action should be accorded that service. Additionally the commission finds that it is time to move forward more aggressively with the selective calling service. Selective calling service was originally offered in August of 1977, to one and two-party residence subscribers in ten New Hampshire exchanges for an experimental period. Based on the results of the experiment in New Hampshire and the other New England states the plan has been modified and improved to the extent that customers in 86 exchanges may now, for an entry fee in addition to basic exchange rates make toll calls at one-half the scheduled toll rates.

The selective calling plan satisfied some New Hampshire customers and has provided an opportunity for these customers to reduce their toll call costs. It has not satisfied many customers, however, who demand toll-free calling.

We find that the time has come to offer a calling service which will, for a higher basic entry fee, allow total toll-free calling. We will accept the concept of the selective calling plan and its attendant three-band approach and will allow an improvement of that plan. We will require implementation of an optional toll-free selective calling plan by January 1, 1982.

The commission also finds that the time has come for the company to consider a residence, statewide calling service, similar to those already available in Massachusetts (Bay State Calling) and Rhode Island (Ocean State Calling). We will direct the company to provide a plan by January 1, 1982 for implementation in all electronic switching exchanges by January 1, 1983, and in all New Hampshire exchanges by January 1, 1984.

The commission finds it timely to address the night and evening discount policies of the company and to establish parity between the rates applicable to interstate and intrastate calls. Presently, interstate calls made during weekdays between 5 P.M. and 11 P.M. may be made at a 35 per cent discount with a minimum charge of one minute. Night-time calls made between 11 P.M. and 8 A.M. and weekends may be made at a 60 per cent discount. Evening rates for intrastate calls are given only a 25 per cent discount, and night and weekend calls are given a 50 per cent discount. Witness Perkins testified that his company is led to believe that interstate discounts may change. Those concerns aside, we find that customers should be entitled to the same discount rates for intrastate calls as for interstate calls. Accordingly, we will require the company to establish evening and night and weekend discount rates equal to the interstate rates. This will allow New Hampshire residents calling within New Hampshire to receive 35 per cent and 60 per cent discounts instead of the existing 25 per cent and 50 per cent.

The commission will not allow additions to: directory assistance charge, coin-telephone charges, and services to the handicapped. All other services will be increased by an equal percentage except

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as otherwise noted in the report. We anticipate that the increase in basic exchange service to residential customers will be between 45 cents and \$1.45 per month depending upon the size of the customer's calling area and whether the customer is served by a one-, two-, or four-party line.

Our order will issue accordingly.

**Supplemental Order**

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

Ordered, that New England Telephone and Telegraph Company should file revised tariff pages to collect \$14,261,000 on an annual basis in increased revenues; and it is

Further ordered, that low-use measured residential service be provided as an option in the communities of South Nashua, Wolfeboro, Rochester, and Laconia during 1982; and it is

Further ordered, that the improvements of service for the Bedford, Raymond, and Epping

Exchanges set forth in the report be implemented no later than September of 1982; and it is

Further ordered, that the discount rates for intrastate tolls be made identical with that presently provided for interstate toll calls; and it is

Further ordered, that the monthly rates labelled "equipment for the handicapped" as set forth on p. 8 of the tariff summary are to be held constant and not increased; and it is

Further ordered, that New England Telephone is to file revised tariff pages to spread the increase as set forth in the report.

By order of the Public Utilities Commission of New Hampshire this eleventh day of September, 1981.

FOOTNOTES

<sup>1</sup>Later reduced by New England Telephone to \$14,265,000.

<sup>2</sup>Statement of Commissioner Joseph R. Fogerty in Re Amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies — FCC Docket (1980).

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NH.PUC\*09/11/81\*[79009]\*66 NH PUC 357\*Public Service Company of New Hampshire

[Go to End of 79009]

**Re Public Service Company of New Hampshire**

DR 79-187, 54th Supplemental Order No. 15,100

66 NH PUC 357

New Hampshire Public Utilities Commission

September 11, 1981

ORDER adopting opinion of the chairman disposing of issues on rehearing.

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1. VALUATION, § 192.1 — Property included or excluded — Tax deferrals — Unbilled fuel costs and equity in affiliates.

[N.H.] The commission removed from a utility's capital structure the unbilled fuel costs above base and its equity in affiliates, both of which had been included in the total accumulated deferred income taxes because they were neither customer supplied nor cost free. p. 358.

2. VALUATION, § 192.1 — Property included or excluded — Tax deferrals — Allowance for funds used during construction.

[N.H.] The commission found that continuation of the inclusion of allowance for funds used during construction (AFUDC) on major construction projects in a utility's accumulated deferred income tax account and its capital structure was just and reasonable since it found (1) that

sourcing of capital was impossible,

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(2) that AFUDC could be described as a zero-cost loan from the government, and (3) the taxes which were deferred were charged above the line. p. 358.

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BY THE COMMISSION:

Opinion of Chairman J. Michael Love:

*I. Rate Base*

A. Seabrook Education Center

Public Service Company of New Hampshire contends that the commission, while stating permission to include the Seabrook Education Center in rate base, failed to make such an allowance in calculating rate base. The exclusion was inadvertent and rate base should be increased by \$452,360.

B. Wyman Unit No. 4

Public Service Company of New Hampshire contends that if the commission is using a 13-month average for the calculation of rate base then the commission's inclusion of Wyman Unit No. 4 on a 12-month averaging basis is unjust and unreasonable. I agree and rate base should be increased by \$225,918 to preserve consistency.

C. Depreciation

Public Service Company of New Hampshire contends that the commission by adoption of the 13-month average rate base and the 3.98 per cent depreciation rate, failed to make the proper adjustment to rate base. I concur and would increase rate base by \$65,577 to correct this oversight.

D. Plant Held for Future Use

Public Service Company of New Hampshire questions the exclusion of \$1,302,710 from rate base attributable to plant held for future use. Public Service Company of New Hampshire contends that the commission made this adjustment without notice or an opportunity to be heard. I believe PSNH to be in error. Intervenors and staff both questioned and challenged the inclusion in rate base of plant held for future use. The issue was presented fairly and was thus required to be responded to by operation of RSA 363:17-b III. Briefs addressed the issue and therefore the commission was justified in resolving the matter.

There is evidence in both this proceeding and others concerning the second PSNH argument, namely, speculation. Evidence reveals disposition of property held for future use that never was devoted to consumers. Finally, I would note that there has never been a rule-making regarding that plant held for future use. I thereby reject PSNH's motion as to plant held for future use and find that the \$1,302,710 rate base exclusion was justified.

E. Accrued Interest on Customer Deposits

Public Service Company of New Hampshire contends that the commission erred by deducting accrued interest on customer deposits from rate base. The deduction removed \$100,270 from rate base. I again must disagree with PSNH's motion and the logic offered in its support. The accrued interest is simply that accrued. It is not being paid out until the tariffs of the company or a request by a consumer so require. The ratepayer is denied the use of these funds and the company is provided their use. Consequently, I reject this aspect of the motion for rehearing.

## *II. Cost of Capital — Deferred Income Taxes*

[1, 2] Public Service Company of New Hampshire contends that the inclusion of \$29,090,886 of accumulated deferred

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income taxes (ADIT) in the capital structure at zero cost was in excess of a reasonable inclusion and thus unjust and unreasonable. Furthermore, PSNH contends that certain of its arguments were left unaddressed by the commission in its original report and order in violation of RSA 363:17-b II and III.

The \$29,090,886 was composed of two items. The first was an amount of \$3,346,886 to reflect normalization. The second inclusion was a quarterly average ending September 30, 1979 of ADIT of \$25,744,000. Public Service Company of New Hampshire agrees with the inclusion of the first figure and disputes a portion of the second figure and suggests a proper level of inclusion to be \$11,808,813.

Before addressing PSNH's specific concerns about the ADIT inclusion I believe it necessary to place a greater level of consistency into the commission order. In the original report and order, the commission updated all other components of the cost of capital to June of 1980, *except* ADIT which was left at the figure submitted as the quarterly average ending September 30, 1979. This oversight cannot be justified since the commission placed all parties on notice in a report and order that an updated capital structure would be used so as to capture the most recent available data. This allowed the inclusion of recent relatively high cost issuances to be included in the capital structure. Because of this oversight and since the issue of ADIT is raised for rehearing, I believe it more equitable to use a quarterly average ending June 30, 1980, or \$33,830,618. To this would be added the normalization component of \$3,346,886 to arrive at a total of \$37,177,484.

In using this number for total ADIT there still remains an analysis of the components called into question by PSNH. Public Service Company of New Hampshire questions the inclusion of unbilled fuel costs above base in the ADIT total. The argument is offered that this is not zero cost nor provided by the ratepayer. In the previous figure of \$25,744,000 this item reflected \$6,076,259. In the more equitable figure of \$33,830,618, the level is \$4,331,445. I agree that this inclusion is not cost free or customer supplied and I would thereby agree to its removal from the capital structure.

The next inclusion relates to "equity in affiliates" which in the original figure represented \$90,022. In the more equitable figure used in this opinion, this item represents \$91,350. I would

agree that this inclusion is not justified upon either grounds of zero cost or customer supplied.

The remaining question relates to the inclusion of AFUDC on major construction projects. In the original number, this reflected an inclusion of \$11,115,247. I cannot agree that this exclusion is justified. Rather, I find its continuation in the account and the capital structure just and reasonable.

First, this commission and PSNH have maintained that sourcing of capital is impossible. It is equally impossible to state that the AFUDC is necessarily investor or consumer supplied or to what extent. Second, there is no doubt that AFUDC or construction does have a zero cost. In fact, it can be appropriately described as a zero-cost loan from the United States government which after all is the people. (read consumers) Third, the taxes which are "deferred" are charged above the line.

For these reasons, both independently and together I reject any further alteration to this item in the capital structure. Consequently, the new capital structure would be as follows:

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

Item	Amount	ComponentCost Ratio	Weighted Rate	Cost Rate
Common Equity	\$334,525,487	0.3411	15.90%	5.42
Preferred Stocks	141,834,200	0.1444	10.88	1.57
Long-term Debt	376,423,000	0.3839	10.14	3.89
Short-term Debt	95,100,000	0.0970	13.98	1.34
Taxes*	32,754,708	0.0334	0	-
Total	<u>\$980,637,195</u>	<u>1.000</u>		<u>12.24</u>

\*Assumes prime rate of 13 per cent for short-term debt and long-term loan.

### III. Overall Analysis

The result of increasing rate base to \$403,351,773 and decreasing the cost of capital and attrition to 12.44 per cent is a required New Hampshire retail decrease on an annual basis of \$149,966 which I would adjust to our findings in DR 81-87 ([1981] 66 NH PUC 178), for ease of implementation.

#### Supplemental Order

Whereas, Chairman J. Michael Love, has drafted an opinion report dated July 30, 1981; and

Whereas, we fellow commissioners concur with the findings and conclusion set forth in the aforementioned report; it is hereby

Ordered, that the report dated July 30, 1981, is made a part hereof; and it is

Further ordered, that the petitioners rate base shall be increased to \$403,351; and it is

Further ordered, that the cost of capital and attrition shall be decreased to 12.44 per cent; and it is

Further ordered, that the petitioner shall file new tariff pages to reflect a reduction of annual revenues in the sum of \$149,996 and to implement the findings set forth in the report; and it is

Further ordered, that the petitioner is directed to issue a one-time public notice pursuant to the tariff filing rules.

By order of the Public Utilities Commission of New Hampshire this eleventh day of September, 1981.

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NH.PUC\*09/14/81\*[79010]\*66 NH PUC 360\*New England Telephone and Telegraph Company

[Go to End of 79010]

## Re New England Telephone and Telegraph Company

DE 81-178, Order No. 15,101

66 NH PUC 360

New Hampshire Public Utilities Commission

September 14, 1981

PETITION by a telephone company for authority to install aerial cable over state-owned railroad right of way; granted.

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TELEPHONES § 2 — Construction and equipment — Aerial cable — Public interest factor.

[N.H.] Where a telephone company seeking a license to install and maintain aerial cable over a state-owned railroad right of way for the purpose of providing exchange service stated that the crossing would be constructed and maintained with due regard for established minimum safety standards, the commission found that granting the petition was in the public interest.

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APPEARANCES: Wayne Snow, engineering manager, for the petitioner.

BY THE COMMISSION:

Report

On July 7, 1981, New England Telephone and Telegraph Company filed with this commission a petition seeking authority to place and maintain aerial cable over state-owned railroad right of way in Stratford, New Hampshire.

The commission issued an order of notice on July 9, 1981, directing all interested parties to appear at public hearing at 11:00 A.M. on August 11, 1981, at the Concord offices of the commission. The petitioner was directed to publish a public notice in a newspaper having general circulation in the area served.

In addition to the publication of said notice, copies of the hearing notice were directed to: John J. Coleman, general manager, New England Telephone and Telegraph Company; John R. Sweeney, director, Aeronautics Commission; George Gilman, commissioner, Department of Resources and Economic Development; John Bridges, director, Division of Safety; and the Office of Attorney General.

An affidavit of publication indicating the publication was made in the *Union Leader* on July 17, 1981, was received in the commission's office at Concord, New Hampshire, on July 23, 1981.

Wayne Snow, engineering manager, explained that the proposed plant crossing railroad right of way is designed to provide exchange telephone service in the New England Company's North Stratford exchange. The company proposes to install aerial cable as described on Plan No. 306, entered as Exh 3 in this proceeding. Mr. Snow testifies that the crossing will be constructed and maintained with due regards for established minimum safety standards.

The commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance.

The petition was properly publicized and proper notification was given to the public as to the proposed installation.

The commission finds this petition for a license to install and maintain proposed aerial cable over state-owned railroad right of way in Stratford, New Hampshire, to be 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 authority be granted to the New England Telephone and Telegraph Company to place and maintain aerial cable over state-owned railroad right of way in Stratford, New Hampshire, as defined in petitioner's exhibit.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of September, 1981.

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NH.PUC\*09/14/81\*[79011]\*66 NH PUC 362\*New England Power Service Company

[Go to End of 79011]

## Re New England Power Service Company

DE 81-183, Order No. 15,102

66 NH PUC 362

New Hampshire Public Utilities Commission

September 14, 1981

PETITION by an electric company for a license to relocate transmission line over a river; granted.

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APPEARANCES: Leo R. Gillis, Jr., engineer, for the petitioner.

BY THE COMMISSION:

Report

On July 9, 1981, the New England Power Service Company filed with this commission a petition for a license to relocate and maintain an existing 46,000 volt transmission line over waters of the Connecticut river in Walpole, New Hampshire.

The commission issued an order of notice on July 13, 1981, directing all interested parties to appear at a public hearing at 1:00 P.M. on August 11, 1981, at the Concord offices of the commission. The petitioner, Leo R. Gillis, Jr., engineer, New England Power Service Company, was directed to publish a public notice in a newspaper having general circulation in the area served. In addition to the publication of said notice, copies of the hearing notice were directed to: John R. Sweeney, director, Aeronautics Commission; John Bridges, director, Division of Safety; George Gilman, commissioner, Department of Resources and Economic Development; and the Office of the Attorney General.

An affidavit of publication indicating that publication was made in the *Keene Sentinel* on August 1, 1981, was received at the commission's office at Concord, New Hampshire

Mr. Gillis explained that the relocation is necessary to accomodate changes to State Route 12. The relocation will involve the replacement of two existing wood structures with one new steel structure. The relocated line will pass over the river between newly constructed structure "A" and existing wood structure "B" as designated on an exhibit entitled "Proposed relocation of an existing overhead electric power line over Connecticut river at Walpole, New Hampshire." A minimum vertical clearance of 40 feet will be maintained.

The commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance.

The petition was properly publicized and proper notification was given to the public as to the proposed installation.

The commission finds this petition for license to relocate and maintain an existing 46,000 volt transmission line over waters of the Connecticut river in Walpole, New Hampshire, to be 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 authority be granted to the New England Power Service Company to relocate and maintain an existing 46,000 volt transmission line over waters of the Connecticut river in Walpole,

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New Hampshire, as defined in petitioner's exhibit.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of September, 1981.

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NH.PUC\*09/14/81\*[79012]\*66 NH PUC 363\*Public Service Company of New Hampshire

[Go to End of 79012]

## Re Public Service Company of New Hampshire

Additional Petitioner: New England Power Company

DF 81-106, Order No. 15,115

66 NH PUC 363

New Hampshire Public Utilities Commission

September 14, 1981

PETITION for authority to issue guarantees of the financial obligations of a nuclear power corporation; granted.

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SECURITY ISSUES, § 111 — Financing methods and practices — Purchase obligation — Guarantee by sponsor.

[N.H.] A proposal by the utilities sponsoring a nuclear plant to guarantee severally the plant's payment obligations under a fuel sale agreement and related promissory note, according to their ownership percentages, was approved by the commission where it found (1) that the terms and conditions of the guarantee agreement were reasonable, (2) that it would be in the best interests of the sponsors' stockholders and ratepayers that they execute the guarantees rather than be required to make capital contributions or loans, and (3) that the purpose for the issuance of the agreements was consistent with the public good.

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APPEARANCES: Frederick J. Coolbroth for Public Service Company of New Hampshire; Kirk L. Ramsauer for New England Power Company.

BY THE COMMISSION:

Report

By this unopposed petition filed on April 17, 1981, Public Service Company of New Hampshire ("PSNH"), a corporation duly organized and existing under the laws of the state of New Hampshire, and New England Power Company ("NEP"), a corporation duly organized under the laws of the commonwealth of Massachusetts and qualified as a foreign corporation to

do business in New Hampshire (but does not engage in local distribution therein), electric public utilities subject to the jurisdiction of this commission, seek authority pursuant to the provisions of RSA 369 to issue their guarantees of certain financial obligations of Vermont Yankee Nuclear Power Corporation ("Vermont Yankee") relating to the Vernon Energy Trust. A duly noticed hearing was held in Corcoran on May 19, 1981, at which the following witnesses testified: Willis W. Carey, treasurer and assistant secretary of Vermont Yankee Nuclear Power Corporation; Charles E. Bayless, financial vice president of PSNH; and Donald E. Rose, treasurer of NEP.

Vermont Yankee, a Vermont corporation, is the owner and operator of a nuclear powered electric generating plant with a capacity of approximately 500 megawatt (net) located in Vernon, Vermont. Vermont Yankee sells the entire output of its plant to ten sponsoring New England utilities, including PSNH and NEP, based on the percentage of the

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outstanding stock of Vermont Yankee owned by each sponsor. The sponsors are obligated under their separate capital funds agreements with Vermont Yankee to contribute capital to Vermont Yankee under certain defined circumstances based on each sponsor's percentage of common stock ownership.

Public Service Company of New Hampshire and NEP, together with the eight utilities that own stock in Vermont Yankee, propose to severally guarantee the payment obligations of Vermont Yankee under a nuclear fuel sale agreement with Bankers Trust Company, as trustee of the Vernon Energy Trust, and a related promissory note. Although the cash flow assured by power contracts between Vermont Yankee and each of its sponsors represents the underlying basis for the proposed nuclear fuel financing arrangement, the power contracts contain certain provisions allowing cancellation under specific narrow contingencies. Vermont Yankee has advised the sponsors that because of the possibility, although remote, for such cancellations, Vermont Yankee is unable at present to finance its nuclear fuel requirements without further assurances from its sponsors. Therefore, in order to facilitate the proposed nuclear fuel financing, the sponsors of Vermont Yankee propose to execute and deliver guarantee agreements substantially in the form of Exh A-9 in this proceeding, pursuant to which sponsor will severally guarantee its respective percentage of Vermont Yankee's payment obligations under nuclear fuel sale agreement (Exh A-4) and the promissory note (Exh A-6).

According to Mr. Carey, the financial institutions involved will not proceed on this proposed financing unless the sponsors issue the guarantees as proposed.

According to Mr. Bayless and Mr. Rose, if the sponsors refuse to guarantee Vermont Yankee's obligations in the manner proposed, it is their understanding that Vermont Yankee would be forced to raise the amount needed (\$40 million) by requiring the sponsors to make capital contributions or loans under the capital funds agreements. This would require an actual cash outlay by PSNH and NEP of \$1 million and \$8 million respectively. It is the opinion of PSNH and NEP that it is in the best interests of their ratepayers and stockholders to enter into the proposed guarantee agreements rather than making such cash outlays.

Copies of the draft contract documents relating to the nuclear fuel financing were submitted as exhibits as were balance sheets of PSNH and NEP and resolution of the boards of directors of

PSNH and NEP approving the execution and delivery of the proposed guarantee agreements.

Based upon all of the evidence, the commission finds (1) that the terms and conditions in the draft of guarantee agreement between Bankers Trust Company, as trustee of the Vernon Energy Trust, and each of the Vermont Yankee sponsors are reasonable to enable Vermont Yankee to finance its need for additional funds in order to acquire and maintain an inventory of nuclear fuel and to make construction expenditures reasonably requisite for the continued operation of the plant, (2) that it is in the best interests of the stockholders and ratepayers of PSNH and NEP that they execute such guarantee agreements rather than being required to make capital contributions or loans at this time, and (3) that the issuance by PSNH and NEP of their guarantees as proposed and 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

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Ordered, that Public Service Company of New Hampshire and New England Power Company be, and they are hereby, authorized to issue their guarantees of their respective percentage shares of the financial obligations of Vermont Yankee Nuclear Power Corporation with respect to the Vernon Energy Trust; and it is

Further ordered, that the terms and conditions in the executed guarantee agreements shall be substantially as stated in the draft copy submitted as Exh A-9 in this proceeding and that no further written or oral supplements to or modifications of those proposed terms and conditions shall be executed without prior approval of this commission.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of September, 1981.

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NH.PUC\*09/15/81\*[79013]\*66 NH PUC 365\*Wilton Telephone Company

[Go to End of 79013]

## **Re Wilton Telephone Company**

DR 81-243, Order No. 15,103

66 NH PUC 365

New Hampshire Public Utilities Commission

September 15, 1981

ORDER suspending tariff effective date.

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BY THE COMMISSION:

Order

Whereas, Wilton Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on September 11, 1981, filed with this commission its tariff, NHPUC No. 5 — Telephone, providing for increased revenues and other tariff provision changes, effective October 21, 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 tariff, NHPUC No. 5 — Telephone, of Wilton Telephone Company be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of September, 1981.

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NH.PUC\*09/17/81\*[79014]\*66 NH PUC 365\*New England Telephone and Telegraph Company

[Go to End of 79014]

**Re New England Telephone and Telegraph Company**

DR 81-221, Second Supplemental Order No. 15,104

66 NH PUC 365

New Hampshire Public Utilities Commission

September 17, 1981

ORDER establishing effective date for new rates.

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BY THE COMMISSION:

Supplemental Order

Whereas, on September 11, 1981, this commission directed the New England Telephone and Telegraph Company to file revised rates to collect \$14,261,000 on an annual basis in increased revenues; and

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Whereas, it further directed that discount rates for intrastate tolls be made identical with those for interstate tolls, and that "equipment for the handicapped" rates not be increased; and

Whereas, it further directed that message toll rates be raised an amount which, on a percentage basis, is half of the percentage increased applied to basic service rates; and

Whereas, on September 16, 1981, New England Telephone and Telegraph Company filed new tariff pages setting forth rates to produce an annual increase in gross revenues of

\$14,256,000, as directed by the commission order No. 15,099 ([1981] 66 NH PUC 350); and

Whereas, the proposed rates result in approximate increases in services as follows:

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

General Services and Equipment	15%
Basic Exchange Service	12%
Message Toll Service	8%

Whereas, after review and study of the proposed rates, the commission is satisfied that the company has complied with the provisions of order No. 15,099; it is

Ordered, that the following listed tariff pages, filed with the commission on September 16, 1981, be, and hereby are, permitted to become effective with all telephone service rendered on and after September 19, 1981:

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

NH PUC – No. 70

Part II	- Section 1	- Revision of Pages 1, 2A, and 3
Part III	- Section 1	- Revision of Pages 1 through 10, 13 and 14
	- Section 4	- Revision of Page 2
	- Section 5	- Revision of Pages 9 through 20, 22, 23, 27 through 30,
and 33		
	- Section 7	- Revision of Page 2
	- Section 8	- Revision of Page 1
	- Section 9	- Revision of Page 1
	- Section 11	- Revision of Page 1
	- Section 12	- Revision of Pages 2 through 5, 6D, 6E, and 6F
	- Section 14	- Revision of Pages 2, 3, 4, 16 through 25, and 33
through 37		
	- Section 15	- Revision of Pages 1, 2, 4 through 18, and 21
	- Section 16	- Revision of Pages 2, 3, 4 5, 7, and 9
	- Section 17	- Revision of Pages 2, 95, 96, and 97
	- Section 18	- Revision of Pages 2, 3, 4, 8, 9, and 10
	- Section 19	- Revision of Pages 3 and 4
	- Section 20	- Revision of Pages 1 and 2
	- Section 21	- Revision of Page 1
	- Section 22	- Revision of Page 3
	- Section 23	- Revision of Pages 3, 4, 6 through 12, 12C through 12F, 13D through 13J, 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
	- Section 32	- Revision of Pages 2 through 10
	- Section 39	- Revision of Pages 7 through 41, 43, and 45 through 48
	- Section 40	- Revision of Pages 1 through 7, 8.1 through 9.3, 9.6 through 9.9, and 9.11 through 17
Part IV	- Private Line	- Revision of Pages 32, 34 through 37, 42
through 47		
		49, 50, 51, 54, 55, 56, 61 through 64, 68, 69, 71 through 74A, 76 through 80A, 81, 82, 91, and 92
Part V	- Section 1	- Revision of Page 3.1
	- Section 2	- Revision of Page 1
Part VI	- WATS	- Revision of Page 4
NH PUC	- No. 73	
Mobile		- Revision of Pages 9 and 10.

and it is

Further ordered, that publication of these new rates be made in a newspaper having general circulation in the territory affected.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of September, 1981.

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NH.PUC\*09/18/81\*[79015]\*66 NH PUC 367\*Manchester Gas Company

[Go to End of 79015]

## **Re Manchester Gas Company**

DR 81-234, Order No. 15,105

66 NH PUC 367

New Hampshire Public Utilities Commission

September 18, 1981

ORDER suspending tariff pending investigation.

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BY THE COMMISSION:

Order

Whereas, on August 28, 1981, Manchester Gas Company filed with this Commission 12th Revised Page 12 and 11th Revised Page 13 to its tariff NHPUC No. 12 — Gas; and

Whereas, it appears to this commission that any increase in revenues to be gained by such filing requires adequate investigation and public hearing prior to decision thereon; and

Whereas, it has been noted that the Manchester Gas Company tariff, NHPUC No. 12 — Gas, requires numerous other changes or corrections, to the point that a completely revised tariff is necessary; it is

Ordered, that 12th Revised Page 12 and 11th Revised Page 13 of Manchester Gas Company tariff, NHPUC No. 12 — Gas, be, and hereby are, suspended, pending investigation, hearing and decision thereon; and it is

Further ordered, that Manchester Gas Company file with the commission at the earlier possible date the required quantity of its revised tariff, NHPUC No. 13 — Gas; said revision to correct and update the tariff document to conform to commission rules, as well as to incorporate information presented in those pages hereby suspended; and it is

Further ordered, that said revised Tariff No. 13 bear an issue date of August 28, 1981, and an effective date of September 27, 1981; and it is

Further ordered, that upon filing of the revised Tariff No. 13, 12th Revised Page 12 and 11th Revised Page 13 (NHPUC No. 12) be, and hereby are, revoked; and it is

Further ordered, that said Tariff No. 13, be, and hereby is, suspended pending review and decision thereon; and it is

Further ordered, that public notice of this order be given by publication on two occasions as specified in the tariff filing rules of this commission, said public to include, as a minimum, a summary of current rates and proposed rates, as well as notice of this suspension and instructions herein.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of September, 1981.

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NH.PUC\*09/18/81\*[79016]\*66 NH PUC 368\*Kearsarge Telephone Company

[Go to End of 79016]

## **Re Kearsarge Telephone Company**

DR 81-249, Order No. 15,107

66 NH PUC 368

New Hampshire Public Utilities Commission

September 18, 1981

ORDER suspending tariff pending investigation.

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BY THE COMMISSION:

Order

Whereas, Kearsarge Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on August 31, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 5 — Telephone, relative to service charges; 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 3, First Revised Schedule 8A; and Section 4, Original Schedules 5A1 and 5A2, First Revised Schedule 5A, Second Revised Contents, Schedules 4 and 5, Third Revised Schedules 2 and 6, Fifth Revised Schedule 3 and Sixth Revised Schedule 1 of tariff, NHPUC No. 5 — Telephone, of Kearsarge Telephone 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 September, 1981.

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NH.PUC\*09/18/81\*[79017]\*66 NH PUC 368\*Meriden Telephone Company, Inc.

[Go to End of 79017]

**Re Meriden Telephone Company, Inc.**

DR 81-250, order No. 15,108

66 NH PUC 368

New Hampshire Public Utilities Commission

September 18, 1981

ORDER suspending tariff pending investigation.

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BY THE COMMISSION:

Order

Whereas, Meriden Telephone Company, Inc., a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on September 1, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 4 — Telephone, relative to service connection charges; 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 3, Section Revised Schedule D-4; and Section 4, original Schedules 3-3 and a3-4, First Revised Schedules 3-1 and 3-2, and Second Revised

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Schedules 1, 2, and 3 of tariff, NHPUC No. 4 — Telephone, of Meriden Telephone 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 September, 1981.

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NH.PUC\*09/18/81\*[79018]\*66 NH PUC 369\*Claremont Gas Light Company

[Go to End of 79018]

**Re Claremont Gas Light Company**

DE 81-162, Third Supplemental Order No. 15,109

66 NH PUC 369

New Hampshire Public Utilities Commission

September 18, 1981

ORDER directing gas company to monitor safety of plant operation.

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BY THE COMMISSION:

Supplemental Order

Whereas, on September 2, 1981, at 6:00 P.M. Claremont Gas Light Company experienced a loss of its distribution system due to equipment malfunction at its gas plant; and

Whereas, on September 2, 1981, at 7:00 P.M. it experienced another loss of its distribution system due to another plant malfunction; and

Whereas, on September 2, 1981, at 9:50 P.M. it experienced another loss of its distribution system due to another plant malfunction; and

Whereas, on September 10, 1981, at 6:30 A.M. it experienced another loss of its distribution system due to another plant malfunction; and

Whereas, on September 17, 1981, at 12 P.M. it experienced an overpressuring of its distribution system due to another plant malfunction; and

Whereas, investigation by the company has revealed that at least three different mechanical failures at their gas plant have been responsible for these incidents; and

Whereas, existing monitoring controls intending to provide an early warning system for such incidents have, in each case, failed; and

Whereas, this commission finds that as a result of the unreliability of this plant equipment that immediate measures are essential on the part of the company to protect the health and welfare of its customers and of the general public; it is

Ordered, that effective immediately, Claremont Gas Light Company shall provide qualified manned service on a 21 hour basis at their gas plant in order to monitor the pressure of its gas distribution system; and it is

Further ordered, that this manned service shall continue until the company has satisfied this commission that the gas plant is operating safely and monitored adequately.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of September, 1981.

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NH.PUC\*09/22/81\*[79019]\*66 NH PUC 370\*New England Telephone and Telegraph Company

[Go to End of 79019]

**Re New England Telephone and Telegraph Company**

DE 81-223, Order No. 15,116

66 NH PUC 370

New Hampshire Public Utilities Commission

September 22, 1981

PETITION for authority to install aerial cable over state-owned railroad right of way; granted.

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APPEARANCES: for the petitioner. Wayne Snow, engineering manager.

BY THE COMMISSION:

Report

On August 10, 1981, the New England Telephone and Telegraph Company filed with this commission a petition for authority to install and maintain proposed aerial cable over state-owned railroad right of way in Stratford, New Hampshire, from Telephone Pole No. 145/708 to Telephone Pole No. 145/709.

The commission issued an order of notice on August 12, 1981, directing all interested parties to appear at a public hearing at 10:00 A.M. on September 17, 1981, at the Concord offices of the commission.

The petitioner was directed to publish a public notice in a newspaper having general circulation in the area served. In addition to the publication of said notice, copies of the hearing notice were direct to: John R. Sweeney, director, Aeronautics Commission; the New Hampshire Transportation Authority; George Gilman, commissioner, Department of Resources and Economic Development; John Bridges, director, Safety Services, and the Office of the Attorney General.

An affidavit of publication indicating that publication was made in the *Union Leader* on August 21, 1981, was received in the commission's office at Concord, New Hampshire, on August 27, 1981.

Wayne Snow, engineering manager, explained that the petition results from a need to serve the eastern portion of the company's North Stratford exchange. The line is presently in place, and the petition is presented as a request to properly license the facility. The poles are jointly owned with the Public Service Company of New Hampshire. Electric wires are presently in place above the telephone lines. The telephone cable is installed at a height of 27 feet 6 inches over the railroad.

The commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance.

The petition was properly publicized and proper notification was given to the public as to the installation.

The commission finds this petition for a license to place and maintain aerial cable over state-owned railroad right of way in Stratford, New Hampshire from Telephone Pole No. 145/708 to Telephone Pole No. 145/709 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

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the New England Telephone and Telegraph Company to place and maintain aerial cable over state-owned railroad right of way in Stratford, New Hampshire, from Telephone Pole No. 145/708 to Telephone Pole No. 145/709 as defined in petitioner's exhibit.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of September, 1981.

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NH.PUC\*09/23/81\*[79020]\*66 NH PUC 371\*Cheshire Bridge Corporation/Springfield Terminal Railway Company

[Go to End of 79020]

**Re Cheshire Bridge Corporation/Springfield Terminal Railway Company**

DT 80-250, Fifth Supplemental Order No. 15,117

66 NH PUC 371

New Hampshire Public Utilities Commission

September 23, 1981

ORDER vacating previous order.

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BY THE COMMISSION:

Supplemental Order

Whereas, the New Hampshire Public Utilities Commission issued Fourth Supplemental Order No. 15,081, ([1981] 66 NH PUC 331); and

Whereas, it appears that there was a misunderstanding as to an agreement entered into by the parties in this proceeding; it is

Ordered, that the Fourth Supplemental Order No. 15,081 is hereby vacated, set aside and is null and void; and it is

Further ordered, that a copy of this order be forwarded to all parties of the record

By order of the Public Utilities Commission of New Hampshire this twenty-third day of September, 1981.

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NH.PUC\*09/24/81\*[79021]\*66 NH PUC 371\*Claremont Gas Light Company

[Go to End of 79021]

## Re Claremont Gas Light Company

DE 81-162, Fourth Supplemental Order No. 15,118

66 NH PUC 371

New Hampshire Public Utilities Commission

September 24, 1981

ORDER directing gas company to monitor safety of plant operation.

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**Page 371**

BY THE COMMISSION:

Supplemental Order

Whereas, on September 18, 1981, this commission in its Third Supplemental Order No. 15,109 (66 NH PUC 369), ordered Claremont Gas Light Company to provide qualified manned service on a 24-hour basis at their gas plant until such time as the commission was satisfied that the gas plant was operating safely and monitored adequately; and

Whereas, on the evening of September 18, 1981, the company satisfied commission staff that (1) an alarm system had been installed which would assure immediate notification in case of pressure failures; and (2) that plant components had been replaced to assure continued operation thereby causing staff to release the company from its obligation to provide continued manned service on a 24-hour basis; and

Whereas, on September 23, 1981, at 6:15 P.M. another plant failure occurred causing outages to over 75 customers; and

Whereas, by this action the company has demonstrated that it has not taken adequate measures to assure that the gas plant is operating safely and monitored adequately; and

Whereas, this commission finds that a result of this and other plant failures, that immediate measures are essential on the part of the company to protect the health and safety of its customers and of the general public; it is

Ordered, that effective immediately, Claremont Gas Light Company shall provide qualified manned service on a 24-hour basis at its gas plant to monitor the plant operations; and it is

Further ordered, that the company shall take immediate steps to employ an independent consulting engineering firm to evaluate the operational characteristics of its plant and monitoring systems, and to provide a written report to the company of its findings, with a copy of that report being submitted to this commission; and it is

Further ordered, that the company shall then take immediate steps to implement the provisions of that engineering firm report; and it is

Further ordered, that the qualified manned service heretofore mentioned shall continue until this commission, after public hearing, is satisfied that the plant is capable of providing safe and reliable service without manual assistance.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of September, 1981.

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NH.PUC\*09/24/81\*[79022]\*66 NH PUC 372\*Pittsfield Aqueduct Company, Inc.

[Go to End of 79022]

### **Re Pittsfield Aqueduct Company, Inc.**

DR 80-125, Fifth Supplemental Order No. 15,119

66 NH PUC 372

New Hampshire Public Utilities Commission

September 24, 1981

PETITION by water company for temporary rates during pendency of rehearing and investigation; granted.

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APPEARANCES: Thomas C. Platt, III, for Pittsfield Aqueduct Company, Inc.

BY THE COMMISSION:

Report

Temporary Rates

On May 29, 1980, Pittsfield Aqueduct Company, Inc., filed certain revisions to its tariff, NHPUC NO. 4 — Water, seeking an increase in annual revenues. After investigation and public hearing, this commission issued its report and order No. 14,660, dated January 12, 1981 (66 NH PUC 13), granting Pittsfield increased revenues of \$17,915, which were to be collected through revised rate schedules to be applied with all current bills rendered on or after July 1, 1981.

Pittsfield has appealed certain portions of order No. 14,660, and by Fourth Supplemental order No. 14,973 ([1981] 66 NH PUC 248), those portions requiring the installation of fifty meters, quarterly billing, and monthly meter reading through December, 1981, were rescinded; however, nothing in this order, or in previous Supplemental Order Nos. 14,732 ([1981] 66 NH PUC 67), and 14,899 ([1981] 66 NH PUC 197), rescinded the allowance of increased gross revenues of \$17,915. The management, including the board of directors, of Pittsfield Aqueduct Company, Inc., while recognizing a need for additional revenue in May of 1980, have failed

since the issuance of Order No. 14,660 in January, 1981, to file revised tariff pages in order to collect the allowed increased revenues. They now seek temporary rates for the duration of this proceeding.

We will allow Pittsfield temporary rates while the rehearing and investigation continue, and such rates shall be designed to recover revenues allowed in Order No. 14,660; and such rates shall be designed to recover revenues allowed in Order No. 14,660; and such rates shall be the result of equal percentage increases to the rate schedules currently in effect; i.e., Second Revised Pages 13, 14, 15, 16, and 17 of Pittsfield Aqueduct Company, Inc., tariff, NHPUC No. 4 — Water.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Pittsfield Aqueduct Company, Inc. shall file new tariff pages to collect increased revenues as allowed in Order No. 14,660, as temporary rates, effective for all service rendered on or after July 1, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of September, 1981.

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NH.PUC\*09/24/81\*[79023]\*66 NH PUC 374\*Pittsfield Aqueduct Company, Inc.

[Go to End of 79023]

**Re Pittsfield Aqueduct Company, Inc.**

DR 80-125, Sixth Supplemental Order No. 15,120

66 NH PUC 374

New Hampshire Public Utilities Commission

September 24, 1981

ORDER directing water company to commence-flushing a water main to improve the condition of its water supply.

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BY THE COMMISSION:

Supplemental Order

Whereas, this commission granted Pittsfield Aqueduct Company, Inc., a rehearing with respect to matters covered in report and order Nos. 14,660 ([1981] 66 NH PUC 13), and 14,732 ([1981] 66 PUC 67); and

Whereas, the rehearing in this case will allow the presentation of new evidence regarding the installation of additional meters, additional rate case expenses, and information from customers of the water system not offered in the prior proceeding; and

Whereas, this commission in the interim period has received complaints regarding the quality of the water furnished to several customers residing on Lyford Hill in Pittsfield; and

Whereas, the matter of water quality as it directly related to this area of the water system was addressed in the prior proceeding and in complaints made to the commission beginning in 1975; and

Whereas, samples of water taken at the home of the complainant (Richard Clark) during July, and September, 1981, from the in-line filter chamber and the filter cartridge (Exhs 10A, 11A, 12A, and 13A) contain evidence that the water furnished on Lyford Hill, at least in the area between its intersection with Norris road and Watson street was at a less than satisfactory quality; and

Whereas, a sample taken at the home of the complainant by the commission staff, and tested by the laboratory of the New Hampshire Water Supply and Pollution Control Commission indicated a level of manganese higher than that allowed by the (national) Safe Drinking Water Act; and

Whereas, a map of the water system indicates that the main in Lyford Hill is "dead-ended" at its uphill extremity, which may be contributory to the quality of the water in the vicinity of the Clark's home; and

Whereas, New Hampshire Revised Statutes — RSA 374:1 and a374:3 empower this commission to insure that: "Every public utility shall furnish such service and facilities as shall be reasonably safe and adequate and in all other respects just and reasonable."; it is

Ordered, that Pittsfield Aqueduct Company, Inc., shall immediately commence flushing of the main in Lyford Hill, as specified in this commission's Rules and Regulations Prescribing Standards for Water Utilities — § 606.02(b), once each month until the company can demonstrate to the commission staff that the condition of the water furnished to the residents of Lyford Hill is in all respects satisfactory and reasonable.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of September, 1981.

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NH.PUC\*09/28/81\*[79024]\*66 NH PUC 375\*New England Telephone and Telegraph Company

[Go to End of 79024]

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

DE 81-226, Order No. 15,126

66 NH PUC 375

New Hampshire Public Utilities Commission

September 28, 1981

PETITION by telephone company for license to place underwater plant crossing state waters;

granted.

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APPEARANCES: Philip Blanchett, engineering manager, for the petitioner.

BY THE COMMISSION:

Report

On August 19, 1981, New England Telephone and Telegraph Company filed with this commission a petition to place and maintain submarine plant crossing state-owned public waters in Wolfeboro, New Hampshire, across Lake Wentworth.

The commission issued an order of notice on August 24, 1981, directing all interested parties to appear at a public hearing at 10:00 A.M. on September 23, 1981, at the Concord offices of the commission. The petitioner was directed to publish a public notice in a newspaper having circulation in the area served. In addition to the publication of said notice, copies of the hearing notice were directed to: George Gilman, commissioner, Department of Resources and Economic Development (DRED); John Bridges, director of safety; and the Office of Attorney General.

An affidavit of publication indicating that publication was made in the *Union Leader* on September 3, 1981, was received in the commission's office on September 21, 1981.

Philip Blanchette, engineering manager, explained that the petition results from a customer request for initial telephone service to his residence on Bass Island. The company proposes to install a submarine wire from an existing utility Pole No. 180/2 located 103 feet from the waters edge of Lake Wentworth at Wentworth Estates, extending approximately 1,800 feet under Lake Wentworth, and further extending 50 feet to the Davenport residence on Bass Island. The entire length from Pole 180/2 shall be underground cable.

The commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance.

The petition was properly publicized and proper notification was given to the public as to the proposed installation.

The commission finds this petition for a license to place and maintain an underground plant crossing state-owned public water in Wolfeboro, New Hampshire, across Lake Wentworth 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 may be granted to the New England Telephone and Telegraph Company to place and maintain an underwater plant across state-owned public waters in Wolfeboro, New Hampshire,

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across Lake Wentworth, Pole No. 180/2 at the Wentworth Estates, as defined in petitioner's exhibits.

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

September, 1981.

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NH.PUC\*09/28/81\*[79025]\*66 NH PUC 376\*Union Telephone Company

[Go to End of 79025]

### **Re Union Telephone Company**

DR 81-252, Order No. 15,133

66 NH PUC 376

New Hampshire Public Utilities Commission

September 28, 1981

ORDER suspending effective date of tariff revisions pending investigation.

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BY THE COMMISSION:

Order

Whereas, Union Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on September 14, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Telephone, relative to station connection charges, effective October 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 Section 3, First Revised Pages 1C, 1D, and 15A; and Third Revised Pages 14 and 20 of tariff, NHPUC No. 6 — Telephone, of Union Telegraph Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of September, 1981.

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NH.PUC\*09/28/81\*[79026]\*66 NH PUC 376\*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 79026]

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

DR 81-251, Order No. 15,134

66 NH PUC 376

New Hampshire Public Utilities Commission

September 28, 1981

ORDER suspending effective date of tariff revisions pending investigation.

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**Page 376**

BY THE COMMISSION:

Order

Whereas, Continental Telephone Company of New Hampshire, Inc., a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on September 10, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 11 — Telephone, relative to service connection charges, effective October 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 Section 12, First Revised Sheet 5 and Third Revised Sheets 1-4 of tariff, NHPUC No. 11 — Telephone, of Continental Telephone Company of New Hampshire, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of September, 1981.

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NH.PUC\*09/30/81\*[79027]\*66 NH PUC 377\*Independent Telephone Companies

[Go to End of 79027]

### **Re Independent Telephone Companies**

DR 81-279, Order No. 15,137

66 NH PUC 377

New Hampshire Public Utilities Commission

September 30, 1981

ORDER directing independent telephone utilities to file uniform rates for a particular service offering.

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BY THE COMMISSION:

Order

Whereas, certain independent telephone companies doing business in the state of New Hampshire offer selective calling services to customers; and

Whereas, rate uniformity is essential to the stability of the settlement relationship between the independent companies and the New England Telephone and Telegraph Company; and

Whereas, the commission, in its Second Supplemental Order No. 15,014, authorized New England Telephone and Telegraph Company to increase its selective calling service rates as part of its authorized general rate increase; and

Whereas, the commission finds it to be in the public interest to continue to main uniform pricing between the independent companies and New England Telephone and Telegraph Company, it is

Ordered, that all independent telephone companies which presently provide selective calling service shall file revised selective service rates concurring with those filed by the New England Telephone and Telegraph Company; and it is

Further ordered, that those rates shall become effective as of September 19, 1981, which is the effective date of the New England Telephone and Telegraph Company rate case; and it is

Further ordered, that public notice be made in a newspaper having general

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circulation in the area served, or in bill stuffers to each telephone subscriber, as to the implementation of this order.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of September, 1981.

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NH.PUC\*09/30/81\*[79028]\*66 NH PUC 378\*Violation of Statutory Reporting Requirements

[Go to End of 79028]

### Re Violation of Statutory Reporting Requirements

Intervenors: Concord Natural Gas Company, Canadian National Railway Company, Tilton-Northfield Aqueduct Company, Claremont Gas and Light Company, and Northern Utilities, Inc.

DS 81-277, Order No. 15,138

66 NH PUC 378

New Hampshire Public Utilities Commission

September 30, 1981

ORDER imposing fines upon certain utilities for failure to comply with commission reporting requirements.

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BY THE COMMISSION:

Pursuant to the provisions of RSA 374:5 through 374:18, this commission has the right and obligation to require certain reports to be filed setting forth such statistics and facts as are necessary for this commission to require just and reasonable rates and adequate service pursuant to RSA 374:1 and 2. Many of these reports are critical in any rate proceeding. For example, these reports allow us to differentiate between expenses that are attributable to stockholders versus those that are attributable to rate-payers. Furthermore, they allow us to monitor whether or not the cost of a particular operation should be expensed or capitalized.

Finally, many of these reports allow us to measure the quality of service that the consumers from the various utility systems are receiving. A clear example of this latter concern is our report, E-6 Heating Values, which is required by PUC Rule 509.17. This rule establishes certain minimum heating requirements so that customers are assured that the product that is coming into their house has been diluted so as to increase usage. Other reports, such as E-7 and E-24, allow us to measure the number of complaints that are arising due to allegations of faulty meters, an area in which we have found problems in the past.

Most utilities keep us informed through regular filings of our necessary reports. However, there is a group of utilities that have begun to continually ignore the commission's reporting requirements and in complete disregard of this commission's authority, as well as the rights of consumers to adequate service and reasonable rates. We have sent letters to these utilities seeking their compliance with our reporting requirements. However, these letters, like our rules, have been ignored.

Revised Statutes Annotated 374:17 states the following:

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"Neglect To Report. If any public utility shall neglect or refuse to make and file any report within a time specified by the commission, or shall neglect or refuse to make specific answer to any question lawfully asked by the commission, it shall forfeit to the state the sum of \$100 for each day it shall continue to be in default with respect to such report or answer, unless it shall be excused by the commission from making such report or answer, or unless the time for making the same shall be extended by the commission."

Consequently, pursuant to RSA 374:17, we are imposing fines upon the following utilities for the following missing reports.

*Concord Natural Gas Company*

Concord Natural Gas has failed to file monthly reports for the years 1980 and 1981, involving the following commission reports:

Pressure Complaints — PUC Rule 509.15 Gas Meter Complaints — PUC Rule 509.13  
 Interruption of Service — PUC Rule 509.14 Heating Values — PUC Rule 509.17 Annual  
 Gas Meter Complaints — 509.16

These reports are critical in evaluating the quality of service being provided by Concord Natural Gas to its customers. Despite repeated attempts, Concord Natural Gas has not submitted these reports. A substantial time period has passed with no response from the company and,

consequently, pursuant to RSA 374:17, we are levying a fine of \$5,000 payable to the state of New Hampshire on this company.

*Canadian National Railway Company*

The Canadian National Railway Company is required to file an annual report with this commission by both RSA 374:15 and 16. The report was due at the very latest by May 31, 1981. The commission will impose a fine of \$100 for the failure to file this report. If the annual report is not filed by a week from the date of this order, the fine will double and will subsequently double at the end of every week hereafter that the report remains unfiled at this commission, with a maximum fine of \$1,000.

*Tilton-Northfield Aqueduct Company*

Pursuant to Commission Rule 509.1 and RSA 374:15, as well as orders of this commission, water utilities are required to file quarterly reports with this commission. Tilton-Northfield Aqueduct Company is at present sixty days in arrears on their second quarterly report. The commission will impose a fine of \$10 per day for each day the report is late, which sets an initial fine of \$600, to which \$10 per day will be added until the report is filed.

*Claremont Gas and Light Company*

Pursuant to PUC Rule 509.6 and RSA 374:15, certain utilities are to file monthly reports with this commission. Claremont Gas and Light Company has recently been fined by this commission a sum of \$598 for failure to file up-to-date reports. Certain monthly gas reports are still due from Claremont Gas and Light, and the commission will impose an additional fine of \$100 for the failure of the monthly reports for June and July, 1981, to be rendered to the commission in a timely fashion.

*Northern Utilities, Inc.*

Northern Utilities has failed to comply with the commission's requirements for reports on heating values, gas meter complaints, interruption of service, and pressure complaints. Most of the missing

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reports have occurred during the January through August, 1981, time frame. However, there are a few reports that are due and owing for 1980. Northern Utilities' filings indicate some compliance, but far from complete compliance during the aforementioned time frames. Consequently, the commission will impose a fine of \$1,200 for the failure to file these reports.

The total of \$7,000 in fines levied above are levied as of today, September 30, 1981. Additional fines may well be levied pursuant to the provisions set forth in this order, as well as the statutory provisions set forth in RSA 374:17 for every day of noncompliance by the aforementioned utilities.

The commission will provide a hearing date of October 8, 1981, at 2:00 P.M., which will be reserved for any utility which seeks to dispute the fines assessed in this order. However, the statutory language is clear that absent a subsequent order by this commission, the fines charged in these orders are immediately due and owing to the state of New Hampshire.

The commission would also indicate that all utilities are to treat these fines as below-the-line items for accounting purposes. Such an accounting practice will assure that consumers will never be charged for the failure of the utilities to comply with our rules and regulations.

Our order will issue accordingly.

Order

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

Ordered, that the utilities mentioned in the report will immediately pay to the state of New Hampshire the sums set forth for their failure to comply with our reporting requirements.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of September, 1981.

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NH.PUC\*09/30/81\*[79029]\*66 NH PUC 380\*Public Service Company of New Hampshire

[Go to End of 79029]

## Re Public Service Company of New Hampshire

Dr 81-87, Seventh Supplemental Order No. 15,139

66 NH PUC 380

New Hampshire Public Utilities Commission

September 30, 1981

ORDER delaying close-out of tariff provision pending resolution of second phase of proceeding.

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BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire filed a motion with this commission asking for a further delay in the close-out of the space and uncontrolled water heating rates pending final disposition of these issues in DR 79-187, Phase II ([1981] 66 NH PUC 6); and

Whereas, the commission has considered this matter and also wishes to clarify

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its Order No. 14,877 ([1981] 66 NH PUC 178), in the record; and it is hereby

Ordered, that the close-out of the uncontrolled water heating tariff provision be delayed pending final resolution in DR 79-187, Phase II; and it is

Further ordered, that the existing locations taking service under the space heating rate as of September 30, 1981, be grandfathered on the basis of location; and it is

Further ordered, that other issues in this record will receive attention in the final order in DR

79-187, Phase II.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of September, 1981.

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NH.PUC\*10/01/81\*[79030]\*66 NH PUC 381\*Granite State Electric Company

[Go to End of 79030]

## **Re Granite State Electric Company**

DR 81-86, Third Supplemental Order No. 15,140

66 NH PUC 381

New Hampshire Public Utilities Commission

October 1, 1981

ORDER establishing effective date for a tariff revision.

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BY THE COMMISSION:

Supplemental Order

Whereas, by Supplemental Order No. 14,882 ([1981] 66 NH PUC 187), this commission approved Granite State Electric Company's purchased power adjustment No. W-3 pending further investigation, under bond, and subject to refund; and

Whereas, the Federal Energy Regulatory Commission, in an order dated September 28, 1981, has approved a settlement level for rate W-3 as filed by New England Power Company; and

Whereas, the effect of this order is to reduce the amount in the purchased power cost adjustment from \$0.00535 per kilowatt-hour to \$0.00424 per kilowatt-hour or a reduction of \$0.00111 per kilowatt-hour; and

Whereas, this change reduces the annual purchase power cost increase to Granite State Electric Company from \$2,100,015 to \$1,664,157 based on an actual 12-month 1980 time period; and

Whereas, the commission finds that the rate approved in the settlement and the present reduction in rates to be just and reasonable and in the public good; it is hereby

Ordered, that the tariff sheets filed pursuant to NHPUC No. 8 — Electricity, effective October 1, 1981, are hereby approved; and it is

Further ordered, that the new rate of \$0.00424 per kilowatt-hour is approved and should be applied in lieu of the existing rate of \$0.00535 per kilowatt-hour on all bills rendered on or after October 1, 1981; and it is

Further ordered, that Granite State Electric Company is to file a refund plan including interest for the difference between the rates put into effect on service rendered on or after June 1,

1981, and the new rate approved in this order.

By order of the Public Utilities Commission of New Hampshire this first day of October, 1981.

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NH.PUC\*10/01/81\*[79031]\*66 NH PUC 382\*Concord Natural Gas Corporation

[Go to End of 79031]

## Re Concord Natural Gas Corporation

DS 81-281, Order No. 15,141

66 NH PUC 382

New Hampshire Public Utilities Commission

October 1, 1981

ORDER opening investigation

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BY THE COMMISSION:

ORDER

Whereas, Concord Natural Gas Corporation failed to report to the commission a gas leak that occurred on July 10, 1981, at the Eagle Hotel in Concord, New Hampshire; and

Whereas, such gas leak resulted in the ignition of natural gas; and

Whereas, such incident resulted in the evacuation of a building and necessitated other emergency action; and

Whereas, such failure to report is in violation of the "Rules and Regulations Prescribing Standards for Gas Utilities" (Chap PUC 500, part PUC 508.3); it is

Ordered, that docket DS 81-281 is opened for resolution of this proceeding; and it is

Further Ordered, that Concord Natural Gas Corporation appear before this commission at its Concord offices on November 4, 1981, at 10:00 A.M. to show cause why it should not be penalized under provisions of RSA 374:17.

By order of the Public Utilities Commission of New Hampshire this first day of October, 1981.

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NH.PUC\*10/01/81\*[79032]\*66 NH PUC 382\*Fuel Adjustment Charge

[Go to End of 79032]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Community Action Program, Granite State Electric Company, Concord Electric Company, Exeter and Hampton Electric Company, Office of Consumer Advocate, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Littleton Water and Light Department, Woodsville Water and Light Department, and Municipal Electric Department of Wolfeboro

DR 81-227, Order No. 15,142

66 NH PUC 382

New Hampshire Public Utilities Commission

October 1, 1981

PETITION of several electric utilities for approval of monthly fuel adjustment surcharges; granted as modified.

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APPEARANCES: Eaton W. Tarbell and Debbie-Ann R. Sklar for Public Service Company of New Hampshire; Gerald Eaton for Community Action Program; Michael Flynn for Granite State Electric Company; Warren Nighswander for Concord Electric Company and Exeter and Hampton Electric Company; Gerald Lynch for the consumer advocate.

BY THE COMMISSION:

Report

The Granite State Electric Company (GSEC) filed on September 14, 1981, its request for a fuel adjustment clause of \$1.28 per 100 kilowatt-hours for the months of October, November, and December, 1981, which reflected fuel costs in base rates of 1.809 cents per kilowatt-hour. With the filing were submitted seven exhibits supporting the development of the fuel factor, estimates, and invoices from New England Power Company to GSEC for purchased power, and revised tariff pages. An eighth exhibit was provided at the hearing by the commission staff relating to estimated hours the nuclear plants are to be run in the fourth quarter of 1981.

Several witnesses were presented by the company at the September 22, 1981, hearing at the commission offices. They stated that this FAC is approximately 47 cents per 100 kilowatt-hours lower than last quarter due mainly to more coal generation.

The company's submittal included a burned oil price estimate for October through December, 1981, for a 2.2 per cent sulfur oil of \$25.12 to \$26.70 and \$27.92 to \$29.22 for one per cent sulfur oil for its plants. The commission feels the estimates are reasonable. Under cross-examination, it was discovered that the oil price estimate for plants now owned by NEES, but providing electricity to NEES were generally higher than NEE's estimates. As an example, Colson Cove, which burns 2.2 per cent sulfur oil estimated oil to cost \$27.67 to \$29.13 per barrel.

The commission also felt these estimates are reasonable, recognizing additional transportation costs.

The company's estimated coal cost-ton is \$60, while PSNH estimates costs in the \$49 per ton range with the difference mainly due to different transportation costs.

The company assumed a 0.5 per cent decrease in its sales for the fourth quarter of 1981, over the fourth quarter of 1980, which the commission considers reasonable.

The Public Service Company of New Hampshire (PSNH) has requested a figure of \$2.39 per 100 kilowatt-hours. Prior to the hearing, numerous data requests were sent to PSNH by the PUC finance staff and were responded to in a timely manner by PSNH.

Public Service Company of New Hampshire submitted 22 exhibits and six witnesses. During the course of the hearing, three areas were explored extensively. First was an increment of 19 cents per 100 kilowatt-hours to continue the recoupment of the third quarter under-collection. Second was 25 cents per 100 kilowatt-hours based on Exh 22, which showed an average historical underrecovery of 25 cents per 100 kilowatt-hours. Third and last was for the fuel adjustment clause to include the estimated cost of small energy producers in the quarterly estimate net of the higher amount in base rates. This last amount would be on a temporary basis pending a decision in DR 81-87 ([1981] 66 NH PUC 178).

The difference between the \$2.39 per 100 kilowatt-hours requested FAC for this quarter and the past month's, \$2.27 per 100 kilowatt-hours, results also from a consideration of numerous other factors,

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besides the three already mentioned. These include: an increase in the estimated cost of oil, a lack of gas to burn at Schiller after October, 1981, and an increase in the line loss percentage.

The commission commends PSNH for contracting to burn natural gas at Schiller in the last quarter, which resulted in a cost savings to its customers and suggests the company investigate the cost benefits of burning propane at Schiller in the winter period.

In DR 81-198 ([1981] 66 NH PUC 324), PSNH was "notified that the final adjustment proceedings in September will focus on any request for rates to reflect fuel costs in excess of 7.7 cents per kilowatt-hour." This area was discussed in detail in the hearing, and PSNH revealed that the commission's concern that more small power producers would be put under contract would be realized if the costs PSNH has to pay for that generation be allowed in the FAC. On a temporary basis, the commission will allow such until Phase II of DR 79-187 ([1981] 66 NH PUC 6), is completed. In so doing, the commission will raise the amount of fuel in base rates from \$0.0180623 per kilowatt-hour to \$0.01810 259 per kilowatt-hour, and will exclude 1.519 cents per kilowatt-hour as PSNH's avoided cost.

A key projection in the fuel adjustment calculation is the price of oil. The commission will use PSNH's estimate for oil prices for this quarter, and commends the company for quickly recognizing the valid concerns of the commission and staff member Traum by reducing the fuel cost incurred in August, 1981, by approximately \$122,000 in Exhs 11 and 11A.

Public Service Company of New Hampshire produced Warren Harvey, a vice president, to discuss the unscheduled outages at Merrimack Unit II in particular.

The commission staff and CAP cross-examined the witness in detail about the problems from June, 1981, to date at the plant and the following problems in particular:

1. The feedwater problem and operator error in phasing the unit.
2. The unscheduled outage being extended due to errors made by employees of Westinghouse while working at Merrimack.
3. As pointed out by CAP, PSNH seems to regularly overrun the time allotted to it by NEPEX for scheduled maintenance.

The commission still has major concerns and unanswered questions related to these concerns, so is hereby informing all parties that these areas are not closed and will be a subject in next months FAC hearing. Due to this, the commission will not allow all of the 19 cents per 100 kilowatt-hour requested by PSNH to continue the recoupment of the third quarter's undercollection, but only 14 cents per 100 kilowatt hours.

During the course of the hearing, the commission questioned a company witness about the assumptions built into the fuel budget dispatch program and learned of several potential weaknesses in the program which may explain to a large degree why PSNH has been underestimating the FAC.

The areas are the planned capacity factors for the company's ownership shares in nuclear plants and Merrimack Station. Based on these assumptions, the company ran the program adding more historical data and came out with an eight cents per 100 kilowatt-hours increase due to the nuclear plants and an additional eight cents per 100 kilowatt-hours increase due to coal.

Recognizing the tightened NRC requirements and the questionableness of a 90 per cent capacity factor for a nuclear plant, the commission finds the lower

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availability factor rather than the 90 per cent is more likely to lead to an accurate FAC.

For coal, the company, in rerunning its program, utilized the last four years of history at Merrimack instead of just three of these last four years. The additional historical data appears to be more likely statistically fit and will be adopted.

The approval of these factors, together with the other fuel data yields a fuel adjustment for this quarter of \$2.25 per 100 kilowatt-hours.

The issue of the Merrimack II outage appears to have focused on any extension of the outage beyond the end of the scheduled outage deadline as a result of human error. The filed comments of CAP have raised issues not previously addressed in the formal record as to this subject. Community Action Program will be provided a second opportunity in next month's hearing to address this question completely. The commission would note that two months ago CAP appeared willing to pass the entire additional costs from the unscheduled outage to the ratepayers. Yet this month, in a fairly high quality memorandum, CAP raised certain questions that we will allow them to address in next months hearing.

Because of the remaining lingering doubts concerning the reasonableness of the increased

fuel costs associated with the unscheduled outages at Merrimack II, it is necessary to reflect this factor in the rates of Concord Electric Company and Exeter and Hampton Electric Company as well as Public Service Company of New Hampshire. This adjustment is increased in difficulty because of a failure to demonstrate whether or not the retail rate for Public Service Company of New Hampshire is based on the same assumptions as the wholesale rates for Public Service Company of New Hampshire to Concord Electric Company and Exeter and Hampton Electric Company.

Consequently, our most recent adjustment leads to a fuel adjustment charge for Concord Electric Company of \$2.39 per 100 kilowatt-hours in lieu of \$2.41 requested. As for Exeter and Hampton Electric Company, the commission finds that a reasonable fuel adjustment charge for this quarter would be \$2.69 per 100 kilowatt-hours in lieu of \$2.73 requested. The commission would strongly suggest that the same loss factor be applied uniformly to Concord Electric Company and Exeter and Hampton Electric Company. The disparity in rates between the two is likely to lead to consumer confusion and certainly creates a vacillating standard before the commission.

Our order will issue accordingly.

Order

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

Ordered, that Public Service Company of New Hampshire's Fourth, Fifth, and Sixth Revised Pages 24 and 25 to its tariff, NHPUC No. 24 — Electricity, are hereby rejected; and it is

Further ordered, that Public Service Company of New Hampshire (PSNH) file Third Revised Pages 24 and 25 to its tariff, NHPUC No. 24 — Electricity, providing for a quarterly fuel surcharge of \$2.25 per 100 kilowatt-hours for the months of October, November, and December, 1981, to become effective October 1, 1981; and it is

Further ordered, that Granite State Electric Company tariff, NHPUC No. 8 — Electricity, 80th Revised Page 15-A, providing for a fuel adjustment rate of \$0.0128 per kilowatt-hour for the month of October, 1981, is permitted to become effective October 1, 1981; and it is

Further ordered, that 55th Revised Page 18 of Connecticut Valley Electric

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Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for a monthly fuel surcharge of 22 cents per 100 kilowatt-hours for the month of October, 1981, be, and hereby is, rejected; and it is

Further ordered, that Connecticut Valley Electric Company, Inc., file 56th Revised Page 18 of its tariff, NHPUC No. 4 — Electricity, providing for a monthly fuel surcharge of 30 cents per 100 kilowatt-hours for the month of October, 1981, the adjustment is to recognize on a temporary basis the net cost of energy purchased from small power producers under the provisions of Order No. 14,280 ([1980] 65 NH PUC 291); and it is

Further ordered, that Seventh Revised Page 15 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 — Electricity, providing for the monthly fuel surcharge of \$3.05 per 100

kilowatt-hours for the month of October, 1981, be, and hereby is, permitted to become effective October 1, 1981; and it is

Further ordered, that 93rd Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for a monthly fuel surcharge of \$1.63 per 100 kilowatt-hours for the month of October, 1981, be, and hereby is, permitted to become effective October 1, 1981; and it is

Further ordered, that Woodsville Water and Light Department, 60th Revised Page 10-B to its tariff, NHPUC No. 3 — Electricity, is hereby rejected; and it is

Further ordered, that 61st Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 23 cents per 100 kilowatt-hours for the month of October, 1981, be, and hereby is, permitted to become effective October 1, 1981; and it is

Further ordered, that Ninth Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$3.53 per 100 kilowatt-hours for the month of October, 1981, be, and hereby is, permitted to become effective October 1, 1981; and it is

Further ordered, that Exeter and Hampton Electric Company, 14th Revised Page 19A to its tariff, NHPUC No. 14 — Electricity, is hereby rejected; and it is

Further ordered, that Concord Electric Company, 76th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, is hereby rejected; and it is

Further ordered, that Exeter and Hampton Electric Company file 15th Revised Page 19A to its tariff, NHPUC No. 14 — Electricity, providing for a quarterly fuel surcharge of \$2.69 per 100 kilowatt-hours for the months of October, November, and December, 1981, to become effective October 1, 1981; and it is

Further ordered, that Concord Electric Company file 77th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, providing for a quarterly fuel surcharge of \$2.39 per 100 kilowatt-hours for the months of October, November, and December, 1981, to become effective October 1, 1981.

By order of the Public Utilities Commission of New Hampshire this first day of October, 1981.

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NH.PUC\*10/05/81\*[79033]\*66 NH PUC 387\*Continental Telephone Company Of Maine

[Go to End of 79033]

## Re Continental Telephone Company Of Maine

DR 81-126, Supplemental Order No. 15,143

66 NH PUC 387

New Hampshire Public Utilities Commission

October 5, 1981

APPLICATION of telephone company for authority to increase rates; granted as modified.

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1. RATES, § 541 — Telephone company — Mileage charges.

[N.H.] A telephone company seeking authority to increase rates was ordered to eliminate mileage charges to its customers in New Hampshire, but the company was allowed to allocate the revenues otherwise expected from mileage to be recovered in basic exchange rates. p. 388.

2. RATES, § 565 — Telephone company — Pay-station or coin-box service.

[N.H.] A telephone company was disallowed to impose a 20-cent coin rate in view of the commission's commitment to maintaining a ten-cent coin rate in New Hampshire. p. 388.

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BY THE COMMISSION:

Report

On April 20, 1981, Continental Telephone Company of Maine, a public utility engaged in the business of supplying telephone service in the state of New Hampshire (East Conway and Chatham) filed with this commission certain revisions to its tariff, NHPUC No. 4 — Telephone, providing for an overall increase in revenues of 50 per cent, including an approximate 45 per cent increase in local service rates.

On May 7, 1981, this commission suspended that filing pending investigation and decision thereof.

Continental Telephone Company of Maine provides telephone service to approximately 30,512 customers in 46 exchanges in the state of Maine. The company's North Fryeburg, Maine, exchange encompasses the community of Chatham, New Hampshire; the company's Fryeburg, Maine, exchange encompasses the community of East Conway, New Hampshire. There are 197 customers in these two New Hampshire communities. Since these two New Hampshire communities are served by Maine company exchanges, the rates applicable to the company's Maine customers have historically been applicable to those New Hampshire subscribers. Rates for the Maine customers are set by the Maine Public Utilities Commission. Rates of the New Hampshire customers are statutorily under the jurisdiction of the New Hampshire Public Utilities Commission. Historically, this commission has allowed the company's New Hampshire rates to be identical to the Maine rates, and has used the Maine regulatory atmosphere as the forum for determining the reasonableness of the company's New Hampshire rate levels.

This commission is aware that on March 30, 1981, Continental Telephone Company of Maine filed with the Maine Public Utilities Commission a request to increase its revenues by approximately \$1.6 million. That request would have resulted in a 51 per cent increase overall, and an approximate 45 per cent increase in local service. On September 24, 1981, the Maine commission authorized Continental Telephone Company of Maine

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increases in its gross annual revenues of \$796,381.00 resulting in an overall increase of 25.5 per cent and an increase of 22 per cent in local service rates and allowed a rate of return of 9.48 per cent. It also provided, among other things, that service connection charges were accepted as filed, that exchange mileage charges should be increased by approximately 5 per cent, that directory listing charges should be identical to those of New England Telephone and Telegraph Company, that foreign exchange service should not be increased, and that coin-telephone service should be increased to 20 cents.

[1] This commission's review of the Maine proceeding satisfies itself that the Maine commission's analysis of the company's revenue requirements, giving due consideration of the needs of their Maine customers, are adequately applicable to the needs of New Hampshire customers so that we are led to accept the results of the Maine commission as our own, with one exception. In keeping with our determination to eliminate all mileage charges by all companies in New Hampshire, we will direct Continental Telephone Company of Maine to eliminate mileage charges to its customers in Chatham and East Conway. We will allow the company to allocate the revenue's otherwise expected from mileage to be recovered in basic exchange rates.

The result to New Hampshire customers will be an increase of 19.02 per cent in basic exchange rates and will provide the company an increase of 23.67 per cent in revenues.

[2] This commission is aware that there is currently no coin telephone service in the New Hampshire portion of the company's Fryeburg and North Fryeburg exchanges, and that, therefore, the 20-cent telephone charge will not apply to New Hampshire customers. We will remind the company, however, of our deliberation as to the validity of the 20-cent call in a previous case regarding the New England Telephone and Telegraph Company, and of our decision in Seventh Supplemental Order No. 14,614, docket DR 80-23 ([1980] 65 NH PUC 529), denying that company's request for coin rates in excess of ten cents. The commission's commitment to maintaining the ten-cent coin rate in New Hampshire has not changed, and we will disallow Continental Telephone Company of Maine to impose such rates in New Hampshire should they elect to install coin phones in New Hampshire exchanges.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Continental Telephone Company of Maine, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, (East Conway and Chatham) filed revised tariff pages to its tariff, NHPUC No. 4 — Telephone, reflecting rates and charges consistent with those filed in their Maine tariffs, with the exception that mileage charges shall be eliminated and the revenue deficiency resulting therefrom shall be included in basic exchange rates; and it is

Further ordered, that the company notify customers of this rate increase by publication in a newspaper having general circulation in the area served.

By order of the Public Utilities Commission of New Hampshire this fifth day of October, 1981.

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NH.PUC\*10/05/81\*[79034]\*66 NH PUC 389\*Policy Water Systems, Inc.

[Go to End of 79034]

**Re Policy Water Systems, Inc.**

DR 81-229, Order No. 15,144

66 NH PUC 389

New Hampshire Public Utilities Commission

October 5, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Policy Water Systems, Inc., a public utility engaged in the business of supplying water service in the state of New Hampshire, on August 26, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 1 — Water, providing for increased annual revenues of \$57,868 (58 per cent), effective September 26, 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, 6, and 7 of tariff, NHPUC No. 1 — Water of Policy Water Systems, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this fifth day of October, 1981.

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NH.PUC\*10/06/81\*[79035]\*66 NH PUC 389\*Concord Electric Company

[Go to End of 79035]

**Re Concord Electric Company**

Intervenors: Legislative Utility Consumers' Council

DR 81-97, Second Supplemental Order No. 15,145

66 NH PUC 389

New Hampshire Public Utilities Commission

October 6, 1981

APPLICATION by electric company for authority to increase rates; granted in part pursuant to settlement agreement.

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1. RATES, § 321 — Electric company — Conservation and efficiency factors.

[N.H.] An electric company seeking a rate increase was allowed to enter into a settlement agreement involving a rate design which would reward conservation and efficient use of electricity to a larger extent than the company's previous rate design. p. 390.

2. RATES, § 354 — Electric company — Lifeline rates.

**Page 389**

[N.H.] An electric company seeking a rate increase was allowed to enter into a settlement agreement whereby the company became the first electric utility to comply with the commission's order for a lifeline rate, the effect of which was to reduce bills for consumers under 300 kilowatt-hours from what their existing rates had been. p. 390.

3. RATES, § 354 — Electric company — Water heating.

[N.H.] An electric company seeking a rate increase allowed to enter into a settlement agreement resulting in a rate design which would lead to further decreases in rates for commercial and residential customers with controlled or off-peak water heating. p. 390.

4. RATES, § 362 — Electric company — Outdoor lighting.

[N.H.] An electric company seeking a rate increase was allowed to enter into a settlement agreement whereby outdoor lighting customers using efficient high pressure sodium lamps would see no increase, and, rather, the increase would be applied to mercury vapor and incandescent lamps. p. 391.

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APPEARANCES: Joseph S. Ransmeier, and Dom S. D'Ambruoso, for Concord Electric Company; Gerald Lynch, for the Legislative Utility Consumers' Council and later as commission consumer advocate.

BY THE COMMISSION:

Report

On April 15, 1981, Concord Electric Company filed with the commission its proposed Tariff No. 7, to be effective May 15, 1981, providing for various changes in the terms and conditions of service, specified in the company's Tariff No. 6 providing for a rate increase calculated to yield an annual increase in the revenues of \$1,207,290 and proposing substantial revisions in the design of the company's rate structure for the residential class. Subsequent materials were filed proposing a restructured design for commercial and industrial customers rates.

Concord Electric filed a supplement No. 5 to it's Tariff No. 6 seeking temporary rates in the amount of \$338,746. The commission by Order No. 14,910 dated May 26, 1981 (66 NH PUC

212), allowed the temporary increase on all service rendered on or after May 26, 1981. Subsequent to the temporary increase, the commission staff, the state consumer advocate and the commissioners sought information from the company through data requests. Numerous settlement hearings were conducted between the commission staff, the state consumer advocate, and the company, seeking to reach agreement on certain issues. The commission held a public hearing in Concord to receive testimony from consumers during this time period. Concord Electric, the state consumer advocate and the commission staff were able to agree on a proper revenue figure and eventually a rate design to implement the revenue increase. The settlement agreements were offered in total and a rejection of any portion by the commission negated the effect of the entire settlement. The commission upon review of the settlement finds the settlement to be in the public good and does establish just and reasonable rates.

[1-3] The acceptance of the settlement agreements results in an overall revenue increase to Concord Electric of 3.98 per cent. The dollar level approved is \$917, 297 in annual revenues or \$290,272 less than requested. As was noted earlier \$338,746 of this increase is already in effect as temporary rates. The rate design adopted is designed to reflect revised standards of a proper rate design. The rates will reward conservation and efficient use of electricity to a larger extent than Concord Electric's previous rate design. Both commission staff and the Concord Electric staff can take credit for the reasonableness and the direction of these progressive rates. Furthermore,

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with this order, Concord Electric becomes the first electric utility to comply with the commission's order for a lifeline rate. The effect of this lifeline rate being incorporated into the rate structure is to actually reduce bills for consumers under 300 kilowatt-hours from what their rates are at the present. The design of the rates will lead to further decreases in rates for commercial and residential customers with controlled water heating. Further decreases will be experienced by some commercial customers who have efficient relationships between their overall electric demand and their kilowatt-hour usage. Commercial customers that do not demonstrate efficient energy usage will experience increases in rates. The following table using twelve actual customers is illustrative of the varying effects of the rate action resulting from this order:

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

<i>Customer Description Or (Decrease)</i>	<i>Percentage Increase</i>
Office – Broker	24.9
Office – Lawyers	12.8
Paint Store	( 0.9)
Retail Store	( 5.8)
Small Grocery Store	(13.2)
Clothing Store	1.5
Church	9.3
Legislative Office	3.6
Bank	0.6
State House	5.6
Supermarket	( 3.5)
State Complex	2.5

[4] In addition, outdoor lighting customers using efficient high pressure sodium lamps will see no increase. Rather the increase will be applied to mercury vapor and incandescent lamps.

In the residential sector a 200 kilowatt-hours customer will experience an 8.7 per cent decrease in their present bills while a 1,000 kilowatt-hours customer will experience a 5.8 per cent increase. Those customers with controlled or off peak water heating will also experience a rate decrease.

The company will be allowed to collect the difference between the permanent rates and the temporary rates in accordance with RSA 378:29. There is no precedent set by this acceptance of the settlement nor has any party agreed to the underlying numbers an admission. 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 settlement documents Nos. 1 and 2, marked Exhs 6 and 7 are hereby accepted by the commission; and it is

Further ordered, that this increased level of revenues together with the rate design reflected in Settlement Agreement II are to be applied to all bills rendered on or after October 1, 1981.

By order of the Public Utilities Commission of New Hampshire this sixth day of October, 1981.

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NH.PUC\*10/06/81\*[79036]\*66 NH PUC 392\*James Crawford v Public Service Company of New Hampshire

[Go to End of 79036]

## **James Crawford v Public Service Company of New Hampshire**

DR 81-276, Order No. 15, 146

66 NH PUC 392

New Hampshire Public Utilities Commission

October 6, 1981

ORDER disposing of customer complaint in favor of utility.

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BY THE COMMISSION:

Order

Whereas, James Crawford, a customer of Public Service company of New Hampshire filed a consumer complaint; and

Whereas, a public hearing was held on October 5, 1981; and

Whereas, after a review of the testimony of the parties and the exhibits filed, the commission

finds that the consumer owes the company the sum of \$723.90 less a credit of \$8.45 or the sum of \$715.45; it is hereby

Ordered, that the customer, James Crawford, pay to the Public Service Company of New Hampshire the sum of \$715.45 by the close of the business day by 4:00 A.M. on October 6, 1981; and it is

Further ordered, that in the event payment is not made as aforementioned, the company shall terminate service to the customer; and it is

Further ordered, that if termination takes place for nonpayment Public Service Company of New Hampshire will not restore service until full payment of the \$715.45 is actually and validly paid and Mr Crawford pays a deposit of not less than \$300.

By order of the Public Utilities Commission of New Hampshire this sixth day of October, 1981.

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NH.PUC\*10/07/81\*[79037]\*66 NH PUC 392\*Independent Telephone Companies

[Go to End of 79037]

### Re Independent Telephone Companies

Intervenor: Union Telephone Company

DE 81-279, Supplemental Order No. 15,159

66 NH PUC 392

New Hampshire Public Utilities Commission

October 7, 1981

ORDER establishing effective date for a tariff revision.

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BY THE COMMISSION:

Supplemental Order

Whereas, on September 30, 1981, this commission directed all independent telephone companies which offer selective calling service to file revised tariff rates conforming to those set for the New England Telephone and Telegraph Company, in DE 81-221 (66 NH PUC 365); and

Whereas on September 28, 1981, Union Telephone Company filed revised pages to its tariff, NHPUC No. 6 — Telephone, Section 5, Fourth Revised Sheet 3, toll service; and

Whereas upon investigation this commission finds this conforming filing to be in the public interest; it is

Ordered that Union Telephone tariff, NHPUC No. 6, Section 5, Fourth Revised Sheet 3, toll

service be allowed to become effective on all bills rendered on or after September 19, 1981; and it is

Further Ordered, that public notice of this tariff change be made in a newspaper having general circulation in the area served, or in some other manner which will make notice available to individual customers.

By order of the Public Utilities Commission of New Hampshire this seventh day of October, 1981.

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NH.PUC\*10/07/81\*[79038]\*66 NH PUC 393\*Independent Telephone Companies

[Go to End of 79038]

### Re Independent Telephone Companies

Intervenor: Kearsarge Telephone Company

DE 81-279, Second Supplemental Order No. 15,160

66 NH PUC 393

New Hampshire Public Utilities Commission

October 7, 1981

ORDER establishing effective date for a tariff revision.

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BY THE COMMISSION:

Supplemental Order

Whereas, on September 30, 1981, this commission directed all independent telephone companies which offer selective calling service to file revised tariff rates conforming to those set for the New England Telephone and Telegraph Company in DE 81-221 (66 NH PUC 365); and

Whereas, on September 25, 1981, Kearsarge Telephone Company filed revised pages to its tariff, NHPUC No. 5, Section 5, First Revised Sheet 3 selective calling service; and

Whereas, upon investigation this commission finds this conforming filing to be in the public interest; it is

Ordered that Kearsarge Telephone Company tariff, NHPUC No. 5, Section 5, First Revised Sheet 3 selective calling service be allowed to become effective on all bills rendered on or after September 19, 1981; and it is

Further ordered, that public notice of this tariff change be made in a newspaper

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having general circulation in the area served, or in some other manner which will make notice available to individual customers.

By Order of the Public Utilities Commission of New Hampshire, this seventh day of October, 1981.

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NH.PUC\*10/07/81\*[79039]\*66 NH PUC 394\*Independent Telephone Companies

[Go to End of 79039]

## Re Independent Telephone Companies

Intervenor: Granite State Telephone Company

DE 81-279, Third Supplemental Order No. 15, 161

66 NH PUC 394

New Hampshire Public Utilities Commission

October 7, 1981

ORDER establishing effective date for a tariff revision.

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BY THE COMMISSION:

Supplemental Order

Whereas, on September 30, 1981, this commission directed all independent telephone companies which offer selective calling service to file revised tariff rates conforming to those set for the New England Telephone and Telegraph company, in DE 81-221 (66 NH PUC 365); and

Whereas, on September 28, 1981; Granite State Telephone Company filed revisions to its tariff, NHPUC No. 6, Section 5, Second Revision Sheet 2, selective calling service; and

Whereas, upon investigation this commission finds this conforming filing to be in the public interest; it is

Ordered, that Granite Telephone Company tariff, NHPUC No. 6, Section 5, Second Revised Sheet 2, selective calling service be allowed to become effective on all bills rendered on or after September 19, 1981; and it is

Further ordered, that public notice of this tariff change be made in a newspaper having general circulation in the area served, or in some other manner which will make notice available to individual customers.

By Order of the Public Utilities Commission of New Hampshire this seventh day of October, 1981.

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NH.PUC\*10/07/81\*[79040]\*66 NH PUC 395\*Independent Telephone Companies

[Go to End of 79040]

## Re Independent Telephone Companies

Intervenor: Merrimack County Telephone Company

DE 81-279, Fourth Supplemental Order No. 15,162

66 NH PUC 395

New Hampshire Public Utilities Commission

October 7, 1981

ORDER establishing effective date for tariff revision.

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BY THE COMMISSION:

Supplemental Order

Whereas, on September 30, 1981, this commission directed all independent telephone companies which offer selective calling service to file revised tariff rates conforming to those set for the New England Telephone and Telegraph Company, in DE-221 (66 NH PUC 365); and

Whereas, on October 2, 1981, Merrimack County Telephone Company filed revised pages to its tariff, NHPUC No. 7 — Telephone, Part V, Section 2, Page 2, First Revision, selective calling service; and

Whereas, upon investigation this commission finds this conforming filing to be in the public interest; it is

Ordered, that Merrimack County Telephone Company, tariff NHPUC No. 7 — Telephone, Part V, Section 2, Page 2, First Revision, selective calling service be allowed to become effective on all bills rendered on or after September 19, 1981, and it is

Further ordered, that public notice of this tariff change be made in a newspaper having general circulation in the area served, or in some other manner which will make notice available to individual customers.

By order of the Public Utilities Commission of New Hampshire, this seventh day of October, 1981.

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NH.PUC\*10/07/81\*[79041]\*66 NH PUC 395\*Rules Relative to Deposits for Electric Service

[Go to End of 79041]

## Re Rules Relative to Deposits for Electric Service

Intervenors: Exeter and Hampton Electric Company, New Hampshire Legal Assistance, Community Action Program, City of Manchester, Public Service company of New Hampshire, and Concord Electric Company

DRM 81-35, Order No. 15,163

66 NH PUC 395

New Hampshire Public Utilities Commission

October 7, 1981

RULE procedure to prescribe rules relative to deposits for electric service.

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PAYMENT, § 58 — Deposit requirement — New electric service.

[N.H.] The commission allowed an amendment to its rules and regulations relative to deposits for electric service to provide that for new residential service, a utility may require a deposit or other guarantee only when a customer requesting service is unable to provide satisfactory evidence that the customer intends to remain at the location for which service is being requested for a period of twelve consecutive months or more; provided, however, that if the customer has had continuing utility service with a similar type utility and payment for such service has not been delinquent within the past six months, no deposit may be required.

BY THE COMMISSION:

Report

On July 31, 1981, this commission initiated a rule-making procedure relative to the rules and regulations prescribing standards for electric utilities. An order of notice was published which proposed to amend and supplement Chap 300 as follows:

## NHPUC 303.04 (a) Deposits

1. *New Service*. For residential service, a utility may require a cash deposit or other guarantee only when:

a. ...

b. ...

c. ...

d. Customers requesting service who are unable to provide satisfactory evidence that the customer intends to remain at the location, for which service is being requested, for a period of twelve consecutive months or more; provided, however, that if the customer has had continuing utility service with the connecting utility and payment for such service has not been delinquent within the past six months, no deposit may be required.

The commission invited comments to its executive director and secretary and set a public hearing to be held on August 27, 1981, at 10:00 A.M. in the commission's Concord offices.

A copy of the rule-making notice and of the proposed rules were forwarded to the Director, office of Legislative Services, State House, Concord for processing in the rule-making register

by Friday, August 27, 1981.

Comments were received from Warren G. Nighswander for the Exeter and Hampton Electric Company; Alan Linder for New Hampshire Legal Assistance; Gerald M. Eaton, Community Action Program; and Emile D. Beaulieu, Commissioner of Welfare, Department of City Welfare, City of Manchester, Manchester, New Hampshire. Additionally, companies represented at the hearing included Public Service Company of New Hampshire and Concord Electric Company.

The rule was offered at the hearing by staff chief engineer, Bruce B. Ellsworth. Ellsworth testified that the rule change was initiated as a result of staff observations that they required clarification in order to properly protect both utility and customers. The present rule reads:

"(d) The customer has requested short term service — i.e., service for a time period of less than twelve consecutive months — provided, however, that if the customer has not been delinquent in his/her utility accounts for a period of six months prior to application for service, no deposit may be required."

Ellsworth testified that the proposed amendment gives more specific direction both to customers and to companies as to the circumstances under which a deposit could be required. Customers may now be required to provide satisfactory evidence that they intend to be long-term customers in order to avoid paying a deposit. He noted, in cross-examination, that disagreement relative to the adequacy of evidence would be submitted to the commission for their determination. Upon further cross-examination,

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Ellsworth testified that in order to avoid a deposit for short-term service, the customer had to show prior service with the *connecting* utility with a good payment history for six months. Community Action Program questioned whether the words "similar type" utility should be interjected in place of the word "connecting" utility in order to allow a customer moving from another franchise area with a good payment record to eliminate the deposit requirements.

Upon cross-examination by NHPA spokesperson, Sid LaHue, Ellsworth noted that the seasonal customer is a definable entity:

"He is a student or he is a vacationer, he is someone that is no deliberate intent to remain at that location for an extended period of time."

Ellsworth said that the rule was not intended to impose a deposit on a customer simply on the basis that they could not offer a signed long-term agreement with a landlord.

Richard F. Gilmore, comptroller, spoke on behalf of Exeter and Hampton Electric Company. He offered a schedule of bad debt write-offs during the period January, 1978, to July, 1981. That schedule, accepted as Exh. 2, showed write-offs in the year preceding the existing rule to be 546,526, and for the first year in which the existing rule was in effect write-offs of \$70,056.

Mr. Gilmore offered an opinion, upon cross-examination, that under the proposed rule the customer would have to produce documentation that he is an owner or that he intends to remain at a residence for more than twelve consecutive months; otherwise, unless the customer could verify that he had a record of service with another utility, they could require a deposit.

A letter, dated August 26, 1981, from Emile D. Beaulieu, commissioner of welfare, city of Manchester, was accepted into the record. Mr Beaulieu expressed his strong opposition to the changes on the basis that the rule suggests the need for a customer to demonstrate his intent to reside at a home for over a year by producing a lease, and his experience reveals that less than 10 per cent of the customers with whom he associates have formal leases. He also opposes the rule on the basis that the deposit requirement will work an extreme hardship on lower income people who, despite careful budgeting, can manage to pay their monthly bills but have no extra money to pay a deposit. He notes that the New Hampshire Division of Welfare no longer pays customer deposits and the burden would fall on local welfare departments and local taxpayers.

On behalf of VOICE, Attorney Linder opposes the proposed change on the basis that service could be denied due to low-income persons being unable to pay a deposit. He also notes that many low-income tenants do not have written leases, even though they intend to remain at a location for more than a year. He suggests that a more constructive approach might be a process where a determination of credit worthiness or credit risk is made on an individual basis by the utility for each particular applicant.

In written comments filed after the hearing, CAP suggests there is no reason for changing the present rule. It suggests alternatives only if the commission finds there is a bad debt problem. It suggests basing deposit needs on meter locations and allowing the utility to require a deposit if a particular meter location shows that in the past three years no customer has taken service for a period of twelve consecutive months. It also suggests consideration of a rule limiting deposit requirements to specific utilities or specific towns in a utility service territory if such utilities display unique

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bad debt situations such as college students and vacationers. Community Action Program realizes that its suggestion may violate the antidiscrimination rules and offer them only as alternatives.

The commission believes that a change is necessary. It continues to believe that special consideration should be given to deposit requirements for short term customers. It does not concur, however, nor will it allow an interpretation of an amendment which will universally allow an imposition of a deposit upon any customer who cannot show a written lease for proof of ownership. It concurs with staff witness Ellsworth's testimony (T-15) that the seasonal customer is a definable entity. We believe the customer has an opportunity and a responsibility to explain his long-term intentions and we believe the company has an opportunity and a responsibility based upon its ability to acquire information about the customer's previous credit history and the property's history of tenancy to assure that the rule will be administered properly. The commission, as always, is available to resolve any disputes that arise between the parties.

Accordingly, we will allow an amendment as follows:

NHPUC 303.04 (a) Deposits

1. *New Service.* For new residential service, a utility may require a cash deposit or other guarantee only when:

- (a) ...
- (b) ...
- (c) ...

(d) Customer requesting service is unable to provide satisfactory evidence that the customer intends to remain at the location for which service is being requested for a period of twelve consecutive months or more; provided, however, that if the customer has had continuing utility service with a similar type utility and payment for such service has not been delinquent within the past six months, no deposit may be required.

Our order will issue accordingly:

Order

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

Ordered, that the rules and regulations prescribing standards for electric utilities be amended as follows:

NHPUC 303.04 (a) Deposits

1. *New Service.* For new residential service, a utility may require a cash deposit or other guarantee only when:

- (a) ...
- (b) ...
- (c) ...

(d) Customer requesting service is unable to provide satisfactory evidence that the customer intends to remain at the location for which service is being requested, for a period of twelve consecutive months or more; provided, however, that if the customer has had continuing utility service with a similar type utility and payment for such service has not been delinquent within the past six months, no deposit may be required.

By order of the Public Utilities Commission of New Hampshire this seventh day of October, 1981.

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NH.PUC\*10/07/81\*[79042]\*66 NH PUC 399\*Canadian Power Transmission Lines

[Go to End of 79042]

## Re Canadian Power Transmission Lines

DSF 81-154, Order No. 15,164

66 NH PUC 399

New Hampshire Public Utilities Commission

October 7, 1981

ORDER closing docket

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BY THE COMMISSION:

Order

Whereas, the New Hampshire Public Utilities Commission and the site evaluation committee has received a letter from Paul A. Ambrosino, Director of Canadian Energy Affairs, requesting that this docket be dismissed without prejudice; it is therefore

Ordered, that docket DSF 81-154 be closed.

By order of the Public Utilities Commission of New Hampshire this seventh day of October, 1981.

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NH.PUC\*10/07/81\*[79043]\*66 NH PUC 399\*Chichester Telephone Company

[Go to End of 79043]

### **Re Chichester Telephone Company**

DR 81-282, Order No. 15,165

66 NH PUC 399

New Hampshire Public Utilities Commission

October 7, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Chichester Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on September 29, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 3 — Telephone, relative to service connection charges, effective October 24, 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 Section 4, First Revised Sheet 1D of tariff, NHPUC No. 3 — Telephone, of Chichester telephone Company be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of October, 1981.

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NH.PUC\*10/07/81\*[79044]\*66 NH PUC 400\*Concord Electric Company

[Go to End of 79044]

**Re Concord Electric Company**

DR 81-273, Order No. 15,166

66 NH PUC 400

New Hampshire Public Utilities Commission

October 7, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 25, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Electricity, relative to its purchased power cost adjustment, effective October 21, 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 Fifth 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 seventh day of October, 1981.

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NH.PUC\*10/07/81\*[79045]\*66 NH PUC 400\*Exeter and Hampton Electric Company

[Go to End of 79045]

**Re Exeter and Hampton Electric Company**

DR 81-274, Order No. 15,167

66 NH PUC 400

New Hampshire Public Utilities Commission

October 7, 1981

ORDER suspending tariff effective date pending 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 September 25, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 14 — Electricity, relative to its purchased power cost adjustment, effective October 21, 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

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Ordered, that First Revised Page 18 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 seventh day of October, 1981.

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NH.PUC\*10/07/81\*[79046]\*66 NH PUC 401\*New Hampshire Electric Cooperative, Inc.

[Go to End of 79046]

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

DR 81-260, Order No. 15,168

66 NH PUC 401

New Hampshire Public Utilities Commission

October 7, 1981

ORDER suspending tariff effective date pending 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 September 23, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 10 — Electricity, relative to its purchased power cost adjustment, effective October 20, 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 Original Page 13a of tariff, NHPUC No. 10 — Electricity, of New Hampshire Electric Cooperative, Inc., be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of October, 1981.

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NH.PUC\*10/07/81\*[79047]\*66 NH PUC 401\*Municipal Electric Department of Wolfeboro

[Go to End of 79047]

## Re Municipal Electric Department of Wolfeboro

DR 81-280, Order No. 15,169

66 NH PUC 401

New Hampshire Public Utilities Commission

October 7, 1981

ORDER suspending tariff effective date pending investigation.

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**Page** 401

BY THE COMMISSION:

Order

Whereas, Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 30, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Electricity, relative to its purchased power cost adjustment, effective October 21, 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 Page 11B of tariff, NHPUC No. 6 — Electricity, of Municipal Electric Department of Wolfeboro be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of October, 1981.

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NH.PUC\*10/08/81\*[79048]\*66 NH PUC 402\*Cheshire Bridge Corporation/Springfield Terminal Railway Company

[Go to End of 79048]

**Re Cheshire Bridge Corporation/Springfield Terminal Railway  
Company**

DT 80-250, Fifth Supplemental Order No. 15,170

66 NH PUC 402

New Hampshire Public Utilities Commission

October 8, 1981

ORDER directing railway to honor commuter tickets purchased prior to date of order terminating service.

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BY THE COMMISSION:

Supplemental Order

Whereas, it was the practice of the Cheshire Bridge to sell commuter tickets to the public, which tickets allowed passage across the bridge at a reduced rate; and

Whereas, the provisions of Order No. 14,977 ([1981] 66 NH PUC 251), terminated the aforementioned practice; and

Whereas, the commission has become aware that the holders of tickets purchased prior to the effective date of Order No. 14,977 will not be able to utilize their tickets under the terms and conditions they were purchased; and

Whereas, the commission having reviewed the affect of Order No. 14,977 finds that it is not in the public interest to alter the terms and conditions under which commuter tickets were purchased prior to Order No. 14,977 unless a reasonable period of time is allowed to use same; therefore it is

Ordered, that the Cheshire Bridge shall honor the commuter tickets purchased prior to July 10, 1981, in accordance with the terms and conditions set forth on the tickets until December 31, 1981; and it is

Further ordered, that after December 31, 1981, all commuter tickets issued shall

**Page 402**

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be redeemed at a value of ten cents per ticket.

By order of the Public Utilities Commission of New Hampshire this eighth day of October, 1981.

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NH.PUC\*10/08/81\*[79049]\*66 NH PUC 403\*WMTW-TV

[Go to End of 79049]

**Re WMTW-TV**

DE 81-297, Order No. 15,171

66 NH PUC 403

New Hampshire Public Utilities Commission

October 8, 1981

ORDER setting hearing for determination of public utility status.

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BY THE COMMTSSION:

Order

Whereas, WMTW-TV is an entity operating within the state of New Hampshire; and

Whereas, WMTW-TV sells electrical power to the state of New Hampshire as well as other customers; and

Whereas, this activity would appear to establish WMTW-TV as a public utility pursuant to RSA 362:2; and

Whereas, such a status would require this commission to set just and reasonable rates pursuant to RSA 378:7 and 378:28; it is hereby

Ordered, that WMTW-TV appear before this commission for a determination of public utility status; and it is

Further ordered, that such hearing will also address the rates charged for electrical power as to whether or not the aforementioned rates are just and reasonable assuming a finding of public utility status; and it is

Further Ordered, that said hearing will be conducted on October 30, 1981, at 10:00 A.M., at the offices of the commission, 8 Old Suncook Road, Concord, New Hampshire; and it is

Further ordered, that WMTW-TV shall file with this commission a list of all customers which presently sell electrical power to and the rates imposed upon each of these consumers; and it is

Further ordered, that on October 30, 1981, WMTW-TV should be prepared to defend the costs presently charged consumers for electrical power as to their reasonableness; and it is

Further ordered, that this docket DE 81-297 is opened to investigate these issues.

By order of the Public Utilities Commission of New Hampshire this eighth day of October, 1981.

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NH.PUC\*10/08/81\*[79050]\*66 NH PUC 404\*Concord Natural Gas Corporation

[Go to End of 79050]

**Re Concord Natural Gas Corporation**

DR 81-284, Order No. 15,172

66 NH PUC 404

New Hampshire Public Utilities Commission

October 8, 1981

ORDER suspending tariff effective date pending 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 September 30, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 13 — Gas, providing for the 1981-82 winter cost of gas adjustment, effective November 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 23rd Revised Page 21 and 21st Revised Page 21-A 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 eighth day of October, 1981.

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NH.PUC\*10/08/81\*[79051]\*66 NH PUC 404\*Gas Service, Inc.

[Go to End of 79051]

**Re Gas Service, Inc.**

DR 81-285, Order No. 15,173

66 NH PUC 404

New Hampshire Public Utilities Commission

October 8, 1981

ORDER suspending tariff effective date pending 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 October 1, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 5 — Gas, providing for the 1981-82 winter cost of gas adjustment, effective November 1, 1981; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date

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thereof be suspended pending investigation and decision thereon; it is

Ordered, that Section 2, 24th Revised Page 3 of tariff, NHPUC No. 5 — Gas, of Gas Service, Inc., be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighth day of October, 1981.

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NH.PUC\*10/08/81\*[79052]\*66 NH PUC 405\*Keene Gas Corporation

[Go to End of 79052]

## **Re Keene Gas Corporation**

DR 81-286, Order No. 15,174

66 NH PUC 405

New Hampshire Public Utilities Commission

October 8, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Keene Gas Corporation, a public utility engaged in the business of supplying gas service in the state of New Hampshire, on September 30, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 1 — Gas, providing for the 1981-82 winter cost of gas adjustment, effective November 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 Second Revised Page 26 of tariff, NHPUC No. 1 — Gas, of Keene Gas Corporation, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighth day of September, 1981.

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NH.PUC\*10/08/81\*[79053]\*66 NH PUC 405\*Manchester Gas Company

[Go to End of 79053]

## Re Manchester Gas Company

DR 81-287, Order No. 15,175

66 NH PUC 405

New Hampshire Public Utilities Commission

October 8, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Manchester Gas Company, a public utility engaged in the business of supplying gas in the state of New Hampshire, on September 30, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 12 — Gas, providing for the 1981-82 winter cost of gas adjustment, effective November 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 21st Revised Page 20 of tariff, NHPUC No. 12 — Gas, of Manchester Gas Company be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighth day of October, 1981.

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NH.PUC\*10/08/81\*[79054]\*66 NH PUC 406\*Northern Utilities, Inc.

[Go to End of 79054]

## Re Northern Utilities, Inc.

DR 81-288, Order No. 15,176

66 NH PUC 406

New Hampshire Public Utilities Commission

October 8, 1981

ORDER suspending tariff effective date pending 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 October 1, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Gas, providing for the 1981-82 winter cost of gas adjustment, effective November 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 24th Revised Page 22A of tariff, NHPUC No. 6 — Gas, of Northern Utilities, Inc., Allied Gas Division, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighth day of October, 1981.

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NH.PUC\*10/13/81\*[79055]\*66 NH PUC 407\*Lifeline Rates

[Go to End of 79055]

## Re Lifeline Rates

Respondent: New Hampshire Electric Cooperative, Inc.

DP 80-260, Third Supplemental Order No. 15,180

66 NH PUC 407

New Hampshire Public Utilities Commission

October 13, 1981

REVIEW of electric cooperative associations' tariff establishing lifeline rates for residential customers; approved in accordance with opinion.

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RATES, § 354 — Electric company — Lifeline rates.

[N.H.] An electric cooperative association was allowed to establish lifeline rates for residential customers where such rates would reduce residential bills for all customers using less than 750 kilowatt-hours a month, except for customers taking service under optional rates.

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## BY THE COMMISSION:

## Report

On June 15, 1981, the New Hampshire Electric Cooperative, Inc. (hereafter referred to as the Co-op), submitted for filing Second Revised Page 16, First Revised Page 17, and Second Revised Page 18 to Tariff No. 10 implementing Supplemental Order No. 14,872 dated April 30, 1981 (66 NH PUC 166), establishing a requirement for lifeline rates for residential customers. The Co-op also filed "prepared testimony of Richard S. Bower" dated June 17, 1981.

Discovery requests were made by staff and VOICE and responses were made on a timely basis. A settlement conference participated in by the Co-op and the full parties was held; staff, CAP, BIA, VOICE, and all utilities produced no objection to the Co-op's tariff as submitted.

The lifeline rate proposed by the Co-op would affect all residential customers except those under optional rates. The lifeline rate for power and light customers is an inverted block rate with two steps. The initial block is priced two cents lower than the previous flat rate and lost revenue is recovered from all kilowatt-hours above the 200-kilowatt-hour block. Uncontrolled water-heating and the space-heating rates, both with and without water heating have been treated in the same manner. Thus revenue recovery due to the institution of lifeline is achieved from within the residential class.

In addition, it is noted that the rate was calculated using cost-of-service principles that recognize the Co-op's cost of purchased power under wholesale rate tariffs.

The "lifeline" feature required by the commission's order of April 30, 1981, is a 200-kilowatt-hour block of initial service provided each billing period. The effect of the "lifeline" in the Co-op's proposed tariff is to reduce residential bills for all customers using less than 705 kilowatt-hours a month, except for customers taking service under optional rates. The following table illustrates the theoretical changes in rates under the Co-op's "lifeline" proposal:

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

Rate Class	Kilowatt-hour	Present Bill*	Change		Per Cent
			Proposed Bill*	Amount	
D, DWH, DWS, DSH 0	5.35	5.35	0	0	
D, DWH, DWS, DSH 100	12.70	10.40	- 2.30	- 18	
D, DWH, DWS, DSH 200	20.05	15.45	- 4.60	- 23	
D, DWH, DWS, DSH 500	42.10	40.23	- 1.87	- 4	
D, 705	57.17	57.16	- .01	0	
DWH, DWS 705	54.50	54.50	0	0	
DSH 705	55.94	55.93	- .01	0	
D 2000	152.35	164.13	+ 11.78	+ 8	
DWH 2000	147.15	158.93	+ 11.78	+ 8	
DWS 2000	140.55	152.33	+ 11.78	+ 8	
DSH 2000	143.35	155.13	+ 11.78	+ 8	

This includes fuel and purchased power effective as of October 1, 1981.

More important than theoretical effects are the actual effects on the Co-op's residential customers. According to the report of proposed rate changes filed June 15, 1981, by the Co-op, 27,022 customers out of 37,094 customers will see their bills reduced simply by the introduction

of lifeline. This is 73 per cent or more than two-thirds of the Co-op's residential customers under the affected rates. Among residential customers with space or water heating, 16,579 customers out of 18,221 or 91 per cent receive bill decreases.

In view of the verbal assent of the parties in this case and the commission's concern that lifeline be implemented by the beginning of the heating season when people in New Hampshire must begin to be concerned with meeting fuel bills, the Co-op's tariff will be implemented effective on all bills issued on or after November 2, 1981. The Co-op will be ordered to publish the new residential rates under this tariff in the Co-op's newsletter accompanying those bills and publish the rate schedule in a newspaper of general circulation.

Any objections concerning this rate must be received within thirty days of the effective date of the tariff.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Second Revised Page 16, First Revised Page 17, and Second Revised Page 18 of the New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 — Electricity, be, and hereby is, approved for effect with all service rendered on or after November 2, 1981; and it is

Further ordered, that the New Hampshire Electric Cooperative, Inc., cause to be published once in a newspaper having general circulation in that portion of the state in which operations are conducted the new tariff pages, such publication to be not later than November 2, 1981, said publication to be designated in an affidavit and filed with this office; and it is

Further ordered, that any person opposing the tariff must notify this commission by letter postmarked no later than November 30, 1981, giving name, intention to appear and participate in a hearing and reason(s) for opposition.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1981.

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NH.PUC\*10/13/81\*[79056]\*66 NH PUC 409\*Woodsville Municipal Electric Department

[Go to End of 79056]

## **Re Woodsville Municipal Electric Department**

DR 81-290, Order No. 15,182

66 NH PUC 409

New Hampshire Public Utilities Commission

October 13, 1981

ORDER suspending tariff effective date pending 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 October 1, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 3 — Electricity, providing an increase in the purchased power cost adjustment, effective October 26, 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 Third Revised Page 10A and Sixth 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 thirteenth day of October, 1981.

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NH.PUC\*10/13/81\*[79057]\*66 NH PUC 409\*Merrimack County Telephone Company

[Go to End of 79057]

### Re Merrimack County Telephone Company

DR 81-295, Order No. 15,183

66 NH PUC 409

New Hampshire Public Utilities Commission

October 13, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Merrimack County Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on October 2, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 7 — Telephone, relative to service connection charges, effective November 1, 1981; and

Whereas, it appears to the commission

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that the rights and interests of the public affected required that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Index, First Revised Pages 2, 6, and 8; Part III, Section 25, First Revised Pages 4 and 5; and Part VI, Section 1, First Revised Pages 1-5 and Original Page 6; Section 2, First Revised Page 1; and Section 4, First Revised Page 2 of tariff, NHPUC No. 7 — Telephone, of Merrimack County Telephone Company, be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1981.

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NH.PUC\*10/13/81\*[79058]\*66 NH PUC 410\*Hampton Water Works Company

[Go to End of 79058]

### **Re Hampton Water Works Company**

DR 81-283, Order No. 15,184

66 NH PUC 410

New Hampshire Public Utilities Commission

October 13, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Hampton Water Works Company, a public utility engaged in the business of supplying water service in the state of New Hampshire, on September 30, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 7 — Water, providing for increased rates (\$309,166 — 27.4 per cent) effective October 30, 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 Second Revised Page 11 and Third Revised Pages 12-15 of tariff, NHPUC No. 7 — Water, of Hampton Water Works Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1981.

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NH.PUC\*10/19/81\*[79059]\*66 NH PUC 411\*Public Service Company of New Hampshire

[Go to End of 79059]

## Re Public Service Company of New Hampshire

Intervenors: Conservation Law Foundation and New Hampshire Energy Coalition

DE 80-47, Fifth Supplemental Order No. 15,201

66 NH PUC 411

New Hampshire Public Utilities Commission

October 19, 1981

INVESTIGATION of demand forecasting method; order issued to give notice of further investigation impact in demand growth of conservation, price elasticity and energy supplies.

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ELECTRICITY, § 3 — Generating plants — Need for power — Demand forecasting method.

[N.H.] The commission found that a demand forecast based upon the relationship between New Hampshire economic activity and energy demand, and tying state economic growth to national economic growth, was most appropriate in the case before it, since tying electric demand almost solely to economic activity had the advantage that it appeared to eliminate some of the need for supply side analysis and was therefore more of a business as usual approach.

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APPEARANCES: Martin L. Gross and Debbie-Ann Sklar for Public Service Company of New Hampshire; Douglas Foy and Linzee Weld for Conservation Law Foundation; Kirk Stone for New Hampshire Energy Coalition; Robert J. Camfield and George R. Gantz for the public utilities commission.

BY THE COMMISSION:

Report

### I. *Procedural History*

Commission Order No. 14,136 dated March 17, 1980 (65 NH PUC 134), opened the above referenced docket as an investigation into peak demand for Public Service Company of New Hampshire (PSNH). That order directed PSNH to file testimony and exhibits to be sponsored by a witness. April 21, 1980, was set as the date by which all proper parties must file testimony and exhibits in compliance with said order. The Legislative Utility Consumers' Council (LUCC) was specifically invited to participate by that same order. However, the commission did require that a notice of intent to participate be filed with the commission by April 1, 1980. Public Service Company of New Hampshire and New Hampshire Energy Coalition (NHEC) complied with all provisions of that order; the LUCC did not. But by Order No. 14,208 ([1980] 65 NH PUC 190), the commission, due to an irregularity in the public notice, extended the date to intervene and file testimony and exhibits to May 9, 1980. Due to the revised timetable the Governor's Council on Energy (GCOE) and the LUCC intervened and were accepted as timely participants.

With its April 9, 1980, petition to intervene the LUCC filed a motion seeking to expand the scope of this case to include investigation into electric supply. At the same time a third filing consisted of a motion for clarification and/or objection

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which sought procedural revisions to those already established in this case by the initiating order. Both motions were opposed by PSNH and denied by the commission in its April 30, 1980, Order No. 14,208. Also denied by the commission in the same order were two other motions by the LUCC which were filed April 15, 1980. One was a motion to compel discovery and the other a motion again seeking a procedural revision.

Received by the commission on January 6, 1981, was a motion to intervene of the Conservation Law Foundation of New England, Inc. (CLF). The motion appeared to set forth an interest of a kind not then adequately provided for and it was granted on January 20, 1981. On March 18, 1981, CLF filed a motion requesting procedural revisions and an expanded scope of investigation. On May 11, 1981, CLF filed another motion, this time requesting the commission waive the requirements to participate, especially those requiring a witness to present a substantiated position; instead, CLF wanted to submit only rebuttal and be able to cross-examine other witnesses. Although the commission denied the first motion, it granted in part the second, permitting cross-examination, inasmuch as NHEC offered to waive its right to cross-examine and instead permit CLF that right.

Of the original parties, only the commission and PSNH actually sponsored a witness for examination. Those witnesses were, respectively, Robert J. Camfield and George R. Gantz of the commission staff and Wyatt Brown for PSNH. In keeping with the opportunity granted all parties in the commission's Order No. 14,856 dated April 22, 1981 (66 NH PUC 154), all parties either revised or updated to some extent their original positions.

The record in this case is comprised of four days of testimony and examination (four transcripts totaling 496 pages) and ten exhibits totaling approximately 868 pages. It was necessary for the commission to review and adjudicate eight motions and the responses to those motions. Briefs were filed by PSNH and CLF.

The purpose of this docket is to ascertain on a base case business as usual basis the best available estimate of the probable future growth in peak demand for PSNH. The time period under consideration is 1981-90. The desired estimate can be expressed in terms of the yearly percentage growth in peak demand for electric capacity.

This estimate is essential to any determination as to whether present plans for capacity are inadequate, adequate, or excessive. Given the exceptionally high cost of new electric plant and New England's unique reliance on oil fired generation, it is essential that only necessary plant be constructed. This commission aims at that objective. Still, there is an unusually long lead time required to get new plant from the drawing boards to the point of producing electricity so that it is crucial to commence construction long before any particular plant is required. This too is an objective of this commission. To obtain both objectives it is mandatory that this commission have available the latest and most accurate predictions of future plant requirements of PSNH.

## II. Analysis

Although the record in this case is fairly extensive and contains an unusually high number of judgemental conclusions, it nevertheless lends itself surprisingly well to a rather straight-forward analysis and opinion by the commission. This occurs because the commission is given but three choices, each based on a different methodology. Selection of the methodology and judgements found most

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persuasive results in selection of the concomitant growth rate.

Mr. Gantz, in his analysis, applied a linear regression technique which produced a single trend line, based on total company historical demand data. The slope of that trend line, as "smoothed" indicates to Mr. Gantz that peak demand in the period 1980-90 will be 3.05 per cent annually. The underlying premise upon which Mr. Gantz relied is his judgement that future events which effect peak demand will mirror the historical period from which he selected his data. The inflexibility of Mr. Gantz to allow for any probable future change disturbs the commission as it is most unlikely the future will duplicate the past. In spite of the lack of sophistication in this technique it does produce a result not altogether different from or unacceptable to the other witnesses in this case. Mr. Gantz's projection of a 3.05 per cent growth rate is within the Camfield range of 3 to 3.50 per cent and also falls within the company's more recent review of national electricity forecasts that show a range of 3 per cent to 4.3 per cent; a result used by the company to substantiate its 4.2 per cent which also falls within the national range.

The PSNH witness, Mr. Brown, seems to have used a technique which is basically an expansion of the technique used by Mr. Gantz. He used a number of regressions based on historical data. Each historical period was selected based on Mr. Brown's judgement. He applied additional judgement in those situations where use of a single trend line produced results which in his opinion were unrealistic. Next, Mr. Brown added together all of the individual results calculated in the preceding manner and arrived at his conclusion that the ten-year PSNH growth in demand will be 4.2 per cent annually through 1990.

In reaching his final results, Mr. Brown claims to have relied on a business as usual premise, but also states and explains to what extent he has made judgements as to the future effect, or lack of effects, of, conservation, and the price level of future rates in real terms relative to current prices. Perhaps, as hypothesized by Mr. Brown, a decrease in rates in real price will occur and will produce increased electric demand, however, such speculation is not a part of a base case business as usual forecast. A demand forecast based on changes in future plant mix, electric prices, and conservation is beyond the intended scope of this proceeding and is more properly addressed in a record exploring each area in some detail. That proceeding should also afford an opportunity for cross-examination by other parties.

Another premise central to Mr. Brown's conclusion is his belief that the New Hampshire economy will expand at a high, but unspecified rate in excess of the national average and in excess of recent high local activity. His perception of high economic growth is in part a product of his perception as to the timely, cost effective, completion of Seabrook. Without Seabrook, it is

his contention that the New Hampshire economy will be seriously weakened whereupon the local economic growth central to his forecast accuracy would fail to materialize (Brown, Direct p. 3).

As to the testimony of the commission staff, Mr. Camfield is the only witness to have used a complete model in reaching his conclusions. The fundamental basis of Mr. Camfield's model was the relationship between New Hampshire economic activity and energy demand. Thus, both Mr. Camfield and Mr. Brown agree as to the importance of New Hampshire's economic activity in predicting PSNH growth in demand. However, Mr. Camfield's model ties New Hampshire economic growth to national economic growth. He,

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in effect, quantifies New Hampshire economic activity, unlike Mr. Brown. This approach relies on the simple assumption that local economic activity is highly correlated with national economic activity, therefore, predictions of national and economic activity provide insight into local economic activity and in turn into electric demand.

Tying electric demand almost solely to economic activity has the advantage that in this proceeding it appears to eliminate some of the need for supply side analysis and is therefore more of a business as usual approach. More importantly, both witnesses, Brown and Camfield, express the strong conviction that future economic activity is of utmost importance in reaching a valid conclusion as to future electric demand, especially in the industrial sector which is where witnesses Brown and Camfield disagree most on their projections. Yet, Mr. Brown's only recognition of economic activity is his unsupported judgement that future state economic activity will exceed in some unspecified amount recent state economic activity.

Based on the foregoing analysis it is this commission's opinion that the approach taken by Mr. Camfield to demand forecasting is more appropriate in this case, especially on a business as usual basis, therefore the commission finds Mr. Camfield's conclusions more acceptable than those of Mr. Gantz or Mr. Brown.

In conclusion, the commission would like to point out that both the implicit and explicit premises relied on by Mr. Brown may be correct, including his premise on decreasing electric rates in real terms; the commission certainly hopes that is eventually the case. However, conclusions on rates conservation, etc., should be subject to examination and challenge, whereas in this docket the commission has attempted to keep the focus of its attention on the narrow question of a business as usual basis. On a business as usual basis rates have been rising in real terms.

In any event, it is clear to the commission that part of the process involved in estimating demand includes making assumptions (implicitly or explicitly) about supply. Inasmuch as the supply questions have not been explicitly addressed in this docket, a new docket will be opened to consider simultaneously the question of supply and demand for electric service. The commission's order in this docket will provide a base case demand forecast in the new docket. It is the commission's opinion based upon the record as a whole in this docket that the most reasonable estimate of future growth in demand for PSNH is 3 per cent annually through 1990, consistent with Mr. Camfield's range.

Supplemental Order

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

Ordered, that the question of peak demand for PSNH be investigated beyond the narrow focus of a business as usual basis so that the commission may arrive at a finding as to peak demand that includes explicitly the impact of the following, but not limited to the following, considerations:

1. Price response and the effect of rate structures.
2. Conservation and load management opportunities.
3. Development of alternative energy sources, and
4. Optimal plant mix including the role of Seabrook.

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Further ordered, that the secretary of the commission is directed to prepare an appropriate order of notice.

The secretary of the commission is hereby directed to issue the above order this nineteenth day of October, 1981.

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NH.PUC\*10/19/81\*[79060]\*66 NH PUC 415\*New England Telephone and Telegraph Company

[Go to End of 79060]

**Re New England Telephone and Telegraph Company**

DE 81-238 Order No. 15,204

66 NH PUC 415

New Hampshire Public Utilities Commission

October 19, 1981

PETITION for authority to install submarine telephone line crossing state waters; granted.

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APPEARANCES: Wayne Snow, engineering manager, for the petitioner.

BY THE COMMISSION:

Report

On August 31, 1981, the New England Telephone and Telegraph Company filed with this commission a petition for authority to place and maintain submarine plant crossing state-owned public waters in Conway, New Hampshire, under Conway lake.

The commission issued an order of notice on September 10, 1981, directing all interested parties to appear at a public hearing at 1:00 P.M. on October 8, 1981, at the Concord offices of

the commission. The petitioner was directed to publish a public notice in a newspaper having general circulation in the area served. In addition to the publication of said notice, copies of the hearing notice were directed to George Gilman, commissioner, Department of Resources and Economic Development; John Bridges, director, Safety Services, and the Office of the Attorney General.

An affidavit of publication indicating that publication was made in the *Union Leader* on September 17, 1981, was received at the commission's office in Concord, on September 21, 1981.

Wayne Snow, engineering manager, explained that the petition results from the need to replace existing submarine cable to customers on the shore of Conway Lake, in Conway, New Hampshire, as identified in company Exh 4. Three customers currently reside on the peninsula. Access from the mainland is limited to a very narrow roadway, and installation of utility poles along the roadway is impossible. The company serves three customers by three separate submarine cables. The cables to Doris Sanborn deteriorated in July, 1981, and

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resulted in the company taking emergency measures to restore service. Since the submarine cables to the other customers were of the same vintage, the company elected to install a 25-pair submarine cable to serve the entire peninsula.

The proposed cable will extend from Pole No. 47B/3 on private property of Ronald and Nancy Wilson, and Ronald and Clinton Goerler on the shore in Conway, New Hampshire, underground approximately ten feet to the shore of Conway Lake to the shore of private property of Doris Sanborn, and extending thereafter approximately five feet to Pole No. 47B/4 on the private property of Doris Sanborn. The two existing poles are jointly owned by the petitioner and the Public Service Company of New Hampshire. Electricity is served by overhead cable.

The commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance.

The petition was properly publicized, and proper notification was given to the public as to the proposed installation.

The commission finds this petition for a license to place and maintain a submarine cable across state-owned public waters in Conway, New Hampshire, under Conway Lake 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 to the New England Telephone and Telegraph Company, to place and maintain a submarine plant across state-owned waters at Conway, New Hampshire, under Conway Lake, said crossing from Pole No. 47B/3 on the shoreline at Conway, to the Doris Sanborn property, at Conway, as defined in petitioner's exhibits.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of October, 1981.

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NH.PUC\*10/19/81\*[79061]\*66 NH PUC 417\*Gas Utility Service

[Go to End of 79061]

## Re Gas Utility Service

DE 81-320, Order No. 15,228

66 NH PUC 417

New Hampshire Public Utilities Commission

October 19, 1981

ORDER opening complaint docket.

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BY THE COMMISSION:

Order

Whereas, the commission has received customer complaints concerning refusals by gas utilities within the state to provide service within their service territories; and

Whereas, the response given to these consumers was either an unwillingness to make the capital expenditures or perceived difficulties in connecting to the customer; and

Whereas, the commission has routinely interpreted New Hampshire statutory law to require all utilities to provide service to all customers in their service territory; and

Whereas, the commission is also concerned about gas maintenance programs in residential homes; it is hereby

Ordered, that docket DE 81-320, entitled Gas Utility Service, is opened for purposes of resolving the aforementioned issues; and it is

Further ordered, that from this docket will require strict guides as to what is expected of all gas utilities in the state; and it is

Further ordered, that a hearing be held on Tuesday, November 3, 1981, at 2:00 P.M. at the offices of the commission so as to allow the gas utilities to individually explain their policies as to request for service as well as maintenance-cleaning service programs involving residential homes.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of October, 1981.

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NH.PUC\*10/20/81\*[79062]\*66 NH PUC 417\*Compensation to Intervenors in Electric Rate-Making Proceedings

[Go to End of 79062]

## Re Compensation to Intervenors in Electric Rate-Making Proceedings

DR 80-182, Supplemental Order No. 15, 216

66 NH PUC 417

New Hampshire Public Utilities Commission

October 20, 1981

ORDER amending procedural rule.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission issued Order No. 15,082 ([1981] 66 NH PUC 332), amending Chap PUC 200 procedural rules by providing provisions regarding compensation for costs of participation of intervention; and

Whereas, the report directed that § 66 be included in said order; and

Whereas, § 66 was inadvertently omitted in Order No. 15,082; it is therefore

Ordered, that Order No. 15,082 is amended to include the following § 66 — "a consumer is not eligible for compensation for presenting the same or nearly the same evidence on the same issues as the commission staff."

By order of the Public Utilities Commission of New Hampshire this twentieth day of October, 1981.

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NH.PUC\*10/20/81\*[79063]\*66 NH PUC 418\*Connecticut Valley Electric Company, Inc.

[Go to End of 79063]

## Re Connecticut Valley Electric Company, Inc.

Intervenor: Claremont-Concord Railroad

DE81-314, Order No. 15,219

66 NH PUC 418

New Hampshire Public Utilities Commission

October 20, 1981

ORDER granting temporary approval for construction of utility plant crossing over railroad

property.

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BY THE COMMISSION:

Order

Whereas, on October 16, 1981, the Connecticut Valley Electric Company, 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 city of Claremont, New Hampshire; and

Whereas, the utility contends that oral agreement has been reached with the railroad with respect to the crossing, such agreement to be subject to further review within six months; and

Whereas, confirmation of this oral agreement was received by John Levine, vice president, Claremont — Concord Railroad, at these offices on October 19, 1981; and

Whereas, upon investigation this commission finds that in order to meet the urgent needs of the customer, temporary approval of this request is reasonable and in the public interest; it is

Ordered, that temporary approval is hereby given to the Connecticut Valley Electric Company, Inc., to construct a crossing as outlined in the company's plan and layout, such approval to be reconsidered at the end of the 6-month period pending final determination by the parties.

By order of the Public Utilities Commission of New Hampshire this twentieth day of October, 1981.

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NH.PUC\*10/21/81\*[79064]\*66 NH PUC 419\*Concord Steam Corporation

[Go to End of 79064]

**Re Concord Steam Corporation**

DE 81-308, Order No. 15,203

66 NH PUC 419

New Hampshire Public Utilities Commission

October 21, 1981

ORDER opening investigation docket.

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BY THE COMMISSION:

Order

Whereas, this commission in docket DF 80-128 and Order No. 14,383 ([1980] 65 NH PUC 354), authorized Concord Steam Corporation to borrow \$3.5 million to perform certain conversions, purchase equipment, and to incur certain other costs related to the lease and operation of the New Hampshire boiler plant; and

Whereas, in docket DF 80-128, this commission spoke of the lack of plant records in its files as to the cost of existing fixed capital, its date of installation and the basis for certain service lives used by Concord Steam in its allocation of depreciation expense; and

Whereas, the report in DF 80-128 requested further documentation to substantiate certain service lives and directed that a fixed capital and depreciation study be filed to include all its plant investment; and

Whereas, as of this date, no response has been received from Concord Steam; and

Whereas, from documents received in this office, it appears that misunderstandings exist as to implementation of Concord Steam's main extension plan; and

Whereas, in addition, this commission is concerned as to the status of the construction schedule at New Hampshire Hospital, and related expenditures regarding steam service to Concord Hospital, the present status of the Ward Avenue station, and the purchase of the boiler plant at Hall street; and

Whereas, the return on common equity being earned in 1980, by Concord Steam appeared to be excessive; and

Whereas, the commission's staff is sending out a data request, which the company shall respond to at least seven days prior to the hearing date; it is

Ordered, that Concord Steam Corporation appear before this commission at its Concord offices on November 23, 1981, at 10:00 A.M. to respond to these concerns, which will be addressed pursuant to a docket designated at DE 81-308.

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NH.PUC\*10/21/81\*[79065]\*66 NH PUC 419\*Cheshire Bridge Company/Springfield Terminal Railway Company

[Go to End of 79065]

## **Re Cheshire Bridge Company/Springfield Terminal Railway Company**

DF 81-313, Order No. 15,220

66 NH PUC 419

New Hampshire Public Utilities Commission

October 21, 1981

ORDER approving financing agreement for repair of bridge.

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BY THE COMMISSION:

Order

Whereas, the commission ordered the Cheshire Bridge Company, Springfield Terminal Railway, lessee to perform certain maintenance and general structural repair work to the Cheshire Bridge; and

Whereas, the company proposed that it would enter into a financing arrangement to obtain the funds necessary to accomplish this aforementioned work; and

Whereas, the company has negotiated a promissory note and mortgage with the Vermont National Bank to borrow \$500,000 upon the terms and conditions set forth in a letter dated September 29, 1981 ; and

Whereas, the commission finds pursuant to RSA 369:1 et seq. that it is consistent with the public good that such financing should be approved; therefore, it is

Ordered, that the request of Cheshire Bridge Company, Springfield Terminal Railway, lessee to finance the repair of its Chesire Bridge by executing a promisory note in the sum of \$500,000 together with a mortgage instrument as set forth in a commitment letter from Vermont National Bank dated September 29, 1981, is approved; and it is

Further ordered, that Chesire Bridge Company comply with the provisions of RSA 369:5

By order of the Public Utilities Commission of New Hampshire this twenty-first day of October, 1981.

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NH.PUC\*10/21/81\*[79066]\*66 NH PUC 420\*New Hampshire Electric Cooperative, Inc.

[Go to End of 79066]

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

Dr 81-260, Supplemental Order No. 15,221

66 NH PUC 420

New Hampshire Public Utilities Commission

October 21, 1981

PETITION of electric utility for approval of monthly fuel adjustment surcharge; granted.

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APPEARANCES: Maurice H. Muzzey, director, budgets and finance, for the petitioner.

BY THE COMMISSION:

Report

On September 23, 1981, the New Hampshire Electric Cooperative, Inc., filed with the commission its Original Page 13A to its tariff, NHPUC No. 10 — Electricity, said page designed to implement a purchased power cost adjustment of 40 cents per 100 kilowatt-hours effective October 21, 1981.

On October 7, 1981, the commission issued Order No. 15,168 (66 NH PUC 401), suspending said filing pending investigation

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vestigation and hearing thereon. A duly noticed public hearing was conducted at the commission's Concord offices at 1:00 P.M. on October 21, 1981. No intervenors were present and all staff inquiries were answered to the satisfaction of the commission. As a result, this commission will allow said filing to become effective. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that suspension of Original Page 13A of the New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 — Electricity, be, and hereby is, removed and said page allowed to become effective with all bills rendered on or after October 22, 1981; and it is

Further ordered, that public notice be given on time by inclusion of an explanation of the surcharge in a bill insert during the first month in which the charge is levied.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of October, 1981.

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NH.PUC\*10/21/81\*[79067]\*66 NH PUC 421\*Concord Electric Company

[Go to End of 79067]

### **Re Concord Electric Company**

DR 81-273, Supplemental Order No. 15,222

66 NH PUC 421

New Hampshire Public Utilities Commission

October 21, 1981

PETITION of electric utility for approval of monthly fuel adjustment surcharge; granted.

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APPEARANCES: Warren C. Nighswander, for the petitioner.

BY THE COMMISSION:

Report

On September 25, 1981, the Concord Electric Company filed with the commission its Fifth Revised Page 14A to its tariff, NHPUC No. 6 — Electricity, said page designed to implement a purchased power cost adjustment of \$1.088 per 100 kilowatt-hours effective October 21, 1981.

On October 7, 1981, the commission issued Order No. 15,166 (66 NH PUC 400), suspending

said filing pending investigation and hearing thereon. A duly noticed public hearing was conducted at the commission's Concord offices at 1:00 P.M. on October 21, 1981. No intervenors were present and all staff inquiries were answered to the satisfaction of the commission. As a result, this commission will allow a modification of filing to become effective. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is hereby Ordered, that Fifth Revised Page 14A

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of the Concord Electric Company tariff, NHPUC No. 6 — Electricity, be, and hereby is, revoked and First Revised Page 18A of Concord Electric Company tariff, NHPUC No. 7 — Electricity, be, and hereby is effective with all bills rendered on or after October 22, 1981; and it is

Further ordered, that public notice be given one time by inclusion of an explanation of the surcharge in a bill insert during the first month in which the charge is levied.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of October, 1981.

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NH.PUC\*10/21/81\*[79068]\*66 NH PUC 422\*Exeter and Hampton Electric Company

[Go to End of 79068]

## **Re Exeter and Hampton Electric Company**

DR 81-274, Supplemental Order No. 15,223

66 NH PUC 422

New Hampshire Public Utilities Commission

October 21, 1981

PETITION of electric utility for approval of monthly fuel adjustment surcharge; granted.

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APPEARANCES: Warren C. Nighswander, for the petitioner.

BY THE COMMISSION:

Report

On September 25, 1981, the Exeter and Hampton Electric Company filed with the commission its First Revised Page 18 to its tariff, NHPUC No. 14 — Electricity, said page designed to implement a purchased power cost adjustment of \$1.11 per 100 kilowatt-hours effective October 22, 1981.

On October 7, 1981, the commission issued Order No. 15,167 (66 NH PUC 400), suspending said filing pending investigation and hearing thereon. A duly noticed public hearing was conducted at the commission's Concord offices at 1:00 P.M. on October 21, 1981. No intervenors were present and all staff inquiries were answered to the satisfaction of the commission. As a result, this commission will allow said filing to become effective. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that suspension of First Revised Page 18 of the Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, be, and hereby is, removed and said page allowed to become effective with all bills rendered on or after October 22, 1981; and it is

Further ordered, that public notice be given one time by inclusion of an explanation of the surcharge in a bill insert during the first month in which the charge is levied.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of October, 1981.

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NH.PUC\*10/21/81\*[79069]\*66 NH PUC 423\*Municipal Electric Department of Wolfeboro

[Go to End of 79069]

## Re Municipal Electric Department of Wolfeboro

DR 81-280, Supplemental Order No. 15,224

66 NH PUC 423

New Hampshire Public Utilities Commission

October 21, 1981

PETITION of electric utility for approval of monthly fuel adjustment surcharge; granted.

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APPEARANCES: Dennis Bean, business manager, for the petitioner.

BY THE COMMISSION:

Report

On September 30, 1981, the Municipal Electric Department of Wolfeboro filed with the commission its First Revised Page 11B to its tariff, NHPUC No. 6 — Electricity, said page designed to implement a purchased power cost adjustment of 42 cents per 100 kilowatt-hours effective October 21, 1981.

On October 7, 1981, the commission issued Order 15,169 (66 NH PUC 401), suspending said filing pending investigation and hearing thereon. A duly noticed public hearing was conducted at the commission's Concord offices at 1:00 P.M. on October 21, 1981. No

intervenors were present and all staff inquiries were answered to the satisfaction of the commission. As a result, this commission will allow said filing to become effective. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that suspension of First Revised Page 11B of the Municipal Electric Department of Wolfeboro, tariff, NHPUC No. 6 — Electricity, be, and hereby is, removed and said page allowed to become effective with all bills rendered on or after October 22, 1981; and it is

Further ordered, that public notice be given one time by inclusion of an explanation of the surcharge in a bill insert during the first month in which the charge is levied.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of October, 1981.

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NH.PUC\*10/22/81\*[79070]\*66 NH PUC 424\*Tariff Filing Requirements for Telephone, Electric, Gas, and Water Companies

[Go to End of 79070]

## Re Tariff Filing Requirements for Telephone, Electric, Gas, and Water Companies

Intervenors: New England Telephone and Telegraph Company, Merrimack County Telephone Company, Granite State Telephone Company, Union Telephone Company, Continental Telephone Company, Concord Electric Company, Exeter and Hampton Electric Company, Public Service Company of New Hampshire, Northern Utilities, Inc., Granite State Electric Company, Manchester Gas Company, Gas Service, Inc., Concord Natural Gas Corporation, Hampton Water Works, Pennichuck Water Works, Hudson Water Company, Mountain Springs Water Company, Lakes Region Water Company, Inc., and Wentworth Cove Water Company, Inc.

DE 80-173, Supplemental Order No. 15,225

66 NH PUC 424

New Hampshire Public Utilities Commission

October 22, 1981

RULE-making procedure governing tariff, requirements for telephone, electric filing gas, and water companies; rules adopted.

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RATES, § 237 — Filing of rates schedules — Rules of practice and procedure.

[N.H.] The commission adopted new rules of practice and procedure relative to the filing of

rates schedules by gas, electric, telephone, and water utilities, and it allowed the rule to operate for a sufficient period of time to determine whether or not additional changes or modifications would be required.

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APPEARANCES: Jeanne S. Conroy and Robert Wells for New England Telephone and Telegraph Company; Alderic Violette for Merrimack County Telephone Company; Hobart Rand for Granite State Telephone Company; Wallase J. Flaherty for Union Telephone Company; Donald J. Barnes for Continental Telephone Company; Franklin Hollis for Concord Electric Company, Exeter and Hampton Electric Company and Northern Utilities Inc.; Martin L. Gross and Philip Ayers for Public Service Company of New Hampshire; Michael Flynn for Granite State Electric; Robert Wells for Manchester Gas Company; Howard Moffett for Gas Service, Inc.; Ronald Bisson for Concord Natural Gas Corporation; Michael Linehan for Hampton Water Works; Stephen Denberger for Pennichuck Water Works; Robert Phillips for Hudson Water Company; Mary Taber for Mountain Springs Water Company; Dom D. D'Ambruoso for Lakes Region Water Company, Inc., and Wentworth Cove Water Company, Inc.

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BY THE COMMISSION:

On August 15, 1980, the New Hampshire Public Utilities Commission initiated docket DE 80-173 instituting a rule-making proceeding pursuant to New Hampshire RSA 541 A et seq. in accordance with the authority granted by New Hampshire RSA 365:8, 10, 14, 15, wherein the commission issued an order of notice that the commission was proposing to amend and supplement the commission's rules of practice and procedures relative to the filing of rates for rate relief by gas, electric, telephone, and water utilities. The notice provided for written comments to be filed prior to September 19, 1980, with a public hearing to be held on October 2, 1980. A motion requesting additional time for the filing of written comments was granted and the time to file written comments was extended to October 2, 1980 (see 65 NH PUC 450). On October 9, 1980, a public hearing was held and various oral comments and arguments were presented expressing the utility companies concerns regarding the proposed rules.

*Purpose of the Rules*

The preamble to the proposed rules stated, "the purpose of these rules is to improve the efficiency of the commission's rate hearing process — to raise its quality and to increase its speed ... ." It suggested that the format utilized by these rules should facilitate analysis of the filing by marking a traceable trail from book source data through the adjustments and summaries to the proposed revenue requirements. The proposed rules do not limit the amount of information to be filed and any utility may present such additional information in such form as it wishes.

The commission is gratified by the response received from the entire utility industry and appreciates the cooperation received in this docket along with the constructive proposals submitted to improve the proposed rule. The participants demonstrated a positive attitude in an effort to achieve adequate filing requirements to improve the efficiency and quality of the rate-setting process. The commission is convinced that proper filing requirements will enable it

to analyze information quickly and to reduce regulatory lag to the mutual benefit of the utility company and its ratepayers.

*General Comments*

Most of the participants who filed written comments agreed with the stated purpose of the proposed rules regarding the filing requests for rate relief, that is, to improve the efficiency of the commission's rate hearing process — to raise its quality and to increase its speed. They further agreed that the best way to accomplish this objective is to establish a standardized filing procedure and recognized that most of the information requested in the proposed rules is necessary to evaluate a request for rate relief in an informed manner.

Public Service Company of New Hampshire, Exeter and Hampton Electric Company, Concord Electric Company, and Northern Utilities, Inc., proposed that the proposed rules be more appropriately placed in the tariff filing chapter of the commission rules, rather than in the practice and procedure chapter. The commission recognizes the interlocking relationship between tariff filing rules and the statutes applicable both to the filing of changes in rates and the subject matter covered in the proposed rules. The commission accepts the proposal. The final adopted rules shall be renumbered in proper sequence in the tariff filing chapter of the commission rules. To avoid confusion in our discussion, references for proposed rules shall mean the proposed rules as distributed by the commission.

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The final adopted rules shall be renumbered as they will appear in the tariff filing chapter of the commission's rules and regulations as filed with the Office of Legislative Services.

Some of the smaller utilities expressed substantial concern that extensive filing requirements as proposed in the rules will create a severe financial burden on their companies that ultimately would be passed on to their ratepayers. The small water utilities recommend that they be placed in a category which could be exempt from the requirements of the proposed rules or in the alternative the rule be amended so that small water companies with annual revenues under \$100,000 be exempted from the rule. The commission recognizes that the size of a utility does have a substantial impact on its ability to comply with the extensive filing requirements as proposed in these rules. The commission will amend or supplement the proposed rules to exempt small water utilities with gross revenues less than \$100,000 from complying with the filing requirement rules.

A majority of the participants expressed a real concern with certain rules or appendix's which required or suggested a bias towards a particular philosophy or past practice of the commission; i.e. data concerning a 13-month average test year, balance sheet, historical test year, etc.

The commission appreciates the concerns of the participants in this regard and sets forth that the object of these rules is to gather "information"; i.e. sufficient data for the commission, its staff, and the parties in a rate case so that they can properly evaluate in an informed manner a request for rate relief. The proposed rules do not put an imprint on any one methodology or practice. The commission does emphasize that fairness and procedural due process require that any party that relies on a methodology or practice that is grounded in data not required to be filed under the proposed rules, must file that data in a timely manner to permit the proper utilization of

same.

The commission acknowledges the many comments regarding duplicate filings, additional burdens imposed, etc. However, the benefits derived from proper filing requirements far outweigh those inconveniences and in the long run will streamline the process to the benefit of all.

In evaluating the comments on each specific rule, the commission will consider each comment and where appropriate, amend said rule to ease any substantial burden.

#### *Rule 48*

New England Telephone, Exeter and Hampton, Concord Electric, and Northern Utilities question the necessity and practicality of a rule requiring a notice of intent to file rate schedules and notification to the Legislative Utility Consumers' Council, the attorney general's office and all intervenors in its last rate proceeding. They suggest that more often than not, it is difficult to know what amount of increase must be requested until the testimony and exhibits are completed. They offer that this rule be deleted or eliminated.

The commission has carefully considered the comments of the participants concerning this rule, but believes that the participants overlook the concerns of the ratepayers and intervenors. The general public and the commission staff are entitled to know the amount of increase being requested and should be informed at the commencement of the proceeding rather than in the course of the proceedings. A utility seeking an increase in rates is the only party in a position to compute the amount of increase. The commission will adopt Rule 48 requiring a notice of intent to file a rate schedule, but will amend the rule to eliminate notification to the Legislative Utility Consumers' Council and past intervenors; and will amend the last paragraph to read as follows:

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"If no rate schedule changes are received within sixty days of commission receipt of 'notice of intent to file a rate schedule or from the date approving or disproving a request for a waiver pursuant to Rule 53, such notice shall expire."

#### *Rule 49A*

The commission received little or no comments on Rule 49A; therefore, it will be adopted as proposed.

#### *Rule 49B*

The participants generally were concerned that this rule imposed substantial duplication of filed material and recommended that the rule be amended to alleviate some of the duplication. The commission agrees with the comments at this time and will amend Rule 49B by adding thereto the following:

"Whenever an item required by Rule 49B duplicates information filed elsewhere in its filing, the response may refer to the information supplied elsewhere. Any company that operates in multistate, unless specifically requested may limit the required information to the company's New Hampshire intrastate operation."

*Rule 49B1*

Generally the same concerns expressed toward Rule 49B were restated against this rule. At this time the commission will amend Rule 49B1 to require company's internal financial reports for the first and last month of the test period, and one complete set for the test year, and the prior twelve months to be kept in the docket for review by all participants and the public.

*Rule 49B2*

Comments of various participants demonstrated that some utilities do not compile statistical supplement other than that which appears in the annual reports to stockholders. The companies also question the need for five years of reports.

The commission will amend Rule 49B2 by inserting the words "if any" after the words "statistical supplement." The remainder of the rule shall be adopted as proposed.

*Rule 49B3*

Exeter and Hampton, Concord Electric, Northern Utilities, New England Telephone, and Gas Service requested that this proposed rule be clarified to define what tax reconciliation is to be made. The commission accepts the recommendation of NET to add the following language to the proposed rule, "for the test year."

*Rule 49B4*

Public Service Company of New Hampshire, Exeter and Hampton, Concord Electric, Northern Utilities, New England Telephone, and Hampton Water Works request a clarification of the proposed rule. The commission accepts the recommendation of Exeter and Hampton, Concord Electric, and Northern Utilities to amend the rule to include and add thereto the following:

"on the increment of revenue needed to produce a given increment of operating expense."

*Rule 49B5*

Six of the 13 companies who filed comments expressed concern with the proposed rule and suggested that the commission appeared to be concerned with "charitable contributions" which are charged in the test year. They are further concerned with the extreme difficulty

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to trace each payment to expense, as charitable contributions are accrued in total and cannot be traced to contributions charged during the test year. The commission has considered the comments and will amend the proposed rule to read as follows:

"Detailed list of charitable contributions made during the test year showing donee and amount."

*Rule 49B6*

Public Service Company of New Hampshire, Exeter and Hampton, Concord Electric, Northern Utilities, New England Telephone, Gas Service, Inc., and Hampton Water Works question the use of the phrase "type of ad" by the commission and stated the difficulty associated

with the identification of costs for a specific advertisement because of the accrual accounting or billing procedure of advertising agencies. Most of the companies interpreted the rule to include only those advertisements relevant to a rate proceeding pursuant to docket DR 79-63 ([1980] 65 NH PUC 499) and allowed to be charged above the line in the claimed cost of service. To clarify the proposed rule it will be amended to read as follows:

"List advertising charged in the test year above the line, showing expenditures by media and subject matter."

*Rule 49B7*

Concord Electric, Exeter and Hampton, and Northern Utilities expressed concern over the costs to be incurred in presenting a cost-of-service study. They suggest this commission consider establishing standards or a guideline that may be followed in producing a fully allocated cost-of-service study which will be reasonable in costs and acceptable to the commission and reserve the right to request the opening of a rule-making docket for such purpose. The companies may petition the commission at any time to open a docket and the commission will consider it at that time. It is not expedient to treat that matter at this time and the commission is determined that cost-of-service studies are crucial to rate proceedings, therefore, this rule will provide for same. The commission notes that the smaller companies are also concerned with this rule and notes that reasonable requests for waiver of the rule (see proposed Rule 53) are permitted and when justified can be granted. Rule 49B7 will be adopted as proposed.

*Rule 49B8*

The companies subject to the Public Utility Regulatory Policies Act can avoid duplicate filings by invoking Rule 49B.

*Rule 49B9, and 10*

These rules received little or no comments and will be adopted as proposed.

*Rule 49B9, and 10*

A number of utilities expressed the same concerns as those addressed to Rule 49B6; i.e. difficulty of tracing payments to a particular account charged during the test year. The commission accepts the comments that this rule is concerned with above-the-line expenses and amends the rule to read as follows:

"Detailed list of all membership fees, dues, donations, and trade, technical and professional associations for the test year *charged above the line* showing organization and amount."

*Rule 49B12*

The comments directed at this proposed rule addressed the use of the word "managerial" and its meaning.

The commission will clarify the meaning of the proposed language by adopting the following rule:

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"A list of any management audit and depreciation studies performed with in the last five

years, specifying whether same are on file with this commission. Copies of audits or studies not on file with the commission shall be submitted."

*Rule 49B13*

Many comments were received questioning the scope of the proposed rule and the interpretation that is placed on the words "immediate family." The proposed rule was designed to cover stock under the control of an officer or director. To clarify the rule it will be amended to read as follows:

"List of officers and director of utility, their compensation for last two years, and amount of voting stock owned individually, by the spouse or minor children, *or stock controlled by the officer or director, directly or indirectly.*"

*Rule 49B14*

Public Service Company of New Hampshire, Exeter and Hampton, Concord Electric, Northern Utilities, and Gas Service, Inc., question the scope of proposed Rule 49B14 and suggest that the commission attempted to confine the requirements under this rule to professional consultants and contractual services during the last year in excess of \$10,000. The commission is concerned with all contractual services in the excess of \$10,000 per year. Such routine contracts for tree trimming, cleaning services, and the like bear scrutiny in a rate proceeding to determine the necessity of same and whether or not same are excessive in nature. The commission will adopt the rule as proposed.

*Rule 49B15*

Rule 49B15 received no comments and will be adopted as proposed.

*Rule 49B16*

Comments addressed to this proposed rule questioned the relevancy of balance sheets and income statements for a ten-year period and recommend a five-year period and that they be incorporated by reference. The commission adopts the proposed rule as filed and notes that Rule 49B will eliminate any duplication in filing requirements.

*Rule 49B17*

The comments addressed to this proposed rule suggest that this rule requires filings that are filed pursuant to other requirements. Again Rule 49B will prevent duplicate filings and the commission will adopt the proposed rule.

*Rule 49B18*

The utilities recommend that the requirement for ten-year quarterly sales volumes itemized for residential and others is unnecessary and suggest a period of five years is sufficient. The commission adopts the suggestion of the utilities and will amend the rule to reduce the period of ten years to five years.

*Rule 49B19*

The proposed rule referred to "the prospective two-year period." The companies request the quoted phrase be clarified. The commission will amend the quoted language in an effort to be more specific. The proposed rule will be amended to read as follows:

"Indicate the company's need for external capital for the two-year period immediately subsequent to the test year."

*Rule 49B20*

The comments directed toward this proposed rule are the same as directed towards proposed Rule 49B19 and the use of the word "prospective." In addition

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the meaning of the word "rationalize" is not clear to the companies. The commission will eliminate the word "rationalize" and restate the rule in a similar manner as set forth above to read as follows:

"The company shall submit its capital budget with a source and uses of funds statement for the two years immediately subsequent to the test year."

*Rule 49B21*

Rule 49B21 received little or no comments and will be adopted as proposed.

*Rule 49B22*

Public Service Company asks for clarification of the phrase "term of short-term debt." The commission will amend the proposed rule to read as follows:

"If the short-term debt component of total invested capital is volatile, disclose the amount outstanding on a monthly basis during the test period, for each short-term indebtedness."

*Rule 49B23*

Various companies commented generally that this proposed rule requires an extreme amount of detail not relevant to the commission's consideration in a jurisdictional rate case. The comments suggest that the commission should be concerned with those items of the parent company that are allocated to the subsidiary's cost of service. The commission accepts the comments presented; and in an effort to make the proposed rule more meaningful, the rule will be amended as requested by Granite State Electric Company to read as follows:

"If a parent-subsidiary relationship exists, duplicate all filing requirements of § 49B for the parent company; except that, in lieu of duplication of Rules 49B 5, 6, 11, 14, and 15, the subsidiary's rate filing request shall contain a certificate of an appropriate company official detailing any expense of the parent company which was included in the subsidiary's cost of service."

*Rule 49B24*

Public Service Company, Concord Electric, Exeter and Hampton, Northern Utilities, and Gas Service Company each found difficulty with the proposed rule and were not clear as to the meaning of "regulatory reports." They indicate that each regulatory report may have its own significant purpose and cover different time periods, etc. They suggest that any reconciliation of data filed pursuant to the filing requirements and other regulatory reports be accomplished through data requests. The commission at this time will accept the request to delete the proposed rule and will monitor subsequent rate cases to determine whether or not a rule similar to the

proposed rule should be adopted in the future.

*Rule 49B25*

Rule 49B25 received no comments and will be adopted as proposed.

*Rule 49B26*

A majority of the utility companies expressed concern that if the rule were strictly construed it would require copies of successive drafts of written testimony and exhibits. The commission believes that the language of the proposed rule is sufficient to produce the intended purpose of the rule; i.e. to receive summary workpapers that were developed for written testimony and exhibits. However, in an effort to clarify the rule, the commission will adopt the rule as follows:

"Summary workpapers supporting figures appearing on written testimony and/or in accompanying exhibits shall be included in the filing."

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*Rule 49D*

This proposed rule was incorrectly numbered and should have been Rule 49C. The proposed rule received comment from nearly all the utilities and expressed concern that the information sought was difficult to accumulate. It would create a situation that would cause all utilities to file when a Form 1 report was due to avoid complying with a split year Form 1. The commission has carefully analyzed the comments presented, and will delete the rule at this time. The commission does not want to add increased financial costs on the companies, but is endeavoring to comply sufficient data to streamline the rate-making process. If the information is found to be necessary in the future, the commission will initiate a rule-making process at that time.

*Rule 50*

Comments on this proposed rule went towards a clarification of the proper officers to execute the certification. The commission will accept the comments and adopt the rule to allow the certification to be made by the office in charge of the utility's accounts on knowledge, information, and belief.

*Rule 51B*

The comments received for this proposed rule were minor and the commission will amend its proposed rule to insert the word "significant" before the word "change."

*Rule 51C*

Some of the comments criticized the proposed rule as being tantamount to a rule of law, that in making rates no allowance may be made for contingent unexpected expenses. The commission does not accept these comments. The commission always addressed unexpected changes or increases on a case by case basis, and will continue to do so. The commission will, however, amend Rule 51C(2) by adding at the end of same the words "where applicable."

*Rule 52*

Rule 52 shall be adopted as proposed.

*Rule 53*

The comments on this proposed rule concerned the running of time from the date of request for a waiver and the requirement to file rate schedules sixty days after the date of filing of the notice of intent to file a rate schedule. To remedy that problem the commission amended Rule 48. The commission will adopt this rule as proposed.

*Rule 54*

This proposed rule is intended to effect compliance with the rules. The commission does not think it proper to shift the responsibility of meeting the requirements of these rules to the staff. The utility companies filing for rate relief have the burden to supply and file the required material. Rule 53 provides an opportunity for adequate relief where necessary.

*Rule 55*

Rule 55 is not necessary and will be deleted.

Subsequent to the hearings in this docket a draft of a recommended proposed rule was submitted to the parties at an informal hearing held on September 10, 1981. This procedure was in accordance with a statement made by the hearing examiner during the course of the formal hearings. The hearing examiner attempted to limit comments on the recommended proposed rule, but was

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persuaded to accept additional comments. As a result of the additional comments some minor changes were made in the proposed rules.

Copies of the appendix to the rules were not available at the informal conference and the hearing examiner stated that there were few if any changes to the appendices as originally distributed.

Although some of the companies requested that appendices be amended in that the schedules contained therein be the same as required by the Federal Energy Regulatory Commission. The commission is not convinced that such change should be made at this time. The commission is aware that all of the companies subject to these rules do not file with FERC and some of the information sought by the commission schedules is not supplied in the same manner in those rules.

The commission acknowledges the active participation of the utility companies and the patience of the hearing examiner to finalize the record in this docket. Under the circumstances the commission will adopt the tariff filing requirement rules at this time and allow the rule to operate for a sufficient period of time to determine whether or not additional changes or modifications will be required.

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 following rules are adopted:

## Chapter PUC 1603 Tariff Filing Requirements

### 1603.01 *Purpose of the Rules*

The purpose of these rules is to improve the efficiency of the commission's rate hearing process — to raise its quality and to increase speed. To accomplish this, these rules require each utility to furnish certain specific information with its filing. The prescribed information is directed to items that the commission has found useful in recent proceedings; the format should facilitate analysis of the filing by marking a traceable trail from the book source data through the adjustments and summaries to the proposed revenue requirement. However, the utility may present such additional information in such form as it wishes.

### 1603.02 *Notice of Intent to File Rate Schedules*

In order to facilitate the scheduling and preparation of rate proceedings the commission requires that any utility intending to file proposed rate schedule changes pursuant to RSA Chap 378, file with the public utilities commission and the department of the attorney general, a "notice of intent to file rate schedules" at least thirty days prior to the actual filing of such schedules. Such notice shall indicate the approximate amount of the proposed increase.

If no rate schedule changes are received within sixty days of commission receipt of the "notice of intent to file rate schedules," or the date that the commission approves or disapproves a waiver pursuant to Rule 1603.07, such notice shall expire.

### 1603.03 *Items to be Filed*

A. Each company shall file ten copies of its complete direct case in support of the rates and revenue applied for, to the commission and shall serve a copy to each intervenor as they file their appearances, and shall include:

1. An introductory letter summarizing the amount of requested relief and the nature and magnitude of the requested changes.

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2. Report of Proposed Changes.

3. Proposed new tariff pages.

4. Written direct testimony.

5. Exhibits (See Rule 1603.06).

B. Five copies of each of the following shall be included with each filing. Whenever an item required by Rule 1603.03B duplicates information filed with the commission, the response to that subparagraph may be incorporated by reference to such other filings and additional copies need not be filed. Any company that operates in multistates, unless specifically requested, may limit the required information to the company's New Hampshire intrastate operation.

1. The company's internal financial reports for the first and last month of the test period, and one complete set for the test year, and the prior twelve months to be kept in the docket for review by all participants and the public.

2. Annual reports to stockholders and statistical supplements, if any, for the most recent five years.
3. Federal income tax reconciliation for the test year.
4. Detailed computation of New Hampshire and Federal income tax factors on the increment of revenue needed to produce a given increment of net operating expense.
5. Detailed list of charitable contributions charged in the test year showing donee and the amount.
6. List advertising charged in the test year above the line showing expenditure by media and by subject matter.
7. Latest fully allocated cost-of-service study.
8. Copy of company's most recent construction budget.
9. Copy of recent chart of accounts, if different, than approved chart of accounts.
10. Provide Forms 10K and 10Q for most recent two years.
11. Detailed list of all membership fees, dues, donations, and trade, technical, and professional associations for the test year charged above the line showing organization and amount.
12. "A list of any management audit and depreciation studies performed within the last five years, specifying whether same are on file with this commission. Copies of audits or studies not on file with the commission shall be submitted."
13. "List of officers and director of utility, their compensation for the last two years, and amount of voting stock owned individually, by the spouse, or minor children or stock controlled by the officer or director directly or indirectly."
14. List of all payments in excess of \$10,000 to individuals or corporations for contractual services in test year and purpose of such.
15. For nonutility operations, the amount of assets and costs allocated thereto and justification for such allocations.
16. Balance sheets and income statements for the previous ten years.
17. Quarterly income statements for the previous five years.
18. Quarterly sales volumes for the previous five years, itemized for residential and other.
19. Indicate the company's need for external capital for the two-year period immediately subsequent to the last month of the test year.
20. The company shall submit its capital budget with a source and uses of funds statement for the two years immediately subsequent to the test year.
21. Specify the provisions of any sinking funds associated with senior capital and indicate the rate that any respective issues of senior capital will be retired, consistent with such sinking fund(s).
22. If the short-term debt component of total invested capital is volatile, disclose the amount

outstanding, on a monthly basis during the test period, for each

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short-term indebtedness.

23. If a parent-subsidary relationship exists, duplicate all filing requirements of § 1603.04 for the parent company; except that, in lieu of duplication of Rules 1603.03B(5), (6), (11), (14), and (15), the subsidiary's rate filing request shall contain a certificate of an appropriate company official detailing any expense of the parent company which was included in the subsidiary's cost of service.

24. Uniform statistical report to the American Gas Association-Edison Electric Institute for the last two years, where applicable.

25. Summary workpapers supporting figures appearing on written testimony and/or in accompanying exhibits shall be included in the filing.

#### *1603.04 Accurate Reflection of Books*

The filing shall contain an attestation by the officer in charge of the utility accounts, on knowledge, information, and belief, that the cost and revenue statements and the supporting data submitted, which purport to reflect the books of the company, do in fact set forth the results shown by such books; and that all differences between the books and the test-year data, and any changes in the manner of recording an item on the utility's books during the test year, have been expressly noted.

#### *1603.05 Adjustments*

A. Any significant change in the manner of recording accounting data on the utility's books during the test year shall be explained, justified, and the financial impact shown.

B. The test year is to be based on the experience of the most recent 12-month period and shall be normalized. Thus, all items of unusual magnitude which occurred during the test year, but which are not expected to recur to a significant degree beyond the test year, shall be adjusted to reflect what is reasonably to be expected in the future; correspondingly, adjustments should be made to reflect items that are fixed, determinable, and likely to occur in the future, but which did not occur to a significant degree during the test year. All adjustments should be justified by a supporting schedule showing (see "Schedule I Attachments in Appendices I-IV [omitted herein]):

1. Data and source.
2. Comparable data and source for at least two preceding years where applicable.
3. Other relevant information.
4. Reason for adjustment.
5. Calculation of adjustments including explanation and justification of method used.
6. Dollar amount of adjustment.

#### *1603.06 Format*

The commission has adopted a format for the preparation of certain schedules required by these rules. This format shall be used unless a waiver is granted. A. Electric Utilities — Appendix I B. Gas Distribution Utilities — Appendix II C. Telephone Utilities — Appendix III D. Water Utilities — Appendix IV E. Rate of Return Information — All Utilities — Appendix V

1603.07 *Waiver*

Any utility may request a waiver of any provision of these rules. Such a request shall accompany the "notice of intent to file rate schedules," and should clearly state the basis for such request. The commission shall respond to such request within ten business days of receipt. Waiver of any provision of these rules shall not preclude the commission or

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any intervenor from subsequently requesting an item be waived.

1603.08 *Exemption*

A. Water utilities having gross revenues under \$100,000 need not comply with Chap 1600 tariff filing requirements.

B. Section 1603 filing requirements does not apply to petitions for emergency rate relief pursuant to RSA 378:9.

1603.09 *Penalty for NonCompliance*

Any request for rate relief not filed in accordance with these rules shall be rejected for noncompliance.

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

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NH.PUC\*10/22/81\*[79071]\*66 NH PUC 435\*Omni Communications, Inc., d/b/a Page Call

[Go to End of 79071]

**Re Omni Communications, Inc., d/b/a Page Call**

DE 81-1.31, Sixth Supplemental Order No. 15,226

66 NH PUC 435

New Hampshire Public Utilities Commission

October 22, 1981

ORDER denying motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Whereas, Omni Communications, Inc., d/b/a Page Call has filed a motion for rehearing dated August 4, 1981, with respect to Fifth Supplemental Order No. 14,982 dated July 15, 1981 (66 NH PUC 261), and

Whereas, Chairman J. Michael Love filed a written opinion dated July 16, 1981, expressing his views that the motion should be denied; and

Whereas, additional oral arguments were presented on September 22, 1981, before Commissioner Paul R. McQuade; and

Whereas, Commissioner Paul R. McQuade finds no reason to grant the motion; it is hereby

Ordered, that the motion for rehearing filed by Omni Communications, Inc., is hereby denied.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of October, 1981.

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NH.PUC\*10/23/81\*[79072]\*66 NH PUC 436\*New Hampshire Electric Cooperative, Inc.

[Go to End of 79072]

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

Additional petitioner: Connecticut Valley Electric Company, Inc.

DE 81-315, Order No. 15,227

66 NH PUC 436

New Hampshire Public Utilities Commission

October 23, 1981

ORDER authorizing transfer of service territories between two utilities.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc. (hereinafter called the cooperative) and Connecticut Valley Electric Company, Inc. (hereinafter called Connecticut), corporations duly organized under the laws of this state and operating therein as electric public utilities under the jurisdiction of this commission, by joint petition filed October 8, 1981, seek authority pursuant to Chap 374 RSA for the cooperative to discontinue service to nineteen customers, and for Connecticut to assume service to these same customers, on Dingleton Hill road in Cornish, New Hampshire; and

Whereas, in order to render the service the cooperative maintains a long cross- country feeder line through very difficult terrain inaccessible to trucks, thus creating a problem of service continuity and restoration of service; and

Whereas, this feeder line will have to be rebuilt within the next several years at a disproportionately high cost due to the location of the right of way; and

Whereas, Connecticut has existing distribution facilities on Dingleton Hill road approximately 700 feet from the cooperative's lines; and

Whereas, the cooperative has agreed to build the tie line between the two companies; and

Whereas, Connecticut could provide better, more reliable and economical service to these customers, and Connecticut has agreed to provide this service and acquire existing distribution facilities of the cooperative, namely those facilities consisting of poles and appurtenances, as attached to Pole Nos. 6W/6 to 6W/23S; and

Whereas, the nineteen active customers involved, located along the cooperative's 6W line, namely Charles E. Raymond, Stephen Peters, Robert Jaarsma, Lawrence W. Grace, Donald F. Monnette, Donald P. Dunn, Donald W. Wenz, Michael P. Day, George H. Chapin, Calvin Monroe, Willard Witcomb, John Sunder, Harrison Thibeault, Robert S. Perkins, Samuel Hibbard, Harold A. Tucker, Margaret T. Noonan, Lee R. Baker, and Charles Withers have signified in writing that they have no objection to the proposed transfer, such assents to the transfer 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 improved service can be rendered

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through elimination of a difficult to maintain existing cross-country feeder line and connection to facilities along a public road; it is

Ordered, that, pursuant to the provisions of Chap 374 RSA, the cooperative be, and hereby is, authorized to discontinue electric service; and Connecticut be, and hereby is, authorized to provide service to the above named customers; such authorization for this transfer of service being granted as provided by RSA 374:22 when all interested parties are in agreement; and it is

Further ordered, that Connecticut may collect accounts receivable, as existing at the time of the transfer, of the cooperative relating to the customers who are subject to this transfer, as a condition of continued service by Connecticut; and it is

Further ordered, that each company, the cooperative and Connecticut, file a revised service territory map within thirty days reflecting the change brought about by this transfer of customer service; effective on the date of this order, and by authority of the above NHPUC Order No. 15,227.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of October, 1981.

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NH.PUC\*10/26/81\*[79073]\*66 NH PUC 437\*Gas Service, Inc.

[Go to End of 79073]

**Re Gas Service, Inc.**

DE 81-248, Order No. 15,229

66 NH PUC 437

New Hampshire Public Utilities Commission

October 26, 1981

PETITION for authority to bore steel sleeve underneath state-owned railroad right of way; granted.

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APPEARANCES: Richard MacDonald, supervisor of operations, Gas Service, Inc., for the petitioner.

BY THE COMMISSION:

Report

On September 17, 1981, Gas Service, Inc., filed with this commission a petition for authority to bore a 12-inch steel sleeve underneath state-owned railroad right of way located on Main street, Tilton, New Hampshire, at the intersection of Park street and Prospect street.

The commission issued an order of notice on September 22, 1981, directing all interested parties to appear at a public hearing at 10:00 A.M. on October 21, 1981, at the Concord offices of the commission. The petitioner was directed to publish a public notice in a newspaper having general circulation in the area concerned. In addition to the publication of said notice, copies of the hearing notice were directed to, The Selectmen's Office, town of Tilton, Timothy Drew, John E. O'Keefe, esquire, Boston and Maine Corporation, V.R. Terrill, Boston and Maine Corporation, William J. Rennie,

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vice president, Boston and Maine Corporation, Representative John Hoar, John J. Knee, Boston and Maine Corporation, and the Office of the Attorney General.

An affidavit of publication indicating that publication was made in the *Laconia Evening Citizen* on October 6, 1981, was received in the commission's office at Concord, New Hampshire, on October 21, 1981.

Richard MacDonald, supervisor of operations, explained that the petition reflects a need to install a 12-inch steel sleeve underneath state-owned railroad right of way in Tilton, for the purpose of upgrading its distribution system in the Tilton-Franklin area. The city of Franklin is currently served by a four-inch bare steel gas distribution main extending from its Tilton meter station. Increased customer demands have caused the company to upgrade its three-mile main with a new eight-inch coated steel gas main.

The sleeve will be installed by a contractor, R.H. White Construction Company, Inc., and will be placed five feet below road grade. Upon cross-examination by staff the company verified

that it would meet or exceed the minimum safety requirements established by both this commission and the U.S. Defense Department of Transportation.

The commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance.

The petition was properly publicized, and proper notification was given to the public as to the proposed installation.

The commission finds this petition for a license to place and maintain a 12-inch steel sleeve underneath state-owned railroad right of way located on Main street, Tilton, New Hampshire, at the intersection of Park street and Prospect street 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 to Gas Service, Inc., to place and maintain a 12-inch steel sleeve underneath state-owned railroad right of way located on Main street, Tilton, New Hampshire, at the intersection of Park street and Prospect street, as defined in petitioners exhibits.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of October, 1981.

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NH.PUC\*10/26/81\*[79074]\*66 NH PUC 438\*Independent Telephone Companies

[Go to End of 79074]

**Re Independent Telephone Companies**

Intervenor: Continental Telephone Company of New Hampshire

DE 81-279, Fifth Supplemental Order No. 15,230

66 NH PUC 438

New Hampshire Public Utilities Commission

October 26, 1981

ORDER establishing effective date for a tariff revision.

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BY THE COMMISSION:

Supplemental Order

Whereas, on September 30, 1981, this commission directed all independent telephone companies which offer selective calling service to file revised tariff rates conforming to those set

for the New England Telephone and Telegraph Company, in DE 81-221 ([1981] 66 NH PUC 323); and

Whereas, on October 5, 1981, Continental Telephone Company of New Hampshire filed § 14, First Revised, Sheet 3, selective calling service; and

Whereas, upon investigation this commission finds this confirming filing to be in the public interest; it is

Ordered, that Continental Telephone Company of New Hampshire, NHPUC No. 11, § 14, First Revised Sheet 3, selective calling service be allowed to become effective on all bills rendered after September 19, 1981; and it is

Further ordered, public notice of this tariff change be made in a newspaper having general circulation in the area served, or in some other manner which will make notice available to individual customers.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of October, 1981.

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NH.PUC\*10/26/81\*[79075]\*66 NH PUC 439\*Hillsboro Water Company, Inc.

[Go to End of 79075]

### **Re Hillsboro Water Company, Inc.**

DR 81-319, Order No. 15,242

66 NH PUC 439

New Hampshire Public Utilities Commission

October 26, 1981

ORDER suspending effective date of tariff revision pending investigation.

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BY THE COMMISSION

Order

Whereas, Hillsboro Water Company, Inc., a public utility engaged in the business of supplying water service in the state of New Hampshire, on October 15, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 1 — Water, providing for increased rates, effective November 15, 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 7-10 of tariff, NHPUC No. 1 — Water, of Hillsboro 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 twenty-sixth day of October, 1981.

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NH.PUC\*10/27/81\*[79076]\*66 NH PUC 440\*Pittsfield Aqueduct Company, Inc.

[Go to End of 79076]

### **Re Pittsfield Aqueduct Company, Inc.**

DR 80-125, Seventh Supplemental Order No. 15,243

66 NH PUC 440

New Hampshire Public Utilities Commission

October 27, 1981

ORDER to show cause why franchise should not be revoked.

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FRANCHISES, § 55 — Amendment and termination — Revocation — Inefficient management as grounds.

[N.H.] Where a water utility had been granted additional revenues in the form of temporary rates during the pendency of an appeal and made no effort to collect the additional revenues, the commission believed that the efficiency of the management of the company was in serious doubt and ordered their appearance before the commission to demonstrate why their franchise to operate as a water public utility should not be revoked.

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BY THE COMMISSION:

Report

Pittsfield Aqueduct Company appealed portions of this commission's Order No. 14,60 ([1981] 66 NH PUC 13) that relate to the installation of meters, including its letter of April 20, 1981, that more specifically details the commission's desires, and that portion requiring quarterly billing. A hearing was held on this matter on September 10, 1981. On September 24, 1981, Order No. 15,119 (66 NH PUC 372), was issued allowing temporary rates at the levels allowed in our original order in this case, No. 14,660, and to be effective for all services rendered on or after July 1, 1981.

Pittsfield approached this commission in May of 1980, seeking an increase in its annual revenues. This matter was investigated; heard at public hearings, and the determination made that additional revenues of \$17,915 were authorized. The order granting this increase was issued January 12, 1981, to become effective with all current bills rendered on or after July 1, 1981.

The commission recognizes that Pittsfield appealed certain parts of its Order No. 14,660,

however, it made no effort to collect the additional revenues while the appeal process was pursued. In the instant case, thirty days have passed since we have again allowed collection of these revenues, and Pittsfield has not filed tariff pages to accomplish their collection. We can only assume that the management of Pittsfield Aqueduct Company does not consider the collection of these revenues essential to its operation, and in fact by its inaction, are declaring them unnecessary.

We believe that the efficiency of the management of this company is in serious doubt, and we shall order their appearance before us to demonstrate why their franchise to operate as a water public utility in the town of Pittsfield should not be revoked. Further, there appears to be some misinformation provided by Pittsfield Aqueduct to the town of Pittsfield and its customers over the question of how much of the increase is attributed to meters and how much to other factors. Of the 70 per cent + increase, only one to 3 per cent has been shown associated with meters, yet respected

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members of the Pittsfield community appeared before us with information that the increase was entirely related to the installation of meters. Since it would appear that misinformation has been sent to Pittsfield Aqueduct customers, the commission will also require the company to offer a method by which the facts of the company's proposal can be laid before their customers and the level of increase, if any associated with meters, can truthfully be stated.

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 management of the Pittsfield Aqueduct Company appear before this commission on November 23, 1981, at 1:30 P.M. to discuss its franchise in the town of Pittsfield.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of October, 1981.

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NH.PUC\*10/30/81\*[79077]\*66 NH PUC 441\*Fuel Adjustment Charge

[Go to End of 79077]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Concord Electric Company, Connecticut Valley Electric Company, Inc., Granite State Electric Company, New Hampshire Electric Cooperative, Inc., Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, and Woodsville Water and Light Department

DR 81-255, Order No. 15,246

66 NH PUC 441

## New Hampshire Public Utilities Commission

October 30, 1981

PETITION of several electric utilities for approval of monthly fuel adjustment surcharges; granted.

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APPEARANCES: Eaton W. Tarbell for Public Service Company of New Hampshire; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 373:3-a (II), the commission on October 20, 1981, held hearings on the initial petition of Public Service Company of New Hampshire (hereinafter referred to as the "company") for authority to apply a fuel adjustment charge to regular November, 1981, monthly billings to their customers at a constant rate for regular October, November, and December, 1981, billings pursuant to its tariff, NHPUC No. 24A — 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, including First Revised

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Pages 21, 22, and 23 which incorporates the energy cost of purchases from qualifying facilities.

Reference may be made to commission Order No. 14,155 ([1980] 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 October 16, 1981, the company filed with the commission, their affidavits and Exhs 1 through 11 showing actual financial and electrical data through the month ended September 30, 1981, schedules showing maintenance day outages at the company's generating units and major entitlement units for September, 1981, the reasons for unscheduled outages, and fuel data sheets for the period ending September 30, 1981.

At the hearing on October 20, 1981, the company submitted Exh 12, pertaining to its contract with Westinghouse.

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 bring its witness or witnesses to the hearing for purposes of cross-examination. For this hearing, the commission put all parties on notice that issues relating to plant outages would be brought up. Similarly, for the December hearing, the commission staff requested the company provide a witness to detail the progress made on signing contracts with small energy producers.

During the course of the October 20, 1981, hearing, the company requested the commission continue the fuel adjustment rate of \$2.25 per 100 kilowatt-hours for November, 1981.

The company provided Warren Harvey as a witness to testify on the three areas of concern pointed out by the commission in the report in DR 81-227 ([1981] 66 NH PUC 381).

"1. The feedwater problem and operator error in phasing the Unit.

"2. The unscheduled outage being extended due to errors made by employees of Westinghouse while working at Merrimack.

"3. As pointed out by CAP, PSNH seems to regularly overrun the time allotted to it by NEPX for scheduled maintenance."

Due to extensive testimony and cross-examination, the commission now feels it has sufficient information upon which to conclude that the company was not guilty of mismanagement or negligence to the degree that they should be penalized through the FAC.

Continuing on this line, in the report in DR 81-227, the commission did "not allow all of the 19 cents per 100 kilowatt-hours requested by PSNH to continue the recoupment of the third quarter's undercollection, but only 14 cents per 100 kilowatt-hours."

The commission, at this time, will not raise the FAC by an additional five cents per 100 kilowatt-hours, nor has PSNH requested such. The reason is the company in September, 1981, had estimated the undercollection for the third quarter of 1981, to be approximately \$3.6 million. In Exh 3, p. 2 of 2, the actual figure was calculated to be \$2,588,121.

The commission feels the rate of \$2.25 per 100 kilowatt-hours for the month of November, 1981, is reasonable.

Our order will issue accordingly.

The commission will take this opportunity to correct a statement made on p. 5 of the report in DR 81-227, "The commission will note that two months ago, CAP appeared willing to pass the entire additional costs from the unscheduled outage to the ratepayers." As correctly pointed

**Page 442**

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out by CAP, CAP did not address the unscheduled outage subject in the two nonmajor FAC hearing months, but did for the major hearing of the quarter.

Order

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

Ordered, that Public Service Company of New Hampshire Seventh Revised Pages 24 and 25 to its tariff, NHPUC No. 24A — Electricity, filed in conjunction with First Revised Pages 21, 22, and 23 fuel adjustment clause of \$2.25 per 100 kilowatt-hours for the month of November, 1981, be and hereby is, permitted to become effective November 1, 1981; and it is

Further ordered, that Concord Electric Company's First Revised Page 19A to its tariff, NHPUC No. 7 — Electricity, providing for an estimated FAC of \$2.47 per 100 kilowatt-hours for the month of November, 1981, be, and hereby is, rejected; and it is

Further ordered, that Concord Electric Company file revised tariff pages providing for a fuel surcharge of \$2.49 per 100 kilowatt-hours for the month of November, 1981; and it is

Further ordered, that 57th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for a monthly fuel surcharge of 16 cents per 100 kilowatt-hours for the month of November, 1981, be, and hereby is, permitted to become effective November 1, 1981; however, it is

Further ordered, that Connecticut Valley Electric Company, Inc., is to appear at the November, 1981, regularly scheduled FAC hearing to justify the inclusion of CPM, Inc., costs for April through July, 1981, in the FAC, as an amortization over four months beginning November 1, 1981; and it is

Further ordered, that 80th Revised Page 15A, of Granite State Electric Company, tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.28 per 100 kilowatt-hours for the month of October, 1981, be, and hereby is, permitted to stay in effect for November, 1981; and it is

Further ordered, that Eighth Revised Page 15 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 — Electricity, providing for the monthly fuel surcharge of \$2.17 per 100 kilowatt-hours be, and hereby is, permitted to become effective November 1, 1981; and it is

Further ordered, that Tenth Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of \$2.58 per 100 kilowatt-hours for the month of November, 1981, be, and hereby is, permitted to become effective November 1, 1981; and it is

Further ordered, that 94th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$1.79 per 100 kilowatt-hours for the month of November, 1981, be, and hereby is, permitted to become effective November 1, 1981; and it is

Further ordered, that 62nd Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a monthly fuel surcharge credit of six cents per 100 kilowatt-hours for the month of November, 1981, be, and hereby is, permitted to become effective November 1, 1981.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of October, 1981.

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NH.PUC\*10/30/81\*[79078]\*66 NH PUC 444\*New England Power Company

[Go to End of 79078]

## **Re New England Power Company**

DF 81-59, Supplemental Order No. 15,249

66 NH PUC 444

New Hampshire Public Utilities Commission

October 30, 1981

ORDER authorizing issue and sale of general and refunding mortgage bonds.

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BY THE COMMISSION:

Supplemental Order

Whereas, by Order No. 14,836 of this Commission dated April 10, 1981 (66 NH PUC 127), issued in the above entitled proceeding, New England Power Company was authorized, inter alia, to issue and sell one or more series, aggregating not exceeding \$100 million principal amount, of general and refunding mortgage bonds, to bear interest at a rate not in excess of 16.5 per cent per annum (unless a subsequent order of this commission approved a 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

Whereas, the market for bonds has continued to decline since the date of said order; and

Whereas, it continues to be necessary to provide the company with sufficient latitude to give it flexibility to accept bids within limitation without returning to this commission for additional approvals which may cause increased expense and jeopardize a financing which could be advantageous on the one day when the bids are opened; upon consideration; it is

Ordered, that New England Power Company, be and hereby is, authorized to issue and sell one or more series, aggregating not exceeding \$100 million principal amount, of general and refunding mortgage bonds, to bear interest at a rate not in excess of 18.875 per cent per annum (unless a subsequent order of the commission approves a higher rate); 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 thirtieth day of October, 1981.

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NH.PUC\*10/30/81\*[79079]\*66 NH PUC 445\*Lifeline Rates

[Go to End of 79079]

## Re Lifeline Rates

Intervenor: Connecticut Valley Electric Company, Inc.

DP 80-260, Fourth Supplemental Order No. 15,250

66 NH PUC 445

New Hampshire Public Utilities Commission

October 30, 1981

REVIEW of electric company's tariff establishing lifeline rates for residential customers; approved in accordance with opinion.

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RATES, § 354 — Electric company — Lifeline rates.

[N.H.] An electric company was allowed to establish lifeline rates for residential customers where the proposed lifeline rates would beneficially affect all residential customers except those under optional rates and "grand-fathered" total electric living customers.

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BY THE COMMISSION:

Report

On June 15, 1981, the Connecticut Valley Electric Company, Inc., (hereafter referred to as ConVal) submitted for filing, unsigned Sixth Revised Page 19 superseding Fifth Revised Page 19 to NHPUC No. 4 — Electricity implementing Supplemental Order No. 14,872 dated April 30, 1981 (66 NH PUC 166), establishing a requirement for lifeline rates for electric customers.

Discover requests were made by staff and VOICE and responses were made on a timely basis. A settlement conference convened by staff and attended by all full parties was held, but no agreement was reached concerning ConVal's lifeline proposal.

The lifeline rate proposed by ConVal would affect all residential customers except those under optional rates and "grandfathered" total electric living customers. The lifeline rate for power and light and new all electric customers is an inverted block rate with two steps. The initial block of 200 kilowatt-hours per month is priced 1.645 cents per kilowatt-hour less than previous. Lost revenue is recovered from all kilowatt-hours above the 200-kilowatt-hour block.

The reduction of the cost of the first 200 kilowatt-hours means that customers using up to 530-kilowatt-hours per month will receive lower bills. Thus, under the proposal, 75 per cent of ConVal's Rate D customers, those using less than 530 kilowatt-hours per month will receive a benefit.

The following table demonstrates the effects upon customers' bills of the life-line proposal:

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

<i>Monthly Kilowatt- Hours</i>	<i>Present Bill</i>	<i>Proposed Bill</i>	<i>Dollar Change</i>	<i>Per Cent Change</i>
0	\$ 5.35	\$ 5.35	—	—
50	8.17	7.35	(.82)	(10.04)
100	11.00	9.35	(1.65)	(15.00)
200	16.64	13.35	(3.29)	(19.77)
300	22.29	19.99	(2.30)	(10.32)
400	27.93	26.64	(1.29)	(4.62)
500	33.58	33.28	(0.30)	(0.89)
600	39.22	39.93	0.71	1.81
700	44.87	46.57	1.70	3.79
800	50.51	53.21	2.70	5.35
900	56.16	59.86	3.70	6.59
1,000	61.80	66.50	4.70	7.61
2,000	118.25	132.94	14.69	12.42
3,000	174.70	199.38	24.68	14.13

In view of the commission's concern that lifeline be implemented for the heating season now just beginning when people in New Hampshire must begin to be concerned with meeting their bills, ConVal's tariff will be implemented effective on all bills rendered on or after November 4, 1981. The thirty days prior notice will be waived. Connecticut Valley Electric Company, Inc., will be ordered to publish the new residential rates in a newspaper of general circulation in their franchise territory and provide a copy of the new rates with their customers bills after December 1, 1981.

Any objections concerning this rate must be received within thirty days of the effective date of the tariff.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Sixth Revised Page 19 of the Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, be and hereby is, approved for effect with all bills rendered on or after November 4, 1981; and it is

Further ordered, that the Connecticut Valley Electric Company, Inc., cause to be published in a newspaper having general circulation in that portion of the state in which operations are conducted, the new tariff page, such publication to be no later than November 16, 1981, said publication to be designated in an affidavit and filed with this office; and it is

Further ordered, that any person opposing the tariff must notify this commission by letter postmarked no later than December 2, 1981, giving name, intention to appear and participate in a hearing, and reason(s) for opposition.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of October, 1981.

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NH.PUC\*11/03/81\*[79080]\*66 NH PUC 446\*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 79080]

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

DR 81-329, Order No. 15,254

66 NH PUC 446

New Hampshire Public Utilities Commission

November 3, 1981

ORDER establishing effective date for a tariff revision.

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BY THE COMMISSION:

Order

Whereas, on October 5, 1981, Continental Telephone Company of New Hampshire Inc., filed proposed tariff revisions withdrawing the option of pre-wiring as presently offered in Section 6, Sheet 1 of its tariff, NHPUC No. 11; and

Whereas, upon investigation the commission finds the filing to be in the public interest; it is

Ordered, that the following tariff revisions to Continental Telephone Company of New Hampshire tariff, NHPUC No. 11 be allowed to become effective on November 10, 1981;

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*Section 6*

Third Revised Sheet 1 — Contents First Revised Sheet 2 — Contents Third Revised Sheet 3 Fourth Revised Sheet 4 Second Revised Sheets 5 and 6 Fourth Revised Sheet 7 Second Revised Sheet 8 First Revised Sheets 9 and 10

and it is

Further ordered, that a one-time public notice be filed in a newspaper having general circulation in the area served.

By order of the Public Utilities Commission of New Hampshire this third day of November, 1981.

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NH.PUC\*11/03/81\*[79081]\*66 NH PUC 447\*Keene Gas Corporation

[Go to End of 79081]

**Re Keene Gas Corporation**

DR 81-305, Order No. 15,255

66 NH PUC 447

New Hampshire Public Utilities Commission

November 3, 1981

APPLICATIONS by gas company for approval of temporary rate increase; granted subject to refund.

-----

RATES, § 631 — Temporary rate increase — Test of necessity.

[N.H.] The standard for temporary rates is a showing by the petitioning utility that its overall rate of return is below that allowed by the commission, and a situation in which a financial loss

has been demonstrated qualifies for temporary rates, whereas an actual financial loss coupled with an inability to finance definitely satisfies the standard for emergency rates.

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APPEARANCES: Harry B. Sheldon, Jr., president, Keene Gas Corporation.

BY THE COMMISSION:

Report

On October 14, 1981, Keene Gas Corporation filed a petition for an increase in temporary and/or emergency and permanent rates of \$107,642, to be effective November 1, 1981. Pursuant to this, on November 2, 1981, the commission held a duly noticed hearing to determine the merits of a temporary increase.

During this hearing, Mr. Sheldon testified on behalf of the company, proclaiming the emergency Keene Gas Corporation finds itself in presently, and the dilemma that is developing for the future of the company. He cited numerous issues in defining Keene Gas's emergency; among them is the company's inability to pay bills promptly and the inability to finance new assets needed for improvement of gas service.

The proposed increase, as stated, purports to bring the company financially to a break-even status. This increase, in

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addition to covering a loss from operating costs, includes the cost of debt issued by the parent company, Private Placement Financing, Inc., at a liberal 9 per cent.

The standard for temporary rates is a showing by the petitioning utility that its overall rate of return is below that allowed by the commission. Certainly a situation in which a financial loss has been demonstrated qualifies for temporary rates.

The standard for emergency rates is a far more difficult standard. However, an actual financial loss coupled with an inability to finance definitely satisfies the standard for emergency rates.

The commission will allow the increased level of revenues pending investigation. Establishment of temporary rates is subject to refund. RSA 378:30 is also applicable.

The commission does not accept the proposed rate design. Propane is deregulated and sells in the unregulated markets on a cost per gallon basis. The severe declining block rate proposed by this utility fails to recognize the economics of this situation. There appears to be no evidence to justify the allowance of a declining block rate structure. Therefore, the commission will revise the rates as follows:

The company proposes to return the charge of 2.90 for the first two therms for both D, G, and GH customers. The commission agrees and will continue this part of the rate design.

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

Domestic Rate D

*Therms*

3-20  
21-80  
81-120  
Over 200

*General Heating Rate - General*

*Therms*

3-20  
51-200  
201-500  
501-5,000  
Over 5,000

The commission will expect a filing by the company as to the revenue impact of this approved rate design. The absence of a filing analysis makes it impossible to determine the revenue impact of a rate design other than that proposed by the company. Upon receipt of the revenue impact statement from the company, the commission will issue a supplemental order to adjust for any revenue above or below the accepted level of increase of \$107,642.

Our order will issue accordingly.

Order

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

Ordered, that Keene Gas Corporation be, and hereby is, authorized to place into effect a temporary increase of \$107,642; and it is

Further ordered, that such increase be protected by bond until a permanent increase in rates may be determined; and it is

Further ordered, that Keene Gas Corporation, Second Revised Pages 20, 21, and 22 of its tariff, NHPUC No. 1 — Gas, designed to provide for the temporary increase hereby are rejected; and it is

Further ordered, that Keene Gas Corporation is to file revised tariff pages to implement the increase as set forth in the report, which are to become effective on November 1, 1981.

By order of the Public Utilities Commission of New Hampshire this third day of November, 1981.

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NH.PUC\*11/03/81\*[79082]\*66 NH PUC 449\*Fuel Adjustment Clause

[Go to End of 79082]

### **Re Fuel Adjustment Clause**

Intervenor: Exeter and Hampton Electric Company

DR 81-227, DR 81-255, Supplemental Order No. 15,256

66 NH PUC 449

## New Hampshire Public Utilities Commission

November 3, 1981

MOTION for rehearing of requests for monthly fuel adjustment clause; denied as moot.

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1. RATES, § 47 — Jurisdiction of state commissions — Conflicting jurisdiction — Federal control.

[N.H.] The commission found that an assertion that the question of fuel charges was entirely within the jurisdiction of the Federal Energy Regulatory Commission (FERC) was incorrect because, while the FERC may well establish what it believes to be reasonable as to rates between utilities, the state commission has the exclusive authority as to the reasonableness of rates between a utility and its ratepayers. p. 449.

2. RATES, § 120 — Reasonableness — Generally — Right of commission to determine.

[N.H.] There is no principle so paramount as a state's right to regulate utility rates within its borders and the commission cannot, has not, and will not, by allowing a purchased power or fuel adjustment clause, waive its statutory right to establish the reasonableness of rates charged by utilities within the state. p. 449.

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APPEARANCES: Warren Nighswander, for Exeter and Hampton Electric Company.

BY THE COMMISSION:

Report

[1, 2]The issues raised in the motion for rehearing filed in these proceedings by Exeter and Hampton Electric and Concord Electric Company is somewhat moot, in that the commission has found in report and supplemental Order No. 15,246 ([1981] 66 NH PUC 441), that there was no mismanagement by the Public Service Company in its recent operation of Merrimack II. Consequently, we will reinstate the originally requested Exeter and Hampton increase of \$2.73 per 100 kilowatt-hours for bills rendered in November and December of 1981. Any uncollected revenue from our actions in Order No. 15,142 ([1981] 66 NH PUC 382), will be allowed to be recovered from consumers. Thus, the financial concerns raised by the motion for rehearing have been addressed, and there is no need to reach the merits of the motion, which is denied as being moot.

Having found the motion to be moot, the commission wishes to clearly state its position as to the authority of this commission versus the authority of the Federal Energy Regulatory Commission. The assertion by Concord and Exeter that the question of fuel charges are entirely within the jurisdiction of the FERC is incorrect. The FERC may well establish what it believes to be reasonable as to rates between PSNH and Concord Electric/Exeter and Hampton Electric. However, it is this commission that has the exclusive authority as to the reasonableness

of rates between Exeter and Hampton or Concord Electric and its rate-payers. There is no principle so paramount as a state's right to regulate utility rates within its borders.

The commission cannot, has not, and will not by allowing a purchased power adjustment or a fuel adjustment clause waive its statutory right to establish the reasonableness of rates charged by utilities within this State.

The commission would note that the record of docket DR 81-227 contained evidence as to PSNH, Concord Electric, Exeter and Hampton Electric, and Granite State Electric. All of those utilities are held responsible to any of the evidence that is received during the course of such a proceeding. Issues were raised concerning the propriety of the increased fuel expenses associated with the Merrimack II outage. Those increased expenses were being sought from both customers of Concord Electric and Exeter and Hampton Electric, as well as PSNH. To allow some customers to be charged these expenses while others were not would establish discrimination standards, which this commission is neither inclined to do nor does it have the statutory authority to establish.

Concord and Exeter state that it would be improper to impose upon Concord and Exeter the costs of imprudent management by PSNH, since Concord and Exeter have no control over the operation of any generating station. Casting the issue in this fashion, Concord and Exeter fail to recognize that under no circumstances can this commission pass along unjust, unreasonable, or illegal charges to ratepayers. If the commission were to ever find such imprudence and deny those expenses from being passed to Concord and Exeter's customers, Concord and Exeter are not defenseless. Rather, they could as they have in the past challenged these unreasonable charges before the Federal Energy Regulatory Commission (FERC).

No doubt such a filing would be reinforced by a finding by this commission that the expenses were unreasonable. This commission always expects that utilities such as Concord and Exeter will contest any unreasonable charge imposed upon it by either a utility, a tax board, or an insurance company. Noninvolvement is not the issue. Rather, the issue is reasonableness. An unreasonable expense does not get reborn as a reasonable expense simply through involvement of the FERC. Concord and Exeter correctly assert that only Concord and Exeter were affected by the commission's adjustment related to the unscheduled outages. However, the New Hampshire Electric Cooperative was not scheduled for a hearing, nor had there been notice as to a hearing. In the future, any concern raised as to any one of these two utilities will be raised simultaneously as to all.

Finally, time prevented a more adequate breakdown of the commission's rationale for the two-cent reduction for Concord and the four-cent reduction for Exeter. However, the time period the commission has to render a decision in these types of proceedings is extraordinarily short. This has been aggravated by a shortage of auditors. Yet, the commission will attempt in the future to set forth those mathematical calculations with greater illustration.

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 is denied as being moot; it is

Further ordered, that tariff pages should be filed by Exeter and Hampton Electric with this commission to reflect a fuel adjustment of \$2.73 per 100 kilowatt-hours

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for the months of November and December, 1981.

By order of the Public Utilities Commission of New Hampshire this third day of November, 1981.

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NH.PUC\*11/03/81\*[79083]\*66 NH PUC 451\*Independent Telephone Companies

[Go to End of 79083]

## **Re Independent Telephone Companies**

Respondent: Meriden Telephone Company, Inc.

DE 81-279, Sixth Supplemental Order No. 15,257

66 NH PUC 451

New Hampshire Public Utilities Commission

November 3, 1981

ORDER establishing effective date for a tariff revision.

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BY THE COMMISSION:

Supplemental Order

Whereas, on September 30, 1981, this commission directed all independent telephone companies which offer selective calling service to file revised tariff rates conforming to those set for the New England Telephone and Telegraph Company, in DE 81-221 ([1981] 66 NH PUC 323);

Whereas, on October 26, 1981, Meriden Telephone Company, Inc., filed Section 5, Sheet 3, First Revision, selective calling service; and

Whereas, upon investigation this commission finds this confirming filing to be in the public interest; it is

Ordered, that Meriden Telephone Company, Inc., tariff, NHPUC No. 4, Section 5, Sheet 3, First Revision, selective calling service be allowed to become effective on all bills rendered on or after September 19, 1981; and it is

Further ordered, that public notice of this tariff change be made in a newspaper having general circulation in the area served, or in some other manner which will make notice available to individual customers.

By order of the Public Utilities Commission of New Hampshire, this third day of November, 1981.

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NH.PUC\*11/03/81\*[79084]\*66 NH PUC 452\*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 79084]

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

DR 81-251, Supplemental Order No. 15,258

66 NH PUC 452

New Hampshire Public Utilities Commission

November 3, 1981

ORDER establishing effective date for a tariff revision.

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BY THE COMMISSION:

Supplemental Order

Whereas, Continental Telephone Company of New Hampshire, Inc., a public utility supplying telephone service in the state of New Hampshire, on September 10, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 11 — Telephone; and

Whereas, those revisions were suspended by commission Order No. 15,134 ([1981] 66 NH PUC 376), pending investigation and decision thereon; and

Whereas, a duly noticed public hearing on said filing was held at the commission's Concord offices on November 3, 1981, at 10:00 A.M., at which no intervenors appeared; and

Whereas, the commission considered the testimony and exhibits presented at said hearing and find that said filing is for the public good; it is

Ordered, that the suspension of said filing be removed, and that Section 12, First Revised Sheet 5 and Third Revised Sheet 1 — 4 of Continental Telephone Company of New Hampshire, Inc., tariff, NHPUC No. 11 — Telephone, be, and hereby are, allowed to become effective as of the date of this order.

By order of the Public Utilities Commission of New Hampshire this third day of November, 1981.

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NH.PUC\*11/03/81\*[79085]\*66 NH PUC 452\*Keene Gas Corporation

[Go to End of 79085]

## Re Keene Gas Corporation

DR 81-286, Supplemental Order No. 15,259

66 NH PUC 452

New Hampshire Public Utilities Commission

November 3, 1981

PETITION of gas utility for approval of cost of gas adjustment; granted.

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**Page** 452

BY THE COMMISSION:

Report

The Keene Gas Company filed its winter cost of gas adjustment effective November 1, 1981, of \$0.3520 per therm. This compares with its summer cost of gas adjustment (CGA) of \$0.3721 per therm. However, the request is higher than a similar request for last winter.

Since Keene Gas is an all propane supply company, they act as a reasonable barometer of the price of propane. The increase since last year follows the usual course of action following deregulation.

Keene has used the largest estimate for propane costs of all the utilities. It is interesting to note that Keene buys less propane for its operations than any other utility reviewed in the CGA proceedings.

Keene has carried its burden of proof and their proposed rate will be allowed. The commission also notes that Keene Gas has used the correct interest percentage for over and under collection costs, 8 per cent. Accordingly, their tariffs are approved as filed.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Second Revised Page 26 of tariff, NHPUC No. 1 — Gas, of Keene Gas Corporation, be, and hereby is, approved.

By order of the Public Utilities Commission of New Hampshire this third day of November, 1981.

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NH.PUC\*11/03/81\*[79086]\*66 NH PUC 453\*Lifeline Rates

[Go to End of 79086]

## Re Lifeline Rates

Respondent: Exeter and Hampton Electric Company

DP 80-260, Fifth Supplemental Order No. 15,260

66 NH PUC 453

New Hampshire Public Utilities Commission

November 3, 1981

ORDER suspending effective date of tariff revision pending investigation.

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BY THE COMMISSION:

Supplemental 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 23, 1981, filed with this commission a revision of its tariff, NHPUC No. 14 — Electricity, providing for a revised Domestic Service Classification D, effective November 1, 1981; and

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

Ordered, that Fifth Revised Page 20 of tariff, NHPUC No. 14 — Electricity, of Exeter and Hampton Electric Company,

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

By order of the Public Utilities Commission of New Hampshire this third day of November, 1981.

Supplemental Order

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

Ordered, that the motions for rehearing filed in these dockets are granted in part and rejected in part as set forth in the report.

By order of the Public Utilities Commission of New Hampshire this third day of November, 1981.

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NH.PUC\*11/03/81\*[79087]\*66 NH PUC 454\*Concord Natural Gas Corporation

[Go to End of 79087]

## **Re Concord Natural Gas Corporation**

Additional petitioners: Gas Service, Inc., Keene Gas Corporation, Manchester Gas Company, and Northern Utilities, Inc.

DR 81-78 et al. Second Supplemental Order No. 15,261

66 NH PUC 454

New Hampshire Public Utilities Commission

November 3, 1981

PETITIONS for rehearing of order establishing the summer cost of gas adjustment for the period May 1, 1981 through October 31, 1981; granted in part and rejected in part pursuant to opinion.

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RATES, § 302 — Adjustment clauses — Cost of purchased gas.

[N.H.] The commission allowed interest at the rate of 8 per cent on all undercollections, overcollections and gas supplier refunds pursuant to the purchased gas adjustment clauses of all gas companies.

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APPEARANCES: Charles H. Toll, for Concord Natural Gas Corporation and Gas Service, Inc.; James Hood, for Manchester Gas Company; Eaton W. Tarbell, for Northern Utilities, Inc.

BY THE COMMISSION:

Report

On May 5, 1981, the commission issued its report and Order No. 14,879 establishing the summer cost of gas adjustment for the period May 1, 1981, through October 31, 1981. Upon filings of motions for rehearing the commission modified its previous order by addressing some of the expressed concerns through Supplemental Order No. 14,971 issued June 30, 1981 (66 NH PUC 247). Shortly thereafter all of the utilities, with the exception of Keene Gas, filed additional motions for rehearing.

A brief history of the cost of gas adjustment reveals an attempt to provide a rate mechanism to the utilities that would allow for recovery of supply costs, provide protection from a working capital standpoint and minimize the number of rate case filings.

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It was deemed appropriate to have a cost of gas adjustment because of the sensitivity of the gas industry to weather. Changes in weather patterns have a much larger impact on usage than any of the other utility industries regulated by this commission.

Adjustment clauses, either fuel (electric) or cost of gas, also pose certain dangers to the public. The fact that these costs are passed through to the consumer at a faster rate than other expenses can potentially lead to either a cavalier attitude towards price, supply, or a supply mix. To adequately protect the consumer an aggressive regulatory environment is essential.

As an added protection to consumers, the commission provided an interest element of 8 per cent to any overcollections. Later this interest rate was applied to any refunds as a result of supplier refunds.

In these dockets the commission attempted to address the concerns of the gas industry that some form of interest should be applied to any undercollections as well. The companies noted that under-collections occurred and that these under-collections, in some instances, necessitated short-term financings. Further questions were raised concerning pending refunds and whether these refunds could be applied against the undercollections.

Against this background, the commission has strived to maintain a proper balance between ratepayer and utility. Unfortunately, as Northern Utilities, Inc., notes in its motion filed on July 20, 1981, the commission's approach has vacillated. At least part of this difficulty stems from the fact that the commission's analysis up until recently has not been as thorough as was the case for the electric utilities in their fuel adjustment hearings. Certainly a shortage of auditors contributed to that situation.

Upon analysis, the commission recognizes other factors that complicate the question of interest on under- and over-collections. To begin with, a uniform policy that allows interest at a rate of the company's short-term borrowing rate leads to unreasonable rates whether the rate is for overcollections or undercollections. This result occurs because of the differing levels and methods of working capital employed for the various gas utilities. Some of the utilities have been allowed a working capital based on a balance sheet approach while still others have been subject to either the 45-day approach or a lead-lag analysis. The companies are further subdivided by their billing practices where Concord bills on a bimonthly basis and the others on a monthly basis. Finally, the level of short-term debt recognized in the capital structure in the last basic rate proceeding is also different for each utility. Some have had short-term debt figured into their capital structure and cost of capital. Others have not. The method of calculating working capital must be consistent with any collection of interest on over- and underrecoveries to insure that such costs are not collected twice.

Against this background it is clear that all future interest rates applicable to the CGA should recognize the considerations taken into account in the last rate case for each utility. The New Hampshire gas industry is placed on notice that this will be considered a relevant line of inquiry in all basic rate proceedings, either pending or filed after this date. The commission now turns to the questions raised in the various motions for rehearing.

The first issue raised by the various gas utilities is the commission's denial of interest on the 1980-81 winter period undercollections for the time period May 1, 1981, through June 30, 1981. The argument offered is that the selection of the June 30th, date is arbitrary, unreasonable, unlawful, unjust, and causes irreparable injury that leads to confiscation.

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The commission rejects all of these arguments except for the allegations that this action was arbitrary and thereby unjust and unreasonable. Consequently, the commission will allow interest to be accrued for all gas utilities on the 1980-81 winter period undercollections found to be just and reasonable from May 1, 1981, until such time that the commission accepted just and reasonable expenses are recouped.

The second issue raised is that the rate of interest and the same method of computing interest applied to the CGA undercollections and overcollections be applied to gas supplier refunds. The

commission's allowance of differing rates of interest after November 1, 1981, is cited as unreasonable, unjust, unlawful, and arbitrary.

The commission agrees that the rate of interest applied to over- and undercollections should be the same as that applied to gas supplier refunds. However, the commission believes that because of the relationships between working capital and any interest factor applied to gas costs, the rate should be 8 per cent on all undercollections, overcollections, and gas supplier refunds from May 1, 1981, forward until the commission can address the relationship in basic rate case decisions for each of these utilities. To allow a rate based on the short-term borrowings of the utilities in question would definitely lead to at least a partial double collection of some interest costs. Furthermore, that 8 per cent rate is exactly the rate used on customer deposits. By setting a uniform rate then both utility and ratepayers are protected when each has effective use of the others money. Until a better method is offered, 8 per cent compounded will be used as to all aspects of the under/overcollection and gas supplier refund problem.

The next issue raised is that as of November 1, 1981, the 8 per cent rate for over- and undercollections will contrast to a higher rate for gas supplier refunds. As noted previously, the commission will hold to a uniform rate of 8 per cent compounded for both factors of input into the CGA.

Finally, the commission is asked to confirm or deny certain statements, contentions, and allegations as a result of this report and order, the commission believes this unnecessary. However, if after reviewing this order a utility has questions about the correct operating procedure, such questions may be submitted to the commission for guidance.

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 motions for rehearing filed in these dockets are granted in part and rejected in part as set forth in the report.

By order of the Public Utilities Commission of New Hampshire this third day of November 1981.

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NH.PUC\*11/04/81\*[79088]\*66 NH PUC 456\*Concord Electric Company

[Go to End of 79088]

## **Re Concord Electric Company**

DR 81-97, Third Supplemental Order No. 15,274

66 NH PUC 456

New Hampshire Public Utilities Commission

November 4, 1981

ORDER amending tariff effective date.

BY THE COMMISSION:

Supplemental Order

Whereas, Commission Order No. 15,145 ([1981] 66 NH PUC 389), accepted Settlement Documents Nos. 1 and 2, marked Exhs 6 and 7; and

Whereas, Settlement Agreement No. 2 included a revised Tariff No. 7, the original of which was suspended by Order No. 14,855 ([1981] 66 NH PUC 154), and continued with the same designation; it is

Ordered, that Concord Electric Company Tariff No. 7, bearing issued and effective dates of April 15, 1981, and May 15, 1981, respectively, having been suspended by commission Order No. 14,855, be, and hereby is, revoked; and it is

Further ordered, that Concord Electric Company Tariff No. 7, bearing issued and effective dates of October 1, 1981, be, and hereby is, approved for effect on that date; and it is

Further ordered, that Supplement No. 1 to said tariff documenting the Concord Electric Company proposal to recover the difference in revenue between temporary and permanent rates for the period in which the former were effective (May 26, 1981, through September 30, 1981), as well as to recover rate case expenses via a surcharge, be, and hereby is, approved for effect with all bills rendered on or after November 1, 1981, to continue through April 30, 1982, or until recovery of actual revenue is completed.

By order of the Public Utilities Commission of New Hampshire this fourth day of November, 1981.

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NH.PUC\*11/05/81\*[79089]\*66 NH PUC 457\*Union Telephone Company

[Go to End of 79089]

**Re Union Telephone Company**

DR 81-310, Order No. 15,237

66 NH PUC 457

New Hampshire Public Utilities Commission

November 5, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Union Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on October 28, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Telephone, providing for a permanent rate increase of \$275,435, effective November 28, 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

Section 1 — First Revised Page 5A and Second Revised Page 3A Section 2 — First Revised Pages 2-4 Section 2 — Fourth Revised Page 1A Section 2 — Sixteenth Revised Page 1

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Section 3 — Original Pages 8A-C Section 3 — First Revised Pages 1B, 16E, 17-19, 21, 22, 32 Section 3 — Second Revised Pages ID, 6, 7C, 24 Section 3 — Third Revised Pages 4, 12, 23, 25 Section 3 — Fourth Revised Pages 5, 20 Section 3 — Seventh Revised Page 8 Section 4 — First Revised Page 3 Section 4 — Fourth Revised Page 2 Section 5 — Fifth Revised Page 1

of tariff No. 6 — Telephone of Union Telephone Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this fifth day of November, 1981.

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NH.PUC\*11/05/81\*[79090]\*66 NH PUC 458\*Claremont Gas Light Company

[Go to End of 79090]

**Re Claremont Gas Light Company**

DE 81-162, Fifth Supplemental Order No. 15,278

66 NH PUC 458

New Hampshire Public Utilities Commission

November 5, 1981

ORDER directing gas utility to continue to provide pipeline gas service.

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BY THE COMMISSION:

Supplemental order

Whereas, Claremont Gas Light Company is franchised to provide gas utility service to customers in Claremont, New Hampshire; and

Whereas, in recent hearings before this commission, the company has testified to providing pipeline gas service to approximately 1,148 active customers in the downtown Claremont area; and

Whereas, the company has recently notified the commission of its willingness and intent to sell the company; and

Whereas, this commission is committed to assuring continued pipeline gas service to existing customers pending further disposition of the company; and

Whereas, the company is reminded of its responsibility under RSA 374:30:

"Other Public Utilities Leases, etc., 'Any public utility may transfer its franchise works or system ... located in this state ... when the commission shall find it shall be for the public good and shall make an order assenting thereto, but not otherwise.' "; it is

Ordered, that Claremont Gas Light Company continue to provide pipeline gas service to all customers of record at November 2, 1981, unless and until released from that obligation by this commission.

By order of the Public Utilities Commission of New Hampshire this fifth day of November, 1981.

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NH.PUC\*11/05/81\*[79091]\*66 NH PUC 459\*Northern Utilities, Inc.

[Go to End of 79091]

### **Re Northern Utilities, Inc.**

DR 80-104, Third Supplemental Order No. 15,279

66 NH PUC 459

New Hampshire Public Utilities Commission

November 5, 1981

MOTION for rehearing of rate case; granted in part and denied in part pursuant to attached report.

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1. EXPENSES, § 60 — Blue Cross/Blue Shield expenses.

[N.H.] Blue Cross/Blue Shield expense increases experienced in 1981 should be allowed as an operating charge for rate-making purposes. p 459.

2. EXPENSES, § 99 — Nonunion wage expense.

[N.H.] An expense allowance for increased nonunion wages should be restricted to increases

given to the number of positions presently in the nonunion employee of the company. p. 459.

3. RETURN, § 35 — Attrition factor.

[N.H.] An attrition factor must be granted where a company has proven the existence of attrition and carries the burden as to quantifying the adjustment. p. 460.

4. VALUATION, § 25 — Rate base determination — Average figures.

[N.H.] The commission held that a company's rate base should be advanced to a time period more reflective of the future, namely, a 13-month average ending, in this case, September 30, 1982, so as to be more reflective of the affected company's situation and an offset to attrition. p. 460.

5. RETURN, § 26.1 — Capital structure — Short-term debt.

[N.H.] Short-term debt was included in a company's capital structure for rate-making purposes where evidence revealed that short-term debt is usually outstanding for the affected company and that further short-term debt was consistently evident during and after the test year, it was sufficiently demonstrated to be a part of the capital structure, and a cost rate of 17.3 per cent was found to be most compelling. p. 461.

6. RETURN, § 26.1 — Capital structure — Long-term debt.

[N.H.] Retired long-term debt was eliminated from a company's capital structure, since debt retirement is a known and measurable change. p. 461.

7. REVENUES, § 2 — Future estimates — Weather adjustments.

[N.H.] There is no rational basis for a weather adjustment in estimating revenues for rate-making purposes. p. 462.

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Before Love, chairman.

On June 3, 1981, Northern Utilities, Inc. (hereinafter referred to as "Northern" or the "company"), filed a motion for rehearing. The motion was accompanied by a detailed memorandum.

Two issues raised in the motion I find to be attributable to a misunderstanding of the report and order. Northern is rightfully concerned about its nonunion salaries, Blue Cross/Blue Shield expenses, and property taxes that will increase in 1981. Northern believes they are entitled to a step increase in 1982, for these expenses. Page 18 of the report states that a second step increase will be allowed for increases in property taxes and nonunion wages experienced in 1981, as of January 1, 1982. Since the report is incorporated in the order, I believe that Northern has obtained the second step increase they seek as to the question of nonunion wages and property taxes.

[1, 2] I would agree to two other changes. The first would be an allowance

of increases in Blue Cross/Blue Shield expenses experienced in 1981. This additional increase would be reasonable to allow as of January 1, 1982, provided proper allowance is made for the portion of these expenses that should be capitalized. The second change to the report and order would be a restriction that the increased nonunion wage expenses allowed as of January 1, 1982, be restricted to increases given to the number of positions presently in the nonunion employ of Northern. A simple allowance of increased wage expenses without this restriction could lead to increased positions either temporary or permanent that may not be justified in today's economic situation.

The second issue in which I believe there is a misunderstanding in the issue of tax calculation as it relates to taxable losses. I believe the opinion addresses this issue adequately.

The next issue presented relates to our rate base finding of \$5,223,447. Northern Utilities states that by adopting a rate base computed as of December 31, 1979 using 13-month averages excludes the full effect of a substantial amount of used and useful property.

[3, 4] This commission has considered methods used to calculate rate base. The most accurate method has been found to be a rate base calculated on the basis of 13 monthly balances for a historical test year. Re Union Teleph. Co. (1979) 64 NH PUC 434. However, the historical test-year period must remain a reasonable guide for the immediate future. Public Service Co. of New Hampshire v New Hampshire (1959) 102 NH 150, 30 PUR3d 61, 72, 153 A2d 80.

A lengthy proceeding due to regulatory inaction creates a conflict between these two policy judgements that need not arise if a proceeding goes forward at a reasonable pace. In this proceeding a 13-month average rate base ending December 31, 1979, is not a proper guide for the immediate future.

Nor is Northern's proposal of an eight-month actual/four-month estimated rate base likely to serve as a reasonable guide for the future. Additions in the last one-third of a year have historically fluctuated for all utilities including Northern. There is not sufficient evidentiary support or certainty to adopt the partial estimated rate base of \$6,599,442.

I believe a more proper rate base for purposes of calculating refunds or under-collections pursuant to RSA 378:6, 27, and 29 would be as set forth in the document filed January 9, 1981, entitled "data request — Set No. 1, data requests of Mr. Deans, Question 7." This figure, \$5,548,570, plus 433,666 for supplemental fuel facilities (\$5,982,236) is greater than the \$5,223,447 found by the commission in its initial report and order.

It is very unclear what is the specific attrition the initial report and order is attempting to remedy. The submission by Northern is not persuasive nor is the rationale for the commission's acceptance of a 0.2 per cent.

A commission can mitigate attrition by (a) pro forma revenue and expense adjustments, (b) using the most recent actual rate base figures available, (c) a specific attrition factor, (d) a secondary step increase or a combination of some or all of the above. There is, however, a need to make specific findings as to what specific level of attrition a commission is attempting to remedy. Northern appears to recognize the relationship between rate base and attrition allowance in Item No. 3 of its motion for rehearing.

The commission has established a test by which an attrition allowance can be granted. See

Re Hampton Water Works Co. (1979) 64 NH PUC 374, 379, where we stated that an attrition factor must be granted where a company has proven the existence of attrition and carries the

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burden as to quantifying the adjustment. In Northern's motion for rehearing the company questions the commission order through a theme that can be generally described as attrition but specifically relates to the reasonableness of the capital structure, rate base, expenses, and specific attrition allowance for the immediate future. I agree that the rate base must be advanced to a time period more reflective of the future, namely, a 13-month average ending September 30, 1980. This recognition of a more recent rate base will be more reflective of Northern's situation and an offset to attrition.

Northern Utilities did not request a specific attrition allowance except in brief. There is not the requisite proof to establish a rate of attrition since the last proceeding. While Northern characterizes the commissions allowance as inadequate,

1(40) I find neither support for its continuation or its establishment in the first instance. The rationale of Hampton Water has been ignored and my decision is to eliminate any attrition factor.

[5] While I find no support for Northern's contention that the attrition allowance is inadequate, I do find that Northern's arguments as to a proper capital structure are valid. The capital structure adopted by the commission was as follows:

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

	Amount	Capital Structure	Per Cent Rate Per Cent	Weighted Cost
Long-term Debt	\$9,067,100	50.0	8.17	4.09
Preferred Stock	2,575,600	14.2	5.76	0.82
Common Equity	6,504,000	35.8	14.50	5.19
Total	\$18,146,700	100		10.10%
			Attrition	.20
			Grand Total	10.30%

I must respectfully contend that this capital structure is not reflective of a reasonable capital structure. There are at least two changes that ought to be recognized in the calculation. The first is the inclusion of short-term debt in the capital structure as recommended by staff witness Camfield. Since the evidence reveals that short-term debt is usually outstanding for Northern and that further such short-term debt was consistently evident during and after the test year, it has been sufficiently demonstrated to be a part of the capital structure. The level of inclusion will be the level used by witnesses Camfield and Brennan or \$3,450,000. While the record reveals

numerous cost rates, I find 17.3 per cent to be the most compelling.

[6] A second adjustment is necessary to reflect the elimination of \$1.7 million of long-term debt due to retirement. While I generally adopt Mr. Camfield's recommendations, debt retirement after the test year is a known and measurable change.

By updating the capital structure to include short-term debt and removing the retired long-term debt, the capital structure becomes more reflective of Northern's situation as of September 30, 1980. Therefore, I adopt the following capital structure:

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

	Amount	Capital Structure	Per Cent Rate	Weighted Cost
Long-term Debt	\$7,367	37.0	8.65	3.20
Preferred Stock	2,576	13.0	5.76	0.75
Common Equity	6,504	32.7	14.50	4.74
Short-term Debt	3,450	17.3	15.25	2.64
Total	\$19,897	100		11.33

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[7] Northern Utilities raises certain questions concerning the weather adjustment. The motion for rehearing states that there is no rational basis for the weather adjustment. I must agree. Weather adjustments often appear to be less than desirable rate making. I remain unconvinced by either the company or staff proposals. Taking an average between the two does little to build either confidence or reasonableness. Since neither of these proposals complies with the commission's past precedent, such as Re Gas Service, Inc. (1978) 53 NH PUC 2, 4, 5, I would reject both proposals.

As I noted earlier, the record allows for updating the test year to a period ending September, 1980. I believe that reasonableness requires such a consideration.

The twelve months ending September, 1980, results in unadjusted operating revenues of \$8,913,315, operating expenses of \$8,419,783, and operating rents of \$21,211. The following table is illustrative.

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

Operating Revenues	\$8,913,315
less - Operating Expenses	\$8,419,783
plus - Operating Rents	\$ 21,211 _____
Net Operating Income	\$ 514,743
Rate Base	

Utility Plant in Service	\$6,692,540
Less Construction Contribution	1,959
Total Plant in Service	\$6,690,581
Less Reserve for Depreciation	1,547,865
Net Plant in Service	\$5,142,716
Add	
Unamortized Merger Costs	-
Supplemental Fuel Facilities	433,666
Cash Working Capital	509,580
Deduct	
Customer Deposits	103,726
Total Rate Base	\$5,982,236
× Cost of Capital (11.33) =	\$ 677,787
Less Net Operating Income	514,743
	\$ 163,044
÷ 51.5 =	\$ 316,590
Revenue Requirement	
Absent any Pro Forma Adjustments or Attrition =	\$ 316,590

The record is filed with suggested pro forma expense adjustments. An amortization of the Northern/Bay State merger costs associated with the New Hampshire division over a ten-year period, \$5,732, is an example. So is a *savings* of \$61,534 from a general insurance resulting from the recent merger with Bay State Gas Company. Other savings from the merger were found to amount to \$93,752. The difficulty with these adjustments is that they all relate to a time period now rejected as the test year. Yet it is clear that there can be known and measurable expense increases and seemingly major expense savings due to the merger. None of these have been reflected in this opinion.

The potential for these significant changes requires that the company refile with an updated test year through at least twelve months ended September 30, 1981. The filing is to be received by this commission no later than November 25, 1981. From this filing the commission will attempt to set a rate to be in effect on all bills rendered on or after January 1, 1982. Hearing dates of December 4, 7, 8, and 9, 1981, have been reserved for final resolution of this case. To assist the commission, Northern Utilities should make a reasonable attempt to comply with the newly issued filing rules although full compliance will not be required.

There is clearly something dramatically different happening within Northern and to Northern. The transcript of October 16, 1980, pp. 3-23 through 3-25 and the tr. pp. 4-124, 125, clearly demonstrate that a concern must be raised as to the calculation ability of Northern. I applaud Staff Assistant Finance Director Traum for his discovery of a \$155,000

decrease to the proposed rates simply due to calculation error. This puzzles me due to the fact that Northern has always demonstrated fine corporate leadership and has the best legal counsel. Since legal counsel and the management is the same, I hope that the acquisition by Bay State is not the fly in the ointment. I am concerned that recent staff complaints of changing

monthly financial reports for Northern from Bay State may indicate the source of the problem.

Candor requires me to also state that the failure of this commission to adequately address the merits of this case has harmed ratepayers and stockholders alike.

I must also note a concern that although the financial figures for the twelve months ending December 31, 1980, were not in this record, the data here at the commission notes a worsening trend as of December 31, 1980, versus September 30, 1980. Whether this was a temporary phenomena, I do not know; but it is enough to convince me that some adjustment must be allowed to make the rates as set forth in this opinion reasonable. An attrition allowance of 0.15 per cent has been the lowest attrition allowance (for a major utility) by this commission in recent history. While this adjustment may suffer from the same infirmities as the original commission decision and the company's presentation, it is at least an attempt to strike a reasonable balance between ratepayer and utility. This leads to an overall cost of capital plus attrition of 11.48 per cent and a revenue increase of \$334,014. This compares to the requested increase of \$637,534 and the bonded rate of \$394,446.

The difference between \$394,446 and the approved \$334,014, or \$60,432 on an annual basis,<sup>2(41)</sup> must be refunded at the same time the commission establishes new rates for the company. The refund is to appear as follows: "PUC Ordered Customer Charge Refund." The refund should be calculated on the number of bills that will be rendered in January so that it is a one-time credit based on the number of meters as of that date. Only those customers with customer charges shall receive this credit.

However, there remains a need to make a decision on rates forward from the present. Changes in the capital structure, cost of common equity, expenses, and rate base are necessary to set just and reasonable rates for the future. The commission will also listen to evidence as to the overall *unadjusted* rate of return earned for each month from January, 1981, through the present. The average rate base methodology used in this opinion should be used in this calculation.

The company requested a customer charge of \$5 per customer. In support of its rate structure proposal, Northern relies on Exh D, Sch 3 to assert that the actual fixed customer costs are in excess of \$9 per customer per month. Based on this evidence Northern alleges that the commission's allowance of a \$3.10 customer charge is an abuse of discretion.

Exhibit D, Sch 3 is not a cost-of-service study. Rather, certain expenses are arbitrarily assigned to customer costs. Meter reading expenses (\$40,557) are entirely assigned to fixed customer charges by Northern. Yet, without usage, there would be no need to read meters. Obviously, a significant portion of these costs are related to energy costs. I find this allocation to be improper and against standards used by this commission in previous cases.

Customers' installation expenses of \$121,368 are assigned by Northern entirely to the customer charge. Yet, absent any other description, it is evident that

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these expenses may well be assignable to a service installation fee. No analysis was performed as to the proper assignment of these costs between service installation fees and customer costs.

The charges for uncollectibles (\$3,478) have never been properly explained; nor how that percentage was arrived at for assignment to the customer costs.

The previous analysis demonstrates many of the inherent weaknesses of the evidentiary presentation offered by Northern. The portion of the analysis as to customer investment is particularly weak. No source of these numbers was offered. General language is used and no methodology is offered. I find the study to be of no value.

Since the company had a charge for the first therms used of \$3.10, an installation of a \$3.10 customer charge instead of the \$5 appears to be reasonable. This change is to apply to all bills when the commission sets new rates on the updated test-year filing due from the company this month.

Finally, all other rate structure aspects of the commission's original decision, especially the elimination of the 25 per cent rule, are retained. Northern should have complied by this time; but if this switch has been held pending decision, then I strongly advise Northern to accept *all* customers who request service.

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 is granted in part and denied in part pursuant to the attached report; and it is

Further ordered, that Northern Utilities file the requested updated test-year information no later than November 25, 1981; and it is

Further ordered, that the customer charge will be reduced to \$3.10 from \$5 when the new rates are established based on the November 25, 1981, filing; and it is

Further ordered, that the revenue lost from the \$5 to \$3.10 change in the customer charge for each class is to be made up by raising the highest usage customer blocks to the next highest usage block cost level and then, and only then, on a per therm basis.

By order of the Public Utilities Commission of New Hampshire this fifth day of November, 1981.

#### FOOTNOTES

<sup>1</sup>The commission's attrition allowance was twenty basis points, not "two" as stated by Northern in its motion for rehearing.

<sup>2</sup>Since bonded rates were effective as of December 22, 1980, there may well be close to thirteen months.

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NH.PUC\*11/05/81\*[79092]\*66 NH PUC 464\*Compensation to Intervenors in Electric Rate-making Proceedings

[Go to End of 79092]

## Re Compensation to Intervenor in Electric Rate-making Proceedings

DR 80-182, Second Supplemental Order No. 15,280

66 NH PUC 464

New Hampshire Public Utilities Commission

November 5, 1981

ORDER vacating previous orders and adopting rules for intervenor funding under the Public Utility Regulatory Policies Act of 1978.

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**Page** 464

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COSTS — Consumer participation — PURPA proceedings — Reimbursement.

[N.H.] Rules were adopted providing for payment by electric utilities of reasonable attorneys' fees, expert witness' fees, and other reasonable costs incurred by any consumer participating in a utility commission proceeding (or judicial review process) and contributing substantially to the adoption by the commission a position advocated by the consumer relating to a rate making or service standard contained in the Public Utility Regulatory Policies Act, such that participation without compensation would have caused a significant financial hardship and that compensation for "other reasonable costs" could not exceed 25 per cent of the total of attorneys' and expert witness' fees awarded.

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BY THE COMMISSION:

Supplemental Order

Upon consideration of the report, issued September 8, 1981, which is made a part hereof; it is hereby

Ordered, that Order Nos. 15,082 ([1981] (66 NH PUC 332), and 15,216 ([1981] 66 NH PUC 417), are vacated and set aside; it is

Further ordered that the following rules are adopted:

Chapter PUC 200 Procedural Rules

205 Provisions Regarding Compensation for Costs of Participation of Intervention. 205.01 Definitions

(a) "PURPA" means Public Utility Regulatory Policies Act of 1978.

(b) "Compensation" means reasonable attorney's fees, expert witness fees, and other reasonable costs.

(c) "PURPA position" means a factual contention, legal contention, or specific recommendation promoting the following PURPA purposes (§ 101):

(1) Conservation of energy supplied by electric utilities.

(2) Optimization of the efficiency of use of facilities and resources

(3) Equitable rates to electric consumers in connection with the consideration of one or more of the following PURPA Title I, Subtitle B Standards:

(d) PURPA Rate-making Standards:

(1) Cost of Service — § 111 (d) (1)

(2) Declining Block Rates — § 111 (d) (2)

(3) Time-of-day Rates — § 111 (d) (3)

(4) Seasonal Rates — § 111 (d) (4)

(5) Interruptible Rates — § 111 (d) (5)

(6) Load Management Techniques — § 111 (d) (6)

(7) Lifeline Rates — § 114

E. Other PURPA Standards

(1) Master Metering — § 113(b) (1)

(2) Automatic Adjustment Clauses — § 113(b) (2)

(3) Information to Consumers — § 113(b) (3)

(4) Procedures for Termination of Electric Service — § 113(d) (5)

(5) Advertising — § 113(d) (5)

F. "Consumer" means any retail electric consumer of an electric utility, any authorized representative of such a consumer, or any representative of a group or organization authorized, pursuant to articles of incorporation or bylaws, to represent the interests of consumers. This term shall not include any person employed by an state or federal agency or by any organization, however, constituted, funded in whole or in part by state or federal money unless such organization can demonstrate that no state or federal funds have been provided for the presentation of a PURPA issue in a commission proceeding.

G. "Expert witness fees" means the recorded or billed costs incurred by a consumer for an expert witness with respect to a PURPA issue, to the extent that such costs are deemed reasonable by the commission.

H. "Other reasonable costs" means reasonable out-of-pocket expenses incurred by a consumer with respect to a PURPA issue not exceeding 25 per cent of the

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total of reasonable attorney's fees and expert witness fees awarded.

I. "Party" shall mean any interested party, respondent, utility, or commission staff of record

in a proceeding.

J. "Proceeding" shall mean any application, case, investigation, rule making, or other procedure of the commission in which a PURPA position is considered subsequent to the effective date of PURPA.

K. "Reasonable fees" shall be computed at prevailing market rates for persons of comparable training and experience who are offering similar services. In no event shall such fees exceed those paid by the commission or the utility, whichever is greater, for persons of comparable training and experience who are offering similar services.

L. "Utility" means an electric utility to which Title I of PURPA applies and with respect to which a PURPA issue is decided by the commission.

205.02 In any commission proceeding in which a consumer substantially contributes to the adoption by the commission, in whole or in part, of a position advocated by the consumer in that proceeding, and relating to a PURPA standard, or for judicial review of that proceeding, the utility shall pay the consumer an award of compensation if such award is granted by the commission in accordance with the procedures and requirements of this rule. The utility shall not be liable for any award of compensation except in accordance with the standards and procedures established by this rule.

"In the event that the commission proceeding involves more than one utility, the liability of each utility for the award shall be determined by dividing the amount of the award among the utilities involved. If an award of compensation is granted in a proceeding which involves a change in a utility's level of rates, the entire amount of the award shall be recovered by the utility as part of its rate case expense. If the proceeding does not involve a change in rates, the entire amount of the award shall be recovered by the utility in its next rate case."

205.03 In order to receive an award of compensation pursuant to Rule 57, the consumer shall file with the commission, and parties in the proceeding, a "request for finding of eligibility for compensation" setting forth the following:

- (a) A showing that, but for the ability to receive compensation under these rules, participation or intervention in the proceeding may be a significant financial hardship for such consumer. Such showing shall include a specific budget for the representation;
- (b) A statement of the PURPA issues which the consumer intends to raise in the proceedings, together with a statement of the consumer's position on each such issue;
- (c) A showing addressing representation of persons with the same or similar interests by a common legal representative;
- (d) An estimate of the compensation to which the consumer believes it may be entitled to at any stage of the proceeding and the basis for such estimate, including a budget;
- (e) For a consumer who claims to represent the interests of other consumers, a showing which includes the articles of incorporation, bylaws, membership structure, composition of board of directors, and newsletter circulation, if any, along with a summary description of the previous work of the consumer;
- (f) In the case of an organization funded in whole or in part by state or federal funds, a

statement setting forth all facts and reasons known to the organization establishing the state or federal funds have not been provided for the

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presentation of a PURPA issue in a commission proceeding.

205.04 The "Request for Finding of Eligibility for Compensation" shall be filed:

(a) Within thirty days after the effective date of this rule in the case of proceedings which were closed or which are in progress at the time this rule is adopted;

(b) Within thirty days after the first prehearing conference, or by the date set by the commission, in any proceeding begun after the effective date of these rules.

205.05 Any party to the proceeding, including the commission staff may object to the filing, by filing its objection with the commission within seven days after the consumer's filing is complete, and serving a copy on all parties.

205.06 Within ten days after the receipt of objections, or if no objections are received, within ten days after the consumer's filing is complete the commission shall enter an order stating with respect to each consumer who has filed:

(a) Whether, but for the award of compensation, participation, or intervention in the proceeding would work a significant financial hardship on the consumer. Every consumer for which such hardship is found by the commission shall thereafter be deemed eligible for an award of compensation.

(b) The degree, if any, to which such hardship exists, to be measured by ascertaining that portion of those fees and expenses that, without an award of compensation, would, if paid by the consumer, work a substantial hardship on him.

(c) Those consumers who will advocate the same or similar positions with respect to any PURPA issue. If it has not already done so, the commission may order those consumers to consolidate their presentations on such issue or issues by requiring common legal representation thereon. The common representative shall be chosen by the consumers themselves. No award of compensation shall be made to those consumers who fail to consolidate their presentations after being so ordered by the commission. This subsection shall not be deemed to preclude consolidated consumers from retaining more than one legal representative, so long as only one representative enters an appearance. Only one award of compensation may be made for any common presentation. In the case where more than one legal representative is retained, the consumers may divide the award among the legal representatives.

(d) In the case of an organization funded in whole or in part by state or federal money, whether state or federal funds have been provided for presentation of a PURPA issue in a commission proceeding.

205.07 Following issuances of a commission order or decision during a proceeding, a consumer may file a request for compensation with the commission. The filing shall have a certificate of service on appearances by mail attached. Such request shall include a detailed description of hourly services and expenditures or invoices for which compensation is sought

and shall describe how the consumer has substantially contributed to the adoption, in whole or in part, in a commission order or decision, of a PURPA position advocated by the consumer relating to a PURPA standard. "Substantial contribution" shall be that contribution which, in the judgement of the commission, substantially assists the commission to promote a PURPA purpose in a manner relating to a PURPA standard by the adoption, at least in part, of the consumer's position.

205.08 At the direction of the commission, the commission staff may audit the records and books of the consumer to the extent necessary to verify that compensation

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sought is reasonable. Within twenty days after completion of the audit, if any, an audit report shall be filed with the commission.

205.09 Within thirty days of the filing of a request for compensation or within 30 days after the filing of the staff audit report, if any, the commission shall issue a decision describing the contribution found to have been made and the compensation awarded.

205.10 The electric utility shall pay any award of compensation to the consumer within thirty days after the commission's decision is issued, unless a timely application for rehearing with respect to the issue of compensation is filed, in which case no payment will be required until an order denying rehearing or an order after rehearing is issued. In the case of an order subject to judicial review, within thirty days after that review is complete.

205.11 By order of the Public Utilities Commission of New Hampshire this fifth day of November, 1981.

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NH.PUC\*11/05/81\*[79093]\*66 NH PUC 468\*Northern Utilities, Inc.

[Go to End of 79093]

### Re Northern Utilities, Inc.

Intervenor: Community Action Program

DR 81-288, Order No. 15,281

66 NH PUC 468

New Hampshire Public Utilities Commission

November 5, 1981

APPLICATION by natural gas company for authority to increase cost of gas adjustment; reduced adjustment allowed.

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RATES, § 302 — Adjustment clauses — Cost of purchased gas.

[N.H.] The commission reduced a gas company's proposed cost of gas adjustment increase to reflect different interest cost levels, the collection of an undercharge from one of its industrial customers, and certain price estimates.

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APPEARANCES: Eaton W. Tarbell for Northern Utilities; Gerald M. Eaton for Community Action Program.

*Opinion by J. Michael Love*

Northern Utilities (hereinafter referred to as "Northern" or the "company") filed a cost of gas adjustment seeking a cost of gas adjustment (CGA) of \$0.2205 per therm. This compares to the \$0.1715 per therm CGA last winter and the rate of \$0.2179 in effect May through October 31, 1981.

The commission finds that the great majority of the requested increase relates to the increasing price of natural gas. Natural gas is in the process of being deregulated in price. This process initiated by the federal government and encouraged by both the Congress and the New Hampshire Legislature will continue to increase consumers' gas bills

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despite this commission's efforts to protect consumers from sudden price shifts. The price of natural gas is to be completely deregulated by 1985 under the existing law. If President Reagan decides to expedite the deregulation process, then rates will be effected. While Secretary of Energy Edwards has stated the effect to be "minimal," the commission would note that industry experts suggest that rates would double or triple. This in part explains why the commission has prevented gas utility companies from passing the costs of advertising to consumers where the purpose is to encourage either increased gas usage or conversions from other sources.

It is critical that consumers understand that it is the federal government, both legislative and executive branches, that believes that increased supply is worth doubling or tripling consumers' bills. While the commission will no doubt hear the brunt of consumer outrage, it must be reiterated that irate consumers should contact their elected leaders if they wish to seriously affect their gas bills in the future.

Northern's proposal reflects the stepped increase that is occurring every year under the federally mandated deregulation time table of 1985. However, our review raises some additional areas of concern.

Pursuant to commission Order No. 15,261 ([1981] 66 NH PUC 454), the requested increase must be reduced by \$7,066 to reflect different interest cost levels. The prior period undercollected becomes \$487,718, and the refunds plus interest becomes \$612,110.

A second reduction should be made to reflect \$8,890 received from Donnelly Manufacturing. Recently, it was discovered that Donnelly had been substantially undercharged by Northern for a lengthy time period. Since because of the CGA methodology used in calculating the CGA other customers have shouldered a portion of these costs, it is appropriate that they receive a credit for

the recent Donnelly payment. The commission will restrict any credit to the \$8,890 requested, plus interest of 8 per cent, which we will apply for six months no matter when the check is received from Donnelly. The result is a \$9,245 adjustment downwards.

Northern Utilities filed their CGA with an estimated price of 75 cents per gallon for propane. There was no supporting evidence as to this estimate, nor any explanation why its estimate was from seven cents to 17 cents higher than any other utility estimate. This is of special concern to the commission since Northern's operations are close in proximity to propane sources and propane storage than any of the other utilities. The commission finds that there is no evidence to support Northern's estimate. Absent any evidence by the company, the commission will use its own sources of data to arrive at a reasonable range of 60 cents to 64 cents a gallon. The commission takes administrative notice of its files for this purpose. The commission will use the midpoint of 62 cents a gallon to arrive at a reduction of \$43,137.

The commission rejects the estimates provided as monthly estimates for the CGA but does accept the total MCF total used. This total, which is less than that sold last winter, appears reasonable. However, the commission will substitute the percentage usage figures derived from last winter's experience. Unlike the other utilities' filings Northern uses differing cost rates for pipeline gas for November and December. The commission will adopt the December cost for both months. Northern's increase for the next four months reflects increases from both Granite State and Tennessee Gas. The Tennessee increase is estimated to be between 25 cents and 30 cents a Mcf. All of

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the companies chose to use 30 cents. Yet based on the evidence the most that can be said is that any number between 25 cents and 30 cents a therm is reasonable. The commission accepts this entire range as reasonable and we will adopt 29 cents for Northern.

There appears no evidence as to why the four months of January thru April have different cost rates per Mcf of pipeline gas. The commission absent any evidence will use the lowest figure adjusted for the price change discussed above. This results in a cost rate for pipeline gas of \$3.994 for these four months. These adjustments lower the estimated cost for pipeline gas by \$66,439.

These four adjustments result in an overall reduction of \$125,887 and yield an overall cost of gas adjustment of \$.2128. The company's submission of \$0.2205 is rejected. Our order will issue accordingly.

The commission would note that the approval of this rate does not in and of itself approve the undercollection that is a part of the rate. Hearings held concerning the other gas utilities have raised certain questions about the decisions made during the last winter season. Further, the commission has found in other filings, items of expense that are unreasonable, reflective of mismanagement, nonutility in scope, and improper accounting practices. Consequently, the commission will open a new docket after January 1, 1982, to review the following: (1) the accuracy of the forecasts in this opinion, (2) the undercollection and the factors that caused it that is asserted in this docket, (3) decisions on supply mix that have been made in the 1980-81 winter as well as those in the 1981-82 winter, (4) a review of the proper expenses that can be

allowed for cost of gas adjustment purposes, (5) discrimination on cost of gas adjustment charges between customers, (6) sales of gas supply between utilities and the proper accounting necessary for rate making as to these sales, (7) tank farms, (8) nonutility propane businesses, (9) sales to interruptible and seasonal customers as to the CGA, (10) the possibility of setting one rate for twelve months as opposed to a summer and a winter CGA, and (11) future supply choices for gas utilities. Our order will issue accordingly.

Order

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

Ordered, that 24th Revised Page 22A of tariff, NHPUC No. 6 — Gas, of Northern Utilities, Inc., Allied Gas Division, be, and hereby is, rejected; and it is

Further ordered, that Northern Utilities, Inc., file 25th Revised 22A of tariff, NHPUC No. 6 — Gas, reflecting a cost of gas adjustment of \$0.2128 effective November 1, 1981.

By order of the Public Utilities Commission of New Hampshire this fifth day of November, 1981.

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NH.PUC\*11/06/81\*[79094]\*66 NH PUC 471\*Bedford Water Corporation

[Go to End of 79094]

### Re Bedford Water Corporation

DE 81-333, Order No. 15,215

66 NH PUC 471

New Hampshire Public Utilities Commission

November 6, 1981.

ORDER directing water utility to submit definite schedules for search and construction of new source of supply.

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BY THE COMMISSION:

Order

Whereas, for the past several years, the Bedford Water Corporation has experienced supply and pressure problems with the result being that less than satisfactory water service has been furnished to its customers, such conditions being documented in customer complaint memos and staff investigations; and

Whereas, at the suggestion of this commission's staff, Bedford Water Corporation has approached a major well drilling company in an effort to locate an additional source of supply; and

Whereas, this commission has the statutory responsibility under RSA 374:1 to insure that every public utility shall furnish such service and facilities as shall be safe and adequate; and

Whereas, Bedford Water Corporation has provided less than adequate response to this commission's inquiries regarding several short-term solutions to its water system problems and meter testing; it is

Ordered, that Bedford Water Corporation appear before this commission with a definite schedule for the search and construction of a new source of supply and to respond to other matters as set forth in this order on November 30, 1981, at 1:30 P.M.; and it is

Further ordered, that the notice of this hearing is to be given to all customers of Bedford Water Corporation; and it is

Further ordered, that docket DE 81-333 is hereby opened for the aforementioned purposes.

By order of the Public Utilities Commission of New Hampshire this sixth day of November, 1981.

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NH.PUC\*11/06/81\*[79095]\*66 NH PUC 472\*Manchester Gas Company

[Go to End of 79095]

## Re Manchester Gas Company

Intervenor: Community Action Program

DR 81-287, Supplemental Order No. 15,282

66 NH PUC 472

New Hampshire Public Utilities Commission

November 6, 1981.Dy

REVIEW of gas companys filed cost-of-gas adjustment; proposed cost-of-gas adjustment rejected, and revised tariff ordered.

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RATES, § 302 — Adjustment clauses — Cost of purchased gas.

[N.H.] A gas company's proposed cost-of-gas adjustment was reduced to reflect growth factors, weather records, interest cost levels, and the proper level of increase associated with a gas pipeline's filing before the Federal Energy Regulatory Commission.

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APPEARANCES: James C. Hood, for Manchester Gas Company; Gerald Eaton, for Community Action Program.

Report

*Opinion by J. Michael Love*

Manchester Gas Company (hereinafter referred to as either "Manchester" or the "company")

filed a cost of gas adjustment (CGA) of \$0.3411 per therm for the time period of November 1, 1981, through April 30, 1982. The Manchester filing differs from some of the other company filings in certain significant aspects.

Manchester has actively sought greater access to stored underground gas. Since this gas is nearly half the price of either propane or LNG, Manchester customers are receiving the benefit of Manchester Gas Company's aggressive supply procurement policy.

Manchester Gas did not have the highest propane cost figure. However, as the commission noted in its *Northern* decision, there is no evidence to support the estimates given by any of the companies in their prefilings. The Commission has taken administrative notice of its own records and finds that a reasonable range would be the 60 cents to 64 cents a gallon for propane. Manchester Gas Company's estimate will be accepted.

The volume of sales has produced the greatest differences between the companies. Northern, Gas Service, and Keene have shown decreases in their sales estimates from the actual figures experienced in the winter of 1980-81. The estimated decreases in sales have ranged from 2.5 per cent to 8.8 per cent. Concord has submitted an increase of 1.6 per cent which we have rejected. Manchester Gas has submitted an 8 per cent increase in sales over the previous winter period.

Manchester Gas Company's estimate is unique in that the 8 per cent overall sales increase over last year is not uniform. The following table illustrates the projected percentage change from the actual sales experienced during the last winter period.

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

<i>Month</i>	<i>Percentage (Decrease)</i>
November	(2.6)
December	1.5
January	(3.4)
February	19.0
March	21.0
April	19.5

The four heating seasons prior to 1980-81 were fairly uniform in sales beginning with 1976-77, with sales of 13,117,377 therms through the 1979-80 winter heating period which had sales of 13,872,124.

The differences in the various company forecasts of sales are inconsistent. While we agree that Manchester will experience growth in sales where the others will not, the 8 per cent figure appears to have no record support. Rather, the commission will use the average percentage growth experienced from the 1976-77 winter through 1980-81 winter or 4.9 per cent. This results in a projected sales in therms of 16,600,980.

Distributing this new figure over the six-month time period, the commission must reduce the individual months by 486,453 therms or 48,645 Mcf's. The commission will remove all of these Mcf's from the company's estimate for March of 1982. The rationale for the selection of March is that although there appears some relationship between Manchester Gas Company's estimated sales and the weather experienced last winter season, there is absolutely no relationship between

the 21 per cent growth rate prediction for this March and last March. March of 1981 was near normal. It was slightly warmer than the 30-year average but within a reasonable confidence range. Whereas February and April were significantly warmer than usual and thus properly the subject for establishing large growth rates as Manchester proposed.

The adjustment to March will not be taken uniformly since it is reasonable to presume access to the same 220,230 Mcf of pipeline gas. The remaining 11,913 Mcf will be allocated to the next expensive supply options or storage gas. This estimate thus assumes 232,142 Mcf's in March. The 48,645 Mcf's estimated not to be sold will be removed first 457 Mcf's from the LNG column, 38,397 Mcf's from the propane column and 9,791 from the storage gas column.

The following dollars will be removed from the anticipated cost of gas calculation:

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

Type	Cost		Total Reduction
	Per	MCFMCFs	
Liquefied Natural Gas	\$7.108	457	\$ 3,248
Propane	\$8.31	38,397	\$319,079
Storage \$6.03*	9,791	\$59,040	
Total		48,645	\$381,367

\*Penn York

The commission will reduce the anticipated cost of gas adjustment based on the above estimation by \$381,367. The commission would note its taking of administrative notice of the weather records of the United States Weather Service at Concord.

The second adjustment necessary to reflect the commission's Order No. 15,261 ([1981] 66 NH PUC 454), as to the proper interest cost levels. This adjustment lowers the prior period deficiency to \$319,933 and the interest costs to \$6,539 for a total of \$326,472. This reduces the cost of gas adjustment by \$12,226.

The third and final adjustment is to reflect the proper level of increase associated with Tennessee's filing before the FERC. As we noted in the Northern decision, the only evidence on the increase is a range of 25 cents to 30 cents. There is no rational reason to accept any of these levels as more or less reasonable

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than any of the others. Thus, the commission finds the range of reasonableness to be within 25 cents to 30 cents for the increase. The commission will adopt 29 cents for Manchester Gas, or the same level as used for Northern. Both companies have demonstrated leadership in obtaining new supplies and the commission will allow the higher end of the range for these companies until a final decision is given by FERC. The commission will thus reduce the costs associated with pipeline commodity gas charges by \$8,349.

The total reduction allowed from the requested cost of gas adjustment is \$401,942. This results in an anticipated cost of gas adjustment of \$0.3308.

The commission would note that the approval of this rate does not in and of itself approve the

undercollection that is a part of the rate. Hearings held concerning the gas utilities have raised certain questions about the decisions made during the last winter season. Further, the commission has found in filings, items of expense that are unreasonable, reflective of mismanagement, nonutility in scope, and improper accounting practices. Consequently, the commission will open a new docket after January 1, 1982, to review the following: (1) the accuracy of the forecasts in this opinion; (2) the undercollection and the factors that caused it that is asserted in this docket; (3) decisions on supply mix that have been made in the 1980-81 winter as well as those in the 1981-82 winter; (4) a review of the proper expenses that can be allowed for cost of gas adjustment purposes; (5) discrimination on cost of gas adjustment charges between customers; (6) sales of gas supply between utilities and the proper accounting necessary for rate making as to these sales; (7) tank farms; (8) nonutility propane businesses; (9) sales to interruptible and seasonal customers as to the CGA; (10) the possibility of setting one rate for twelve months as opposed to a summer and a winter CGA; and (11) future supply choices for gas utilities. Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that 21st and 22nd Revised Page 20 of tariff, NHPUC No. 12 — Gas, of Manchester Gas Company be, and hereby is, rejected; and it is

Further ordered, that Manchester Gas Company file 23rd Revised Page 20 of tariff, NHPUC No. 12 — Gas reflecting \$0.3308 per therm effective November 1, 1981.

By order of the Public Utilities Commission of New Hampshire this sixth day of November, 1981.

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NH.PUC\*11/06/81\*[79096]\*66 NH PUC 475\*Gas Service, Inc.

[Go to End of 79096]

### **Re Gas Service, Inc.**

Intervenor: Community Action Program

DR 81-285, Order No. 15,284

66 NH PUC 475

New Hampshire Public Utilities Commission

November 6, 1981

REVIEW of gas company's filed cost-of-gas adjustment; proposed cost-of-gas adjustment rejected, and revised tariff ordered.

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RATES, § 302 — Adjustment clauses — Cost of purchased gas.

[N.H.] A gas company's cost-of-gas adjustment was reduced where the commission found in the filing items of expense that were unreasonable, reflective of mismanagement, nonutility in scope, and improper accounting practices.

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APPEARANCES: Charles H. Toll, for Gas Service, Inc.; Gerald Eaton for Community Action Program.

Report

*Opinion by J. Michael Love*

Gas Service, Inc. (hereinafter sometimes referred to as "Gas Service" or the "company") filed a cost of gas adjustment of \$0.2021 per therm. Hearings were held in both Concord and Nashua.

The filing made by Gas Service generated numerous inquiries by the commission, commission staff and the intervenor. This questioning led to many areas of concern.

The first issue to address is the treatment of refunds from Tennessee Gas associated with seasonal customers or special contracts. Gas Service Company books these refunds in its nonoperating income statement. This portion of the company's books is attributable to its nonutility bulk propane sales operations.

The Tennessee Gas or "supplier refunds" relate to refunds for overcharges associated with pipeline natural gas purchases, which are totally used on the utility side of the business. The booking of these refunds on the nonutility side of the ledger allows Gas Service to simply pocket the money. Every concernable regulatory principle would require that refunds associated with the regulatory side of the business should be booked on the utility side, and not the nonutility side. These regulatory principles include the commission's chart of accounts, proper matching of expenses, and common sense. The seasonal, or special contract customer, does not pay the full cost of service for its usage. Rather, the price of seasonal gas is significantly below the filed tariff rates for year-round service. In most instances seasonal gas is simply a set cost per therm. The special contracts, seasonal customers, or interruptible customers, are not charged the cost of gas adjustment. Their rate does not increase by whatever decision the commission makes in this docket, or in the basic rate proceeding. The commission is presently examining whether or not these contracts are discriminatory to other ratepayers

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or not. However, clearly the rates established for these customers have no relationship to the cost of gas. In 1980, the revenue for the domestic class was \$4.56 per Mcf; whereas, the seasonal customers were at a revenue level of \$3.03, interruptible about the same and wholesale even lower.

In 1979, these customers were in the \$2.55 per Mcf range, while the domestic class was \$3.53. In each instance, the domestic revenue was understated because of undercollection of the CGA.

The result has been that other customers of Gas Service have picked up the costs of these

customers at least as far as the cost of gas. Further, in considering an attrition factor, the depleted rate of return caused by these customers leads to larger attrition allowances which only further widen the gap between these customer classes. The same can be said for the relationship between general or year-round business customers and these seasonal customers.

Gas Service, Inc., has improperly pocketed these refunds, which rightly belong to their regular utility customers. Therefore, the commission will require all refunds discovered in this docket from April, 1980, through October, 1981, that were improperly booked under nonutility operations to be returned to its rightful owners, the firm year-round customers of Gas Service, Inc. This figure of \$167,944 must be adjusted for 8 per cent interest, or \$10,240, for a total reduction in cost of gas calculation of \$178,184.

Our records are less than complete on the allocation between firm and seasonal customers. Clearly, all refunds attributable to seasonal or interruptible customers should never have been booked on the nonoperational or nonutility side of the ledger. The commission has located one other interruptible refund of \$39,938 in the 1978-79 winter CGA. This figure, together with 8 per cent interest, yields a \$50,312 reduction to the cost of gas adjustment proposed by Gas Service.

To reflect the commission's recent Order No. 15,261 ([1981] 66 NH PUC 454), the interest calculation on under/overcollections must be adjusted. This adjustment further reduces the cost of gas adjustment by \$55,326.

The undercollection figure itself must also be altered. Gas Service Company sold propane air in early to mid-1981. These customers included Concord Natural Gas Corporation and their seasonal customers. The propane sold cost Gas Service, Inc., 70 cents a gallon. The price Gas Service set for selling the propane was 47.5 cents per gallon to its seasonal customers, and 68.5 cents per gallon to Concord Natural Gas Corporation. This difference between the purchase price and the selling price resulted in a loss of \$125,000. While initial company testimony indicated that they did not seek to recover this loss from consumers, questioning revealed that indeed the loss would be booked upon the line and thus chargeable to ratepayers. The management decision to buy this expensive propane and to then sell it at a loss is not something that can be controlled by consumers. The commission must judge the reasonableness of a company's actions.

In the factual record before the commission, we are convinced that the company's actions were imprudent. We are also convinced that the costs associated with the loss are in the CGA proposed. No accounting has been demonstrated to the contrary. Gas Service cannot sell to one customer class at a loss and expect the remainder of its customers to shoulder the loss. Nor can customers be expected to shoulder the responsibility where a utility willingly negotiates a deal at below the cost.

The full loss of \$125,000 will be removed from the undercollection, together with the 8 per cent interest, or \$5,955.

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this totals a reduction from the cost of gas adjustment of \$130,955.

Propane costs are a major factor that separates the utilities in these filings. Gas Service is one of the highest at 68 cents a gallon. The substantiation of this figure, which consists of Exh 5, is

requested to be stricken by Community Action Program (CAP). The commission will deny the requested motion; but would note that we give it little, if any, probative value. The major supplier of Gas Service is the sole supplier of Keene Gas, Warren Petroleum.

Keene Gas, which up until recently was a part of Gas Service, provided estimates for Warren Petroleum supplied propane. The range offered by Keene Gas was 56.5 cents to 59.5 cents per gallon for the next six months. The weighted average of Keene's proposal is 58.6 cents per gallon.

When questioned about why Keene could buy cheaper than Gas Service from the same supplier, Gas Service stated that it was because Keene bought propane year-round and that Gas Service did not. Exhibits 7 and 8 were introduced into evidence, which revealed that Gas Service did buy propane on a 12-month basis, and that at least ten of those months propane was purchased from Warren Petroleum.

The next line of questioning focused on the fact that since Gas Service bought propane twelve months a year and Warren Petroleum was significantly cheaper, why did not Gas Service buy exclusively, or almost exclusively, from Warren Petroleum. Gas Service Company responded about the dangers of relying upon one supplier. While this answer at first appeared reasonable, it must be noted that Keene Gas is exclusively propane. If they cannot get supply, they are totally out of business. If Gas Service has a shortage of propane, it still has underground storage, LNG, and pipeline gas to use.

It should be noted that Public Service Company of New Hampshire has one coal supplier and from one to two oil suppliers. Yet, unlike Gas Service, Public Service has strong contractual remedies and immediate penalties if it does not receive the quality or quantity of coal or oil they are entitled to under the contract.

It is discriminatory regulation to hold the electric utilities like Public Service Company to a higher standard than the gas utilities. Gas Service is the largest gas utility in the State of New Hampshire; yet its contracts offer little, if any, protection to the company or its customers.

Gas Service, Inc., buys over twice the propane from Warren Petroleum compared to Keene Gas. It would appear only reasonable to assume that if they are using proper negotiation techniques, they could achieve at least as favorable terms.

Keene Gas was buying in the summer at 57.5 cents per gallon, while Gas Service was signing up for propane in excess of 13 cents per gallon over this figure. Keene Gas also submitted an estimate of 58.60 cents a gallon, which we found reasonable for the next six months. The commission will hold Gas Service to these two price levels.

Part of Gas Service Company's problem is their nonutility bulk propane operation. This aspect of their business has failed to demonstrate a profit for at least three years. Yet the propane storage used for these nonutility sales results in Gas Service signing propane contracts with storage charges, which Gas Service has conveniently attempted to pass through the CGA. The commission will not allow these storage charges, since Gas Service could have dropped its nonutility operations and obtained more storage capacity. Furthermore, the company's

sales have increased 27 per cent over the past few years; yet it has failed to put in increased storage capacity.

Gas Service stated that it had some study that demonstrated it was cheaper to store the propane elsewhere. However, the study is not before us, and we can hardly accept its premise. What is happening is Gas Service is attempting to force consumers to pay storage costs because of its failure to provide the necessary capital for proper storage capacity.

The commission will use Keene Gas as a criteria for Gas Service and adjust Exhs 5 and 6 to reduce the cost of propane and the cost of gas adjustment by \$398,056. The commission would also note that some of Gas Service Company's propane suppliers are sister subsidiaries of other corporate entities to which Gas Service Company's nonutility bulk propane sales operation competes against. This on the surface appears at best unreasonable.

The company's undercollections would be substantial even without the expenses removed by this opinion. The winter is a prime business time by Gas Service. It is also when their customers are faced with the greatest problems of meeting payments. Many are forced to make unreasonable choices between heating and eating. The magnitude of this increase is so substantial that the commission believes reasonableness should triumph over any tariff considerations. Consequently, the commission will apply the summer over-collection of \$87,156 against this proposed increase. This will prevent Gas Service from having to pay interest after this date and will help consumers more evenly balance their revenue flow against their expenses, such as their gas bill.

The total sales in therms provided by Gas Service will be accepted. The monthly breakdowns are not accepted. The November usage should be increased by 13,787 Mcfs's, and January should be reduced by the equivalent amount. Gas Service has never experienced a January usage within 10 per cent of their January prediction, which was unseasonably cold. Similarly, while both November and December were colder than normal, there is no apparent reason to make a distinction. Both adjustments will continue to be extracted from the pipeline supply cost estimates.

The commission has noted in the three previous decisions that the range of 25 cents to 30 cents for the new Tennessee Gas increase has been established. The commission finds this range a reasonable one and, absent each of the cost estimates within this range, are as reasonable as any other. The commission places no weight in the hearsay that offers the 30-cent number. A FERC staff member might be one thing; an interested party's estimate is hardly compelling evidence.

The increase proposed by Gas Service is enormous. The evidentiary presentation of supporting documents was nearly nonexistent. The justification of the over-collection with supporting documentation was in fact nonexistent. There was a clear indication that contractual relations with suppliers were not undertaken with the idea of reasonable rates in mind.

Gas Service needs to demonstrate that they are prepared to fight for contractual penalties against noncomplying fuel suppliers. Gas Service needs to be prepared to argue against supplier increases like Concord Electric, Exeter and Hampton, and the New Hampshire Electric Cooperative. Because of this failure to seriously undertake an active contractual posture, and because the actual rate will not take effect until January 1, 1982, or be known until December,

the commission will adopt only a 25 cents per Mcf raise for Gas Service at this time. If subsequent events change, Gas Service has the option to update this aspect of the decision.

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These last two adjustments for transfer of usage and a lower increase in January for pipeline gas lowers the cost of gas adjustment by \$118,652.

The presentation by Gas Service as to its alleged undercollection was not satisfactory. Much of the result is claimed to be increased propane usage; yet, there is no demonstration of available inventories, what options Gas Service pursued as to propane supply, how many propane dealers Gas Service contacted before buying, and, just generally, a paper trail through the undercollection calculation.

Last winter, Gas Service despite being the largest gas utility in the state, demonstrated to us an inability to accurately measure the level of propane in inventory. The inventory sheets filed in this proceeding do not correspond to our daily monitoring sheets undertaken last winter to protect against a gas emergency. Consequently, absent any additional data, the commission must hold up one-half of the remaining undercollection, plus interest, or \$351,129. This commission has very stringent proof requirements imposed on the electric utility industry. The result has been a dramatic improvement in the fuel procurement practices by our electric utilities. Yet, the gas utilities, with the possible exception of one, are eight years behind the electric utilities and behind in understanding that a document with an estimate is nothing without the required supporting documents.

This commission attempted through four days of hearings to get straight answers from the representatives of Gas Service, Inc. The lack of an adequate paper trail concerned us. We would remind Gas Service that it is ultimately they who have the burden of proof. Our case load is full, and when Gas Service is prepared to realistically offer reasons behind each and every supply purchase, then this commission will listen — but not before.

The result of our reductions from the cost of gas, both permanently and until adequate evidence is presented, amounts to \$1,900,780.

This reduction leads to the following calculation:

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

Total Anticipated Cost:	\$11,123,041	=0.4071
	27,323,800	
Deduct Base Unit Cost of Gas		0.2745
Approved CGA Adjustment per therm 0.1325		0.1325

What remains of this filing is literally less than the increased cost of gas approved by the Federal Energy Regulatory Commission as part of the deregulation process. One can clearly observe deregulation will be very costly. The difference from that requested amounts to \$10.44 a month for the average consumer of 150 therms.

The commission would note that the approval of this rate does not in and of itself approve the

undercollection that is a part of the rate. Hearings held concerning the gas utilities have raised certain questions about the decisions made during the last winter season. Further, the commission has found in filings, items of expense that are unreasonable, reflective of mismanagement, nonutility in scope, and improper accounting practices. Consequently, the commission will open a new docket after January 1, 1982, to review the following: (1) the accuracy of the forecasts in this opinion, (2) the undercollection and the factors that caused it that is asserted in this docket, (3) decisions on supply mix that have been made in the 1980-81 winter, as well as those in the 1981-82 winter, (4) a review of the proper expenses that can be allowed for cost of gas adjustment purposes, (5) discrimination on cost of gas adjustment charges between customers, (6) sales of gas supply between utilities and the

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proper accounting necessary for rate-making as to these sales, (7) tank farms, (8) nonutility propane businesses, (9) sales to interruptible and seasonal customers as to the CGA, (10) the possibility of setting one rate for twelve months as opposed to a summer and a winter CGA, and (11) future supply choices for gas utilities. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report, which is made a part hereof; it is hereby: ordered that Section 2, 24th and 25th Revised Page 3 and attachments of tariff, NHPUC No. 6 — Gas, be and hereby is rejected; and it is

Further ordered, that Gas Service file revised tariff pages to reflect a cost of gas adjustment of \$0.1325 per therm effective November 1, 1981.

By order of the Public Utilities Commission of New Hampshire this sixth day of November, 1981.

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NH.PUC\*11/06/81\*[79097]\*66 NH PUC 480\*Concord Natural Gas Corporation

[Go to End of 79097]

## Re Concord Natural Gas Corporation

DR 81-284, Order No. 15,285

66 NH PUC 480

New Hampshire Public Utilities Commission

November 6, 1981

REVIEW of gas company's filed cost-of-gas adjustment; proposed cost-of-gas adjustment rejected, and revised tariff ordered.

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1. RATES § 302 — Adjustment clauses — Cost of purchased gas.

[N.H.] Late payment charges may not be included in a gas company's cost-of-gas adjustment, since consumers cannot and will not be held liable for the failure of a utility to pay its bills on time, and those charges should be booked below the line and thereby absorbed by the company's stockholders. p. 481.

2. RATES, § 302 — Adjustment clauses — Cost of purchased gas.

[N.H.] Penalties due to a gas company's exceeding tariff restrictions from its supplier may not be included in its cost-of-gas adjustment since such penalties are not proper costs for rate-payers. p. 482.

3. RATES, § 302 — Adjustment clauses — Cost of purchased gas.

[N.H.] Gas company adjustment clauses were not designed to pass simply any cost through its parameters; rather they were designed to provide temporary recovery from increasing supply costs until the necessary capital could be raised to build or reach new cheaper sources of supply. p. 483.

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APPEARANCES: Charles H. Toll for Concord Natural Gas Corporation; Gerald Eaton for the Community Action Program.

Report

*Opinion by J. Michael Love*

Concord Natural Gas (hereinafter referred to as either "Concord" or the

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"company") filed a request before this commission for a winter cost of gas adjustment of \$0.2466 per therm. A hearing was held in Concord, and the commission received the evidentiary submissions of Concord.

The proposed cost of gas adjustment includes supplier refunds and recovery of the past winter's undercollection. As a result of the commission's report and Order No. 15,261 ([1981] 66 NH PUC 454), the proper interest rate used should be 8 per cent. The filing will be so adjusted.

The undercollection from last winter is asserted to be \$66,325.48, or \$1.62 per cent of revenues collected. This is less than the overcollection of the previous winter period of \$73,081, which was 2.43 per cent of gross revenues. It was also much less of an overcollection than the \$103,666 overcollection that occurred in the winter of 1976-77. That overcollection reflected 4.8 per cent of overall revenues.

The reason that the commission finds it necessary to review the last winter situation is a result of the pending motion for rehearing by Concord concerning the refusal of this commission to accept the emergency filing of Concord Natural Gas in January of 1981 for bills in February through April.

At that time, Concord Gas requested an emergency cost of gas adjustment of \$0.3063 a therm. This increase would have increased Concord area customers' bills by \$27.77 per month,

or \$55.54 for a two-month billing cycle. This proposal was rejected by the commission. However, if we had approved the requested rate, Concord would have over-collected by \$433,818. Instead, the commission only approved one-third of the request at that time, since the commission did not accept the position that extraordinary cold weather could prevail over the entire six-month period. Furthermore, supplier refunds would negate some of the concern and was allowed. Also, we were aware that the company had failed to file for emergency refund proceedings when overcollection appeared in 1976-77 and 1979-80.

Yet, Concord in its motion for rehearing in DR 81-78 refers to our decision and states that subsequent events have shown the commission's report and order were arbitrary, unreasonable, unjust, and constituted an abuse of discretion. If saving consumers from an overcharge of \$433,818 is unreasonable, may we always act in such a fashion. To assert that establishing a rate that comes within 1.62 per cent of the company's cost of gas is an abuse is clearly unfounded. Therefore, the commission must place this recent experience with Concord in evaluating their present proposal.

[1] The first area the commission finds disagreement with the company is the placing of late payment charges in the CGA. Concord Gas was late paying their bills to Tennessee to which Tennessee added \$4,206.44 of late payment charges. These charges reflect a late payment interest penalty of 17.50 to 20.50 per cent on the balance owed. Consumers cannot and will not be held liable for the failure of a utility to pay its bills on time. Those charges should be booked below the line and thereby absorbed by stockholders. This is clearly an unreasonable burden to impose on consumers and evidence of mismanagement. To this figure the commission will add the standard 8 per cent interest to arrive at a total reduction of \$,374.69 rounded to \$4,375.

The second adjustment involves the first in that the great majority of the late payment charges related to two penalties imposed upon Concord Natural Gas by Tennessee Gas Pipeline in their bill date November 11, 1980, invoice No. 8010-10850. One of these penalties is associated

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with exceeding by 1,929 its annual volumetric limitations (AVL) under the GS-6 rate. The penalty for this violation of the FERC set rate is an additional \$10 per Mcf or \$19,290. The second penalty is for the unauthorized overrun of the curtailment period quantity entitlements CPQE. The company overran that level by 1988 Mcf's at a penalty of \$10 per Mcf or \$19,880. This led to a total penalty of \$39,170.

Concord maintains that it settled for a payment of only its larger penalty or \$19,980. The commission asked for all written documents, memoranda, letters, etc., surrounding the situation — Concord provided a letter it had sent to staff and an analysis of the CPQE penalty. Also provided were the bills from Tennessee Gas Pipeline for the time period October, 1980, to the present. Nothing else was provided of substance. No letters were provided from Tennessee Gas.

The records do not provide substantiation for the testimony offered by the company witnesses. The "analysis" offered is that there was a penalty of \$19,880 paid. The bills from Tennessee Gas Pipeline reveal that this payment of a penalty occurred in late April which is confirmed by the transcript of the summer CGA, DR 81-78. However, the "analysis" offered

shows late payment charges of \$2,379. Rather than starting at a total penalty of \$22,259, the analysis begins with \$19,880. Even though the invoices clearly reveal (a) an assessment of an additional \$19,390 for the AVL violation (b) \$19,880 for the CPQE violation, and (c) late payment charges in excess of \$2,379.

The company then proceeds to suggest a waiver of the late payment charge of which no documentation is offered. The company then proceeds to include the cost of propane air that they claim would have been used had not the company exceeded its pipeline limitations. The problem is that the company proceeded to use April, 1981, propane costs whereas the penalty relates to a 12-month situation ending in October of 1980. Their calculation which they included in the summer CGA was \$8,806 based on \$7.13 per Mcf propane air minus \$2.70 per Mcf for natural gas multiplied by the 1988 Mcf. However, the highest price that could possibly be justified is a \$5.16 per Mcf price for LNG from the company's 1980 summer CGA. This would leave a cost of \$4,890 or \$3,916 below what the company collected through its summer CGA. Since the company overestimated its replacement costs, there must be an adjustment of \$3,916 plus 8 per cent interest of \$78 for a total of \$3,994.

The company's next adjustment for tax affecting this charge is without foundation. The company allegedly didn't include the costs for tax purposes in 1980. Furthermore, penalties are not a legitimate business expense. Finally, for CGA purposes the tax effects are mixing apples and oranges.

[2] The alarming, fact is that the invoices reveal that two penalties were in fact paid. One for \$19,320 paid between March 13, 1981, and April 14, 1981, and a second between April 14, 1981, and May 15, 1981, of \$19,880. Both of these expenses were charged to ratepayers as far as this commission can tell in November of 1980.

These penalties are inexcusable, but they are symptomatic of a larger problem facing Concord Natural Gas. This problem of pipeline or storage gas shortages will be discussed later in this opinion. It is sufficient to state that penalties due to exceeding tariff restrictions from a supplier are not proper costs for rate-payers. This \$39,170 plus interest at 8 per cent of \$3,539 or \$42,709 is excluded

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from the undercollection total and thereby the cost of gas calculation.

The commission is concerned with the cost estimate provided by Concord as to the price of LNG. The three other gas utilities have used substantially lower price estimates for LNG than Concord. Manchester and Gas Service are both at \$7.10 and Northern is at \$6.31 per Mcf. Concord Gas is at \$7.605. This increased estimate cannot rationally be accepted since all four companies have historically bought their LNG from Bay State. Concord Gas Company's own contract as well as the memo gathered during a quick audit of Concord both demonstrated that the company plans to buy from Bay State. The commission will reduce the \$7.605 per Mcf to \$7.10 per Mcf the same estimate accepted for Concord and Gas Service. Using 50,831 Mcf, this results in a reduction of \$43,660 from the submitted cost of gas adjustment.

[3] The next area of concern is both the most critical in terms of the CGS and the long-term supply situation facing Concord Gas and its customers. Concord Gas is the smallest of the four

gas utilities that receive pipeline natural gas. Their size has allowed them to be governed by the GS-6 tariffs rather than the tariffed rate available to the other gas utilities. Whatever were the economic benefits of this rate in the past, it clearly has lost any economic benefits to Concord or its customers.

Concord's own analysis reveals the following costs for pipeline gas from Tennessee.

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

Concord	= \$3.88 per DT
Northern	= \$3.81 per DT
Gas Service	= \$3.69 per DT
Manchester	= \$3.61 per DT

The problem of price, while the most immediate concern pales in comparison to the future problems that Concord and its customers will experience if there are not immediate efforts into increasing storage and pipeline gas. All of the other natural gas utilities in the state have achieved access to storage gas supplies. This gas has always been demonstrated to be cheaper than either LNG or propane. Yet Concord continues to rely on unsupportable studies showing that underground storage is not beneficial. Obviously the economics both three years ago and now show Concord's assumptions to be unsupported by economics.

The problems worsen under the GS-6 rate. Concord is always exceeding or coming close to its annual volumetric limit. When it exceeds the limit there are penalties, when it attempts to avoid surpassing the limit, it purchases higher cost propane or LNG from other utilities seemingly without regard to price. A perfect example of the horrendous position Concord finds itself in is the purchases last winter season from Bay State, Commonwealth, and especially Gas Service, Inc. Large quantities of gas were purchased from these utilities at prices far in excess of reasonable.

These purchases were made during the months of March and April from Gas Service and February, March, and April from other utilities. the reason given was so as to assure not exceeding either the AVL or the CPQE. So during declining propane markets, Concord is buying high priced propane so as not to use up its pipeline entitlement. Its research of the propane markets at least as to the Gas Service purchase consisted of contacting only one potential seller, Gas Service. Such purchasing practices are not reasonable in nonregulated businesses and neither is it reasonable for a regulated business.

The potential for this problem worsening is a probability not simply a possibility. Concord Natural Gas is not in the

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Boundary Gas consortium. Therefore, they will not have access to the Canadian pipeline gas should it become a reality. Its refusal to jettison the GS-6 rate rules out any increased pipeline gas of significant or sufficient quantities from Tennessee Gas. Its failure to achieve natural gas storage capacity eliminates the final option. What remains is to meet every new customer and every new usage with more high priced propane or LNG, thus increasing the cost of its product unreasonably to its existing customers.

Simply stated either Concord Natural Gas is unable or unwilling to establish reasonable

supply procurement practices. It would appear that its size while adequate for a past era is no longer compensation for the dawning of increased customers. Yet Concord Gas fought any suggestion that it be prevented from passing on the costs of advertisements encouraging further usage or gas conversions.

The testimony in this docket was that the 1.6 per cent sales increase projected for this winter versus last winter would be met by increased use of the higher cost supplemental gas. Such a situation is unfair and unreasonable to Concord Natural Gas Company's existing customers, especially in light of its lack of any plan for significant increased pipeline gas.

Consequently the commission will make the following adjustments. First, the commission will disallow the difference between the \$7.502 per Mcf propane purchased from Gas Service and the rate for Manchester Gas for pipeline gas under its rate used in the last winter period of \$3.0622. This results in a \$88,479 reduction plus interest of \$4,129 or a total of \$92,608. These costs are to be booked below the line. They are found to be unreasonable because (1) Concord Gas failed to shop for price as to the cost of propane and (2) has continually failed to make an attempt to achieve greater access to pipeline gas.

If a parallel is needed to the electric utility industry, it would be as if an electric utility continued to rely on oil fired generation despite dramatically increasing oil prices without constructing or buying into hydro, coal, or nuclear plants.

Adjustment clauses were not designed to pass simply any cost through its parameters. Rather they were designed to provide temporary recovery from increasing supply costs until the necessary capital could be raised to build or reach new cheaper sources of supply.

A second adjustment the commission will make is to reject Concord's estimate for increased sales. Concord has not grown nearly as fast as the service territories served by Gas Service and Northern Utilities. Yet those companies have provided the commission with sales estimates that lower the sales from the actual level experienced last winter either by 2.7 per cent or 2.5 per cent respectively. The commission believes Concord to be similar. Furthermore, there is no supporting documentation to justify Concord's estimates. The commission will use a reduction in sales of 2.6 per cent for Concord below the figures registered for the 1980-81 winter period. This results in a total sales of 8,102,102 therms or 810,210 Mcf's. Since Concord expected the entire level of its increased sales to be met by supplemental gas, the commission will treat this reduction of 35,293 Mcf's as all arising from LNG. Since the commission has estimated a price of LNG to be \$7.10 per Mcf this results in a reduction of \$250,580.

The next adjustment for Concord is the same that has been applied to Northern and Manchester Gas. The estimated increase in pipeline gas is a range from 25 cents to 30 cents per Mcf. There is no

evidence to establish any rate as being superior to any other in this range. Thus the commission finds the entire 25 cents to 30 cents range reasonable and will adopt a 29 cents increase for Concord. This results in a reduction of 85,560 to the cost of gas adjustment.

As noted previously, the reflection of Order No. 15,261 (66 NH PUC 454), increases the cost

of gas adjustment by 816,254.

One final aspect is necessary to complete our review, namely rate design. Since Concord refuses to negotiate for greater access to pipeline gas, the only other option is to impose a conservation oriented rate design to minimize usage of the costly supplemental fuels. Consequently, Concord Natural Gas is to file a rate design with the commission within one week, which takes all revenues received from firm customers during the last 12-month period less cost of gas adjustment revenues divided by the therm sales from those customers for the aforementioned 12-month period. This flat rate per therm will be considered for implementation as of December 1, 1981.

To summarize, the commission will make the following adjustments to the filing by Concord Natural Gas.

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

<i>Adjustment</i>	<i>Reduction to Cost</i>	<i>Additions to Cost</i>
Late Payment Charges	\$ 4,375	
Erroneous Summer Cost of Gas Adjustment	3,994	
Penalties	42,709	
Liquefied Natural Gas Adjustment	43,660	
Gas Service Purchase	92,608	
Sales - Liquefied Natural Gas Reduction	250,580	
Pipeline Gas Reduction	5,560	
Change in Refund Calculation		\$ 16,254
Total	\$443,386	(\$16,254) = \$ 427,232

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

Original Submission by Concord Natural Gas	\$3,750,038
Less Commission Reduction	(427,232)
Commission Total	<u>\$3,322,806</u>
Total Anticipated Cost	\$3,322,806
Commission Projected Firm Sales	<u>\$8,102,102</u>
Unit Cost of Gas Sold	= \$0.4101
Deduct Base Unit Cost of Gas Sold	= \$0.1969
Cost of Gas Adjustment	= \$0.2132

Per Therm

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The \$0.2132 per therm is less than the requested level of \$0.2466 per therm. On an average 150 therm winter heating customer, the reduction amounts to \$5.01 per month versus acceptance of the company's filing.

The commission would note that the approval of this rate does not in and of itself approve the undercollection that is a part of the rate. Hearings held concerning the gas utilities have raised certain questions about the decisions made during the last winter season. Further, the commission has found in filings, items of expense that are unreasonable, reflective of mismanagement, nonutility in scope, and improper accounting practices. Consequently, the commission will open a new docket after January, 1, 1982, to review the following: (1) the accuracy of the forecasts in this opinion, (2) the undercollection and the factors that caused it that is asserted in this docket, (3) decisions on supply mix that have been made in the 1980-81 winter as well as those in the 1981-82 winter, (4) a review of the proper expenses that can be allowed for cost of gas adjustment purposes, (5) discrimination on cost of gas adjustment charges between customers, (6) sales of gas supply between utilities and the proper accounting necessary for rate making as to these sales, (7) tank farms, (8) nonutility propane businesses, (9) sales to interruptible and seasonal customers as to the CGA, (10) the possibility of setting one rate for 12 months as opposed to a summer and a winter CGA, and (11) future supply choices for gas utilities. Our order will issue accordingly.

#### Order

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

Ordered, that 23rd and 24th Revised Pages 21 and 21A of tariff, NHPUC No. 13 — Gas, of Concord Natural Gas Corporation, be and hereby are, rejected; and it is

Further ordered, that concord Natural Gas Corporation file new 25th Revised Pages 21 and 21A of tariff, NHPUC No. 13 — Gas, reflecting a cost of gas adjustment of \$0.2132 effective November 1, 1981.

By order of the Public Utilities Commission of New Hampshire this sixth day of November, 1981.

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NH.PUC\*11/10/81\*[79098]\*66 NH PUC 487\*Mountain Springs Water Company

[Go to End of 79098]

## Re Mountain Springs Water Company

Intervenors: The Mountain Lakes Community Association, Inc. and Mountain Lakes Village District

D-E6481, Eighth Supplemental Order No. 15,287

66 NH PUC 487

New Hampshire Public Utilities Commission

November 10, 1981

PETITION by water utility for a rate increase; granted as modified.

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1. COMMISSIONS, § 11 — Jurisdiction and power — Service and rates — Plenary authority to directly affect.

[N.H.] The commission possess plenary authority to make orders pursuant to its power to directly affect service and rates and may make any order necessary to establish just and reasonable rates. .Pg p. 488.

2. COMMISSIONS, § 11 — Jurisdiction and powers — Service and rates — Limited authority to indirectly affect.

[N.H.] The commission power to indirectly assure the permanence, stability, adequacy, and fairness of service and rates includes the authority to issue orders conferring the right to commence business, acquire the stocks and bonds of another utility, transfer a franchise, and change capital structure and is limited to the granting or withholding of approval for utility action otherwise forbidden by statute. p. 488.

3. FRANCHISES, § 51 — Transfer — Necessity of commission approval — Public good basis.

[N.H.] After examination of the lengthy history of an attempt at a transfer of a water service franchise, the commission concluded that the absence of an express finding that the transfer would serve the public good as required by statute meant that a valid transfer had never occurred. p. 488.

4. EXPENSES, § 38 — Collection fees — Unreasonable level of legal fees — Alternative to court procedure adopted.

[N.H.] Finding a water utility's level of customer billing collection expense, the bulk of which was legal fees, was unreasonable in relation to the size of the utility's system, the commission, to alleviate the need for small claims court, adopted a unique policy for this utility whereby (1) any customer that did not pay a rate determined valid by this order, within thirty days of its date, would be liable for and subject to the same finance rate as used on credit cards; namely, 1.5 per cent a month and 18 per cent interest a year; (2) any such customer that did not pay their bill within sixty days of this order, would be permanently disenfranchised from water utility hook-up as would any subsequent owners or lessors or other users of the property and the commission would block any other entity from servicing these customers as well; on the basis of this action the expenses were eliminated as nonrecurring. p. 493.

5. EXPENSES, § 95 — Salaries and wages — Request for caretaker rejected — Size of system as basis.

[N.H.] Where a water utility only served 160 customers, the commission rejected a salary request for a caretaker for the system, believing that whenever work needed to be done on the

system it should be contracted for on a situation-by-situation basis. p. 493.

6. VALUATION, § 250 — Property excluded — Contributions in aid of construction — Water plant paid for by customers.

[N.H.] Where the cost of the construction of water plant, including a water main connected to supply and storage facilities to serve each lot in a real estate development, was included in the price of each lot and where intervenors stated that the real transfer of plant from the real estate developer to the water utility was without compensation, the commission concluded that the construction costs were expenses on the books of the developer and had

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a zero basis when transferred to the utility, and that the payments by the purchasers constituted contributions in aid of construction on which there could be no rate of return. p. 495.

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APPEARANCES: Howard Meyers, Peter Brown, William S. Lockyer, and Daniel A. Laufer for Mountain Springs Water Company; Laurence F. Gardner and Howard Kingsley for the intervenors.

Opinion by J. Michael Love, chairman

Report

### I. *Initial Review*

[1-3] On June 1, 1973, Mountain Springs Water Company (hereinafter referred to as "Mountain Springs" or the "company") filed a petition to operate in limited areas of the towns of Haverhill and Bath, New Hampshire. This filing initiated this docket. However, as will become clear throughout this decision, the relevant facts span a greater time period than eight years.

In May of 1966, there existed a company called Town and Country Homes, Inc. (TCH), which commenced the development of Mountain Lakes. The development of Mountain Lakes proceeded from 1966 on a section-by-section basis. Exhibit 8 demonstrates the sections and the pattern of growth. Obviously, these new home owners and lot owners were interested in water. At the beginning of this development, water to the residents was to be supplied by Woodsville Water and Light Department of the Woodsville Fire District. This agreement, Exh 9, states that TCH is to build the system and convey the system to the Woodsville Fire District. The agreement specifies that the water service created by the installation of this water system will be governed by the tariff conditions, terms and rules of Woodsville Fire District on file with the commission.

On November 30, 1970, an unusual document was entered into between TCH and the Woodsville Water and Light Department. The agreement states that TCH, rather than Woodsville Water and Light, agrees to provide water to existing buildings and future buildings within the development as of January 1, 1972. (See Exh 10.)

In its preheating memorandum, the company suggests that there is some question as to the authorization of Mr. Keating of TCH, vice president, to sign such an agreement. While the

record of this proceeding is without the necessary factual information on the subject, there is clearly no measurable consideration given to TCH for becoming responsible for the maintenance of the system.

On June 30, 1971, Woodsville Water and Light notified residents in the development that it would not furnish water service to them after January 1, 1972.

Woodsville Water and Light's actions in the early 1970s were direct violations of RSA 374:30. Revised Statutes Annotated 374:31 provided that any such attempted transfer, lease, or contract shall be void unless the same shall be approved by the commission. On June 26, 1971, Woodsville filed a petition to abandon service to the territory; the subject of this proceeding. The aforementioned petition was filed on an informal basis and was rejected on an informal basis, I-E 13,659.<sup>1(42)</sup>

On June 13, 1973, Woodsville Water and Light Department filed a petition, D-E 6493, to discontinue operations in that part of its then franchise territory, which was coextensive with the franchise territory sought by the company in this

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proceeding. Joint hearings were held on June 26, 1973, before Commissioners Bergevin, Riordan, and Chairman Kalinski.<sup>2(43)</sup> Requests were made by the then existing commissioners for data concerning the covenants and easement associated with the Mountain Lakes development.

Mountain Springs alleges that the next activity occurred on October 23, 1973, in which a letter to the commission was sent by a William Maynard. In that letter the company proposed to provide water service without charge to the residents of Mountain Lakes and to discontinue acquiring water service from the Woodsville Water and Light Department until the petition was acted upon. The company alleges that former Executive Director and Secretary Dom S. D'Ambruoso responded by permitting the company to operate in the manner proposed by Mr. Maynard on a "shakedown basis." Whether or not this communication occurred is immaterial to this commission. Since such a situation would violate at least three state statutes, it is clear that even if such a communication was transmitted it could not be termed a valid commission action or induce reliance.

Revised Statutes Annotated 374:22 refuses to allow any public utility to commence business in the state or engage in business or begin the construction of plant without *first* having *obtained* permission and approval of the commission. Revised Statutes Annotated 374:26 requires that after due hearing the commission can grant such permission whenever it *finds* that such engaging in the business, construction, or exercise of right, privilege or franchise would be for the *public good* and not *otherwise* a verbal or written communication by the secretary of a commission cannot be viewed as finding; nor can a "shakedown basis" be viewed as within the realm of the public good. Finally, absent an order, there exists no legal significance to the communication if it did in fact occur.

Such a plan or a statement approving such a plan would also be in violation of RSA 374:30. This statutory provision allows for a transfer of a franchise only when the commission

specifically finds that the transfer is for the public good *and* shall make an *order* absenting thereto, but not otherwise. There was no order in the fall of 1973, nor did any other corporate entity other than Woodsville Power and Light Company have the right to operate as a utility in the Mountain Lakes region. Revised Statutes Annotated 374 and its subsections clearly require that the propriety of each specific transfer is to be passed upon by the commission with specific findings through orders. *New Hampshire v New Hampshire Gas & E. Co.* 86 NH 16, 28, PUR1932E 369, 163 Atl 724. Revised Statutes Annotated 374:31 states that any attempted transfer, lease or contract shall be void unless approved by the commission. Through 1973, no such valid transfer was effectuated.

Nor can this commission sanction free service to consumers as evidenced by RSA 378:14. The existing tariff provisions in 1973, were those of Woodsville Water and Light, and these tariffs required a charge for water. Finally, RSA 378:10 clearly prohibits Woodsville Water and Light from charging some of its customers for water and excluding from payment water customers in Mountain Lakes.

The company in its prehearing memorandum alleges certain filings by Mr. Lockyer, its then attorney, and discussions with commission staff members in 1974. Whatever the validity of this assertion,

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the existing commission finds no value to this decision.

The absence of any formal approval of the franchise to Mountain Springs was certainly recognized by the company in its refileing of a petition to operate as a water utility on April 2, 1976.

There may have been some informal conferences during the summer of 1976; however, there was a hearing held before Commissioners Riordan and Stevenson on August 24, 1976. The subjects of this hearing were: (1) the company's petition to operate as a water utility; (2) the petition of Woodsville Water and Light Company to discontinue water service to the service territory applied for by the company; and (3) temporary rates for the company. Again, dockets D-E 6493 ([1976] 61 NH PUC 257), and D-E 6481 ([1976] 61 NH PUC 254), were considered on a consolidated basis. Commission report and Order No. 12,385 ([1976] 61 NH PUC 231), indicates that there may have been the additional issue of the completion of the water system.

On September 1, 1976, the aforementioned report and order No. 12,385 was issued, in which the commission ordered the Mountain Springs Water Company to complete the water system of the Mountain Lakes subdivision in the town of Haverhill. The report and order also require a Don Ayer, administrative assistant of the selectmen of the town of Haverhill, to arrange the construction of the water system in accordance with the projected work schedule of the engineering firm of Hoyle, Tanner, and Associates, Inc. The report and order also authorized Mr. Ayer to enter into agreements with the contractors for the completion of said water system so long as the work done conformed to the prepared design specifications. Finally, Mr. Ayer was authorized by the commission to submit statements for payment of contractors to a Mr. Keats of Hoyle, Tanner, and Associates, Inc., who were to verify that the work was done in conformance with the design specifications. Mr. Ayer was also to report periodically to this commission.

No reasoning or findings were provided as to why it was in the best interests of the public to complete the water system over the entire franchise area. In fact, it is clear that there is a large level of unused plant in the ground which is further worsening the problems of both Mountain Springs and its customers. Nor is there any statutory support for the order given that through September 1, 1976, Mountain Springs did not have a franchise approved by this commission. The commission's report and Order No. 12,385, does not contain what statute provides the power to the commission to order performance by an administrative assistant to the selectmen of the town of Haverhill.

The commission's power has been found to exist generally in two classes, namely (1) those directly affecting service and rates and (2) those which are designed indirectly to assure their permanence and stability as well as their adequacy and fairness. *New Hampshire v New Hampshire Gas & E. Co.* 86 NH 16, 29, 30, PUR1932E 369, 163 Atl 724. This latter class includes orders conferring upon a utility the right to commence business, acquire the stocks or bonds of another utility, transfer its franchise works or system, and to change its capital structure. Authority of the commission to make orders in the former class is plenary save in a few specifically example instances. *New Hampshire v New England Teleph. & Teleg. Co.* (1961) 103 NH 394, 40 PUR3d 525, 173 A2d 728. Authority in the second class is limited to the granting or withholding of commission approval to proposed utility action

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otherwise expressly forbidden by the statute. Whereas, in the first class the commission's power is much broader and allows the commission to make any such order necessary to establish just and reasonable rates.

Two other orders involving the transfer of franchise were issued by the commission on September 23, 1976. Report and Order No. 12,430 (61 NH PUC 254) authorized Mountain Springs to operate as a public water utility in the same franchise area that report and Order No. 12,431 (61 NH PUC 257), allows Woodsville Water and Light Department to discontinue operation. These two orders seek to effectuate a transfer of a franchise as well as the works and system from one entity to another. Revised Statutes Annotated 374:30 governs transfers of franchise and contains the requirement that the commission must find that the transfer is in the public good. No such finding appears in Order Nos. 12,430 or 12,431. Rather in Order No. 12,431 there is simply a statement that a Woodsville Water and Light witness stated that the department did not have the capacity and capability to serve the Mountain Lakes project. See report and order No. 12,431, p. 1. Yet, the commission expressed no acceptance of the testimony; nor did it find any reason to justify discontinuance of service by Woodsville either in compliance with RSA 374:28 or 374:30. Rather, the only justification for discontinuance is that the commission granted Mountain Springs to operate as a water utility in the area by Order No. 12,430.

A review of Order No. 12,430 finds no express finding of public good for the transfer of the franchise to Mountain Springs. In fact, there is a total absence of findings, evidence reasoning as to why the transfer should be authorized. The only discussion is that the commission had authorized Woodsville to discontinue operation. These two orders conveniently bootstrap one

another but fail to satisfy the statutory tests set forth in the sections of RSA 374.

Therefore, there never was a valid transfer of this franchise; nor was there ever one single substantial finding of public good. The orders in this docket and others totally ignore the statutes by which this commission is sworn to adhere. The actions by Woodsville Water and Light, Mountain Springs, and this commission's decisions involving the two utilities have over the time period of the 1960s and 1970s makes a sham of the regulatory process. To attempt to remedy this situation years after the fact is a miscarriage of Justice.

I find that there was never a valid franchise right given to Mountain Springs Water Company. Whether that finding has any value is difficult to ascertain, since the Mountain springs Water Company has acted as a utility with this commission's apparent acknowledgement by inaction. However, I have stated a repeated attempt to resolve this case once and for all.

This docket has sat since June 1, 1973, or nearly eight and one-half years. During that time neither my predecessors nor my present commissioners have shown any inclination to dispose of this case. After painstakingly reviewing eight and one-half years of data, I see why. There are no easy answers nor are there any guidelines that can be used to span over eight years of inaction. To truly understand all the complexities of this case a commissioner would have to spend an infinite amount of time reading every piece of paper filed in this docket. Recognizing the length of my term I have attempted to read as much as possible. Based on my knowledge admittedly asserted by hindsight and recognizing that

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I specifically find no sanction for Mountain Springs acting as a utility.

## II. Comparison — Other Water Utilities

Before reviewing the proposed rate base expenses and rate of return submitted by Mountain Springs, a comparison of the rates charged by other investor owned water utilities illustrates a pattern and provides an education. The following table provides the most recent charges for both unmetered and metered water utilities.

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

<i>Utility</i>	<i>Unmetered Annual Charge</i>
Gilford Forest Estates	\$120
Gunstock Glen	75*
Lakes Region	198
Locke Lake	170
Ossipee	96
Policy	117*
Proposed Mountain Springs	635
Present Mountain Springs	150
<i>Utility Annual Charge</i>	<i>Metered 2,000 Feet per Quarter</i>
Hampton	\$147*
Hanover	93
Hudson	184
Hudson-Litchfield	222
Pennichuck	128
W&E	182

Williamsburg                    182  
 White Rock                      285

= Rate Case Pending

Thus, Mountain Springs proposed rate would be in excess of twice the rate charged by any other investor owned water utility in the state. The increase requested in this proceeding is a 325 per cent increase. If granted it would be the largest percentage increase ever allowed by this commission. These adjustments are made to customer billing, operation and maintenance, production fuel, professional fees, office expense, and bad debts.

The commission has followed the test-year concept as stated in *Public Service Company of New Hampshire v New Hampshire*:

"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 proformed to reflect established and current changes in revenues or expenses, modification of test-year figures is considered appropriate.' (Emphasis supplied.) (1959) 102 NH 150, 30 PUR3d 61, 72, 153 A2d 801.

"While the supreme court has afforded the commission wide parameters within which to exercise its judgment, *Legislative Utility Consumers' Council v Public Service Co. of New Hampshire* (1979) 119 NH — , 31 PUR4th 333, 402 A2d 626, the supreme court has *never deviated from allowing an actual test period adjusted for known and certain changes*. In *Legislative Utility consumers' Council v Public Service Co. of New Hampshire III*, cited by the petitioner, the supreme court upheld the commission's use of an actual test year not an estimated one.

"Estimated test years have generally been found to be against the public interest. *Re United Illum. Co.* (Conn 1974) 7 PUR4th 417; *Re Arizona Pub. Service Co.* (Ariz 1977) 20 PUR4th 253; *Re Hilo Electric Light Co.* (Hawaii 1974) 6 PUR4th 195; *Re Intermountain Gas Co.* (Idaho 1978) 26 PUR4th 442; *Re Yelcot Teleph. Co.* (Ark 1979) 28 PUR4th 143; *Re Upper Peninsula Teleph. Co.* (Mich 1979) 28 PUR4th 230; *Re Mountain States Teleph. & Teleg. Co.* (Colo 1977) 22 PUR4th 516; *Re Southwestern Bell Teleph. Co.* (Kan 1979) 28 PUR4th 519. Estimated and projected test-years result in lengthy discussions as to the accuracy of projections which leads a proceeding into the realm of speculation rather than addressing the validity and prudence of recent actual results.

"The company in this proceeding has

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failed to carry its burden (RSA 378:8) as to the adoption of an estimated test year. The commission has chosen to adjust actual figures for known and measurable changes. The use of an historical test year as opposed to an estimate will allow the commission to strike that delicate balance between the interests of the utility and those of its consumers. *Re Union Teleph. Co.* (1979) 64 NH PUC 434, 441.

### III. Pending Rate Requests

There have been different rate filings that have span the course of this proceeding. On April 2, 1976, there was a new tariff filed with this commission. On September 23, 1976, a temporary rate went into effect establishing temporary rates of \$140 for general services and \$25 per year as a standby charge.

Later in 1977, a petition was heard and granted establishing emergency rates. At no time in either of these rate awards was a reasonable rate base or capital structure approved.

Finally, a request for rates in this proceeding was offered requesting \$635 for general service and \$65 per year as a standby charge. Although offered and the subject of an escrow arrangement, the tariff sheets never bore an effective date and are improperly filed.

There are obvious questions about filings that revert back to 1976 and the 12-month requirement of RSA 378:6. Equally questionable is the effect of a filing without an effective date. However, the touchstone of regulation is the just and reasonable standard of RSA 378:7, which we will apply above all else.

The commission will thus endeavor to set rates that will comply with a standard of just and reasonableness while recognizing that these words must be redefined for purposes of this proceeding.

#### *IV. Operating Expenses*

[4, 5] The company has requested a projected expense level of \$61,200. This level consists of test-year expenses of \$46,489 and \$14,711 of pro forma adjustments.

One adjustment that appears throughout Mountain Springs Water Company's request is \$4,319 to reflect a 15 per cent estimated general inflation factor.

The commission's conclusion is that the \$4,319 of estimated expenses should be denied as neither known or measurable. There is no certainty as to occurrence, nor is there any rational reason to allow them to be recognized as necessary expenses. The evidentiary support either is nonexistent or too weak to be persuasive. Consequently, there will be a downward adjustment to expenses of \$4,319.

The next level of expenses to be examined from Exh P-72 is customer billing costs of \$9,909. The bulk of this amount (\$6,000) related to fees paid the law firm of Myers and Laufer for collection of outstanding bills.

The company states that it has had enormous difficulty collecting its rates and it is reasonable to expect this to continue. The company argues that the proposed level is reasonable given their past difficulties.

The company is correct that they have had problems collecting rates from their customers. The customers of this system have steadfastly refused to comply with the orders of this commission. However, the incurrence of \$6,000 a year in expenses is unreasonable for a system this size.

To alleviate the need of small court claims, the commission will adopt a unique policy as to this water system. First, any customer that has not paid a commission determined valid rate by this order within thirty days of this order, will be liable for and subject to the same finance rate as used on credit cards; namely 1.5 per cent a month and 18 per cent interest a year. Second, any

such customer that has not paid their bill

within sixty days of this order, will be permanently disenfranchised from water utility hook-up as will any subsequent owners or lessors or other users of the property. This commission will block any other entity from servicing these customers as well. Since the property cannot be used to drill private wells, a consumer who violates the commission's orders will effectively never have water.

We will not sanction or condone a deliberate attempt by either customers or the company to avoid the orders of this commission. In this case, there has been a continuous and, in some instances, deliberate attempts by both the company and the customers to avoid compliance with state statutes, supreme court opinions, and this commission's orders. We will not allow customers of a system to put a system under by simply not paying their bills.

Because of this action, these expenses are eliminated as being nonrecurring.

Petitioner's Exh 72 also erroneously included \$3,500 for work done by Mr. Maynard in prior years. This expense is not a proper match for revenues and is also nonrecurring. This \$3,500 expense is eliminated from test-year expenses.

This leaves customer billing costs of \$409, to which we will add \$11 to reflect the two postage increases that have occurred to reach a total cost figure of \$420.

Operations and maintenance expense was initially proposed at a level of \$11,549, to which a reduction of \$3,300 was made to reduce caretaker Maccini's salary to \$12,000. Another \$3,300 was removed from the account of production and labor (\$9,300) to yield a \$6,000 figure. Thus, the company's proposal is to have Mr. Maccini draw a salary of \$12,000 in two equal sources from these two accounts.

The commission rejects any salary for any employee or independent contractor to be a caretaker to this system. There are only 160 customers presently hooked up to the system. No system of this size that we are aware of has a permanent employee to undertake the responsibilities undertaken by Mr. Maccini.

If there is work to be done on the system, then let the utility contract for it on a situation-by-situation basis. If customers need individual assistance, then they can deal directly with Mr. Maccini, or anyone else, and pay accordingly. However, a system this size can never operate at a profit with this type of overhead. Too often Mr. Maccini was called upon to do work that was the work of faulty construction of the houses themselves. This is outside the responsibility of a water utility.

Furthermore, Mr. Maccini is an independent contractor and has numerous other responsibilities and sources of income. This expense is found to be unreasonable and unnecessary and rejected.

The commission will allow the \$4,356 associated with production-fuel expenses.

The next level of expenses is professional fees. The company requests an allowance of \$13,751. The commission, based on its decision to remove all inflation estimates, must reduce

this figure by \$489.

Two thousand dollars of the 1979 expense of \$3,262 relates to a suit brought against Mary Taber to have a received placed in charge of the company. The parties offer varying rationales for exclusion and inclusion of the expense based on the merits of the suit.

The commission views the situation in terms of whether or not such a suit will be a recurring problem. The commission believes that based on this order, the expense will be nonrecurring and thus will be removed. The commission would note that neither 1980, nor 1981, has revealed any similar suits. If a similar suit is brought, we will increase the rates provided a relationship is established as to the water company.

The remainder is attributed to current

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legal expenses for attorney representation in cases before this commission and the various courts that have been the forums for the continuing battle between customers and the management of this company.

Since we are required by supreme court decision, *Hampton Water Works v New Hampshire* (1941) 91 NH 278, 38 PUR NS 72, 18 A2d 765; (1941) 91 NH 278, 39 PUR NS 15, 19 A2d 435, to allow reasonable rate case expenses, we will approve some of the requested fees. The 1979 expense was \$5,424. The projected expense is \$10,000. Lesser levels of litigation should be required after this decision. Furthermore, some consideration should be given to spreading these rate case expenses over a certain set time period. Based on the evidence, a level of \$7,000 would appear appropriate and within a reasonable range.

Office salaries are requested to be \$10,000 for the president of the company. Yet, the bookkeeping of 160 accounts or even the addition of standby bills is hardly a tedious task. Our best estimate is that sixteen hours a week at \$5.50 per hour, or \$88 a week, is appropriate. This hourly rate is within the range of salary paid an accounting technician position with the state. This leads to a yearly expense level of \$4,576, or a reduction of \$5,424 from the requested level as the commission noted in *Re Public Service Co. of New Hampshire* (1981) 66 NH PUC 99, a utility under a emergency rate request must be willing to take emergency financial steps internally, as well as asking their consumers to pay increased rates. Mountain Springs and its management must make the same sacrifices as they ask of their customers. The level of salary requested is too high given the responsibilities and the emergency situation.

Office expense is offered at \$2,780, plus rent \$1,800, which relates to a rental of office space from a family trust of the president, Mrs. Taber. There was testimony that the increase was pending to elevate the rent to \$3,000. We are unconvinced that this level of expenses is necessary for a water company this size. The family tie to the rental also raises some concern. It would appear that there is no need for rental space at all and that the bookkeeping done by Mrs. Taber does not need the additional expense of an office. Again, we are applying the emergency standard and requiring Mountain Springs to adhere to only the absolute minimal expenses. Thus, the commission will remove and thus disallow the \$1,800 in expenses for rent. The remaining \$2,780 is allowed, however.

The remaining two entries of bad debts of \$247 and \$278 of miscellaneous are rejected. The bad debts, because of the commission's policy, announced in this decision to prevent bad debts. Thus, the charge is viewed as nonrecurring. The miscellaneous simply had no evidentiary support.

While we arrive at an expense level less than that established in 1976, the commission rejects the intervenor standard that we should simply bind ourselves to that earlier level of expenses. The reasonableness of those expenses were established as an estimate and not based on investigation. Our expense level is based on an elaborate expense review.

**Total operating expenses allowed:**

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

Customer Billing	\$ 420
Operations and Maintenance	5,549
Production – Labor	0
Production – Fuel	4,356
Professional Fees	7,000
Rent	0
Office Salaries	4,576
Office Expense	2,780
Total	<u>\$24,681</u>

**V. Rate Base**

[6] The calculation of the rate base has been a subject of controversy throughout these hearings. Mountain Springs Water Company filed documents on July 1,

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1980 to request that the rate base be established at \$403,061, and a cost base of \$913,795 for the calculation of depreciation expense. On August 28, 1980, the company withdrew its request for depreciation based on the cost base of \$913,795 and requested that depreciation be calculated on the claimed cost of the acquisition of the system (\$403,061). The claimed acquisition cost of the system is comprised of the following:

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

Small Business Administration	
Loan	\$202,000
Dunnan Note	134,040
Taber Note	67,021
	<u>\$403,061</u>

The intervenors, The Mountain Lakes Community Association, Inc., and The Mountain Lakes Village District, argue that the company has no investment in its water plant, as the plant was paid for by purchasers as part of the lot price.

The intervenors submit that the water plant constructed since April, 1973, by TCH was paid for by the purchasers. That TCH obligated itself to provide a water main connected to a water supply and water storage facilities to serve each lot and such cost was included in the lot price.

Intervenors state that the real transfer from TCH to Mountain Springs was without

compensation by Mountain Springs. Based on all the facts, it must be concluded that the expenses relating to the construction of the water plant after April, 1973, were expenses on the books of TCH and, therefore, had a zero basis when transferred to Mountain Springs. On these facts, the law in the United States is clear that the lot purchasers have paid for the construction of the water plant and such payment constitutes contributions in aid of construction, on which there can be no rate of return.

The intervenors further provided several citations regarding the law related to contributions in aid of construction, including the New Hampshire supreme court in *Windham Estate Asso. v New Hampshire* (1977) 117 NH 419, 422, 374 A2d 645:

"... funds, supplied by consumers, must be deducted from the rate base as these are funds upon which the investors are not entitled to any return."

They further claim that all of the costs prior to April, 1973, constituted contributions in aid of construction and that water system construction after that date occurring in 1973, and 1974, were provided by lot purchasers through escrow agreements. The escrow agreements provided for funds to be set aside from the sale of each lot toward the installation of water mains and the construction of water storage and supply facilities.

The company claims that the value of the capital assets of gross plant should be set at the acquisition cost of \$403,061, which includes notes from John Dunnan and Mary Taber and loan proceeds from an SBA guaranteed loan obtained from the City Bank and Trust Company of Boston, Massachusetts. The intervenors claim that the claimed investment appears to be derived from a combination of \$73,165, the balance in the water escrow account as of December 31, 1974 and "donated surplus" in the amount of \$330,340. Intervenors further state that Mr. Dunnan and Mrs. Taber cancelled officers loans from Town and Country Homes (the developer) in the amount of \$73,165, which is the same amount in the water escrow account (Exh 70).

Intervenors take the position that the water plant on the books of Town and Country Homes had a zero-cost basis, due to the fact that the developer constructed the water plant and the costs are paid for by the lot purchasers as part of the purchase price and those costs were expenses by the developer. They further assert that "any payments" received from Mountain Springs are in economic reality

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transfers of funds to assist Mr. Dunnan and Mrs. Taber as owners of TCH, and further to assist them to get assets out of TCH, which in February, 1975, was on its way to the bankruptcy court.

In examining the development of the water system, Town and Country Homes sold lots to lot purchasers explicitly promising that a water system would be available. The cost of that system had to be included in the sale price of the lots. Otherwise, Town and Country would not have been promising to turn the system over to the town of Woodsville prior to 1970, and considering the formation of a precinct shortly thereafter during 1970 and 1971, 1972 and 1973. The company explicitly admits that "the water district concept was under consideration and TCH considered it very likely that whatever entity constructed and operated the water system, it would ultimately be conveyed to a water district controlled by community members," p. 10, prehearing

memorandum. As a result of orders by this commission, Town and Country Homes was ordered to set up an escrow agreement to complete the water system. The funding of the escrow account was provided by setting aside \$1,000 from the sale of each lot. It is clear that in July, 1973, when the escrow agreement was executed it was customer funds which were providing the funds for construction. In total \$134,461 were expended from the escrow funds (\$124,000 deposits plus interest). The HUD reports by T and C include ranges of selling prices for lots in January, and August, 1973, from \$5,940 to \$20,000 and state that water lines are to be extended to each individual lot. It is unthinkable to conclude that the cost of water lines was not included in the selling price. It should also be noted that the HUD property report also provides for each purchaser to pay a \$250 tap-on charge. These tap-on charges are direct reimbursement to the developer for his cost of services which were installed; henceforth, a contribution in aid of construction.

The books of Town and Country and Mountain Springs Water Company exhibit a number of inconsistencies, which make it next to impossible to determine the value of the water system. For instance, assets of MSWC as of February 28, 1973, are valued at \$385,762 which is sourced to \$1,000 of capital stock and \$384,762 of capital surplus (intervenor Exh 3). A breakdown of the costs lists \$40,199 of the \$385,762 as a reserve for uncompleted contracts (November 11, 197[0] thru October 21, 1971, Accounts 3901 and 3902) and the same exhibit lists costs to Account Nos. 3901 and 3902 during the period from November 1 1972, to February 28 1973, as \$31,933. A schedule showing the rate base calculation by MSWC as of December 31, 1973, shows no plant as of December 31, 1973, and plant in the amount of \$589,500 as of December 31, 1973, with the same previous amounts for common stock and capital surplus. The statements for October 31, 1974, show plant at \$815,245 and the capital surplus has been changed to donated equity in the amount of \$593,517. The statements for November 31, 1975, show the assets as \$336,932 and the donated equity has been eliminated with the balance going to long-term debt. The statements for December 31, 1976, and June 30, 1977, remain somewhat consistent; however, the August 31 1977, shows the additional increase of \$400,000 in contributed plant and \$400,000 in contributions in aid of construction.

The finance department staff has reviewed and audited the invoices for development which were available from all sources. The audit report shows documentation for \$509,814, which can be directly attributed to the water system and \$460,622, which is undocumented and could be attributable to either water,

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roads or sewer construction. The main questions to be answered regarding the costs of the system are: who contributed the capital? And was it entirely contributions in aid of construction?

The commission staff attempted beyond the call of duty to determine and adequate rate base. The improper bookkeeping, the contradictory data, the transfer for these records throughout the court systems of New England have all made complete verification impossible. The staff came up with \$509,814 as a total attributable solely to water. The staff and this commission are convinced that a large portion of this plant is nothing more than contributions in aid of construction. Since the John E. Rich Company, CPA audit of August 31, 1977, shows undefined

property plant, and equipment at \$813,852 and staff has found that the water portion was only \$509,814, then clearly the \$400,000 shown on the Rich audit must be removed from staff's rate base. See Windham Estates. This leaves a rate base of \$109,814.

#### VI. Capital Structure

The company submits various debt and stock documents that were never approved by this commission. No doubt this is a direct violation of RSA 369:1. Since Mountain Springs chose to violate the statutory framework established by this state to regulate utilities, it enters this forum with less than clear hands. The commission cannot attribute any of the financial documents offered as being attributed to the utility operations. There are no stock record books for examination. The capitalization has never matched the claimed rate base.

Since we have found a rate base of \$109,814, we will use a capital structure of \$109,814. There will be no depreciation reserve reduction since we believe that this figure reflects the value today. From this, we will now apply a continuing depreciation rate of 2.1 per cent composit as allowed in Order No. 12,997 ([1977] 62 NH PUC 343). This results in a depreciation expense of \$2,306.

The commission will use the composite debt rate of 11.5 per cent to arrive at a rate of return of 11.5 per cent.

The commission will adopt the following:

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

Taxes	\$10,639
Expenses	24,681
Depreciation	2,306
Total Expenses	<u>\$37,626</u>
Rate of Return	
x Rate Base	12,629
Total Revenue	<u>Required</u>
Required	\$50,255

The commission will allow collection of this revenue as follows: (1) the 130 customers connecting to the system directly will be charged \$266 annually effective April 1, 1981. (2) A \$10 minimum seasonal fee for all other lot owners other than the 160 mentioned previously. This \$10 fee is to cover the problems resulting from all of these people having access to the lake; i.e., the water source. Also this fee relates to the fact that there is no other source of water for these lot owners. Absent this system, their property has little value. Since the customers are like vacation home hook-ups or trailer hook-ups experienced with other utilities, a \$10 fee is appropriate. There is no issue as to RSA 378:30-a since the plant is completed.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Second Revised Page 21, filed by letter dated July 1, 1980, and

Second Revised Page 21 filed by letter dated November 14, 1980, and noted as Third Revised Page 21 of Mountain Springs Water Company tariff, NHPUC No. 1 — Water, are hereby rejected; and it is

Further ordered, that Mountain Springs Water Company file Fourth Revised Page 21 of its tariff, NHPUC No. 1 — Water, setting forth the annual charge of \$266 for those customers billed under its general service rate, and the annual charge of \$10 for those customers billed under its standby rate; and it is

Further ordered, that Fourth Revised Page 21 shall be effective for all service rendered on or after October 1, 1980; and it is

Further ordered, that Mountain Springs Water Company shall adjust its accounts receivable to reflect the rates allowed in this report and order and the effective date thereof; and it is

Further ordered, that all notices of disconnection sent to any customer of Mountain Springs Water Company, based on the rates as set forth on Second and Third Revised Pages 21 shall be vacated and set aside.

By order of the Public Utilities Commission of New Hampshire this tenth day of November, 1981.

#### FOOTNOTES

<sup>1</sup>This commission has since rejected the use of an informal proceeding in dealing with substantive questions such as these.

<sup>2</sup>Two of these commissioners have since left the commission. The difficulty in rendering a decision in this case is that three other commissioners have been appointed, of which one has also subsequently left the commission.

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NH.PUC\*11/12/81\*[79099]\*66 NH PUC 499\*Public Service Company of New Hampshire

[Go to End of 79099]

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

Additional applicant: New England Power Company

DF 81-236, Order No. 15,288

66 NH PUC 499

New Hampshire Public Utilities Commission

November 12, 1981

APPLICATION by electric companies for authority to issue guarantees of notes and debentures

to be issued by Connecticut Yankee Atomic Power Company; granted subject to conditions.

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SECURITY ISSUES, § 57 — Guarantees of notes.

[N.H.] Electric companies were authorized to issue guarantees with respect to certain notes and debentures to be issued by Connecticut Yankee Atomic Power Company where the commission found that the terms and conditions in the draft guarantee agreements relating to the revolving credit loans and the debentures were reasonable to enable Connecticut Yankee to repay certain outstanding loans and to finance its need for additional funds in order to acquire and maintain an inventory of nuclear fuel and to make construction expenditures reasonably requisite for the continued operation of the plant, that it was in the best interests of the stockholders and ratepayers of the electric companies that they execute such guarantee agreements rather than being required to make capital contributions or loans at this time, and that the issuance was consistent with the public good.

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APPEARANCES: Frederick J. Coolbroth for Public Service Company of New

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Hampshire; Kirk L. Ramsauer for New England Power Company.

BY THE COMMISSION:

Report

By this unopposed petition filed on September 3, 1981, Public Service Company of New Hampshire ("PSNH"), a corporation duly organized and existing under the laws of the state of New Hampshire, and New England Power Company ("NEP"), a corporation duly organized under the laws of the Commonwealth of Massachusetts and qualified as a foreign corporation to do business in New Hampshire (but does not engage in local distribution therein), electric public utilities subject to the jurisdiction of this commission, seek authority pursuant to the provisions of RSA 369 to issue their guarantees of certain notes and debentures to be issued by Connecticut Yankee Atomic Power Company ("Connecticut Yankee"). A duly noticed hearing was held in Concord on October 8, 1981, at which the following witnesses testified: Michael K. Upper, assistant treasurer of Connecticut Yankee; John J. Lampron, treasurer of Public Service Company of New Hampshire; and Donald E. Rose, treasurer of New England Power Company.

Connecticut Yankee, a Connecticut corporation, is the owner and operator of a nuclear powered electric generating plant with a capacity of approximately 575 megawatts (net) located in Haddam, Connecticut. Connecticut Yankee sells the entire output of its plant to 11 sponsoring New England utilities (the "sponsors"), including PSNH and NEP, based on the percentage of the outstanding stock of Connecticut Yankee owned by each sponsor. The sponsors are obligated under their separate capital funds agreements with Connecticut Yankee to contribute capital to Connecticut Yankee under certain defined circumstances based on each sponsor's percentage of common stock ownership.

Connecticut Yankee proposes (i) to incur up to \$50 million of revolving credit bank loans (the "revolving credit loans"), and (ii) to issue \$50 million of its 17 per cent sinking fund debentures due 1996 (the "debentures"). Subject to the exceptions stated below, the proposed revolving credit loans and debentures are to be guaranteed severally, not jointly, by the sponsors.

Mr. Upper stated that the revolving credit loans are to be incurred under an agreement (the "credit agreement") to be entered into with Bankers Trust Company and The Chase Manhattan Bank, N.A. (the "banks"), each of which has agreed to loan Connecticut Yankee up to a maximum of \$25 million. The commitment of each bank will be subject to reduction by Connecticut Yankee in integral multiples of \$100,000 and subject to further reduction in the event of any sponsor's election to make loans to Connecticut Yankee on the basis described below. Within such limits, Connecticut Yankee will be able to borrow from, repay, and reborrow from the banks in proportion to their respective commitments from time to time until October 1, 1984 (the "termination date").

The revolving credit loans will mature on the termination date, and will bear interest on the first \$12 million borrowed from each bank at a rate per annum equal to the bank's base rate, as defined, and on any additional amounts borrowed thereunder at a rate per annum equal to 105 per cent of the bank's base rate. Connecticut Yankee will pay to each bank a standby commitment fee payable quarterly in arrears at the rate of one-half of one per cent per annum on the average daily unused portion of the bank's commitment.

**Page 500**

Each of these sponsors, including PSNH and NEP, will enter into a guarantee agreement (the "guarantee agreement") with the banks and Connecticut Yankee. Under each guarantee agreement, a sponsor will guarantee severally, not jointly, its percentage share of the revolving credit loans by the banks in proportion to its stock ownership in Connecticut Yankee or, in the alternative, may elect to loan directly to Connecticut Yankee for any six-month period commencing January 1st, or July 1st ("borrowing period"), its percentage share of any amounts of revolving credit loans to be made during such six-month period. The percentage shares and the maximum amount to be guaranteed or, in the alternative, to be loaned by each sponsor, are as follows:

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

<i>Company</i>	<i>Ownership Per Cent</i>	<i>Amount</i>
The Connecticut Light and Power Company	25.0	\$12,500,000
New England Power Company	15.0	7,500,000
Boston Edison Company	9.5	4,750,000
The Hartford Electric Light Company	9.5	4,750,000
The United Illuminating Company	9.5	4,750,000
Western Massachusetts Electric Company	9.5	4,750,000
Central Maine Power Company	6.0	3,000,000
Public Service Company of New Hampshire	5.0	2,500,000
Cambridge Electric Light Company	4.5	2,250,000
Montaup Electric Company	4.5	2,250,000
Central Vermont Public Service Corporation	2.0	1,000,000
	100.0	\$50,000,000

Any loans made by a sponsor to Connecticut Yankee under its guarantee agreement will be evidenced by a note maturing on the last day of the borrowing period; any notes issued to a sponsor will not be guaranteed by the other sponsors. If any sponsor elects to make loans to Connecticut Yankee during any borrowing period, the guarantee percentages of the other sponsors for loans made by the banks during such period will be adjusted to reflect that election.

Public Service Company of New Hampshire has determined that it will not exercise the option to make loans under its guarantee agreement and will execute an irrevocable waiver to that effect.

Mr. Upper further stated that Connecticut Yankee has negotiated the sale of \$47,750,000 principal amount of the debentures (the "Series A debentures") to a group of institutional investors. The remaining \$2,250,000 principal amount of the debentures (the "Series B debentures") will be sold to one of Connecticut Yankee's sponsors, Cambridge Electric Light Company, which by purchasing these debentures will, in effect, be loaning money directly to Connecticut Yankee rather than issuing a guarantee. The debentures will bear interest at the rate of 17 per cent per annum, will mature approximately fifteen years after the initial sale of the debentures. Connecticut Yankee expects to sell \$38,480,000 principal amount of the debentures as soon as the necessary documentation can be completed and required regulatory approvals are obtained. The remaining \$11,520,000 of the debentures are expected to be sold on January 14, 1982.

The Series A debentures are to be severally but not jointly guaranteed by the sponsors, other than Cambridge Electric

### Page 501

Light Company, in accordance with the following percentages:

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

	<i>Per Cent of Series A Debentures Guaranteed</i>
The Connecticut Light and Power Company	26.1780
New England Power Company	15.7068
Boston Edison Company	9.9477
The Hartford Electric Light Company	9.9477
The United Illuminating Company	9.9477
Western Massachusetts Electric Company	9.9477
Central Maine Power Company	6.2827
Public Service Company of New Hampshire	5.2355
Montaup Electric Company	4.7120
Central Vermont Public Service Corporation	2.0942
	100.0000

The percentage amounts guaranteed are slightly in excess of the respective sponsors' stock ownership interests in Connecticut Yankee due to the fact that Cambridge Electric Light Company has elected to purchase its percentage share of the debentures to be issued rather than issuing its guarantee.

Mr. Upper testified that Connecticut Yankee will use the proceeds from these financings to repay its existing short-term lines of credit, a term loan and certain sponsor loans and for

expenditures for nuclear fuel as well as construction expenditures reasonably requisite for continued operation of the plant.

The cash flow assured by the power contracts represents the underlying basis for the making of the revolving credit loans and the issuance of the debentures. The power contracts, however, contain certain cancellation provisions under specific contingencies. Because of the potential, albeit remote, for such cancellations, the financial institutions involved will not proceed on these proposed financings unless the sponsors issue the guarantees as proposed.

According to Mr. Lampron and Mr. Rose, without sponsor guarantees as proposed, it is their understanding that Connecticut Yankee would be forced to raise the amount needed (\$100 million) with capital contributions or loans from the sponsors. This would require actual cash outlays by PSNH and NEP of \$5 million and \$15 million, respectively. It is the opinion of PSNH and NEP that it is in the best interests of their ratepayers and stockholders to enter into the proposed guarantee agreements rather than making such cash outlays.

Copies of the draft documents relating to the financings were submitted, as were balance sheets of PSNH and NEP and resolutions of the boards of directors of PSNH and NEP approving the execution and delivery of the proposed guarantee agreements.

Based upon all of the evidence, the commission finds (1) that the terms and conditions in the draft guarantee agreements relating to the revolving credit loans and the debentures are reasonable to enable Connecticut Yankee to repay certain outstanding loans as hereinabove set forth and to finance its need for additional funds in order to acquire and maintain an inventory of nuclear fuel and to make construction expenditures reasonably requisite for the continued operation of the plant, (2) that it is in the

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best interests of the stockholders and ratepayers of PSNH and NEP that they execute such guarantee agreements rather than being required to make capital contributions or loans at this time, and (3) that the issuance by PSNH and NEP of their guarantees as proposed and 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 and New England Power Company be, and they are hereby,

authorized to issue their guarantees of their respective percentage shares of the obligations of Connecticut Yankee Atomic Power Company with respect to the revolving credit loans and the debentures as described in the foregoing report; and it is

Furthered ordered, that the terms and conditions in the executed guarantee agreements shall be substantially as stated in the latest draft copies submitted in this proceeding and that no further written or oral supplements to or modifications of those proposed terms and conditions shall be executed without prior approval of this commission.

By order of the Public Utilities Commission of New Hampshire this twelfth day of

November, 1981.

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NH.PUC\*11/13/81\*[79100]\*66 NH PUC 503\*Union Telephone Company

[Go to End of 79100]

### **Re Union Telephone Company**

DR 81-310, Supplemental Order No. 15,289

66 NH PUC 503

New Hampshire Public Utilities Commission

November 13, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Supplemental Order

Whereas, Union Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on October 16, 1981, filed with this commission Supplement No. 1 to its tariff, NHPUC No. 6 — Telephone, providing for temporary rates, effective November 16, 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 Supplement No. 1 of tariff, NHPUC No. 6 — Telephone, of Union Telephone Company 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 November, 1981.

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NH.PUC\*11/13/81\*[79101]\*66 NH PUC 504\*Public Service Company of New Hampshire

[Go to End of 79101]

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

DE 81-292, Order No. 15,290

66 NH PUC 504

New Hampshire Public Utilities Commission

November 13, 1981

PETITION for authority to construct electric transmission lines under and across state-owned land; granted.

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APPEARANCE: Pierre O. Caron for Public Service Company of New Hampshire.

BY THE COMMISSION:

Report

On October 5, 1981, Public Service Company of New Hampshire filed with this commission a petition seeking authority to construct and maintain a distribution line (three-phase, 345./19.9 kilovolts) beneath railroad land owned by the New Hampshire Transportation Authority westerly of Paugus Park road in the city of Laconia, New Hampshire. This line was to provide power to a pumping station which is an integral part of the West Paugus interceptor on a branch of the Winnepesaukee Water Pollution Abatement Project.

An order of notice was issued on October 13, 1981, setting the matter for hearing on November 10, 1981, at 1:00 P.M. at the commission's Concord offices. Public notice was directed and an affidavit of said notice was filed with the commission. In addition, copies of the order of notice were dispatched to John R. McAuliffe, acting railroad administrator, Department of Public Works and Highways; George Gilman, Commissioner, Department of Resources and Economic Development, John Bridges, Director of Safety Services; and the Office of the Attorney General.

At the public hearing on November 10, 1981, company counsel Caron presented as Exh 1 the company's petition. This exhibit described the proposed construction and included a sketch of the underground construction. The line would run westerly from Pole No. 411D underground 32 feet to the railroad track, then southwesterly 94 feet to a pad-mounted transformer. Cable beneath the track would be enclosed in a six-inch galvanized conduit.

Attorney Caron presented as Exh 2 the letter from John R. McAuliffe, which advised the commission of the concurrence of the Department of Public Works and Highways in this project.

Exhibit 3 was introduced as the company's work order on this project. This document indicated a cost of \$47,707, with anticipated revenues of \$18,000 per year — a payback in less than three years.

With evidence presented, the project is clearly in the public good and is acceptable to this commission. 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 Public Service Company of New Hampshire be, and hereby is, granted authority to construct and maintain distribution plant under and across state-owned property westerly of Paugus Park road in the city of Laconia, New Hampshire, said plant to be constructed according to appropriate codes and to conform to plans on file with this commission.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of November, 1981.

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NH.PUC\*11/13/81\*[79102]\*66 NH PUC 505\*Gas Service, Inc.

[Go to End of 79102]

## Re Gas Service, Inc.

DR 80-179

66 NH PUC 505

New Hampshire Public Utilities Commission

November 13, 1981

MOTION to accept gas rate settlement offer; denied.

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1. DIVIDENDS, § 2 — Commission jurisdiction — Managerial discretion.

[N.H.] A public utility company's decision to award dividends to its stockholders and the level of award has been generally viewed as within the management's prerogative, but abuse of this prerogative will be recognized in the regulatory process. p. 506.

2. EXPENSES, § 48 — Country club dues.

[N.H.] A public utility company's country club expenses are not a legitimate operating expense for rate-making purposes. p. 507.

3. EXPENSES, § 105 — Fringe benefits.

[N.H.] The cost of renovation of an officer's house, a retirement party, and lodging by an officer of a public utility company in a motel are not legitimate operating expenses for rate-making purposes. p. 508.

4. RATES, § 150 — Reasonableness of rate settlement offer - Managerial efficiency.

[N.H.] A gas company's rate settlement offer was rejected in view of the company's dividend policy and questionable operating expenses. p. 508.

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APPEARANCES: Charles Toll, for Gas Service, Inc.; Gerald Lynch, consumer advocate.

Disposition of Motion to Accept Settlement Offers

*Opinion of J. Michael Love, Chairman*

### I. General History

On August 1, 1980, Gas Service, Inc. (hereinafter referred to as the "company"), filed with

the commission certain proposed pages in its Tariff No. 5 to be effective September 1, 1980, providing for rates designed to yield an annual increase in basic revenues of \$943,954.

On August 21, 1980, the commission rejected the proposed rate increase in its entirety. Subsequently, the company filed a motion for rehearing on September 18, 1980. Upon reconsideration, the commission again rejected the increase in its entirety on September 29, 1980. On October 28, 1980, the company filed with the New Hampshire supreme court an appeal asking the court to overturn the commission's decision. On June 26, 1981, the supreme court overturned the commission's

### Page 505

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decision and ordered the commission to allow the increase to become effective immediately. The company placed these rates into effect under bond on July 7, 1981, and also subsequently filed for temporary rates.

The bonded rates were established as the company's temporary rates by commission Order No. 15,078 ([1981] 66 NH PUC 328). When the commission received the order from the supreme court, it also received prepared testimony and exhibits from the company requesting \$2,040,538 in increased rates, or an additional increase of \$1,096,584 over what the supreme court required the commission to put into effect.

On September 23, 1981, the commission received a settlement agreement signed by the company, the consumer advocate, and the commission staff, which would have denied the \$2,040,538 increase and instead would arrive at an increase of \$1,415,727, plus additional step increases in both 1982 and 1983.

On October 2, 1981, a second settlement agreement was filed by the same parties setting forth the rate design agreed upon to collect this increased level of revenues. The question before the commission is whether or not to accept the approximate \$1.4 million increase, plus step increases, agreed to by all parties. Upon review of the documentation presented to me, together with recent hearings involving the cost of gas adjustment and also based on the commission's recent partial audit of Gas Service, Inc., I must reject this settlement agreement.

The settlement agreements require total acceptance and do not allow for any derivation. What follows are my reasons for finding the settlement to be unacceptable.

#### *II. Problems with Settlement*

##### *A. Dividends*

[1] The decision to award dividends to stockholders and the level of award has been generally viewed as within the management prerogative. However, abuse of this prerogative will be recognized in the regulatory process. For example, excessive dividend increases to attract investors will result in reductions in the cost of common equity. A failure to place the right level of earnings back into the company instead of dividend increases will be recognized and taken into consideration in stock and debt issuance proceedings.

While a cornerstone of our economic system is that dividends must increase to attract investors, there are clearly times when excessive dividend awards can result in a company not

having appropriate cash levels to properly fulfill its obligations to those consumers.

Gas Service, Inc., is unsurpassed in awarding dividend increases each and every year. No other New Hampshire utility has increased its dividends as often, or as much, as Gas Service. Gas Service has established such a rapid dividend increase pace that it is entirely in a class by itself.

Public Service Company of New Hampshire has struggled an excess of three years without a dividend increase. American Telephone and Telegraph, the parent corporation of New England Telephone, recently went two years before increasing its dividends. It may be interesting to note that Gas Service has filed more recent rate cases with this commission than New England Telephone and Public Service Company combined.

Under any acceptable method of calculating cost of common equity, a steady increase in dividends, when the remainder of the utility industry is praying that they can keep their dividends steady, clearly establishes that this company is substantially less risky than other utilities.

This settlement offer has no recognition of Gas Service, Inc.'s dividend policy. Settlement would establish the same return on common equity as awarded

**Page 506**

Public Service Company in its last rate proceeding. I cannot accept that Gas Service today is as risky as Public Service Company was at the time of our last Public Service Company decision. Nor can I accept that Gas Service is riskier than any other utility that we regulate. Acceptance of the settlement with its filing as to return on common equity would be patently absurd. The traditional standards of Hope ([1944] 320 US 591, 51 PUR NS 193, 88 L Ed 333, 64 S Ct 281), and Bluefield (262 US 679, PUR1923D 11, 67 L Ed 1176, 43 S Ct 675), require us to set a rate of return based upon comparisons with other entities facing corresponding risks.

After reviewing all of the risk elements traditionally accepted by this commission, I cannot accept that Gas Service is as risky as Public Service Company was in June of 1980, the date of our last decision. I am well aware that Public Service Company is substantially more risky than Gas Service, and have been for a lengthy period of time. Further, Public Service Company of New Hampshire has not been able to raise its dividends for three years. Whereas, Gas Service regularly increases its dividends. The following chart is illustrative:

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

<i>No. of Shares</i>	<i>Year</i>	<i>Dividends per Quarter</i>	<i>Yearly Dividends Per Original Share</i>	<i>Total Dividends Declared</i>
96,000	1975	25 cents – 3 quarters 30 cents – 1 quarter	\$1.05	\$100,800
96,000	1976	30 cents	1.20	115,200
96,000	1977	35 cents	1.40	134,400
Bonus	1977	37.5 cents	-	36,000
96,000*	1978	37.5 cents – 3 quarters 41.25 cents – 1 quarter	1.5375	147,600
96,000*	1979	41.25 cents – 2 quarters 44.25 cents – 2 quarters	1.725	165,600
96,000*	1980	45 cents	1.80	172,800
96,000*	1981	49 cents	1.96	192,000

In the 1978, Gas Service increased the number of shares by 25 per cent by awarding all shareholders one additional share for every four that they held. At that time, the dividend rate was slightly increased, but because of the increased level of shares, there was a continuation of the increasing dividends per original share. For purposes of comparison, the original share levels have been continued.

Based on this analysis, I must reject the settlement as setting too high a rate of return based on the information submitted by the company to date.

Also of concern has been the questionable expenses that have been booked by Gas Service as charges to consumers during the test year. Many of these expenses uncovered by commission auditors are a shocking waste of money for which consumers cannot and will not be held liable.

For example, Gas Service, Inc., has included expenses associated with membership in the Nashua Country Club as an operating expense for consumers to pay.

[2] When the commission auditors questioned this expense they were told that this expense was necessary for "meetings." Now it is unclear whether these meetings were with or without golf carts, but it is clear that under any concept of balance

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between ratepayers and utilities, country club expenses are not a legitimate operating expense.

[3] Other expenses of a questionable matter include renovation of an officer's house, a retirement party, and six months of lodging by an officer of the company in a motel. Such expenses are not legitimate operating expenses which throw into question the wisdom of management.

Furthermore, these expenses reduce the rate of return to an artificial level below a level that would be achievable under prudent management.

As my recent cost of gas decision indicated, this company has on it a nonutility subsidiary that has continued to lose money over the past three years. The company has sought to combine these operations to make it appear that its rate of return is less than it is.

Another area of concern is the ever increasing fees paid to directors. The company now pays directors to attend both director and committee meetings. These fees are paid despite the fact that directors are almost invariably the largest stock holders in this closely held corporation.

Since 1975, the level of director expenses has paralleled the major increases in dividends to the same directors and major stockholders. In 1975, a total of \$4,000 in fees were paid to directors. In 1980, the level of fees paid to these directors had grown to \$22,400. There is nothing to justify this four fold increase in directors' fees.

[4] As I have outlined in this decision, there has not been the requisite demonstration of proof to allow any increase in rates. Gas Service, Inc.'s contentions of confiscation and lack of earnings would appear to be unjustified. It would appear to me that there is a need to have extensive public hearings so as to review each and every expense of this company. Therefore, I deny the motion to accept the settlement agreements.

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NH.PUC\*11/16/81\*[79103]\*66 NH PUC 508\*Mountain Springs Water Company

[Go to End of 79103]

## Re Mountain Springs Water Company

D-E6481, Ninth Supplemental Order No. 15,292

66 NH PUC 508

New Hampshire Public Utilities Commission

November 16, 1981

ORDER amending earlier report.

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BY THE COMMISSION:

Supplemental Order

Whereas, this commission in Eighth Supplemental Order No. 15,287 ([1981] 66 NH PUC 487), ordered the filing of Fourth Revised Page 21 of Mountain Springs Water Company tariff, NHPUC No. 1 — Water, to be effective for all service rendered on or after October 1, 1980; and

Whereas, the report dated November 9, 1981, on p. 22 states that " ... (1) the 130 customers connecting to the system directly will be charged \$266 annually effective April 1, 1980"; it is

Ordered, that p. 22 of the report dated November 9, 1981, be changed to read

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" ... (1) those customers connected to the system directly will be charged \$266 annually effective October 1, 1980."

By order of the Public Utilities Commission of New Hampshire this sixteenth day of November, 1981.

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NH.PUC\*11/18/81\*[79104]\*66 NH PUC 509\*Gas Service, Inc.

[Go to End of 79104]

## Re Gas Service, Inc.

DR 80-179

66 NH PUC 509

New Hampshire Public Utilities Commission

November 18, 1981

MOTION to accept gas rate settlement offer; denied.

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RATES, § 150 — Reasonableness of rate settlement offer.

[N.H.] Discussion, in separate opinion, of a gas company's rate settlement offer in view of the company's dividend policy and allegedly questionable operating expenses.

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APPEARANCES: Charles Toll, for Gas Service, Inc.; Gerald Lynch, consumer advocate.

Motion to Accept Settlement

*Position of Paul R. McQuade*

*General History*

On August 1, 1980, Gas Service, Inc. (hereinafter referred to as the "company"), filed with the commission certain proposed pages in its Tariff No. 5 to be effective September 1, 1980, providing for rates designed to yield an annual increase in basic revenues of \$943,954.

On August 21, 1980, the commission rejected the proposed rate increase in its entirety. Subsequently, the company filed a motion for rehearing on September 18, 1980. Upon reconsideration, the commission again rejected the increase in its entirety on September 29, 1980. On October 28, 1980, the company filed with the New Hampshire supreme court an appeal asking the court to overturn the commission's decision. On June 26, 1981, the supreme court overturned the commission's decision and ordered the commission to allow the increase to become effective immediately. The company placed these rates into effect under bond on July 7, 1981, and also subsequently filed for temporary rates.

The bonded rates were established as the company's temporary rates by commission Order No. 15,078 ([1981] 66 NH PUC 328). When the commission received the order from the supreme court, it also received prepared testimony and exhibits from the company requesting \$2,040,538 in increased rates, or an additional increase of \$1,096,584 over what the supreme court required the commission to put into effect.

*Settlement Process*

Settlement process is defined as an agreement of interested parties; in this case Gas Service, Inc., the consumer advocate, and public utilities commission staff. The parties agreed to a willingness

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to cooperate for the public good and welfare and must carry through with this spirit of cooperation to mutually agree or disagree on the results of the settlement process.

In this case all the parties mutually agreed to a two-step settlement. The first settlement was an agreed upon increase of \$1,415,727 which included the supreme court order to allow the August 1, 1980, filing of \$943,954 to go into effect, thus leaving a negotiated further settlement

of \$471,773 plus step increases for 1982 and 1983.

The second settlement called for a rate design to collect the revenues agreed to. All parties have agreed to the rate design settlement.

I reviewed both settlements and support their approval. The company, consumer advocate, and commission staff deserve the support of the commission in attempting to reduce costly rate expenses that are eventually reflected in ratepayers' monthly bills.

Some members of this commission may be piqued by the New Hampshire supreme court ruling allowing the temporary rates to go into effect, but surely we should follow the law to have an efficient administrative process.

I find that Chairman Love's reasoning does not influence my decision because with the passage of fifteen months of litigation in court and hearings in this commission it is time to act to protect both sides in any rate case.

The settlement was carefully and thoroughly researched and argued to the full satisfaction of all concerned and should be acted upon.

It is easy to rethink any hearing and express doubts, but honesty, courage, and fairness must not suffer due to minor concerns that can more appropriately be addressed under a new docket. The present settlement agreement adequately resolves the issues before the commission and should not be disapproved for minor adjustments. I recommend Chairman Love make the minor adjustments for which he is concerned and effectively save the ratepayer additional costs, if that was his honest intent.

Fairness, which must be the hallmark of this commission, demands that I address the reasons for not concurring with the Love opinion in the hope of opening an avenue for thought, discussion, and reevaluation.

#### *Dividends*

Gas Service and Manchester Gas Company both list identical dividend payout ratios to stockholders for 1980, yet only Gas Service is singled out. Gas Service and Manchester Gas are the only two comparable gas companies in size in New Hampshire.

Using Public Service Company dividends as an example is a deliberate effort to sway emotion, rather than to portray an accurate comparison between gas utilities as I have shown and will continue to show. The facts are, but not stated, that Public Service Company of New Hampshire has a dividend pay-out ratio for 1980 of 76.5 per cent, as compared to 47 per cent for Gas Service, Inc., and Manchester Gas.

#### *Cost of Common Equity (Rate of Return)*

The subject of dividend pay outs is appropriately linked to the return on common equity or in layman's terms, the return to be earned by investors on their voluntary investments in the company. This commission, in establishing rates for the future, decides what it considers a fair return on this common equity and then affords the company in question a reasonable opportunity to earn that rate of return. A crucial phrase here is *reasonable opportunity*, the commission never guarantees a rate of return.

In the Gas Service case the company requested a 17 per cent rate, while the

only other party to provide input was the commission's economics department which recommended a range of 15.5 to 16 per cent. The negotiated rate in the settlement was 15.9 per cent.

By way of comparison, Manchester Gas was awarded 13.2 per cent, two years ago; while Public Service Company of New Hampshire in its current rate case is requesting 18.65 per cent.

#### *Expenses*

Chairman Love appears to have golf carts on his mind instead of an important, far-reaching decision that involves 18,000 customers and the solvency of a gas utility. The settlement allowed for \$4,000 in expenses connected to meetings, seminars, and lunches at the Nashua Country Club. The amount in question amounts to two cents per customer per month. Important, yes, but not sufficient to hold a one-day hearing to decide and wipe out any possible savings.

Further, the retirement party referred to has been totally excluded from the customer cost by the settlement process and should not have been suggested as being under investigation. This is also true of the renovation of an officershome which was alluded to.

Finally, statements that six months' lodging at a motel was charged to the ratepayers is unfounded. The facts are that after audit and through settlement these charges were reduced to an acceptable level of sixty-two days. The determination being that sixty-two days was a reasonable relocation period.

In the event that the other commissioners do not agree with my views, the commission should direct the executive director and secretary to schedule hearings so that this matter can be quickly resolved.

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NH.PUC\*11/18/81\*[79105]\*66 NH PUC 511\*Association of New Hampshire Utilities

[Go to End of 79105]

## **Re Association of New Hampshire Utilities**

DF 81-258

66 NH PUC 511

New Hampshire Public Utilities Commission

November 18, 1981

OBJECTION to assessment pursuant to RSA 363:A; order in accordance with opinion.

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1. COMMISSIONS, § 29 — Jurisdiction over constitutional questions.

[N.H.] Administrative agencies do not have the power to determine the constitutionality of legislation, although they do have the power to determine constitutional applicability. p. 512.

2. COMMISSIONS, § 58 — Assessments against utilities.

[N.H.] Expenses incurred in the process of regulating public utility companies so that the goals of energy maximization are met were properly assessed by the commission against the regulated utilities. p. 513.

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APPEARANCES: Ransmeier and Spellman by Dom S. D'Ambruoso and John C. Ransmeier for Association of New Hampshire Utilities; attorney general of

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New Hampshire by Peter C. Scott and Ron Rogers for the Governor's Council on Energy.

Report

MCQUADE, commissioner: On September 11, 1981, the Association of New Hampshire Utilities filed an "objection to assessment" pursuant to RSA 363-A. Along with the objection, the petitioners filed a motion to certify the matter to the supreme court in accordance with RSA 365:20.

On September 22, 1981, the commission issued an order of notice fixing a public hearing to be held on September 24, 1981, at Concord. On September 23, 1981, the Governor's Council on Energy (hereinafter referred to as GCOE) filed a motion to deny standing. During the first day of hearing, I moved that the motion to deny standing be denied. A substantial issue has been presented to the commission and the Association of New Hampshire Utilities has a real interest in this matter; to grant the motion would be to put "form" over "substance" and that course of action wastes time and money. On the third day of the hearing, Chairman Love concurred with my motion and the motion to deny standing was denied.

[1] The petitioner put forth two positions in its objection to the utility assessment covering expenses of the GCOE. The first position appears to be that the adoption of the amendment to RSA 363-A:1 by the legislature is unconstitutional. The petitioners argue that the amendment must find its constitutional authority in the taxing power or in the police power of the legislature. They further argue that the amendment is unconstitutional because the amendment is ambiguous and vague.

A fundamental distinction must be recognized between the constitutionality of legislation and the constitutional applicability of legislation.

When the commission addresses the constitutional applicability, it is carrying out the legislature's intent, whether expressed or presumed. If we are to address the constitutionality of the legislation, the question would be whether we shall take action which seems counter to the legislative intent. It is my opinion that administrative agencies have the power to determine constitutional applicability, but do not have the power to determine the constitutionality of legislation. *Davis, Administrative Law 3rd ed* § 20.04, pp. 388, 389. Only the courts have

authority to take action which determines constitutionality of legislation. See California Pub. Utilities Commission v United States (1958) 355 US 534, 23 PUR3d 55, 2 L Ed 2d 470, 78 S Ct 446, wherein the Supreme Court of the United States said:

"That issue is a constitutional one that the commission can hardly be expected to entertain."

The legislature has provided a procedure for this commission to forward questions of law to the New Hampshire supreme court, RSA 365:20.

The New Hampshire supreme court has discussed the same principle in O'Neil v Thomson (1974) 114 NH 155, 159, where Justice Lampron stated:

"Their solution involves an interpretation of our state constitution and of statutes relative to the executive and legislative branches of our government. This is a traditional function conferred on the judiciary for which it is responsible. It is not within the competence of the other two branches."

See also Smith v New Hampshire (1978) 118 NH 765, 768. The legislature has recognized this principle and provided RSA 365:20 as a mechanism to transfer questions of law directly to the New Hampshire supreme court. It is my opinion that the question as to whether the amendment to RSA 363-A is constitutional is a proper question for the New

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Hampshire supreme court and I find that the commission should grant the petitioner's motion on that issue.

[2] The second position advanced by the petitioners is that the amendment to RSA 363-A is not being applied in a constitutional manner. They generally take the position that no expense of the GCOE should be allowed unless it is shown that the expense is associated with the regulating of public utilities. The GCOE has presented testimony of several witnesses to show that there is a *nexus* and in some cases a direct relationship to the regulation of public utilities. The GCOE has been appointed as the lead agency to administer a state energy plan and provides numerous functions to conserve electrical and natural gas in an effort to further the national goals set by the Congress of the United States. A review of the record and the testimony of all the witnesses presented by the GCOE reveals that the administrative expenses of the GCOE represent costs of insuring that the state of New Hampshire has an adequate supply of energy obtained in the most economical efficient manner. The expenses allowed by the commission were incurred in the process of regulating utilities so that the goals of energy maximization are met. The petitioners presented no testimony to the contrary. Their cross-examination of the witnesses show some areas wherein the GCOE could be more specific in their allocation of time and personnel; however, viewing all of the testimony as a whole, I find that the FY 82 expenses are reasonable and allowable. I do not find the FY 83 expenses to have been adequately addressed or allowable at this time.

I also find that the allocation of 80 per cent of the expenses charged for electric utilities and 20 per cent to gas utilities are reasonable under present circumstances, but caution the GCOE that further approvals will necessitate specific, accurate, detailed information being supplied to the commission.

Based upon the foregoing, I would direct the secretary of the commission to issue an appropriate order and invite my fellow commissioners to concur in this opinion.

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NH.PUC\*11/19/81\*[79106]\*66 NH PUC 513\*Union Telephone Company

[Go to End of 79106]

## Re Union Telephone Company

DR 81-252, Supplemental Order No. 15,305

66 NH PUC 513

New Hampshire Public Utilities Commission

November 19, 1981

PETITION by telephone company for authority to increase revenues due to a change in the accounting policy for station connections; granted in accordance with opinion.

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1. ACCOUNTING, § 54 — Telephone company — Station connection expenses.

[N.H.] A telephone company was allowed to use the "flash-cut" method of accounting for station connection expenses. p. 514.

2. RATES, § 309 — Telephone service connection charges — Effect of accounting policy changes.

[N.H.] A telephone company was authorized to increase its service connection charges to

**Page 513**

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reflect accounting changes which provide for the expensing of the inside portion of the station connection costs which were previously capitalized, such accounting change being based on the findings in principle that the burden of all costs associated with station connections should be placed on the causative ratepayer rather than all ratepayers, both present and future. p. 515.

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APPEARANCE: Wallace S. J. Flaherty, vice president, Union Telephone Company.

BY THE COMMISSION:

Report

On September 14, 1981, Union Telephone Company (hereinafter referred to as "the company") filed with this commission its proposed revised tariff, NHPUC No. 6 — Telephone, § 3, Sheets 1C, 1D 14, 15A, and 20. These proposed tariff pages were designed to reflect an alteration by the Federal Communications Commission (FCC) in the Uniform Systems of

Accounts which was adopted by this commission, effective January 1, 1969. These accounting changes were adopted in docket 79-105 and provide for the expensing of the inside portion of the station connection costs. Those costs formerly were capitalized. The change was based on the findings in principle that the burden of all costs associated with station connections should be placed on the causative ratepayer rather than all ratepayers, both present and future. The accounting change mandated that the policy be placed into effect effective October 1, 1981.

The accounting change further requires that telephone companies separate the costs between outside and inside wiring with the former continuing to be capitalized and the latter to be expensed. Union Telephone Company has performed a study which indicates that 42.3 per cent of station connection costs are attributable to inside wire and the balance (57.7 per cent) attributable to outside wire. Those percentages were used to estimate the annual expense change which is caused by this accounting revision. On an annual basis, the estimated increase in station maintenance expense is \$16,367. Two other factors need to be considered. The embedded costs of inside wire as of October 1, 1981, should be amortized over a ten-year period. Based upon December 31, 1980, the amortization would amount to \$9,416. Applying a 5 per cent depreciation rate to outside wire results in a decrease of \$11,418 in annual depreciation expense. The net result is an annual increase in expense of \$14,365.

[1] The FCC has provided that states with an option to implement the station connection charge on a "flash-cut" or a "phase-in" basis. The flash-cut method would increase rates based on the immediate transfer of wiring costs from being capitalized to being expensed. The phase-in approach would implement this change over a four-year period. The aforementioned annual expense increase would result using the flash-cut method.

The phase-in approach would enable the company to defer the full impact of this change over a four-year period. After changing the company's calculation of depreciation for outside-wire from 7 per cent to 5 per cent, an analysis shows that annual expense would increase by \$3,317 in the first year, \$8,228 in the second year, \$12,728 in the third year, and \$16,820 in the fourth year. Staff analysis shows that over an amortization period of thirteen years, the overall expense would be approximately equivalent, absent considering the time value of money. However, when additional embedded costs remaining in rate base are considered approximately \$21,000 of additional return would be required over the period. The majority of the independent telephone companies in the state

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are on a "cost-settlement" basis with New England Telephone and a percentage of the cost increase is being received from toll settlements. Union Telephone is on an "average schedule" and it is unclear whether a portion of the increased costs will be realized in the settlement process. This commission will allow Union Telephone to use the "flash-cut" method of accounting for station connection expenses. However, we will expect the company to investigate the advisability of changing its settlement process to a cost schedule and report its findings to this commission.

[2] In this petition, the company has requested changes in the rates for service connection charges, which would realize potential revenue of \$81,423, or an increase of \$59,003. Company

witness Flaherty presented a study performed to determine the costs attributable to service connections and arrived at an approximate annual amount of \$118,330. A review of that study by staff and the company raised questions as to the accuracy of the allocations of cost and the possible erroneous and duplicate nature of some of the allocations of expenses. While this commission is in agreement with recovering costs from the cost causer, we are not ready to accept the study and allocations provided by the company as a valid indication of the costs for station connections.

Chief Engineer Bruce Ellsworth presented Exh 2 which displayed the comparative charges for service connections for the New Hampshire telephone companies. Many of the other telephone companies have charges below those proposed by the company. Although it was pointed out during the hearings that Exh 2 was used only for comparison purposes, and not as a suggestion to uniformly price these charges, it appears that the proposed rates need adjustment. Subsequent discussions between the staff and the company have resulted in a proposed revised rate schedule or service connection charges.

While the company had proposed one fee of \$15 for service orders, discussion between company and staff revealed that the complexity of all service orders was not the same. As a result, the service order fees were divided into three categories: Initial, subsequent and record; priced at \$10, \$8, and \$6 respectively. These prices more accurately match the expense of the efforts involved under each category of service order.

In its proposal, Union had requested a fee of \$25 for central office work, including line construction. Fees of other telcos ranged from \$14 to \$21 for these combined services. Discussions resulted in \$10 fees for each of the two categories for a total of \$20.

For visiting the customer premises, Union had requested \$6. Review of similar charges for other telcos indicated a range of \$5 to \$10, with the majority on the high side. It was agreed that this fee should be \$7.

Premises wiring charges were proposed at \$14. Charges of other utilities were very similar, so no change was made.

For the jack charge, the company had proposed \$5 for the baseboard modular jack and \$9 for the wall-mounted modular jack. Both were reduced to \$2.50 after lengthy discussion between company and staff — a figure more compatible with those of the majority of independent telcos within the state.

Station handling charge, originally proposed at \$5, was reduced to \$3.50. Other utilities ranged their prices for this effort from \$3 to \$7.50. The agreed fee more accurately reflects the average cost.

The commission will accept the revised rates as it is our opinion that they are in parity with similar charges to telephone subscribers of other telephone companies in the state.

Union Telephone will realize an estimated annual revenue from service connection

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charges of \$55,549, or an increase of \$33,129. In addition to this case, the company has filed

for a permanent rate increase and has requested temporary rates in docket DR 81-310 ([1981] 66 NH PUC 503.). When calculating those rates, this commission will reduce amount requested by the amount of this increase.

In its filing, the company also proposed increases in the rate charge for maintenance when difficulty is found to be in customer-provided equipment. These moved from \$9 to \$10 per hour with the minimum from \$18 to \$20. The commission finds these reasonable. In addition, the reconnection charge following disconnection for nonpayment was proposed to follow service connection charges in lieu of the current fee of \$10 per account. This, too, is a reasonable change, and will be variable depending on the degree of disconnection involved. Another component of the filing was an increase from \$15 to \$20 for an outdoor jack. This is accepted.

Our order will issue accordingly.

#### Supplemental Order

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

Ordered, that Section 3, First Revised Sheet ID, Third Revised Sheets 14 and 20 of the Union Telephone Company tariff, NHPUC No. 6 — Telephone, be, and hereby are, accepted; and it is

Further ordered, that Section 3, First Revised Sheets 1C and 15A be, and hereby are rejected; and it is

Further ordered, that Union Telephone Company file with this commission for effect on the date of this order its Section 3, Second Revised Sheet 1C in lieu of the sheet rejected, said sheet to reflect the following service connection charges:

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

Element 1A: Service Order (Initial)	\$10.00
Element 1B: Service Order (Secondary)	8.00
Element 1C: Service (Record)	6.50
Element 2A: Central Office	10.00
Element 2B: Line Connection	10.00
Element 3: Premise Visit	7.00
Element 4: Premises Wiring (Per Connecting Point)	14.00
Element 5: Jack Charge (See Section 3, Sheet 15A) Station Handling	
Element 6: Per Telephone	3.50

and it is

Further ordered, that Union Telephone Company file with this commission for effect on the date of this order, its Section 3, Second Revised Page 15A reflecting the jack charges outlined in this report; and it is

Further ordered, that Union Telephone Company give public notice of this order by one-time publication of the approved service connection charges.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of November, 1981.

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NH.PUC\*11/20/81\*[79107]\*66 NH PUC 517\*Union Telephone Company

[Go to End of 79107]

## Re Union Telephone Company

DR 81-310, Second Supplemental Order No. 15,308

66 NH PUC 517

New Hampshire Public Utilities Commission

November 20, 1981

PETITION by a telephone company for an increase through temporary rates; granted as modified.

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RETURN, § 26.2 — Cost of debt capital — Short term — Pro formed to prime rate.

[N.H.] Although a telephone company's rate increase was considered temporary, the rates were to be measured on a current and short-term future looking basis; therefore, where the company's largest short-term debt issue was carried at an extraordinary high cost but was to be periodically rolled over on a short-term basis at a rate tied to the prime interest rate, that commission determined that it was appropriate to proform the current prime rate for that issue into the cost of capital.

APPEARANCES: Dom S. D'Ambruso, for Union Telephone Company.

BY THE COMMISSION:

Report

On October 16, 1981, Union Telephone Company (hereinafter referred to as the "company") filed a proposed Supplement No. 1 to its tariff, NHPUC No. 6 — Telephone. This filing requested a \$246,996 increase in temporary rates.

On November 4, 1981, this commission held a duly noticed hearing to review the merits of this petition. The company presented one witness, Wallase Flaherty, and submitted nine exhibits. Numerous issues were brought to the commission's attention through the proceedings.

The company requested that the temporary rates be made effective as of November 16, 1981. It was further stated that for the twelve months ended June 30, 1981, the company had earned 3.61 per cent on common equity and a 7.65 per cent return on average rate base, that current rates are not sufficient to yield a reasonable return, and that the actual rate of return will continue to deteriorate as long as the existing rates remain in effect.

Mr. Flaherty presented a computation of rate base by averaging the test year ending June 30, 1981, the beginning and ending balances for net plant, deferred taxes, customers deposits, and materials and supplies. He then computed the working capital using the "45-day convention" method for both the beginning of the test year and the end of the test year and averaged the two

products. The resulting rate base equaled \$2,330,260.

He then computed a rate of return by picturing the true capital structure as of June 30, 1981, imputing the cost of common equity approved in the company's last rate proceeding (DR 79-120 [1979] 64 NH PUC 251), of 13.50 per cent and weighting the cost of long-term debt at that point in time. The final return equaled 13.35 per cent.

This cost was applied to the computed rate base to arrive at a return requirement of \$311,090, which was netted against

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the net operating income for the test year to equal a return requirement of \$132,827, tax effected to equal a revenue requirement of \$246,996. Mr. Flaherty proposed to spread the increase equally to all existing rate classes at an increase of 60 per cent.

Mr. Sullivan of the commission staff raised many issues during cross-examination of Mr. Flaherty. Chief among these concerns were: (1) the need to decrease of the proposed temporary rate increase by the increase in rates for the accounting changes for station connections (DR 81-252 ([1981] 66 NH PUC 376), filed coincident to this petition; (2) the extraordinary high cost of certain issues of debt in the proposed cost of capital in this petition; and (3) the disparity in rate structure between the temporary rates as filed and the permanent rates.

*Commission Analysis*

As of this point in time, the prime interest rate has dropped to 16.5 per cent (*Wall Street Journal*, November 13, 1981, at p. 44). Mr. Sullivan has pointed out the largest issue of short-term debt carried a cost of 20.25 per cent. According to Mr. Flaherty, this debt will be "rolled-over" periodically on a short-term basis, usually at a rate tied to the prime interest rate. The commission has determined that although this rate increase is considered temporary, these rates are to be measured on a current and short-term future-looking basis; therefore, the current prime rate for this issue would be the most appropriate rate and will be pro formed into the cost of capital for a new cost of 12.90 per cent.

The increase proposed by the company did not reflect the increase that was previously requested for the accounting change for station connections. As the increase for station connections has been approved, the petition for temporary rates is decreased by a like amount, as a known and measurable change. This will decrease the temporary rate level by \$33,129.

Additionally, the company presented its income statement for the test year (Hearing Exh 7) claiming a total interest expense of \$145,672, yet their debt structure on Exh 4 claims a total interest expense of \$174,607, after adjusting the interest rate to 16.75 per cent (16.5 per cent prime interest and 0.25 per cent required by the issuer). This amounts to an additional \$28,935 deduction for interest.

As part of its permanent rate filing, the company included pro forma adjustments for known changes in revenue amounting to \$71,109. Part of that revenue is made up of a step increase which this commission allowed to be placed in effect on December 19, 1980. The full impact of that increase has not been realized in the figures presented in this case. For the purposes of setting the temporary rate level, the additional revenue will be recognized. The net effect of these

changes is to increase net utility operating income by \$60,387. This will increase the net operating income for the test year to \$238,650. The commission will recognize this amount in calculating the level of temporary rates.

With the aforementioned changes, this commission will accept the cost of service as presented by the company and compute the revenue deficiency as follows:

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

Rate Base	\$2,330,260
Temporary Cost of Capital	12.90%
Required Net of Operating Income	\$ 300,604
Net Operating Income Per Test Year	238,650
Required Increase in Net Operating Income	\$ 61,954
Tax Effect	49.14%
Revenue Deficiency	\$ 126,077
Less: Revenue Increase, DR 81-252	33,129
Net Revenue Deficiency	\$ 92,948

The commission will not, however, accept the rate structure as proposed by the company. The company will submit revised rate schedules, designed to recover additional revenues of \$92,948. The temporary rates should be designed to more closely reflect the proposed permanent rates, however, at the reduced level.

This will avoid a complicated refund process that was implicit in the two rate designs proposed by the company for temporary and permanent rates. Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is Ordered, that Supplement No. 1 to Union Telephone Company tariff, NHPUC No. 6 - Telephone, suspended by commission Order No. 15,289 ([1981] 66 NH PUC 503), be, and hereby is, rejected; and it is Further ordered, that Union Telephone Company file Supplement No. 2 to said tariff in lieu of the rejected Supplement No. 1, said supplement to reflect temporary rates designed to increase revenues by \$92,948; and it is Further ordered, that revised rate schedules designed to recover the approved revenues conform to requirements outline in the accompanying report; and it is Further ordered, that said Supplement No. 2 be, and hereby is, authorized to become effective with service rendered on or after November 16, 1981; and it is Further ordered, that one-time notice be given customers by newspaper publication or bill insert.  
By order of the Public Utilities Commission of New Hampshire this twentieth day of November, 1981.

NH.PUC\*11/23/81\*[79108]\*66 NH PUC 519\*Fuel Adjustment Charge

[Go to End of 79108]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., Granite State Electric Company, New Hampshire Electric Cooperative, Inc., Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, Woodsville Water and Light Department, and Community Action Program

DR 81-311, Order No. 15,309

66 NH PUC 519

New Hampshire Public Utilities Commission

November 23, 1981

PETITION of several electric utilities for approval of monthly fuel adjustment surcharges; granted.

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APPEARANCES: Gerald R. Cook for Connecticut Valley Electric Company, Inc.; Eaton W. Tarbell for Public Service Company of New Hampshire; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 373:3-a (II), the commission on November 19, 1981, held hearings on the initial 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, 1981, monthly billings to their customers at a constant rate for regular October, November, and December, 1981, billings pursuant to its tariff, NHPUC No. 42A — 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, including First Revised Pages 21, 22, and 23 which incorporates the energy cost of purchases from qualifying facilities.

Reference may be made to commission Order No. 14,555 ([1980] 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, 1981, the company filed with the commission, their affidavits and Exhibits 1 through 10 showing actual financial and electrical data through the month ended October 31, 1981, schedules showing maintenance day outages at the company's generating units and major entitlement units for October, 1981, the reasons for unscheduled outages, and fuel data sheets for the period ending October 31, 1981.

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 bring its witness or witnesses to the hearing for purposes of cross-examination. For this hearing, no

such request was made. For the December hearing, the commission requested the company provide a witness to detail the progress made on signing contracts with small energy producers and to prefile testimony on such.

The commission is also notifying all parties that the issues of the coal pile survey, results, pay-back period, etc., will be the subject of the December, 1981, fuel adjustment charge hearing, as will the calculation of the updated amounts of fuel in base rates relating to qualifying facilities and the company's avoided costs on such.

In the commission's report in DR 81-227 ([1981] 66 NH PUC 382, 384), the commission did "not allow all of the 19 cents per 100 kilowatt-hours requested by PSNH to continue the recoupment of the third quarter's undercollection, but only 14 cents per 100 kilowatt-hours."

The commission, in DR 81-255 (66 NH PUC 441), did not raise the FAC by an additional five cents per 100 kilowatt-hours, nor had PSNH requested such, because the company in September, 1981, had estimated the undercollection for the third quarter of 1981, to be approximately \$3.6 million. In Exh 3, p. 2 of 2, the actual figure was calculated to be \$2,588,121. The October data continues to bear out the accuracy of that decision.

The commission feels that continuing the rate of \$2.25 per 100 kilowatt-hours for the month of December, 1981, is reasonable.

Per commission Order No. 15,246 in DR 81-255, Connecticut Valley Electric

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Company, Inc., was ordered to appear at this commission's November, 1981, fuel adjustment charge hearing to justify the inclusion of C.P.M., Inc.'s (a small power producer), excess costs for April, through July, 1981, in the FAC as an amortization over four months beginning November 1, 1981. Their justification is found acceptable and their proposed FAC rate for December of 1981, of 16 cents per 100 kilowatt-hours is found to be reasonable.

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 Seventh Revised Pages 24 and 25 to its tariff, NHPUC No. 24A — Electricity, filed in conjunction with First Revised Pages 21, 22, and 23 fuel adjustment clause of \$2.25 per 100 kilowatt-hours for the month of November, 1981, be, and hereby is, permitted to remain in effect for December, 1981; and it is

Further ordered, the Concord Electric Company's Second Revised Page 19A to its tariff, NHPUC No. 7 — Electricity, providing for an FAC of \$2.49 per 100 kilowatt-hours for the month of November, 1981, be, and hereby is, permitted to remain in effect for December, 1981; and it is

Further ordered, that Exeter and Hampton Electric Company's 16th Revised Page 19A to its tariff, NHPUC No. 14 — Electricity, providing for an FAC of \$2.73 per 100 kilowatt-hours for the month of November, 1981, be, and hereby is, permitted to remain in effect for December, 1981; and it is

Further ordered, that 58th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 6 — Electricity, providing for a monthly fuel surcharge of 16 cents per 100 kilowatt-hours for the month of December, 1981, be, and hereby is, permitted to become effective December 1, 1981; and it is Further ordered, that 80th Revised Page 15A, of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for a monthly fuel surcharge of \$1.28 per 100 kilowatt-hours for the month of October, and November, 1981, be, and hereby is, permitted to stay in effect for December, 1981; and it is

Further ordered, that Ninth Revised Page 15 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 — Electricity, providing for the monthly fuel surcharge of \$2.69 per 100 kilowatt-hours, be, and hereby is, permitted to become effective December 1, 1981; and it is

Further ordered, that 11th Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$3.02 per 100 kilowatt-hours for the month of December, 1981, be, and hereby is, permitted to become effective December 1, 1981; and it is

Further ordered, that 95th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of \$2.08 per 100 kilowatt-hours for the month of December, 1981, be, and hereby is, permitted to become effective December 1, 1981; and it is

Further ordered, that 63rd Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a monthly fuel surcharge credit of 14 cents per 100 kilowatt-hours for the month of December, 1981, be, and hereby is, permitted to become effective December 1, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1981.

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NH.PUC\*11/23/81\*[79109]\*66 NH PUC 522\*Bretton Woods Telephone Company

[Go to End of 79109]

## **Re Bretton Woods Telephone Company**

DR 81-356, Order No. 15,310

66 NH PUC 522

New Hampshire Public Utilities Commission

November 23, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Bretton Woods Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on November 13, 1981, filed with this commission its tariff, NHPUC No. 2 — Telephone, providing for increased annual revenues of \$24,966, effective December 13, 1981; and

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

Ordered, that tariff, NHPUC No. 2 — Telephone, of Bretton Woods Telephone Company, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1981.

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NH.PUC\*11/23/81\*[79110]\*66 NH PUC 522\*Gas Service, Inc.

[Go to End of 79110]

### **Re Gas Service, Inc.**

DR81-285, Second Supplemental Order No. 15,311

66 NH PUC 522

New Hampshire Public Utilities Commission

November 23, 1981

ORDER amending previous order.

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BY THE COMMISSION:

Supplemental Order

So much of commission Order No. 15,284 ([1981] 66 NY PUC 475), as reads " ... Section 2, 24th and 25th Revised Page 3 ... " is amended to read " ... Section 2, 24th Revised Page 3 ... ."

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1981.

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NH.PUC\*11/23/81\*[79111]\*66 NH PUC 523\*Exeter and Hampton Electric Company

[Go to End of 79111]

### **Re Exeter and Hampton Electric Company**

DR 81-317, Order No. 15,321

66 NH PUC 523

New Hampshire Public Utilities Commission

November 23, 1981

ORDER suspending tariff effective date pending 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 November 13, 1981, filed with this commission its tariff, NHPUC No. 15 — Electricity, providing for increased annual revenues of \$871,695 (5.83 per cent), effective December 13, 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 tariff, NHPUC No. 15 — 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-third day of November, 1981.

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NH.PUC\*11/23/81\*[79112]\*66 NH PUC 523\*Policy Water Systems, Inc.

[Go to End of 79112]

### **Re Policy Water Systems, Inc.**

Intervenors: Green Hills Residents' Association

DR 81-229, Supplemental Order No. 15,322

66 NH PUC 523

New Hampshire Public Utilities Commission

November 23, 1981

PETITION for temporary rates; granted.

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APPEARANCES: Robert Christian, president and Thomas F. Hunt, CPA, for Policy Water systems, Inc.; Richard A. Lewis and Representative Ralph Blake for Green Hills Residents' Association.

BY THE COMMISSION:

Report

On August 26, 1981, Policy Water Systems, Inc. (sometimes referred to as

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company), filed certain revisions to its tariff, NHPUC No. 1 — Water, providing for increased annual revenues of \$57,868, effective September 26, 1981. The company also on August 26, 1981, filed a petition for temporary rates. A hearing was held on September 29, 1981, on the temporary rate increase.

A second hearing, a public night hearing, was held on November 9, 1981, at the Raymond Senior citizen's Center and was attended by over 100 concerned customers of the water system.

Revised Statutes Annotated 378:27 states that the commission may, after reasonable notice and hearing, immediately fix, determine, and prescribe for the duration of the rate proceeding, reasonable temporary rates. Temporary rates are to be established under this section with expedition and without such investigation as required for the determination of permanent rates.

The company has requested that its proposed rates be allowed as temporary rates and its preliminary filings indicate that earnings are now less than previously allowed by the commission.

It is our judgment that the public good required further evidence of the company's need and as such we will designate the existing rates as temporary rates to be effective as of the date of the public hearing in this matter.

#### Supplemental Order

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

Ordered, that Policy Water Systems' existing rates as of the date of this report and order, shall be designated as temporary rates as of September 29, 1981.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1981.

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NH.PUC\*11/24/81\*[79113]\*66 NH PUC 542\*Glen Ridge Water Company

[Go to End of 79113]

### **Re Glen Ridge Water Company**

DR 81-358, Order No. 15,334

66 NH PUC 542

New Hampshire Public Utilities Commission

November 24, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Glen Ridge Water Company is seeking authority to establish a utility to supply water service in a limited area in the town of Derry and has filed with this commission, its tariff, NHPUC No. 1 — Water, to become effective December 5, 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 tariff, NHPUC No. 1 —

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Water, of Glen Ridge Water Company be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of November, 1981.

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NH.PUC\*11/25/81\*[79114]\*66 NH PUC 525\*Mountain Springs Water Company

[Go to End of 79114]

### Re Mountain Springs Water Company

DE 6481, Tenth Supplemental Order No. 15,335

66 NH PUC 525

New Hampshire Public Utilities Commission

November 25, 1981

ORDER directing water company to restore water pressure to the level required by commission rules and regulations.

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BY THE COMMISSION:

Supplemental Order

Whereas, it has been reported to this commission that water pressure below the minimum of 20 pounds per square inch and, in some areas served, a total lack of pressure exists on the Mountain Springs Water Company system; and

Whereas, this condition of low pressure, experienced by several customers of Mountain Springs, was first reported to Mary Taber of the water company on November 14, 1981; and

Whereas, it is the opinion of this commission that more than sufficient time has elapsed to

enable the water company to correct this condition; and

Whereas, this condition of inadequate pressure and resulting in inadequate service is in violation of RSA .374:1; it is

Ordered, that Mountain Springs Water Company take immediate steps to restore full pressure that shall be above the minimum of 20 pounds per square inch, required by the rules and regulations in all areas served by Mountain Springs, and that such steps shall commence upon receipt of this order and shall continue with all due haste and manpower such that the cause of the loss of pressure shall be corrected by 8:00 A.M. on the morning of November 26, 1981; and it is

Further ordered, that failure to resolve or correct this pressure problem as hereby ordered shall result in this commission initiating a proceeding under RSA 374:28 to consider withdrawing the authority of Mountain Springs Water Company to operate as a public utility.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of November, 1981.

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NH.PUC\*11/30/81\*[79115]\*66 NH PUC 526\*Claremont Gas Light Company

[Go to End of 79115]

## **Re Claremont Gas Light Company**

DF 81-162, Sixth Supplemental Order No. 15,340

66 NH PUC 526

New Hampshire Public Utilities Commission

November 30, 1981

ORDER releasing gas company from obligation to provide manned service to monitor safety of plant operations.

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BY THE COMMISSION:

Supplemental Order

Whereas, on September 24, 1981, this commission in its Fourth Supplemental Order No. 15,118 ([1981] 66 NH PUC 369), ordered Claremont Gas Light Company to provide qualified manned service on a 24-hour basis at its gas plant to monitor the plant operations due to plant failures and customer outages; and

Whereas, the company was ordered to employ an independent consulting firm to evaluate and report on the operational characteristics of its plant and monitoring systems and to implement all provisions of such report; and

Whereas, on October 2, 1981, at a public hearing, the company and its consultant testified to the commission that the plant is capable of providing safe and reliable service without manual

assistance; and

Whereas, the consultant has filed a written report to the commission with conclusions and recommendations concerning its findings; it is

Ordered, that the Claremont Gas Light Company is released from its obligation to provide manned service on a 24-hour basis; and it is

Further ordered, that the company implement the recommendations provided by the consulting engineering firm and execute a written company improvement program which will include, but not be limited to the areas of:

Continued maintenance of plant system components.

Periodic scheduled tests of plant components including backup system and alarm system for plant failures.

Training of company personnel for maintenance and operation of plant facilities during normal and emergency situations; and it is

Further ordered, that the company submit to the commission a copy of the written improvement program within sixty days of this order.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of November, 1981.

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NH.PUC\*12/01/81\*[79116]\*66 NH PUC 527\*Gas Service, Inc.

[Go to End of 79116]

**Re Gas Service, Inc.**

DR 81-285, Third Supplemental Order No. 15,341

66 NH PUC 527

New Hampshire Public Utilities Commission

December 1, 1981

ORDER amending previous order.

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BY THE COMMISSION:

Supplemental Order

So much of commission Order No. 15,284 ([1981] 66 NH PUC 475), as reads " ... NHPUC No. 6 — Gas ... " is amended to read " ... NHPUC No. 5 — Gas ... ."

By order of the Public Utilities Commission of New Hampshire this first day of December 1981.

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NH.PUC\*12/02/81\*[79117]\*66 NH PUC 527\*Joan Stockford et al. v Public Service Company of New Hampshire

[Go to End of 79117]

**Joan Stockford et al.**  
**v**  
**Public Service Company of New Hampshire**

DC 81-245, Order No. 15,343

66 NH PUC 527

New Hampshire Public Utilities Commission

December 2, 1981

ORDER approving settlement agreement and closing docket.

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BY THE COMMISSION:

Order

Whereas, Joan Stockford and Joseph Gaudet filed a complaint through New Hampshire Legal Assistance against Public Service Company of New Hampshire's practices regarding disconnect notices allegedly in violation of PUC 303.8(f)(1); and

Whereas, the parties have discussed this matter between themselves and have arrived at a settlement of their differences as set forth in a settlement agreement dated November 2, 1981; and

Whereas, the parties have requested that this commission approve said settlement agreement; it is hereby

Ordered, that the settlement agreement entered into between the parties dated November 2, 1981, is hereby approved and the docket may be closed.

By order of the Public Utilities Commission of New Hampshire this second day of December 1981.

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NH.PUC\*12/02/81\*[79118]\*66 NH PUC 528\*Sunapee Hills Water Company, Inc.

[Go to End of 79118]

**Re Sunapee Hills Water Company, Inc.**

DR 81-367, Order No. 15,344

66 NH PUC 528

New Hampshire Public Utilities Commission

December 2, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Sunapee Hills Water Company, Inc., a public utility engaged in the business of supplying water service in the state of New Hampshire, on November 25, 1981, filed with this commission tariff, NHPUC No. 1 — Water, of Sunapee Hills Water Company, Inc., providing for increased annual revenues of \$20,039 (75.06 per cent); effective December 25, 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 tariff, NHPUC No. 1 — Water, of Sunapee Hills Water Company, Inc., be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this second day of December, 1981.

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NH.PUC\*12/03/81\*[79119]\*66 NH PUC 528\*New Hampshire Electric Cooperative, Inc.

[Go to End of 79119]

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

DR 81-351, Order No. 15,345

66 NH PUC 528

New Hampshire Public Utilities Commission

December 3, 1981

ORDER permitting special service contract to become effective as of its effective date.

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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. 70 with Pemi Valley Church, 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 this third day of December, 1981.

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NH.PUC\*12/03/81\*[79120]\*66 NH PUC 529\*Wentworth Cove Water Company

[Go to End of 79120]

### Re Wentworth Cove Water Company

DR 81-175, Supplemental Order No. 15,348

66 NH PUC 529

New Hampshire Public Utilities Commission

December 3, 1981

PETITION by a water company for an increase in rates; granted as modified.

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1. EXPENSES, § 13 — Ascertainment of expenses — Estimates — Nonbinding effect.

[N.H.] Where a water company had not been allocating its expenses based on actual time records for labor or other general expenses, but had in most cases arrived at the allocations made by taking a percentage of the total operating expenses of its parent, the commission advised the company that it would require that all future proceedings and reporting be based on actual costs incurred and that estimated costs would not be binding in future deliberations. p. 529.

2. RATES, § 275 — Kinds of rates and charges — Water company — Transition from flat to meter.

[N.H.] The commission directed all water utilities under its jurisdiction to install meters so that revenues could be collected in proportion to actual use with the additional benefit of conservation of resources that distinguished metered use from a flat charge with unlimited use. p. 530.

3. EXPENSES, § 144 — Expenses of particular utilities — Water company — Automatic adjustment for metering costs.

[N.H.] A water utility that agreed to immediately pursue the commission's plan for the purchase and installation of meters was to be allowed an automatic revenue adjustment to recognize its capital investment and associated operating expenses upon notification to the commission of installation of the meters with accompanying supporting financial data. p. xxx.

APPEARANCES: Dom S. D'Ambruoso, for Wentworth Cove Water Company.

BY THE COMMISSION:

Report

[1] On June 30, 1981, Wentworth Cove Water Company (hereinafter referred to as "Wentworth Cove" or the "company"), filed a new tariff for effect August 1, 1981, seeking increased annual revenues of \$5,648, and an increase from \$15 to \$35 for establishing or discontinuing water service. This filing was suspended by Order No. 14,996 on July 20, 1981 (66 NH PUC 266).

There were no appearances filed by intervenors in this case and subsequent discussion between the company and commission staff produced an agreement as to allowable operating expenses and necessary revenues. The agreement reached has reduced accounting fees to \$500 and regulatory commission expense to \$33 with a resulting \$5,000 total allowed revenues.

Investigation in this case disclosed that the company has not been allocating its expenses based on actual time records

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for labor or other general expenses. The allocations made in most instances were arrived at by taking a percentage of the total operating expenses of the parent, Lakes Region Water Company.

Staff has advised the company and the commission concurs, that all future proceedings and reporting must be based on actual costs incurred, and because the operating costs are estimated, they will not be binding in future deliberations regarding Wentworth Cove.

#### *Meters*

[2, 3] This commission is now directing the installation of water meters for use by all water utilities under our jurisdiction. It is our opinion that revenues should be recovered from customers in proportion to their actual use with the additional benefit of conservation of resources that distinguishes the metered use from a flat charge with unlimited use. Wentworth Cove has acknowledged agreement with this plan and will immediately pursue the purchase and installation of meters for its customers. We shall recognize the capital investment and associated operating expenses by allowing an automatic revenue adjustment upon notification by the company of their installation with accompanying supporting financial data.

#### *Rates*

The company has proposed the elimination of the "availability" charge in its tariff, which allowed the collection of an annual charge of \$30 for the availability of water in a company main in front of or adjacent to any undeveloped lot. Further, bills shall be rendered quarterly beginning with all bills rendered on or after January 1, 1982.

Agreement was also reached that a "service charge" of \$15 shall be charged for any visit to a customers premise for establishing or discontinuing service during normal company working hours, and \$20 when done after normal company working hours.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that tariff, NHPUC No. 2 — Water, Wentworth Cove Water Company filed for effect August 1, 1981, which was suspended by commission Order No. 14,996, dated July 20, 1981 (66 NH PUC 266), be, and hereby is, rejected; and it is

Further ordered, that in accordance with the revenues allowed in this report, Wentworth Cove Water Company shall file a new tariff designated NHPUC No. 3 — Water, which shall contain a flat rate schedule designed to recover annual revenues of \$5,000, billing frequency and service charges as specified in this report; and it is

Further ordered, that the new tariff, NHPUC No. 3 — Water, shall bear the effective date of January 1, 1982, and shall apply to all bills rendered on or after January 1, 1982; and it is

Further ordered, that Wentworth Cove Water Company shall include in the next regular billing to its customers, a statement of the new annual and service charges.

By order of the Public Utilities Commission of New Hampshire this third day of December, 1981.

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NH.PUC\*12/04/81\*[79121]\*66 NH PUC 531\*Association of New Hampshire Utilities

[Go to End of 79121]

## **Re Association of New Hampshire Utilities**

Intervenors: Governor's Council on Energy

DF 81-258, Order No. 15,354

66 NH PUC 531

New Hampshire Public Utilities Commission

December 4, 1981

PETITION by association of utilities objecting to tax assessments levied against them for the administrative expenses of the Governors Council on [Energy; granted in part, denied in part.

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1. COMMISSIONS, § 58 — Assessments against Withholding of payment — Effect of pending litigation.

[N.H.] The commission required several utilities to pay an assessment against them pursuant to a legislative enactment for the funding of the Governor's Council on Energy where it found that a statute which provided for written objections to payment of assessments did not also provide the right to withhold payment pending litigation of the challenged matter and where

neither the commission nor the state supreme court had specifically overturned the assessment order. p. 533.

2. COMMISSIONS, § 58 — Assessments against utilities — Cost categories covered.

[N.H.] In evaluating the propriety of the costs to be covered by an assessment against utilities, the standard that has emerged in the state is one that allows expenses directly related to regulation and which recognizes expenses incidentally related to regulation until their level becomes unreasonable. p. 535.

3. CONSERVATION, § 1 — Jurisdiction and powers — State commissions — Implementation of conservation program.

[N.H.] Expenses related to implementation of the National Energy Conservation Policy Act as to Residential Conservation Service Programs were held a valid demonstration of the state's police power since the commission found that enforcement of the conservation program was directly related to utility regulation and that the expenses associated with that enforcement were incidental to regulation as provisions of the act were regulatory in scope. p. 535

4. COMMISSIONS, § 58 — Assessments against utilities — Cost of licensing cogeneration and hydroelectric power — Direct relation to regulation.

[N.H.] The commission found that it was a proper exercise of authority to allow for the recovery of costs associated with operating the state hydroelectric and cogeneration licensing system since development of those power sources was (1) directly related to regulation based on recently enacted state statutes and the Public Utility Regulatory Policies Act which stated that such development was in the public interest; and (2) incidentally related to regulation since both the state and federal statutes required electric utilities to purchase the power from those small producers. p. 535.

5. CONSERVATION, § 1 — Jurisdiction and powers — State commissions — Development of renewable resources.

[N.H.] The state program related to the development of renewable energy resources, including solar, wood, wind, hydro, and solid waste, was found to be directly related to utility regulation since utilities were required to purchase those sources which had been found to be in the public interest on both the state and the federal level. p. 535.

6. CONSERVATION, § 1 — Jurisdiction and powers — State commissions.

[N.H.] Since energy supply and utility rates were within the regulatory umbrella and since conservation had been set as a national and state policy, the commission found that it was evident that conservation related programs were directly related to regulation when they involved utilities. p. 535.

7. COMMISSIONS, § 58 — Assessments against

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utilities — Commission discretion Limitations.

[N.H.] The commission disagreed with a contention that a statutory amendment authorizing

the commission to assess utilities for the funding of the Governor's Council on Energy was an unconstitutional delegation of power because it granted the commission unfettered discretion in collecting the fund; the state law authorized the commission to allocate only "allowable" expenses (meaning those expenses reasonable in terms of accomplishing regulatory requirements or in meeting costs associated with regulation) and required the commission to maintain a reasonable relationship between the level of expenses and the regulatory requirement sought to be achieved. p. 544.

8. COMMISSIONS, § 58 — Assessments against utilities — Reasonableness.

[N.H.] In determining the extent of "allowable" expenses of the Governor's Council on Energy that were to be assessed against state utilities, the commission found that the appropriate standard would be the relationship of the duties of itself and the council to regulation and only those budgets that reflected that relationship would be allowable. p. 544.

9. COMMISSIONS, § 58 — Assessments against utilities — Council on Energy — Reasonable costs.

[N.H.] Pursuant to a tax assessment statute, the costs incurred by the Governor's Council on Energy for the implementation of the Residential Conservation Service Program of the Public Utility Regulatory Policies Act were levied against the only utility falling within the purview of the act on the basis of the commission's findings that the conservation program constituted direct regulation and that the amount sought to be recovered should be levied. p. 548.

10. COMMISSIONS, § 58 — Assessments against utilities — Allocation — Gross revenues.

[N.H.] Based upon the direct relationship to utility regulation of state programs for the development of hydroelectric power, cogeneration facilities, and other alternative energy sources, the commission approved an assessment against state electric utilities as a class, and against class members on the basis of gross revenues, of that portion of the expenses of the Governor's Council on Energy which were attributable to those programs. p. 548.

11. COMMISSIONS, § 58 — Assessments against utilities — Foreign gas supply costs — Reasonableness.

[N.H.] Where the Governor's Council on Energy assisted state gas utilities in the procurement of Canadian natural gas, the commission found that it was appropriate to levy the amount of the counsel's expenses associated with that operation against the gas utilities under a utility tax assessment statute. p. 549.

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APPEARANCES: Ransmeier and Spellman by Dom S. D'Ambruoso and John C. Ransmeier for Association of New Hampshire Utilities; attorney general of New Hampshire by Peter C. Scott and Ron Rogers for the Governor's Council on Energy.

Report

*Love, J. Michael:*

*I. Procedural History*

The docket was opened on September 11, 1981, by petition of the Association of New

Hampshire Utilities, in which they filed an objection to the assessment issued by this commission pursuant to RSA 363-A, as amended.

In the 1981 legislative session, the New Hampshire legislature enacted a change in the funding mechanism for the Governor's Council on Energy. The legislative initiative was reflected in the passage of § 188 of Chap 568, New Hampshire Laws amending RSA 363-A: 1. The result of this amendment is to require the public utilities commission (hereinafter referred to as the "commission") to assess certain utilities for the allowable administrative expenses of the council. Such assessments are to be made as part of the utility assessment fund, as administered by the commission pursuant to RSA 363-A.

Following passage of the budget by the legislature, the commission received a communication from the Governor's

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Council on Energy (hereinafter referred to as "Energy"), in which the commission was advised that the budget sought pursuant to RSA 363-A was \$304,404. Further, this written communication<sup>1(44)</sup> advised the commission that 80 per cent of these costs were allocated to electric utilities and 20 per cent against gas utilities.

The commission issued its 1982 Detailed List of Utility Tax Estimates<sup>2(45)</sup>, which incorporated the aforementioned Energy expenses. These Energy expenses, as well as the commission expenses, were assessed against electric and gas utilities where appropriate as to their respective gross receipts.<sup>3(46)</sup>

The Association of New Hampshire Utilities (hereinafter referred to as the "Utilities") challenged the portion of the assessment related to Energy. Of the ten complainants, nine withheld payment of any expenses related to Energy, while the remaining utility paid under protest. The Utilities seek a transfer of the entire case to the supreme court. The petition to transfer cites constitutionality of the statute as its justification for the transfer request.

If the commission retains this matter for its own deliberation, the Utilities request that there be an entire elimination of any Energy expenses.

The Utilities also challenge the 80 per cent to 20 per cent breakdown between electric and gas related concerns. However, it was initially suggested that this portion of the dispute be delayed until a resolution of the claim of unconstitutionality.

Hearings were held on September 24, October 5, 6, and 9, 1981. Briefs were filed as well as various motions, some of which remain in need of resolution.

#### *II. Withholding of Payment*

[1] The overwhelming majority of the complaining companies withheld payment of the commission ordered utility assessment as it related to Energy. The Utilities have withheld this payment based on their interpretation of RSA 363-A:4. After review and re-review, I must disagree with the position of withholding payment.

Revised Statutes Annotated 363-A:4 is specific as to certain rights and silent as to many of the issues raised in this proceeding. There is no doubt that the statute requires payment by

utilities to the state within thirty days of receipt. If a utility timely files an objection in writing setting forth in detail the grounds, upon which it claims the assessment is excessive, erroneous, unlawful, or invalid, then payment does not have to be tendered within thirty days.

The statute requires the commission to hold noticed hearing, and if the assessment is found to be excessive, erroneous, unlawful, or invalid, in whole or in part, the commission must order an amended bill to be sent. The final specific statutory language allows the state treasurer to commence an action at law for the recovery of the assessment after thirty days from receipt of an original bill or of an amended bill.

The question that has arisen is whether payment can be withheld during the time period after thirty days receipt of the original bill. There is a larger question that results from the action by Utilities: Namely, withholding payments in general.

Over the years, this commission, as

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well as others, have been inundated with situations where someone, or some party, has advocated withholding payment. These advocates have stated that rates do not have to be paid because they are unreasonable or unjust. Citing the various provisions of RSA 378, these advocates have maintained that since rate-payers can only be charged just and reasonable rates, any rate that is excessive of reasonable rate levels, erroneous as to which customers the rate increase is assigned, unlawful because a set rate level includes property in rate base that is not used and useful, or invalid as being beyond the scope of the commission's power, should not be paid.

The withholding campaigns that have been attempted in the past include: withholding payment because rates were based on the inclusion of construction work in progress in rate base (alleged unlawful), withholding payments related to standby charges (alleged invalid rate making), withholding payments because not all customers were charged the same per kilowatt-hour or therm or cubic foot (alleged erroneous) and withholding payments because the rates contain too high a rate of return or an improper inclusion in rate base (alleged excessive). In each of these instances the commission has steadfastly refused to honor any of the arguments. Utilities were allowed to implement disconnection if full payment was not received. This action was taken despite the fact that at times the rates were temporary and thus not a final action by the commission or subject to the full investigation accorded a permanent rate filing.

In a recent decision, *Re Mountain Springs Water Co.* (1981) 66 NH PUC 487, the commission reviewed actions by consumers on that water system as to their withholding of payment despite commission action on a temporary rate basis. In that proceeding a concerted effort was undertaken to withhold payment and force the utility into additional litigation expenses in the district courts to collect the rates. This strategy deprived that utility from a major source of its income (although not all of its income) and in addition required time and money to be expended pursuing these nonpaying ratepayers. The situation became so bad due to the relative small size of the utility that bankruptcy loomed on the horizon.

In that opinion the commission stated the following:

"We will not allow the customers of a system to put a system under by simply not paying their bills." (66 NH PUC at p. 494).

In this proceeding it is clear that the nonpayment by the Utilities will effectively close down a state agency that the legislature has chosen to have partially paid for by the Utilities. The information solicited from the comptroller's office clearly indicates that whether the Utilities are correct in their contentions or not, Energy will be put out of business because it is clear that there are liabilities associated with expending funds that are not presently in the state coffers. The standard that I firmly believe is inherent in regulation is that when payment is directed by this commission of either utilities or ratepayers it must be forthcoming. If either is allowed to challenge a commission finding without paying it is obvious that Pandora's box is opened. It is ironical that for years these same utilities have sought commission confirmation that withholding campaigns will not be tolerated. I must only hope that their action in this proceeding will not be duplicated by others before this commission.

Revised statutes Annotated 363-A:4 does not specifically allow for the withholding of payment of a utility assessment tax. While objecting that the assessment

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may lift the 30-day payment requirement and extend the time period for action by the state treasurer, there is no statutory right to withhold payment during litigation. This assessment remains an order of this commission which must be specifically overturned by either the commission or the supreme court to alleviate payment. Since neither has occurred, prompt payment is required. The enforcement tool the commission has against ratepayers is disconnection. Against utilities that refuse to comply with our orders, directions, or requirements our enforcement tools are contained in RSA 365:40, 41, and 42.

Unfortunately this case illustrates the dangers that occur once a withholding campaign is tolerated. Association of New Hampshire Utilities have directed a major portion of their case at the constitutionality of the amended statute. Based on these allegations, they have launched a withholding campaign. Since they contend an assessment is based upon an unconstitutional statute, they have decided to withhold payment pursuant to the "unlawful" provision of RSA 363-A:4.

However, the transcript and the pleadings reveal that if the statute is ruled constitutional by the supreme court, then, and only then Utilities may wish to litigate the 80 per cent to 20 per cent split between electric and gas utilities.<sup>4(47)</sup> This could concernably lead to an allegation that this split is erroneous or invalid and then the possibility of a second withholding campaign.

If Utilities are allowed to withhold this time, it is inevitable they will withhold the second time as well. Thus, if the statute is constitutionally valid and applied in a reasonable manner, it may well take two trips to the supreme court before payment is received.<sup>5(48)</sup> Such a scenario is supported by the record where despite a clear rejection of two proceedings by the commission,<sup>6(49)</sup> the Utilities continue to attempt to reserve this second round of challenge.<sup>7(50)</sup>

The commission has recognized these increased utility assessment expenses as a reasonable operating expense in all cases decided to date involving members of the Utilities consortium.

Based upon the foregoing, the commission will require payment by all utilities in the amounts stated in this report within a time period of seven to ten days from the date of this report.

### III. *Petition — Unconstitutionality*

The Utilities filed a petition, which they claim sets forth their reasons for alleging the statute is unconstitutional. In particular, their reasons are offered in Par 10 through 16 of the petition.<sup>8(51)</sup> These contentions were supplement by arguments offered in brief.

#### A. *License Fees — Police Power*

[2-6] Association of New Hampshire Utilities contend that the assessment tax contained in RSA 363-A is an illustration of a license fee. In this instance, Utilities

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contend that the assessment is a fee levied against regulated utilities under the police power to cover the costs of their regulation. Association of New Hampshire Utilities contend that if RSA 363-A is a license fee, then it would bar recovery of the expenses of Energy, which are not directly or incidentally related to the regulation of utilities.

Governor's Council on Energy contends that a license fee can properly cover the costs of inspection, regulations and supervision but also all the incidental expenses which are likely to be incurred in consequence of the activity regulated provided the resulting fee does not become unreasonable Energy cites Re Opinion of the Justices (1972) 112 NH 166, 170.

The standard that emerged is one that allows expenses directly related to regulation. Expenses incidentally related to regulation will also be recognized until the level becomes unreasonable.

In evaluating the expenses attributable to Energy, it is evident that certain expenses are directly related to regulation. Regulation has changed dramatically in recent years. Continuous and significant increases in the cost of energy have brought about mammoth levels of new legislative actions. These actions have arisen from the legislative corridors of both state and federal governments. These relatively new statutes have led to the establishment of national and state energy policies. In addition, these newer statutes affecting regulation have further clouded the answer to which arm of government is the regulatory process most closely aligned. These new statutes have resulted in dramatic changes in the federal-state relationship concerning energy.

From a federal vantage point, the following acts have permanently altered the area of regulation: National Energy conservation Policy Act (NECPA), Public Utility Regulatory Policies Act of 1978 (PURPA), Powerplant and Industrial Fuel Use Act of 1978 (PIFUA), and the Emergency Energy Conservation Act of 1979. These acts have set national policy, increased the level of participation of the federal government in regulation and increased the level of executive branch participation together with the historical legislative branch.

The New Hampshire state government has also been busy in the area of regulation Revised Statutes Annotated 362-A the Limited Electrical Energy Producers Act (LEEPA) has established

that it is in the public interest to provide for small scale and diversified sources of supplemental electrical power to lessen the dependency upon uncertain foreign sources of power.

From this statute has come a concerted state effort to develop alternative energy sources such as hydroelectric, wind, and solar. In addition, the state has supported its commitment by conducting a program designed to develop state-owned sites for hydroelectric power generation.

After this act, the New Hampshire state government approved on June 30, 1981, Chap 535, which is entitled "State Policy on Energy." This chapter sets forth in very distinct terms the policy of this state on energy which agencies in both the executive and legislative branches must adhere. There is a clear requirement that there are combined roles for both the executive and legislative branches to work together and we so find. We also find that pursuant to these recent federal and state statutes the area of regulation as well as energy now is viewed as having roots in both the legislative and executive branches.

One of the most sweeping changes brought about in regulation is through the passage of NECPA and its residential conservation service program. The purpose of the residential conservation service

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(RCS) is to encourage the use of energy conservation and renewable resource measures in the homes served by large gas and electric utilities. All utilities with annual sales of 10 billion cubic feet of natural gas [or] 750 million kilowatt hours of electricity are mandated to provide RCS services and must fully participate in the program. Of the utilities subject to the commission's jurisdiction, the Public Service Company of New Hampshire is the only utility mandated by NECPA to offer the RCS program. The other utilities may choose to participate on a voluntary basis. The other electric utilities in this proceeding chose to voluntarily participate in the RCS program and worked with energy in preparing an initial plan for the commission to examine.<sup>9(52)</sup>

States ensure the success of the RCS program by overseeing and enforcing the program according to their respective state plans. The state plan is submitted to the Department of Energy (DOE) for approval. Enforcement of the RCS program is a particularly important state responsibility and must be addressed in the state plan. States must ensure program implementation by covered utilities.<sup>10(53)</sup>

The governor of each state is to designate a "lead agency" to be responsible for preparing and implementing the state plan.<sup>11(54)</sup> These responsibilities include assuring compliance with the provisions of the state plan, coordinating with neighboring states in which a covered utility also provides service and with other state agencies, and develop as well as maintain lists of qualified suppliers, contractors, and lenders who have agreed to participate in the program.<sup>12(55)</sup> States must ensure program implementation by covered utilities. States are also responsible for establishing procedures to deal with consumer complaints.<sup>13(56)</sup>

In New Hampshire, the governor has designated Energy as the lead agency for the RCS program implementation.<sup>14(57)</sup> Association of New Hampshire Utilities contend that while the governor has designated Energy, that such designation is improper if any of the power entrusted

is regulatory in nature. They contend that Energy can only have the powers that the governor has and that their role in the RCS program is beyond those powers. The commission records, which we administratively notice,<sup>15(58)</sup> reveal that of the 43 states that had designated a coordinating or lead agency by January, 1980, 33 had chosen energy or commerce offices. Only ten had chosen public utilities commissions. The overwhelming majority of offices chosen were energy offices either similar to or identical to Energy. If New Hampshire has exceeded its authority, others may be assumed to also. However, the record and this particular statute clearly establish proper operations by the state of New Hampshire

As has been noted earlier, the RCS program specifically allocates the power to select a lead agency to the governor. No challenge by Utilities has been made to this statute in any other forum. Furthermore, Utilities and specifically Public Service Company have not chosen to allege any problems with the state plan

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along the lines of conflict of laws pursuant to § 456.303(b). Nor has our attention been brought to any other filing before the DOE as to the unfitness of Energy to be the lead agency for New Hampshire. In fact, instead of challenging the RCS program or the designation of Energy as lead agency, the electric utilities: Concord Electric, Exeter and Hampton Electric, New Hampshire Electric Cooperative, Granite State Electric, and Connecticut Valley Electric filed a petition to offer an RCS program because they believed that the "purpose and intent of NECPA to be a salutary purpose and intent."<sup>16(59)</sup> It is ironic that these utilities formulated their plan in conjunction with and after agreement with Energy.<sup>17(60)</sup>

Clearly the cooperation between the various objecting utilities with Energy, the recognition by all the electric utilities that this agency is the lead agency, the coordination by Utilities with Energy as to RCS program failure to challenge the lead agency designation all tend to cripple Utilities' arguments as to Energy's role of lead agency being an unconstitutional extension of power. National Energy Conservation Policy Act clearly establishes the right of the state executives to designate the lead agency for enforcement of the RCS program. Since NECPA has as its purpose "the regulation of interstate commerce, to reduce the growth in demand for energy in the United States, and to conserve nonrenewable energy resources produced in this nation and elsewhere ..."<sup>18(61)</sup> and since there is state enforcement of the provisions upon utilities either directly or in the case of electric utilities other than PSNH directly if they choose to offer an RCS plan we find the RCS enforcement is directly related to regulation. Obviously contained in this finding is one that expenses associated with state enforcement of an RCS program is incidental to regulation as the provisions of NECPA are regulatory in scope.

Consequently, expenses related to implementation of NECPA as to RCS services are a valid demonstration of the police power, since the expenses are directly related or incidental to regulation. Whether they are allowable expenses under RSA 363-A will be discussed, *infra*.

Another major area that is alleged to be directly related to regulation or incidental to regulation is the hydroelectric and cogeneration program. Governor's Council on Energy provided Exh 1 and testimony seeking to explain its activities associated with these power sources.

Governor's Council on Energy cites our attention to the Public Utilities Regulatory Policies Act (PURPA) and the state legislation, Limited Electrical Energy Producers Act (LEEPA). In response to these acts, Energy claims that it has been called upon to initiate a small power producers program. This program consists of technical assistance on hydroelectric projects, development of a state leasing system for hydroelectric sites, technical assistance for microhydroelectric projects, cogeneration development, and assistance to the commission as to all of these project subjects.

Association of New Hampshire Utilities contend that PURPA does not bestow any regulatory powers upon Energy. Rather, Utilities cite the commission as

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the exclusive rate-making authority in the state. Association of New Hampshire Utilities do not address the question of LEOPA, nor do they mention other than in a passing reference Chap 535, State Policy on Energy. As to providing materials relevant to small power production and cogeneration, Utilities contend that although such Energy actions may have an impact on utilities this does not amount to regulatory authority.

The development of *new* hydroelectric generation and cogeneration had stalled during the recent past. In 1951, New Hampshire had over 49 per cent of its electrical energy needs met by hydroelectric generation.<sup>19(62)</sup> Public Service Company of New Hampshire, the state's largest electric utility, has 4.6 per cent hydroelectric generation as part of its generation mix.<sup>20(63)</sup> Cogeneration, which supplied 15 to 20 per cent of this state's power needs, as well as the nation's in the early part of this century, has become virtually nonexistent.

The price of oil sharply increased in 1973. This initial shock was followed by a steadily increasing price until 1979 when the second major oil shock hit the pocketbooks of consumers. Despite this horrendous increase, hydroelectric generation continued to drop both on a state and nationwide basis. The legislatures in both New Hampshire and Washington, D.C. decided that there had to be further hydroelectric development so as to assure reliable sources of power and at reasonable prices. From these concerns PURPA and LEOPA were born. In PURPA, congress was attempting to eliminate the obstacles, in large part created by the electric utilities, associated with new development of alternative energies and, in particular, hydro.

The necessity for these acts has been documented by the Federal Energy Regulatory Commission:

"Prior to the enactment of PURPA a cogenerator or small power producer seeking to establish interconnected operation with a utility faced there 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 subject 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.<sup>21(64)</sup>

The state action in terms of hydroelectric generation and cogeneration is found in RSA

362-A and the recently passed Chap 535, State Policy on Energy. RSA 362-A:1 and 2 state the following:

"It is found to be 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 which may, from time to time, be uncertain.

"Producers of electrical energy not involving the use of nuclear or fossil fuels with a developed output capacity of not more than five megawatts shall not be considered public utilities and shall be exempt from all rules, regulations and statutes applying to public utilities."

It is clear from the declaration of purpose of this statute that the legislature has set forth a state policy to encourage the development of small power

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production. The commission's role is limited by RSA 362-A:2 and 4, in that the commission sets the rate to be paid the small power producers but they are not viewed as utilities. Consequently, the commission does not become involved in their day-to-day problems whether they be financial, engineering or governmental red tape.

Chapter 535 the state's energy policy, clearly states that it is in the public interest to coordinate the permit application process and expedite the licensing of small hydro projects throughout the state. More importantly, the new chapter calls for the development of New Hampshire's hydroelectric generation potential to the maximum practical extent and that policies should be removed that impede the development of potential hydro sites.

As to cogeneration, the state's energy policy states that it should be implemented to the maximum extent possible through increased awareness of its potential and improved utility pricing and regulatory practices. The state energy policy also calls for greater efforts to encourage on-site production.

Association of New Hampshire Utilities in essence contend that all the efforts of Energy benefit small power producers or cogenerators and by implication suggest that there is no benefit to utilities or their ratepayers. The true beneficiaries of the Energy efforts are the electric utilities and their customers. Certainly a part of regulation is the assurance of supply, and we so find. In New Hampshire, we have codified this requirement in RSA 374:1. In that statute lies the clear obligation to provide adequate supplies. When read with RSA 378:7 and 27 it creates an obligation to provide adequate and reliable service at reasonable rates. National Energy Conservation Policy Act, PURPA, and LEEPA all focus on the increasing unreliability of oil. As this commission noted before embarking upon its oil backout decisions,<sup>22(65)</sup> every additional kilowatt-hour used in New England will be met by oil-fired generation for the foreseeable future based on the utility industry forecasts.<sup>23(66)</sup>

Increased reliance upon foreign oil has been found to be against both the national and state interests of public good and welfare, and we so find. Where the actions by the national and state electric utility industries were found to be restraining at least one of the ways to reduce reliance upon an unsteady source of supply, it was proper for the legislative and executive branches to approve the necessary legislation to alleviate these obstacles.

The state of New Hampshire's leasing system for hydroelectric sites has accelerated the development of these sites in an orderly process. It has coordinated the permit and licensing process in compliance with Chap 535. Through these efforts Energy has seen to the development of at least two sites in the state that but for their action would not have occurred. Other sites are being prepared, funds permitting, for bid and eventually licensing. The state has a compelling interest in developing its resources and this becomes especially true where the development of these resources are mandated by the State Energy Policy.

The legislature has set forth that it wishes further development of hydroelectric sources of power. It has found the state leasing program to assist in that goal. Obviously, the recognition of these

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expenses for Energy is approval to continue this work in the hydroelectric area.

Association of New Hampshire Utilities contend that the only beneficiaries of this process are the small power producers. This argument is the equivalent of stating that Seabrook is being built to help the construction industry. While in both the instance of Seabrook and small power producers other people besides utilities and ratepayers benefit, the rationale behind the efforts to begin generation from these sources is adequacy of supply at a reasonable price. In all instances to date the power from small power producers has been sold to the grid. In 1980 alone, availability of small power production instead of more costly units would have led to a savings by PSNH of \$263,526.<sup>24(67)</sup> This figure is comparing the total cost of a small power producer versus only the fuel costs of existing units. Obviously, existing units have additional costs of operation and maintenance as well as a rate of return component. In 1981, this figure will more than triple. The development of hydroelectric and cogeneration facilities will lead to lower rates, both presently and in the future; and we so find.

We also find that minimizing the horrendous price increase in the price of it is a valid exercise of maintaining just and reasonable rates, which is also a statutory mandated regulatory obligation.

Development of hydroelectric sources and cogeneration sources of supply allow utilities access to power sources to satisfy their statutory obligation under RSA 374:1. There is a very substantial savings to utilities and their customers because of these purchases, in that the credit line of the company is not affected, which in today's high interest market is a significant savings. Furthermore, costs are not incurred by the utility as to inventory or operation and maintenance. All of these benefits accrue to the benefit of the ratepayers, as well as the utility. The ratepayers receive an additional benefit when power is provided by small power producers rather than allowing future expensive oil-fired peaking units to be built; namely, rates are only paid based on actual generation. There is no consideration for continuing maintenance costs or a rate of return earned when the plant is not operating.

Based on the entire foregoing analysis, the commission finds that development of further hydroelectric and cogeneration sources of power is directly related to regulation. The commission bases this finding both on the recently passed state statutes and PURPA. The

commission finds that development of these additional costs to utilities and ratepayers alike resulting in more just and reasonable regulated utility rates than would be the case otherwise. The commission finds that the state of New Hampshire and the United States federal government have found that increased development of cogeneration and hydroelectric sources of power are in the public interest.

The commission finds that if it is held that such development is not directly related to regulation, it is clearly incidental to regulation, since both state and federal statutory provisions require the electric utilities to purchase the power from these small hydroelectric producers and cogenerators.

The commission finds that the state licensing system is directly related to regulation and that it was a proper exercise of authority to allow for the recovery of costs associated with operating that system. This finding is reinforced by the requirement that utilities purchase the power from these sites and

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often the utilities seek to develop these sites.

As to whether these expenses are attributable to a reasonable accomplishment of greater development of these energy sources is a question of what is "allowable," but not one of constitutional scope. As to whether these expenses are reasonably related and thus allowable will be discussed, *infra*. However, it is specifically found that development of increased hydroelectric and cogeneration sources is directly related to regulation.

Governor's Council on Energy offers additional programs in wood, solar, waste, and wind energy. Each of these energy sources are encouraged by both PURPA and LEEPA. The same considerations discussed concerning hydroelectric and cogeneration are equally valid as to these four energy sources. Both LEEPA and PURPA include these fuel types as qualifying facilities (PURPA) or nonnuclear, nonfossil small diversified sources of power (LEEPA). Since these sources have are, and will provide power to increase reliability and at rates below those that would be in effect absence their generation the commission finds these power sources and the energy program related thereto as directly relating to regulation in terms of supply and rates and incidentally related to regulation since both PURPA and LEEPA require utilities to purchase power from these sources of energy as soon as they are used at sites for generation of power.

The State Policy on Energy Chap 535, states that there should be maximum economically and environmentally sound use of New Hampshire's renewable energy resources including *solar, wood, wind, hydro, and solid waste*.<sup>25(68)</sup> Solar and wind energy are to be encouraged as an alternative or supplement, or both, to conventional energy resources to the maximum extent possible.<sup>26(69)</sup> The "policy" also requires that the state conduct evaluations of proposed energy policies or facilities by comparing specific economic, environmental and social effects of the proposals.<sup>27(70)</sup>

As has been noted, PURPA, § 201 encourages the use and requires the development of electric energy solely by the use as a primary energy source of biomass, waste, renewable resources, or any combination thereof.<sup>28(71)</sup>

Limited Electrical Energy Producers Act encourages the development of small scale and diversified sources of electrical energy not involving the use of nuclear or fossil fuels.<sup>29(72)</sup> The State Policy on Energy requires all efforts made to secure further power resources from solar, wind, waste, wood, as well as hydro and cogeneration. Since utilities are required to purchase these sources and where further they have been found to be in the public interest on both a state and federal level the Energy programs are directly related to regulations.

There are five Energy programs that involve the development of conservation as a source of energy and a practice among consumers. In *Energy Future: Report of the Energy Project at the Harvard Business School*, the authors stated the following:

"To be semantically accurate the source should be called conservation energy to remind us of the reality that conservation is no less an energy alternative than oil, gas, coal, or nuclear. Indeed in the near term, conservation could do more than any of the conventional sources to develop the country deal with the energy problem it has."<sup>30(73)</sup>

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Public Utility Regulatory Policies Act of 1978 states the following:

"Section 2. Findings.

"The congress finds that the protection of public health, safety, and welfare, the preservation of national security, and the proper exercise of congressional authority under the constitution to regulate interstate commerce require —

"(1) a program providing for increased conservation of electric energy, increased efficiency in the use of facilities and resource by electric utilities, and equitable retail rates for electric consumers ... .

"(4) a program for the conservation of natural gas while insuring that rates to natural gas consumers are equitable."<sup>31(74)</sup>

Thus, PURPA establishes conservation for both gas and electric utilities as a national goal.

The state energy policy refers to the promotion of energy conservation as strengthening state and local economies and consistent with new Hampshire's tradition of independence and self reliance.

The "policy" states that: (1) conservation by utilities should be promoted by developing programs to reward efficient utilization of generating facilities and prudent fuel procurement practices.<sup>32(75)</sup> (2) A state agency should be responsible for distributing energy conservation information and providing energy audits.<sup>33(76)</sup> (3) Encourage and promote the private sector to use the most cost effective conservation and energy efficient technology in their homes and personal lifestyle.<sup>34(77)</sup> (4) All public buildings should be audited for energy use and retrofitted, where cost effective, to insure energy conservation.<sup>35(78)</sup> (5) All governing bodies should promote compliance with the "Model Code for Energy Conservation in New Buildings Construction."<sup>36(79)</sup> (6) Conservation and alternative heating and cooling systems should be promoted by incentive programs directed at investment in energy saving systems and housing rehabilitation.<sup>37(80)</sup>

Clearly, the State Energy Policy has elevated conservation of electricity and natural gas to a state priority, and we so find.

Title III of the National Energy Conservation Act is to provide grants to the states so as to provide for energy conservation through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures to reduce energy use and anticipated energy costs for schools, hospitals, local government buildings, and public care institutions. These activities occur if there is a state allocation of funds. In New Hampshire, the level of grants has approached \$1 million on an annual basis.

Conservation is an energy source in that through reductions in usage less efficient units are run less often and, if significant enough, some less efficient units can be discontinued from operation. Conservation reduces the need to have as many new facilities built. Conservation in New England reduces the region's reliance upon foreign oil, which is in both the national and the individual state's interest. Finally, conservation allows for greater flexibility in meeting loads as to the generating or gas mix used. All of these results reduce potential problems with supply and produce lower rates. Since supply and rates are within the regulatory umbrella and where in addition conservation has been set as a national and state policy, it is evident that conservation related programs are directly related to regulation when they involve utilities, and we so find.

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The programs, Commercial/Industrial, CONSERVAN, SHLP, Education/Outreach, and EES all relate in some fashion to conservation and utilities. The diversity of operations and their completion is within regulation. However, to be a proper expense for assessment purposes, the expense must be reasonably related to the interests and needs of electric and/or gas utilities and thus allowable. Our definition and an application of the definition to the facts in this proceeding will be discussed, *infra*.

The remaining cost allocations involve the procurement of gas and electricity from Canada and policy evaluation. Canadian energy relates to the supply side of regulation. Whether the price of Canadian power is less than that presently available or contemplated relates to the rate-making function of regulation. Consequently, the procurement of energy from Canada is directly regulatory in scope. However, there may exist other infirmities that prevent the costs from being recognized as allowable.

The policy evaluation appears to consist of a central core of workers who determine the operations of the office and the emphasis placed on the various programs. Governor's Council on Energy Exh 7 clearly establishes that there are additional duties that exist from time to time. Governor's Council on Energy Exh 7 is an accurate restatement of the problems generally experienced last winter in the gas industry. Gas Service, Inc., by their inventory records were carrying insignificant supply to satisfy the requirements of RSA 374:1. Furthermore, Gas Service Inc.'s records as to propane showed a one-day supply when the commission rules and prior orders require a week's supply. Without the assistance of the Energy office, Gas Service would by their records have had a severe gas crunch and would have been unable to meet their utility requirements under RSA 374:1.

Based upon the fact that the utilities routinely impose costs on the Energy office such as the

RCS program and this past winter's problems with Gas Service, it is proper for these expenditures to survive the first portion of the test to determine the reasonableness of these expenses, namely, directly or incidentally related to regulation.

*B. Unfettered Discretion — Absence of Standards*

[7, 8] The Utilities contend that the amended statute is an unlawful and unconstitutional delegation of legislative power to the commission because it has in effect authorized the commission in its unfettered discretion and without reference to any prescribed standards, to allocate the expenses of Energy between and among the utilities subject to the supervisory jurisdiction of the commission. We disagree.

The amended version of RSA 363-A contains a clear standard as to the proper levels of expenses assigned to the utilities. To begin with the expenses pursuant to the police power must be directly related to regulation and/or if incidental to regulation, reasonable in scope. In addition, RSA 363-A, while requiring all of the commission's expenses permits only those Energy expenses which are "allowable." Allowable is a standard that we are comfortable with since we routinely make decisions on allowable expenses in utility rate proceedings. Such a standard requires that those expenses are reasonable in terms of accomplishing regulatory requirements or in meeting costs associated with regulation be permitted to be passed on.

An allowable standard also requires a reasonable relationship between the level of expenses and the regulatory requirement sought to be achieved or imposed on the system. An allowable standard also implies a continuing regulatory requirement

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or a continual obligation imposed on government by regulation. The commission under an "allowable" standard can and does reject the suggestion by Energy that the loss of federal funds translates into a dollar-for-dollar replacement through the utility assessment tax. Rather, an allowable standard requires a nexus between the Energy expenses and the associated regulatory purpose and/or the costs incidental to regulation.

Under an allowable standard the commission can, must and will compare the functions related to regulation performed by Energy to its own functions. Under the factual circumstances of this case and the existing laws with their respective obligations; it is clear that under no circumstances could the Energy expenses approach either the level designated for fiscal year 1983 or ever approach the size of our budget. Governor's Council on Energy has specific functions that are directly related to regulation and there are costs that Energy incurs because of actions or inactions by the electric and gas utilities. However, the scope of regulatory functions directly related to Energy and the functions they perform incidental to regulation is limited. Energy's own Exh 13 clearly demonstrates that accepting all of their utility related costs as being utility related (both federal and utility assessment), the highest level of costs that are utility related would be \$482,431.<sup>38(81)</sup>

Absent new statutes granting increased regulatory obligations to Energy, it is impossible to justify higher levels of expense as utility related and thus allowable. Association of New Hampshire Utilities are correctly concerned that this amendment not be used to finance activities

not associated with regulation. The commission finds that the allowable standard precludes any recovery of expenses associated with oil or propane dealers. The commission further finds that there is no way that Energy can justify its 1983 fiscal year budget associated with the utility assessment tax. Such a budget would have to assume that the direct regulatory powers of Energy or those incidental to regulation were approximately those of the commission which is absurd. Therefore, the commission finds that an appropriate standard in determining an allowable expense is the relationship or duties of the two offices, Energy and the public utilities commission, to regulation and budgets that reflect that relationship will be allowable.

Another obvious standard in the determination of allowable is any specific allocations of power by either the state or federal governments to one of the two offices. An example of a specific delegation is RSA 363:18-a which designates the commission as the agency of the state to bargain for the procurement of electricity from Canada. Such a statute precludes other agencies from negotiating for power purchases from Canada. Thus an attempt by Energy to negotiate for electrical power from Canada and then pass these costs through the utility assessment tax would be disallowed.

The commission finds that the standard of "allowable expenses" does exist and that the contention that the amended RSA 363-A is without standards, is found to be lacking in support.

### *C. Ambiguities*

Association of New Hampshire Utilities raise other arguments as to possible ambiguities in the statute. Revised Statutes Annotated 363-A:2 is now alleged to be ambiguous since it may not define who is going to pay. Association of New Hampshire Utilities offer the language of this section and in particular the word

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"its" to state that although the commission can assess its expenses, it cannot assess Energy expenses. Association of New Hampshire Utilities argue that the commission does not have the authority under this interpretation to classify utilities for purposes of allocating Energy expenses. We disagree.

The amended statute changes the wording of RSA 363:A-1, Ascertainment of Expenses. Revised Statutes Annotated 363:A-2 the "assessment" section states that expenses "thus ascertained" referring to RSA 363:A-1 will be "assessed against the public utilities described in the foregoing section in the manner herein provided." The manner provided in RSA 363-A:2 requires the commission to establish reasonable classifications of public utilities and determine the share of expenses attributable to each such class. Clearly there is no ambiguity. Since allowable Energy expenses are *ascertained* pursuant to RSA 363:A-1 they are then *assessed* pursuant to the provisions of RSA 363:A-2 which include (a) reasonable classifications of public utilities (b) the share of expense attributable to each class and (c) proportion among the utilities that comprise the class as the commission determines to be fair and equitable.

Association of New Hampshire Utilities interpretation ignores that RSA 363:A-2 specifically requires that assessment of the expenses ascertained in RSA 363:A-1. Furthermore, the word its appears only in the discussion of manner the commission must pursue. Finally, the word is referring to the expenses of the commission must pursue. Finally, the word it is expenses

associated with the Energy office since its a part of the expenses that the commission certifies to the state treasurer office.

Association of New Hampshire Utilities next contend that the statute is ambiguous because it fails to define upon what incident the levy is to be assessed. Association of New Hampshire Utilities note the statute does not specify that the levy is to be levied on the basis of utility gross revenues, which is the incident chosen by the commission, rather than on net utility income, net book value of utility assets, or some other criteria. This argument fails to recognize that RSA 363:A-2 has not been amended and that the assessment has never selected what levy the incident is to be levied upon. Rather, the standard has always been one of reasonableness and a requirement that the final determination be fair and equitable. There are standards with this statute: reasonable, fair, and equitable are now allowable just as there is with our rate-making statute, RSA 378:7, which requires rates to be just and reasonable. The fact that these standards are more general than specific does not change the fact that they are standards that allow for the flexibility in regulation that is necessary. It is unclear whether Utilities are challenging all previous assessments or not, but it is clear that there is a definable and reviewable standard that exists in RSA 363-A.

#### *D. Equal Protection*

Association of New Hampshire Utilities challenge the amended RSA 363-A as a violation of the equal protection rights of the objecting utilities. In enacting the amended statute, the Utilities state that the legislature "singled out the utility industry to fund 100 per cent of the expenses of the GCOE." Association of New Hampshire Utilities contend that the legislature has passed an enactment that is unreasonable and arbitrary because it seeks to impose on the regulated utilities costs which should be properly borne by other segments of society.

Schedule H of Utilities' petition, which is a portion of Chap 568 (the budget) demonstrates that there are two sources of funds for Energy. One source is through

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receipt of federal funds. The second source is the utility assessment tax. In fiscal year 1982, the two sources of funds are 81.71 per cent and 18.29 per cent, respectively. Such a breakdown does not substantiate Utilities' contention that 100 per cent of the expenses of Energy are being charged to utilities.

Furthermore, the contention of 100 per cent payment is refuted by our analysis and interpretation of the statute that precludes costs not directly related or incidental to regulation. Second, only allowable expenses from this first test can be passed on to the utilities. The costs must relate to the responsibilities given Energy or imposed upon Energy by the utilities or incidental to the regulatory process. As the commission noted earlier, no expenses associated with oil or propane dealers will be recognized as allowable.

The Utilities contention that certain industries like small hydro developers are not paying their full share is not the point. The state and the federal government have required the development of these sources of energy as part of the public good and has further required the power to be purchased by the utilities. Again the fact that the nuclear industry benefits from Seabrook or the hydro industry benefits from PURPA the assuring of adequate supply at

reasonable prices is a regulatory function.

#### *E. Other Constitutional Issues Raised*

Association of New Hampshire Utilities raise many issues within their brief that must be addressed by this commission in complying with the provisions of RSA 363:17-b. One of the central themes offered by Utilities is that RSA 363-A is a licensing statute and has been interpreted as such by the supreme court. Re opinion of the Justices (1958) 101 NH 549, 556, the commission agrees that this has been the interpretation by the court and wish only to indicate that the commission's findings are that the nature of regulation has been altered slightly from the days of 1950s and that the term regulation encompasses a wider assortment of activities at the present. We do not reach the question since it has not been presented whether the new amendments to RSA 363-A have changed the basis for the tax. Much has been offered as to if this is now a taxation power based statute or a franchise based statute but Energy has not focused on the changes to RSA 363-A that would alter the interpretation that it is a license fee pursuant to the police power.

Association of New Hampshire Utilities also contend that the Energy expenses are similar to the expenses of various water related agencies that they allege were not permitted to be recovered through boat registration fees in Re opinion of the Justices (1972) 112 NH 166. Yet a reading of that case reveals that the supreme court did not answer the question of would any constitutional provisions be violated by the distribution of license fees and fines collected on boats and motors to the various water related agencies. (112 NH 166, 168, 171.) In that case the court very wisely chose not to address the issue until greater information could be obtained as to relationship of the agencies involved to the licensing and regulation in question. The commission would note that it has attempted to discover this relationship between Energy and regulation at times in despite of the parties.

The commission notes that the language in this aforementioned decision clearly establishes that a license fee depends in large part on sound legislative discretion. The fee is to be measured principally by the necessary expenses of inspection, regulation, and supervision as may be necessary. *Hooksett Drive-in Theatre Inc. v Hookset* (1970) 110 NH

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287, 289, 266 A2d 124, 126, as cited in 112 NH at p. 170. It is proper to take into account all incidental expenses which are likely to be incurred in consequence of the activity regulated providing the resulting fee does not become unreasonable. *Laconia v Gordon* (1966) 107 NH 209, 211, 219 A2d 701, 703. As cited in 112 NH at p. 170. Since the commission has found that RSA 363:A is a license fee pursuant to the police power, the commission does not reach the questions of either franchise fees or the general taxation power limits.

#### *IV. Allowable Expenses*

##### *A. Generally*

The commission has already stated the various considerations that it will use in determining what is or is not allowable pursuant to RSA 363:A. However, it is important to remember the words of Commissioner McQuade in his private decision where he stated that the Utilities

presented no testimony to the contrary of that offered by the Energy office. The commission finds that the only testimony offered as to the activities of Energy was provided by Energy.

#### *B. Residential Conservation Service Program*

[9] Governor's Council on Energy has offered documentation to show that \$52,106 of its total budget is related to the utility RCS enforcement.<sup>39(82)</sup> Of this total \$1,042 is related to federal funds and the remainder, \$51,064 is sought to be recovered from the utility tax. The commission has found that the RCS program is direct regulation and there has been no evidence offered to the contrary. The RCS is required by the enactment of NECPA. Public Service Company is the only utility mandated to offer an RCS program and the Energy office has been designated as the lead agency in charge of enforcement. Consequently, the \$52,064 is a charge that should be levied against the electric utility class. Since only one member of that class imposes the costs, PSNH, that company will be assessed the entire cost.

Governor's Council on Energy is placed on notice that, if the congress rescinds NECPA or that portion of NECPA associated with the RCS program, only those expenses prior to such action will be recognized as allowable when we do our final audit in July of 1982. If the Energy office is removed as lead agency or does not perform the tasks associated with this program, a refund or a rebate on next year's assessment will occur for PSNH. If the other electric utilities pursue their initial work in RCS programs with Energy, they will experience adjustments in their assessments to reflect the costs they impose on Energy. As for future years, if Energy performs its RCS program responsibilities for a total \$52,106, it is clear that but for small adjustments in wage increases or rent, these expenses should be identical. The RCS program must exist and be enforced for Energy to receive these funds and PSNH to be obligated. Based on this record those representations have been made and we will accept them. If however, a final audit reveals a contrary situation an adjustment will be made.

#### *C. Alternative Energy Programs*

[10] The Energy expenses associated with Energy's hydroelectric and cogeneration programs are \$90,468 of which the federal funds pay for \$17,220 leaving the remainder of \$73,248 for assessment under the provisions of RSA 363:A. The generation from these power sources has been found to be in the public good by the legislatures at both a state and federal

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level. The commission finds that since the power must be sold to utilities and through the grid and that power from such resources assures adequate supplies at reasonable prices, that such programs are directly related to electric utilities. These expenses will be allocated to electric utilities as a class and to those among the class on the basis of gross utility revenues. If in the future allocations can be offered to reflect sites below and above five megawatts, the LEEPA cutoff, the commission will alter the allocation process among the electric utilities.

The programs of resource recovery (\$12,936), wind (2,744), solar (\$21,419), and wood (\$6,367) are all energy forms covered under LEEPA and PURPA and thus directly related to regulation. These \$43,466 expenses will be allowed to be passed through the utility assessment tax. However, since these expenses are allowed because of PURPA and LEEPA and are directly

related insofar as the development of electrical sources of power, the entire amount will be assigned to electric utilities as a class on a gross utility revenue basis. While some of these costs were initially allocated to the gas utilities, these expenses are not related to gas utility regulation nor are they incidental.

#### *D. Canadian Energy*

[11] The Energy program for Canadian energy affairs contains \$42,979 of which \$42,049 is sought through the utility assessment tax. Of this total \$6,307 is sought through assessment against the gas utilities and \$35,742. While the procurement of Canadian electrical energy or a Canadian natural gas pipeline is regulatory in scope in that there is both a supply relationship and a rate consideration, the electric utility expenses are disallowed. The commission has the designation of the agency for the procurement of electric energy from Canada.<sup>40(83)</sup> The statutes are silent as to procurement of natural gas from Canada. Where the record reveals that the Utilities sought the assistance of the Energy office in an international project, the commission finds that the expenses associated with the gas operations to be allowable.<sup>41(84)</sup>

#### *E. Education Outreach*

The Energy office offers \$17,310 as associated with its Education/Outreach program. While the commission generally understands that this program seeks to spread conservation ideas and programs to consumers, the commission is somewhat unclear as to how.

Association Exh 11 provides some guidance, in that this program is a clearinghouse function for energy conservation and renewable energy resources. As has been noted, conservation and renewable energy resources are to be encouraged pursuant to PURPA, as well as other recent statutes passed at both the state and federal levels. Furthermore, PURPA requires that greater information to consumers be sent so that more intelligent choices as to energy can and will be made. Finally, this commission has used these materials during public hearings to promote a greater public awareness of conservation.

Against this information is the surprising demonstration that this program is extremely labor intensive.<sup>42(85)</sup> Also of concern to the commission is that by recognition of these expenditures that the door is not opened to hundreds of publications that are routinely allocated to utilities because they represent a source of funds. No explanation was given as to

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travel expenses of \$1,500; nor why \$16,239 was included for administration and financial management when one-half of the assistant director/administration salary was already included.

Governor's Council on Energy presentation as to this aspect of its program is not of a sufficient nature to allow all of the expenses requested. The roles of the outreach coordinator or the public information officer were not explained and will be eliminated from determination of this year's cost level determinations. The commission finds that only the \$10,900 associated with the one-half assistant director/administration salary, the state contracts for publication (\$5,000) and 16 per cent benefits associated with the \$10,900 salary will be allowed (\$1,744). This total of \$17,644 multiplied by the utility allocation factor of 22 per cent results in a \$3,882 amount instead of the \$17,310 sought by Energy. Applying the same allocation process, \$2,315 of these

costs will be applied to electric utilities on a gross utility revenue basis with the remainder \$1,567 on the same basis to gas utilities.

#### F. *SHLP Program*

The Energy office has overseen the allocation of federal grant money pursuant to Title III of NECPA. This program is to encourage conservation, audit schools, hospitals, local government buildings, and public care facilities and then award grants to achieve the greater conservation measures found in the audit. This program channels in excess of \$1 million annually, which is exceeded by the energy savings recognized by these facilities, as well as all other gas and electric utility customers. As was recognized previously, lesser energy demand allows for a better generation or gas supply mix. Furthermore, these measures reduced the level that inefficient units or higher priced gas would have to be used.

The allocation of \$55,057 to the gas utilities and \$45,514 to the electric utilities is found reasonable and will be applied on a gross utility revenue basis.

#### G. *Commercial/Industrial, CONSERVAN, ESS*

There are three programs undertaken by Energy to audit existing buildings themselves. One of these programs is the energy extension service (ESS). This program results from the passage of the National Energy Extension Service Act (NEESA), which is designed to provide direct assistance and technical information to small energy users.

The objectives of the program are to provide direct one-on-one assistance that will assist in conserving energy and more efficient use of energy presently consumed and greater use of renewable energy resources.

A review of the documents submitted as Energy — Exh 2 convinces us that the functions are directly related to regulation and that they reach portions of the state generally not reached by other programs, whether performed by the state or private enterprise. The \$8,800 worth of expenses will be assessed to electric utilities on a gross utility revenue basis.

The remaining two programs, Commercial/Industrial and CONSERVAN, total \$47,771, of which the largest share (\$38,217) relates to the CONSERVAN program.

In Energy's presentation, often these two programs were discussed together and very little of this discussion sought to describe the Commercial/Industrial program outside the CONSERVAN. Accordingly, the \$9,554 is denied based on an absence of justification.

The CONSERVAN program, as shown in this record, is a sophisticated energy auditing program that would appear to

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offer considerable conservation benefits. Businesses visited will have immediate conservation assistance or guidance. The program has been allocated so that only those businesses (40 per cent) visited with electric or gas as sources of energy are reflected. The commission again finds that the conservation achieved through this type of program is justified on the regulatory purposes of adequate and reliable supply together with rates based on a more just and reasonable level. The \$5,733 associated with gas utilities and the \$32,484 associated

with electric utilities are found as allowable on a gross utility revenue basis.

#### *H. Policy Evaluation*

Governor's Council on Energy has requested \$55,085 for policy evaluation. Such expenses are argued to relate to electric utility related matters, such as sources of future supply, conservation policy, and federally mandated lighting standards. The gas utility issue consists primarily of proposed analysis of continuing federal decontrol of natural gas.

Presentations were also made that these policy evaluations can be of the long-term nature or of a short-term nature when decisions must be made immediately and then acted upon. The last winter gas emergency involving shortages of propane according to Gas Service inventory sheets is an example of the latter.<sup>43(86)</sup>

The Energy office also has regulatory duties pursuant to RSA:155-d. These duties result in reviewing and approving plans and specifications of general contractors or owner-builders for compliance with the Code for Energy Conservation in New Building Construction. Such enforcement power does encourage both greater conservation and reduces the costs generally to utilities serving new buildings. Uniformity of design, meter requirements, extension connections, etc., do minimize the cost to utilities.

The commission recognizes that the existence of the Energy office resulted in immediate benefit to Gas Service and its customers by being able to achieve for them supply that they were unable to achieve on their own. The ability of the Energy director and his staff to be in place to achieve the proper results is certainly a cost that is directly related to regulation and a cost that at least Gas Service and at other times other utilities have imposed on the Energy office. The salary and benefits for the director is approximately one-half of that requested under this program. Since Gas Service needed an in-place agency when it experienced problems as to supply, it is clear that one-half of the \$55,085, or \$27,543, is allowable simply on this basis and to this utility. The sales of the propane, the fines for failing to comply with the commission supply rules, as well as potential lawsuits over consumer economic damage, all exceed this figure.

The remaining expenses are offered in such vague policy terms that it is impossible based on this record to have found them to be incidental to regulation and reasonable in scope. The connection to regulation in theory exists; the practical connection between these remaining expenses and regulation have not been firmly established on the record.

#### *V. Motions for Admission of Exhibits*

All exhibits marked for identification will have their markings for identification stricken and will be admitted as full exhibits. All motions to the contrary are denied.

#### *VI. Certification to the Court*

If either party informs this commission via a letter within a week that it still wishes the two questions certified to the

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supreme court stated in Stipulation No. 2, the commission will honor that request with the alteration that it has already ruled. The commission will not entertain any further evidence or

exhibits or motions in this docket since we interpret the original petition to be an equivalent of a motion for rehearing.

#### VII. *Commissioner McQuade's Decision*

Based on the foregoing analysis, Commissioner McQuade agrees with this decision and withdraws his earlier decision in an attempt to provide the supreme court a decision based on an agreed upon analysis and on identical words from both commissioners.

#### VIII. *Assessments*

Originally, Energy received assessed expenses of \$304,404. The commission finds that \$303,098 of those expenses are allowable. The commission's verdict is arrived at using the full total of "utility related" expenses the Energy office submitted on Energy Exh 13 of \$389,364. Thus, we have denied \$86,266 of those expenses. Further, the commission finds that absent new legislation creating new regulatory functions for Energy, the level of allowable expenses cannot come close, much less reach the total alleged for fiscal year 1983.

The original allocations between industries is rejected, and the following is accepted as allowable: for electric utilities, \$256,891 and for gas utilities, \$46,207.

The Energy allocation for each individual utility is as follows:

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

	<i>Original</i>	<i>Revised</i>
Brown New Hampshire	\$ 4,594	\$ 3,882
Concord Electric	9,119	7,708
CONVAL	3,464	2,929
Exeter and Hampton	10,164	8,591
Granite State Electric	12,193	10,306
Northeast Power	26,425	22,357
New Hampshire Electric	11,069	9,355
Public Service Company of New Hampshire	166,469	217,533
Total - Electric	\$243,523	\$256,891
Claremont	\$ 472	\$ 145
Concord Gas	6,017	1,845
Gas Service	21,609	34,168
Granite	8,393	2,573
Keene	928	284
Manchester	11,126	3,411
Northern	12,240	3,752
Petro-South	395	329
	<hr/>	<hr/>
Total - Gas	\$ 60,881	\$ 46,207

The objecting utilities are hereby ordered to render payment for the expenses set forth as allowable for the Energy office as shown in the above column entitled "Revised" within one week of this order. The amount owing is for two quarters or one-half of the amount shown in the "Revised" column. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report by Chairman Love, which is made a part hereof; it is hereby

Ordered, that within one week of the date of this order that the objecting utilities pay to the state treasurer the first two quarterly installments of the expenses associated with the Energy

office as shown on the revised column above; and it is

Further ordered, that any party that seeks certification of the two questions set forth in the Stipulation No. 2 must notify the commission within one week of the date of this order at which time the commission will certify the two questions to the court having ruled on all matters before it; and it is

Further ordered, that this case is closed and the parties are hereby notified.

By order of the Public Utilities Commission of New Hampshire this fourth day of December, 1981.

#### FOOTNOTES

<sup>1</sup>Utilities Association Exh 7.

<sup>2</sup>Utilities Association Exh 3.

<sup>3</sup>This case has revealed some discriminatory assessing of commission expenses. One major gas utility has been historically allowed dispensation from these costs without explanation or justification. Other utilities have been excluded or ignored, which neither the statutory definition of utilities nor any other statute sanctions.

<sup>4</sup>Transcript, pp. 2-217, 2-218.

<sup>5</sup>It could concernably take three trips, since each individual utility might challenge after the industrywide split was challenged (80 per cent to 20 per cent). The commission has rejected the same methods from the consumer side. Are any of the litigants unfamiliar with the actively used three-step approach? (a) We don't need the power, so do not build the plant; (b) all coal/hydro/nuclear plants are environmentally unsafe and shouldn't be built; (c) even though some are safe, the plans for this particular coal/hydro/nuclear plant are environmentally unsafe and that it should not be built. These campaigns confront us every day. If withholding becomes fashionable, regulation may well lose its last ounce of strength.

<sup>6</sup>Transcript, pp. 28-32 — September 24, 1981.

<sup>7</sup>Transcript, pp. 2-217-222 — October 5, 1981. Absence of meaningful discussion involving 80 per cent to 20 per cent split in brief submitted by Utilities.

<sup>8</sup>Transcript, pp. 1-23 — September 24, 1981.

<sup>9</sup>Re Residential Conservation Service Program For Noncovered Utilities ([1981] 66 NH PUC 29).

<sup>10</sup>Volume 44 *Federal Register* No. 217, § 456.303 (a) p. 64667 Nov. 7, 1979.

<sup>11</sup>Volume 44 *Federal Register* No. 217, § 456.202 (a)1 p. 64665 Nov. 7, 1979.

<sup>12</sup>Volume 44 *Federal Register* No. 217, § 456.301-319 p. 64666-64667 Nov. 7, 1979.

<sup>13</sup>Volume 44 *Federal Register* No. 217, § 456.315 (a) p. 64675 Nov. 7, 1979.

<sup>14</sup>Energy Exh 11.

<sup>15</sup>These records are part of DE 80-232 (66 NH PUC 29) and contain much of the information we have received concerning the RCS program. In particular are the DOE face sheets that were received by the commission and its staff.

<sup>16</sup>Pleading DE 80-232 dated October 31, 1980.

<sup>17</sup>The commission rejected the petition which sought to have these expenses recognized as reasonable operating expenses, the commission asked that these utilities resubmit a plan to first focus on just heating and other high use customers. It was our thought that these would give the greatest results in the shortest period of time. Public Service Company of New Hampshire RCS expenses are 100 per cent recognized. The commission clearly established its intent to recognize the others' expenses when a more limited plan was filed.

<sup>18</sup>National Energy Conservation Policy Act, § 102 — 1978.

<sup>19</sup>Re New England Power Co. (1980) 65 NH PUC 442, 446.

<sup>20</sup>Re New England Power Co. (1980) 65 NH PUC 442, 446.

<sup>21</sup>Re Small Energy Producers and Cogenerators (1980) 65 NH PUC 415, 416.

<sup>22</sup>Re Conversion of Schiller Station (1980) 65 NH PUC 127; Re Small Energy Producers and Cogenerators (1980) 65 NH PUC 291.

<sup>23</sup>Re New Hampshire Electric Co-op., Inc. (1980) 65 NH PUC 16; Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209; Re Public Service Co. of New Hampshire (1979) 64 NH PUC 467, 476.

<sup>24</sup>Public Service Company of New Hampshire response to commission data request, DR 81-87 ([1981] 66 NH PUC 122).

<sup>25</sup>Section III, Chap 535.

<sup>26</sup>Section III(b), Chap 535.

<sup>27</sup>Section III(a)(2), Chap 535.

<sup>28</sup>Public Utilities Regulatory Policy Act, Title II, § 201 (17)(A)(i).

<sup>29</sup>Revised Statutes Annotated 362-A:1, 2.

<sup>30</sup>*Energy Future*, Chap 6 Conservation: The Energy Source, p. 136 (1979).

<sup>31</sup>Public Utilities Regulatory Policy Act of 1978, § 2, Findings.

<sup>32</sup>Section V(b), Chap 535.

<sup>33</sup>Section II(a)(4), Chap 535.

<sup>34</sup>Section II(a)(5), Chap 535.

<sup>35</sup>Section, II(b)(12), Chap 535.

<sup>36</sup>Section II(b)(2), Chap 535.

<sup>37</sup>Section II(c)(1), Chap 535.

<sup>38</sup>Governor's Council on Energy, Exh 13, p. 2.

<sup>39</sup>Governor's Council on Energy, Exh 13, p.2.

<sup>40</sup>Revised Statutes Annotated 363:18-a.

<sup>41</sup>Transcript, pp. 2-110 — October 5, 1981.

<sup>42</sup>Association of Utilities, Exh 11.

<sup>43</sup>Governor's Council on Energy, Exh 7.

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NH.PUC\*12/06/81\*[79134]\*66 NH PUC 565\*Public Service Company of New Hampshire

[Go to End of 79134]

## Re Public Service Company of New Hampshire

Intervenors: Conservation Law Foundation of New England, Inc.

DE 81-312, Order No. 15,368

66 NH PUC 565

New Hampshire Public Utilities Commission

December 6, 1981

MOTION for delineation of staff's function; denied.

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APPEARANCES: Martin L. Gross for Public Service Company of New Hampshire, Douglas I. Foy, executive director, for the Conservation Law Foundation of New England, Inc.

BY THE COMMISSION:

Report

Public Service Company of New Hampshire moves according to RSA 363:27 II for an order defining and delineating the functions to be performed by the commission staff as to investigatory or advisory.

The provisions cited by Public Service Company refer to a statute repealed by the legislature on July 1, 1981. Since the motion rests upon a nonexisting statutory requirement it cannot and will not be granted. The motion is denied.

Order

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

Ordered, that the motion to delineate staff functions in this docket is denied.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of December, 1981.

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NH.PUC\*12/07/81\*[79122]\*66 NH PUC 553\*Public Service Company of New Hampshire

[Go to End of 79122]

## Re Public Service Company of New Hampshire

DF 81-352, Order No. 15,352

66 NH PUC 553

New Hampshire Public Utilities Commission

December 7, 1981

PETITION for authority to extend the maturity of; and increase the amount of certain term notes outstanding; granted in part.

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SECURITY ISSUES, § 49 — Purposes of capitalization — Financial conditions — Refinancing.

[N.H.] The commission granted authority for a utility to both extend the maturity of and increase the amount of certain Eurodollar term notes as being consistent with the public good where the proceeds of the financing were to be used (1) to pay off short-term notes outstanding, the proceeds of which had been expended to finance capital costs associated with the purchase and construction of property required for use in the conduct of the utility's business, and to fund the capitalization of the utility's three overseas finance subsidiaries; (2) to finance capital costs associated with the purchase and construction of such property; and (3) for other proper corporate purposes.

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APPEARANCES: Frederick J. Coolbroth, for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed November 13, 1981, 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 extend the maturity of certain Eurodollar term notes from August 25, 1982, to November 30, 1984, and to increase the amount of such Eurodollar term notes to be outstanding from \$28 million to 55 million. The company is also seeking authority to further extend the maturity of certain term notes originally issued on December 28, 1977, and to increase the amount of such term notes to be outstanding and to issue a new term note to Barclay's Bank International Limited, or an affiliate thereof ("Barclay's"). Due to the fact that final terms have not yet been arranged with the term loan banks and Barclay's, the commission has granted the company's request that consideration of the term notes and the new term note be deferred, and, accordingly, the authority granted herein

concerns only the eurodollar term notes.

A duly noticed hearing was held in Concord on December 4, 1981, at which the company submitted the testimony of Charles E. Bayless, its financial vice president.

Mr. Bayless stated that the company has issued, and presently has outstanding, Eurodollar term notes aggregating \$28 million, the amounts of the Eurodollar term notes and the names of the lenders being as follow:

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

Kredietbank N.V.	\$ 6,000,000
Banca Commerciale Italiana	5,000,000
Banco de Bilbao	5,000,000
Orion Royal Bank Limited	5,000,000
Pkb Investments Limited	5,000,000
The Euram Corporation	2,000,000
	<hr/>
	28,000,000

The company proposes to increase the amount of Eurodollar term notes to be outstanding to \$55 million. The names of the lenders and the amounts to be outstanding under this amended Eurodollar term loan will be as follows:

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

Kredietbank, N.V.	\$ 6,000,000
Algemene Bank Nederland N.V.	5,000,000
Banca Commerciale Italiana	5,000,000
Banco de Bilbao	5,000,000
Bayerische Landesbank Girozentrale, Cayman Islands Branch	5,000,000
Orion Royal Bank Limited	5,000,000
Pkb Investments Limited	5,000,000
The Sanwa Bank, Limited	5,000,000
Svenska Handelsbanken S.A.	5,000,000
The Euram Corporation	3,000,000
Bank Bumiputra Malaysia Berhad, New York Branch	2,000,000
Bank of Scotland	2,000,000
Privatbanken A/S, Grand Cayman Branch	2,000,000
	<hr/>
Total	\$55,000,000

All Eurodollar term notes will mature on November 30, 1984, with the exception of the Eurodollar term note issued to Banco de Bilbao, which will continue to mature on August 25, 1982. The interest rate for the loan will be the arithmetic mean of the rates of interest at which Eurodollar certificates of deposit are offered to Algemene Bank Nederland N.V., Banca Commerciale Italiana, and Orion Royal Bank Limited (rounded up to the nearest one-sixteenth of one per cent) plus 0.75 per cent, and the interest rate will fluctuate at the end of three-month or six-month interest periods at the option of the company.

Mr. Bayless testified that the proceeds from the increase in the amount of Eurodollar term notes will be used (a) to pay off short-term notes outstanding at the time of issuance, the proceeds of which will have been expended to finance capital costs associated with the purchase

and construction of property reasonably requisite for present and future use in the conduct of the company's business, and in funding the capitalization of the company's three overseas finance subsidiaries; (b) to finance capital costs associated with the purchase and construction of such property; and (c) for other proper corporate purposes.

The company submitted a balance sheet as at September 30, 1981, actual and pro formed to reflect the proposed increase in amount of term notes from \$25 million to \$50 million the proposed increase in amount of Eurodollar term notes from \$28 million to \$55 million, the proposed issuance of \$20 million term note to Barclay's, and the proposed sale of \$50 million of general and refunding mortgage bonds. Exhibits were also submitted showing: disposition of proceeds; estimated expenses; and capital structure as at 1981, actual and pro formed to reflect the proposed increase in amount of term notes from \$25 million to \$50 million the proposed increase in amount of Eurodollar term notes from \$28 million to \$55 million the proposed issuance of \$20 million term note to Barclay's, and the proposed sale of \$50 million general and refunding mortgage bonds.

Based upon all of the evidence, the commission finds that the proceeds from the proposed Eurodollar financing will be expended (a) to pay off short-term notes outstanding at the time of issuance, the proceeds of which will have been

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expended to finance capital costs associated with the purchase and construction of property reasonably requisite for present and future use in the conduct of the company's business, and in funding the capitalization of the company's three overseas finance subsidiaries; (b) to finance capital costs associated with the purchase and construction of such property; and (c) for other proper corporate purposes, and further finds that the increase in the amount of Eurodollar term notes to be outstanding from \$28 million to \$55 million and the extension of the maturities thereof as hereinbefore 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 increase the aggregate principal amount of Eurodollar term notes to be outstanding from \$28 million to \$55 million such Eurodollar term Note to mature on November 30, 1984, with the exception of the Eurodollar term note issued to Banco de Bilbao, which shall continue to mature on August 25, 1982, and it is

Further ordered, that the proceeds from the increase in the aggregate principal amount of Eurodollar term notes to be outstanding 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, but not for construction of out-of-state power facilities, and it is

Further ordered, that Public Service Company of New Hampshire shall file with this commission a detailed statement showing the expenses incurred in accomplishing this financing; 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 the increase in the aggregate principal amount of Eurodollar term notes being authorized 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 seventh day of December, 1981.

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NH.PUC\*12/07/81\*[79123]\*66 NH PUC 555\*Manchester Gas Company

[Go to End of 79123]

### **Re Manchester Gas Company**

DR 81-234, Supplemental Order No. 15,353

66 NH PUC 555

New Hampshire Public Utilities Commission

December 7, 1981

ORDER rejecting gas company's tariff unless testimony and exhibits were filed by a certain date.

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BY THE COMMISSION:

Supplemental order

Whereas, on August 28, 1981, Manchester Gas Company filed with this commission 12th Revised Page 12 and 11th Revised Page 13 to its tariff, NHPUC No. 12 — Gas; and

Whereas, said pages were designed to increase the revenues of the company in

**Page 555**

the amount of \$1,839,915 (16.77 per cent), and were proposed for effect with billings issued on and after September 27, 1981; and

Whereas, said filing was suspended by commission Order No. 15,105 (66 NHPUC 367), as were additional tariff pages in the form of tariff) NHPUC No. 13 which was directed by that order; and

Whereas, provisions of RSA 378:6 clearly authorize such suspension to allow time for commission investigation and decision; and

Whereas, no evidence supporting the request for nearly \$2 million has been provided by Manchester Gas Company as of the date of this order, over three months from the original filing; and

Whereas, RSA 378:6 provides that if commission action is incomplete after six months, the

company may place its filed rates in effect under bond; and

Whereas, Manchester Gas Company, under RSA 368:6, may place such bonded rates in effect on March 27, 1982, allowing less than four months for this commission's investigation and decision; it is hereby

Ordered, that Manchester Gas Company tariff, NHPUC No. 13 — Gas, be, and hereby is, rejected; unless, the company files its testimony and exhibits relative to this matter no later than December 15, 1981.

By order of the Public Utilities Commission of New Hampshire this seventh day of December, 1981.

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NH.PUC\*12/07/81\*[79124]\*66 NH PUC 556\*Granite State Electric Company

[Go to End of 79124]

## Re Granite State Electric Company

DR 81-361, Order No. 15,355

66 NH PUC 556

New Hampshire Public Utilities Commission

December 7, 1981

ORDER suspending tariff effective date pending 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, 1981, filed with this commission Original Page 16-J of its tariff, NHPUC No. 8 — Electricity, providing for an increase in its basic rates designated as purchased power cost adjustment No. W-4(A), effective January 1, 1982; and

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

Ordered, that Original Page 16-J of tariff, NHPUC No. 8 — Electricity, of Granite State Electric Company be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of December, 1981.

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NH.PUC\*12/08/81\*[79125]\*66 NH PUC 557\*Michael M. Mills, Jr. v New England Telephone and Telegraph Company

[Go to End of 79125]

**Michael M. Mills, Jr. v New England Telephone and Telegraph Company**

DC 81-291, Order No. 15,342

66 NH PUC 557

New Hampshire Public Utilities Commission

December 8, 1981

ORDER allowing telephone company to increase amount of security deposit on a commercial customer.

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BY THE COMMISSION:

Order

Whereas, Michael M. Mills, Jr., petitioned this commission for a public hearing which was held on October 28, 1981; and

Whereas, information was submitted by the New England Telephone and Telegraph Company showing that the customer had left an outstanding balance owing from a commercial enterprise in which he was one of the principal owners; and

Whereas, Mr. Mills is a principal in another commercial venture that is partaking of telephonic service from the New England Telephone and Telegraph Company; and

Whereas, Mr. Mills was the individual who had requested and secured the services in both instances; and

Whereas, the customer did not furnish this commission copies of the telephone bills in question in a timely manner, as promised at the hearing; it is

Ordered, that the New England Telephone and Telegraph Company be allowed to increase the amount of the security deposit currently held on Real Estate Plus, Inc.; and it is

Further ordered, that if said customer does not pay the additional deposit required, ten days from the date of this order, that the company may invoke the full provisions of their current tariff as they may apply.

By order of the Public Utilities Commission this eighth day of December, 1981.

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NH.PUC\*12/08/81\*[79126]\*66 NH PUC 558\*New Hampshire Electric Cooperative, Inc.

[Go to End of 79126]

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

DR 81-340, Order No. 15,356

66 NH PUC 558

New Hampshire Public Utilities Commission

December 8, 1981

ORDER suspending tariff effective date pending 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 November 9, 1981, filed with this commission its tariff, NHPUC No. 11 — Electricity, providing for increased annual revenues of \$2,762,326 (9.8 per cent), effective December 9, 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 tariff, NHPUC No. 11 — Electricity, of New Hampshire Electric Cooperative, Inc., be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighth day of December, 1981.

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NH.PUC\*12/10/81\*[79127]\*66 NH PUC 558\*Association of New Hampshire Utilities

[Go to End of 79127]

**Re Association of New Hampshire Utilities**

DF 81-258, Supplemental Order No. 15,359

66 NH PUC 558

New Hampshire Public Utilities Commission

December 10, 1981

ORDER granting request for extension of time for tax payment.

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BY THE COMMISSION:

Supplemental Order

Whereas, the utilities have requested an extension of time to pay the utility assessment tax due from seven days as set forth in our Order No. 15,354 ([1981] 66 NH PUC 531) to fourteen

days; and

Whereas, the commission has considered the request and is satisfied that additional time is needed to arrange for payments by all of the utilities; it is

Ordered, that the request for an extension of time is granted; and it is

**Page 558**

Further ordered, that all assessments due shall be paid on or before December 16, 1981.

By order of the Public Utilities Commission of New Hampshire this tenth day of December, 1981.

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NH.PUC\*12/10/81\*[79128]\*66 NH PUC 559\*Violation of Statutory Reporting Requirements

[Go to End of 79128]

### **Re Violation of Statutory Reporting Requirements**

DS 81-277, Supplemental Order No. 15,360

66 NH PUC 559

New Hampshire Public Utilities Commission

December 10, 1981

HEARING pursuant to order which imposed fines on five public utility companies for violation of statutory reporting requirements; order in accordance with opinion.

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**FINES AND PENALTIES, § 5 — Grounds for imposing fine — Failure to file reports.**

[N.H.] Fines were imposed upon certain public utility companies which failed to file reports with the commission pursuant to statutory requirements in the absence of mitigating circumstances.

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APPEARANCES: Charles Toll, Jr., for Concord Natural Gas Company; Dom D'Ambruoso for Claremont Gas and Light Company; Margaret Nelson for Northern Utilities, Inc.

BY THE COMMISSION:

Report

On October 8, 1981, the commission held a hearing pursuant to its Order No. 15,138 (66 NH PUC 378), which imposed fines on five utilities. The hearing was provided so as to allow the various utilities to present any evidence that might mitigate or excuse the fines. Each utility will be discussed separately.

*Canadian National Railway Company*

The Canadian National Railway Company received a fine of \$100 for its failure to file its annual report. The commission noted that if the annual report was not filed within the week, the fine would continue to double each and every week thereafter. Canadian National Railway Company did file its annual report within a week of the date of the order, and the commission will require a fine of \$100 to be payable on or before December 23, 1981.

*Tilton-Northfield Aqueduct Company*

There appears to be a question as to whether or not Tilton-Northfield's delinquency in filing quarterly reports was pursuant to a directive from one or more staff members. Since the staff members in question are unclear as to the direction given this utility, there is sufficient doubt so as not to levy a fine.

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*Claremont Gas and Light Company*

Claremont Gas and Light Company was originally fined \$100 for the failure to file its monthly reports for June, and July, 1981. This is the second fine that has been levied upon Claremont Gas and Light Company, and the commission places Claremont on notice that all other fines will be at the statutory rate of \$100 per day for any report that is not timely filed. There will be no exceptions made or abatements given. Claremont is thereby ordered to pay a fine of \$100.

*Northern Utilities, Inc.*

Northern Utilities was originally fined \$1,200 for failing to file certain reports relating to 1980 and other reports relating to January, through August, 1981. During the hearing, Northern Utilities gave evidence that it had indeed filed some of the reports alleged to have been missing and further that those that were still missing had been filed shortly after the issuance of Order No. 15,138. The missing reports related to a time period when due to illness the company was operating without its key person as to reports. Based on this consideration, the commission will reduce the fine levied to \$100.

*Concord Natural Gas*

The largest fine levied in Order No. 15,138 was assessed against Concord Natural Gas in the amount of \$5,000. Concord Natural Gas, prior to this order, had had another two-year situation, in which its reporting requirements were less than satisfactory. The commission does not accept the argument offered by Concord that it must personally notify Concord when commission rules explicitly state that reports are to be filed on a regular basis. The commission rules are specific as to the months, quarters and years in which the reports must be filed. As a utility operating in this jurisdiction, Concord Natural Gas and all other utilities are assumed to be aware of the commission rules and regulations. Concord admits that it indeed did violate commission rules and regulations by failing to file these reports. Concord does acknowledge that many of these reports were over a year late. Consequently, it is clear that the most severe fine must be levied upon Concord Natural Gas.

Yet, the commission must acknowledge that Concord has experienced unique problems in the past two years as a result of the present street construction projects in the city of Concord. The city-related projects have taxed the resources of Concord Natural Gas beyond the normal call to duty for a gas utility. Furthermore, Concord Natural Gas immediately filed all of its outstanding reports and testified that it would never allow this situation to arise again. We believe such circumstances are meritorious enough to reduce the fine to \$500, and the commission so orders.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Canadian National Railway company pay a fine of \$100; and it is

Further ordered, that Claremont Gas and Light Company pay a fine of \$100; and it is

Further ordered, that Northern Utilities, Inc., pay a fine of \$100; and it is

Further ordered, that Concord Natural Gas pay a fine of \$500; and it is

Further ordered, that all fines be paid to the state of New Hampshire prior to December 23, 1981.

By order of the Public Utilities Commission of New Hampshire this tenth day of December, 1981.

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NH.PUC\*12/11/81\*[79129]\*66 NH PUC 561\*Association of New Hampshire Utilities

[Go to End of 79129]

**Re Association of New Hampshire Utilities**

DF 81-258, Second Supplemental Order No. 15,361

66 NH PUC 561

New Hampshire Public Utilities Commission

December 11, 1981

ORDER certifying questions to the state supreme court.

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BY THE COMMISSION:

Supplemental Order

Whereas, the two parties have convinced the commission that time is of the essence in resolving the questions raised in this docket; and

Whereas, the commission has attempted to develop the proper factual record so as to allow the supreme court the greatest amount of information to decide the issues in this case; and

Whereas, the commission has issued its report and Order No. 15,354 on December 4, 1981 (66 NH PUC 531), and thus has ruled on the pending matters; and

Whereas, the commission has been allowed the discretion to certify a question at any time during the course of a proceeding; it is hereby

Ordered, that two questions be certified to the supreme court; and it is

Further ordered, that the first question be: "Is the amendment to RSA 363-A, as inserted by § 118 of Chap 568, General Laws 1981, constitutional?" and it is

Further ordered, that the second question be: "If the 1981 amendment to RSA 363-A is constitutional, has the New Hampshire Public Utilities Commission constitutionally implemented it?"

By order of the Public Utilities Commission of New Hampshire this eleventh day of December, 1981.

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NH.PUC\*12/11/81\*[79130]\*66 NH PUC 561\*Hampton Water Works Company

[Go to End of 79130]

## **Re Hampton Water Works Company**

DR 81-283, Order No. 15,363

66 NH PUC 561

New Hampshire Public Utilities Commission

December 11, 1981

PETITION for temporary rates; granted.

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RATES, § 85 — Jurisdiction of state commissions — Temporary rates — Basis for allowing.

[N.H.] Where a water company had not been able to achieve the rate of return allowed in an earlier rate case because of a major capital improvement program and had experienced a decline in its return on equity to well below that previously allowed by the commission, the commission found that it was appropriate to fix temporary rates.

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**Page 561**

APPEARANCES: Ransmeier and Spellman, Michael Lenehan, and Dom S. D'Ambruoso for Hampton Water Works Company.

BY THE COMMISSION:

## Report

These proceedings were initiated on September 30, 1981, when Hampton Water Works Company (hereafter called the "company") a public utility under jurisdiction of this commission, filed revisions to its tariff, NHPUC No. 7 seeking to increase its rates, effective October 30, 1981, to produce an increase in its annual gross revenues by \$309,166.00.

Pursuant to RSA 378:6 our Order No. 15,184 issued on October 13, 1981 (66 NH PUC 410), suspending the effective date of the filed tariff pending investigation and decision thereon.

On October 22, 1981, the company filed a petition for temporary rates pursuant to RSA 378:27 requesting the company's existing rates be temporary rates.

On November 3, 1981, the commission issued an order of notice setting a public hearing to determine temporary rates to be held on December 3, 1981. The order of notice was duly published and the public hearing was held as scheduled.

The company presented the testimony of witnesses James L. Rodgers, Jr., and James E. Salser and filed exhibits that the company has not been able to achieve the rate of return that the commission allowed in Docket No. 79-51 because of a major capital improvement program being undertaken by the company. The company has also seen a decline since January, 1981, on its return on equity and is well below that allowed by Order No. 14,750 ([1981] 66 NH PUC 62), Exh TRI shows that the return on common equity as of June 30, 1981, was 8.52 per cent and on September 30, 1981, declined to 6.67 per cent.

Upon consideration of the testimony, exhibits, and cross examination it is appropriate to fix temporary rates.

The commission finds that it is in the public interest that the company's exhibiting rate be fixed as temporary rates pursuant to 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 pursuant to 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.

## Order

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

Ordered, that the current rates and charges as set forth in tariff, NHPUC No. 7 are fixed as temporary rates effective with all service rendered on and after the date of this order; and it is

Further ordered, that Hampton Water Works Company give public notice of this action by publishing a copy of this order in newspapers having general circulation in the territory served by said company; and it is

Further ordered, that the company furnish to this commission a bond to secure repayment to customers of the company of the difference between the amounts collected under such temporary rates and the rates which the commission shall fix as permanent rates.

By order of the Public Utilities Commission of New Hampshire this eleventh day of

December, 1981.

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NH.PUC\*12/14/81\*[79131]\*66 NH PUC 563\*Public Service Company of New Hampshire

[Go to End of 79131]

### Re Public Service Company of New Hampshire

DR 79-187, 55th Supplemental Order No. 15,364

66 NH PUC 563

New Hampshire Public Utilities Commission

December 14, 1981

ORDER modifying previous order.

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BY THE COMMISSION:

Supplemental Order

Disposition of PSNH Motion to Modify Supplemental Order No. 15,100

Public Service Company of New Hampshire having filed a motion to modify the commission's 54th Supplemental Order No. 15,100 ([1981] 66 NH PUC 357), and there having been no objection interposed, upon due consideration, the motion is hereby granted. Accordingly, our 54th Supplemental Order No. 15,100 is modified as follows:

(a) Public Service Company of New Hampshire's rate base shall be increased by an additional \$1,233,346 to reflect one-half of the net amount of lockup on working capital until the net amount of the lockup has been recovered; and

(b) The portion of the order requiring PSNH to file new tariff pages reflecting a reduction of annual revenues in the sum of \$149,996 is hereby deleted, since that amount is more than offset by the additional revenue requirement resulting from the adjustment to the working capital element of rate base; and

(c) The portion of the order requiring that PSNH issue a one-time public notice pursuant to the tariff filing.

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NH.PUC\*12/15/81\*[79132]\*66 NH PUC 563\*Information to Consumers

[Go to End of 79132]

### Re Information to Consumers

DE 80-174, Second Supplemental Order No. 15,365

66 NH PUC 563

New Hampshire Public Utilities Commission

December 15, 1981

ORDER amending rule regarding information to consumers.

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BY THE COMMISSION:

Supplemental Order

Whereas, on August 20, 1980, this commission, by its Order No. 14,441 (65 NH PUC 389), directed all utility bills or bill inserts after October 1, 1980, to display the following:

"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

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of the public utilities commission by calling the following toll-free number: 1-800-852-3793.;" and

Whereas, on September 30, 1980, provided supplemental instructions, in its Supplemental Order No. 14,511 (65 NH PUC 471), to allow all public utility companies to inform their customers of that telephone number and language in a form convenient to the normal billing procedure; and

Whereas, the period of time which has elapsed since the issuance of that order has given the commission an opportunity to review the adequacy and necessity of its order; and

Whereas, upon investigation the commission now finds that the continued publishing of the toll-free number on every monthly bill may be creating misunderstanding on the part of the customers, some of whom believe the number to be that of the utility company itself; and

Whereas, the commission finds that the public need will continue to be served by requiring that all utility companies publish the commission's toll-free number on all disconnect notices; it is

Ordered, that the provisions of our Order No. 14,441 and Supplemental Order No. 14,511 are hereby withdrawn; and it is hereby

Ordered, that all public utility companies shall inform their customers of the commission's toll-free number (1-800-852-3793) by including it on all customer disconnect notices.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of December, 1981.

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NH.PUC\*12/15/81\*[79133]\*66 NH PUC 564\*Mountain Springs Water Company

[Go to End of 79133]

## Re Mountain Springs Water Company

D-E6481, 11th Supplemental Order No. 15,367

66 NH PUC 564

New Hampshire Public Utilities Commission

December 15, 1981

ORDER denying intervenors' petition requesting withdrawal of authority for water company to operate as a public utility.

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BY THE COMMISSION:

Supplemental Order

Whereas, Mountain Lakes Village District and Mountain Lakes Community Association, Inc., intervenors in docket D-E6481, Mountain Springs Water Company, Inc., have filed a petition requesting that the commission withdraw the authority to operate as a public utility granted to Mountain Springs Water Company by Order No. 12,430 ([1976] 61 NH PUC 254); and

Whereas, the commission has considered this matter including the water company's response to the recent service problem that originated on November 14, 1981; and

Whereas, the commission is convinced that some confusion existed as to the handling of service problems after the issuance of the report and Order No. 15,287 in docket DE 6481 ([1981] 66 NH PUC 487), with the result that the water company did not respond as quickly as it should; and

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Whereas, a further Supplemental Order No. 15335 ([1981] 66 NH PUC 525), was issued to remove that confusion; and

Whereas, it is now the opinion of the commission that reasonable efforts were and have been made since that time, to correct the referred to service problem; and

Whereas, it is also the opinion of the commission that insufficient evidence or reason exists at this time to pursue the issue of Mountain Springs Water Company's right or ability to operate as a public utility; it is

Ordered, that the petition requesting the withdrawal of the authority to operate as a public utility in limited areas of Bath and Haverhill, from the Mountain Springs Water Company, is denied.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of December, 1981.

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NH.PUC\*12/16/81\*[79135]\*66 NH PUC 566\*Pittsfield Aqueduct Company

[Go to End of 79135]

## **Re Pittsfield Aqueduct Company**

DR 80-125, Eighth Supplemental Order No. 15,369

66 NH PUC 566

New Hampshire Public Utilities Commission

December 16, 1981

MOTION for disclosure; denied.

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### BY THE COMMISSION:

On December 9, 1981, Pittsfield Aqueduct Company (Pittsfield Aqueduct) filed a motion for disclosure. Upon consideration of the contentions raised, the commission denies the motion.

The commission is aware that Pittsfield Aqueduct appealed our Order No. 14,660 ([1981] 66 NH PUC 13). This order allowed for an increase in revenue of \$17,915. Pittsfield Aqueduct appealed this order to the supreme court in part because it contended that the revenue level allowed was too low. Pittsfield Aqueduct contends that the supreme court refused to allow the increased revenue level.

Our experience with the supreme court would never allow us to accept such a scenario. The court would always allow the increased level of revenues. It has, in the past allowed a higher level of revenues such as that originally requested. However, it would be unimaginable to believe that the court, faced with an appellant alleging insufficient revenues, would lower the revenue level even further. Either Pittsfield Aqueduct misunderstood the court or failed to present the case correctly.

This commission reiterated its revenue level in Order No. 14,660 as temporary rates. Again, Pittsfield Aqueduct failed to promptly implement the rates.

Finally, there remains the interesting testimony given by local Pittsfield officials concerning the allegation that this commission, by requiring compliance with two decade old rules, is somehow attempting to increase rates by over 70 per cent. Where clearly the requirement of meters would, at most, increase by 3 to 4 per cent. There is obviously an explanation necessary from Pittsfield Aqueduct management as to how such erroneous information was imparted to its customers.

The commission by statute must require (1) adequate service, (2) reasonable rates, (3) compliance with commission rules; and (4) a properly noticed public as to what is actually being requested by a utility.

In conclusion, our Order No. 15,243 ([1981] NH PUC 440), ordered that Pittsfield Aqueduct Company appear before this commission, " ... to discuss its franchise in the town of Pittsfield,"

which as stated in the report dated October 27, 1981, would include a discussion of the delay by the water company's management in filing tariff pages to recover increased revenues as allowed and further, a discussion of the impact of a continuation of the metering program in Pittsfield.

The motion for disclosure is denied.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is hereby Ordered, that the motion for disclosure is denied.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of December, 1981.

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NH.PUC\*12/17/81\*[79136]\*66 NH PUC 567\*Union Telephone Company

[Go to End of 79136]

**Re Union Telephone Company**

DR 81-310, Third Supplemental Order No. 15,371

66 NH PUC 567

New Hampshire Public Utilities Commission

December 17, 1981

ORDER approving tariff revisions.

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BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 15,308 ([1981] 66 NH PUC 517), directed that temporary rates be approved in the amount of \$92,948, to become effective with all service rendered on and after November 16, 1981; and

Whereas, Union Telephone Company, in compliance with said order, has filed with this commission second and third supplements to its tariff, NHPUC No. 6 — Telephone, said supplements documenting this allowed increase; it is

Ordered, that Supplement Nos. 2 and 3 to the Union Telephone Company tariff, NHPUC No. 6 — Telephone, be, and hereby are, approved.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of December, 1981.

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NH.PUC\*12/17/81\*[79137]\*66 NH PUC 567\*Investigation Into Canadian Power Sources

[Go to End of 79137]

## Re Investigation Into Canadian Power Sources

DE 79-245, Supplemental Order No. 15,372

66 NH PUC 567

New Hampshire Public Utilities Commission

December 17, 1981

ORDER closing docket.

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BY THE COMMISSION:

Supplemental Order

Whereas, this docket was initiated by the commission for the purpose of investigating the possibility of purchasing electrical power from Canada; and

Whereas, after discussion with officials of Quebec Hydro and investigation by the staff it appears that there is excess electrical power available from Canadian Hydro facilities and it is hereby determined that this docket may be closed and new dockets initiated when specific individual contracts are considered, therefore; it is hereby

Ordered, that docket DE 79-245 be closed.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of December, 1981.

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NH.PUC\*12/18/81\*[79138]\*66 NH PUC 568\*Public Service Company of New Hampshire

[Go to End of 79138]

## Re Public Service Company of New Hampshire

DE 81-339, Order No. 15,373

66 NH PUC 568

New Hampshire Public Utilities Commission

December 18, 1981

PETITION for authority to construct and maintain electric lines across pond; granted.

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APPEARANCE: Pierre O. Caron, for the petitioner.

BY THE COMMISSION:

Report

On November 5, 1981, the Public Service Company of New Hampshire (PSNH) filed with

this commission a petition seeking authority to construct and maintain an electric line under and across Island Pond in the town of Atkinson, New Hampshire.

The commission issued an order of notice on November 9, 1981, directing all interested parties to appear at public hearing at 10:00 A.M. on Tuesday, December 15, 1981, at the commission's Concord offices. Notices were sent to Russell A. Winslow, corporate counsel, Public Service Company of New Hampshire (for publication); George Gilman, commissioner, Department of Resources and Economic Development; John Bridges, director, safety services, and the Office of Attorney General. An affidavit indicating that publication had been made in the *Union Leader* on November 30, 1981, was received at the commission's Concord offices on December 7, 1981. Company witness Marcel Demers, line superintendent testified that construction was necessary to prevent a potentially hazardous situation for customers on Parker Island and Small McCartney Island. A customer complaint had resulted in the company determining the need for a new neutral cable between the two islands.

The commission notes that staff was advised of this situation on October 20, 1981, when Donald Thompson, PSNH, advised of the need for an emergency installation. Authorization was given by staff to make the installation and to immediately submit the request for a submarine license. This petition constitutes that request.

The installation was made on November 16, 1981. The company requests that the crossing begin at Parker Island at Pole No. 42-11-C3 and proceed in a northerly direction to Small McCartney Island at Pole No. 37-17-11B. The length of the underwater cable will be approximately 120 feet the average depth is approximately nine feet. The total distance from pole to pole is approximately 190 feet.

The company submitted four exhibits supporting the petition. Exhibit 4 is a dredge and fill permit issued by the state of New Hampshire Wetlands Board and the Water Supply and Pollution Control Commission, dated November 3, 1981.

No objections were filed or expressed either prior to or at the public hearing. No intervenors or interested parties were in attendance.

The petition was properly publicized and proper notification was given to the

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public as to the proposed installation.

The commission finds this petition for license to place and maintain a submarine neutral wire across Island Pond, in the town of Atkinson, New Hampshire, 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 to the Public Service Company of New Hampshire to place and maintain a submarine neutral line across Island Pond, in the town of Atkinson, New Hampshire. The location of said line is described as starting at Parker Island at Pole No. 42-11-C3 and bearing in a northerly direction to Small McCartney Island at Pole No. 37-17-11B.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of December, 1981.

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NH.PUC\*12/18/81\*[79139]\*66 NH PUC 569\*Bedford Water Corporation

[Go to End of 79139]

## Re Bedford Water Corporation

DE 81-333, Supplemental Order No. 15,374

66 NH PUC 569

New Hampshire Public Utilities Commission

December 18, 1981

INVESTIGATION into adequacy of water supply.

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SERVICE, § 472 — Water — Generally — Inadequacy of supply.

[N.H.] A water utility was directed to immediately contract, subject to staff review, for a new source development where the commission found that the company's supply problems were caused by inadequacy of supply rather than wasteful outside use as alleged by the company.

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BY THE COMMISSION:

Report

This case was opened by the commission to address supply problems that the Bedford Water Corporation (Bedford) experiences in the spring of each year, and which generally continue until early fall; and the lack of response by Bedford to staff inquiry.

The Bedford system was approved by the state of New Hampshire in 1974, to serve 55 homes based upon a use of 400 gallons per day for each home. At the present time 60 homes are served and the demand far exceeds the available supply.

We do not condone nor tolerate the wasteful use of water or energy of any kind, however, the basic needs of its customers must be met by all water utilities. Bedford has repeatedly blamed its supply problem on wasteful outside use, however, this commission's staff has made personal inspections of the system at various hours of the day and night, weekdays, and weekends, and have been unable to verify such activity. We recognize that in periods of severe drought, water tables drop and correspondingly well supplies diminish; but this company's problem is the result of inadequate capacity. Each water utility under our jurisdiction

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should and must develop capacity levels that will insure good water supply and pressure for domestic use and further, must meet reasonable demands for outside use.

It is our conclusion that Bedford Water Corporation must immediately contract for a new source development that shall be completed and connected into the distribution system by May 15, 1982. Further, that this contract shall be reviewed by the commission staff prior to its acceptance and that periodic reports shall be filed with the staff until final completion.

Staff testimony in this case disclosed a lack of response to commission requests. We will not tolerate this from any utility and further incidence will be considered as grounds for invoking RSA 374:17 with its attendant fine for neglect to report.

We have considered the transfer of this company's franchise to some party that would be more interested in the development of a reliable and good water system, however, we will not pursue such a solution unless an operator guaranteed a new source of development such as we are now ordering of Bedford.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that Bedford Water Corporation shall contract a water development company for search and development of an additional source of supply that shall be complete and connected into its distribution system by May 15, 1982; and it is

Further ordered, that prior to the acceptance of any contract, Bedford shall file such contract with this commission staff for review; and it is

Further ordered, that Bedford shall henceforth reply as directed to all requests and inquiry from this commission.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of December, 1981.

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NH.PUC\*12/18/81\*[79140]\*66 NH PUC 570\*Public Service Company of New Hampshire

[Go to End of 79140]

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

DE 81-312, Supplemental Order No. 15,375

66 NH PUC 570

New Hampshire Public Utilities Commission

December 18, 1981

MOTION to alter scope of proceeding; granted in part, denied in part.

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PROCEDURE, § 15 — Scope of proceedings — Enlargement by commission — Electric demand issues.

[N.H.] The commission found that an investigation of the issues related to a nuclear power plant, in the context of a utility's overall supply mix made more sense than instituting a separate docket because the plant could thus be kept in its proper perspective and because the issues to be investigated involved plant costs, its completion schedule, and whether an optimal supply mix would entail a larger or smaller than planned ownership share.

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BY THE COMMISSION:

Report

This commission by order of notice dated October 22, 1981, opened this docket and set November 12, 1981, as the date of an initial procedural hearing. At that hearing, Public Service Company of New Hampshire filed a motion before this commission requesting that the scope of proceedings and the corresponding discovery be limited. The motion also requested that the proceedings and discovery be delayed until the commission clarified the scope of this docket. November 30, 1981, was set as the date by which parties would respond to this motion, and December 7, 1981, was set as the date for the company to file rebuttal arguments. Responses by staff and the Conservation Law Foundation were received by November 30th, and the company, on the morning of December 7, 1981, requested an additional two days be granted due to inclement weather, for their reply. The commission allowed the company to delay its response to December 9, 1981. On December 11, 1981, the staff by motion requested an ex parte order to compel discovery. The company sought an opportunity to respond and was granted until December 17, 1981, to do so. On December 17, 1981, the company filed a response to the staff's motion to compel. It is clear from the above that this commission has made every effort to insure the company a full hearing in all respects and the commission will continue to do so.

The commission finds the arguments of staff and the Conservation Law Foundation on the issue of scope of proceedings to be more persuasive than the arguments of the company, and also more responsive to the interests of this commission. In particular, the commission finds that it has the authority and the responsibility to investigate the many issues related to Seabrook including the costs, completion schedule and ownership level for the plant.

The commission notes that the commission promised the legislature of this state to investigate the costs and completion dates of Seabrook. A study of Sea-brook in the context of the company's overall supply mix makes more sense to this commission than having a separate study of Seabrook, in part because in this docket Seabrook can more easily be kept in its proper perspective. The commission's interests in Seabrook in this docket are its cost to ratepayers and its schedule for completion, and whether an optimal supply mix entails a larger or smaller interest in Seabrook or any other changes from the company's existing plan. The Seabrook certificate is not at issue.

With respect to the specific pleas of the company in their motion of November 12, 1981, this

commission finds as follows:

- (a) the company's certificate of site and facility will not be an issue in this proceeding,
- (b) material issues are defined in the order of notice and can be further defined to limit by specific objections where pertinent, except discovery provided by this order;
- (c) the commission agrees with CLF that the issue is not one of burden of proof, but of burden of proceeding, and the commission finds that the staff, having offered, shall have the burden of proceeding;
- (d) Public Service Company of New Hampshire will not be required to submit any case if it so chooses;
- (e) duplicative interventions are to be avoided and mutual interests should be consolidated where feasible;
- (f) denied, the time to intervene is past unless exceptionally good cause is shown;
- (g) granted in part. The date set is December 28, 1981, when all parties

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should provide to each other a list of tentative witnesses and areas of testimony.

With respect to the staff's motion to compel, the commission notes that staff has already lost approximately five weeks due to the actions of the company, and that the only major disagreement remaining, as indicated by the company's response to the staff's motion is resolved in favor of the staff by this commission's findings above as to the scope of proceedings. The company should have been prepared for the possibility of such a decision, and cannot complain of having to produce the data in a very short time frame. The commission finds it reasonable for the company to respond fully to outstanding requests including the disputed items, by 4:30 P.M. December 22, 1981.

With respect to the particular items in the staff data request and the company's response to date, the commission makes the following determination:

Item 8. The company must provide the documentation referred to in their response of December 14th, but is not required to justify or defend its judgement, and is free to do so in testimony.

Items 14, 30, 34, 36, 47, 48, and 51. The actions indicated in the company's response to staff's motion will be adequate.

Items 26, 27, 28, and 29. The company must submit the requested data.

Item 32. The company must provide its estimates and any documentation on which those estimates are based, but is not required to justify or defend its judgements, and is free to do so in testimony.

Item 34. The company must provide the cost data requested and any planning materials that are needed as background, but need not comply with the request for "plans" in the broadest sense.

Item 50. The company must provide the material requested by the staff in Attachment A of the staff's motion to compel.

Our order will issue accordingly.

**Supplemental Order**

In accordance with the accompanying report, which is made a part hereof, it is hereby

Ordered that the motion of Public Service Company of New Hampshire regarding the scope of proceedings is hereby granted in part and denied in part in accordance with the foregoing report, and it is

Further ordered, that Public Service Company of New Hampshire comply with the Staff Data Request Set No. 1 as indicated in the foregoing report, and it is

Further ordered, that all parties file with this commission and with each other, a list of tentative witnesses and areas of testimony by December 28, 1981.

By order of the Public Utilities Commission this eighteenth day of December, 1981.

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NH.PUC\*12/21/81\*[79141]\*66 NH PUC 573\*Gunstock Glen Water Company

[Go to End of 79141]

**Re Gunstock Glen Water Company**

DR 81-379, Order No. 15,376

66 NH PUC 573

New Hampshire Public Utilities Commission

December 21, 1981

ORDER suspending tariff effective date pending investigation.

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BY THE COMMISSION:

Order

Whereas, Gunstock Glen Water Company, a public utility engaged in the business of supplying water service in the state of New Hampshire, on December 1, 1981, filed with this commission certain revisions of its tariff, NHPUC No. 1 — Water, providing for increased annual revenues of \$3,221 (60 per cent), effective December 30, 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 3, 4, 4A, and 5 of tariff, NHPUC No. 1 — Water, of Gunstock Glen Water Company, 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 December, 1981.

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NH.PUC\*12/22/81\*[79142]\*66 NH PUC 573\*Purchases for Nongenerating Utilities

[Go to End of 79142]

### Re Purchases for Nongenerating Utilities

DR81-133, Order No. 15,377

66 NH PUC 573

New Hampshire Public Utilities Commission

December 22, 1981

ORDER granting full party status.

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BY THE COMMISSION:

Order

Whereas, the commission has received a request from the Energy Law Institute (ELI) seeking status as a full party, in the above referenced docket; and

Whereas, ELI was a full party in DE 79-208 ([1980] 65 NH PUC 130), and maintains participation is necessary in this docket in order to protect its position in DE 79-208; and

Whereas, ELI seeks an extension of the date for required testimony; it is therefore

Ordered, that ELI is granted full party status; and it is

Further ordered, that ELI may file

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testimony and exhibits if filed with the commission and served on all parties not later than fourteen days prior to the time such evidence is subject to cross-examination nor later than fourteen days after the date of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 1981.

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NH.PUC\*12/24/81\*[79143]\*66 NH PUC 574\*Concord Steam Corporation

[Go to End of 79143]

**Re Concord Steam Corporation**

DE 80-128, Second Supplemental Order No. 15,380

66 NH PUC 574

New Hampshire Public Utilities Commission

December 24, 1981

ORDER approving the borrowing of a tax exempt loan as interim financing.

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BY THE COMMISSION:

Supplemental Order

Whereas, this commission issued Supplemental Order No. 14,383 on July 24, 1980 (65 NH PUC 354), approving Concord Steam Corporation's request to borrow \$3.5 million through the New Hampshire Municipal Bond Bank; and

Whereas, the Concord Steam Corporation has requested an interim financing pending placement of the aforementioned long-term loan; and

Whereas, Concord Steam Corporation has negotiated a loan at 75 per cent of the prime rate charged by the Chase Manhattan Bank in New York as the same may be in effect from time to time and said financing would be tax exempt; and

Whereas, the commission finds it in the public interest to approve the requested interim financing; it is hereby

Ordered, that Concord Steam Corporation's request to borrow a tax exempt loan for a term of three years in the sum of 3.5 million at 75 per cent of the prime rate charged by the Chase Manhattan Bank in New York as the same may be in effect from time to time, it is hereby accepted and approved; and it is

Further ordered, that on January 1st and July 1st of each year the company shall file with this commission a detailed statement duly sworn to, showing the disposition of the proceeds of said note 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 December, 1981.

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NH.PUC\*12/28/81\*[79144]\*66 NH PUC 575\*Public Service Company of New Hampshire

[Go to End of 79144]

**Re Public Service Company of New Hampshire**

Intervenor: Legislative Utility Consumers' Council

DE 80-215, Supplemental Order No. 15,382

66 NH PUC 575

New Hampshire Public Utilities Commission

December 28, 1981

ORDER closing docket which challenged order requiring a utility to cease payments to a nuclear power project.

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PROCEDURE, § 17 — Production of evidence — Commission power to require — Cancelled plant issues.

[N.H.] Although a utility's challenge to an order requiring it to cease payments to a nuclear power project was mooted by its decision to cancel the project, the commission found that certain issues remained viable to the utility's expressed desire to recover the costs of the project and delineated the points it expected would be addressed in any request for cost recovery, including the prudence of proceeding with the project, categorization of costs, and construction work in progress related issue.

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APPEARANCES: Martin L. Gross for Public Service Company of New Hampshire (PSNH); William Shaine for the Legislative Utility Consumers' Council (LUCC).

BY THE COMMISSION:

Opinion by J. Michael Love, chairman

This docket was begun as a result of our report and Order No. 14,271 in docket DR 79-187 of June 9, 1980 (65 NH PUC 251). In that report, the commission sought additional steps to relieve its financial dilemma and set a course designed for greater financial flexibility.

One of the steps the commission ordered was to cease any and all payments to the Pilgrim II project. Commission report and Order No. 14,519 ([1980] 65 NH PUC 476). Public Service Company of New Hampshire sought to show why such an order was incorrect through the presentation of testimony in this docket. The LUCC also contended that there was value to the Pilgrim II project and that the commission had gone too far in ordering PSNH out of the project.

The contentions by the parties as to this docket are now moot given the decision to cancel Pilgrim II. However, the issues raised in these proceedings still linger because PSNH has publicly expressed, through its financial documents, its press releases and its testimony in this docket, that it desires recovery of its costs in the Pilgrim II project.

If such a request is made, the commission will expect the following points to be addressed:

1. Why did not PSNH realize that Pilgrim II was not of value when it could not get any expression of interest in buying its ownership interest and should any costs incurred since that point in time be precluded from recovery?
2. Should recovery of costs incurred since the commission's Order No. 14,519 be precluded as costs PSNH chose to incur despite commission orders to the contrary?

3. Did the commission ever specifically

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approve investment in the Pilgrim II unit?

4. Was the commission's allowance of construction work in progress (CWIP) in May of 1978, an approval of the investment to date in Pilgrim II?

5. Was the passage of RSA 378:30a precluding the inclusion of CWIP in rate base a preclusion to any further investment in Pilgrim II?

6. What role did the commission's approvals of financings relate to the Pilgrim II project?

7. What are PSNH's plans associated with the costs of Pilgrim II as far as its wholesale and out-of-state customers are concerned?

These questions will have to be addressed in any subsequent docket involving Pilgrim II. However, the record in this proceeding, together with the cancellation of Pilgrim II, clearly demonstrate the soundness of the commission's report and Order No. 14,519. This docket is hereby closed.

Our order will issue accordingly.

Supplemental Order

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

Ordered, that docket DE 80-215 is hereby closed.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of December, 1981.

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NH.PUC\*12/28/81\*[79145]\*66 NH PUC 576\*Northern Utilities, Inc.

[Go to End of 79145]

### **Re Northern Utilities, Inc.**

Intervenors: Community Action Program

DR 80-104, Fourth Supplemental Order No. 15,383

66 NH PUC 576

New Hampshire Public Utilities Commission

December 28, 1981

PETITION for an increase in rates and revenue recoupment; granted.

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RATES, § 373 — Gas — Rate design — Considerations required by commission.

[N.H.] While the commission was lacking all the necessary information to state exactly a utility's new rate design, it did list the considerations, in order, that the new rates should reflect.

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APPEARANCES: Martin Gross and Margaret Nelson for Northern Utilities, Inc.; Gerald Eaton for Community Action Program (CAP).

BY THE COMMISSION:

Northern Utilities, Inc. (the company) moved that the commission modify its report and Order No. 15,279 ([1981] 66 NH PUC 459), so as to allow a revised revenue increase of \$664,257. After consideration of the motion and hearing thereon, the commission hereby grants the motion and allows the requested increase.

The commission must now determine

**Page 576**

the proper rate design for this increased level of revenues, plus the second step increase allowed as of January 1, 1982. In addition, the increased level of revenue allows for an alteration of bills submitted since November 5, 1981, the date of Order No. 15,279.

In both Supplemental Order No. 14,898 ([1981] 66 NH PUC 196), and 15,279, the commission rejected the continuation of a \$5 customer charge. The commission will retain its adherence to a \$3.10 customer charge. This alteration to Northern's existing rates shifts revenue that must be compensated dollar-for-dollar from elsewhere in the rate design.

While having some information as to Northern's billings, the commission is still missing all the necessary information to state exactly the new rate design. The new rates should reflect the following considerations in the order listed.

1. Reduction of all customer charges for all classes of customers from \$5 to \$3.10
2. The classes of air conditioning, large volume, industrial-general, commercial/industrial/municipal space heating should be increased first to the same percentage level applied to commercial-general under temporary rates and any remainder to all other customer classes except residential until the percentage increase for all other classes reaches the higher percentage increase applied to the residential class pursuant to temporary rates.
3. With rate classes, the increase is to be allotted to the larger usage blocks prior to a greater percentage than the first two usage blocks. Furthermore, at least the largest usage block in the R-1, G-1, E-1, GH-1 should be increased in terms of cost to be equal with the next highest usage level block.
4. No increase should be applied to the first ten therms per month of either the R-I, G-1, E-1, or GH-1 blocks.
5. Generally, the company is to have a flatter rate design to reflect the economics of the natural gas industry which reflects further decontrol every year and consequently major increases in price.

Northern utilities has not demonstrated any reliable evidence for its proposed rate design which placed an extraordinary level of increase on the small usage residential customers.

Northern Utilities has recently had two disturbing items of information for this commission. The first is a failure to properly factor a major industrial customer's bill properly. The second is the simple calculation error in this proceeding that artificially increased this rate request by a sizeable amount. The former problem if it surfaces again will be dealt with to protect all consumers first and the company may well be held accountable. Such events result in an earnings attrition that should not be recognized in determining an attrition allowance.

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 file revised tariff sheets to comply with this report, both as to revenue and as to rate design; and it is

Further ordered, that these revised tariff sheets are to be effective on all bills rendered on or after January 1, 1982; and it is

Further ordered, that Northern Utilities file a tariff to collect two months of revenue recoupment for the difference in the rates ordered in report and Order No. 15,279 and the rates ordered by this decision, such revenue to be collected on a per-therm basis. The commission would ask that this recoupment be filed as part of the tariff filed for effect on January 1, 1982, and that there be revised tariffs

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dated March 1, 1982, reflecting rates without the recoupment provisions. The commission does not see a reason to separately set forth the surcharge.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of December, 1981.

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NH.PUC\*12/28/81\*[79146]\*66 NH PUC 578\*Association of New Hampshire Utilities

[Go to End of 79146]

## Re Association of New Hampshire Utilities

DF 81-258, Third Supplemental Order .No. 15,385

66 NH PUC 578

New Hampshire Public Utilities Commission

December 28, 1981

ORDER denying motion for rehearing.

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BY THE COMMISSION:

Supplemental Order

Whereas, a motion for a rehearing and other relief was filed on December 23, 1981, by Gas Service, Inc., a gas utility and a member of the Association of New Hampshire Utilities by Orr and Reno, P.A., Charles H. Toll, Jr.; and

Whereas, Gas Service, Inc., is a member of the Association of New Hampshire Utilities who is represented by its attorneys of record, Ransmeier and Spellman; and

Whereas, the commission records do not contain any substitution of attorneys and that it is not in the public interest to have one party represented by two attorneys; it is hereby

Ordered, that the motion for rehearing and other relief filed by Gas Service, Inc., on December 23, 1981, is hereby denied.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of December, 1981.

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NH.PUC\*12/30/81\*[79147]\*66 NH PUC 578\*New Hampshire Electric Cooperative, Inc.

[Go to End of 79147]

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

Intervenors: Community Action Program, Waterville Valley Company, Inc., Loon Mountain, and Atatash Lift Corporation et al.

DR 81-340, Supplemental Order No. 15,384

66 NH PUC 578

New Hampshire Public Utilities Commission

December 30, 1981

PETITION for temporary rates; granted.

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APPEARANCES: Mayland H. Morse for New Hampshire Electric Cooperative, Inc.; Gerald Eaton for Community Action Program; Joseph Gentili, consumer advocate; Edward Haffer for Waterville Valley Company, Inc., Loon Mountain,

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Atatash Lift Corporation, and Herbert Schneider, d/b/a Mt. Cranmore Skimobile; and a limited appearance by

Gary McCool, cooperative member.

## BY THE COMMISSION:

## Report

On November 9, 1981, the New Hampshire Electric Cooperative, Inc., filed its tariff, NHPUC No. 11 proposed for effect December 9, 1981, seeking a revenue increase of \$2,762,320 or 9.8 per cent.

On November 9, 1981, the company also filed a motion for temporary rates. On December 8, 1981, the commission issued Order No. 15,356 (66 NH PUC 558), suspending tariff, NHPUC No. 11 for the purpose of investigation. On November 20, 1981, the commission issued an order of notice setting a hearing for December 10, 1981, at the offices of the commission. The order of notice was duly published and the hearing held at Concord, New Hampshire. A motion was made by Edward A. Haffer seeking intervention on behalf of Waterville Valley Ski Resort, serviced by the company. The commission granted said motion. Mr. Haffer presented a motion to suspend the proceedings; the commission after hearing arguments of same denied said motion.

The cooperative has submitted Tariff No. 11, which calls for a redesign of the existing rates. Testimony presented by the company witnesses indicate that it would not be appropriate at this time to implement the new tariff as testimony had not been filed on that rate design and the staff and intervenors have not had sufficient time to perform discovery. Mr. Pillsbury testified that it would be appropriate to apply an across-the-board increase to all rate classes at a revenue level which would provide the cooperative the opportunity to meet its TIER coverage (times interest earned ratio). The witness further testified that in order to finance its current capital improvement program, the Rural Electrification Administration required that a coverage of 1.5 times must be met for two of the last three most recent years. Finance director, Eugene Sullivan submitted an exhibit which presented several alternate revenue levels which could be used to set temporary rates and allow the cooperative the opportunity to meet the required TIER coverage. Mr. Sullivan recommended the following alternatives for the commission's use:

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

*TIERRequired IncreasePer Cent*

1.50	\$ 397,193	1.4
1.91	1,041,664	3.7
2.00	1,183,133	4.2

Gerald Eaton recommended that the temporary rates be set at a level which would allow the cooperative to earn a rate of return equal to that allowed in the last rate case, DR 80-189 ([1980] 65 NH PUC 427). He further stated that the rates could be allowed to change during the interim if the allowed rates were not enabling the cooperative to meet its TIER coverage.

Based on its most recent operating data, the cooperative estimates that it will meet a TIER coverage of approximately 1.4 for the year ending December 31, 1981. Staff has submitted calculations based on the most recent interest costs and the commission finds that those costs are appropriate to use to set temporary rates for the period in which they will be in effect. Staff presented the following calculation of net operating income which they recommend be used to set temporary rates.

The commission will accept that level of income to determine the revenue requirement. All

of the pro forma adjustments will be reviewed and adjustments will be made in the permanent rates

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

Net Income, Test Year	\$1,819,688
Plus: Revenue Adjustments	617,551
Less: Pole Rental Revenue Adjustment	236,793
Pro Forma Adjustment	373,157
Payroll Taxes	21,263
Plus: Utility Assessment	2,083
Adjusted Net Operating Income	<u>\$1,808,109</u>
Plus: Other Income	152,520
Net Income	<u>\$1,960,629</u>

which will be determined after fuel hearings.

The commission will set temporary rates at a level of 1.65 times interest in order to allow the cooperative the opportunity to meet its TIER coverage and qualify for borrowing from REA. The required increase in revenues is calculated as follows:

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

Interest Expense	\$1,571,881
TIER Coverage Allowed	x 1.65
Required Net TIER Income	<u>\$2,593,604</u>
Less: Adjusted Net Operating Income	1,960,629
Revenue Increase/Allowance	<u>\$ 632,975</u>

The allowed temporary increase results in a 2.25 per cent increase. The cooperative will submit tariffs to reflect an across-the-board increase per kilowatt-hour to all classes to achieve temporary rates which reflect an overall rate increase of \$632,975.

Our order will issue accordingly.

**Supplemental Order**

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

Ordered, that the New Hampshire Electric Cooperative Inc., be and is allowed to establish temporary rates which reflect an overall rate increase of \$632,975; and it is

Further ordered, that this increase shall be distributed as an across the board increase per kwh to all classes; and it is

Further ordered, that the cooperative will submit revised tariffs to reflect the same to become effective on bills rendered on or after January 4, 1982; and it is

Further ordered, that the cooperative shall make public notice of this increase in a newspaper having general circulation in the area served.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of

December, 1981.

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NH.PUC\*12/30/81\*[79148]\*66 NH PUC 581\*Fuel Adjustment Charge

[Go to End of 79148]

## Re Fuel Adjustment Charge

Intervenors: Public Service Company of New Hampshire, Community Action Program, Granite State Electric Company, Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative,

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Inc., Littleton Water and Light Department, Woodsville Water and Light Department, and Municipal Electric Department of Wolfeboro

DR 81-357, Order No. 15,386

66 NH PUC 581

New Hampshire Public Utilities Commission

December 30, 1981

PETITION of several electric utilities for approval of monthly fuel adjustment surcharges; granted.

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APPEARANCES: Eaton W. Tarbell and Debbie-Ann Sklar for Public Service Company of New Hampshire; Gerald Eaton for Community Action Program; Michael Flynn for Granite State Electric Company; Warren Nighswander for Concord Electric Company and Exeter and Hampton Electric Company; Joseph Gentili for the consumer advocate.

BY THE COMMISSION:

Report

The public utilities commission held three days of duly noticed hearings on the fuel adjustment filings for January, 1982, at its offices in Concord. They were held on December 18, 21, and 23, 1981.

The first companies to testify, Concord Electric Company and Exeter and Hampton Electric Company, filed their exhibits for FAC rates for the first quarter of 1982 on December 17, 1981.

Concord Electric Company, in Third Revised Page 19A to tariff, NHPUC No. 7 — Electricity, requested a rate of \$1.78 per 100 kilowatt-hours. This is a significant reduction from the current rate of \$2.49 per 100 kilowatt-hours. The reason is mainly due to the fact that the company is bringing an overcollection into the first quarter of 1982, versus an under-collection in the prior quarter. This overcollection is due partly to Public Service Company of New Hampshire, the company's sole supplier of electricity, making a refund due to an adjustment to

the size of its coal pile.

Exeter and Hampton's rate for November and December, 1981, was \$2.73 per 100 kilowatt-hours. The company is requesting \$1.60 per 100 kilowatt-hours for the quarterly period January through March, 1982. The reasons for this reduction parallel those of Concord Electric Company.

The commission believes both companies' filings meet the public good and our order will issue accordingly.

The commission, however, orders both companies to review their billing policies to all customers with factored meters and certify that the correct factors are being applied. Any discrepancies are to be reported to this commission.

The Granite State Electric Company filed on December 14, 1981, its request for a FAC of \$1.01 per 100 kilowatt-hours for the months of January, February, and March, 1982. In addition, on December 11, 1981, the company filed its request for an OCA rate of four cents per 100 kilowatt-hours for the months of January, February, and March, 1982, computed in accordance with DF 81-107.

In total, ten exhibits were introduced by the company and numerous witnesses.

Looking first at the FAC rate, the commission congratulates the company, or New England Power Company in particular, on the reduction in the rate from the prior quarter. The reasons for

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such vary from estimates of more coal generated electricity, to a slight estimated decline in the cost of oil, and minimal growth in kilowatt-hour sales.

The commission, in summation, agrees with the company's estimates and accepts the filed rate of \$1.01 per 100 kilowatt-hours and our order will issue accordingly.

Before turning to the OCA filing, the commission wishes all parties to be made aware that it is concerned by the lack of perusal of the FAC at the FERC level of Granite State Electric Company's supplier, as pointed out by the consumer advocate. It is because of this that this commission ordered Granite State to file monthly numerous accounting and other statements, tracing the costs and collection of OCA at the Granite State and New England Power levels.

Since the four cents per 100 kilowatt-hours OCA rate as requested at this hearing is for two-thirds of the savings to consumers for burning coal instead of oil at Mt. Tom, in computing this savings, the company has assumed that Mt. Tom would generate as many kilowatt-hours whether burning coal or oil. This commission is concerned that under NEPOOL scheduling this may not always be the case.

Based on this concern, for the establishment of future OCA rates, the company is ordered to file estimated power supply runs for April, May, and June, 1982, under two scenarios: the first is Mt. Tom burning coal, the second is Mt. Tom burning oil. With that information, this commission can satisfy itself as to what the actual estimated savings through the FAC in fact is.

Although three months of such information is not available for the first quarter of 1982, this commission feels that since such information was not requested of the company for all three

months, we will approve the four cents per 100 kilowatt-hours OCA rate for the first quarter of 1982. Our order will issue accordingly.

The Public Service Company of New Hampshire (PSNH) has requested a rate of \$1.90 per 100 kilowatt-hours for January through March, 1982. Prior to the hearing, the PUC finance staff sent several sets of data requests to the company which were responded to in a timely manner.

Public Service Company of New Hampshire submitted 20 exhibits and four witnesses. During the course of the hearings numerous areas were explored extensively. First were the reasons for the reduction from the current \$2.25 per 100 kilowatt-hours rate. This is due to a lower reconciling adjustment, and more nuclear and hydro estimated to be available in the first quarter of 1982.

These reasons are slightly offset by an estimated growth in kilowatt-hour sales in the first quarter of 1982 over the first quarter of 1981, excluding the Maine sales of 3.5 per cent. The commission feels 3.5 per cent is too high based on recent past history. Rather than arbitrarily reduce the proposed rate because of this, we will take this into account by making two other downward adjustments.

The first of these is to flow the coal pile refund due New Hampshire retail customers back to those customers as soon as possible. This is clearly called for as PSNH has already received a credit on its bills from its coal supplier for the refund. The result is to reduce the FAC from a proposed \$1.90 per 100 kilowatt-hours to \$1.83 per 100 kilowatt-hours.

The second downward adjustment the commission will make is to recognize the estimate by PSNH that the overcollection of FAC revenues for the fourth quarter of 1981 will approximate \$1.9 million. In developing the FAC rate for the fourth quarter of 1981, this commission allowed

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a deviance from Settlement Agreement Nos. 1 and 2 and past precedent by starting collection of the sizable estimated third quarter of 1981 undercollection immediately. Since the \$1.9 million is also sizable, this commission feels an immediate commencement of the draw down of the overcollection is called for. We will grant CAP's motion and flow \$993,196 of the overcollection through in the first quarter of 1982. This further reduces the FAC from \$1.83 per 100 kilowatt-hours to \$1.75 per 100 kilowatt-hours.

Another area of concern addressed at the hearing was the contract between Central Maine Power and PSNH with regard to the sale of the Maine properties. It is the understanding of this commission that PSNH, prior to the aforementioned contract, was planning to retire its Daniel Street plant in May, 1983. As a clause in the aforementioned contract, PSNH stated, it must give Central Maine at least a two-year notice before retiring the plant, as it will be needed for backup power for the Navy Yard located in Kittery, Maine. This commission is not convinced that the two-year clause is binding if we order the retirement of the Daniel Street plant, but until such time as this commission reaches a conclusion on that point, we hereby order PSNH to put Central Maine Power immediately on notice that Daniel street will be retired in two years.

The hearings also included a detailed discussion of the company's efforts to sign long-term contracts to purchase power from small power producers. During recent months, the commission

has noted that many hydroelectric developers and other small power producers often were unable to secure project financing without long-term power sales contracts with the company. Alarming, by September, 1981, the company had not signed one such long-term contract. During the fuel adjustment clause hearings in September, the commission addressed this problem, which appeared to be a significant obstacle to development of renewable energy sources in New Hampshire. In response, the company presented a proposed long-term contract policy and stated its firm intention to sign six to 12 long-term contracts by the end of 1981.

The commission, therefore, is distressed to learn, in testimony presented this month, that the company has signed only three long-term contracts as yet, far short of the stated goal of six to 12 long-term contracts. Moreover, the company's testimony reveals that the company may not be offering the contract terms as attractive as those described to the commission in September. In particular, the company's standard long-term contract policy contains an inflexible and alarmingly long required contract term of thirty years. Moreover, the contract policy provides no guaranteed minimum purchase rate. The commission is concerned that the company's failure to meet its goal of six to 12 long-term contracts by December 31, 1981, is due to unnecessarily stringent contract terms offered by the company. This suggests that the company is not following through on its stated intention to encourage electrical generation from renewable sources. In the future, the commission will continue to monitor the company's progress in obtaining long-term contracts with small power producers.

Other areas of concern addressed at the hearing and of continued concern to this commission included elimination or annualization of the FAC, the built-in disincentive of the FAC for PSNH to get out of oil generation, the Point LaPreau nuclear plant, the company's capacity requirement contract with NEPCO, lack of FERC review of the company's FAC, and the Company's oil cost estimates,

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and the Schiller conversion. These areas will be addressed in the permanent rate order.

The commission applauds the company for developing a new fuel budget program, PROSIM, which hopefully will provide better estimates for the FAC.

In summation, this commission approves an FAC rate for the first quarter of 1982 of \$1.75 per 100 kilowatt-hours in lieu of the \$1.90 per 100 kilowatt-hours requested.

Our order will issue accordingly.

Order

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

Ordered, that Public Service Company of New Hampshire's Eighth and Ninth Revised Pages 24 and 25 to its tariff, NHPUC No. 24 — Electricity, are hereby rejected; and it is

Further ordered, that Public Service Company of New Hampshire (PSNH) file Revised Pages 24 and 25 to its tariff, NHPUC No. 24A — Electricity, providing for a quarterly fuel surcharge of \$1.75 per 100 kilowatt-hours for the months of January, February, and March, 1982, to become effective January 1, 1982; and it is

Further ordered, that Granite State Electric Company tariff, NHPUC No. 8 — Electricity, 81st Revised Page 15-A, providing for a fuel adjustment rate of \$1.01 per 100 kilowatt-hours for the month of January, 1982, is permitted to become effective January 1, 1982; and it is

Further ordered, that Granite State Electric Company tariff, NHPUC No. 8 — Electricity, Original Page 53A, providing for an oil conservation adjustment rate of four cents per 100 kilowatt-hours, for the months of January, February, and March, 1982, is permitted to become effective January 1, 1982; and it is

Further ordered, that 59th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for a monthly fuel surcharge of 93 cents per 100 kilowatt-hours for the month of January, 1982, is permitted to become effective January 1, 1982; and it is

Further ordered, that Tenth Revised Page 15 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 10 — Electricity, providing for the monthly fuel surcharge of \$2.62 per 100 kilowatt-hours for the month of January, 1982, be, and hereby is, permitted to become effective January 1, 1982; and it is

Further ordered, that 96th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for a monthly fuel surcharge of \$1.79 per 100 kilowatt-hours for the month of January, 1982, be, and hereby is, permitted to become effective January 1, 1982; and it is

Further ordered, that 64th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 94 cents per 100 kilowatt-hours for the month of January, 1982, be, and hereby is, permitted to become effective January 1, 1982; and it is

Further ordered, that 12th Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$3.20 per 100 kilowatt-hours for the month of January, 1982, be, and hereby is, permitted to become effective January 1, 1982; and it is

Further ordered, that Exeter and Hampton Electric Company tariff, NHPUC No. 14 — Electricity, providing for a fuel surcharge of \$1.60 per 100 kilowatt-hours for the month of January, 1982, is permitted to become effective January 1, 1982; and it is

**Page 584**

Further ordered, that Concord Electric Company tariff, NHPUC No. 7 — Electricity, providing for a fuel surcharge of \$1.78 per 100 kilowatt-hours for the month of January, 1982, is permitted to become effective January 1, 1982.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of December, 1981.

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NH.PUC\*12/30/81\*[79149]\*66 NH PUC 585\*Association of New Hampshire Utilities

[Go to End of 79149]

## Re Association of New Hampshire Utilities

DF 81-258, Third Supplemental Order No. 15,388

66 NH PUC 585

New Hampshire Public Utilities Commission

December 30, 1981

MOTION for rehearing; denied

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APPEARANCES: Ramsmeier and Spell-man by Dom S. D'Ambruoso for Association of New Hampshire Utilities; Attorney General of New Hampshire by Peter C. Scott; Ron Rogers for the Governor's Council on Energy

BY THE COMMISSION:

Report

The Association of New Hampshire Utilities has filed a motion for rehearing. The commission has already certified the two constitutional questions to the court and thus would consider any action in this docket as moot. However, to the extent we are incorrect in this assumption, the motion for rehearing would be denied.

The commission would note certain factual circumstances that have arisen since its original decision and one typographical error. The Department of Energy has proposed amendments to the RCS Program regulations on November 12, 1981, which, if adopted, would eliminate or significantly reduce the regulatory requirements under this program. If these regulations subsequently removed the regulatory requirement associated with the RCS Program, a proportionate level of assessment will be removed from PSNH's assessment related to this program.

The PSNH assessment was typographically in error. The actual figure should be \$191,763, and our original report and order is hereby so amended.

Finally, the commission would note that the motion for rehearing misinterprets our order in stating reliance upon the executive branch. The commission noted that the legislative and executive branches have passed recent legislation granting certain powers to the executive branch, such as the RCS delegation.

Motion for rehearing is moot, but, if not, it is hereby 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,

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filed by the Association of New Hampshire Utilities on December 18, 1981, is hereby denied.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of December, 1981.

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NH.PUC\*12/31/81\*[79150]\*66 NH PUC 586\*Roy and Madden, Inc.

[Go to End of 79150]

**Re Roy and Madden, Inc.**

DE 81-385, Order No. 15,389

66 NH PUC 586

New Hampshire Public Utilities Commission

December 31, 1981

ORDER closing docket without action.

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BY THE COMMISSION:

Order

Whereas, on November 30, 1981, Roy and Madden, Inc., filed with this commission, a petition for authority to cross state-owned railroad property in the town of Tilton, New Hampshire, for the purpose of installing a sewer connector; and

Whereas, on December 21, 1981, this commission issued an order of notice setting a hearing at the commission's Concord offices for January 27, 1982, at 10:00 A.M.; and

Whereas, on December 28, 1981, this commission was notified by counsel for Roy and Madden, Inc., that the crossing is no longer necessary; it is

Ordered, that docket DE 81-385 be closed without action.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1981.

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NH.PUC\*12/31/81\*[79151]\*66 NH PUC 586\*Gas Service, Inc.

[Go to End of 79151]

**Re Gas Service, Inc.**

DF 80-150, Second Supplemental Order No. 15,390

66 NH PUC 586

New Hampshire Public Utilities Commission

December 31, 1981

ORDER granting extension of short-term debt maximum pending alternate financing and further relief.

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 14,459, dated August 28, 1980 (65 NH PUC 402), issued in the above entitled proceeding, authorized Gas Service, Inc., to issue and sell, and from time to time to renew for cash its notes or notes payable less than twelve months after the date thereof in an aggregate principle amount not exceeding \$4 million; and

Whereas, our Supplemental Order No. 14,739, dated February 12, 1981 (66 NH PUC 58), authorized the company a maximum amount of \$4.5 million to cover borrowings, if needed, due to significant propane purchases during that

**Page 586**

winter, for the period of February 15, 1981, to April 15, 1981; and

Whereas, the prior authorization in Order No. 14,459 of the short-term borrowing limit was \$4 million is effective until December 31, 1981, when it will revert back to \$2.5 million; and

Whereas, as of December 31, 1981, the company will have approximately \$3.5 million outstanding short term debt, due to the status of the company's winter cost of gas adjustment and fuel inventory levels; and

Whereas, the company has purchased substantial amounts of fuel inventory in anticipation of winter use, and in connection with this inventory, is reviewing a fuel inventory financing program which could relieve the pressure on short term borrowings, and plans to submit a filing with this commission in regards to this financing; and

Whereas, with the fuel inventory financing, if approved, not in place until February, 1982, the company will be exceeding the \$2.5 million limit in the month of January, 1982; and

Whereas, Gas Service, Inc., has requested an extension of the \$4 million short-term debt maximum until the fuel inventory financing is finalized and further relief on the cost of gas adjustment is obtained, and at least until April, 1982; and

Whereas, upon due consideration, it appears that the extension is consistent with the public good; it is

Ordered, that Gas Service, Inc., be, and hereby is, granted an extension of the \$4 million short debt maximum until the fuel inventory financing is finalized and further relief on the cost of gas adjustment is obtained; and it is

Further ordered, that the provisions in supplemental Order No. 14,739 in regards to the filing

of disposition of proceeds statements remain effective in this order.

By order of the Public Utilities Commission this thirty-first day of December, 1981.

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NH.PUC\*12/31/81\*[79152]\*66 NH PUC 587\*Granite State Electric Company

[Go to End of 79152]

## Re Granite State Electric Company

Intervenors: Community Action Program

DF 81-107, Order No. 15,391

66 NH PUC 587

New Hampshire Public Utilities Commission

December 31, 1981

HEARING on electric company's proposal to include an oil conservation adjustment clause in its rate schedule; approved subject to conditions.

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RATES, § 303 — Oil conservation adjustment clause — Electric company.

[N.H.] An electric company's proposal to include an oil conservation adjustment clause in its rate schedule in an attempt to finance the conversion of some of its units from oil to coal burning was approved subject to conditions.

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APPEARANCES: Michael Flynn for the company; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

**Page 587**

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, filed a new rate schedule designated as the company's oil conservation adjustment (OCA) provision, and presented as Original Tariff Page 53, First Revised Pages 1, 27, 30, 33, 38, 42, 46, and 50; and Second Revised Page 22 to NHPUC No. 9 — Electricity, for effect January 1, 1982.

On November 16, 1981, the commission scheduled a public hearing to be held at 10:00 A.M. on December 14, 1981, at its offices in Concord.

Proper notice of the hearing was made by the company, and the hearing was held as

scheduled.

The OCA is an innovative technique for New Hampshire, but previously has been approved by the Massachusetts Department of Public Utilities, the Connecticut Public Utilities Control Authority, and FERC. Through it, Granite State Electric Company (also referred to as GSEC) and New England Power Company (also referred to as NEPCO) are attempting to finance the conversion of Mt. Tom and Salem Harbor, and possibly other units in the future, from oil to coal burning.

Approval of the company's filing will result in a reduction in the FAC by the full cost savings resulting from the conversion, and establishment of a forward-looking quarterly OCA which will bill customers for two-thirds of this savings. The amount thus collected under the OCA, after reconciliation, will be used by the company's wholesale supplier, New England Power Company, to meet the costs of converting the units. Once the conversion is completed and the related costs have been fully recovered via the OCA, the OCA will terminate.

At the NHPUC hearing, six exhibits were marked. The only witness was Gerald R. Brown, of the petitioner, substituting for William S. McDade. An extensive cross examination was conducted by Gerald Eaton, representing Community Action Program, and Kenneth Traum, of the commission's finance department.

As a result of the hearing, the commission agrees with implementation of the OCA as an innovative method, especially since NEPCO, under FERC rates, will be billing GSEC for it, whether the NHPUC approves or not.

The commission does not feel that NEPCO really needs the OCA as a financing tool the way Holyoke Water Power Company did when the Connecticut Public Utilities Control Authority approved an OCA rate. In fact, OCA shifts some of the financing burden from stockholders to ratepayers and that in the long run will lower the risk to stockholders, as the FAC has done.

Due to state law on CWIP, the commission still has a nagging fear that at some level (possibly FERC's) the collections from customers may temporarily exceed conversion expenditures plus financing costs, so as part of the commission's approval, it is requested that the company file the following information on a monthly basis when it makes its monthly FAC filing:

1. Monthly and cumulative revenues from GSEC customers for the OCA.
2. Monthly and cumulative billings from NEPCO to GSEC for the OCA.
3. Financing charges (AFUDC) and rates applied to any balance due from GSEC customers from OCA.
4. Monthly and cumulative revenues paid by GSEC to NEPCO for the OCA.
5. Granite State Electric Company's share of conversion costs incurred by NEPCO for OCA, and a breakdown of total conversion costs incurred by NEPCO by project phases; i.e., precipitators.
6. Financing charges (AFUDC) and rates applied to balance due NEPCO from GSEC for OCA.

7. Tax benefits and costs to GSEC and NEPCO on a monthly and cumulative basis for OCA.
8. Accounting for any grants received by NEPCO or GSEC to subsidize the conversion.
9. After construction is completed and the OCA terminated, provide the balance of normalized tax credits not yet flown back to ratepayers, and the flow-back schedule of such accruing to the benefit of GSEC ratepayers.
10. Summary of the status of all regulatory approvals needed in the conversion.

By way of restrictions in accounting for the OCA, GSEC will not depreciate any of the conversion's costs for book or rate-making purposes, and must immediately notify this commission if NEPCO plans to include such in the rates it bills GSEC.

The same holds for duplication of recovery of capital costs and billing for CWIP through base rates or the OCA.

In the event that at any time during the quarter, the OCA charges exceed the existing differential between coal and oil prices, the company shall immediately notify the commission.

With these caveats, the commission feels the OCA in this instance is in the public good and our order will issue accordingly.

Order

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

Ordered, that the OCA, as outlined in the attached report, is accepted by the commission; and it is

Further ordered, that Granite State Electric Company shall file the reports noted in the report in the time frames therein mentioned; and it is

Further ordered, that the following revised pages of Granite State Electric Company tariff, NHPUC No. 7 — Electricity, are permitted to become effective January 1, 1982:

First Revised Page 1; Second Revised Page 22; First Revised Page 27 First Revised Page 30 First Revised Page 33 First Revised Page 38 First Revised Page 42 First Revised Page 46 First Revised Page 5; and Original Page 53.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1981.

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NH.PUC\*12/31/81\*[79153]\*66 NH PUC 589\*Mountain Springs Water Company

[Go to End of 79153]

## Re Mountain Springs Water Company

D-E6481, 12th Supplemental Order No. 15,392

66 NH PUC 589

New Hampshire Public Utilities Commission

December 31, 1981

MOTION for rehearing of rate order; denied.  
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## 1. PAYMENT, § 33 — Denial of service for nonpayment.

[N.H.] Objections to an order requiring permanent withholding of water service to customers

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who fail to pay for such service within sixty days of the order were rejected by the commission. p. 590.

## 2. EXPENSES, § 92 — Amortization of rate case expenses.

[N.H.] Rate case expenses should be amortized over a two-year period rather than a one-year period. p. 590.  
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APPEARANCES: Daniel Laufer, for Mountain Springs Water Company; Larry Gardner, for customers of Mountain Springs Water.

BY THE COMMISSION:

Report

On November 30, 1981, the Mountain Springs Water Company filed a motion for rehearing as to the commission's report and Order No. 15,287 (66 NH PUC 487)m fixing the rates to be charged by the company. The motion for rehearing raises certain points which will be addressed in the order presented.

[1] The utility objects to the imposition of certain terms if a ratepayer fails to pay within sixty days of the order. The terms objected to are the permanent withholding of water utility service to said customers. The commission is charged with being without authority to prescribe such actions. Further, the commission is alleged to have violated the due process clause of the constitution. Further, such penalty is asserted to be a violation of Part I, Art 18 of the constitution of the state.

The commission rejects the arguments offered. The commission has statutory right to set and alter the boundaries for utility franchises. Obviously, lot owners do not wish to be connected to the system and do not wish to pay assessed fees by this commission; they have no right to service. Seemingly Mountain Springs wishes to continue to pursue hundreds of cases in the small claims courts. This process, which has in the past resulted in thousands of dollars in attorney fees, places an undue burden on the solid paying customer. Under the previous operation of the system, the company would pursue these claims into the courts, incur thousands

of dollars in legal fees, and then seek to pass on these collection costs to then good paying customers.

If Mountain Springs were to prevail on this aspect of their motion, the 160 customers for Mountain Springs would pay the cost of providing service to them plus the costs of collecting revenues from customers unwilling to pay plus having a weakened utility from a cash-flow standpoint. With a system this small and legal costs being what they were in the past, the result would be an onerous burden on those customers attempting to pay the rates set by this commission.

As we have noted, this case has as its participants a utility and customers who are literally only happy when attacking each other. This commission has the power to establish franchise boundaries and we rest our decision on this power together without statutory power to prevent discrimination. The discrimination arises from an undue level of costs reflecting customers not paying then bills being levied on customers who do pay their bills.

[2] The second and tenth contentions focus on the disallowance of professional legal expenses of \$13,751. While we have allowed \$7,000 in rate case expenses, the utility seeks to continue to collect extra expenses for legal representatives in small claims proceedings, proceedings involving the corporate officers unrelated to the utility operations, as well a continued representation before courts, ranging from bankruptcy to this state's supreme court. The vast majority of these expenses relates to collections which the commission believes to be more effectively handled and certainly at a lesser cost through redrafting of the franchise

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boundaries. Again, Mountain Springs asks good paying customers to subsidize delinquent customers. \$13,751 is a tremendous sum to be levied over such a small customer base. Furthermore, much of the prior litigation is simply nonrecurring expenses, as evidenced by the record.

Finally, the award of \$7,000 in rate case expenses is designed to reflect both rate case expenses and appeal expenses. Such an award without amortization was an unprecedented step by the commission in that rate case expenses are normally amortized over a two- or three-year period. *Re Lakes Region Water Co. Inc.* (1980) 65 NH PUC 343; *Re Exeter & Hampton Electric Co.* (1980) 65 NH PUC 209.

The commission, if it continues the one-year recognition, would, in expense, allow a second recovery of these expenses in the second year. Under such a procedure, the expenses are paid and then the expense is nonrecurring. Since the commission usually follows the practice of a two-year amortization to correspond to the general two-year provisions of RSA 378:7 and the general experience of this company and others for rate relief in the same appropriate time level, the commission will revert to its standard two-year practice given that there was no rationale given for the diversion nor did the parties offer any.

However, expense levels and rates will not be reduced by this \$3,500 amount. Instead, \$3,500 is set aside to provide for recognition of some maintenance on the system which exceeds that allowed previously.

Mountain Springs needs to quickly improve the maintenance procedures. Repeated outages are occurring without being addressed. The commission will expect this situation to be remedied.

The commission finds that there has never been approval of the stock or debt levels submitted by the company. These were not approved by the commission at any time. Consequently, the approval is still an outstanding question. If Mountain Springs is a utility, it must receive this commission's approval of its debt and stock issues. The issue is moot, in that the company never demonstrated that these financial instruments were related to utility investment. Thus, Mountain Springs' concerns as to the capital structure are unfounded. Their record keeping never approached, much less complied, with RSA 369:12.

The company never demonstrated adequate records for rate base. There are more offered rate base calculations in this proceeding than in any other in memory. They are all inconsistent with one another and all demonstrate poor accounting procedures, especially in underestimating consumer contributions.

The original rate base was prepared on October 31, 1974, by T&C bookkeeper to show a separation of real estate operation:

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

Assets	
Plant and Equipment – Cost	\$815,244
Basis was:	
Notes Payable	\$220,727
Stockholder's Equity:	
Common Stock	1,000
Donated Equity	593,517
	<u>\$815,244</u>

It was prepared to support an application for SBA loan.

There does not appear to be documentation to support these figures.

A CPA from John E. Rich and Company prepared an unaudited balance sheet as at August 31, 1977, as follows:

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

Well and Well House	\$200,565
Mains	202,037
Services	11,250
Contributions	400,000
	<u>\$818,852</u>

These figures were furnished to the Rich Company by management of the water company without documentation.

When N. Wechsler and Company's CPA, Mr. R. West, prepared reports, they were based on costs supplied by the water company as was the case of John E. Rich and Company.

In February, 1975, Mountain Springs obtained an SBA loan and made payment to Town and Country Homes of seven cash payments, for a total of \$202,000. The company also assumed a T&C loan liability of:

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

Dunnan Note	\$134,040	
Taher Note	67,021	\$201,061
Total (including seven cash payments)		<u>\$403,061</u>

The attorney for the water company has requested this as a rate base, the reason being construction costs are much higher. However, the lack of records to substantiate those costs make the \$403,061 figure more realistic.

A staff audit was able to track through old records a substantial cost of \$509,814, documented by invoices or photocopies of invoices that was expanded on the water system. This figure does not take into consideration any reimbursement to the water company which could have been part of the cost of lots when sold by Town and Country. The John Rich report shows \$400,000 as contributions, and the trial balance of the Town and Country bookkeeper shows donated equity of \$593,517.

This would indicate an actual cost to the water company for rate base could be a zero cost using the staff document cost as the construction cost.

Based upon consideration of all of the arguments offered, the commission denies the motion.

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 Mountain Springs Water Company on November 30, 1981, be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1981.

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NH.PUC\*12/31/81\*[79154]\*66 NH PUC 593\*Goodrich Falls Hydroelectric Company v New Hampshire Electric Cooperative, Inc.

[Go to End of 79154]

## **Goodrich Falls Hydroelectric Company v New Hampshire Electric Cooperative, Inc.**

Additional respondent: Public Service Company of New Hampshire

DE 81-164, Order No. 15,394

66 NH PUC 593

New Hampshire Public Utilities Commission

December 31, 1981

HEARING on claim for payment of deficiency of rates collected for wheeled power; order in accordance with opinion.

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PAYMENT, § 9 — Liability for payment — Wheeled power.

[N.H.] The commission established the responsibility of an electric cooperative and an electric company for the amounts to be paid to a small power production company for power received by the cooperative up to the point that the electric company should have arranged for the power to be wheeled to it.

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APPEARANCES: Robert Rowe, for Goodrich Falls Hydroelectric Company; Debbie-Ann R. Sklar, for Public Service Company of New Hampshire; Thomas W. Morse, for New Hampshire Electric Cooperative, Inc.

BY THE COMMISSION:

Report

This docket was opened at the request of Goodrich Falls Hydroelectric Company. Hearings were held at the commission offices on July 20, 1981. Parties are Goodrich Falls Hydroelectric Company, the New Hampshire Electric Cooperative, Inc. (the cooperative), and Public Service Company of New Hampshire (PSNH).

Goodrich Falls operates a 675 kilowatt hydroelectric station in Bartlett, New Hampshire, in the service territory of the New Hampshire Electric Cooperative. Goodrich Falls states that their facility is a qualifying small power production facility as defined in the federal Public Utility Regulatory Policies Act (PURPA) and is a limited electric energy producer as defined by the NHRSA 362-A, the Limited Electrical Energy Producers Act (LEEPA). Goodrich Falls began selling hydroelectricity to the cooperative in October, 1977. After June, 1980, the date of commission Order No. 14,280 in DE 79-208 (65 NH PUC 291), the cooperative paid Goodrich Falls 7.7 cents per kilowatt-hour. However, between January 23, 1981, and June 3, 1981, the cooperative reduced the rate paid to Goodrich Falls; the reduced rate was based on the wholesale rates at which the cooperative purchases its power from supplying utilities. At the same time, the cooperative stated it would wheel power for sale by Goodrich Falls to PSNH at 7.7 cents per kilowatt-hour. Goodrich Falls commenced sales to PSNH on June 4, 1981. Goodrich Falls claims payment for the period between January 23, 1981, and June 4, 1981, for the difference between payments received from the cooperative and 7.7 cents per kilowatt-hour. The amount of the deficiency is \$29,142.29. Goodrich Falls requests payment of this deficiency either by PSNH

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or the cooperative. Goodrich Falls further states that in November, 1980, it indicated a desire to sell wheeled power to Public Service Company, and that the company delayed unreasonably

in response to this request.

The cooperative argues that commission Order No. 14,470 in DE 79-208 ([1980] 65 NH PUC 415, allows the cooperative to pay small power producers a rate based on the wholesale utility rates paid by the cooperative. The cooperative has also made a general offer to wheel power for sale by qualifying facilities directly to PSNH. Thus, according to the cooperative qualifying facilities in the cooperative's territory may choose either to sell power to the cooperative at wholesale rates, or to PSNH at avoiding generating costs, currently 7.7 cents and 8.2 cents per kilowatt-hour. Cooperative Manager Pillsbury, asserts that approval for the cooperative to pay a reduced rate for direct purchases from qualifying facilities is "implicit" in Order No. 14,470.

Public Service Company of New Hampshire argues that Goodrich Falls did not formally indicate a desire to sell wheeled power to PSNH until April 17, 1981, and that the time period between April 17, and June 4, 1981, was required to arrange details of this sale. Therefore, PSNH believes it was not subject to a purchase obligation prior to June 4th.

According to the record, all parties are somewhat at fault. Goodrich Falls did not formally apply to sell power to PSNH until April 17, 1981. However, Goodrich Fall's delay in making this decision was due in large part to inadequate information concerning pricing from the cooperative, PSNH, and this commission. The cooperative took the liberty to interpret commission policies set in Order No. 14,470 as "implicit" approval for the cooperative to reduce rates for purchases from small power producers; in fact, the rates set in DE 79-208 of 7.7 cents and 8.2 cents per kilowatt-hours for nonreliable and reliable power respectively apply to purchases from small power producers by both generating and nongenerating utilities. These rates are currently being reconsidered in DE 81-133, but until the commission specifically alters its policies, the New Hampshire Electric Cooperative cannot, on its own, reduce its purchase rates. Public Service Company of New Hampshire, for its part, was very slow in explaining to Goodrich Falls how to arrange the sale of wheeled power. It did not respond at all to Goodrich Falls' November request for information. Further, it required nearly four months to arrange for purchases from Goodrich Falls after it was clear in February that Goodrich Falls wished to shift from the cooperative to PSNH pending only a clarification of purchase rates. Finally, this commission did not respond clearly to Goodrich Falls' inquiries regarding consequences of sales to PSNH and the cooperative.

We find, therefore, that the New Hampshire Electric Cooperative is responsible for paying Goodrich Falls the rates set in DE 79-208 up to such point that PSNH should have arranged for the power to be wheeled. Goodrich Falls' interest in selling its power to PSNH, expressed in general terms on November 4, 1980, was substantially confirmed on February 11, 1981, when the New Hampshire Electric Cooperative and PSNH agreed to set up a meeting with Goodrich Falls to discuss the additional metering which would be required for Goodrich Falls to sell to PSNH. The ninety days specified in the *Federal Register* for the PURPA legislation is a reasonable period of time for PSNH to set up wheeling. We find, therefore, that PSNH should have arranged wheeling by ninety days after February 11, 1981, and is therefore responsible for paying the differential between the cooperative's wholesale rate

and 7.7 cents per kilowatt-hour after May 12, 1981.

Our order will issue accordingly:

Order

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

Ordered, that Goodrich Falls Hydroelectric Company be paid by the New Hampshire Electric Cooperative, Inc., the difference between payments made by the cooperative and 7.7 cents per kilowatt-hour, for energy sold between January 23, 1981, and May 11, 1981; and it is

Further ordered, that Goodrich Falls Hydroelectric Company be paid by Public Service Company of New Hampshire the difference between payments made by the cooperative and 7.7 cents per kilowatt-hour for energy sold between May 12, 1981, and June 3, 1981.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1981.

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NH.PUC\*12/31/81\*[79155]\*66 NH PUC 595\*Concord Electric Company

[Go to End of 79155]

## **Re Concord Electric Company**

DR 81-97, Fourth Supplemental Order No. 15,396

66 NH PUC 595

New Hampshire Public Utilities Commission

December 31, 1981

ORDER authorizing electric company to use a normalization method of accounting for purposes of the Economic Recovery Tax Act.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Concord Electric company (the "company") on December 16, 1981, filed a petition for an accounting change, requesting commission approval by supplemental order in the company's rate case docket (DR 81-97) of a full normalization method of accounting in order to take advantage of the benefits of the accelerated cost recovery system (ACRS) under § 201 of the Economic Recovery Tax Act (ERTA); and

Whereas, the company requests the issuance of a supplemental order providing that the company's final step increase in this rate case docket include a pro forma revenue adjustment for full normalization of 1981 ACRS property so that said full normalization will be reflected and recognized in the company's books of account and in the company's cost of service for rate-making purposes; and

Whereas, the commission finds that the transitional rule for normalization requirements in § 209 of ERTA requires that the company's first rate order after the date of enactment of ERTA (August 13, 1981) approve the normalization method of accounting when established under a test year that included post-1980 property; and

Whereas, the commission on October 6, 1981, made an initial determination to permit the company an increase in rates and has retained jurisdiction over the company's rate case docket (DR 81-97) in order to make a final revenue adjustment

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on October 6, 1981 (66 NH PUC 389), and

Whereas, the commission recognizes that the final revenue adjustment in the rate case proceeding is required to satisfy requirements of §§ 201 and 209 of ERTA if the company is to be able to obtain the benefits of the said legislation and to this end the company must implement a normalization method of accounting in determining its cost of service for rate-making purposes; and

Whereas, the commission recognizes that normalization yields improved internal cash generation and improves various financial indicators, such as debt equity ratio, times interest coverage, and embedded cost of debt and is, therefore, properly taken into account in setting rate of return; it is hereby

Ordered, that Concord Electric Company be, and hereby is, authorized to use a normalization method of accounting with respect to its qualifying public utility property under ERTA; and it is

Further ordered, that the revenue adjustment resulting from normalization of accounting and the relationship of normalization to rate of return will be reviewed and become a part of the company's final step increase in this rate cost docket on October 6, 1982, and that no isolated adjustment will be made.

By order of the Public Utilities Commission this thirty-first day of December, 1981.

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NH.PUC\*12/31/81\*[79156]\*66 NH PUC 596\*Conversion of Newington Station

[Go to End of 79156]

## **Re Conversion of Newington Station**

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

DE 80-175, Supplemental Order No. 15,397

66 NH PUC 596

New Hampshire Public Utilities Commission

December 31, 1981

INVESTIGATION as to feasibility of converting an electric company's unit from oil to either coal or natural gas; order in accordance with opinion.

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ELECTRICITY, § 5 — Hydroelectric plants — Conversion to coal or natural gas.

[N.H.] Conversion of an electric plant from oil to either coal or natural gas was held not to be beneficial to the company's ratepayers at this time where it was found that the cost of conversion was vastly in excess of any potential value.

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APPEARANCES: Pierre Caron representing Public Service Company of New Hampshire (PSNH); Gerald Eaton representing Community Action Program (CAP); and William Shaine representing the Legislative Utility Consumers' Council (LUCC).

BY THE COMMISSION:

Report

On August 14, 1980, this commission pursuant to its statutory authority issued Order No. 14,437 (65 NH PUC 381) establishing the above entitled docket. It has been the purpose of this docket to investigate the viability of converting Newington

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Station from oil to either coal or natural gas.

This investigation stems from two continuing concerns of the commission; reduce the electric bill of ratepayers and to reduce the state's dependence on foreign oil. The variation in cost per Btu of different fossil fuels can at times present questions as to whether electricity can be produced less expensively by changing fuels. The answer may appear straight forward, in fact it is very elusive. Many factors must be considered, not only the cost of competing fossil fuels but the expense of conversion, the possible remaining life of the plant and recognition that fossil fuel prices fluctuate and are subject to only generalized predictions as to future availability and price. In spite of these and other difficulties the commission in DE 79-141 ([1979] 64 NH PUC 195), ordered Public Service Company to convert Schiller Station Unit Nos. 4, 5, and 6 to use coal. In the Schiller case these three units were either originally designed to burn coal or had previously burned coal and therefore required less capital to convert. The estimated minimum savings to the ratepayer of converting Schiller was \$80 million. By analogy, whereas the Schiller conversion was similar to converting a PT boat to a shrimp boat, it has, upon close examination, turned out that converting Newington to coal is more like converting a PT boat to a 747. Quite simply, the cost of conversion is vastly in excess of any potential value. Nonetheless, the commission is highly pleased with the quality of analysis done on the investigation of converting Newington and although disappointed that another substantial savings to ratepayers was not realized, the commission will continue to investigate such possibilities.

Public Service Company of New Hampshire filed testimony and exhibits on October 31,

1980. Hearings were held on April 15, 1981, and May 6, 1981. The record of those two days consists of the testimony and cross-examination of Lester P. Williams of the consulting firm of D. E. Main for PSNH; and Warren A. Harvey and Sheldon B. Wicker, Jr., both from PSNH on behalf of PSNH. Five exhibits were introduced. Subsequently, on behalf of the commission staff, R. W. Beck and Associates submitted an engineering feasibility study. Also for staff, M. S. Gerber and Associates, Inc., submitted an economic-financial feasibility study. The parties waived cross-examination of the studies submitted on behalf of staff.

R. W. Beck concluded that as a question of engineering it is possible to convert to coal at the prohibitive cost of \$333 million over a five-year conversion period. C. D. Main estimated coal conversion would cost \$303,900,000. Additionally it should be noted that conversion would substantially reduce the generating capability of Newington, almost doubling the effective cost of conversion to well over 600 million. However, it is a pleasure to note that a valuable insight has been provided in that the commission is now aware that Newington can be converted to natural gas at a very minimal cost. Should the supply of natural gas continue to increase as it has in the last two years, the commission will now have much of the information necessary to conduct an in house preliminary estimate of whether such a conversion is feasible or not. But, for the present, the testimony of Warren A. Harvey makes it clear that even conversion to natural gas is presently not feasible.

The above engineering estimates of conversion costs, in addition to the many other variables previously alluded to, led Dr. Mark S. Gerber and Dr. Carl G. K. Weaver in an overall financial analysis of conversion, to conclude that converting Newington would not be beneficial

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to the ratepayers of New Hampshire.

On September 1, 1981, PSNH filed a motion to dismiss claiming that based on the studies and testimony submitted in this case, it is not in the public interest for Newington Station to be converted from oil at this time. It is noted that there had been no response challenging PSNH's motion to dismiss.

Based on the foregoing, and consistent with the record before it, the commission finds that conversion of Newington Station at this time would not be beneficial to the ratepayers of New Hampshire.

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 above referenced matter is hereby dismissed.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1981.

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NH.PUC\*12/31/81\*[79157]\*66 NH PUC 598\*Glen Ridge Water Company

[Go to End of 79157]

## Re Glen Ridge Water Company

DE 81-358, Order No. 15,398

66 NH PUC 598

New Hampshire Public Utilities Commission

December 31, 1981

PETITION for authority to establish a water utility; granted.

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APPEARANCES: Peter A. Lewis, president, and Stephen J. Noury, comptroller, for the Glen Ridge Water Company.

BY THE COMMISSION:

Report

By a petition filed November 9, 1981, Glen Ridge Water Company, a New Hampshire corporation with its principal place of business at Atkinson, New Hampshire, seeks permanent authority to operate as a public water utility in a limited area in the town of Derry, New Hampshire.

The water system has been installed to service 96 homes with 43 being served at this time. In recognition of this, Glen Ridge has allocated only 44 per cent of its investment in mains to the fixed capital accounts. The remainder of this investment will be added as new customers are connected to the water system. All customers are metered.

Based on the evidence submitted, including its financial structure, income, and expense levels, we are convinced that the petitioner is financially sound and able to furnish water service to this area, and are of the opinion that the authority sought will be consistent with the public good.

### *Temporary Rates*

Glen Ridge Water Company filed a petition for temporary rates on November 9, 1981, stating that it was, and is, providing water service to its customers at no charge.

It has been the recent policy of this commission to require public notice and hearings on such matters prior to establishing

**Page 598**

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an effective date. In this case, public notice was made on December 11, 1981, with a hearing held on January 14, 1982, at which there were no intervenors or objections made to the proposed tariff.

In recognition of the fact that the customers are receiving water service at no charge, we will allow the permanent rates, as filed in this case, to become effective for all service rendered on or

after the date of public notice, in this case, or December 11, 1981.

Our order will issue accordingly.

Order

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

Ordered, that Glen Ridge Water Company be, and hereby is, authorized to operate as a water public utility in a limited area in the town of Derry, New Hampshire, said area bounded and described as follows:

Beginning at the most northeasterly corner thereof on the southerly side of Hampstead road and adjacent to the town line between Derry and Hampstead at the town line stone marker on said road; thence

Southeasterly by said town line 900 feet more or less to the Old Worcester and Nashua railroad bed; thence Southwesterly 4,000 feet more or less along said railroad bed to the intersection of Sheldon road; thence

Northwesterly 4,000 feet more or less along said Sheldon road to the intersection of Hampstead road; thence

Easterly 3,440 feet more or less by said Hampstead road back to point of beginning. Said area is outlined on a map on file in the commission offices; and for these purposes to construct and maintain the necessary pipelines and facilities; and it is

Further ordered, that its tariff shall be marked Glenn Ridge Water Company, NHPUC No. 1 — Water, and shall bear the effective date of December 11, 1981; and it is

Further ordered, that individual notice of the general service — metered rate schedule shall be given to each customer.

By order of the Public Utilities Commission of New Hampshire this thirty-fit day of December, 1981.

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NH.PUC\*12/31/81\*[79158]\*66 NH PUC 599\*Kearsarge Telephone Company

[Go to End of 79158]

**Re Kearsarge Telephone Company**

DR 82-5, Order No. 15,409

66 NH PUC 599

New Hampshire Public Utilities Commission

December 31, 1981

ORDER establishing tariff effective date.

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BY THE COMMISSION:

Order

Whereas, on December 24, 1981, Kearsarge Telephone Company filed proposed tariff pages, Section 5, Sheets 8-12, providing for circle calling service to its customers; and

Whereas, the filing concurs with a similar filing made by the New England Telephone and Telegraph Company on December 2, 1981; and

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Whereas, upon investigation the commission finds this offering to be in the public interest; it is

Ordered, that Kearsarge Telephone Company, tariff, Section 5, Original Sheets 8-12, are allowed to become effective on January 1, 1982; and it is

Further ordered, that the company make public notice of the opportunities provided in this filing in a manner as to assure wide customer awareness of the same.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1981.

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NH.PUC\*12/31/81\*[79159]\*66 NH PUC 600\*Meriden Telephone Company

[Go to End of 79159]

### Re Meriden Telephone Company

DR 82-6 Order No. 15,410

66 NH PUC 600

New Hampshire Public Utilities Commission

December 31, 1981

ORDER establishing tariff effective date.

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BY THE COMMISSION:

Order

Whereas, on December 24, 1981, Kearsarge Telephone Company filed proposed tariff pages, Section 5, Sheets 8-12, providing for circle calling service to its customers; and

Whereas, the filing concurs with a similar filing made by the New England Telephone and Telegraph Company on December 2, 1981; and

Whereas, upon investigation the commission finds this offering to be in the public interest; it is

Ordered, that Meriden Telephone Company, tariff Section 5, Original Sheets 8-12, are

allowed to become effective on January 1, 1982; and it is

Further ordered, that the company make public notice of the opportunities provided in this filing in a manner as to assure wide customer awareness of the same.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1981.

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**Endnotes****1 (Popup)**

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

**2 (Popup)**

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**3 (Popup)**

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**12 (Popup)**

<sup>1</sup>Includes a joint territory in which Public Service Company of New Hampshire is also authorized to serve.

**13 (Popup)**

<sup>1</sup>Includes a joint territory in which Public Service Company of New Hampshire is also authorized to serve.

**14 (Popup)**

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**20 (Popup)**

<sup>1</sup>Includes a joint territory in which Public Service Company of New Hampshire is also authorized to serve.

**21 (Popup)**

<sup>1</sup>Sponsored by Representative Barbara Bowler.

**22 (Popup)**

<sup>1</sup>Re Public Service Co. of New Hampshire (1980) 65 NH PUC 650.

**23 (Popup)**

\*Includes Rates D, DE, D-OS, and D-OTOD.

The initial time period set forth for refunding the aforementioned over-collection was thirty-six months. However, if and when the "adjustment period" began on the divestiture of

PSNH's Sea-brook interest, the time period remaining would be cut in half and the rate of refund would double.

On July 1, 1981, the adjustment period for PSNH will begin in its totality. Consequently, our prior order now must be complied with to the fullest extent possible. The rates of refund filed as p. 13 of NHPUC No. 24-A-Electricity, issued on May 16, 1981, are to double so as to allow a more expedited refund process.

The result of this expedited refund process will vary by a given consumers usage because the original overcollection was collected on a per kilowatt-hour basis. The following illustrates the effect of doubling the rate on certain customers within the various rate classifications:

Residential 500 KWH!—!.88¢ 750 KWH!—!\$1.32 1,000 KWH!—!\$1.76 1,250 KWH!—!\$2.20 Commercial 1,500 KWH!—!\$2.79 2,000 KWH!—!\$3.72 Industrial and Institutional 1,000 KWH!—!\$ 1.14 10,000 KWH!—!\$11.40 50,000 KWH!—!\$57.00

This expedited refund process will allow completion of the refund process in less than a year.

Our order will issue accordingly.

#### **24 (Popup)**

<sup>1</sup>Poor accounting procedures make it impossible to determine the validity of this assertion.

#### **25 (Popup)**

<sup>2</sup>Transcript — February 18, 1981, p. 40; Transcript — March 11, 1981, p. 11.

#### **26 (Popup)**

<sup>3</sup> Transcript — March 11, 1981, p. 49

#### **27 (Popup)**

<sup>4</sup> Transcript — March 11, 1981, p. 45

#### **28 (Popup)**

<sup>5</sup> Transcript — March 11, 1981, p. 47

#### **29 (Popup)**

<sup>1</sup>Notice same as DE 80-4. Counsel for Omni filed before any notice in the paper.

#### **30 (Popup)**

<sup>1</sup>Such as the Weinstein properties.

#### **31 (Popup)**

\*The commission would note a transcript change on p. 40 of the August 20, 1981, transcript. The two bottom paragraphs should be attributed to Attorney Tarbell rather than Commissioner McQuade.

#### **32 (Popup)**

<sup>1</sup>Any similarity between the date and the "trick or treat" rules normally adopted for this date are purely accidental.

**33 (Popup)**

<sup>2</sup>Section 121(a).

**34 (Popup)**

<sup>3</sup>Section 121(b).

**35 (Popup)**

<sup>4</sup>Section 122 (a) and (b).

**36 (Popup)**

<sup>5</sup>The California supreme court in noting that state authority only allowed public participation in cases to be awarded in quasi-judicial cases, found that PURPA had provided new power to the state regulatory commissions. *Consumers Lobby Against Monopolies v California Pub. Utilities Commission* (1979) 25 Cal 3d 148, 33 PUR4th 148, 162 150 Cal 124, 603 P2d 41, footnote 9.

**37 (Popup)**

<sup>6</sup>*Consumers Lobby Against Monopolies v California Pub. Utilities Commission* (1979) 25 Cal 3d 148, 33 PUR4th 148, 160 Cal Rptr 124, 603 P2d 41.

**38 (Popup)**

<sup>1</sup>Later reduced by New England Telephone to \$14,265,000.

**39 (Popup)**

<sup>2</sup>Statement of Commissioner Joseph R. Fogerty in *Re Amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies — FCC Docket* (1980).

**40 (Popup)**

<sup>1</sup>The commission's attrition allowance was twenty basis points, not "two" as stated by Northern in its motion for rehearing.

**41 (Popup)**

<sup>1</sup>The commission's attrition allowance was twenty basis points, not "two" as stated by Northern in its motion for rehearing.

**42 (Popup)**

<sup>2</sup>Since bonded rates were effective as of December 22, 1980, there may well be close to thirteen months.

**43 (Popup)**

<sup>1</sup>This commission has since rejected the use of an informal proceeding in dealing with substantive questions such as these.

**44 (Popup)**

<sup>2</sup>Two of these commissioners have since left the commission. The difficulty in rendering

a decision in this case is that three other commissioners have been appointed, of which one has also subsequently left the commission.

**45 (Popup)**

<sup>1</sup>Utilities Association Exh 7.

**46 (Popup)**

<sup>2</sup>Utilities Association Exh 3.

**47 (Popup)**

<sup>3</sup>This case has revealed some discriminatory assessing of commission expenses. One major gas utility has been historically allowed dispensation from these costs without explanation or justification. Other utilities have been excluded or ignored, which neither the statutory definition of utilities nor any other statute sanctions.

**48 (Popup)**

<sup>4</sup>Transcript, pp. 2-217, 2-218.

**49 (Popup)**

<sup>5</sup>It could concernably take three trips, since each individual utility might challenge after the industrywide split was challenged (80 per cent to 20 per cent). The commission has rejected the same methods from the consumer side. Are any of the litigants unfamiliar with the actively used three-step approach? (a) We don't need the power, so do not build the plant; (b) all coal/hydro/nuclear plants are environmentally unsafe and shouldn't be built; (c) even though some are safe, the plans for this particular coal/hydro/nuclear plant are environmentally unsafe and that it should not be built. These campaigns confront us every day. If withholding becomes fashionable, regulation may well lose its last ounce of strength.

**50 (Popup)**

<sup>6</sup>Transcript, pp. 28-32 — September 24, 1981.

**51 (Popup)**

<sup>7</sup>Transcript, pp. 2-217-222 — October 5, 1981. Absence of meaningful discussion involving 80 per cent to 20 per cent split in brief submitted by Utilities.

**52 (Popup)**

<sup>8</sup>Transcript, pp. 1-23 — September 24, 1981.

**53 (Popup)**

<sup>9</sup>Re Residential Conservation Service Program For Noncovered Utilities ([1981] 66 NH PUC 29).

**54 (Popup)**

<sup>10</sup>Volume 44 *Federal Register* No. 217, § 456.303 (a) p. 64667 Nov. 7, 1979.

**55 (Popup)**

<sup>11</sup>Volume 44 *Federal Register* No. 217, § 456.202 (a)1 p. 64665 Nov. 7, 1979.

**56 (Popup)**

<sup>12</sup>Volume 44 *Federal Register* No. 217, § 456.301-319 p. 64666-64667 Nov. 7, 1979.

**57 (Popup)**

<sup>13</sup>Volume 44 *Federal Register* No. 217, § 456.315 (a) p. 64675 Nov. 7, 1979.

**58 (Popup)**

<sup>14</sup>Energy Exh 11.

**59 (Popup)**

<sup>15</sup>These records are part of DE 80-232 (66 NH PUC 29) and contain much of the information we have received concerning the RCS program. In particular are the DOE face sheets that were received by the commission and its staff.

**60 (Popup)**

<sup>16</sup>Pleading DE 80-232 dated October 31, 1980.

**61 (Popup)**

<sup>17</sup>The commission rejected the petition which sought to have these expenses recognized as reasonable operating expenses, the commission asked that these utilities resubmit a plan to first focus on just heating and other high use customers. It was our thought that these would give the greatest results in the shortest period of time. Public Service Company of New Hampshire RCS expenses are 100 per cent recognized. The commission clearly established its intent to recognize the others' expenses when a more limited plan was filed.

**62 (Popup)**

<sup>18</sup>National Energy Conservation Policy Act, § 102 — 1978.

**63 (Popup)**

<sup>19</sup>Re New England Power Co. (1980) 65 NH PUC 442, 446.

**64 (Popup)**

<sup>20</sup>Re New England Power Co. (1980) 65 NH PUC 442, 446.

**65 (Popup)**

<sup>21</sup>Re Small Energy Producers and Cogenerators (1980) 65 NH PUC 415, 416.

**66 (Popup)**

<sup>22</sup>Re Conversion of Schiller Station (1980) 65 NH PUC 127; Re Small Energy Producers and Cogenerators (1980) 65 NH PUC 291.

**67 (Popup)**

<sup>23</sup>Re New Hampshire Electric Co-op., Inc. (1980) 65 NH PUC 16; Re Exeter & Hampton Electric Co. (1980) 65 NH PUC 209; Re Public Service Co. of New Hampshire (1979) 64 NH PUC 467, 476.

**68 (Popup)**

<sup>24</sup>Public Service Company of New Hampshire response to commission data request, DR 81-87 ([1981] 66 NH PUC 122).

**69 (Popup)**

<sup>25</sup>Section III, Chap 535.

**70 (Popup)**

<sup>26</sup>Section III(b), Chap 535.

**71 (Popup)**

<sup>27</sup>Section III(a)(2), Chap 535.

**72 (Popup)**

<sup>28</sup>Public Utilities Regulatory Policy Act, Title II, § 201 (17)(A)(i).

**73 (Popup)**

<sup>29</sup>Revised Statutes Annotated 362-A:1, 2.

**74 (Popup)**

<sup>30</sup>*Energy Future*, Chap 6 Conservation: The Energy Source, p. 136 (1979).

**75 (Popup)**

<sup>31</sup>Public Utilities Regulatory Policy Act of 1978, § 2, Findings.

**76 (Popup)**

<sup>32</sup>Section V(b), Chap 535.

**77 (Popup)**

<sup>33</sup>Section II(a)(4), Chap 535.

**78 (Popup)**

<sup>34</sup>Section II(a)(5), Chap 535.

**79 (Popup)**

<sup>35</sup>Section, II(b)(12), Chap 535.

**80 (Popup)**

<sup>36</sup>Section II(b)(2), Chap 535.

**81 (Popup)**

<sup>37</sup>Section II(c)(1), Chap 535.

**82 (Popup)**

<sup>38</sup>Governor's Council on Energy, Exh 13, p. 2.

**83 (Popup)**

<sup>39</sup>Governor's Council on Energy, Exh 13, p.2.

**84 (Popup)**

<sup>40</sup>Revised Statutes Annotated 363:18-a.

**85 (Popup)**

<sup>41</sup>Transcript, pp. 2-110 — October 5, 1981.

**86 (Popup)**

<sup>42</sup>Association of Utilities, Exh 11.

**87 (Popup)**

<sup>43</sup>Governor's Council on Energy, Exh 7.