NH.PUC*01/03/92*[72844]*77 NH PUC 51*KEARSAGE TELEPHONE COMPANY, INC

[Go to End of 72844]

KEARSAGE TELEPHONE COMPANY, INC

DR 92-011
ORDER NO. 20,380

77 NH PUC 51

New Hampshire Public Utilities Commission

January 3, 1992

Approval of 900 Blocking Service

On January 14, 1992, Kearsage Telephone Company filed with the New Hampshire Public Utilities Commission (commission), a petition seeking approval of its Call Blocking Service whereby residential and single linebusiness customers would be able to block calls to Pay-per-Call services prefixed by 1+900 and 1+976, effective February 17, 1992; and

WHEREAS, no Information Providers have contracted to offer intrastate Pay-per-Call service using 1+976 to date; and

WHEREAS, after consultation with staff,on January 21, 1992 Kearsage Telephone Company filed a substitute tariff eliminating all reference to the blocking of 1+976 intrastate

calls; and

WHEREAS, the company proposes to offer the initial blocking and unblocking of Pay-per-Call services at no charge to the customer, and each subsequent change in blocking at a non-recurring charge of $13.50 and $18.00 for residence and business customers respectively; and

WHEREAS, the company has provided no cost support for its blocking charge but has chosen to apply the company's tariffed service order charge; and

WHEREAS, the company has agreed to file with the commission an incremental cost study no later than December 31, 1992; and

WHEREAS, the company and staff have agreed that pending the incremental cost study the non-recurring service order charge will be the only cost associated with each subsequent change in blocking service on an interim basis; it is hereby

ORDERED that Kearsage Telephone Company Tariff No 7 Section 4 Original Sheet 5B be and hereby is approved; and it is

FURTHER ORDERED, that the rates for this service be subject to review following the completion of the incremental cost study in June 1992.

By order of the New Hampshire Public Utilities Commission this third day of January, 1992.

==========

NH.PUC*01/06/92*[72827]*77 NH PUC 1*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72827]

NEW ENGLAND TELEPHONE COMPANY

DR 91-219
ORDER NO. 20,363

77 NH PUC 1

New Hampshire Public Utilities Commission

January 6, 1992

On December 23, 1991, New England Telephone Company (the company) filed with the New Hampshire Public Utilities Commission, revisions to its existing FLEXPATH digital PBX and ANALOG to DIGITAL (A/D) Conversion PBX products providing for service on an unlimited basis effective January 22, 1992; and

WHEREAS, the introduction of unlimited FLEXPATH service in areas where unlimited analog PBX trunks are available will encourage customers to migrate to the new service, thereby enabling them to benefit from digital transport connections and potential cost savings over their analog PBX trunks; and

WHEREAS, with the exception of the PBX trunk loop costs, all other cost support is based on 1987 trended cost components submitted by the company in its original FLEXPATH petition, filed with the commission on December 16, 1985; and

WHEREAS, the company chose not to update these incremental costs when filing its Incremental Cost Study in support of Docket DR 89-010, in March of 1989; and WHEREAS, the company will be submitting an updated incremental costs study in April 1993; it is hereby ORDERED, that the following tariff pages:

Tariff NHPUC No. 75

Part C

Section 5-Fourth Revision of Page 2
Sixth Revision of Page 4
Third Revision of Page 6
Sixth Revision of Page 8
be and hereby are approved; and it is

FURTHER ORDERED, that the rates for this service be subject to review following the

completion of the incremental cost study in April 1993.

By order of the New Hampshire Public Utilities Commission this sixth day of January, 1992.

==========

NH.PUC*01/06/92*[72828]*77 NH PUC 1*GRANITE STATE ELECTRIC COMPANY

[Go to End of 72828]

GRANITE STATE ELECTRIC COMPANY

DR 91-196
ORDER NO. 20,364

77 NH PUC 1

New Hampshire Public Utilities Commission

January 6, 1992

Fuel Adjustment Charge, Oil Conservation Adjustment and QF Rates

---

APPEARANCES: David J. Saggau, Esq. for Granite State Electric Company; James T. Rodier, Esq. for the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On December 2, 1991, Granite State Electric Company (Granite State) filed tariff pages with supporting testimony and exhibits reflecting Granite StateOs proposed fuel adjustment charge (FAC), oil conservation adjustment (OCA) and qualifying facility power purchase rate (QF) for the first six months of 1992.

An order of Notice was issued by the commission on December 1, 1991, and, pursuant thereto, a hearing on the merits was held on December 20, 1991.

II. POSITION OF GRANITE STATE ELECTRIC COMPANY

Granite State is proposing an FAC factor of $.00550 per kWh during the months of January through June, 1992. This factor is expected to recover fully fuel-related expenses from Granite StateOs wholesale supplier, New England Power Company (NEP). The proposed FAC factor is an increase of $.00115

per kWh over the currently effective FAC factor of $.00435 per kWh.

Granite State is proposing an OCA factor of $.00112 per kWh for the first half of 1992. This factor represents a decrease of $.00008 per kWh from the currently effective OCA factor of $.00120 per kWh.

Granite State is proposing a QF energy rate at the subtransmission distribution level of 2.651

in the peak period, 2.107 in the off- peak period, and 2.361 on the average. At the primary distribution level, the company is proposing 2.847 on-peak, 2.211 off-peak, and 2.507 on average. The proposed QF rate for the secondary distribution level is 2.948 on-peak, 2.263 off-peak, and 2.582 per kWh on average.

III. ISSUES PRESENTED

The primary issue developed by staff during the hearing was the underlying reason for the forecasted increase to total fuel costs and the associated proposed increase to the FAC for the period January through June, 1992. Granite StateOs fuel forecast contemplates falling oil and gas prices and stable coal prices during this same period.

During cross-examination, it became apparent that the forecasted increase in total fuel costs is due to payments to New England Energy, Incorporated (NEEI) and the incurrence of gas pipeline demand charges by NEP.

NEEI Payments

According to Schedule 3 of Exhibit 3, New England Power Company is expected to make payments to its affiliate, NEEI, ranging from $2 million to $4 million per month during the period from January through June, 1992.

Under a settlement approved by the Federal Energy Regulatory Commission (FERC), NEPCO is allowed to recover through its fuel clause its payments to NEEI for losses resulting from NEEI's oil and gas exploration and development activities. Under cross-examination, Granite State conceded that these losses and consequent recovery from ratepayers would probably be higher in future periods under present fuel price forecasts.

Gas Pipeline Demand Charges

According to Granite State's pre-filed testimony, as part of its comprehensive gas supply strategy and in order to assure a supply of natural gas for its Manchester Street Repowering project, NEP has entered into firm transportation contracts with several interstate pipelines and TransCanada Pipelines, Limited. NEP expects to incur demand charges under some of these contracts beginning in December 1991. Natural gas pipeline demand charges are expected to aggregate about $22 million during 1992. As specified by the settlement agreement in NEP's W-12 Case at FERC, 50 percent of these charges will be billed to NEP's customers currently through NEP's fuel adjustment clause and the remaining 50 percent of these charges will be billed to NEP's customers currently through NEP's fuel adjustment clause and the remaining 50 percent shall be held in a deferred asset account, upon which NEP shall earn a current return. NEP expects that a portion of the demand charges will be offset by net revenue generated from the sale of natural gas.

According to Schedule 2 of Exhibit 3, net pipeline demand charges in the following amounts are proposed to be recovered by Granite State:

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

January	$175,000
February	$175,000
March	$175,000
April	$375,000
May	$375,000
June	$375,000

According to Granite State's testimony, it was expected at the time of the settlement of NEP's W-12 rate case at FERC, that the natural gas transported under these pipeline contracts could be utilized in Brayton Point Unit 4 if it was not utilized in the Manchester Street Repowering project. However, Granite State conceded that the pipeline gas cannot be currently utilized at Brayton Point because it is uneconomic when compared to oil, the alternate fuel for Brayton Point. Consequently, Granite State is attempting to mitigate the cost of the pipeline demand charges by attempting to resell the gas in the North American gas markets. Granite State also conceded during the hearing that even if it were economically viable to utilize gas currently at Brayton Point Unit 4, Granite State did not have enough regional transportation in place to utilize all the gas at Brayton Point Unit 4 for which it had contracted for use at Manchester Street.

IV. POSITION OF STAFF

With regard to NEP's payments to NEEI, staff stated it had no basis to believe that the recovery of losses incurred by NEEI from ratepayers in the range of $2 to $4 million payments was improper under the terms of the settlement of the W-12 rate case at FERC. Staff, however, recommended that the commission consider auditing the recovery of NEEI losses to ensure that Granite State's ratepayers are paying only lawful and proper amounts

With regard to the gas pipeline demand charges, staff recommended that Granite State's proposed FAC rate be approved subject to the condition that such approval have no precedential or prejudicial effect on staffOs ability at any future time to investigate and litigate the propriety of the recovery of any or all of the pipeline demand charges from Granite State's ratepayers.

V. COMMISSION ANALYSIS

With regard to the recovery from ratepayers of NEEI's losses, we find no need at this time to direct staff to undertake a financial audit because the record supports a finding that the recovery of NEEI losses is fully in accordance with and authorized by the settlement of NEP's W-12 rate case at FERC.

With regard to recovery of the pipeline demand charges, we will approve Granite StateOs proposed FAC rate on the basis that said approval shall not have any preclusive effect on staff's ability to pursue further examination of this issue, either informally or through future hearings.

Otherwise, we find Granite State's proposed FAC rate, OCA rate and QF rates just and reasonable.

Our order will issue accordingly.

Concurring: January 6, 1992

ORDER

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

ORDERED, that Granite State Electric Company's proposed Fuel Adjustment Charge, Oil Conservation Adjustment and QF Rates are approved for the period from January through June

1992.

By order of the Public Utilities Commission of New Hampshire this sixth day of January, 1992.

Larry M. Smukler Chairman

Bruce B. Ellsworth Commissioner

Linda G. Bisson Commissioner

Attested by:

Wynn E. Arnold

Executive Director and Secretary

==========

NH.PUC*01/07/92*[72829]*77 NH PUC 4*TOWN OF DERRY

[Go to End of 72829]

TOWN OF DERRY

DR 90-123
ORDER NO. 20,365

77 NH PUC 4

New Hampshire Public Utilities Commission

January 7, 1992

ORDER Denying Petition to Increase Wholesale Water Rates

APPEARANCES: Hinkley and Hahn by Marc A. Pinard, Esq. on behalf of the Town of Derry; Boutin and Solomon by Edmund J. Boutin, Esq. on behalf of Southern New Hampshire Water Company, Inc.; and Eugene F. Sullivan III, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

By Report and Order No. 17,071 the New Hampshire Public Utilities Commission ("Commission") approved a wholesale water tariff based on a ten year contract entered into between the Town of Derry ("Town") and Southern New Hampshire Water Company, Inc. ("Southern" or the "Company") establishing the wholesale water rate Southern would pay the Town for wholesale purchases of water. See, Re Town of Derry, Water Department, 69 NH PUC 309 (1984).

On July 20, 1990, the Town filed with the Commission a Notice of Intent to file rate schedules and on September 14, 1990, it filed revised rate schedules increasing the wholesale water rate it charges Southern. On October 12, 1990, Southern filed a motion for suspension and

intervention or dismissal. On October 15, 1990, the Commission issued Order No. 19,955 suspending the proposed rate schedules for investigation and on October 22, 1990, the Commission issued an Order of Notice requiring notification of the proposed rate increase and scheduling a date for a prehearing conference and motions to intervene.

On November 19, 1990, a prehearing conference was held and the parties stipulated to a procedural schedule. On December 18, 1990, Southern withdrew its motion to dismiss reserving the right to refile the motion.

On August 13 and 14, 1991, after a period of discovery and attempts at settlement, the Commission held hearings on the Town's rate proposal. At the close of the Town's direct case Southern renewed its motion to dismiss. This Report and Order grants that motion.[1(1)]

II. POSITIONS OF THE PARTIES

Southern, the moving party, cites numerous grounds to support its motion to dismiss. Southern argued generally that the petition should be dismissed ab initio because: 1) the contract upon which the rate is based is clear and unambiguous and does not allow for unilateral increases by the Town, other than purchased water adjustments to reflect changes in the rate it pays the City of Manchester for water; 2) the petition lacks the information necessary for the Commission to adjudicate a rate filing; 3) the petition does not conform to the filing requirements for a "Special Contract"; and 4) the proposed rate increase is due in part to construction work in progress, in violation of RSA 378:30A.

Southern argues further that the terms of the "Special Contract" do not operate in such an "inequitable and unjust manner so as to require the setting aside" of the contract. The Town contented that its petition and supporting testimony contain the necessary information for the Commission to render a decision. The Town asserted that the contract contains an ambiguity which should be construed to allow the petition to proceed on its merits. On the merits, the contract contemplated Southern paying for system expansion.

The Town further argued that its direct case has demonstrated that the contract has resulted in an economic inequity that is tantamount to an emergency which, if allowed to remain in effect, will lead to an unjust and inequitable result.

III. COMMISSION ANALYSIS

Our analysis will first address the issue of whether there is an ambiguity in the contract entered into between the Town and Southern and, if so, how that ambiguity should be resolved. We conclude that, under the terms of the contract, the Town is not entitled to the rate relief sought in the instant Petition. The next inquiry is whether circumstances warrant a departure from the contract. Substantial record evidence convinces us that the economic consequences of the contract are within the parameters contemplated by the parties at the time of contract execution and, therefore, the Commission cannot approve a rate that is inconsistent with the contract.

The contract in dispute was executed on November 1, 1983 and filed with the Commission on November 13, 1983. After investigation by the Commission, the Town was permitted to file a

tariff which applied the wholesale rate contained in the June 1, 1984 contract between the Town and Southern. See, Re Town of Derry, Water Department, 69 NH PUC 388, 311 (1984).

The Town filed the instant petition to increase the wholesale rate based on section 302.2 of the contract which reads as follows;

> 302.2 Adjustment of Rate. The rate established in Section 302.1 shall be adjusted pursuant to each and every order of the Public Utilities Commission, including any increase or decrease in rates approved by the Commission, charged to Derry by the City of Manchester. Such increases or decreases in the rate charged under this contract shall be effective as of the same date on which the increase or decrease in rates charged by the City of Manchester is effective.

The Town contends that section 302.2 allows it unilaterally to adjust the tariffed rates based on the contract if the change is approved by the Commission. In the alternative, the Town contends that section 302.2 is ambiguous and that the ambiguity should be resolved to allow the Town to increase its rates after Commission approval.

In contrast, Southern argues that there is no ambiguity in the contract because section 302.2 is merely a purchase water adjustment clause.

The Commission concludes that section 302.2 of the contract is ambiguous in that the parties can reasonably differ about the circumstances which allow the Town to adjust the rates. See, Commercial Union Assurance Cos. v. Town of Derry, 118 N.H. 469, 471 (1978) (clause is ambiguous when the contracting parties reasonably differ as to its meaning).

The New Hampshire Supreme Court has held that ambiguities in contracts shall be resolved based on the intent of the parties and that the parties' intent will be determined by applying objective standards rather than subjective states of mind. C & M Realty Trust v. Wiedenkeller, 133 N.H. 470, 476 (1990).

Applying an objective standard, the Commission finds that the parties intended section 302.2 to provide for adjustments in rates caused by material changes in the cost of purchased water and similar classes of items. While the section does not expressly limit itself to purchase water adjustments, it does cite such adjustments specifically, creating the impression that the intent of the parties was to limit rate adjustments to that class of items. Cf., State v. Meaney, 134 N.H. 741 (1991), slip op. at 2 ("The principle of ejusdem generis provides that, where specific words in a statute follow general ones, the general words are construed to embrace only objects similar in nature to those enumerated by the specific words."). Obviously, Southern would not have expended the time and funds to enter into a contractual relationship with the Town if one of the most significant terms could be changed unilaterally. Although the clause is not artfully worded, to interpret it otherwise would make the contract and the contractual process meaningless under these circumstances.

Our interpretation of the meaning of the terms of the contract does not end our analysis. The contract was filed with the Commission for its approval as a tariffed rate, a process which is statutorily required in this case. See, RSA Chapter 378. Because the contract by its own terms and by statute is subject to the

ultimate ratemaking authority of the Commission, the Commission retains the ability on the request of any party or on its own motion to change the rates, if such a change is warranted, notwithstanding inconsistent contractual terms. We are therefore left with the issue of whether the Commission should approve a change in rates requested by one of the contract parties based not on the terms of the contract, but rather on our general ratemaking authority. Our review of this issue will be governed by the so-called Mobile-Sierra doctrine which is based on the United States Supreme Court's holdings in United States Gas Pipeline Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956), and FPC v. Sierra Power Co., 350 U.S. 348 (1956).[2(2)]

The Mobile-Sierra doctrine provides that a contractually based tariff which has been filed by the contracting parties, and approved by a regulatory agency after a finding of reasonableness, may be set aside by the regulatory agency if it later finds that the rate is contrary to the public interest. The Court based its decision on the fact that the rate was not merely based on the parties contract, but also a finding of reasonableness by the regulatory agency. Under this analysis, the agency's statutory authority to modify unjust rates gives it continuing jurisdiction over the rate. Mobile, 350 U.S. 332, 334-335; see also, RSA 378:28, RSA 378:7.

The Court further stated that a rate which yields less than a reasonable rate of return is not necessarily contrary to the public interest. It is proper for a regulatory agency to apply a standard which, inter alia, examines whether the rate impairs the financial viability of the utility or causes undue discrimination to the utility's customers. This burden, which is heavier than the one applied in a conventional rate case, is appropriate because it accords due weight to the certainty of the contracting process and the deference that should be accorded to the voluntary allocation of risk inherent in that process. Sierra, 350 U.S. at 347-348.

In the case at hand, the Town asserts that adherence to the contract rate would cause it undue financial hardship. In support of the assertion, the Town proffered Exhibit 2 which purports to show that Derry has experienced losses of $133,864 in nominal dollars and $106,601 in 1990 dollars under the existing agreement with Southern. Southern challenged the assumptions underlying the Exhibit 2 calculations and, in so doing, raised several persuasive points that indicate that the losses may be overstated. However, were we to accept the Exhibit 2 calculations at face value, we would reject the Town's claim because the exhibit persuades us that the losses, if they occurred, were part of the risks knowingly allocated by the parties at the time the contract was executed and approved by the Commission.

Exhibit 2 must be examined in the context of the material terms of the contract between the Town and Southern. Those material terms provide that Southern is required to pay an annual fixed rate of approximately $31,214 and a variable rate of approximately $0.600/CCF for water consumed. See e.g., Re Town of Derry, Water Department, 69 NH PUC at 309310; Exhibit 1B. The contract also limits the quantity of water that may be purchased by Southern to, inter alia, an average daily flow of 500,000 gallons per day. Exhibit 1A. Exhibit 2 indicates that in the initial years of the contract (1984 to 1987), Derry realized profits. During those early years, Southern's consumption was low. Thus, under Derry's calculations, low usage combined with Southern's obligation to pay a fixed annual rate produced a profit. Exhibit 2 demonstrates that Derry's losses started in year 1988; a year that Southern's usage increased to 74,281 — approximately doubling the 1987 usage of 31,433. Southern's usage continued to increase significantly and Derry's

calculated Exhibit 2 losses increase more or less correspondingly. All usage in each year was below the maximum amount specified in the contract. Transcript of August 13, 1991 at 133-134.

The significance of the above analysis is that the elements of Derry's profits and losses were in place at the time the contract was finalized. Those profits and losses were not driven by

---

an unanticipated change in circumstances; rather they were driven by Southern's usage decisions all of which were within the terms of the contract. See also, Transcript of August 13, 1991 at 128-129:

> CHAIRMAN SMUKLER ... How much of the losses or profits are attributable to Southern New Hampshire's increased usage as distinguished from the payment of the fixed cost when usage is not so high? If you know.
>
> THE WITNESS [Derry Town Engineer Charles V. Nelson]. I guess I don't know the exact amount. I do know that usage is really a key. The higher the usage goes essentially the lower Southern's effective rate goes because they have a fixed charge and a low per 100 cubic feet rate.
>
> CHAIRMAN SMUKLER. So if Southern's usage in 1984 under the contract had been 117,778 we could well have seen a loss in that year?
>
> THE WITNESS. That's correct.
>
> CHAIRMAN SMUKLER. And that's the first year of the contract?
>
> THE WITNESS. Yes.
>
> Because there has been no unanticipated material change in circumstances, we cannot find that the Town is experiencing sufficient hardship to warrant a departure from the settled expectations of the parties as reflected in the contract. The public interest does not require that the contract be abandoned; indeed, the stability of the contracting process militates in favor of enforcing the contract when risks allocated ab initio materialize. Petition of Public Service Company of New Hampshire, 130 N.H. 265 (1988). Derry has therefore failed to meet its burden under the Sierra-Mobile doctrine.

IV. CONCLUSION

The Town has failed to convince us that the terms of the contract provide for the type of rate adjustment it is requesting in the instant proceeding. The Town has also failed to meet its burden of demonstrating that the public interest requires a departure from the contract under the Sierra-Mobile doctrine. The material facts which underlie our analysis are either not disputed or have been construed in favor of the Town. Under those facts Southern is entitled to judgment as a matter of law. Consequently, Southern's Motion to Dismiss will be granted.

Our order will issue accordingly.

ORDER

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

ORDERED, that the Motion to Dismiss of Southern New Hampshire Water Company be,

and hereby is, granted.

By order of the New Hampshire Public Utilities Commission this seventh day of January, 1992.

FOOTNOTES

[1]Although Southern labeled its motion as a motion to dismiss, the relief granted herein is more in the nature of the granting of a motion for summary judgment. Cf., RSA 491:8-a (providing for summary judgments by the Superior Court). This is because the relief is being granted based, in part, on the record developed during the hearings of August 13 and 14, 1991. Based upon the material undisputed facts in that record, we have concluded that Southern is entitled to judgment as a matter of law. Id. The question of the proper labeling of Southern's motion is not material to our underlying analysis and we will therefore continue to refer to, and rule on, it as a motion to dismiss.

[2]The Commission notes that this will be the first time the Commission has applied the Mobile-Sierra doctrine to a water utility or, for that matter, any other type of utility under its jurisdiction.

==========

NH.PUC*01/13/92*[72830]*77 NH PUC 8*CONCORD ELECTRIC COMPANY

[Go to End of 72830]

CONCORD ELECTRIC COMPANY

DR 90-188
ORDER NO. 20,366

77 NH PUC 8

New Hampshire Public Utilities Commission

January 13, 1992

Special Interruptible Load Agreements

On November 15, 1991, UNITIL Service Corp., on behalf of Concord Electric Company (the Company), filed copies of two Special Interruptible Load Agreements (Agreements) between the Company and the City of Concord, Department of Water Resources, and between the Company and Concord Steam Corporation, that provide for 160 Kw and 254 kW of Contracted Interrruptible Load, respectively; and

WHEREAS, the Company has filed the two contracts, Special Contract 4-A for Concord Steam and Special Contract 5-A for the City of Concord, Department of Water Resources, under its currently approved Special Interruptible Load Program (SIP); and

WHEREAS, SIP is designed to comply with and complement the NEPOOL Criteria, Rules, and Standard No. 16 (CRS 16) Type 5 dispatchable loads, loads that are voluntarily interrupted without regard to frequency but with the capability to be interrupted at least four times a day; and

WHEREAS, the Agreements provide that the participants will be compensated with a Demand Credit of $2.00 per Kw the payment made to the Company from NEPOOL for programs of this type -based upon the actual daily average load relief contributed per interruption, averaged over the entire interruption period; and

WHEREAS, the Agreements include, as they did last year, a Firm Interruptible Program Reservation Option that pays each participant $1 per Kw-yr. of Contracted Interruptible Load in accordance with the Company's Firm Interruptible Load Program (FIP); it is hereby

ORDERED NISI, that the Company's Agreements, Special Contract No. 4-A with Concord Steam, and Special Contract No. 5-A with the City of Concord, Department of Water Resources, be, and hereby are, approved effective November 1, 1991; and it is

FURTHER ORDERED, that Concord report to the Commission any changes in the short-term power market that would alter the conditions of the contracts approved today by September 1, 1992, and that Concord file no later than November 1, 1992, its interruptible program for the following year; and

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this notice to be published once in a newspaper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than January 17, 1992, said publication to be documented by affidavit filed with this office on or before January 31, 1992; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of Puc 1601.02(c), that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that Special Contract No. 95 will be retroactively effective as of November 1, 1991; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and

FURTHER ORDERED, that this Order NISI will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of January, 1992.

==========

NH.PUC*01/13/92*[72831]*77 NH PUC 9*EASTMAN SEWER COMPANY

[Go to End of 72831]

EASTMAN SEWER COMPANY

DR 90-170
ORDER NO. 20,367

77 NH PUC 9

New Hampshire Public Utilities Commission

January 13, 1992

Order on Motion for Rehearing and Other Relief

WHEREAS, on December 31, 1991, Eastman Sewer Company, Inc. (Eastman), filed a Motion for Rehearing of Order No. 20,330 and Other Relief; and

WHEREAS, in said Motion for Rehearing, Eastman requested:

a. That the commission promptly issue a supplemental order authorizing the petitioner to collect through a rate surcharge its submitted rate case expenses;

b. That the commission issue a report specifying the reasons for the findings and rulings set forth in its order;

c. That the commission grant the rehearing applied for; d. That the commission modify the order to permit petitioner to charge the reasonable rates requested by petitioner in this proceeding and in particular to permit petitioner to include $480,462 of sewer plant investment in its rate base;

e. That the commission grant such other and further relief as may be just; and

WHEREAS, the omission of rate case expenses from being specifically authorized in Order No. 20,330, was not intended as a denial of said expenses but reflects the commission's practice of deferring judgment on the reasonableness of rate case expenses until the requisite staff review of the submitted expenses is complete; and

WHEREAS, the other relief requested in the Motion for Rehearing will be addressed in a forthcoming final report and order on permanent rates in this docket and may be addressed by Eastman in a Motion for Rehearing pursuant to RSA Chapter 541 regarding said order; and

WHEREAS, the commission review of the submitted rate case expenses will be completed before the issuance of said final order and will be addressed therein; it is hereby

ORDERED, that the consideration of Eastman's request for authorization to recover through a surcharge to its customers recovery of its submitted rate case expenses is deferred until the completion of staff's investigation into the reasonableness of the expenses; and it is FURTHER

ORDERED, that the remaining relief requested by Eastman is denied without prejudice pending issuance of a final order on permanent rates by the commission. By order of the Public Utilities Commission of New Hampshire this thirteenth day of January, 1992.

==========

NORTHERN UTILITIES

DE 91-209
ORDER NO. 20,368

77 NH PUC 9

New Hampshire Public Utilities Commission

January 14, 1992

Petition For Waiver For Gas Main Replacement

WHEREAS, Northern Utilities (Northern) filed a request on November 21, 1991 seeking a waiver from PUC Rule 506.02 (b) which limits the installation and maintenance of pipelines under highway pavement to internal pressures of 200 pounds per square inch gauge (psig) and requires the pipe to be enclosed in a casing at highway crossings; and

WHEREAS, Northern has proposed to replace 2,800 feet of existing 8 inch 500 psig gas distribution main located in Gosling Road, Portsmouth, N.H. with a 12 inch 500 psig distribution main extending from the Spaulding Turnpike to Woodbury Ave; and WHEREAS, Northern will design, construct and maintain the pipeline to meet all

Page 9

Federal, State and other applicable safety standards utilized for transmission class pipelines; and

WHEREAS, said pipeline is to be constructed on the south side of Gosling Road, thereby avoiding heavy vehicular traffic; and

WHEREAS, Northern will test the pipeline at pressure in excess of 1000 psig thereby exceeding the 750 psig test requirement put forth in federal standards; and

WHEREAS, Northern will install the pipeline as shown in Figure I (attached to applicants letter dated December 21, 1991) responding to Engineering Staff's review of Northern's petition for waiver; and

WHEREAS, the public should be offered an opportunity to respond in support or in opposition before the Commission acts on this petition; it is hereby

ORDERED, that all persons interested in responding to the petition be notified that they may submit their comments to the Commission or may submit a written request for a hearing in this matter to the Commission no later than 15 days after publication; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general circulation in the Portsmouth and Newington areas, said publications to be no later than January 29, 1992. In addition, pursuant to RSA 541-A:22, the petitioner shall serve a copy of this order to the

Portsmouth and Newington town clerks, by first class U.S. mail, postage prepaid, and postmarked on or before January 29, 1992. Compliance with these notice provisions shall be documented by affidavit(s) to be filed with the Commission on or before February 12, 1992; and it is

FURTHERED ORDERED, NISI that Northern Utilities request for a waiver to PUC Rule 506.02 (b) allowing it to install, operate and maintain an uncased pipeline under highway pavement at pressures greater than 200 psig be, and hereby is, approved provided that the maximum operating pressure of the distribution gas main be limited to 500 psig unless otherwise approved by this Commission, that all welds will be radiographically inspected, that a full time on site inspector will oversee construction of the entire project, that a control valve will be installed at the new take station for the pipeline which will be remotely controlled and monitored by the applicants Ludlow, Massachusetts dispatch center, and that a 6 inch sand padding (depicted in said Figure I): shall be utilized in lieu of a mechanical protective coating to protect against physical damage; and it is

FURTHERED ORDERED, that Northern Utilities report to the Commission's Gas Safety Engineer on a daily basis all activities relating to the project; and it is

FURTHER ORDERED, that this order nisi will be effective February 13, 1992 unless the commission issues a supplemental order on or before the effective date. By order of the Public Utilities Commission of New Hampshire this fourteenth day of January, 1992.

==========

NH.PUC*01/14/92*[72833]*77 NH PUC 10*GRANITE STATE ELECTRIC COMPANY

[Go to End of 72833]

GRANITE STATE ELECTRIC COMPANY

DF 91-186
ORDER NO. 20,369

77 NH PUC 10

New Hampshire Public Utilities Commission

January 14, 1992

Petition for Authority to Issue Short-Term Securities

WHEREAS, Granite State Electric Company is a subsidiary of New England Electric System (NEES), a public utility holding company and is a New Hampshire corporation with its principal place of business in the towns of Hanover, Lebanon, Walpole, Salem, and surrounding communities; and

WHEREAS, by Order No. 19,848 (DF 89-214) of this commission dated June 6, 1990, Granite State Electric Company was authorized, from time to time, to issue and renew its notes, bonds, or other evidences of indebtedness payable in less than twelve (12) months, in an

aggregate principal amount (not including any such indebtedness to be retired with the proceeds of any new borrowings) that does not exceed $10 million outstanding at any

time and that under the order, Granite State Electric Company is required to petition the commission for a revised short-term debt level upon any long-term debt financing; and

WHEREAS, on November 1, 1991, Granite State Electric Company issued and sold $5 million of its 9.44% unsecured notes, due 2001; and

WHEREAS, Granite State Electric Company, on November 12, 1991, filed a petition with this commission requesting continuation of the authority to incur indebtedness, payable in less than twelve (12) months, in an aggregate principal amount (not including any such indebtedness which is to be retired with the proceeds of any new borrowings) of not exceeding $10 million outstanding at any time; and

WHEREAS, Granite State Electric Company estimates that its construction expenditures will exceed internally generated funds and requires continuation of the authority to incur short-term indebtedness in an aggregate principal amount not exceeding $10 million; and

WHEREAS, Granite State Electric Company provided evidence that the 1992 short-term debt level was expected to be at $6 million, to be increased thereafter by $2-3 million per year absent permanent financings, and that it is asking for continuation of the $10 million short-term borrowing authority to have the flexibility to finance its construction program initially with short-term debt until it permanently finances such expenditures; and

WHEREAS, this commission after investigation and consideration finds that such request is consistent with the public good; it is hereby

ORDERED, that Granite State Electric Company, without first obtaining the approval of the commission, be and hereby is authorized, from time to time, to issue and renew its notes, bonds, or other evidence of indebtedness payable in less than twelve (12) months after the date thereof, in an aggregate amount thereof outstanding at any one time (not including any such indebtedness which is to be retired with the proceeds of any new borrowings) not in excess of $10 million; and it is

FURTHER ORDERED, that on or about January first and July first of each year, said Granite State Electric 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 notes, bonds, or other evidences of indebtedness.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of January, 1992.

==========

NH.PUC*01/14/92*[72834]*77 NH PUC 11*GRANITE STATE ELECTRIC COMPANY

[Go to End of 72834]

GRANITE STATE ELECTRIC COMPANY

DR 91-154
ORDER NO. 20,370

77 NH PUC 11

New Hampshire Public Utilities Commission

January 14, 1992

Cooperative Interruptible Service Program

Appearances: David J. Saggau, Esq. for Granite State Electric Company; Susan Chamberlin, Esq. and Thomas C. Frantz, Utility Analyst, for the staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL BACKGROUND

On October, 1, 1991, Granite State Electric Company (Granite State) filed proposed revisions to its currently effective Cooperative Interruptible Service (CIS) Program which provides credits to large commercial and industrial customers based on the customers' ability and willingness to interrupt load as requested by Granite State during capacity shortages.

An Order of Notice was issued by the Commission on October 22, 1991, setting a prehearing conference for November 1, 1991. At the prehearing conference the parties recommended that the Commission adopt a procedural schedule that, inter alia, set December 10, 1991 for a settlement conference and December 12, 1991 for a hearing on the

merits. A Report and Order was issued by the Commission on November 12, 1991, that approved the proposed procedural schedule and, pursuant thereto, a hearing on the merits was held on December 12, 1991.

II. POSITION OF GRANITE STATE ELECTRIC COMPANY

Granite State's October 1, 1991 filing proposes revisions to its currently effective Cooperative Interruptible Service Program. The Program will continue to offer two types of interruptible contracts, a "committed" or CIS-1 type contract, and a "non-committed" or CIS-2 type contract. Each type offers customers three options differentiated by frequency, duration, and notification of interruption. Option 1 specifies a one (1) hour notice of interruption and a twenty-six (26) interruption day limit. Option 2 keeps the one hour notice provision but increases the interruption day limit to 74 days. Option 3 uses the same interruption day limit as Option 1 but increases the notification provision to the previous business day. Additionally, Option 2 interruptions may last up to 12 hours in duration; whereas, Options 1 and 3 limit interruptions to 8 hours. Granite State proposes the following credits dependent upon which option the customer chooses:

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


```
Total Annual $/Kw
of Credited Interruptible
Load

CIS-1  CIS-2
Option 1 $41.00  $15.20
Option 2 $48.00  $18.40
Option 3 $31.00  $11.60
```

Granite State bases the proposed credits on the long-run value, $58 per kW-yr., of capacity as determined by New England Power's (NEP) long-run avoided cost, as filed in NEP's W-92 wholesale rate case. Granite State asserts that using the long-run value of capacity is appropriate because NEP's peak load is reduced by the amount of interruptible load it can claim for Capability Responsibility. Thus, Granite State believes interruptible programs are a long-run resource with value to NEP and Granite State even though the short-term market value is low.

Currently, credits are based on last year's capacity value of $94 per kW-yr. adjusted for factors that either increase or decrease program value. Three (3) customers now participate in Granite State's CIS Program providing approximately 1,016 kW of interruptible capacity.

Besides the credit level, Granite State also proposes to change the current program by eliminating the customer charge and incorporate the metering and communications equipment costs into the total program expenses as in the CIS-2 program.

Finally, Granite State proposes to revise the contracts by 1) requiring up to two test interruptions per period, and 2) revising the term of the CIS-2 contract so that it is automatically renewable from year to year with a 12- month notice of termination provision.

III. THE PROPOSED STIPULATION

On December 12, 1991, Granite State and the staff (the parties) submitted an Offer of Settlement to the Commission in which they agree on recommended changes to the credits and contract terms originally filed by Granite State.

The parties agree to lower the credit on Option 2 by 10 percent based on staff's position that little if any value can be claimed in today's power market for the additional number of interruptions in Option 2. The parties do not dispute the increased value Option 2 has over Option 1 based on the increased duration (12 hours vs. 8 hours) of interruptions in Option 2.

The parties also propose in the Offer of Settlement to roll the customer charge into the program expenses in order to increase participation in CIS-1, which now has no participants. Staff expressed its position during closing comments at the hearing that this change is to be viewed at this time as

experimental.

IV. COMMISSION ANALYSIS

The Offer of Settlement contains four (4) changes to the current CIS program: 1) a real levelized long-run capacity value based on NEP's W- 92 filing, 2) a revision in contract terms to incorporate two test interruptions per period, 3) a revision in the CIS-2 contract to make it

automatically renewable from year to year with a 12-month notice of termination provision, and 4) the roll-in of CIS- 1 customer charges into program expenses.

We agree with the parties' application of the adjusted real levelized long-run capacity costs of New England Power Company to value long-run resources, including interruptible load. Its use must, however, be consistent so that 1) all long-run resource options share the same starting point until capacity costs change as filed by NEP, and 2) that the methodology now deemed sound in principle in our current capacity situation should be no less sound in a different capacity situation. Currently, the first-year of NEP's real levelized capacity costs exceeds the short-term value of capacity in New England. At some point in the future, the opposite will be true. For a balance of the benefits and burdens, Granite State will be expected to use consistently the first year long- run real levelized capacity cost on which to base program credits when the short-term capacity costs exceed the real levelized capacity cost.

The other changes are reasonable based upon our review and understanding of the record. We will approve the Offer of Settlement as filed. Our order will issue accordingly.

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that the attached Offer of Settlement be, and hereby is, approved.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of January, 1992.

==========

NH.PUC*01/20/92*[72836]*77 NH PUC 37*CABLE AND WIRELESS COMMUNICATIONS,INC.

[Go to End of 72836]

CABLE AND WIRELESS COMMUNICATIONS,INC.

DE 91-092
ORDER NO. 20,372

77 NH PUC 37

New Hampshire Public Utilities Commission

January 20, 1992

Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On July 1, 1991, the New Hampshire Public Utilities Commission (Commission) received a petition from Cable and Wireless Communications Inc. (CWCI) for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, CWCI proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that CWCI demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than February 14, 1992; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than January 27, 1992. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before February 10, 1992; and it is

FURTHER ORDERED, NISI that CWCI be, and hereby is, granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;

that CWCI shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;

that CWCI shall notify the Commission of its rates by filing a schedule of such rates pursuant to RSA 378:1 within one day after offering service and shall subsequently file any change in rates to be charged the public within one day after offering service at a rate other than the rate on file with the Commission;

that CWCI shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400; that CWCI shall be subject to all reporting requirements contained in RSA 374:15-19;

that CWCI shall compensate the appropriate Local Exchange Company for originating and

terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent

contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;

that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

that CWCI shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, CWCI shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;

that CWCI shall report revenues associated with each service on a monthly basis;

that CWCI shall report the number of customers on a monthly basis;

that CWCI shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow CWCI to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that interim authority is granted subject to CWCI's incorporation in New Hampshire and that until such incorporation is demonstrated to the Commission Staff, CWCI shall not commence operation; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, CWCI file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that such authority shall be effective 30 days from the date of this order, unless a hearing is requested as provided above or the Commission otherwise orders prior to the proposed effective date. By order of the New Hampshire Public Utilities Commission this twentieth day of January, 1992.

==========

NH.PUC*01/20/92*[72837]*77 NH PUC 38*CONNECTICUT VALLEY ELECTRIC COMPANY, INC.

[Go to End of 72837]

CONNECTICUT VALLEY ELECTRIC COMPANY, INC.

DF 92-008
ORDER NO. 20,373

77 NH PUC 38

New Hampshire Public Utilities Commission

January 20, 1992

Short-Term Debt

WHEREAS, on January 10, 1992, Connecticut Valley Electric Company Inc. ("Connecticut") filed a request for authority to sell short-term debt at a level not to exceed $1,000,000; and

WHEREAS, the short-term debt level as of this time is limited to 10% of its net fixed assets; and

WHEREAS, Connecticut's net fixed assets are approximately $6,500,000 as of November 30, 1991; and

WHEREAS, Connecticut could issue only $650,000 of short term debt under the 10% limitation; and

WHEREAS, Connecticut filed testimony stating that the $1,000,000 Short term Borrowing authority is needed to meet its temporary working capital needs as Connecticut Valley is growing and, due to the introduction of seasonal rates Connecticut revenue needs will peak in late 1992 or early 1993; and

WHEREAS, Connecticut has arranged for a short term loan with BankEast Division of First NH bank at a Floating rate of interest equal to Bank of Boston's Base Rate; and

WHEREAS, the commission finds that the authority to issue short-term debt at a level not to exceed $1,000,000 is consistent with the public good; it is

ORDERED, that Connecticut Valley Electric Company is authorized to sell short-term debt at a level not to exceed $1,000,000;

and it is

FURTHER ORDERED, pursuant to RSA 369:7 that this authorization will be effective until December 31, 1993; and it is

FURTHER ORDERED, that on January 1st and July 1st of each year Connecticut Valley Electric Company Inc, shall file with this commission a detailed statement, duly sworn to by its Treasurer or its Assistant Treasurer, showing the disposition of the proceeds of said proposed financing until the expenditures of the whole proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twentieth day of January, 1992.

==========

NH.PUC*01/24/92*[72838]*77 NH PUC 39*PENNICHUCK WATER WORKS, INC.

[Go to End of 72838]

PENNICHUCK WATER WORKS, INC.

DR 91-055
ORDER NO. 20,374

77 NH PUC 39

New Hampshire Public Utilities Commission

January 24, 1992

Order Granting Petition for Temporary Rates

Appearances: Gallagher, Callahan & Gartrell by John B. Pendleton, Esq. for Pennichuck Water Works, Inc.; Ransmeier & Spellman by R. Stevenson Upton, Esq. for Anheuser-Busch; Office of the Consumer Advocate by Joseph Rogers, Esq. and Kenneth Traum for the Residential Ratepayers; Susan Chamberlin, Esq. for the staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On June 28, 1991, Pennichuck Water Works, Inc. ("Pennichuck" or "company") petitioned the New Hampshire Public Utilities Commission ("commission") for a rate increase of $1,162,466 to become effective on July 28, 1991. Concurrently Pennichuck requested a temporary rate increase in the amount of $1,700,320 (representing an increase of 13%) or, in the alternative, $572,115 (representing an increase of 7.36%).

On September 17, 1991, the commission issued Order No. 20,247 suspending the permanent rate filing and establishing a procedural schedule governing the pendency of the permanent rate case. In accordance with the procedural schedule, hearing on the merits of Pennichuck's temporary rate request was held on October 7 and continued on October 14, 1991.

At the prehearing conference appearances were made by the Office of Consumer Advocate ("OCA") and commission staff ("staff"). Anheuser-Busch, despite a timely filed motion to intervene on August 6, 1991, did not appear at the prehearing conference and the commission deferred ruling on the request for intervention until such time as Anheuser Busch had appeared at a scheduled hearing.

At the October 7, 1991 hearing, Anheuser-Busch appeared and was granted full intervention.

On October 7 and 14, 1991, the commission held temporary rate hearings. The arguments and commission rulings are set forth below.

At its November 26, 1991 public deliberations, the commission granted Pennichuck's petition for temporary rates in the amount of $572,115 representing an increase of 7.36%. The

commission found that the rate is consistent with the public interest and sufficient to yield a reasonable return on the cost of Pennichuck property used and useful in the public service less accrued depreciation.

On December 3, 1991, the commission issued Order No. 20,319 granting the request for temporary rates in the amount of $572,115. The order also stated the accompanying report herein would be issued subsequently by the commission.

II. POSITION OF THE PARTIES

A. The Company

The company seeks approval from the commission to implement temporary rates based on the fact that it is not now earning, nor has it earned during the test year as filed, its

Page 39

allowed rate of return. The company requested a 13% temporary increase or, in the alternative, a 7.36% increase over its existing rates. The company's currently allowed rate of return is 10.92%, determined by the commission in Pennichuck's last rate proceeding. Re Pennichuck Water Works, Inc., 73 NH PUC 443 (1988). The company's return during the test year was 10.15% and after proforma adjustments, 7.74%. Both returns, actual and proforma, are below the currently allowed rate of return of 10.92%. As of July 31, 1991, the company's rate of return further declined to 9.30%.

The company states that the factors which caused the company to fall short of its allowed rate of return are additional plant acquired to improve quality of service, including the reconstruction of the Bowers Dam which is non revenue producing, and significant increases in operating expenses.

The company has not achieved its allowed return on equity of 12.03% since its current rates became effective. Its return on equity since that time has ranged from a high of 11.6% to a low of 7.5%. The company states that its ratio of pretax earnings to interest expense will adversely affect its ability to secure future financings.

B. Anheuser-Busch

Anheuser-Busch took no position on Pennichuck's petition for temporary rates.

C. OCA

Kenneth Traum, finance director of the Office of the Consumer Advocate, testified on behalf of the residential ratepayers that there are no benefits to ratepayers to granting temporary rates at any level. For the test year, the most recent year for which certified financial statements and annual reports have been filed with the commission, the company earned a rate of return of 10.15% which is reasonable.

OCA further argues that tier coverage is not a valid criteria for establishing temporary rates because it recognizes investment costs which are not included in rate cases. However, if the commission were to consider it here, the company is still maintaining its tier coverage as indicated by Mr. Staab's Exhibit #5. Mr. Traum stated that the company's current level of service to its customers will not be adversely affected by denying temporary rates.

D. Staff

Staff recommended that the commission set temporary rates at the current rate levels. Staff calculated the company's rate of return at the end of the test year and again for the twelve months ending July 31, 1991. See schedules attached to Exhibit 7. These calculations show that the company is failing to earn its previously allowed rate of return of 10.92% and that its earnings are continuing to drop over time. To stem the negative effects of a continued drop in earnings, staff recommends temporary rates set at current levels.

III. COMMISSION ANALYSIS

The commission's authority to set temporary rates is explicitly authorized by statute. RSA 328:27. The commission's authority to set such rates is discretionary and is to be exercised only when such rates are in the public interest. Temporary rates are established without such investigation as is required for the determination of permanent rates. Re New England Telephone & Telegraph Co. v. State, 95 N.H. 515 (1949); Re Southern New Hampshire Water Company, Inc., 75 NH PUC 549 (1990), aff'd. sub nom., Appeal of Office of Consumer Advocate, 134 N.H. 651, 597 A.2d 528 (1991); Pennichuck Water Works, Inc., 73 NH PUC 112 (1988). However, at a minimum, the commission must have evidence that temporary rates are needed to ensure a properly operating and financially sound utility. Re Hampton Water Works, Order No. 20,262 (October 4, 1991). The commission determines temporary and permanent rates based on the standard that rates must be sufficient to yield not less than a reasonable return on the cost of utility property that is used and useful in the public service less

accrued depreciation. RSA 378:28; Re Southern New Hampshire Water Co., Inc., 73 NH PUC 352 (1988).

For the test year ended December 31, 1990, the company's rate of return was 10.15%, which is 77 basis points less than its authorized rate of return. By July 31, 1991, the company was earning a 9.3% rate of return, which is 162 basis points less than the authorized rate of return. While earnings below authorized rates is one fact to consider in determining whether temporary rates are appropriate, alone it is not decisive; evidence of an adverse impact on the company's ability to provide service and attract financing has significant weight in the decision-making process. Re Hampton Water Works, supra. In Hampton, the company testified that there would be little, if any, adverse impact on proposed refinancing if the company put its rate increase into effect under bond pursuant to RSA 378:6, III as an alternative to RSA 378:27 temporary rate relief. The evidence also showed that Hampton's ability to provide sufficient service in the present or the future would be adversely affected if temporary rates were not granted. The testimony from Pennichuck is different. In Pennichuck's temporary rate filing the evidence, as enumerated below, supported a finding that significant harm would result from a denial of temporary rates that would not be eliminated by implementing rates pursuant to RSA 378:6, III.

The company testified that $1.7 million in new debt is needed to complete proposed capital improvements for 1992. If the company is unable to finance its major capital improvements, the provision of service to sections of the city may be jeopardized. A substantial increase in the cost of financing a project that is ultimately approved as prudent by the commission will ultimately

be borne by the ratepayers. In support of its temporary rate request, the company provided Exhibits 5 and 6, which are letters from two financing institutions in which the company had privately placed debt. The letters stated in summary that if the company's earnings before interest and tax coverage did not improve before attempting to place debt in 1992, the company would be subject to significant additional interest expense.

The company's witness, Mr. Charles Staab, testified that the option of placing the filed permanent rates in effect under bond six months after the proposed effective date pursuant to RSA 378:6, III is not an attractive alternative to the company. The company will solicit prospective lenders in late January or early February 1992 for debt financing. The company testified that it is imperative that the company have earnings recognition in 1991 to improve its ability to obtain low cost loans for the refinancing. The lost opportunity to recoup revenues from the effective date of temporary rates cannot be regained by putting rates in under bond. The ability to recoup will be valuable to potential long-term lenders in evaluating the company's potential debt issue. The company also needs access to financial markets to have adequate capital available to maintain its system. Putting rates in effect under bond six months after the proposed effective date will not accomplish those necessary objectives.

The commission accepts the company's testimony, supported by Exhibits 5 and 6, that receiving temporary rates at one of the proposed levels - staff's current level proposal or either of the company's 7.36% or 13 % requests - is preferable to placing rates into effect under bond because the denial of temporary rates will have an adverse impact on the company's access to capital markets. The commission accepts the company's testimony that the customers in the company's franchise system will be better served by the grant of temporary rates than by RSA 378:6, III bonded rates six months from the effective date.

The remaining issue to be decided is the level of temporary rates which should be established. The staff's proposal to grant temporary rates at current levels is not supported by the record and presents an undue risk of an exaggerated rate impact. Where the evidence at the temporary rate hearing indicates that an increase in permanent rates is likely, temporary rates set at current levels will result in an additional increase to recoup the

difference between the temporary rates and the permanent rates. This "hump" in the rates inflates bills and causes budgeting problems for customers. The reflection of a reasonable part of the projected permanent rate increase in temporary rates protects the customer from unnecessary rate shock, while still allowing for a reimbursement should the thorough investigation necessary for permanent rate determinations result in the establishment of permanent rates at a level lower than temporary rates. Where, as here, the record supports a finding that rates are likely to increase, it is inappropriate simply to set rates at the current levels; some amount of increase is just and reasonable.

Exhibit 1 provides the company's computations supporting its request for a 13% temporary rate increase. The commission is not persuaded that the entire 13% is necessary to provide the company with the financial security needed to receive attractive refinancing terms and to continue providing adequate service to its customers. All businesses, regulated and unregulated

alike, must pare down their expenditures in recognition of the present recession. The commission does accept, as stated above, the company's testimony that it will suffer financial harm if it does not receive some temporary rate relief.

Exhibit 2 provides supporting documentation for the company's alternative rate request of 7.36%. The commission finds that granting temporary rates at the 7.36% level meets the company's need to maintain its system and attract capital at favorable terms while not being unduly burdensome to the ratepayers.

The commission issues this Report in support of its Order No. 20,319 authorizing a temporary rate increase of 7.36%. Our order will issue accordingly.

ORDER

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

ORDERED, that temporary rates are approved on the effective date and under the terms set forth in Order No. 20,319 (December 3, 1991).

By order of the New Hampshire Public Utilities Commission this twenty-fourth day of January, 1992.

==========

NH.PUC*01/27/92*[72840]*77 NH PUC 43*CONCORD ELECTRIC COMPANY EXETER & HAMPTON ELECTRIC COMPANY

[Go to End of 72840]

CONCORD ELECTRIC COMPANY EXETER & HAMPTON ELECTRIC COMPANY

DR 91-065
ORDER NO. 20,376

77 NH PUC 43

New Hampshire Public Utilities Commission

January 27, 1992

Retail Rate Design Proposals

On December 31, 1991, UNITIL Service Corp. filed, on behalf of Concord Electric Company (Concord) and Exeter & Hampton Electric Company (Exeter & Hampton), an original and eight copies of proposed Tariff NHPUC No. 11 - Electricity, Concord Electric Company, and Tariff NHPUC No. 16 Electricity, Exeter & Hampton Company, both effective February 1, 1992; and

WHEREAS, the overall Rate Design Proposals (Proposals) are intended to be revenue neutral from the standpoint of the Companies' total revenue requirement, but the Proposals do result in changes in class revenue allocations based on changes in cost responsibility, and

WHEREAS, the allocated cost of service studies, marginal cost studies and other supporting materials were previously filed with the Commission on May 15, 1991 in this proceeding; it is hereby

ORDERED, that the tariff pages filed on behalf of Concord and Exeter & Hampton on December 31, 1991, be, and hereby are, suspended pending Commission review and decision thereon; and it is

FURTHER ORDERED, that a prehearing conference be held, pursuant to RSA Chapter 203.05, before said Public Utilities Commission at its offices in Concord, 8 Old Suncook Road, Building #1, in said State at 10:00 in the forenoon, on the tenth day of March, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 201.01, the petitioner notify all persons desiring to be heard at said hearing by causing an attested copy of this order to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication shall be no later than February 25, 1992 and is to be documented by affidavit filed with this office on or before March 10, 1992; and it is

FURTHER ORDERED, that pursuant to RSA 541-A:17 and Puc 203.02, any party seeking to intervene in this proceeding shall submit a motion to intervene with a copy to the petitioner and Commission on or before March 6, 1992.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of January, 1992.

==========

NH.PUC*01/28/92*[72839]*77 NH PUC 42*LAKELAND MANAGEMENT COMPANY, INC.

[Go to End of 72839]

LAKELAND MANAGEMENT COMPANY, INC.

DR 91-058
ORDER NO. 20,375

77 NH PUC 42

New Hampshire Public Utilities Commission

January 28, 1992

Suspension Order and Establishment of Prehearing Conference

On January 8, 1992, Lakeland Management Company, Inc. (Petitioner) filed revised rate schedules which reflect an increase in annual revenues of $13,462.00 (52%) and $3,737.00 (8.78%) for the water and sewer division respectively; and

WHEREAS, a thorough investigation is necessary prior to making a decision thereon; it is hereby

ORDERED, that the proposed revenue increases to NHPUC #1 Water and Sewer Tariffs for Lakeland Management Company, Inc. are hereby suspended; and it is

FURTHER ORDERED, that a prehearing conference to address motions to intervene and to establish a procedural schedule for this docket be held before the Public Utilities Commission at its offices at 8 Old Suncook Road, Building #1, Concord, New Hampshire at ten o'clock in the forenoon on the twentieth day of February, 1992; and it is

FURTHER ORDERED, that said petitioner notify all persons of the opportunity to be heard at said prehearing conference by:

(1) Causing an attested copy of this Order to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, said publication to be no later than February 6, 1992; (2) Sending a summary of its proposed rate change and a copy of this Order, in accordance with

N.H. Admin. Rule Puc 1601.05(j), to all known current and prospective customers by first class U.S. Mail, postage prepaid, and postmarked on or before February 6, 1992; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the commission on or before February 20, 1992; and it is

FURTHER ORDERED, that pursuant to RSA 541-a:17, and N.H. Admin. Rule Puc 203.202, any party seeking to intervene in the proceeding must submit a motion to intervene with a copy to the petitioner, on or before February 17, 1992.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of January, 1992.

==========

NH.PUC*01/28/92*[72841]*77 NH PUC 43*COOMBS et al. v. PSNH RUTH A. WENTWORTH V. PSNH

[Go to End of 72841]

COOMBS et al. v. PSNH RUTH A. WENTWORTH V. PSNH

DC 90-025
DC 91-038
ORDER NO. 20,377

77 NH PUC 43

New Hampshire Public Utilities Commission

January 28, 1992

Approval of Settlement Agreements Regarding Denial of Service to Customers Not Indebted to PSNH

Appearances: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Deborah Schacter, Esq., Alan Linder, Esq., and

Chiara Dolcino, Esq. for New Hampshire Legal Assistance; James T. Rodier, Esq., for the staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

A concurrent hearing was held by the New Hampshire Public Utilities Commission (commission) in these two related customer complaint proceedings on October 30, 1991.

A. Laura Coombs et al. v. PSNH, DC 90-025

A prehearing conference was held in this proceeding on February 23, 1990. Complainants Laura Coombs, Paula Mores, James Stoddard, Wayne Hodgdon and Deborah Levesque thereafter filed formal, joint consumer complaints against Public Service Company of New Hampshire (PSNH or the Company) on March 14, 1990.

The commission approved an initial procedural schedule in Report and Order No. 19,770 (March 26, 1990). A preliminary hearing was held on March 29, 1990. The commission denied interim relief without prejudice except as otherwise agreed to by PSNH. Report and Order No. 19,795 (April 18, 1990).

On April 17, 1990, Jill Sorbie filed a customer complaint against PSNH. On April 30, 1990, Darlene LeSage filed a customer complaint against PSNH. Both complaints were consolidated into this pending docket since, as discussed infra, similar issues are involved.

The original complaint arose from a situation involving two sisters named Laura Coombs and Paula Mores. Paula Mores, according to PSNH's records, owed a sum of money to PSNH for service at a prior address in Derry. She applied for service at a residence in Nashua and PSNH told her that the arrears would have to be retired before service would be provided at the Nashua residence.

Laura Coombs applied for service the next day at the Nashua residence. PSNH investigated and found that Laura Coombs and Paula Mores were renting the same apartment and PSNH again denied the application for service, based upon the debt that Paula Mores owed for prior service in Derry and on tariff language that allowed the Company to reject an application for service made by and for the benefit of a former customer who is indebted to the Company for residential service previously provided.

The case of Deborah Levesque was a subsequent complaint and again it involved denial of service based upon a prior debt owed at a previous address.

The complaint of Darlene LeSage involved prior debt at a previous address occupied by Darlene LeSage and her husband. The LeSages have since separated. There was also a question of whether an extended payment arrangement had been agreed upon and properly communicated in writing to Mrs. LeSage.

The complaint of Jill Sorbie involved denial of service because of non-payment for service provided to a previous address and a factual dispute as to whether Mrs. Sorbie ever lived at that address.

James Stoddard and Wayne Hodgdon in Manchester were mistakenly denied service in Manchester allegedly based upon their past payment records in Nashua.

The proceeding was continued by the commission at the request of the parties in order to allow completion of discovery, completion of the rulemaking proceeding, DR 90 101, and completion of the parties' settlement discussions which have led to the Settlement Agreement proposed infra.

A final settlement conference in this proceeding was held on June 11,

1991, with the commission staff participating.

B. Ruth A. Wentworth v. PSNH, DC 91-038

In early 1991, PSNH sought to terminate service to Ruth A. Wentworth at 196 North

Page 44

Main Street, Apt. A, Franklin, New Hampshire, based on an alleged outstanding debt in the name of David D, Higgins from 222 North Main Street, Apt. C, Franklin, New Hampshire. After intervention by New Hampshire Legal Assistance (NHLA) on behalf of Ms. Wentworth, PSNH filed a request on February 20, 1991 for a finding by the commission that Ruth Wentworth was liable for the final bill of David D. Higgins for electric service.

In its request for findings, PSNH alleged that Ms. Wentworth lived with Mr. Higgins at 222 North Main Street at the time the bill was incurred. PSNH relied on Ms. Wentworth's alleged receipt of the benefit of this prior service as the basis for seeking to transfer this debt to her residential account at 196 North Main Street.

On March 8, 1991, Ms. Wentworth, through NHLA, filed a response contesting the factual and legal basis of PSNH's position and asserting her non-liability for the debt in question.

On March 21, 1991, Ms. Wentworth submitted affidavits and other documentation in support of her position to the commission. On March 25, 1991, PSNH withdrew its request for a commission finding of liability in this case. On April 25, 1991, Ms. Wentworth filed a formal complaint with the commission in this matter. PSNH filed its reply to the complaint on June 7, 1991.

The parties thereafter held settlement discussions, including attempts to arrive at a mutually agreeable procedure for carrying out the recently enacted mandate of N.H. Admin. Rules, Puc 303.08 (c)(1)(e).

On June 28, 1991, the parties appeared at a status conference before a hearing officer of the commission.

Subsequent settlement discussions resulted in the Settlement Agreement set forth infra.

II. PROPOSED SETTLEMENT AGREEMENTS

The settlement agreements presented by NHLA, PSNH and Staff at the hearing on October 30, 1991, in DC 90-025 and DC 91-038 were identified as Exhibits B and C-2, respectively. Exhibit B in DC 90-025 was filed with the commission on August 9, 1991. Exhibit C-2 in DC 91-038 was submitted to the commission at the October 30, 1991 hearing and is a revised version of the initial settlement agreement identified as Exhibit C-1 filed with the commission on October 7, 1991. Exhibits B and C-2 have been attached as appendices to this report.

A. Coombs et al. v. PSNH, DC 90-025

Section B.3 of Exhibit B provides that PSNH shall no longer refuse, deny or otherwise condition service to an applicant based upon the debt of another person residing at the applicant's residence if the applicant did not reside with the person who owes the debt at the time the debt was incurred. Likewise, in such circumstances, no request for a security deposit or third-party guarantee pursuant to N.H. Admin. Rules, Puc 303.04 shall be based upon a housemate's, as opposed to the applicant's, own credit history.

Similarly, Section B.7 of Exhibit B provides that if a married couple moves apart and if each spouse then takes service at separate accounts, PSNH will henceforth agree to "split" bills, i.e., to hold each spouse responsible for onehalf of the bills incurred in their joint names. PSNH will inform customers of this option when the company is aware that spouses have separated. Once "split," bills for past due amounts shall remain "split" even if one of the spouses subsequently exits the system.

Section B.9 of Exhibit B requires PSNH to file amended tariff pages and to prepare and circulate to all customer service employees and supervisors an internal memo explaining the company's new policies and procedures within 30 days of the issuance of this report and order.

Other provisions of Exhibit B require PSNH to:

1) provide a written 14-day notice prior to the termination of service to a residence with live meter service after an application for service at such residence is

denied; 2) inform an applicant denied service of his or her right to seek commission assistance, including the right to request a conference and/or a hearing; 3) establish new guidelines with respect to security deposits, third-party guarantees and payment agreements; and 4) work with NHLA to devise and implement improved procedures for identifying those accounts where customers of record are landlords providing service to tenants.

B. Ruth A. Wentworth v. PSNH, DC 91-038

Section 1 of Exhibit C-2 stipulates that complainant Ruth Wentworth's individual circumstances have been resolved. PSNH has withdrawn its request for transfer of a $611.51 unpaid balance from 222 North Main Street, Apt. C, Franklin, New Hampshire, to Ms. Wentworth's account.

Section 2 provides that PSNH shall not transfer responsibility for an existing debt to an applicant/customer of record, or terminate service based on unpaid bills in the name of someone

other than the current applicant/customer of record, unless the commission or a court has made a determination that the customer of record is legally liable to pay this prior debt, in accordance with N.H. Admin. Rules, Puc 303.08 (c)(1)(e).

Moreover, Section B.3 of Exhibit C-2 provides that when PSNH believes that an applicant or current customer of record should be made to assume liability for the debt of a household member or other third party, PSNH shall act according to the following procedures:

a.PSNH shall notify the customer in writing of its intention to seek a finding of legal liability pursuant to Puc 303.08 (c)(1)(e) and give the customer fourteen days to respond to the company. Such written notice shall include the text as set forth in Appendix A, attached hereto. The customer shall have the right to speak directly with a PSNH district manager or credit supervisor in person or by telephone at the customer's election. The customer shall be afforded the chance to present witnesses and submit written statements or other evidence to PSNH to contest liability.

b.If the matter is not resolved, PSNH may thereafter seek a Puc 303.08 (c)(1)(e) ruling of legal liability by written request to the Executive Director of the commission. A copy of this request shall be sent simultaneously to the customer and to General Counsel of the commission. PSNH shall forward to the commission, along with its request, copies of all documents or other written evidence supplied by the customer.

c.The customer shall have at least seven days to respond to the commission, including the right to submit written statements or other evidence to the Executive Director. The commission may grant additional time to respond upon request. If desired, the customer may request a hearing before the commission. At such hearing, the customer shall be permitted to present witnesses, written statements, and other evidence.

d.A copy of the decision made by the commission in response to a request for finding of liability pursuant to Puc 303.08 (c)(1)(e) shall be sent to the customer and/or the customer's legal representative.

e.If the commission determines that a customer is legally liable for the debt of a third party, PSNH may then transfer the debt to the customer's account, demand payment of this amount, and terminate service upon fourteen days written notice, as set forth in Puc 303.08, if the customer refuses or fails to pay the debt. The customer shall first be given the

opportunity to enter into a payment agreement as set forth in Puc 303.08 (g).

Most importantly, Section B-5 of Exhibit C-2 provides that in no case shall PSNH seek to transfer responsibility for an existing debt to an applicant/customer of record when one of the following is true:

a.The previous customer of record who incurred the debt in his/her name does not reside with the current applicant/customer of record; or

b.The applicant/customer of record was not a member of the household when the

previous debt was incurred.

Further, Section B.7 of Exhibit C-2 provides that PSNH shall not refuse to transfer residential service from one member of a household to another based on outstanding indebtedness of the former customer, but instead shall seek to transfer responsibility for such debt only in accordance with the terms of Exhibit C-2. Likewise, PSNH shall not reject an application for service based on the presence in the household of a former customer who is indebted to the company, but instead shall seek to transfer responsibility for such debt only in accordance with the terms of this agreement.

Finally, Section B.7 states that the parties continue to disagree as to whether PSNH may seek to transfer liability for a debt to a current applicant/customer of record where the household composition remains intact or becomes intact again following prior dissolution of the household; i.e., the new applicant/customer of record "benefitted" from the prior service provided in a housemate's name, and again resides with the person in whose name the prior service account appeared.

III. COMMISSION ANALYSIS

The complainants are PSNH residential customers who allege that they suffered illegal termination of electric service when PSNH disconnected service to their homes without adequate notice or opportunity to dispute alleged arrearages. According to most of the complaints, such terminations of electricity were based on the PSNH practice of denying the right to contract for service to individuals based upon their relationship to a third party who is alleged to owe a debt to the company for service at an address other than that for which service is sought. The complaints claim that such practice not only violates commission rules and state law but also runs contrary to public policy by denying families needed heat, refrigeration, cooking and lighting facilities, thereby threatening their health and well-being, as a means to coerce payment of collateral and/or unverified debts.

Due to the submission of the comprehensive settlements in these proceedings outlined supra, it is not necessary, nor would it be appropriate, for us to rule whether the prior PSNH practices violated commission rules, state law, public policy, or even the provisions of the Company's own tariff.

The substantive, day-to-day impact, of the settlement agreements on PSNH customers can be reduced to PSNH's agreement not to seek to hold "B" liable for service provided to an account in "A"'s name, nor to deny or condition service to "B" based on "A"'s debt, as exemplified by the following two specific situations:

Situation 1

(1) "A" and "B" are adult persons;

(2) Electric service was provided to an account in "A"'s name as the customer of record;

(3) "A"'s account has an outstanding balance;

(4) This debt was incurred during a period when "A" and "B" resided together;

(5) "B" requests service in his or her name as the customer of record, either by seeking to establish an account at this same address, or by applying for service at a different location;

(6) "B" no longer resides with "A".

Situation 2

(1) "A" and "B" are adult persons;

(2) Electric service was provided to an account in "A"'s name as the customer of record;

(3) The account has an outstanding balance;

(4) "B" did not reside with "A" when this debt was incurred;

(5) "A" and "B" reside together;

(6) "B" requests service in his or her name as the customer of record, either by seeking to establish an account at this same address, or by applying for service at a different location.

For purposes of emphasis, we reiterate our understanding that PSNH will not, in the above two situations, hold "B" liable, nor deny or condition service to "B".

Similarly PSNH has also agreed not to refuse to transfer residential service from one member of a household to another based on outstanding indebtedness of the former customer, but instead shall seek to transfer responsibility for such debt only in accordance with the terms of the agreements. Likewise, PSNH shall not reject an application for service based on presence in the household of a former customer who is indebted to the company, but instead shall seek to transfer responsibility for such debt only in accordance with the terms of this agreement.

On November 19, 1990, the Legislative Committee on Administrative Rulemaking accepted the commission's final proposed version of N.H. Admin. Rules, Puc 100, Puc 200, Puc 300, Puc 400, Puc 500, Puc 600, Puc 700, Puc 1100, Puc 1400 and Puc 1600. The rules were repromulgated by the commission in DR 90-101 on November 26, 1990. N.H. Admin. Rules, Puc 303.0 (c)(1)(e) is an entirely new rule adopted by the commission at the behest of NHLA and the commission staff which provides that no electric utility shall deny service because of a prior debt if, as follows:

[T]he arrearage or unpaid bill is for prior residential service furnished in the name of someone other than the customer of record, unless a court or the commission has determined that the customer is legally obligated to pay for this previously furnished service.

Our purpose in adopting Puc 303.08 (c)(1)(e) on November 26, 1990, was to clarify the rights of utility customers and to reduce the number of customers who were being denied electric service because of a current or prior relationship with a third party who owed an arrearage for electric service at some prior location.

The proposed settlements are fully consistent with the regulatory policy mandate of Puc

303.08 (c)(1)(e). We find that the agreements are just, reasonable and in the public interest.

We note that the restrictions on denial of service embodied in the settlement agreements are basically consistent with the rules and regulations of the regulatory bodies in Massachusetts and Connecticut. Thus, PSNH's policies regarding denial of service will, as a result of the settlement agreements, be similar to the policies of the other operating subsidiaries of Northeast Utilities Service Corporation, Inc. (Northeast Utilities) should the proposed merger between PSNH and Northeast Utilities be completed.

The parties continue to disagree as to whether PSNH may seek to transfer liability for a debt to a current applicant/customer of record where the household composition

Page 48

remains intact or becomes intact again following prior dissolution of the household; i.e., the new applicant/customer of record "benefitted" from the prior service provided in a housemate's name, and again resides with the person in whose name the prior service account appeared.

The commission will initiate and undertake an additional rulemaking proceeding during 1992, and will address the foregoing difference of opinion of the parties at that time. We will also consider whether requirements similar to those contained in Exhibits B and C-2 should be applied to the other utilities under our jurisdiction.

Our order will issue accordingly.

ORDER

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

ORDERED, that the settlement agreements embodied in Exhibits B and C-2 are approved.

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

==========

NH.PUC*02/03/92*[72842]*77 NH PUC 49*GENERIC INVESTIGATION INTO NATURAL GAS TRANSPORTATION SERVICE AND RATES

[Go to End of 72842]

GENERIC INVESTIGATION INTO NATURAL GAS TRANSPORTATION SERVICE AND RATES

DE 91-149
ORDER NO. 20,378

77 NH PUC 49

New Hampshire Public Utilities Commission

February 3, 1992

Order Regarding Scope and Procedural Schedule

Appearances: Dom S. D'Ambruoso, Esq. of Ransmeier & Spellman for Anheuser-Busch Company, Inc.; Jacqueline L. Killgore, Esq. for EnergyNorth Natural Gas, Inc.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; M. Curtis Whittaker, Esq. of Rath, Young, Pignatelli & Oyer for Northeast Utilities Service Company; Meabh Purcell, Esq. of LeBoeuf, Lamb, Leiby & MacRae for Northern Utilities; James T. Rodier, Esq. for the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

An Order of Notice was issued by the New Hampshire Public Utilities Commission (commission) in this proceeding on November 20, 1991, pursuant to a petition by Anheuser-Busch Company, Inc. (Anheuser-Busch) for the purpose of commencing a generic investigation into natural gas transportation service and rates. Pursuant to the Order of Notice, a prehearing conference was held on December 17, 1991. At the prehearing conference, motions to intervene were granted for the Business and Industry Association, Northern Utilities, EnergyNorth Natural Gas, Inc., (EnergyNorth) Public Service Company of New Hampshire and Northeast Utilities Service Company. Subsequently, oral argument on the scope of the proceeding was heard on January 8, 1992.

II. POSITIONS OF THE PARTIES

At the prehearing conference, the parties recommended the following procedural schedule to the commission: The parties agreed to hold an initial technical conference on February 21, 1992, at 9:00 a.m., for the purpose of hearing informal presentations of the various parties, to consult and to identify the scope of issues to be discussed in future technical conferences. The parties also agreed to meet in a second technical conference on March 12 and 13, 1992, at 9:00 a.m. on both days, to continue the discussion of issues.

The parties have also agreed to address the question of the jurisdiction of the commission to authorize transportation service and rates and have agreed to file memoranda on that issue by February 7, 1992. The parties have also agreed to rolling data requests commencing immediately, with responses due two weeks from the date of receipt of the data

requests.

The parties also recommended that a status conference be scheduled for April 10, 1992, for the purpose of providing the commission with recommendations of whether technical conferences ought to continue towards eventual consensus or whether some other schedule would be more appropriate for the proceedings.

Additionally, Anheuser-Busch reported that an issue had arisen among the parties during the pre-hearing conference with respect to whether the testimony that Anheuser-Busch had filed in the EnergyNorth rate case (DR 90-183) on issues of rate design more appropriately belonged in this proceeding.

Anheuser-Busch agreed to file a written response with the commission by December 27, 1991, stating whether the parties had reached an agreement on this issue.

On December 27, 1991, Anheuser-Busch by letter reported that the parties had been unable to agree whether or to what extent, interruptible sales pricing policy issues and quasifirm service issues should be transferred to this proceeding or remain in the individually docketed rate cases for EnergyNorth and Northern Utilities.

III. COMMISSION ANALYSIS

After reviewing the recommended procedural schedule noted supra, we find it reasonable. With regard to scoping issues, we find that neither interruptible sales pricing policy issues nor quasi-firm service issues are properly within the scope of this proceeding, except as they may incidentally arise as discussed hereinafter.

Our Order of Notice in this proceeding granted Anheuser- Busch's petition for the commencement of "a generic investigation into natural gas transportation service and rates...which shall also address..., inter alia, the principles of firm pricing and interruptible transportation, the treatment of firm and interruptible transportation revenues, contract provisions that are peculiar to transportation services and special terms that may be necessary to protect core customers."

Based upon the arguments before us on January 8, 1992, we do not believe that it is necessary or desirable to modify the previously noticed scope of this proceeding. Nonetheless, we do find it appropriate to comment upon the arguments of the parties as to the scope of this proceeding and, in so doing, provide our interpretation of how the previously noticed scope will govern the record in this proceeding.

It is very clear to us that issues pertaining to so called quasi-firm sales service are not within the scope of this proceeding because such service does not involve transportation service, and it also has many of the same attributes as firm sales service.

With regard to issues pertaining to interruptible sales service, we do not believe that these issues per se are within the scope of this proceeding. We add, however, that the concerns expressed by Anheuser-Busch are not without merit. That is, we agree with Anheuser-Busch that it would be improper for the commission to enter into this proceeding with the preconception that an appropriate transportation pricing policy must be a clone or mirror image of our currently existing policy for interruptible sales service. We can assure all of the parties that in this proceeding the commission will not constrain itself or any party from an open-minded and comprehensive consideration of transportation pricing policy. All relevant evidence will be a part of the record including the manner in which interruptible sales is presently priced in order to provide the proper context for our deliberations.

Ultimately, based upon the record, we expect to be able to reach determinations regarding the proper linkage between what some parties have referred to as the "inextricably intertwined" issues of transportation service pricing and interruptible sales pricing. It is possible that we may find that the respective pricing policies should be decoupled or, if any linkage is to be maintained, changes are necessary to the interruptible sales service pricing policy. At the appropriate time, we will consider and determine whether any follow-on proceedings of any kind

are needed in the aftermath of the

instant generic transportation service investigation.

Our order will issue accordingly.

ORDER

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

ORDERED, that the procedural schedule and scope of this proceeding shall be as determined in the foregoing report.

By order of the Public Utilities Commission of New Hampshire this third day of February, 1992.

==========

NH.PUC*02/03/92*[72843]*77 NH PUC 51*CHICHESTER TELEPHONE COMPANY, INC

[Go to End of 72843]

CHICHESTER TELEPHONE COMPANY, INC

DR 92-010
ORDER NO. 20,379

77 NH PUC 51

New Hampshire Public Utilities Commission

February 3, 1992

Approval of 900 Blocking Service

On January 14, 1992, Chichester Telephone Company filed with the New Hampshire Public Utilities Commission (commission), a petition seeking approval of its Call Blocking Service whereby residential and single line business customers would be able to block calls to Pay-per Call services prefixed by 1+900 and 1+976, effective February 17, 1992; and

WHEREAS, no Information Providers have contracted to offer intrastate Pay-per-Call service using 1+976 to date; and

WHEREAS, after consultation with staff, on January 21, 1992 Chichester Telephone Company filed a substitute tariff eliminating all reference to the blocking of 1+976 intrastate calls; and

WHEREAS, the company proposes to offer the initial blocking and unblocking of Pay-per-Call services at no charge to the customer, and each subsequent change in blocking at a non-recurring charge of $9.00 for both residence and business customers; and

WHEREAS, the company has provided no cost support for its blocking charge but has

chosen to apply the company's tariffed service order charge; and

WHEREAS, the company has agreed to file with the commission an incremental cost study no later than September 30, 1992; and

WHEREAS, the company and staff have agreed that pending the incremental cost study the non-recurring service order charge will be the only cost associated with each subsequent change in blocking service on an interim basis; it is hereby

ORDERED that Chichester Telephone Company Tariff No 3

Section 4 Third Revised Sheet 1F

be and hereby is approved; and it is

FURTHER ORDERED, that the rates for this service be subject to review following the completion of the incremental cost study in June 1992.

By order of the New Hampshire Public Utilities Commission this third day of February, 1992.

==========

NH.PUC*02/03/92*[72845]*77 NH PUC 52*MERIDEN TELEPHONE COMPANY, INC

[Go to End of 72845]

MERIDEN TELEPHONE COMPANY, INC

DR 92-012
ORDER NO. 20,381

77 NH PUC 52

New Hampshire Public Utilities Commission

February 3, 1992

Approval of 900 Blocking Service

On January 14,1992, Meriden Telephone Company filed with the New Hampshire Public Utilities Commission (commission), a petition seeking approval of its Call Blocking Service whereby residential and single line business customers would be able to block calls to Pay-per-Call services prefixed by 1+900 and 1+976, effective February 17, 1992; and

WHEREAS, no Information Providers have contracted to offer intrastate Pay-per-Call service using 1+976 to date; and

WHEREAS, after consultation with staff,on January 21, 1992 Meriden Telephone Company filed a substitute tariff eliminating all reference to the blocking of 1+976 intrastate calls; and

WHEREAS, the company proposes to offer the initial blocking and unblocking of Pay-per-Call services at no charge to the customer, and each subsequent change in blocking at a non-recurring charge of $9.00 and $12.00 for residence and business customers respectively; and

WHEREAS, the company has provided no cost support for its blocking charge but has chosen to apply the company's tariffed service order charge; and

WHEREAS, the company has agreed to file with the commission an incremental cost study no later than June 30, 1992; and

WHEREAS, the company and staff have agreed that pending the incremental cost study the non-recurring service order charge will be the only cost associated with each subsequent change in blocking service on an interim basis; it is hereby

ORDERED that

Meriden Telephone Company Tariff No 4 Section 4 Second Revised Sheet 3-4 be and hereby is approved; and it is

FURTHER ORDERED, that the rates for this service be subject to review following the completion of the incremental cost study in June 1992.

By order of the New Hampshire Public Utilities Commission this third day of February, 1992.

==========

NH.PUC*02/03/92*[72846]*77 NH PUC 53*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72846]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 91-057
ORDER NO. 20,382

77 NH PUC 53

New Hampshire Public Utilities Commission

February 3, 1992

Approval of Purchased Power Adjustment

WHEREAS, on January 29, 1992 the New Hampshire Electric Cooperative, Inc. (company) filed a motion requesting that it be allowed to continue the application of the purchased power cost surcharge which has been in effect since August 1, 1991; and

WHEREAS, the commission in it's Order No 20,181 dated July 19, 1991 approved a surcharge of $.00597 per KWH for a six month period ending January 31, 1992; and

WHEREAS, the company states that it has presently undercollected by approximately $1,235,949 for its purchased power costs; and

WHEREAS, the company estimates that the undercollection can be recovered if the surcharge of $.00597 per KWH is allowed to continue for the months of February and March 1992; and

WHEREAS, the company claims that the proposed recovery would act to provide rate continuity prior to its proposed filing for a permanent rate increase; and

WHEREAS, the commission has reviewed the filing and has determined that the company's filing appears to be reasonable; it is

ORDERED, that the New Hampshire Cooperative is authorized to continue the purchase power surcharge until March 31, 1992; and it is

FURTHER ORDERED, that the Company file compliance tariffs annotated in accordance with N.H. Admin. Rule Puc 1601.04 reflecting the extension of the $.00597 per KWH surcharge until March 31, 1992.

By order of the Public Utilities Commission of New Hampshire this third day of February, 1992.

==========

NH.PUC*02/04/92*[72847]*77 NH PUC 53*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72847]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DE 90-038
ORDER NO. 20,383

77 NH PUC 53

New Hampshire Public Utilities Commission

February 4, 1992

Least Cost Integrated Resource Planning

Appearances: Merrill and Broderick by Mark Dean, Esq. for the New Hampshire Electric Cooperative, Inc.; and James T. Rodier, Esq. for the Commission Staff.

REPORT

I. PROCEDURAL HISTORY

On February 28, 1990, the New Hampshire Electric Cooperative, Inc. (NHEC) requested a waiver from the Commission of its least cost integrated planning (LCIP) filing from April 30, 1990 to April 30, 1991. On March 7, 1990, this waiver request was acknowledged by secretarial letter and on March 13, 1990 the Commission requested comments from NHEC on the timing of its LCIP and rate plan filings. On March 16, 1990, NHEC responded with comments urging Commission approval of its request for an extension for its LCIP filing in part due to resource constraints it faced in working on both the LCIP filing and its rate plan.

On April 2, 1990, the Commission issued Order No. 19,744 in the instant docket. This order denied NHEC's request for a waiver of its 1990 LCIP filing, required NHEC to hire, by April 30, 1990, a consultant acceptable to the Commission to assist it in the preparation of a 1990 LCIP

filing, and granted an extension in the filing date from April 30 to July 31, 1990.

On April 27, 1990, NHEC requested Commission approval of the consultant, Xenergy, Inc., that it had selected. The Commission approved the selection of the consultant by secretarial letter dated April 30, 1990.

On July 31, 1990, NHEC filed an Integrated Least-Cost Plan prepared for it by

Page 53

Xenergy, Inc. of Burlington, MA. On August 28, 1990, an order of notice was issued setting a prehearing conference which was held September 27, 1990. A procedural schedule was established by secretarial letter dated November 9, 1990.

Staff explored technical issues of the filing in a series of technical sessions held through November 1990 and filed testimony on December 11, 1990. A hearing on the merits was held on December 18, 1990.

II. SUMMARY OF THE COMMISSION'S LCIP FILING REQUIREMENTS

A. The Commission's Objective

In April 1988, the Commission established LCIP requirements for New Hampshire's electric utilities pursuant to Re Public Service Company of New Hampshire, 73 NH PUC 117 (1988) (Order No. 19,052). The goal of Order No. 19,052 was to establish a LCIP process whereby the commission could review and evaluate utility resource planning practices and capabilities and assess the context in which utilities were negotiating and contracting for power purchases from qualifying facilities (QFs). The objective of this review is to evaluate whether the utilities are planning properly.

In the 1990 legislative session, the New Hampshire General Court further codified the Commission's LCIP requirements by enacting state legislation requiring utility least cost integrated planning. RSA 378:37-39 (supp). The statute states: "The commission shall review proposals for integrated least-cost resource plans in order to evaluate the adequacy of each utility's planning process."

Commission approval of a utility's least cost resource plan indicates that the utility's resource planning process is adequate. Acceptance of a particular filing does not constitute approval of specific resources included in the plan. However, one of the ways that the commission determines whether a utility's resource planning process is adequate is by evaluating the specific resources in the plan. In the Commission's least cost planning reviews, our evaluation of specific resources does not rise to the level of determining the prudence of the particular resource, but rather the adequacy and prudence of the utilities' planning processes. The commission will review and analyze the prudence of any particular resource option when the utility brings it before us in a cost recovery or rate proceeding.

B. The Commission's Requirements

The utilities are required to file reports in seven areas to document their LCIP processes. The seven reports include:

1. a 15 year forecast of future demand with base, high and low alternatives;

2. an assessment of demand-side resource options;

3. an assessment of supply-side resource options;

4. an assessment of transmission requirements, limitations and constraints;

5. an integration of demand- and supply-side resource options;

6. a two-year implementation plan; and

7. projections of long term avoided costs.

Order No. 19,052 establishes the Commission's basic requirements for the seven reporting areas and Re New Hampshire Electric Cooperative, Inc., 74 NHPUC 375 (1989) (Order No. 19,555), further elaborated on these requirements.

C. The Commission's Review Criteria

The Commission reviews the utilities' LCIP filings according to the criteria indicated by the requirements of Order No. 19,052:

Page 54

1. completeness in meeting the reporting requirements;

2. comprehensiveness in identifying and assessing all resource options, both on the demand-side and the supply-side;

3. integration of the planning process, i.e., evaluating demand- and supply-side options in an equivalent manner and addressing issues of coordinated timing in the acquisition of resources;

4. feasibility of implementation of the least cost resource plan; and

5. adequacy of the planning process, i.e., providing for resources in a timely manner sufficient to meet the electricity and energy service needs of utility customers both now and for the future.

III. SUMMARY OF COMMISSION FINDINGS AND ORDERS ON NHEC'S PRIOR LCIP FILING

In Order No. 19,555, the Commission found that NHEC's LCIP filing was incomplete. In particular, NHEC failed to file a current forecast and provided insufficient information in its assessments of demand- and supply-side options. Consequently, its report on integration of demandand supply-side options was also incomplete. Id. at 381.

The Commission ordered NHEC to file its forecast (Power Requirements Study) by November 1, 1989 (Id. at 382); develop a protocol and test its controlled water heating demand-side management program by December 1, 1989 (Id. at 382); and participate in a multi-utility demand-side program collaborative consideration that became docket no. DE 89-193 (Id. at 383). NHEC has complied with these requirements.

The Commission also ordered NHEC to analyze a comprehensive set of supply options beyond remaining an all requirements customer of Public Service Company of New Hampshire (PSNH) and noted its concern that NHEC was using inconsistent cost criteria to evaluate its

supply options: its wholesale supplier's avoided costs, on one hand, and the wholesale rates it pays, on the other. The Commission reiterated the concern about cost consistency in its discussion of NHEC's avoided cost projections. Id. at 383, 385. NHEC discusses both of these issues in its 1990 LCIP filing.

IV. SUMMARY OF NHEC'S 1990 LCIP FILING

Given the reorganization activities of PSNH and uncertainties affecting NHEC's position with respect to the reorganized PSNH, NHEC originally sought to delay its 1990 LCIP filing beyond April 30, 1990. In response, the Commission ordered NHEC to contract for consulting assistance to enable it to meet a July 31, 1990 deadline. Therefore, NHEC's 1990 LCIP filing was prepared with the assistance of a lead consultant, Xenergy, and several supporting consultants: Power Systems Engineering for forecasting; PLM for power supply analysis; and Electrical Systems Consultants for transmission and distribution planning. NHEC recognized the Commission's requirement as a constructive approach to address its planning needs despite serious and ongoing uncertainties with respect to its financial and power supply situation.

1(3) Exh. 1 at 6.

A. Forecasting

NHEC's load forecast was prepared by Peter Daly of Power Systems Engineering, Madison, Wisconsin. The residential sales projections were based on a combination of econometric and end-use forecasts; the largest 23 customers on the NHEC system were forecasted individually; and the remaining customers were forecasted using historic trends or judgment. Exh. 3 at 2-1. The resulting forecast projects growth at a rate of 3.9% over the period 1989-1993, 3.4% over 1993- 1998, and 2.6% over 1998-2003. Exh. 3 at 2-4.

B. Assessment of Demand-Side Options

Xenergy used a three-step screening process to evaluate demand-side resource options for NHEC. First, Xenergy calculated the technical potential for demand-side savings for a variety of technologies. Second, Xenergy applied two cost-effectiveness tests, the Total Resource Cost (TRC) and Rate Impact Methodology tests, to each technology. Finally, for technologies that passed the TRC test, Xenergy proposed reasonable program designs. Exh. 3 at 3-1.

Xenergy evaluated the technical potential of twenty- three residential and thirty-two commercial/industrial demand-side measures for NHEC. From this comprehensive list of measures, thirteen potential demand-side programs were developed to be screened through NHEC's integration program, POWRSYM and a fourteenth program, dual fuel space heating was added because NHEC believed it to be beneficial. Exh. 3 at 3-76. The resulting 14 programs include:

1. Commercial ETS (thermal storage) space heating
2. High efficiency lighting
3. High efficiency water heater

4. High efficiency space heating

5. Building shell

6. High efficiency drive power

7. Interruptible loads

8. Snow-making Efficiency

9. Residential water heating tune up

10. Residential water heater radio control

11. Residential ETS water heater

12. Residential ETS space heating

13. Low income weatherization

14. Dual fuel space heating

Exh. 3 at Appendix D.

C. Assessment of Supply-Side Options

NHEC identified three principal supply options available to it: (1) continued partial requirements service from PSNH; (2) an independent power supply from PSNH and/or Northeast Utilities (NU) as part of a settlement between the parties in current litigation; or (3) an independent power supply from the regional power supply marketplace. Exh. 3 at 4-2. NHEC focused its analysis on a comparison of the two options from PSNH and under a variety of assumptions found that remaining a partial requirements customer of PSNH was less costly. NHEC indicated that this was to be expected due to the efficiencies of keeping the PSNH and NHEC systems together. NHEC was still evaluating its other options at the time of the filing. Exh. 3 at 4-14.

D. Assessment of Transmission Requirements, Limitations and Constraints

NHEC's engineering department is responsible for transmission and distribution planning and is assisted by Electrical System Consultant, Inc. of Fort Collins, Colorado. NHEC conducts its transmission planning over two time frames in accordance with the requirements of the Rural Electrification Administration (REA). The REA requires development of a Long-Range Plan and a Two-Year Construction Work Plan. The Long-Range Plan develops a transmission and distribution system to serve a total load of approximately four times the current non-coincident load. This load level is estimated to be reached in about 30 years. The LongRange Plan is a reference document used by NHEC in its shortterm planning. Exh. 3 at 5-1. The Two-Year Construction Work Plan identifies system improvements, consistent with the Long-Range Plan, along with cost estimates for these improvements. NHEC has identified the Woodstock-Lincoln and the North Conway transmission projects in its Two-Year Work Plan. Exh. 3 at 5-6 and 5-10.

E. Omtegration of Demand-And-Supply-Side Options

NHEC's integration of demand- and supply-side options involves a three-step process. First, POWRSYM is used to integrate

the demand-side programs with each of the two supply-side options NHEC was considering at the time of the filing: remaining a wholesale customer of PSNH or seeking an independent power supply from PSNH. Second, NHEC management worked with Xenergy to develop a list of criteria for evaluating the plan consistent with corporate objectives. Third, NHEC management and the board developed a list of uncertainties and adjusted the plan to account to the extent possible for the implications of these uncertainties.

Based upon the integration analysis, NHEC's 13 demand- side programs were further refined to a list of seven: interruptible loads, commercial ETS space heating, high efficiency water heating, residential ETS space heating, water heating radio control, high efficiency lighting, and water heating tune up. High efficiency space heating was a marginally cost-effective program. Exh. 3 at 6-10 and 6- 22. NHEC also evaluated dual fuel space heating.

F. Two Year Implementation Plan

NHEC identified 26 action items as part of its two year implementation plan. Exh. 3 at 7-1 to 7-7. They are as follows:

Forecasting

1. Bring the forecasting modeling activity in-house.

2. Expand the uncertainty analysis.

3. Expand end-use analysis.

4. Reconcile the econometric and end-use approaches.

5. Incorporate the effect of demand-side programs on both peak and energy forecasts.

Demand-side Assessment

6. Design and evaluate implementation of dual fuel programs.

7. Design detailed evaluation and implementation plans for the top ranked programs.

8. Prepare for NHPUC review reports evaluating the results of each program every year.

9. Implement recommended programs.

10. Update demand-side screening analysis for the next least cost plan.

11. Consider moving the DSM screening analysis in- house.

12. Continue to monitor load curtailment opportunities for ski customers.

13. Conduct review of other utilities' programs.

14. Improve residential sector segmentation.

15. Incorporate overlap into the technical potential analysis.

16. Consider refining the DSM load shape decrements.

17. Investigate new construction DSM opportunities.

18. Investigate marginal cost basis for ETS and other marginally based heating rates.

Data Collection

19. Implement a comprehensive commercial survey.

20. Review plans for next residential saturation survey.

21. Solicit broader involvement of community and industry leaders.

22. Implement metering/load studies.

Supply Analysis and Integration

23. Rerun POWRSYM annually or as appropriate.

24. Consider creating a link between demand and supply-side evaluators.

Transmission and Distribution

25. Update the current transmission and distribution study.

Strategic Planning

26. Update the criteria and uncertainties.

Page 57

G. Avoided Costs

NHEC notes that because of the uncertainty of its power supply situation, it was difficult to select a single set of avoided costs for use in the integrated analysis. NHEC identified three sets of avoided costs to consider: (1) NHEC avoided costs as calculated by PLM using POWRSYM; (2) PSNH avoided costs as submitted in June, 1990; and (3) PSNH avoided costs submitted and approved in 1989. Exh. 3 at 81. For base case analyses in the integration of demand- and supply-side options, NHEC selected the 1989 PSNH avoided costs. The other two sets of avoided costs were used for sensitivity analyses.

For the purposes of making purchases from QFs, NHEC intends to adopt the PSNH avoided costs as long as it remains a wholesale customer of PSNH. Exh. 3 at 8-4.

H. Procedures For Negotiating and Contracting With QFS

NHEC indicates that its need for capacity during the next eight years is uncertain. Exh. 2 at 2. Therefore, NHEC plans to follow the procedures for negotiating and contracting with QFs outlined in its 1989 LCIP filing and approved by the Commission in Order No. 19,555. Specifically, NHEC offers the following:

1. Short term rates are available for all projects under 100 kW and for projects greater than 1000 kW when additional generating capacity is not needed during the eight year period following initial commercial operation. Until it is certain to be otherwise, NHEC assumes for purposes of its dealings with SPP's [small power producers] that it can use SPP capacity in the eight years following commercial operation, and is willing to discuss arrangements with any developers on that basis, as described under section 3 below.

2. NHEC provides a standard long-term offer for SPP's of 100 kW to 1000 kW capacity utilizing renewable resources.

3. NHEC will negotiate for projects which are greater than 1000 kW and/or utilize fossil fuel when additional generating capacity is needed within the eight year period following initial commercial operation.

4. NHEC offer's (sic) wheeling service at no cost for SPP's located on the NHEC system who wish to sell to other utilities.

Exh. 2 at 3-4.

V. SUMMARY OF STAFF TESTI-MONY

Staff testified that NHEC's 1990 LCIP filing represented a great improvement over its 1989 filing, and attributed this improvement to the increased attention NHEC has had to give to its power supply situation and the expertise provided by its consultant, Xenergy. Exh. 5 at 4.

Staff stated that NHEC has met the Commission's requirements for completeness and comprehensiveness in its forecast, but expressed concerns about the reasonableness of the forecast results. Staff recommended that NHEC be required to update both its forecast inputs and further refine its forecasting methodology; continue to develop its end-use forecast; and incorporate the impacts of its demandside programs on both sales and peak demand. Exh. 5 at 4-5.

The assessment of demand-side options is the area in which staff indicated that NHEC had made the greatest improvement. Staff's primary concern was that NHEC follow through on the very good start that it had made and continue to analyze the impacts of demand side programs on its system and develop more NHEC-specific data. Staff also recommended that NHEC coordinate its demand-side

Page 58

activities with rate design. Exh. 5 at 6.

With respect to NHEC's supply-side assessment, staff raised a concern about the consistency of NHEC's evaluation of costs. NHEC's approach to its supply-side analysis compares supply-side options to its wholesale costs. NHEC's demand-side analysis uses NHEC's avoided costs which are defined as the avoided costs of PSNH, its wholesale supplier. This inconsistency carries over into NHEC's integration of its demand- and supply-side options. Exh. 5 at 7-8.

Staff affirmed that NHEC's planning process for transmission and distribution represents good utility practice. As NHEC is in the early stages of bulk transmission planning within NEPOOL, staff recommended that the Commission monitor its progress in this area in future LCIP proceedings. Exh. 6 at 5.

Staff also recommended that NHEC set priorities for the 26 action items in its two year implementation plan because it thought it unlikely that all 26 could be accomplished over two years. Staff suggested that NHEC focus in the following areas:

Forecasting

1. Expand end-use analysis.

2. Reconcile the econometric and end-use approaches.

3. Incorporate the effect of demand-side programs on both peak and energy forecasts.

Demand-side Assessment

4. Design detailed evaluation and implementation plans for the top ranked programs.

5. Implement recommended programs.

6. Update demand-side screening analysis for the next least cost plan.

7. Investigate new construction DSM opportunities.

8. Investigate marginal cost basis for ETS and other marginally based heating rates.

Data Collection

9. Implement a comprehensive commercial survey.

10. Implement metering/load studies.

Supply Analysis and Integration

11. Rerun POWRSYM annually or as appropriate.

12. Consider creating a link between demand and supply-side evaluators.

Transmission and Distribution

13. Update the current transmission and distribution study.

Strategic Planning

14. Update the criteria and uncertainties.

Exh. 5 at 9-10.

Staff recommended that the Commission re-visit in the near future the question of the appropriate avoided costs for NHEC, i.e., the wholesale rates NHEC pays or the avoided costs of its wholesale supplier. Until this question is revisited, staff advised that NHEC continue to use the avoided costs of PSNH, its wholesale supplier, as the basis for payments to QFs.

VI. COMMISSION FINDINGS

The Commission has reviewed and analyzed NHEC's Integrated Least Cost Plan Filing (Exh. 3), its testimony (Exh. 1 and 2), responses to data requests (Exh. 4), and staff testimony (Exh. 5 and 6) in our evaluation of NHEC's least cost integrated planning. We note that NHEC has engaged in this planning process during a time period characterized by uncertainty with respect to its power supply situation. We also recall that NHEC's first least cost planning filing was not approved and that NHEC was required to respond specifically to a number of deficiencies noted in that filing. Re New Hampshire Electric

Page 59

Cooperative, Inc., 74 NHPUC 375 (1989).

A. Completeness of the Filing

The Commission finds NHEC's LCIP filing to be complete. The presentation of the least cost

integrated planning process is thorough and clear. The assistance of Xenergy, NHEC's consultant, appears to have contributed greatly to the quality of its filing. The Commission's concern with NHEC's 1989 LCIP filing was that the poor presentation reflected planning inadequacies. Our concern here is that the clear presentation be more than a reflection of NHEC's consultant's skills. It should also reflect analyses and a process that have been internalized by NHEC. The Commission will be reviewing future LCIP filings to ensure that that is the case.

B. Adequacy of the Planning Process

1. Forecasting

The Commission finds that NHEC's forecasting efforts need further improvement. We share staff's concerns with respect to the reasonableness of the forecast, which appears to be somewhat optimistic. Tr. 49. The Commission therefore adopts staff's recommendation that NHEC be required to update both the inputs and the equation formulations in its next LCIP filing. We further find that NHEC should continue to develop its residential end-use forecasting capability and begin to gather data necessary for end-use forecasting in the commercial/industrial sector. NHEC should consult with staff in this process. By the time of its next LCIP filing, NHEC should also incorporate the impacts of its current and planned demand-side programs into both its forecasts of sales and peak demand and distinguish the impacts of these programs from the impacts of price- induced conservation and load management.

2. Assessment of Demand-Side Options

NHEC's 1990 LCIP filing shows the greatest improvement over its 1989 filing in the assessment of demand-side options. This improvement needs to continue and to carry over into implementation of the cost-effective programs identified. The Commission believes that Xenergy contributed greatly to this progress on the demand-side and therefore, finds that NHEC should continue to utilize the assistance of a consultant. The Commission does not believe that NHEC is ready to bring the demand-side assessment activities in-house as suggested in its Two-Year Implementation Plan. We further find that by the time of its next LCIP filing

[2(4)] , NHEC should re-evaluate the demandside options it has selected as cost-effective, reassess the other demand-side options it has identified and develop implementation plans for those programs that continue to be a cost-effective part of its least cost resource plan.

3. Assessment of Supply-Side Options

NHEC has assessed two supply-side options in some detail: remaining a partial requirements customer of PSNH and purchasing an independent power supply from PSNH. NHEC has also considered purchasing its power supply in the New England market. Purchases from QFs appear to be an option in any of these scenarios. In its assessment of supply-side options, NHEC discusses the uncertainties it continues to face with respect to its power supply as a result of the bankruptcy and reorganization of PSNH. Exh. 3 at 4-2.

In reviewing NHEC's LCIP filing, the Commission has taken these uncertainties into account. While NHEC has not comprehensively laid out its analysis of the risk, timing, availability reliability, cost and environmental impacts of its various supply options in accordance with our Order No. 19,555 at 19, the company has conducted a more systematic

analysis of its supply options than in its 1989 LCIP filing. We therefore find that NHEC's 1990 supply-side assessment is adequate.

However, NHEC's analysis of its supply-side options treats certain options inconsistently. NHEC has used the POWRSYM

model to evaluate its supply options and implicitly compares alternative options to the cost of remaining a wholesale customer of PSNH. At the same time, NHEC has evaluated its demand-side options and offers to pay QFs according to PSNH's avoided costs. The Commission agrees with Staff that this inconsistency must be addressed. Therefore, we will require NHEC to address the question of the appropriate costs to use in future assessments of its demand- and supply-side options in its next LCIP filing.

4. Assessment of Transmission Requirement, Limitations and Constraints

The Commission finds that NHEC's transmission assessment is comprehensive and fulfills the requirements of order nos. 19,052 and 19,555. We share staff's view that NHEC's planning process for transmission and distribution represents good utility practice. We will adopt staff's recommendation that the Commission continue to monitor NHEC's progress in coordinating its transmission and distribution planning within NEPOOL and we will require NHEC to report on this specifically in its next LCIP filing.

Again, the Commission would like to commend NHEC for the quality of the transmission maps it provided as part of its filing. The detail was excellent and NHEC has complied with our requirement to provide a larger, more legible copy. Re New Hampshire Electric Cooperative, Inc., 74 NHPUC 384 (1989).

5. Integration of Demand- and Supply-Side Resource Options

The Commission reiterates its concern about the consistency of NHEC's evaluation of demand- and supply- side resources. This concern is alleviated somewhat by NHEC's testing of its demand-side options using three sets of avoided costs (Exh. 3 at Section 8), but remains nevertheless. As discussed above, we will require NHEC to address the issue of the appropriate costs for it to be using in its evaluations of demand- and supply-side resources. This issue is also discussed in the section of our analysis on avoided costs.

The Commission finds the three-step process used by NHEC to integrate its resource options to be appropriate and consistent with the criteria established in our order nos. 19,052 and 19,555. The process of reviewing the plan produced by the model for consistency with NHEC goals and objectives indicates that NHEC is beginning to internalize the analysis it has undertaken. Adjusting the plan and the two-year action items for the uncertainties it faces can be taken as further indication that NHEC is developing a resource planning capability. However, NHEC must guard against undermining the rigor of its resource planning in its consideration of corporate objectives not related to resource planning and perceived uncertainties. The Commission will continue to monitor NHEC's progress in this area. We note that it has improved greatly since its 1989 filing.

6. Two-Year Implementation Plan

The Commission agrees with Staff that NHEC's two-year implementation plan is overly ambitious and not reflective of what it can reasonably accomplish over that time frame. NHEC presents a laundry list of action items without attempting to identify those that are most important or that ought to be accomplished first. The Commission is concerned that NHEC is abdicating its management responsibility and looking for direction from us in this area. This is not acceptable.

The requirement of a two-year action plan is one of the most important of the Commission's LCIP requirements. It allows us to assess whether a utility has the capabilities to pursue and implement the least cost resource plan it has developed. It also serves as a check on the degree to which the resource plan presented to the Commission is consistent with the planning and resource acquisition activities actually taking place at the company. NHEC's two-year implementation plan fails to demonstrate that it has the capabilities to

Page 61

implement the resource plan it has developed and it raises questions as to whether the resource plan is consistent with planning activities that are actually taking place.

The Commission will adopt staff's recommendations for priorities in NHEC's two-year implementation plan. We will require NHEC to detail in its next LCIP filing how it will accomplish these tasks and the extent to which it believes it can accomplish all of the tasks listed. It is NHEC's management responsibility to set priorities and determine the areas where resources ought to be allocated. The Commission expects NHEC to demonstrate in its next LCIP filing that it has fulfilled this responsibility.

7. Avoided Costs

For the purposes of negotiations and contracting with QFs, NHEC has adopted the avoided costs of PSNH, its wholesale supplier, in accordance with prior Commission rulings. However, throughout its LCIP filing NHEC has raised the issue of the appropriateness of continuing to use the PSNH avoided costs as its own. Staff has also raised this issue. It is one that the Commission has addressed in the past and appears to be an issue that needs to be revisited again.

The question of the appropriate avoided costs for NHEC first arose in the context of QF purchases: what costs are avoided when NHEC makes a purchases from a QF rather than another supplier. From the narrow perspective of NHEC and its ratepayers, they avoid paying an alternative supplier, i.e., costs equal to PSNH's wholesale rate. From a broader resource perspective, what is avoided is the resource that the wholesale supplier would otherwise have to provide, i.e., costs equal to PSNH's avoided costs. To the extent that a wholesale supplier's rate is marginal cost based and therefore reflects its avoided costs, the discrepancy between the wholesale rate and avoided costs is minimized. The Commission notes that this is the case for Granite State Electric Company, where the inconsistency that NHEC faces in evaluating its resource options does not arise.

The Commission will require NHEC to address in its next LCIP filing the issue of the appropriate avoided costs for it to be using.[3(5)] In its consideration and analysis of avoided costs, NHEC should address the extent to which the inconsistency between the rates it pays its

wholesale supplier and the marginal resource costs the supplier incurs can be minimized through more marginally cost based wholesale rates. The Commission recognizes that NHEC does not control the rates it pays; however, NHEC is a party to proceedings and negotiations where these rates are set and we are therefore interested in NHEC's views on the feasibility and desirability of resolving the inconsistency in this manner. NHEC should also consult with staff on this issue.

8. Overall Evaluation

The Commission finds that NHEC's 1990 LCIP filing represents a substantial improvement over its 1989 filing. The 1990 filing demonstrates that NHEC has begun to develop the capabilities to address the resource planning issues it is facing. The assistance of NHEC's consultant, Xenergy, has been an integral part of this improvement and the Commission looks for such involvement to continue. The Commission therefore finds NHEC's 1990 LCIP filing to be adequate and in compliance with the Commission's requirements as outlined on order nos. 19,052 and 19,555. NHEC now needs to carry the improvement reflected in the presentation and planning in this filing through to implementation of the plans developed and discussed.

C. Additional Commission Findings

In accordance with the process outlined in Order No. 19,052, the Commission finds that QFs can meet some of NHEC's resource needs within the next eight years and, for the purposes of this proceeding, that the process that NHEC has established for negotiating and contracting for power purchases from QFs is adequate and consistent with Commission policy. However, the Commission reiterates its

Page 62

concern about whether NHEC is evaluating its supply options, including QFs, consistently. We expect to see this issue addressed in detail in NHEC's next LCIP filing.

Given the current status of NHEC as an all requirements customer of PSNH, the Commission finds it not appropriate to set the megawatt amount of QF capacity that NHEC should be seeking. However, we reiterate the Commission's policy preference for QFs using renewable and indigenous fuels, including municipal solid waste, and cogeneration based on existing industrial use of fossil fuels, over technologies that increase the dependence of New Hampshire on fossil fuels.

Our order will issue accordingly. Concurring: February 4, 1992

ORDER

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

ORDERED, that the New Hampshire Electric Cooperative, Inc.'s (NHEC) least cost integrated planning (LCIP) filing of July 31, 1990 and subsequent testimony and responses to data requests be, and hereby are, accepted as fulfilling the requirements of Order No. 19,052 for the year 1990; and it is

FURTHER ORDERED, that the New Hampshire Electric Cooperative's adoption of Public Service Company of New Hampshire's (PSNH) long term avoided cost estimates as they may be approved in any PSNH least cost integrated planning proceedings be, and hereby are, approved

and should serve as the basis for NHEC's negotiations with Qualifying Facilities (QFs); and it is

FURTHER ORDERED, that, in its next LCIP filing, the New Hampshire Electric Cooperative update both its forecast inputs and further refine its forecasting methodology, continue to develop its residential end-use forecast and begin to collect end-use data for the commercial and industrial sectors, incorporate the impacts of its demand side programs into both its sales and peak demand forecasts, and distinguish demand-side program induced from priceinduced impacts on sales and peak demand; and it is

FURTHER ORDERED, that, by the time of its next LCIP filing, the New Hampshire Electric Cooperative should re evaluate the demand-side options it has selected as cost effective, reassess the other demand-side options it has identified, and develop implementation plans for those programs that continue to be a cost-effective part of its least cost resource plan along with a schedule for their implementation; and it is

FURTHER ORDERED, that, in its next LCIP filing, the New Hampshire Electric Cooperative address the issue of the appropriate avoided costs for it to be using for both resource planning purposes and negotiations and contracting with QFs. By order of the New Hampshire Public Utilities Commission this fourth day of February, 1992.

FOOTNOTES

[1]The Commission notes that since July 31, 1990 NHEC has filed for bankruptcy and just recently presented a consensual reorganization plan to the Bankruptcy Court for approval.

[2]The Commission is aware that intervening events may affect the timing of the resolution of issues identified and completion of tasks required herein. Therefore, the Commission would be willing to entertain a motion from NHEC for an extension of time for the filing of its next LCIP. The Commission suggests that NHEC consult with Staff on an appropriate deadline.

[3]Again, intervening events make this a particularly appropriate time to revisit the question of the appropriate avoided costs for NHEC.

==========

NH.PUC*02/05/92*[72848]*77 NH PUC 63*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72848]

NEW ENGLAND TELEPHONE COMPANY

DE 92-017
ORDER NO. 20,384

77 NH PUC 63

New Hampshire Public Utilities Commission

February 5, 1992

Order Granting Protective Treatment

On January 21, 1992, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities

Commission (commission) a special contract with Digital Corporation for Centrex service, pursuant to RSA 378:18; and

WHEREAS, concurrent with the special contract, NET filed a Motion for Protective Order for materials to be submitted in conjunction with the special contract, pursuant to RSA 91 A and PUC 204.07; and

WHEREAS, in its motion NET states that information to be submitted contains "customer specific, competitively sensitive data" including "cost analyses, network size, routing and configuration data, information regarding specific service features, and other contract terms such as term, special rates and billing information"; and

WHEREAS, the information identified above is a necessary part of the filing, and important for the staff of the commission (staff) to review in evaluating the special contract; and

WHEREAS, staff concurred in the Motion; and

WHEREAS, the commission recognizes the importance of staff having the opportunity to review fully the materials which support a special contract, in order to responsibly carry out the duties placed upon it pursuant to RSA 378:18; it is hereby

ORDERED, that the Motion for Protective Order be, and hereby is, granted; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the commission, on it own motion or on the motion of commission staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this fifth day of February, 1992.

==========

NH.PUC*02/07/92*[72849]*77 NH PUC 64*CONNECTICUT VALLEY ELECTRIC COMPANY

[Go to End of 72849]

CONNECTICUT VALLEY ELECTRIC COMPANY

DR 91-189
ORDER NO. 20,385

77 NH PUC 64

New Hampshire Public Utilities Commission

February 7, 1992

Rate Redesign, Base Rate Reduction, 1991 Earnings Refund

REPORT

I. PROCEDURAL HISTORY

On November 15, 1991, Connecticut Valley Electric Company (CVEC or Company) filed Phase II of rate redesign with testimony and exhibits supporting changes to its tariff, NHPUC No. 5. The filing was made in compliance with Commission Order No. 19,411 in DR 88-121, Phase I of CVEC rate design.

The Phase II filing includes a comprehensive integrated proposal for rate changes effective January 1, 1992 that incorporates rate changes in two other CVEC dockets: 1) DR 91-024, the conservation and load management percentage adjustment (C&LMPA); and 2) DR 91-190, the fuel adjustment clause (FAC) and purchased power cost adjustment (PPCA). Additionally, the filing proposes a reduction in the Company's base rates, a cap on the 1991 earned return on equity (ROE) at the level currently allowed by the Commission, and a pass-back of an expected credit derived from the 1991 over-earnings in 1991.

An Order of Notice was issued by the Commission on November 27, 1991 scheduling a prehearing conference for December 19, 1991. On December 17, 1991, the Commission issued Order No. 20,338, which suspended the proposed tariff pages pending further analysis and a hearing on the merits.

At the prehearing conference, the Company and staff (the Parties) indicated that they were in substantial agreement on a Stipulation and Agreement and proposed that a hearing date be reserved for either December 29 or 30, 1991. The Commission directed

the

Parties to report by December 27, 1991 on whether a hearing by January 1, 1992 was warranted on the merits of a possible Stipulation and Agreement between the Parties. On December 27, 1991, CVEC filed a letter indicating agreement between the Company and Staff on virtually all aspects of the filing and requesting a hearing. On January 3, 1992, the Parties filed a Stipulation and Agreement. The Commission heard testimony supporting the Stipulation and Agreement on the same day.

II. POSITION OF CONNECTICUT VALLEY ELECTRIC COMPANY

Effective January 1, 1992, the Company proposes to assimilate a base rate reduction, a ROE cap, and rate redesign, with changes in the Company's rates due also to the January 1, 1992 implementation of the C&LMPA directed in docket DR 91-024, and the FAC and the PPCA directed in docket DR 91-190. The Company contends that because it has worked closely with the staff in the months preceding the filing, and because the C&LMPA, FAC and PPCA were scheduled for review and implementation no later than January 1, 1992, a comprehensive, integrated approach to changes in rates and customer bills on January 1, 1992 is not only feasible

in the limited time frame but is preferable in the interest of mitigating substantial bill impacts due to the C&LMPA, FAC and PPCA.

A. Base Revenue Adjustments

The Company used test year billed revenues of $14,177,761 as the starting point for the revenue requirement before it adjusted the base revenues for: 1) the excess return; 2) the business profits tax; 3) the franchise tax; 4) depreciation; 5) the increased line extension charge; 6) late and prepayment charges; and 7) a $10 new account charge for new hook-ups and reconnections. Collectively, the seven base revenue adjustments reduce the test year base revenue requirement by $357,610, or 2.5%.

Additionally, CVEC believes that the fuel costs and capacity costs it expects to incur in 1992 should be reflected in base rate levels and has accordingly adjusted the test year revenues for fuel and capacity costs. CVEC estimates the total change for all test year revenues to be $962,502.

1. Excess Return

CVEC filed for a tax adjusted total revenue reduction of $280,759 reflecting a 52% equity component of the Company's total capitalization and an allowed ROE of 12.5%. The Company cites two reasons for the excess return. First, the 1988 revision of the common cost allocation between CVEC and Central Vermont Public Service Co. (CVPS), the parent company of CVEC, increased directly attributed costs to both companies and lowered the allocation factors on common costs to CVEC. CVEC also refers to effective cost control measures begun by CVPS in 1990 that have benefitted CVEC, as well as CVPS.

2. Business Profits Tax

The Company is liable for the 8% New Hampshire Gross Receipts Tax (often referred to as the Business Profits Tax or BPT) in 1992. CVEC calculates the BPT in 1992 will increase the revenue requirement by $44,604 based on a 12.5% ROE.

3. Franchise Tax

The Company's test year revenues include collection of the franchise tax. In order to comply with Commission Order No. 20,230 in Docket No. DR 91-096, which specifically excludes collection of the franchise tax, the Company has decreased the test year revenue requirement by 1% or $141,778.

4. Depreciation

CVEC is adjusting the revenue requirement by $56,623 to reflect proposed changes in depreciation rates to test year plant as reported in its August 8, 1991 filing of Form E-25, Report of Proposed Changes in

Depreciation Rates.

5. Line Extensions

CVEC is filing for an increase in line extension rates. The Company estimates $1800 would result from the increase in line extension rates and, thus, has reduced the test year revenue

requirement by $1,800.

6. Late and Prepayment Charges

CVEC is filing to extend the current late payment charge which is applicable to Rate GV and T billings to all other rate classes under the Company's tariff. Additionally, CVEC proposes for those customers who maintain a monthly credit balance for the entire period between two successive bills an "interest" rate to credit said customers bills that reflects the Company's short term borrowing costs. CVEC proposes to use the average Federal Funds Rate as reported by the Federal Reserve in the Federal Reserve's monthly report. The actual rate CVEC proposes to use would be the average rate for the second prior quarter, due to reporting delay, minus 75 basis points. The Company estimates the net effect of the two changes is to decrease the test year revenue requirement by $13,500.

7. New Account Charge

CVEC is supporting a $10 customer service charge whenever a new customer establishes service or whenever an existing customer re-establishes service after service has been voluntarily discontinued. Currently, CVEC does not charge for establishing or re-establishing service. The Company estimates the service connection charge will reduce the test year revenue requirements by $21,000.

8. Fuel Expenses

CVEC proposes to decrease the test year revenue requirement by $66,856 for the FAC based on the difference between the estimated 1992 unit fuel costs CVEC applies to the test year and the test year fuel revenues. The Company acknowledges that any estimated 1991 over- or undercollection of the FAC is not included in the $66,856 and should be collected through the 1992 FAC and not in base rates. Except for the over- or under-collection, CVEC believes the 1992 FAC rate will be approximately zero. CVEC points out that the actual rate will be determined by the costs filed in the Company's annual FAC in docket DR 91-190. CVEC proposes to file the actual rate in compliance with this rate design compliance filing.

9. Purchased Capacity Costs

CVEC proposes the same treatment for purchased capacity costs as for fuel expenses except the purchased capacity costs take into account the test year base revenues from the test year base capacity charges. The adjustment results in a test year revenue requirement increase of $1,386,968 in purchased capacity charges. Estimated year end 1991 over or under-collected purchased capacity costs are not reflected in the $1,386,969 adjustment. The Company believes the over- or under-collection should be recovered through the 1992 PPCA, and not in base rates. CVEC again points out that the actual rate will be determined by the costs filed in the Company's annual PPCA in docket DR 91 190. CVEC proposes to file the actual rate in compliance with this rate design compliance filing.

B. 1991 ROE Cap

The Company is volunteering to return to customers of certain rate classes a Temporary Credit Surcharge (TCS) on revenues exceeding CVEC's currently allowed ROE of 13%. Although, the Company admits that it will not know the exact amount of 1991 overearnings until the books are closed in mid-February, CVEC estimates the TCS at $442,273.

The Company states that it is confident the proposed voluntary changes will eliminate its excess return on both a temporary and permanent basis while still affording it, through the incorporation of the other changes it has

Page 66

proposed, the opportunity to earn its allowed return.

C. Rate Design

The Company indicates that much of its rate design proposal is a continuation of changes initiated in Docket No. DR 88-121, Phase I of Rate Redesign. Implementation of seasonal rates, mandatory time-of-day (TOD) rates for customers taking service at primary or transmission voltage (Rates GV and T), and a movement toward more marginal cost based rates began in October 1989. In the current filing, the Company addresses inter alia further seasonalization, a revenue reallocation based on a marginal cost based equiproportional methodology, and an increase in the first 250 kWh block to reflect its full average annual cost-ofservice. The Company also proposes a TCS to those classes most affected by the rate redesign. Because changes in the C&LMPA are scheduled to be effective on January 1, 1992, the Company also addresses C&LMPA changes as part of its proposed rate redesign cognizant of what was settled in the DR 91-024 C&LMPA docket.

1. Seasonalization

The Company proposes to increase the seasonal differential from 1.25:1 to 1.45:1 on January 1, 1992 and further increase it to 1.60:1 on January 1, 1993. The Company asserts that it explicitly deferred the proposed increase in the seasonal differential as well as other changes so that customers had more time to adjust to seasonal rates and the Company had more time to gather and assimilate more recent and accurate load research data. The Company believes a two step implementation in seasonal differentials will moderate rate changes and give customers additional time to adjust their consumptive patterns.

CVEC posits that, based on continuing load research and cost studies, the seasonal differential should be approximately 1.9:1, although it is not at this time proposing a seasonalization to that extent. The Company points out that the seasonal differential for its parent and affiliate, CVPS, is approximately 1.9:1. CVEC continues to endorse the use of December through February as the peak months; all other months are off-peak.

2. Marginal Cost-Based Revenue Reallocation

The Company proposes to reallocate class revenues by shifting the relative revenue responsibility under current rates using a marginal cost-based equiproportional allocation of the total revenue responsibility. CVEC wants to move just one-third of the way toward a full marginal cost allocation at this time. Concern for rate continuity and stability, as well as the newness of the method and data, are cited for tempering the Company's proposal. CVEC also recognizes the more variable nature of marginal costbased rates compared to average cost-based rates over time.

CVEC raises a problem with traditional allocation procedures that consider only the

probability of peaking during a certain hour of the year using the particular company's own current load shape. CVEC believes that the methodology is appropriate when companies are not reflecting seasonal or time differentiated cost-of-service in their current rates; however, the Company claims it demonstrated in the first Phase of rate redesign a considerable shift in load away from the winter peak period toward the Company's off-peak mid-day shoulder and night time period on CVPS's system. The Company claims the result has been a very constant load across formerly peak and off-peak periods such that the probability of peaking is nearly identical to the historically high load periods. CVEC contends that setting prices based solely on loss of load probability (LOLP) would drive up the price to customers who have previously altered their use to low cost periods and result in destabilizing the highly desirable load shape the Company now has from its implementation of cost-based pricing. Instead, the Company is seeking to allocate costs based on load shapes prior to and at the start of seasonal and time differentiated rates 17 years ago in Vermont

Page 67

with allocations from today's load shape.

The one-third allocation criteria the Company proposes reallocates revenues among the classes starting on March 1, 1992, as follows:

Rate Class Description Reallocation %

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

Rate D Domestic Service 1.23%
Rate D-1 Total Elec. Living 7.90%
Rate D-T Domestic TOD 1.23%
Rate O Off-Peak Water 0.00%
Rate O-N Night Only Water 0.00%
Rate G General Service (0.10%)
Rate G-T General TOD (0.10%)
Rate GV Primary Service 3.80%
Rate T Transmission Service (8.50%)
Rate ML Municipal Lighting 2.70%
Rate SL Security Lighting 2.40%

The Company claims it has equiproportionally adjusted all rates except for Rate O and Rate G which would have increased Rate O's revenue requirement by $7,000 and decreased Rate G's by the same amount. CVEC believes that to do so would distort the customers' choice between Rate G and Rates GV and G-T. CVEC asserts that future cost studies will show Rate O does not warrant a cost increase and, in any case, it now more than covers its marginal cost.

3. Initial Non-seasonal Full Cost 250 kWh Block

CVEC proposes to increase the first 250 kWh block from 7.917 /kWh to 8.446 /kWh on January 1, 1992, and to increase further the first block to 10.765 /kWh on March 1, 1992 to reflect fully the average annual cost per kWh in Rate D.

The Company believes the initial block now receives a 20% subsidy. It contends that at one time when marginal costs were greater than average costs and increasing, the policy decision to keep the first block lower as a lifeline rate made sense. Economic efficiency was not hampered because the revenue requirement could be made up in the tail block and still send accurate price

signals to customers. CVEC asserts that the cost studies demonstrate that marginal costs are now lower than average costs. Thus, CVEC believes that holding the first block below its true cost promotes economic inefficiency, while not providing the societal benefits the initial block is believed to provide to low income users. The Company supports its position on the perceived societal benefits of a low cost initial rate block by providing the results of a study on usage in Vermont that compared an equally sized group of low income users with a randomly selected sample of domestic customers. CVEC believes that the results demonstrate that both groups' use of electricity is practically identical. It concludes that any policy that keeps down the initial block in the belief that the lower initial block is helping low income users is actually hurting some low income high use customers while subsidizing low use customers whether they are low income or not.

D. Conservation and Load Management Adjustment

The Company indicates that the C&LMPA is scheduled to change on January 1, 1992, but at the time of the filing could not quantify the percentage increase to rates by customer class. It estimates the increase will be approximately 0.53% to the residential class and 4.24% to the commercial and industrial classes. Rate classes SL and ML would receive a C&LMPA of zero. The Company believes that a percentage adjustment to the customer's bill will recover the costs of the conservation and load management programs without distorting the relative price signals embodied in the rates.

III. STIPULATION AND AGREEMENT

A detailed Stipulation and Agreement (Stipulation) between the Company and staff (Parties) was filed with the Commission on January 3, 1992.'

The parties agree that the line extension, prepayment credit and overdue balance interest charge be withdrawn from the Company's

Page 68

initial filing. The parties also agree to modify the ROE used in the base rate adjustment. Instead of the 12.5% the Company used in its filing, the parties agree to 12.3%. By changing the ROE and eliminating the line extension and payment credits or charges, the base rate reduction level changes from $357,610 to $351,232.

Other than the changes mentioned above, the parties agree to all other proposals in the Company's filing except for the calculation of the PPCA. The Parties agree to meet and work through the differences they have on the PPCA and if no satisfactory solution is reached, the Parties reserve the right to petition the Commission to hear and rule on the PPCA issue at a later time.

IV. COMMISSION ANALYSIS

The parties have brought before us a comprehensive and detailed Stipulation that addresses simultaneously the fuel and purchased power clauses, the Conservation and Load Management Adjustment Percentage Clause, a base rate reduction, and further rate redesign changes with a proposal to return to ratepayers 1991 earnings greater than Connecticut Valley Electric Company's allowed return on common equity of 13.0%. We will address each in turn.

A. Conservation and Load Management Adjustment Clause

In docket DR 91-024, we approved a partial stipulation and made findings on contested issues that, inter alia, allow CVEC in 1992 to recover $310,337 of conservation and load management costs through the C&LMPA. The revenue recovery is allocated to customer classes by the proportionate share of program costs between Residential and non-Residential customers. Because CVEC has revised its 1992 sales projections in DR 91-190, we will direct it to reestimate in the compliance filing the new percentage adjustment for 1992 Conservation and Load Management costs.

B. Fuel and Purchased Power Adjustment Clauses

The Parties request that the PPCA and FAC factors we approved in DR 91-190 be superseded by a new PPCA and FAC based on the base rate reduction and rate redesign. The Company and staff proceeded in docket no. DR 91-190 due to the possibility that the current proposal would not be addressed in time for rates to change on January 1, 1992. Given that uncertainty, we approved on December 30, 1991 a FAC rate of $(0.0034) per kWh and a PPAC rate of $0.0072 per kWh effective January 1, 1992. Re CVEC, Docket No. DR 91190, Order No. 20,360 (December 31, 1991).

The new rates the Parties propose are based on the same costs in DR 91-190, adjusted for the test year and the redesigned base energy and capacity rates such that there would be a zero adjustment to each at the end of 1992. We will approve new FAC and PPCA rates of $0.0005 and $(0.0038) respectively, subject to the condition that the apparent disagreement between staff and the Company concerning these rates is settled to both Parties satisfaction by March 1, 1992. We expect the Parties to inform us as to their position at that time and what action, if any, they would request from us. We will direct CVEC to file the new rates in its compliance filing.

C. Base Rate Reductions

As described by CVEC's witness during the hearing, the base rate revenue reduction on a test year basis is $351,232. Of that amount, CVEC customers have already seen a decrease of $141,778 in base rates from elimination of the franchise tax. Re Franchise Tax-Electric Utilities, Docket No. DR 91-096, Order No. 20,230 (September 3, 1991). The remaining net base rate reduction of $209,454 comprises adjustments for the excess return, business profits tax, depreciation, and new account charge.

We find the record supports the proposed adjustments to the test year revenue requirement. We will approve the proposals, but caution the Parties that we question the use

Page 69

of a 12.3% return on common equity. Without a record we cannot engage in further analysis; however the figure appears to be at or above the upper end of the zone of reasonableness for a return on common equity for this particular company. In spite of this concern, we have approved the Parties' proposal because it is one component of an integrated settlement agreement. The instant record supports a conclusion that the end result of that settlement agreement will produce just and reasonable rates. Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944).

D. Return of 1991 Overearnings

We find the Parties position to return 1991 earnings above the currently authorized 13.0% return on common equity to be just and reasonable. We approve the proposal to use the excess returns to mitigate the bill impacts of the most affected rate classes as described in the Settlement.

E. Rate Redesign

1. Seasonalization

We continue to support the further development of seasonal pricing. The two-step phase-in of increased on peak off-peak pricing will allow the Company to send better and more accurate price signals to customers of the higher cost incurred by the Company for power during the winter season. It also allows the use of 1991 overearnings to delay the reallocation of class revenues until March 1, 1991, thus minimizing customer bill impacts.

We believe that this is a excellent time to study the effects of the increased seasonalization and redesign on customers' usage. We expect that the Company will report to us before Phase III of rate redesign on how it differentiates pricing effects from conservation and load management effects and what the effects of each has been.

2. Change in First 250 kWh Block

The Parties seek to increase the rate of the first 250 kWh block to recover its full annual average cost. The lower priced first block was introduced during a time when marginal costs were greater than average costs; thus, the benefits of a reduced first block came with only minor distortions on pricing. The Parties now believe that the cost studies demonstrate that the relationship between marginal costs and average costs have reversed. Moreover, CVEC contends that its study in Vermont demonstrates that a subsidized first block does not really help lower income people as it often is presumed to do.

We are greatly concerned with the difficulties many low income customers face each month when they receive their utility bills. At the same time, however, we believe the record demonstrates that the subsidized 250 kWh block may be hurting many higher use low income customers while benefitting all low use customers, whether they are low income or not. In light of the record, we will accept the Parties' proposal to increase the first 250 kwh block. This is an area we will continue to follow closely in Phase III of rate redesign.

3. Revenue Reallocation

We will approve the Parties' proposal to reallocate the base rate revenues based on marginal cost pricing. We strongly support sending customers price signals that increase economic efficiency. Marginal cost based rate design moves us in that direction, but we are aware that it is not a perfect solution.

As we understand the Stipulation, the newness of the reallocation based on marginal cost pricing and the potential for price swings necessitates a partial reallocation by moving one-third of the way at this time. We agree with the Parties' position to move cautiously at this time without giving up accurate price signals and expect to address a full movement to marginally cost based rates in Phase III.

Our order will issue accordingly. Concurring: February 7, 1992

ORDER

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

ORDERED, that the Stipulation and Agreement appended hereto as Attachment A be, and hereby is, accepted; and it is

FURTHER ORDERED, that CVEC file compliance tariff pages within 15 days of the

Page 70

date of this order; and it is

FURTHER ORDERED, that the Parties inform the Commission as to the outcome of their meetings on the PPCA and FAC changes by March 1, 1992; and it is

FURTHER ORDERED, that CVEC file Phase III of Rate Redesign no later than January 1, 1994.

By order of the Public Utilities Commission of New Hampshire this seventh day of February, 1992.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their respective names by their agents, each being fully authorized to do so on behalf of his principal.

Connecticut Valley Electric Company

Staff of the New Hampshire Public Utilities Commission

Office of the Consumer Advocate

FOOTNOTES

1. The Stipulation and Agreement is attached hereto as Attachment A and will not be repeated verbatim herein.

ATTACHMENT A

STIPULATION AND AGREEMENT

The Staff of the New Hampshire Public Utilities Commission (Staff), the Office of the Consumer Advocate ("OCA"), and the Connecticut Valley Electric Company Inc. ("CVEC" or the "Company") hereby enter into this stipulation and agreement ("stipulation"). The purpose of this stipulation is to settle all issues that were raised or that could have been raised in the captioned proceeding, the second phase of rate redesign. Further, it is the parties' desire in executing this stipulation to expedite the Commission's consideration and resolution of the issues that are the subject of this agreement such that redesigned rates will go into effect with bills rendered in January 1992.

Due to the length of the details of the agreement, the stipulation has been organized such that summaries of Articles II through XII of the agreement are presented, while the full stipulation is

presented in detail in Attachment 0A. Information referenced in Attachment A is included in Attachments B through D.

ARTICLE I

INTRODUCTION

1.0 Impetus for CVEC's first phase of rate structure redesign was filed pursuant to Re Connecticut Valley Electric Company Inc., Docket DR 87-158, Order No. 18,811, 72 NHPUC 385 (Sept. 2, 1987). In that docket the Commission approved a special contract with Joy Technologies, Inc. which included load management rates. As a result of that docket, CVEC recognized the need to consider rate structures that would provide all of its retail customers with cost-based incentives to undertake load management, and CVEC agreed to file such rate design proposals for all of its rates.

1.1 In the first phase of rate redesign the Commission approved an initial level of seasonalization of rates for all rate classes,3 mandatory time-of-day service for customers taking service at primary and transmission voltages (Rates GV and T, respectively), the creation of three new rate classes (Rates D-T, G-T, and ON) based on time-of-day or load control service, the use of a marginal cost methodology as the basis of rates and, in general, decreases in energy charges and increases in demand charges (for demand and energy billed rates) to better reflect the effect of consumption decision on the cost-of-service. (Order No. 19,411 dated May 24, 1989 in Docket DR 88-121.)

1.2 CVEC's second phase ("Phase II") of rate redesign was filed on November 15, 1991, pursuant to Connecticut Valley Electric Company, Inc., Order 19,411 dated May 24, 1989 in Docket DR 88-121.

Page 71

1.3 The instant docket was opened on November 15, 1991, by letter from CVEC (CVEC filed the majority of its testimony on November 15, 1991, while the remainder was filed on November 20, 1991) containing a rate filing based upon coordination of the Phase II of rate redesign and five other rate changes which it sought approval for effectiveness on January 1, 1992. The Company's filing benefitted materially from extensive consultation with and advice received from Staff during the period since Phase I was implemented - especially the months just prior to the filing.

1.4 Three of these five changes - the fuel adjustment, purchased power, and conservation and load management percentage adjustment clauses - are scheduled for effectiveness, in any event, on January 1, 1992, pursuant to Commission orders in Dockets DR 91-190 and DR 91-024.

1.5 The other two changes that the Company sought approval for are a base rate reduction (reflecting lower non-power costs and an allowed rate of return on common equity of 12.5%) and a cap on 1991 earned return on equity at the currently allowed rate of return on common equity of 13% - with return of revenue collected above that level during 1991 accomplished through temporary credits during 1992. The credits were proposed so as to offset the most significant bill impacts of all the rate changes taken together.

1.6 The Company's Phase II redesign includes proposed changes in two steps (January 1,

1992 followed by January 1, 1993) in the ratio of rates in the three-month peak season to those in the nine month off-season from the current level of 1.25/1 to 1.45/1 and then to 1.60/1, respectively. The proposal is a continuation of the seasonalization of rates begun in Phase I. The redesign filing also sought approval of a modest reallocation of revenue requirements among rate classes to reflect a movement toward the results of the Company's filed marginal cost-of-service study. The reallocation was proposed for effect at the start of the off- season rate period - bills rendered in March 1992 and thereafter. Also for effect in March 1992, the Company has proposed pricing the initial 250 kWh block rate component of Rate D, Domestic Service, at the average cost of service on a non-seasonal basis - primarily so that the Rate D tailblock component prices may better reflect costs. Other significant changes were proposed: establishment of a charge of $10 to set up a new account and turn on power, an increase in the per foot charge for line extensions (from the current level of 4 cents to 9 cents a foot), minor redefinitions of the rate periods for two time-of-use services, and interest-like charges and credits for late and prepayment, respectively, of bills by customers.

1.7 Pursuant to an order of notice issued November 27, 1991, a prehearing conference was held on December 19, 1991, at which a procedural schedule was recommended to the Commission, with a tentative hearing date set for December 31, 1991. At the Commission's December 30, 1991 meeting, the Commission orally approved a hearing on the Stipulation and Agreement for January 2, 1992.

1.8 Recognizing the potential for substantial bill impacts, the rate proposals, taken together, could have on CVEC's customers, the Company provided additional notice of these proceedings, by separate mailing, to all primary and transmission voltage customers and to all of CVEC's special contract customers (see item #1 of Attachment B). Furthermore, the Company mailed a bill insert accompanying its December 1991 bills advising customers of the proposed

rate changes (see item #2 of Attachment B). Also, the Company twice published the Commission's required order of notice (as filed with the Commission on December 19, 1991) in the newspaper circulating in the communities served by Connecticut Valley.

1.9 The parties conducted discovery and consulted off-the- record on October 28, 1991; November 22, 1991; December 4, 1991; and December 19, 1991. As a result, the parties have reached a stipulation which adopts the filing with the exception of a limited number of proposals.

Article II - Exceptions

2.0 Summary: The parties have agreed that the proposals to: (1) make interest-like payments for prepaid and charges for late paid account balances, (2) include such payments and charges on the account balances of customers participating in a levelized budget payment program and (3) increase the per foot fee for line extensions greater than 300 feet will be withdrawn from the filing (including their impacts on the revenue to be raised by base rates) without prejudice. The parties have also agreed that a 12.3% rate of return on common equity be recommended to the Commission rather than the 12.5% contained in the Company's original filing. All other aspects of the filing are acceptable to the parties as described herein.

Article III - Coordinated Rate Changes

3.0 Summary: The company's filing represents an implementation of a number of rate making objectives (as described in 1.4, 1.5 and 1.6, above) that otherwise would have been independently planned for effectiveness on January 1, 1992. The changes taken together, unmitigated, would have resulted in unnecessarily severe bill impacts. By using a multi-step phasing in of seasonal prices, delaying class reallocations, and by applying temporary credits to the rate components of the most significantly effected classes, these potential bill effects have been greatly reduced while the objectives of the filing have been preserved. Typical bill analysis has been included in Attachment C.

3.1 The Company's fuel and power costs (as proposed in Docket DR 91-190) on a test year basis have increased by $1,200,643 (7.7%) over the costs underlying rates currently in effect. The cost of demand side management as proposed for recovery in Docket DR 91-024 would raise required revenue by $414,000 (2.6% on a test year basis). The Company's original filing also included reductions in rates (netted against the cost increases described above) due to nonpower cost reductions, a reduction in the allowed return on common equity for 1992, and a cap on its 1991 common equity earnings. Key components of the rate redesign filing are the increase in peak season rates and the first class revenue reallocations in the past 8 years.

Article IV - Revenue Issues

4.0 Summary: The test year for the rate redesign is the twelve months ending June 30, 1991. Revenue of $14,177,761 was recorded on the Company's books of accounts for the test period. The rate design revenue requirement of $15,148,200 was determined by adjusting the test year revenue for changes in purchased power and energy costs and other non- power cost reductions. When reduced by the credits resulting from the 1991 cap on return on common equity, the design revenue requirement is $14,857,700 for 1992.

4.1 PPCA & FAC: In Docket DR 91-190 Connecticut Valley's adjusted filed increase in purchased power and fuel costs

Page 73

of $1,200,643 (or 7.7%) was on a forecast year 1992 basis. The equivalent cost increase on the design test year basis is $1,307,204 or (9.2%). The Company's compliance filing in this docket will be based on the costs in Docket DR 91-190 - adjusted for the redesigned base rates.

4.2 C&LMPA: In Docket DR 91-024 the Company adjusted its filed for annual recovery in rates of $414,000 of costs stemming from its conservation and load management programs. Based on forecast 1992 billed sales, the costs of $310,335 (see Exhibit CJF-3 in Docket DR 91-024) are to be recovered by percentage adjustments of 0.53% and 4.24% to the bills of residential and non-residential rate classes, respectively, through September 30, 1992. These percentages when applied to the test period revenue results in revenue of $279,537 or 2.63%. Adding this value to design revenue requirement for 1992 results in total expected revenue of $15,137,237. The Company's compliance filing in this docket will be based on the cost recovery actually allowed (an implied percentage recovery) by the Commission in Docket DR 91-024.

4.3 Base Rate Reduction: The Company's original filing sought approval for a $357,610 net reduction in test year revenue. Since the test year, the Company has already reduced base rates

for one of the seven items determining this net reduction - the franchise tax. Thus, $141,778 of the test year franchise tax reduction would not again be felt by customers on January 1, 1992. The remainder of the net reduction, $215,832, would be felt by customers on January 1, 1992. This amount comprised several items including a reduction of allowed return on common equity to 12.5%. The return on common equity reflected in the settlement revenue requirement is 12.3%. In settlement, the test year revenue requirement has been reduced by $351,232 ($209,454 excluding franchise tax reduction) for excess return, business profits tax, depreciation, and new account charge revenues. The settlement reduction is slightly smaller than the Company's filing because the exceptions described in Article II had created revenue credits to base revenue. See Attachment D for the composition of the adjustments.

4.4 The Company's excess return has two primary causes. First, Central Vermont Public Service Corporation, ("Central Vermont"), the parent company of Connecticut Valley, extensively revised its common cost allocation methodology. The revision resulted in less cost allocated to Connecticut Valley via the Service Contract, which became effective July 1, 1988. Second, Central Vermont has been forcefully managing to control costs since 1990. Connecticut Valley shares in the results of this cost control. In neither the original filing nor the settlement were cost adjustments made for two known, but not yet measurable, cost increases - post retirement medical benefits pursuant to SFAS No. 106 and new revisions to the common cost allocation methodologies - currently embodied in the current Service Contract between the Company and Central Vermont. 4.5 1991 ROE & Cap/Credits: This settlement seeks approval to implement a voluntary cap on 1991 return on common equity reflecting the currently allowed 13%. The Company's expectation of revenue collected during 1991 above the cap is $290,500 (based on actual data through October 1991). Settlement negotiations have not changed this portion of the Company's filing. The rate redesign compliance filing will include credits that have been designed to pass back this amount in rates during 1992. The credits are distributed to classes and designed so as to moderate the most significant potential bill impacts stemming from all of the rate changes taken together. The credits, separately stated as dollar per kwh and per kw, are designed to

Page 74

exhaust the 1991 above-cap revenues when applied to bills during the first 11 months of 1992. The Company will control the balance of the credit amount by closely monitoring the pass back and ceasing the credits at the end of a month when the balance nears zero. Any minor balance remaining at that time will then be rolled into the under/overcollection balance of the Company's FAC.

Article V - Rate Redesign

5.0 Summary: The redesign portion of the settlement seeks to implement the results of an updated cost of service study based on the marginal cost principles established in Phase I of redesign, improvements to that methodology and new customer load research data. As with any costing methodology, the parties continue to learn and investigate potential improvements. The rate design settlement proposals include further seasonalization of rates, class revenue reallocations, minor changes to the relative Kw and kWh charges of energy and demand billed rate classes, an increase in the initial 250 kWh block rate component of Rate D, minor changes in

the rate periods of Rates G (General Service, Sports field lighting) and D-T (Domestic, Time-of-Use), the institution of a level payment plan for Residential and General Service customers, and a new account charge of $10 for customers seeking to establish service. Topics for ongoing investigation are described herein.

5.1 Base Rates: The base rates proposed to be in effect for the rate year 1992 have been designed to raise revenue (on a test year basis) equal to the proposed revenue requirement detailed in 4.0, above. Settlement component rates and class revenues were determined in the following steps: (1) multiplying current component rates by the relationship of the test year revenue raised by rates currently in effect to the proposed revenue requirement from 4.0, above, (2) checking the level of the Kw and kWh charges (of demand and energy billed rate classes) relative to their respective marginal cost and making minor adjustments to maintain the relationships targeted in Phase I of the redesign (3) adjusting the peak season rates effective January 1, 1992 to be 1.45 times the off season rates (on a kWh basis), (4) reallocating class revenue responsibility (described in 9.2 below) and adjusting peak and off peak season rates effective March 1, 1992 to maintain the 1.45:1 ratio, and (5) application of the 1991 ROE cap credits to the rates most significantly affected by all of the rate changes (including C&LMPA) taken together. Both the January 1, 1992 and March 1, 1992 base rates are designed to raise the settlement revenue requirement. The differences in the seasonal pattern of usage among the classes which are affected by the reallocation will produce a minor ($600) revenue shortfall on a test year basis which will be recovered by applying that amount of the credit money from the 1991 ROE cap.

5.2 Second Seasonal Step of Phase II: The Company's original filing included tariffs to take effect on January 1, 1993 implementing a 1.6:1 seasonal rate differential. It is still the parties intention that rates change so as to increase the differential at that time; but since it is likely that other rate changes will again intervene making the charges in those tariffs irrelevant, no tariffs will be filed at this time for effect on January 1993. The Company will make such a compliance filing and provide adequate notice to customers in November and December 1992.

Article VI - Marginal Cost Study

6.0 Summary: The Company has updated the marginal cost study performed in Phase I, and the study confirms the results received

Page 75

at that time. The Company's methodology has been updated to better reflect and allocate marginal capacity costs in consideration of the load shifting that has occurred on its consolidated system due to Time-of-Use pricing. The study indicates that revenue responsibility reallocation among the rate classes is necessary to more nearly equalize the relative proportions of total marginal cost charged to each rate class.

6.1 Methods: The Company's marginal cost study estimates marginal customer, energy and capacity costs in 1992 dollar terms. Marginal customer costs were calculated on the same basis as in Phase I; and the cost of metering was verified and updated to reflect current metering technology. Marginal capacity costs were estimated for both production and delivery (by voltage level) related functions. The marginal cost of production capacity was determined by estimating

the installed, annualized cost of combustion turbine capacity. In Phase I the parties employed production capacity cost estimates based on then current, annualized market clearing prices for turbine capacity. Since market clearing prices fluctuate significantly with near term swings in the balance of wholesale supply and demand, and because an objective of retail rate design is to provide stable price signals that are cost reflective over the long term, a cost estimate that is based on the cost of developing new production cost is most appropriate to retail costing and rate making. This is the reason for using installed rather than transactions based cost estimates. Economic carrying charges are used through out the marginal cost study to determine annual cost values for multi year lived equipment. Marginal energy costs were estimated based on the most recent 12 months (1990) of hourly marginal running cost data. A "marginal financial lambda" was developed from the average of the Company's system own hourly load data and the NEPOOL dispatch lambda - as in Phase I of redesign. The overall average marginal running cost for the study period compares closely with the Company's expectation for the rate year because fossil fuel prices have been both up and down during the period. The results of the marginal cost study are forward looking and, therefore, are reflective of the change in total expected costs with respect to changes in service level during the rate year.

6.2 Information methodological Updates Since Phase I: The primary cost study information update employed in this phase of redesign is the new load research study (see below), employment of the actual 15 minute interval load data which is collected in the normal billing process for the population of primary and transmission voltage customers, and the utilization of hourly historical system load data from the period of time prior to 1975 - when seasonal rates went in to effect on its system in Vermont. The purpose of considering this information is to affect allocations of system level costs to the five sub-annual costing periods employed in the marginal cost study in order to capture the peak load shifting effect of seasonal and time-of-use pricing. Proper allocation of costs to costing periods results in proper allocation of cost to Rate classes and, ultimately, component service prices. Dealing with peak shifting is integral to the proper allocation of capacity costs for a system that employs seasonal, load control and TOU pricing such as the Central Vermont consolidated system.

6.3 Results: The marginal cost of service study demonstrates significant consistency with the Phase I study. The changes that were implemented in rates at that time to reflect the relative costs of customers, energy and demand related service requirements are verified by this study. The study confirms what is intuitive from

Page 76

observation of world energy prices, regional wholesale transactions, and continuing upward pressure on unitized retail revenue requirements - a widening of the gap between total marginal and embedded service costs. In Phase I of redesign embedded costs were approximately 40% above total marginal costs while in Phase II the difference has been estimated to be closer to 70%. The marginal cost of service study also indicates continuing significant differences in the seasonal cost of electric service and the proportion of the total marginal cost of service raised by the rates of individual rate classes (see below).

6.4 Issues for Continuing Development: The Company will continue to study and improve its marginal cost of service study and allocation procedures. In particular, the Company will

continue to explore capacity cost allocation procedures that reflect equilibrium solutions to the shifting peak problem which is associated with the mature application of time-of-use pricing. These efforts will be reported in Phase III of redesign.

Article VII - Load Research

7.0 Summary: A new load research study was conducted by the Company since Phase I of redesign and has been used to provide key load related inputs to its marginal cost study.

7.1 Justification: The load research results allow the estimation of capacity related requirements for each of the rate classes for which it is uneconomic to collect and bill on a 15 minute demand basis (i.e., all secondary voltage customers). The load research results represent an improvement over prior studies because the information is current and derived from rate classes that match in structure those in effect for Connecticut Valley. Previous load research data was dated (1983 and 1984) and was co- mingled with data of other Vermont utilities whose rate classes did not necessarily coincide with Connecticut Valley's and Central Vermont's.

7.2 Method: Loads for CVEC rates GV (primary voltage service), T (transmission voltage service), ML (municipal street lighting) and SL (security lighting) are directly observed by either interval metering or imputed based on the hours of darkness each day and lighting fixture ratings. For the remainder of the rate classes, statistical models were used to estimate class coincident, noncoincident and maximum diversified demand. These models were derived from stratified random sample measurement of energy consumption as well as coincident, noncoincident and maximum diversified demands. The estimated relationships are applied to CVEC rate class billed kwh. The results of the load research allow for reconstruction of CVEC's class coincident loads to within 2.2% of the measured CVEC load at time of peak.

7.3 Input to cost-of-service: Rate class estimates of system coincident, noncoincident class, and maximum diversified demands are key inputs into the cost of service capacity cost allocation procedures. The capacity embodied in equipment throughout the system has been put in place to serve loads. As such, the measurement of these loads is the rational basis upon which to allocate cost responsibility.

Article VIII - Seasonalization

8.0 Summary: The Company's marginal cost-of-service study indicates a continuing differential of almost 2 to 1 for service taken during the three month peak season versus the 9 month off-season. The difference is due to differences in marginal capacity costs. The redesign proposal increases the current 1.25/1 seasonal rate differential in two steps to 1.45/1 and 1.60/1 on January 1, 1992 and

January 1, 1993. The ultimate goal will be to reach approximately 1.9/1 in Phase III of redesign.

8.1 Cost-of-Service Variations: Over the annual load cycle the Company, and its parent company supplier, experience peaks for which it must provide sufficient production and delivery capacity. It is the cost of providing this capacity which gives rise to the seasonal variation in costs evidenced in the cost of service study. Central Vermont is a NEPOOL member and as such

it must carry production capacity based upon 70% of its peak load during the previous 15 months and 30% of the average of 12 monthly peaks. Since the Central Vermont consolidated system always peaks during the months of December, January, or February, better than 80% of the production capacity it must carry each month is determined by winter peak loads. This means that in setting the winter peak each year, the customers on the consolidated system charge up a bill that is paid in capacity responsibility obligations throughout the year. On a per kWh basis, the cost of service is approximately twice as high in the peak billing season as in the 9 off peak months. 8.2 Seasonal Price Ratio: Phase I of the redesign established peak season prices on a per kWh basis approximately 25% higher than during the 9 month off season. The parties' intention has been and continues to be to increase the seasonal price ratio moderately in steps to both have prices reflect costs and provide customers time to adjust their stock of energy consuming equipment. In the interest of moderating the bill impacts of all of the rate changes taken together, the Phase II filing and this agreement propose a moderate increase in the seasonal price ratio to approximately 1.45 to 1 on January 1, 1992 and 1.6 to 1 on January 1, 1993.

Article IX - Class Allocations

9.0 Summary: Review of Allocations - Phase I of the redesign did not reallocate cost responsibility among the rate classes because of perceived deficiencies in the class load data and capacity cost allocation procedures. The last time class revenues were reallocated by Commission was in the rate design implemented in 1984. Since then the revenue requirement has grown from approximately $8 million to $15 million through volume and power cost increases. The cost study included in this filing is the first sound basis upon which the allocation implied by current rates could be examined and modified. The study suggests that reallocation is necessary to more nearly equalize the proportion of total marginal cost raised from each class.

9.1 Phase-in and Timing: In order to mitigate the potential impact of changes on January 1, 1992, the proposed reallocation of class revenue responsibility has been delayed until the beginning of off season rates (with bills rendered in March 1992). Since this is the first cost study to serve as a basis for reallocation, the filing and this agreement proposes moving 1/3 of the way to the reallocation suggested by the study. The purpose of moving 1/3 of the way from the existing allocation to the allocation indicated by the cost study is make a substantial adjustment but to do so with moderation. This moderation reflects the party's desire to have results confirmed in a number of successive studies - rather than going 100% of the way to the result now, and then needing to back track as cost methodologies evolve and indicate otherwise. The Company will examine the need to further reallocate class revenue responsibility in Phase III.

9.2 Results: In percentage change terms, the following table shows, in Column A, the redesign's reallocation of class revenue responsibility (all other things unchanged)

Page 78

and, in Column B, the overall expected change in rates (including the C&LMPA) during 1992.

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

Percentage Rate Changes

Rate Reallocation Overall 1992 (only) Column A	Column B
Residential Service D	1.1 7.4
D-1	7.8 9.6
General Service G	-0.2 8.0
Primary Service GV	3.7 10.3
Transmission Service T	8.2 4.1
Off Peak Service O	0.0 6.0
Lighting Service ML	2.6 9.7
SL	2.4 9.9

The percentages are calculated on a test year basis. Column B includes expected changes to rates during 1992 - relative to rates currently in effect (i.e., rates effective during January and February 1992, rates effective during March through December 1992, including the temporary credits due the 1991 ROE cap, and including an expected C&LMPA of 0.45% for Rates D, D-1, and O and 3.5% for Rates G, GV and T - none for ML and SL. The Table above does not include the effect of the near zero level FAC and PPCA charges expected in Docket DR 91-190.

Article X - Initial 250 kWh Block Rate D

10.0 Summary: The settlement proposes that the initial 250 kWh block be maintained in the structure of Rate D on a nonseasonal basis but that the existing subsidy of 20% be removed in the rates billed in March 1992 and thereafter. A nonseasonal initial block is beneficial in the presence of seasonal pricing because small volume customers have little consumption (by definition) to reconfigure in response to the prices. The initial block operates as an automatic levelized payment plan, so-to-speak, for the customers that are least likely to react to or be affected by seasonal prices.

10.1 Background: Initial blocks were widely implemented in response to the initiatives of the Public Utilities Regulatory Policy Act (PURPA) of 1978. PURPA required state regulatory commissions to investigate marginal cost and lifeline pricing. The two objectives were compatible, and in fact complimentary, during the period of time when marginal cost exceeded average rates. The "excess revenue" that would have been collected by reflecting marginal costs throughout the rate schedule was, in a very real sense, dealt with by depressing the rate for an initial block of "lifeline" service - often sized to provide for what was viewed as a basic level of service such as 200 kWh. This was compatible with the theory of marginal cost pricing because it is only "necessary" to have rates set at marginal cost at the margin of consumers' usage (i.e., in a tailblock) - rather than throughout. The fundamental cost circumstances that justified the lifeline blocks have, however, reversed.

10.2 Effects on Low Income Customers: The elimination of the subsidy in the initial 250 kWh block is not expected to have a negative effect on low income customers taken as a group. Information included in

Page 79

the Company's original filing demonstrated that low income customers are as likely to end up paying for the subsidy to an initial block as are the population of customers as a whole. In other words, the population of low income electricity users is made up of low, high and moderate

volume customers and their monthly usage is distributed more or less the same as the population of residential customers as a whole. If large volume customers are the customers that effectively support the initial block subsidy (and they are), and low income customers are as representative in that population as in the low volume population (and the best evidence supports the conclusion that they are), then the subsidy to one low income customer is effectively paid by another. Removing the subsidy helps low income customers as much as it harms them.

Article XI - Demand Side Management

11.0 Summary: The rate redesign has been coordinated with the Company's DSM programs and cost recovery. The bill impacts of C&LMPA recovery have been substantially mitigated, the Company will assist customers in reacting to the new cost-based rates, and the DSM programs made available via Docket DR 91-024 will provide further incentive and assistance to customers to undertake what is expected to be cost effective DSM.

11.1 Coordination Rate Redesign and DSM: The rate structure changes proposed by this settlement will better communicate the true resource cost changes associated with customer's changes in usage. As such, it can be expected that customers will initiate and undertake cost based management of their demand for electrical service. As a franchised public service entity, the Company also has an affirmative responsibility to assist customers seeking help in their efforts to react to these rate changes and better utilize service; and consistent with its least cost planning efforts, to offer DSM programs to procure cost effective electricity resources. These programs, as proposed in Docket DR 91-024, take effect in 1992 and 1993 and provide additional incentives for customers to invest in what are expected to be cost effective demand side technologies. This redesign settlement further coordinates with the DSM program cost recovery proposed to the Commission in Docket DR 91-024. The Rate Class specific Conservation and Load Management Percentage Adjustment (C&LMPA) clause bill impacts were explicitly considered in the rate design changes, temporary credits, and phasing proposals included in this settlement so as to mitigate the most significant effects.

11.2 In Docket DR 91-024, the Commission approved the following programs for staggered implementation by CVEC on the following dates:

Residential High-Use November, 1992 Residential Direct Installation September, 1992 Residential New Construction January, 1993 Residential Energy Efficient Products July, 1992 Large Commercial Retrofit April, 1992 Small Commercial Retrofit April, 1993 Commercial Remodeling and Equipment Replacement April, 1992 Commercial Lighting started 1991 Farms April, 1992 Industrial Retrofit started 1991 Industrial New Construction started 1991 Industrial Motors January, 1992

Article XII - Compliance Filings and Effective Dates

12.0 Summary: The Company will file tariffs in compliance with the Commission's final orders in this docket and DR 91- 024 (C&LMPA). The Parties hereto agree that, as part of the Company's Compliance Filing in this docket, its FAC and PPCA will be revised and superseded from the FAC and PPCA approved by the

Commission in Docket DR 91-190 in order No. 20,360 as follows: FAC to $0.0005 per kWh from $(0.0034) per kWh as approved in docket DR 91-190 and the PPCA to $(0.0038) per kWh from a PPCA of $0.0072 per kWh as approved in Docket DR 91-190. The purpose of these revisions are to reflect an FAC and PPCA consistent with the revenue requirement embodied in the instant docket, the cost level as approved in Docket DR 91-190, and the lower 1991 RS2 capacity costs resulting from Central Vermont's experiencing a January 1991 annual peak.

12.1 Tariffs 1/1/92, 3/1/92: The Company will file tariffs in compliance with this agreement and the Commission's final order in Docket DR 91-190 (FAC & PPCA). Those tariffs will include retail rates and base energy and capacity charges for effectiveness in January and March 1992.

12.2 Filings for 1/1/93: During November and December 1992, as needed, the Company will file tariffs in compliance with this agreement and the Commission's final order in this docket detailing retail rates and base energy and capacity charges for effectiveness in January 1993.

12.3 Phase III Rate Redesign: The Company will file a third phase of rate redesign for effectiveness no later than January 1, 1994 - continuing the seasonalization of rates and reallocation of Class revenue responsibility as needed.

Article XIII - Conditions

13.0 It is agreed that all prefiled testimony and data responses shall be admitted as evidence in this proceeding, solely for the purpose of showing the original position of the Company.

13.1 It is agreed that this stipulation shall not be deemed a precedent as to any other matter of fact of law in any other proceeding, nor shall it preclude any party hereto from raising any issue in any future proceeding. The stipulation shall be deemed precedent for subsequent phases of this proceeding unless otherwise specified in this stipulation.

13.2 It is agreed that this stipulation represents the full agreement for Phase II of this proceeding between all parties hereto.

13.3 It is agreed that this stipulation is effective if and only if it is accepted by the Commission in full. Should the Commission accept this stipulation in part, the parties shall work together to determine if such are acceptable to both parties. If not, this stipulation shall not prevent the parties from asserting their independent positions on any subject matter of the stipulation.

Item #1 December 17, 1991

Keatherly Inc. Wetterau Inc. 350 Marlboro St. Keene, NH 03431 Account #400802889010

Dear Sir:

Five things are happening at the New Hampshire Public Utility Commission (NHPUC) which will affect the rates that you will be billed for electricity. The following are the five components:

1. Rate Design. The second step in a three step (multi- year) program has been proposed for 1992. Rate design is a process where we adjust our total component prices to reflect actual cost. It does not increase revenues for Connecticut Valley but reallocates costs between the electrical

services customers use.

2. Base Rate Reduction. A reduction of $215,832 in base rates will take place.

3. Cap on 1991 Earnings. A $442,273 credit will be returned to customers during the first eleven months of 1992.

4. Purchase Power Cost Adjustment (PPCA) and Fuel Adjustment Charge (FAC). These costs are expected to increase $1,320,000 for 1992.

5. Conservation and Load Management Power Adjustments (C&LMPA). Rates will increase between 3.84% and 4.24% starting January 1, 1992 to compensate CVEC for the costs of our new energy efficiency programs.

There will be a hearing December 19, 1991 at the New Hampshire Public Utility Commission on the PPCA and FAC. The increases are expected to go into effect January 1, 1992. The NHPUC will establish and approve by December 31, 1991 a C&LMPA of between 3.84% and 4.24% to be effective on January, 1992 bills.

On December 30th or 31st (subject to the Commission's schedule), there will be a hearing at the New Hampshire Public Utility Commission on rate design, the base rate reduction, and the cap on 1991 earnings. The order from the rate design hearing is expected to become effective with the January, 1992 bills.

As soon as we receive the orders from the Commission we will meet with you to explain how the changes are likely to impact your bill and what opportunities there are to save money through energy efficiency programs.

If you would like to discuss any of these issues in greater detail, you can contact me at my Claremont office (603) 543- 4050, and I will be glad to explain them to you.

Sincerely,

Janice Field

Janice Field, Manager Connecticut Valley Electric Company

CONSUMER UPDATE CONNECTICUT VALLEY ELECTRIC COMPANY DECEMBER 1991

Rate Changes Due in Early O92

CVEC has filed a 1992 rate increase of ap-proximately 6 percent and several other rate changes with the New Hampshire Public

Utilities Commission. The changes are proposed to take effect in January and March of next year, and in January of 1993, but are subject to hearings by the commission.

The main reasons for higher rates are an increase in the cost of electricity we purchase and the cost of energy- efficiency programs for customers. The net increase results from the combination of increases and decreases cited under the sections below headed "Base Rates," "Return of a Portion of 1991 Earn- ings," and "Energy-Efficiency Program Costs." Under the

proposal filed with the PUC, not all rates would increase uniformly. Several factors outlined below are causing rates to change and will affect different rates in different ways. See the section on the back, "How Rates Would Change," to learn how the most common rates would be affected.

It's important to note that the rates have not yet been approved. The PUC will hold hearings on the rate filing and will decide whether to accept, reject or modify it. Here is a summary of the rate changes:

Rate Design

CVEC is continuing to redesign rates, a process that began under PUC order in the fall of 1989. The purpose of the redesign is to insure that rates reflect the true costs of service to different types of customers during different times of the year.

For example, our studies have shown the difference between winter rates (December-February bills) and summer rates (March-Nov-ember bills) should be greater, because the cost

Page 82

of delivering service in cold months is higher than in warmer months. For this reason, we propose increasing the ratio of winter rates to summer rates from 1.25:1 to 1.45:1 on Jan. 1, 1992, and to 1.6:1 on Jan. 1,1993. Another change we're suggesting in the rate design would begin in March. It involves the first 250 kilowatt-hours per month of electric-ity used by residential customers on Rate D. For the past decade, Rate D customers have re- ceived the first 250 KWH of electricity each month at a rate below its actual cost. To provide this subsidy, the rate for electricity used above the first 250 KWH had to be somewhat more that it otherwise would have been.

As part of changes in rate design, we are proposing to increase the price of this block to reflect its true cost, while reducing the rate for electricity used above 250 KWH per month.

One feature of the block will remain, namely, its uniform price throughout the year. That is, we are recommending that the first 250 kilowatt hours of use by residential customers be exempt from seasonal rates. The effect of this would be to reduce the difference between Rate D summer and winter bills while maintain-ing the spread between summer and winter rates for electricity use above 250 KWH per month.

Base Rates

CVEC is proposing to increase base rates by combining the plus and minus factors below:

1) cost savings, -1.5 percent 2) higher costs of electricity we purchase, +7.5 percent

Return of a Portion of 1991 Earnings

In November 1991, CVEC volunteered to limit its earnings in 1991. In line with this agree-ment, we are now proposing to return an estimated 2.9 percent of current revenues to customers in 1992 through rates. We have recommended that this money be returned by means of temporary credits to customers whose rates would otherwise increase the most under changes in rate design. (Rate design is discussed above).

Energy-Efficiency Program Costs

CVEC's energy-efficiency programs are beginning over the next year and a half and will require a 2.7 percent increase in current revenues. These programs provide energy-effi- ciency products, advice and financial incentives for homes, farms, factories, stores, offices and other customers. These programs will be announced and publicized in detail as they become available. By participating, customers will be able to get more for their electricity dollar.

Timetable for Changes In CVEC Rates

CVEC has proposed to the New Hampshire Public Utilities Commission that changes in rates take place under the following timetable. See the article above for further details:

Jan. 1, 1992

RATE DESIGN: Increase winter rates in relation to summer rates.

BASE RATES: Increase base rates to reflect higher costs.

RETURN OF PORTION OF 1991 EARNINGS: Begin returning $442,000 to customers that will experience the largest increases from changes in rate design.

March 1, 1992

RATE DESIGN: Change rates so that they more accurately reflect cost of serving each class of customer. Increase price of 250 KWH block for Rate D customers and reduce price of electricity used above 250 KWH per month. These changes won't affect CVEC's total income from customers.

Jan. 1, 1993

RATE DESIGN: Further increase the winter rates in relation to summer rates.

How Rates Would Change

Here is a look at how CVEC's proposal to the New Hampshire Public Utilities Commission would affect customers on the most common rate classes after Jan. 1, 1992.

Page 83

Remember, at this point, the changes are only proposals. The PUC will conduct hearings before deciding whether to accept, reject or modify them. Customers whose rates are not listed here may call CVEC at 1-800-356-2877 for more information.

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

CONNECTICUT VALLEY ELECTRIC COMPANY, INC. ATTACHMENT D
ADJUSTMENTS TO REVENUE
TEST YEAR ENDED JUNE 30, 1991

Adj. No.	
Test Year Revenues	$14,177,761
1 Excess Return	($288,967)
2 Business Profits Tax	43,890
3 Franchise Tax	(141,778)
4 Depreciation	56,623


```
5 Line Extension 0
6 Late and Prepayment Charges 0
7 New Account Charges (21,000)
-------------
Total Base revenue Adjustments ($351,232)

Adjusted Revenue Requirement $13,826,529
8 Adjusted for estimated 1992 FAC (66,856)
9 Adjusted for estimated 1992 PPCA 1,386,968
--------------
Final Adj. Revenue Requirement $15,146,641
```

Page 84

Attachment C 1 of 4

CONNECTICUT VALLEY ELECTRIC COMPANY, INC.

Residential Service Billing

RATE D

A — Comparison of Rate D as of October 1991 with Rate D proposed as of January 1992 incorporating the overall increase of 7.5823%, a seasonal ratio of 1.45 to 1 as well as a net PPCA and FAC adjustment factor credit of $0.00330/Kwh.

B — Same as A with a revenue credit of $0.02255/KwH applied to the 250 Kwh block for the months of January and February 1992.

C — Comparison of Rate D as of January 1992 excluding the short term credit and the rate proposed as of March 1992 incorporating a portion of the revenue shift between rates as indicated by the Cost of Service Study as well as the net FAC and PPCA factor incorporated in A.

Page 85

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

Rate D: Residential Service
Jan.-Feb. '92 Bills Current Rate Proposed Rate
Service Charge $0.186/day $0.199/day
1st 250 KWH/mo. $0.07917/KWH $0.08503/KWH
Over 250 KWH/mo. $0.13501/KWH $.13457/KWH

March-Nov. '92 Bills
Service Charge $0.186/day $0.201/day
1st 250 KWH/mo. $0.07917/KWH $0.10822/KWH
Over 250 KWH/mo. $0.10779/KWH $0.09398/KWH

Dec. '92 Bills
Service Charge $0.186/day $0.201/day
1st 250 KWH/mo. $0.07917/KWH $0.10822/KWH
Over 250 KWH/mo. $0.13501/KWH $0.13625/KWH

Rate G: General Service
Jan.,Feb,Dec. '92 Bills Current Rate Proposed Rate
Service Charge
Single-Phase Service $0.460/day $0.521/day
Three-Phase Service $1.243/day $1.407/day
All KW of Max. Demand $16.129/KW $18.711/KW
All KWH $0.05056/KWH $0.05305/KWH
```


Currently, when no demand is measured, all KWH are billed at 12.878 cents/KWH. CVEC proposed to change this to 13.520 cents/KWH

March-Nov. '92 Bills
Service Charge
Single-Phase Service $0.460/day $0.521/day
Three-Phase Service $1.243/day $1.407/day
All KW of Max. Demand $7.644/KW $9.147/KW
All KWH $0.05056/KWH $0.04910/KWH

Currently, when no demand is measured, all KWH are billed at 9.967 cents/KWH, CVEC proposes to change this to 10.464 cents/KWH.

Rate O: Off-Peak Water Heating
Jan.,Feb,Dec. '92 Bills Current Rate Proposed Rate
Service Charge $0.166/day $0.178/day
All KWH $0.06759/KWH $0.07910/KWH

March-Nov. '92 Bills
Service Charge $0.166/day $0.178/day
All KWH $0.05323/KWH $0.05455/KWH

Page 86

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

Attachment C
Page 2 of 4

CONNECTICUT VALLEY ELECTRIC COMPANY, INC. (A)

Residential Service Billing

RATE D

Present Proposed
Rate Rate
Effective Date 10/1/91 1/1/92

Service Charge $/Day 0.186 0.200
Dec - Feb Billing
First Block Kwh 250 250
First Block ---- $/Kwh 0.07917 0.10391
Additional Kwh - $/Kwh 0.13501 0.13168
Mar - Nov Billing
First Block Kwh 250 250
First Block ---- $/Kwh 0.07917 0.10391
Additional Kwh - $/Kwh 0.10779 0.08979
Includes FAC - PPCA (0.00330)

Present Proposed
Monthly Monthly Monthly Bill
Bill Bill Difference
$ $ $ %
Dec - Feb Kwh/Month
200 21.49 26.87 5.37 25.0%
300 32.20 38.64 6.44 20.0%
400 45.70 51.81 6.11 13.4%
500 59.20 64.98 5.78 9.8%
600 72.70 78.15 5.45 7.5%
750 92.96 97.90 4.95 5.3%
900 113.21 117.65 4.45 3.9%
1,050 133.46 137.40 3.95 3.0%
1,200 153.71 157.16 3.45 2.2%

Mar - Nov Kwh/Month
200 21.49 26.87 5.37 25.0%

300 30.84 36.55 5.71 18.9%
400 41.62 45.53 3.91 9.4%
500 52.40 54.51 2.11 4.0%
600 68.18 63.49 0.91 5.0%
750 79.35 76.96 (2.89) -3.0%
900 95.51 90.42 (5.09) -5.3%
1,050 111.68 103.89 (7.79) -7.0%
1,200 127.85 117.36 (10.49) -8.2%

ANNUAL Kwh/Month
200 21.49 26.87 5.37 25.0%
300 31.18 37.07 5.89 18.9%
400 42.64 47.10 4.46 10.5%
500 54.10 57.13 3.03 5.6%
600 65.56 67.15 1.59 2.4%
750 82.75 82.19 (0.56) -0.7%
900 99.94 97.23 (2.71) -2.7%
1,050 117.13 112.27 (4.86) -4.1%
1,200 134.32 127.31 (7.01) -5.2%

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

Attachment C
Page 3 of 4

CONNECTICUT VALLEY ELECTRIC COMPANY, INC. (B)

Residential Service Billing

RATE D

Present Proposed
Rate Rate
Effective Date 10/1/91 1/1/92

Service Charge $/Day 0.186 0.200
Dec - Feb Billing
First Block Kwh 250 250
First Block ---- $/Kwh 0.07917 0.08136
Additional Kwh - $/Kwh 0.13501 0.13168
Mar - Nov Billing
First Block Kwh 250 250
First Block ---- $/Kwh 0.07917 0.10391
Additional Kwh - $/Kwh 0.10779 0.08979
Includes FAC - PPCA (0.00330)

Present Proposed
Monthly Monthly Monthly Bill
Bill Bill Difference
$ $ $ %
Dec - Feb Kwh/Month
200 21.49 22.36 0.86 4.0%
300 32.20 33.01 0.81 2.5%
400 45.70 46.18 0.47 1.0%
500 59.20 59.34 0.14 0.2%
600 72.70 72.51 (0.19) -0.3%
750 92.96 92.26 (0.69) -0.7%
900 113.21 112.02 (1.19) -1.1%
1,050 133.46 131.77 (1.69) -1.3%
1,200 153.71 151.52 (2.19) -1.4%

Mar - Nov Kwh/Month
200 21.49 26.87 5.37 25.0%
300 30.84 36.55 5.71 18.9%
400 41.62 45.53 3.91 9.4%

500 52.40 54.51 2.11 4.0%
600 68.18 63.49 0.91 5.0%
750 79.35 76.96 (2.89) -3.0%
900 95.51 90.42 (5.09) -5.3%
1,050 111.68 103.89 (7.79) -7.0%
1,200 127.85 117.36 (10.49) -8.2%

ANNUAL Kwh/Month
200 21.49 25.74 4.85 19.8%
300 31.18 35.66 4.48 14.4%
400 42.64 45.69 8.05 7.2%
500 54.10 55.72 1.62 3.0%
600 65.56 65.74 0.19 0.3%
750 82.75 80.78 (1.96) -2.4%
900 99.94 95.82 (4.11) -4.1%
1,050 117.13 110.86 (6.86) -5.3%
1,200 134.32 125.9 (9.41) -6.3%

Page 88

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

Attachment C
Page 4 of 4

CONNECTICUT VALLEY ELECTRIC COMPANY, INC. (C)

Residential Service Billing

RATE D

Present Proposed
Rate Rate
Effective Date 1/1/92 3/1/92

Service Charge $/Day 0.200 0.202
Dec - Feb Billing
First Block Kwh 250 250
First Block ---- $/Kwh 0.10291 0.10510
Additional Kwh - $/Kwh 0.13168 0.13320
Mar - Nov Billing
First Block Kwh 250 250
First Block ---- $/Kwh 0.10291 0.10510
Additional Kwh - $/Kwh 0.08979 0.09065
Includes FAC - PPCA (0.00330) (0.00330)

Present Proposed
Monthly Monthly Monthly Bill
Bill Bill Difference
$ $ $ %
Dec - Feb Kwh/Month
200 26.87 27.16 0.80 1.1%
300 38.64 39.08 0.43 1.1%
400 51.61 52.40 0.59 1.1%
500 64.98 65.72 0.74 1.1%
600 78.15 79.04 0.89 1.1%
750 97.90 99.02 1.12 1.1%
900 117.65 119.00 1.35 1.1%
1,050 137.40 138.98 1.57 1.1%
1,200 157.16 158.96 1.80 1.1%

Mar - Nov Kwh/Month
200 26.87 27.16 0.80 1.1%
300 36.55 36.96 0.41 1.1%
400 45.53 46.05 0.52 1.1%
500 54.51 55.13 0.62 1.1%
600 63.49 64.22 0.73 1.1%
750 76.96 77.84 0.89 1.2%


```
900 90.48 91.47 1.05 1.2%
1,050 103.89 105.10 1.21 1.2%
1,200 117.86 118.73 1.37 1.2%

ANNUAL Kwh/Month
200 26.87 27.16 0.80 1.1%
300 37.07 37.49 0.42 1.1%
400 47.10 47.63 0.53 1.1%
500 57.13 57.78 0.65 1.1%
600 67.15 67.92 0.77 1.1%
750 82.19 83.14 0.95 1.2%
900 97.23
1,050
1,200
```

==========

NH.PUC*02/10/92*[72850]*77 NH PUC 90*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72850]

NEW ENGLAND TELEPHONE COMPANY

DR 91-174
ORDER NO. 20,386

77 NH PUC 90

New Hampshire Public Utilities Commission

February 10, 1992

Order Granting Protective Treatment

On January 29, 1992, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (commission) an amendment to a special contract with CAMEX, Inc. for Centrex service, pursuant to RSA 378:18; and

WHEREAS, concurrent with the amendment to the contract filed on January 29, 1992, NET filed a Motion for Protective Order for materials to be submitted in conjunction with the amended contract, pursuant to RSA 91-A and PUC 204.07; and

WHEREAS, in its motion NET states that information submitted with the contract contains "customer specific, competitively sensitive data" including "cost analyses, network size, routing and configuration data, information regarding specific service features, and other contract terms such as term, special rates and billing information"; and

WHEREAS, the information identified above is a necessary part of the filing, and important for the staff of the commission (staff) to review in evaluating the contract terms; and

WHEREAS, the commission on December 3, 1991 approved a special contract for Centrex service between NET and CAMEX, Inc. and authorized protective treatment over the supporting materials submitted with the contract; and

WHEREAS, Puc 1601.05(n) prohibits the amendment of a special contract, instead requiring the company to file an entirely new contract containing the amended terms; and

WHEREAS, staff concurred in the Motion regarding protective treatment but failed to object to the amendment pursuant to Rule Puc 1601.05(n); and

WHEREAS, NET has been notified by staff that it must file a new contract including the amended terms, rather than an amendment to the existing contract; and

WHEREAS, the commission recognizes the importance of staff having the opportunity to review fully the materials which support a special contract, in order to carry out responsibly the duties placed upon it pursuant to RSA 378:18; it is hereby

ORDERED, that the Motion for Protective Order be, and hereby is, granted to allow staff review of the supporting documents to the special contract, pending the filing by NET of a new contract incorporating the amended terms; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the commission, on it own motion or on the motion of commission staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this tenth day of February, 1992.

==========

NH.PUC*02/10/92*[72851]*77 NH PUC 90*CONTINENTAL CABLEVISION, INC.

[Go to End of 72851]

CONTINENTAL CABLEVISION, INC.

DE 91-179
ORDER NO. 20,387

77 NH PUC 90

New Hampshire Public Utilities Commission

February 10, 1992

Order NISI granting authorization for an aerial cable television line crossing of the Merrimack River between the towns of Boscawen and Canterbury.

WHEREAS, Continental Cablevision, Inc. (petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition on November 1, 1991, as amended on February 6, 1992, seeking license under RSA 371:17 to install a single aerial cable-TV line crossing of the Merrimack River downstream of the Route 4 bridge between existing poles 27/18 in Boscawen and 27/19 in Canterbury, New Hampshire; and

WHEREAS, the crossing is necessary to serve a total of ten customers on Hannah Dustin Drive and Shoestring Road, who are

located primarily within the City of Concord where the petitioner is obligated to provide service under a franchise agreement with the city; and

WHEREAS, the existing electric crossing between the same two poles was approved by this Commission in Re New England Telephone & Telegraph Co., 43 NH PUC 218 (1961); and

WHEREAS, an original 6-pair telephone crossing was approved in the same order but was replaced by an existing 200-pair cable as approved in Re New England Telephone & Telegraph Co., 72 NH PUC 431 (1987); and

WHEREAS, the proposed cable will be strung one foot above the existing telephone cable and a minimum of 40 inches below the lowest electric cable and meet National Electrical Safety Code standards; and

WHEREAS, a map and profile of the proposed crossing are on file with this Commission; and

WHEREAS, the Commission finds the above construction is necessary to meet the petitioner's obligation to provide service without substantially affecting the public rights in or above said waters, thus it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 9, 1992; and it is

FURTHER ORDERED, that the petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Boscawen and Canterbury area, said publications to be no later than February 24, 1992. In addition, pursuant to RSA 541-A:22, the petitioner shall serve a copy of this order to the Boscawen and Canterbury town clerks, by first class U.S. mail, postage prepaid, and postmarked on or before February 24, 1992. Compliance with these notice provisions shall be documented by affidavit(s) to be filed with the Commission on or before March 9, 1992; and it is

FURTHER ORDERED, NISI that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Continental Cablevision, Inc., 8 Commercial Street, Concord, New Hampshire 03301 to install and maintain the aforementioned crossing of an aerial cable-TV line over the Merrimack River between existing poles in the towns of Boscawen and Canterbury, New Hampshire, effective March 11, 1992 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and applicable codes currently mandated by the towns of Boscawen and Canterbury.

By order of the New Hampshire Public Utilities Commission this tenth day of February, 1992.

==========

NH.PUC*02/10/92*[72852]*77 NH PUC 91*CONTINENTAL CABLEVISION, INC.

[Go to End of 72852]

CONTINENTAL CABLEVISION, INC.

DE 91-200
ORDER NO. 20,388

77 NH PUC 91

New Hampshire Public Utilities Commission

February 10, 1992

Order NISI granting authorization for an aerial cable television line crossing of the Contoocook River in the City of Concord, New Hampshire.

WHEREAS, on November 22, 1991 Continental Cablevision, Inc. (petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to install a single aerial cable- TV line crossing of the Contoocook River between existing poles in Concord, New Hampshire; and

WHEREAS, the proposed crossing is from pole 39A on Broad Cove Drive on the south side of the river, approximately one mile west of Carter Hill Road, to pole 39B on the north side of the river; and

WHEREAS, the crossing is necessary to serve a single customer which the petitioner is obligated to serve under a franchise agreement with the City of Concord; and

WHEREAS, the existing telephone crossing at this site was approved by this Commission as crossing number 9 in Re New England Telephone & Telegraph Co., 37 NH PUC 227 (1955), and the existing electric crossing at the same location was approved as crossing number 10 in Re Concord Electric Co., 37 NH PUC 211 (1955); and

WHEREAS, the proposed cable will be strung one foot above the existing telephone cable and a minimum of 40 inches below the lowest existing electric cable and meet National Electrical Safety Code standards; and

WHEREAS, a revised profile of the crossing was submitted on February 6, 1992; and

WHEREAS, the Commission finds the above construction is necessary to meet the petitioner's obligation to provide service without substantially affecting the public rights in or above said waters, thus it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is

ORDERED, that all persons interested in responding to this petition be notified that they may

submit their comments or file a written request for a hearing on this matter before the Commission no later than March 9, 1992; and it is

FURTHER ORDERED, that the petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Concord area, said publications to be no later than February 24, 1992. In addition, pursuant to RSA 541-A:22, the petitioner shall serve a copy of this order to the Concord city clerk, by first class U.S. mail, postage prepaid, and postmarked on or before February 24, 1992. Compliance with these notice provisions shall be documented by affidavit(s) to be filed with the Commission on or before March 9, 1992; and it is

FURTHER ORDERED, NISI that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Continental Cablevision, Inc., 8 Commercial Street, Concord, New Hampshire 03301 to install the aforementioned crossing of an aerial cable-TV line over the Contoocook River between existing poles in the City of Concord, New Hampshire, effective March 11, 1992 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the City of Concord.

By order of the New Hampshire Public Utilities Commission this tenth day of February, 1992.

==========

NH.PUC*02/18/92*[72853]*77 NH PUC 92*CONTINENTAL CABLEVISION, INC. and NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72853]

CONTINENTAL CABLEVISION, INC. and NEW ENGLAND TELEPHONE COMPANY

DE 91-217
ORDER NO. 20,389

77 NH PUC 92

New Hampshire Public Utilities Commission

February 18, 1992

Order NISI granting authorization for aerial cable television and telephone crossings of the Contoocook River in the City of Concord, New Hampshire.

WHEREAS, on December 19, 1991 Continental Cablevision, Inc. (Continental) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to install a single aerial cable- TV line crossing of the Contoocook River between existing poles in Concord, New Hampshire; and

WHEREAS, New England Telephone & Telegraph Co. (NET) petitioned this Commission

on February 7, 1992 for approval pursuant to RSA 371:17 of an existing unlicensed telephone crossing at the same site;

and

WHEREAS, an existing electric crossing at this site was approved by this Commission as crossing number 12 in Re Concord Electric Co., 37 NH PUC 211 (1955); and

WHEREAS, the existing and proposed crossings are from Concord Electric Co. pole 22 (NET pole 10/166) on Broad Cove Drive on the south side of the river, approximately 0.6 miles west of Carter Hill Road, to Concord Electric Co. pole 40 (NET pole 106/1) on the north side of the river; and

WHEREAS, the telephone crossing consists of a single 6- pair cable installed sometime between 1955 and present, NET having no record of its date of installation, and serves a maximum of three customers; and

WHEREAS, the cable-TV crossing is needed to serve five customers which Continental is obligated to serve under a franchise agreement with the City of Concord; and

WHEREAS, the proposed cable-TV line will be strung one foot above the existing telephone cable and a minimum of 40 inches below the lowest existing electric cable and meet National Electrical Safety Code standards; and

WHEREAS, maps and profiles of the proposed cable-TV crossing and the existing telephone crossing are on file with this Commission; and

WHEREAS, the Commission finds the above construction and maintenance is necessary to enable the petitioners to provide service without substantially affecting the public rights in or above said waters, thus it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 17, 1992; and it is

FURTHER ORDERED, that Continental and NET effect jointly said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Concord area, said publications to be no later than March 3, 1992. In addition, pursuant to RSA 541 A:22, Continental and NET shall jointly serve a copy of this order to the Concord city clerk, by first class U.S. mail, postage prepaid, and postmarked on or before March 3, 1992. Compliance with these notice provisions shall be documented by affidavit(s) to be filed with the Commission on or before March 17, 1992; and it is

FURTHER ORDERED, NISI that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Continental Cablevision, Inc., 8 Commercial Street, Concord, New Hampshire 03301 to install and maintain the aforementioned crossing of an aerial cable-TV line over the

Contoocook River between existing poles in the City of Concord, New Hampshire, and similar license is given to New England Telephone & Telegraph Co., 1228 Elm St., Manchester, NH 03105 to maintain the aforementioned telephone crossing at the same site; all to be effective March 19, 1992 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the City of Concord.

By order of the New Hampshire Public Utilities Commission this eighteenth day of February, 1992.

==========

NH.PUC*02/18/92*[72855]*77 NH PUC 101*WILTON TELEPHONE COMPANY

[Go to End of 72855]

WILTON TELEPHONE COMPANY

DR 90-221
ORDER NO. 20,391

77 NH PUC 101

New Hampshire Public Utilities Commission

February 18, 1992

Order Approving Rate Case Settlement

Appearances: McLane, Graf, Raulerson & Middleton by Steven A. Camerino, Esq. for Wilton Telephone Company; Melinda Butler for Union Telephone Company; James T. Rodier, Esq. for the staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

By Order of Notice dated December 14, 1990, the New Hampshire Public Utilities Commission (commission) opened docket DR 90-221 to investigate the earnings of Wilton Telephone Company (Wilton). Union Telephone Company (Union) and New England Telephone and Telegraph Company (NET) sought intervention in the case. NET was denied intervention without prejudice to petition to intervene at a later date. Union was granted limited intervenor status by Order No. 20,079 (March 11, 1991). By the terms of its intervention, Union could not participate in or object to settlement agreements between Wilton and commission staff (staff) unless the terms of any agreement directly affected the

interests of Union or NET.

On February 15, 1991, the staff filed written testimony in support of RSA 378:27 temporary rates, which testimony recommended that the temporary rates be set at current levels. After review of the testimony submitted in the case, the commission granted the temporary rates requested by Wilton. Order 20,079.

On June 10, 1991, Wilton filed written testimony in support of its analysis that it was experiencing a revenue excess. On October 24, 1991, the staff filed written testimony which concluded that Wilton was earning well in excess of its last authorized rate of return. The staff further recommended disallowance of certain of Wilton's expenses.

At a hearing on February 12, 1992, Wilton and staff presented to the commission a Rate Case Stipulation Agreement (Stipulation) with supporting schedules regarding rate case matters. The Stipulation is attached hereto as Appendix A. John M. Chandler, Senior Auditor with Berry, Dunn, McNeil & Parker, on behalf of Wilton and ChristiAne G. Mason on behalf of staff testified in support of the Stipulation.

II. POSITION OF THE PARTIES

A. Wilton Telephone Company

As a result of settlement discussions and negotiation, Wilton agreed to a cost of capital of 10.07% and to various disallowances of company expenses. Wilton also agreed to credits for intrastate toll charges, arguing that the intrastate toll reduction stipulated for Wilton subscribers will not disturb the toll settlements process between Wilton and NET. NET will continue to be reimbursed in manner and amount as it has been in the past. Wilton subscribers, however, will receive a discount in their intrastate toll charges. Wilton also agreed to a refund of the temporary rates collected. The terms of the credit and refund are discussed in more detail in the Stipulation. Wilton agreed to keep the staff informed as to the details of all reductions and refunds.

Finally, Wilton agreed to file with the commission an incremental cost study (ICS) within one year of the date of this order.

B. Commission Staff

The staff believes that the reductions in rates and toll charges and the refund of temporary rates constitute significant benefits to Wilton's ratepayers and result in just and reasonable rates. It is also staff's belief that the intrastate toll reduction will not affect the toll settlements process between Wilton and NET.

Further, in staff's view, the stipulated cost of capital and adjustments for ratemaking purposes of certain expenses are consistent with the treatment of other telephone utilities.

C. Union and OCA

Union and the Office of Consumer Advocate (OCA) were made aware of the settlement terms, but did not appear at the hearing or otherwise make their position known. Wilton and the staff agree that the terms of the Stipulation do not directly affect Union's interests.

III. COMMISSION ANALYSIS

On the basis of the Stipulation and the testimony at the February 12, 1992 hearing, we are persuaded that the terms of the Stipulation result in just and reasonable rates and are an

acceptable resolution of the matters raised in this docket. We determined that commission investigation was necessary based on Wilton's filed reports of high earnings. We find that the significant reduction in toll charges provided in the Stipulation is an appropriate resolution of this issue. We note that all parties agree that the toll settlements process between Wilton and NET will not be disturbed as a result of this settlement.

The stipulated cost of capital and disallowances for ratemaking purposes of certain Wilton expenses are appropriate and consistent with other commission rulings. The Stipulation also provides for the filing of an ICS within one year — an essential task for both Wilton ratepayers and investors to meet

Page 102

the challenges of rapidly changing technology and markets.

Our order will issue accordingly.

ORDER

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

ORDERED, that the Rate Case Stipulation Agreement, entered into between Wilton and staff (and attached hereto as Appendix A) is hereby accepted, approved and adopted; and it is

FURTHER ORDERED, that all terms of the Rate Case Stipulation Agreement (including supporting schedules) are incorporated by reference and made a part of this order.

By order of the New Hampshire Public Utilities Commission this eighteenth day of February, 1992.

Wilton Telephone Company Public Utilities Commission Staff

==========

NH.PUC*02/19/92*[72854]*77 NH PUC 93*EASTMAN SEWER COMPANY

[Go to End of 72854]

EASTMAN SEWER COMPANY

DR 90-170
ORDER NO. 20,390

77 NH PUC 93

New Hampshire Public Utilities Commission

February 19, 1992

Report & Order on Permanent Rates

Appearances: Castaldo, Hanna & Malmberg, by David Marshall, Esq. for Eastman Sewer Company; David Springsteen for the Eastman Community Association Sewer

Committee; the Office of the Consumer Advocate by Joseph Rogers, Esq. for residential ratepayers; Susan Chamberlin, Esq. for the staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On November 1, 1990, Eastman Sewer Company ("Eastman" or the "company") filed with the New Hampshire Public Utilities Commission (the "commission") a proposed rate schedule and supporting documentation which would result in a one hundred five percent (105%) increase in the rates; or an additional annual revenue of $88,932.

On November 27, 1990, the commission ordered a prehearing conference to be held on January 8, 1991 to develop a procedural schedule, and to address motions to intervene and the company's request for temporary rates.

On March 5, 1991, the commission issued Order No. 20,072 granting the motions to intervene filed by Donald Taylor and the Eastman Community Association (referred to collectively as the "ECA"), accepting the procedural schedule proposed by the parties, and denying without prejudice the company's request for temporary rates.

Subsequent to the March 5, 1991 order, the company chose not to re-petition for temporary rates, though Order No. 20,072 gave the company that option.

On August 20 - 22, 1991, the commission held hearings on the merits as scheduled.

On September 23, 1991 at its public meeting, the commission issued a partial resolution of the pending case, accepting staff's position that most of the investment in rate base should be classified as contributions in aid of construction ("CIAC"). The commission deferred ruling on the final valuation of the company because of its concern that the new utility would be undercapitalized. The parties were directed to submit their suggestions on valuation based on the evidence presented at the August 20 - 22 hearing.

On September 25, 1991 in a secretarial letter, the commission notified the parties of its September 23, 1991 decision and request for additional argument.

On November 26, 1991 at its public meeting, the commission deliberated and resolved the outstanding issues of the case.

On December 11, 1991 the commission issued Order No. 20,330 stating that the company will have a total revenue requirement for ratemaking purposes of $103,051. This revenue requirement includes a capital reserve amount. The commission authorized the company to increase its rates accordingly. In its order, the commission referred to a forthcoming report detailing the procedural history, positions of the parties, commission analysis, and findings and conclusions. This is that report.

II. BACKGROUND

Eastman Sewer Company is a New Hampshire corporation formed in 1972. The company is

wholly owned by Controlled Environment Corporation ("CEC"), also a New Hampshire corporation. CEC is the developer of the Eastman residential and recreational development, served by the Eastman Sewer Company.

There are approximately 450 customers served by the sewer company, with 120 potential customers that may be served whenever certain vacant lots are developed. The effluent disposal is by a spray irrigation system at the Eastman golf course. The system is owned by CEC and leased to the company.

The company's proposed rate base consists primarily of the capitalized lease, amended as a result of its franchise application, to continue until 2027. The amendment also gives the company the option to purchase the leased sewer facilities at the end of the lease term for a nominal sum.

The company used the experience of Eastman Water Company as a rate base guide. The water company was capitalized for ratemaking purposes as follows: CEC transferred the water system to the water company, which treated 70% of the cost of the system as a capital contribution for

Page 94

construction, and issued to CEC common stock equal in value to 10% of the system cost and debt equal to 20% of the cost. This approach permitted the water company to recover 30% of its investment through rates. The Eastman Water Company approach was approved by the commission in Re Eastman Water Company, 58 NH PUC 42 (1973).

The water system and the sewer system were both constructed by CEC, which, for tax accounting purposes, treated a substantial portion of the costs as part of the overall cost of development. The costs were treated as inventory costs and were offset, for accounting purposes, against the sale of lots and units as the sales occurred.

During the time period when the system was constructed and the initial accounting was established, sewer companies were not regulated. As a consequence, the company did not capitalize the sewer assets. Instead, CEC expensed the construction costs and, in 1982, CEC and the sewer company entered into an operating lease with the sewer company.[1(6)] The company did not collect the amounts proposed and this outstanding debt was forgiven as part of its franchise case. In this rate case, the company planned to reduce its originally proposed rent due under the lease by over onethird. This would give the capitalized lease a value for ratemaking purposes of $480,462. Without this reduction, the company believed the revenue requirement would result in a rate that would be unduly high.

III. POSITION OF THE PARTIES: RATE CASE

A. Eastman Sewer Company

To determine the amount of its rate base, the company adjusted the original investment in the sewer company of $2,335,581 to account for the depreciation that would have occurred between 1974 (the date the system began service) and the test year (the twelve months ending March 31, 1990

— the company's latest complete fiscal year). The company then treated 70% of the adjusted investment as a CIAC. The remaining 30% became the value of the capitalized lease and was included in rate base.

The company proposed to value the capital lease at $480,462 (Exhibit 19). After other adjustments which are detailed in Schedule 3 of the company's Filing Requirement Schedules, the company's proposed rate base was $525,041.

The company argues that it is appropriate to treat its original investment as 70% contributed plant and 30% as investment to be included in rate base because this is how the Eastman Water Company was capitalized in 1973. The company asserts that the tax accounting treatment of the cost of the sewer system that took place since 1973 does not reflect the economic reality of its original transaction. The company asserts that a finding that the customers have already paid for the system cannot be properly grounded on the fact that Eastman expensed the system costs against the income generated from lot sales. The company president, Tony Hanslin, who is also an officer of CEC, stated that CEC always intended to recover the investment in the sewer system and did not rely on property sales to generate an economic return on sewer system investment.

The company petitioned to include 25% of the depreciation expense attributable to the capital contribution for construction from CEC. The company proposed to recover the remaining depreciation over the next three years in order to reduce the impact on rates. See Exh. 2 Schedule 1 Attachment.

An independent certified public accountant, J. Daniel Davidson testified on behalf of the company about the capitalization of the lease, the company's financial statements, and the requested rate of return. The company proposed a return on equity of 12% and an overall rate of return of 12%.

B. Eastman Community Association

David Springsteen, a customer of the Eastman Sewer Company and Chairman of the Eastman Sewer Committee, testified on behalf of the customers of Eastman Sewer. Ratepayers are currently paying $165 a year

and under the company's proposal the rates would more than double. The ratepayers believe the proposed increase is unjustified.

The ECA disagreed with the Company's proposal to include 30% of the original cost in rate base because, unlike the water company, the sewer system was not new when it underwent its capitalization treatment. Because the sewer system has had seventeen years of depreciation, and CEC benefitted from accelerated depreciation and investment tax credits during those years, the ECA believes the capital lease value should be substantially less than the $480,462 included in ratebase by Eastman.

Customers believe they paid for the capital cost of the sewer system when they bought their condominium unit or lot, because the prices of the sewered units and lots were higher than those

without sewers and there was no other action by CEC to recover investment costs until this rate case. The ECA also expressed concern that there are no funds in reserve for major repairs or maintenance expenses.

C. Staff

Staff recommended a rate base of $55,946, and a rate of return of 11.14% which, when combined with proforma adjustments and the tax effect, creates a revenue requirement of $90,250.

Staff's recommendation of a $55,946 rate base is $464,563 less than that of the Company. This difference is made up primarily by the capital lease of the sewer plant, the cost of which staff asserts has been largely recovered by the parent company CEC due to its accounting treatment of the sewer system costs. This accounting treatment, for both tax and book purposes, involved expensing the sewer system costs against revenues earned from the sale of lots in the Eastman development. None of the system costs were capitalized and treated as depreciable assets. The company estimates that the investment that remains in CEC's inventory which has not been expensed is $21,724.

Staff does not support the 70/30 split proposed by the company because of the seventeen years of expensing costs that have occurred with the original sewer system costs. Staff also adjusted the depreciation expense to allow a full depreciation allowance for the leased plant, with the related amortization of the CIAC as an offset to the depreciation of the contributed plant. The result of this computation is that there is no allowance for depreciation on contributed plant as the company did not risk its own funds for the investment.

Staff's recommended rate of return is calculated from a return on equity of 12.33% and costs of long term debt of 10.07% and 13.5%. Staff based its return on equity calculation on rates for water companies of comparable size, function and risk. Water companies were used because there is almost no similar sewer company information. The costs of long term debt were taken directly from the company's records.

IV. POSITION OF THE PARTIES: CAPITAL RESERVE ACCOUNT

A. Eastman Sewer Company

In its supplemental filing, the company argues that if the commission does not accept the company's rate base as filed, the commission should create a regulatory asset equal to the investment of CEC in the sewer plant less the value of all tax benefits which may have been realized by CEC. Although the company offers four possible ways of establishing the value for a regulatory asset, it supports a regulatory asset in the approximate amount of the rate base sought in the company's filing. The company claims that this valuation is necessary to achieve just and reasonable rates. If that value ($480,462) is accepted, it would permit the company to: 1) meet its payment obligations under the capital lease; 2) accumulate a maintenance and replacement reserve; and 3) achieve an adequate level of cash flow to establish an ability to attract future capital. The company wishes to establish itself as an independent public utility and believes that the creation of a regulatory asset with a value of approximately $480,000 will provide it with a reasonable

opportunity to be a financially viable entity.

B. Eastman Community Association

The ECA asserts that further adjustments to the capitalization of the sewer company are not appropriate. The ECA believes that Eastman Sewer is structured and run for the benefit of the parent company CEC and is not structured and run in a manner that will enable it to be a stand-alone entity. Therefore CEC must bear responsibility for providing whatever cash is needed for improvements to the sewer system.

The ECA asserts that ratepayers can best be protected by a mechanism that provides for Eastman Sewer Company to petition the commission for an additional rate increase if a major improvement is needed. If that mechanism is adopted, the concern that no money is reserved for major repairs is addressed. Therefore, no further increase in rates is justified at this time.

C. Staff

Staff presented for the commission's consideration the concept of a capital reserve fund as commonly used by non regulated municipal utilities. Such a fund could be based on either depreciation of the contributed plant as a regulatory asset, or a capital reserve fund appropriation. Staff indicated that it believes that if the commission were to utilize either approach, it should impose the same restrictions on Eastman regarding segregation of funds and expenditure thereof only for designated purposes as the state requires of municipalities. In addition, staff believes that any established capital reserve fund should create a liability for Eastman which would need to be repaid to ratepayers in the event it is never used or the company is conveyed to the ratepayers or the ratepayer association.

Staff indicated that either approach would have tax effects for an investor-owned utility. It would therefore be necessary to gross up the calculated amount of the contribution to the capital reserve fund in order to achieve the desired net after-tax annual contribution to the fund.

PUC staff also pointed out that, although FASB-71 provides for regulatory assets, it also requires that the regulatory process be based upon the recovery of specific incurred costs and not on the recovery of future costs. In the event that the rate order does not clearly indicate the specific incurred costs that are designated for recovery, the provisions of FASB-71 are not met.

In addition, the staff contends that new plant additions or capital improvements financed by the capital reserve fund would once again be contributed plant and could not be included in rate base. Staff further points out that, while either of these approaches will improve the ability of the utility to provide long-term service by providing a fund for use or as a match for debt or equity infusions from nonratepayer sources, neither approach increases the capitalization of the utility unless and until any external funding occurs.

D. The Office Of Consumer Advocate

The Office of the Consumer Advocate ("OCA") states that by expensing the cost of the sewer system against the proceeds from the sale of real estate, the companies have recovered their capital investment through CIAC. The amount of capital costs that have not been expensed is $21,143. The commission is required to set rates sufficient to yield a reasonable return on the

$21,143 rate base plus reasonable expenses. If the resulting utility is undercapitalized, it is because Eastman's investors have failed to put any of their own money at risk in the enterprise.

The OCA further argues that any method of increasing capitalization beyond that established by the record in order to increase revenues is an attempt to have ratepayers pay twice for the same investment. If Eastman is no longer economically viable, it is because the investors have opted to use customer contributions to construct the system. It is now the investors' responsibility to raise the capital necessary for any improvements. The OCA asserts that the failure of CEC to capitalize Eastman properly should be sufficient reason to revoke the franchise and reward it to investors

Page 97

who are ready and willing to operate the company properly.

V. COMMISSION ANALYSIS

A. Stipulation

The parties were able to reach agreement on several issues. As a result of the staff audit of the test year, staff made a number of recommendations with respect to the level of operation and maintenance expenses, as well as test year revenues. The parties agreed on a total of $74,400 for operation and maintenance expenses. In addition, the parties agreed on a test year level of revenues of $77,981. This figure also included the removal of revenues earned from availability charges to owners of undeveloped lots at Eastman. Staff had recommended that the company discontinue availability charges, and the parties were able to agree to collect the revenue requirement only from existing users of the system and eliminate charges to undeveloped lot owners. In addition, the parties agreed that the formula for billing of the two commercial customers of the Company would be altered to equate these customers with an equivalent number of residential customers. The parties also agreed that the sewer system plant under lease from CEC be treated as having a composite life of 35 years, rather than the 54 years the company had proposed. Because the individual components of the system were not readily identifiable for classification into various depreciable lives, the parties agreed to treat it as one asset with an average life of 35 years which is the composite life of the fixed assets on the books of another regulated sewer utility in New Hampshire, Resort Waste Services, Inc.

The parties were unable to reach agreement on inter alia rate base, rate of return, and the treatment of depreciation expense on that portion of the sewer plant ultimately considered to be contributed.

B. Rate Base

The commission accepts staff's position that the majority of the company's original investment in the sewer system amounts to CIAC. The commission finds that the tax and accounting treatment of the costs of the utility plant and the higher costs of the sewered lots compared to the nonsewered lots manifests the intent of the company to recover its costs through lot sales. The accounting treatment, for both tax and book purposes, involved expensing the sewer system costs against revenues earned from the sale of lots in the Eastman development. Where the company did not and could not anticipate that its sewer system would be regulated it

is logical to find that the company chose this method of cost treatment because it assured it an adequate return on its investment. In Mountain High Water & Gas Sales Inc., Docket No. DR 89- 072, Order No. 20,150 (June 11, 1991) at 6, the commission found:

> that by expensing the cost of the water system against the proceeds of the sales of the condominium units the companies have already recovered their capital investments through contributions in aid of construction. The same is true for Eastman Sewer Company.

The commission also considered the fact that Eastman Sewer did not charge compensatory rates throughout the sewer system's entire fifteen years of service. The Public Utilities Commission of Oregon, citing the New York State Public Service Commission, states:

> As a matter of economic logic, a developer normally will not provide water service free of charge or at a low rate unless the combined revenues, from realty sales and water service, provide the maximum return on the combined realty and water investments that the developer thinks the local realty market will permit. Based on this judgment about the market, the developer will set a first, unregulated rate that may or may not be the sole source of return on the investment in the water plant; and will demand the maximum obtainable price for the realty,

Page 98

> whose marketability will of course be affected by the availability and price of water (as well as by numerous other variables).

In The Matter of Revised Rate Schedules Filed by SunRiver Utilities Company, Inc., UW 29, Order No. 90-1413 (Oregon, 1990); (rehearing granted, relief denied, Order 91-1264, September 26, 1991). Based on this observation, the New York State Commission presumes that when rates are insufficient to cover plant costs, the developer intends to recoup the investment through lot sales. This commission declines the opportunity to create a presumption; however, the record supports a finding in this case that the developer recovered the major portion of the sewer plant investment through the sale of lots and condominiums.

Accordingly, in line with the long standing commission practice of not allowing a return on funds which were not invested by the petitioning company, the CIAC are excluded from rate base. Re Mountain High Water, supra; Manchester Water Works, 74 NH PUC 87 (1989); Re West Swanzey Water Co., Inc., 73 NH PUC 475 (1989); Re Eastman Water Co., 58 NH PUC 42 (1973).

C. Rate of Return

The commission finds that staff's proposed rate of return of 11.14% is just and reasonable. The company proposed a rate of 12% because it believed that the sewer company has more risk than any of the comparison companies used by staff in determining its rate. The company's only support for this statement is the opinion of its accountant, Mr. Davidson. Mr. Davidson testified that based on the company's financial history it does not have the ability or capacity to repay any financing. He also equated any debt issuance from Eastman Sewer to the lowest quality bonds possible - junk bonds.

The Commission believes that Mr. Davidson has overstated the risk level of the Company. Although the company is small, as a regulated utility in a longstanding, successful development filled to over 70% of its capacity, it has a reasonably secure cash flow. The creation of the capital reserve account as described below will also improve the company's financial stability.

Staff's use of the discounted cash flow ("DCF") method to calculate the company's equity cost rate is consistent with well established ratemaking principles. Re Hanover Water Works, 71 NH PUC 775 (1986). This analysis of companies with comparable function, size and risk provides a more balanced assessment of Eastman's ability to attract financing. Because staff undertook such an analysis based on the best available information, staff's testimony will be given more weight than the unsupported opinion of the company's accountant.

D. Undercapitalization

In Section V. B. supra, we found that the majority of plant costs have been previously recovered and therefore may not allowed into rate base. This finding raises the issue of whether it is appropriate in this instance to establish a de minimus rate base which would allow the operation of a utility that is undercapitalized to an extent that would adversely affect its ability to serve ratepayers. A utility with unduly low capitalization may provide a short-term immediate benefit to ratepayers because of a low revenue requirement but, in the long run, ratepayers are not well served by a financially distressed utility unable to gain access to capital or otherwise impaired in its ability to provide safe and reliable service at just and reasonable rates. A financially sound utility serves ratepayers best in the long run because it can deliver the high quality of service that ratepayers require at the overall lowest cost.[2(7)]

On this record, we cannot find that a capitalization of $55,946 (the amount recommended by staff) is sufficient to support the financial viability of a facility which originally cost $2,335,581. Consequently, we believe it is appropriate to consider mechanisms outside the normal ratemaking formula to provide reasonable assurance that

Page 99

ratepayers can depend on a financially viable utility in the long run.

In our analysis, we are mindful that the commission's responsibility to ratepayers to determine a just and reasonable rate may go beyond a simple mathematical calculation of the rate base. Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944) (it is the end result, rather than the application of a particular ratemaking methodology, which governs whether a rate is just and reasonable); Bluefield Water Works & Improvement v. Public Service Commission of West Virginia, 262 U.S. 679 (1923); Petition of Public Service Company of New Hampshire, 130 N.H. 265 (1988), appeal dismissed, 488 U.S. 1035 (1989). The commission has also analyzed the question of its authority to engage in nontraditional regulation in previous dockets. In Re New England Telephone and Telegraph Company, Order No. 20,149 (June 10, 1991) the commission states:

> the "traditional" ratemaking statutes, RSA 378:7 and :28, do not contain a particular formula for the Commission to apply in setting rates...in prior decisions the New Hampshire Supreme Court has consistently ruled that the Commission's obligation to

establish just and reasonable rates does not limit the Commission to a single rate making methodology. See e.g., Petition of Public Service Co. v. N.H., 130 N.H. 265, 539 A.2d 263 (1988); Appeal of Conservation Law Foundation, 127 N.H. 606, 507 A. 2d 652 (1986); LUCC v Public Service Company of N.H., 119 N.H. 332, 402 A 2d 626 (1979); New England Telephone and Telegraph Co. v State, 104 N.H. 229 (1962).

After considering the relevant precedent, the commission holds that we may adopt an alternative form of regulation in order to meet our responsibility of ensuring a financially viable and properly operating utility as long as the resulting rates are just and reasonable. The only limit on the methodology to do this is that the rates produced must be neither confiscatory nor exploitive. Re Kearsarge Telephone Company, 73 NH PUC 320 (1988).

We are mindful that the mechanism selected must be tailored narrowly to meet only the objectives that made resort to nontraditional ratemaking necessary. In the context of Eastman Sewer Company, this means that the mechanism must be quantified at the minimum level needed to assure financial viability. Additionally, use of the revenues must be appropriately restricted so that they will benefit the ratepayers on whose behalf they are collected, rather than providing an unwarranted enhanced return to investors.

After consideration of the alternative proposals submitted by the parties, the commission finds that a capital reserve account will best meet the above criteria. It will provide for minimally sufficient cash flow to ensure the long term financial viability of the company, while earmarking revenues for ratepayer benefits. The commission was not persuaded by the suggestion of the OCA and the ECA Sewer Committee to take no action as that does not respond to the problem of the undercapitalization of this utility. The company's position was equally unpersuasive as it merely repeated its original proposal, changing the label of the requested funds to "regulatory asset" from "the value of a capital lease."

In determining the amount of this fund, the commission accepts the company's figure of $2,335,581 as its initial investment in the plant. To account for the tax benefits accrued to the company as a result of its tax treatment of these funds, the commission reduces that number by the net 50% tax benefit, arriving at $1,167,790. Accumulated depreciation of $367,020, derived from eleven years of depreciation (from the average in service date of 1979), and an asset life of 35 years is then subtracted from the $1,167,790. This number is multiplied by the 30% adjustment proposed by the company, resulting in a basis for a capital reserve account of $240,231.

The remaining depreciable life of the plant is twenty four years. When the basis for the capital reserve amount of $240,231 is divided by the plant's remaining depreciable life, the result is $10,010 of annual funding to the

capital reserve account. This amount is then adjusted for taxes and added to staff's original revenue requirement of $90,250 to arrive at a total revenue requirement of $103,051. Subject to the restrictions imposed below, this revenue requirement produces an end result of just and reasonable rates.

The commission imposes the same restrictions on Eastman regarding segregation of funds

and expenditure only on designated purposes as the state requires of municipalities. The company must notify the commission before making any expenditures out of this account. In the event the fund is not used or the company is sold to the ratepayers or the ratepayer association, the monies accumulated in the capital reserve fund shall be repaid to ratepayers.

VI. CONCLUSION

The commission finds that staff's revenue requirement plus the amount allocated for a capital reserve fund establishes a revenue requirement that is just and reasonable and in the public good. This Report is issued in support of Order No. 20,330.

Concurring: February 19, 1992

ORDER

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

ORDERED, that the revenue requirement of $103,051 and the concomitant rate structure are approved on the effective date and under the terms set forth in Order No. 20,330 (December 11, 1991).

By order of the New Hampshire Public Utilities Commission this nineteenth day of February, 1992.

FOOTNOTES

[1]The operating lease is the same agreement which the company seeks to capitalize as a part of rate base in the instant proceeding.

[2]We do not mean to imply by this analysis that ratepayers should be required to indemnify investors from waste, mismanagement, or other imprudent actions; nor are we providing that ratepayers must bear the costs associated with a deteriorating market for the utility's service. In this case, however, there is no evidence of imprudence or other wrongful actions by utility management. At the time management made its investment and accounting decisions, sewage companies were not subject to utility regulation. This is readily distinguishable from other cases before us where it was the imprudent, erroneous or wrongful actions of management that subjected ratepayers to the risk of the adverse consequences attendant to a financially distressed utility. See e.g., Re Mountain High Water Company, supra.

==========

NH.PUC*02/20/92*[72856]*77 NH PUC 103*RESORT WASTE SERVICES CORPORATION

[Go to End of 72856]

RESORT WASTE SERVICES CORPORATION

DR 91-032
ORDER NO. 20,392

77 NH PUC 103

New Hampshire Public Utilities Commission

February 20, 1992

Show Cause Order

On January 16, 1992, the commission received a letter from the New Dartmouth Bank, agent of the Federal Deposit Insurance Corporation (FDIC), stating that Resort Waste Services Corporation (Resort Waste), a not-for-profit franchised public sewer utility under this commission's jurisdiction, had been dissolved as a corporation by the State in February of 1991; and

WHEREAS, the commission has previously dealt with the precarious financial position of Resort Waste in Docket DR 90-035, which resulted in a stipulation by which Dartmouth Bank would infuse capital into Resort Waste to insure its financial integrity; and

WHEREAS, the FDIC has recently taken action relative to Dartmouth Bank resulting in the formation of the New Dartmouth Bank calling into question the continued infusion of capital into Resort Waste; it is hereby

ORDERED, the former officers and agents of Resort Waste, in particular, Robert Satter and Patrick DiSalvo, and its current management company, Crawford Management Group, appear at the commission offices at 8 Old Suncook Road, Concord, New Hampshire on the first day of April, 1992 pursuant to RSA 374:4 to inform the commission of the financial, managerial and technical competence of the current utility operations and to show cause why the utility should not be placed in receivership to ensure its continued viability; and it is

FURTHER ORDERED, the public should be offered an opportunity to respond in support or in opposition of any commission action; and it is

FURTHER ORDERED, that Resort Waste Services Corporation give notice of this proceeding by mailing a copy of this order first class mail to each of its customers and effect said notification by publication of an attested copy of this order once in a newspaper having general circulation in that portion of the State in which operations are being conducted, such publication to be no later than March 18, 1992, and designated in an affidavit to be made on a copy of this order and filed with this office on or before April 1, 1992.

By order of the Public Utilities Commission of New Hampshire this twentieth day of February, 1992.

==========

NH.PUC*02/20/92*[72857]*77 NH PUC 104*US SPRINT COMMUNICATIONS COMPANY OF NEW HAMPSHIRE, INC.

[Go to End of 72857]

US SPRINT COMMUNICATIONS COMPANY OF NEW HAMPSHIRE, INC.

DR 92-022
ORDER NO. 20,393

77 NH PUC 104

New Hampshire Public Utilities Commission

February 20, 1992

Name Change

On January 30, 1992, US Sprint Communications Company of New Hampshire (the company), filed with the New Hampshire Public Utilities Commission, revisions to its New Hampshire PUC Tariff No's 1 and 2 effective March 2, 1992; and

WHEREAS, the purpose of the filing is to reflect US Sprint Communications Company Limited Partnership's and US Sprint Communications Company of New Hampshire,Inc.'s name changes to Sprint Communications Company L.P. and Sprint Communications Company of New Hampshire, Inc., respectively; and

WHEREAS, there will be no change of legal entity and no operational changes associated with this name change, and no other tariff changes are being made; it is therefore

ORDERED, that US Sprint Communications Company Limited Partnership and US Sprint Communications Company of New Hampshire, Inc's name change to Sprint Communications Company L.P. and Sprint Communications Company of New Hampshire, Inc., be and hereby is approved; and it is

FURTHER ORDERED, that the company consolidate NHPUC Tariff No. 1 and No. 2 and refile their complete tariff with the appropriate name change as NHPUC Tariff No.3. By order of the New Hampshire Public Utilities Commission this twentieth day of February, 1992.

==========

NH.PUC*02/21/92*[72858]*77 NH PUC 104*US SPRINT COMMUNICATIONS COMPANY OF NEW HAMPSHIRE, INC.

[Go to End of 72858]

US SPRINT COMMUNICATIONS COMPANY OF NEW HAMPSHIRE, INC.

DR 92-015
ORDER NO. 20,394

77 NH PUC 104

New Hampshire Public Utilities Commission

February 21, 1992

Dial 1 Wats Advantage and Sprint Clarity

On January 20, 1992, US Sprint Communications Company of New Hampshire filed a petition seeking to add Dial 1 WATS Advantage and Sprint Clarity to its product offerings effective February 20, 1992; and

WHEREAS, Dial 1 Advantage is a switched access service providing a travel card for business customers whose usage is at the lower end of the WATS market; while the Sprint Clarity service aggregates all outbound switched and dedicated usage from all locations in order to benefit from volume discounts; and

WHEREAS, the New Hampshire Public Utilities Commission is interested in encouraging the emergence of competition in the intraLATA toll market on an interim basis; it is hereby

ORDERED NISI, that US Sprint Communications Company, be and hereby is authorized to implement the following tariff changes:

US Sprint New Hampshire

PUC Tariff No.2
3rd Revised Page 1
1st Revised Page 2
2nd Revised Page 5
1st Revised Page 6
1st Revised Page 8
1st Revised Page 9
1st Revised Page 10
1st Revised Page 11
1st Revised Page 12
1st Revised Page 13
1st Revised Page 18
1st Revised Page 20
1st Revised Page 24
1st Revised Page 27

Page 104

1st Revised Page 28
Original Page 28.1
2nd Revised Page 37
Original Page 37.1
Original Page 40.1
Original page 41.1
Original Page 49.1;
and it is

FURTHER ORDERED, that Dial 1 WATS Advantage and Sprint Clarity are to be offered subject to the conditions as specified in NHPUC Order No. 20,042, dated January 21, 1991, in Docket DE 90-127; and it is

FURTHER ORDERED, that pursuant to N.H. Admin.

Rules PUC 203.01, the company cause an attested copy of this Order Nisi to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than March 6, 1992, and is to be documented by affidavit filed with this office on or before March 25, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than March 23, 1992; and it is

FURTHER ORDERED, that this Order NISI will be effective on March 25, 1992, unless the commissionprovides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-first day of February, 1992.

==========

NH.PUC*02/21/92*[72859]*77 NH PUC 105*MCI TELECOMMUNICATIONS CORPORATION

[Go to End of 72859]

MCI TELECOMMUNICATIONS CORPORATION

ORDER NO. 20,395
DR 92-018

77 NH PUC 105

New Hampshire Public Utilities Commission

February 21, 1992

Execunet and Card Service

On January 23, 1992, MCI Telecommunications Corporation filed a petition seeking to add Execunet and Card Service to its product offerings effective March 9, 1992; and

WHEREAS, Execunet service would enable New Hampshire customers to originate and terminate calls via MCI provided local business telephone lines by dialing the 10xxx access number; and Card Service would permit New Hampshire customers to place credit card calls via MCI when they were away from home; and

WHEREAS, the New Hampshire Public Utilities Commission is interested in encouraging the emergence of competition in the intraLATA toll market on an interim basis; it is hereby

ORDERED NISI, that MCI Telecommunications Corporation, be and hereby is authorized to implement the following tariff changes:

MCI Telecommunications Corp

NHPUC Tariff No.1
Fourth revised Page No. 1
Second Revised Page No. 2
Second Revised Page No. 3

Third Revised Page No. 3.1
Second Revised Page No. 4
First Revised Page No. 25
Original Page No. 25.1
Original Page No. 25.2
First revised Page No. 26
Original Page No. 26.1
Original Page No. 26.2
First Revised Page No. 27
Original Page No. 27.1
First revised Page No. 28
Original page No. 60;
and it is

FURTHER ORDERED, that Execunet and Card Service is to be offered subject to the conditions as specified in NHPUC Order No. 20,041, dated January 21, 1991, in Docket DE 90-108; and it is

FURTHER ORDERED, that pursuant to N.H. Admin.

Rules PUC 203.01, the company cause an attested copy of this Order Nisi to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than March 6, 1992, and is to be documented by affidavit filed with this office on or before March 25, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than the March 23, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective on March 25, 1992, unless the commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-first day of February, 1992.

==========

NH.PUC*02/25/92*[72860]*77 NH PUC 106*GRANITE STATE ELECTRIC COMPANY

[Go to End of 72860]

GRANITE STATE ELECTRIC COMPANY

DR 92-024
ORDER NO. 20,396

77 NH PUC 106

New Hampshire Public Utilities Commission

February 25, 1992

Elimination of Rate D-10 Equipment Charge

On February 7, 1992, Granite State Electric Company (Granite State) filed revised tariff sheets reflecting the elimination of the $1.01 monthly water heater equipment charge under Granite State's Domestic Service D-10 rate; and

WHEREAS, customers currently served under Rate D-10 have the option to have their water heater controlled by Granite State for which the load control metering cost is $1.01 per month; and

WHEREAS, effective July 1, 1991, the Commission approved Granite State's Home Energy Management (HEM) Program that provides a monthly credit to customers who agree to supply Granite State with direct load control of their electric water heaters during times of capacity shortages; and

WHEREAS, Granite State believes that eliminating the equipment charge for D-10 customers will, because HEM program participants pay no load control equipment charge, reduce the likelihood of D-10 customers switching to HEM for water heater control thereby avoiding unnecessary and wasteful conversion costs; and

WHEREAS, the HEM Program is offered to Domestic Service Rate D and Limited Total Electric Living Rate T and not to Domestic Optional Peak Load Pricing Rate D-10; and

WHEREAS, charging Rate D-10 customers a monthly equipment charge for the same service, namely direct load controlled water heating, that Rate D and T customers do not pay for directly, will not further the efficient use of electricity and may promote expensive and unnecessary investment; and

WHEREAS, the problem lies not with Rate D-10, which recovers the water heater control cost from D-10 customers through their monthly metering charge, but in the structure of the HEM Program, whose metering costs all ratepayers absorb as a part of the C&LM factor; and

WHEREAS, the commission has evaluated Granite State's proposal to eliminate the $1.01 monthly customer charge for direct load controlled water heating in Rate D-10; and

WHEREAS, Granite State is presently engaged in a rate design proceeding at the commission; and

WHEREAS, we believe Granite State's proposal may reduce but not eliminate the discrepancy between HEM and D-10; and

WHEREAS, we support cost effective conservation and load management programs; and

WHEREAS, until the cost of the metering can be resolved either in Granite State's rate design proceeding or in the next C&LM proceeding, we find the proposal to be

Page 106

reasonable and in the public good; it is hereby

Ordered Nisi, that Granite State be, and hereby, is authorized to eliminate the $1.01 monthly customer charge for D-10 customers who have direct load control metering effective March 1, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State which operations are proposed to be conducted, such publication to be no later than March 4, 1992, said publication to be documented by affidavit filed with this office on or before March 10, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 14 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order Nisi will be effective March 1, 1992 unless the Commission orders otherwise.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of February, 1992.

==========

NH.PUC*02/25/92*[72861]*77 NH PUC 107*UNION TELEPHONE COMPANY

[Go to End of 72861]

UNION TELEPHONE COMPANY

DR 92-030
ORDER NO. 20,397

77 NH PUC 107

New Hampshire Public Utilities Commission

February 25, 1992

Selective Blocking Service

On February 10, 1992, Union Telephone Company, (the company), filed with the New Hampshire Public Utilities Commission, (commission), a petition seeking approval of its Selective Blocking Service, which enables one party residence and single line business customers to block calls to information services prefixed by a 900 area code, effective March 11, 1992; and

WHEREAS, in the absence of cost support, the staff has recommended and the company has agreed that a non-recurring charge of $ 8.00 should be the only rate associated with each subsequent change in selective blocking service on an interim basis; and

WHEREAS, the company has agreed to file with the commission both an incremental and embedded cost study no later than December 9, 1992; it is hereby

ORDERED, that

Union Telephone Company Tariff NHPUC No 7 Index, Page 9, Second Revision Tariff Check Sheet, Page 1 Part II, Local, Section 6, Page 1, Original Selective Blocking Service

be and hereby are approved; and it is

FURTHER ORDERED, that the company submit a compliance tariff incorporating this change no later than thirty days following the issuance of this order; and it is

FURTHER ORDERED, that the rates for this service be subject to review following the completion of the cost studies in December 1992.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of February, 1992.

==========

NH.PUC*02/26/92*[72862]*77 NH PUC 107*LAKES REGION WATER COMPANY

[Go to End of 72862]

LAKES REGION WATER COMPANY

DR 88-188
ORDER NO. 20,398

77 NH PUC 107

New Hampshire Public Utilities Commission

February 26, 1992

Petition for a Rate Increase Pursuant to Step Adjustment.

On December 2, 1991, Lakes Region Water Company submitted a request for a step increase in rates as authorized in Order Nos. 19,704 and 19,994; and

WHEREAS, the step increase relates to capital additions from September 1, 1988

through February 5, 1991, a time period modified to reflect additions to fixed plant up to the date of September 30, 1991; and

WHEREAS, the step increase also reflects ordinary expenses resulting in increases required by the Safe Drinking Water Act; and

WHEREAS, the Commission staff, in reviewing the plant additions, discovered assets that had been misallocated to one of the Lakes Region Water Company systems; and

WHEREAS, Lakes Region Water Company made a reallocation of those assets to each of the four "systems"; and

WHEREAS, Lakes Region Water Company and the Commission staff have met and resolved the issues relating to the step increase; and

WHEREAS, Lakes Region Water Company filed revised schedules on January 22, 1992 which incorporated the resolved issues; it is

ORDERED, NISI that Lakes Region Water Company is hereby authorized the step increase based on the schedules filed January 22, 1992; and it is

FURTHER ORDERED, that Lakes Region Water Company may increase its revenue by $27,841 (15.58%), effective with all bills rendered after the date of this order; and it is

FURTHER ORDERED, that, pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State which operations are proposed to be conducted, such publication to be no later than March 9, 1992, said publication to be documented by affidavit filed with this office on or before March 27, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 14 days after the date of publication of this Order; and it is

FURTHER ORDERED, that Lakes Region Water Company file annotated compliance tariff pages to give evidence of this step increase.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of February, 1992.

==========

NH.PUC*02/26/92*[72863]*77 NH PUC 108*DAVID BURKE V. HAMPSTEAD AREA WATER COMPANY

[Go to End of 72863]

DAVID BURKE
V.
HAMPSTEAD AREA WATER COMPANY

DC 90-043
ORDER NO. 20,399

77 NH PUC 108

New Hampshire Public Utilities Commission

February 26, 1992

Report and Order Finding for Complainant

Appearances: Peter J. Duffy, Esq., on behalf of David Burke; Stephen J. Noury, on behalf of Hampstead Area Water Company and Eugene F. Sullivan, III, Esq., on behalf of Staff.

REPORT

This docket was opened by complaint filed by David Burke, by and through his attorney, Peter J. Duffy against the Hampstead Area Water Company, Inc. (Hampstead). Mr. Burke alleges that Hampstead unlawfully required a payment of $1,000 to have the water service activated at his condominium, Unit 20 at Tanglewood Condominiums at Hampstead, New Hampshire. Hampstead responds that the $1,000 charge is a Contribution in Aid of Construction pursuant to an agreement with the developer of the condominium, Bruce Nadeau. We find for the complainant, Mr. Burke.

Nadeau Properties (Nadeau) developed the twenty-seven unit Tanglewood Condominium Project in Hampstead, New Hampshire commencing in the mid-to-late 1980's. Lewis Builders (Lewis), owners and operators of the adjacent Hampstead Area Water Company, was contracted by Mr. Nadeau to install the water system for the Tanglewood Condominiums. Lewis negotiated with Nadeau that Nadeau would pay a $1,000 per unit Contribution in Aid of Construction charge to offset the development cost of the system. It was agreed that the $1,000 fee

Page 108

would be paid on the sale of each unit. The first three units sold in August of 1989 and Lewis billed Nadeau for $3,000. Nadeau paid the invoiced amount in full on a bank check drawn on the Rockingham County Trust Company (bank).

When the next three units sold in September, 1989, Lewis again billed Nadeau for $3,000. This amount was not paid because of a pending foreclosure action against the Tanglewood Condominiums by the bank. At the foreclosure auction of the Tanglewood Condominiums on January 23, 1990, Unit 20 was purchased by the complainant, David Burke, and other remaining vacant units were purchased by the bank. The bank then advised Hampstead that it would pay the $1,000 per unit service fee only for those units owned by the bank. Since the foreclosure, other unit owners, including a Mr. Grubb and a Mr. Andrew Lane, submitted payments of $1,000 to Hampstead to receive water.

Lewis asserts that it originally had no intention to own or operate the water system, but rather that it contracted only to construct the system. However, Hampstead's witness testified that its current intent is to collect the $1,000 per unit charge for all twenty-seven units at Tanglewood and to file a franchise petition and rate request with the public utilities commission. The franchise request would be to incorporate Tanglewood Condominiums into the existing franchise held by Hampstead elsewhere in the Town of Hampstead.

Hampstead's assertion that it did not originally intend to be a public utility is not persuasive. Hampstead's witness, Mr. Noury, repeatedly referred to the agreement with the development to pay $1,000 per unit charge as being a "Contribution in Aid of Construction," a term applicable only to the operation of regulated public utilities. Also, Mr. Noury admitted that Hampstead did not previously request a franchise and rate authorization pursuant to RSA 374:22 and RSA 378 because no rates were being charged for the users and that there were not more than ten users on the system. This reasoning is unacceptable.

Lewis operates nine water utilities regulated by the public utilities commission and is

familiar with the rules and regulations governing the operation of public utilities in this state. RSA 362:2 defines a water utility in terms of "furnishing ... water for the public ... ," whether or not rates are charged for said provision of service.[1(8)] RSA 374:22 requires prior commission approval for the construction of utility plant and facilities in an unfranchised area. Also, RSA 378:1 requires that all rates, fares, charges and prices for any service rendered must be on file with the public utilities commission, must be printed and kept open to public inspection.

All public utilities providing service to the public, regardless of the number of customers, are subject to the regulation of the public utilities commission pursuant to RSA 362:2 and 362:4. RSA 362:4, I, provides, in pertinent part, that if the whole of such water ... system shall supply a less number of consumers than ten ... the commission may exempt any such water.company from any and all provisions of this title whenever the commission may find such exemption consistent with the public good," (emphasis added). Unless and until such an exemption is granted, no entity is entitled to construct or operate a public utility without, inter alia, appropriate authorization pursuant to RSA 364:22, RSA 374:22 and RSA 378.

The record indicates that the agreement regarding the $1,000 charge is not in writing and neither Lewis, Hampstead or the developer, Nadeau, had any authority to operate as a public utility or to charge for public utility service.

Hampstead's witness was not even sure how or when Hampstead came to own the Tanglewood water system. There is no written contract or evidence that the water system was indeed transferred from Nadeau, the developer, to Lewis or Hampstead.

At the hearing on the merits of the complaint on April 20, 1990, Hampstead indicated that it would shortly file a request for franchise and rate authority. Said request was filed with the commission on September 20, 1991 in docket DE 91-144. The commission granted the petition for a franchise area and to

charge the same rates previously authorized by this commission for the adjacent Woodland Pond franchise area in the Town of Hampstead that is also operated by the Hampstead Area Water Company, by Order No. 20,320, dated December 4, 1991, and effective January 6, 1992. No proposed tariffs were filed with the petition in docket DE 91-144 and the issue of the $1,000 per unit fee was not addressed in that docket.

Lewis and Hampstead proceeded with this project on the basis of an oral agreement with a developer without making any attempt to protect their interest via a written contract, recorded lien, attachment or some other means. There is no evidence that Lewis appeared at the foreclosure sale or tried to reach agreement regarding the $1,000 fee arrangement with the bank prior to the foreclosure. Lewis attempted no legal action against Nadeau or the bank.

In conclusion, Hampstead did not act reasonably in preserving whatever rights it may have had to the $1,000 per unit charge at the Tanglewood Condominiums. Cumulatively, Hampstead's failure to enter into a written contract with the developer; its failure to protect its interests with appropriate legal actions, filings and recordings; its failure to provide notice to and secure agreements with the bank and with customers such as Mr. Burke prior to the foreclosure sale (or

at the foreclosure sale) and its failure to obtain prior authorizations from the public utilities commission constitute imprudent utility management.

Accordingly, we will order that Hampstead return the $1,000 deposit with interest to Mr. Burke and to other Tanglewood customers similarly situated, including Messrs. Grubb and Lane. Hampstead may seek recovery of these sums from Mr. Nadeau or other appropriate parties through separate legal action, but, because of our finding above regarding imprudence, will not be allowed to recover this sum from its remaining ratepayers.

It appears from the record that only three or four units are affected by this finding. The developer, Mr. Nadeau, paid for the initial three unit charges and the Bank assumed responsibility in writing (Exhibit 1) for all units connected to the Tanglewood water system on behalf of the bank.

Our order will issue accordingly. February 26, 1992

ORDER

Based on the foregoing report, which is incorporated herein, it is hereby

ORDERED, that the Hampstead Area Water Company shall refund the $1,000 fee collected from the complainant and similarly situated customers at the Tanglewood Condominiums, including Messrs. Grubb and Lane, with simple interest at a rate of 8-1/2% per annum; and it is

FURTHER ORDERED, that Hampstead file with the commission an affidavit of compliance with this order on or before March 31, 1992.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of February, 1992.

FOOTNOTES

[1]In fact, RSA 378:14 proscribes the provision of free service by a public utility.

==========

NH.PUC*02/26/92*[72864]*77 NH PUC 111*GRANITE STATE ELECTRIC COMPANY

[Go to End of 72864]

GRANITE STATE ELECTRIC COMPANY

DR 92-014
ORDER NO. 20,400

77 NH PUC 111

New Hampshire Public Utilities Commission

February 26, 1992

Purchased Power Cost Adjustment

On January 20, 1992, Granite State Electric Company (Granite State) filed testimony and exhibits supporting an increase of approximately $1.5 million in their current Purchased Power Cost Adjustment (PPCA); and

WHEREAS, Granite State's January 20, 1992 filing was based on the expected annualized share of increased power costs allocated to Granite State from its wholesale supplier, New England Power Company (NEP), as filed in NEP's W-92 rate proceeding at the Federal Energy Regulatory Commission (FERC); and

WHEREAS, NEP filed for an $81.7 million increase in W-92, of which $42.0 million are increased costs expected to be incurred in the test year, 1992, and the remainder, $39.7 million, are costs attributable to the October 1, 1991 in service date of Ocean State Power (OSP) Project Unit II that currently are being collected through fuel costs; and

WHEREAS, the transfer of OSP Unit II to base rates is already being reflected in Granite State's FAC; and

WHEREAS, the parties in W-92 reached a settlement concerning all issues but one, the treatment of post retirement benefits other than pensions; and

WHEREAS, an Offer of Settlement was filed at the FERC on February 14, 1992; and

WHEREAS, NEP also filed at the FERC on February 14, 1992, a Motion for Interim Rate Reduction based on the W-92(S) rate; and

WHEREAS, the W-92(S) rate reduces Granite State's 1992 annualized purchased power costs by $1,136,133 from those rates originally proposed in W-92; and

WHEREAS, the W-92(S) rate will increase Granite State's PPCA by $0.00056 per kWh, or $0.28 on a typical customer's bill of 500 kWh, over the current PPCA rate of $0.00890 per kWh; and

WHEREAS, the commission has reviewed Granite State's original filing and the supplemental filing based on the W 92 Settlement rate; and

WHEREAS, based on our review we have determined the revised PPCA rate of $0.00056 per kWh reasonable and in the public good; it is hereby

ORDERED NISI, that Granite State be, and hereby, is authorized to change the PPCA rate from $0.00890 to $0.00946 per kWh effective March 1, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State which operations are proposed to be conducted, such publication to be no later than March 4, 1992, said publication to be documented by affidavit filed with this office on or before March 24, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than March 19, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective March 1, 1992 unless the Commission orders otherwise prior to March 24, 1992.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of February, 1992.

==========

NH.PUC*02/26/92*[72868]*77 NH PUC 114*BODWELL WASTE SERVICES CORPORATION

[Go to End of 72868]

BODWELL WASTE SERVICES CORPORATION

DE 91-050
ORDER NO. 20,404

77 NH PUC 114

New Hampshire Public Utilities Commission

February 26, 1992

Petition for Franchise

Appearances: Backus, Meyer & Solomon by Michael E. Ipavec, Esquire for Bodwell Waste Services Corporation; City of Manchester Department of Highways by Thomas Seigle; and Susan Chamberlin, Esquire for the staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On April 17, 1991, Bodwell Waste Services Corporation ("Bodwell" or "company") filed with the New Hampshire Public Utilities Commission ("commission"), a petition to provide sewer service to a limited area of the City of Manchester. The company proposes to collect wastewater within its proposed franchise area and deliver it to the Manchester municipal sewage treatment plant. The company did not request temporary rates. On May 8, 1991, the commission issued an order of notice scheduling a prehearing conference for June 13, 1991.

At the prehearing conference, the City of Manchester Department of Highways, represented by Thomas Seigle, requested intervenor status. Nora Galindo, resident of the proposed franchise area, requested limited intervenor status. The parties and commission staff ("staff") stipulated to a procedural schedule which separated the franchise petition from consideration of rates. By Order No. 20,170 the commission granted the requests for intervention and approved the procedural schedule. On August 2, 1991 Bodwell filed a Motion to Reschedule Hearing. The hearing was then rescheduled for October 10, 1991. Prior to the hearing on the franchise, Nora Galindo moved to withdraw as a limited intervenor. On October 8, 1991 staff filed a Motion to Continue Hearing. The hearing was then rescheduled to November 14, 1991.

The commission held a hearing on November 14, 1991 on the issues of a franchise. The City of anchester did not attend. The company and the staff indicated that they had substantially agreed to enter into a stipulation agreement regarding the proposed franchise, although the agreement was not yet ready to present to the commission for its consideration. The company

and staff indicated that upon its completion, the agreement would be submitted for commission approval.

II. FINDINGS OF FACT

The staff and the parties stipulated to the following:

1) That Bodwell is capable of providing sewage disposal service in an area of the City of Manchester that is not served by the City, including the Hampshire Meadows Development, and the City does not oppose the granting of a franchise to Bodwell;

2) That Bodwell will provide express notice to its current and prospective customers that they will receive separate billings from both Bodwell and the City;

3) That Bodwell will post a Letter of Credit in the amount of $25,000 in a form acceptable to staff to cover one year of operation and maintenance expense and a major repair and overhaul fund should Hampshire Meadows Development Corporation be financially unable to support the utility where revenues do not cover operation and maintenance expenses in the early years before full build-out in the proposed franchise area.

Page 114

The stipulation agreement is attached hereto as Appendix A.

III. COMMISSION ANALYSIS

The commission finds that Bodwell has the financial, managerial and technical expertise to run a sewer utility. In addition, the commission formally accepts Ms. Galindo's request to withdraw her intervention, and the commission grants Bodwell's waiver of the filing requirements provided that the company agrees to comply with the rules to the extent it is able to cooperate fully with staff requests for information as it becomes available. The stipulation agreement between the parties provides for safeguards necessary in the event that revenues in the early years of the project are insufficient to cover operation and maintenance expenses.

Our Order will issue accordingly.

February 28, 1992

ORDER

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

ORDERED, that the stipulation attached hereto as Appendix A is accepted; and it is

FURTHER ORDERED, that the company is granted a franchise to operate sewer utility in that area delineated by the following tax lots: Manchester Tax Map No. 887; Lots 1, 2, 3, 4, 5, 6, 7, 8, and 8A.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of February, 1992.

Page 115

Appendix A Page 1 of 7

Before the STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

In the Matter of:)) DE 91-050 Bodwell Waste Services Corporation)

AGREEMENT

1.0 This agreement is entered into this 13th day of February , 1992 between Bodwell Waste Services Corporation (the "company" or "Bodwell") and the Staff ("staff") of the Public Utilities Commission ("commission"), and the City of Manchester, by its agent, the Manchester Department of Highways for the purposes and subject to the terms and conditions hereinafter stated.

2.0 Introduction. On April 17, 1991 the company filed a petition for authorization to operate a sewage disposal facility. The company did not petition for temporary rates. On May 8, 1991 the commission ordered a prehearing conference to be held on June 13, 1991. On July 10, 1991 the commission issued Order No. 20,170 setting a procedural schedule and accepting the interventions of the City of Manchester, by Thomas Seigle and a resident served by Bodwell, Ms. Nora Galindo.

2.1 On August 12, 1991 at its commission meeting, the commission approved the company's request for a continuance due to the unavailability of its principal, Mr. Paul Cowette. On October 6, 1991, through a secretarial letter, the commission granted staff's request for a continuance due to the company's failure to timely answer staff's data requests. The franchise hearing was held November 14, 1991 at 1:30 p.m.

Page 116

Appendix A Page 2 of 7

2.2 On August 31, 1991, intervenor Ms. Nora Galindo requested to withdraw from the case as she has moved out of the proposed franchise area.

2.3 Through the filing of this testimony, the President of the company petitioned the commission for an exemption from the tariff filing requirements of Chapter 1600 of the commission's Rules and Regulations due to the fact that the company does not yet have the required information as it has not yet engaged in business.

3.0 Franchise. The staff and the parties agree that there is an need for service and that Bodwell is capable of providing that service. Where the proposed sewage disposal service area is within the service territory of the City of Manchester, and the City declines to provide such service, issuing a franchise to Bodwell in accordance with the conditions outlined in this agreement is in the public good. The City of Manchester supports granting the franchise and will continue to bill the owners directly in addition to Bodwell's charges, according to its current ordinance. Pursuant to RSA 374:26 the commission shall grant a utility the right to engage in business as a public utility when it finds that it is in the public good to do so.

3.1 The parties agree that the company will give express notice to its customers that they will be paying the City of Manchester as well as Bodwell Waste Services Corporation for sewage service. The company will send a direct mailing to the customers currently residing in the service territory (a copy

Appendix A Page 3 of 7

of which is attached hereto, and incorporated herein by reference, as (Exhibit A) and include an express statement in the Purchase and Sale Agreements or Leases for new property owners or renters, respectively (copies of which notices appear in Exhibit B attached hereto and incorporated herein by reference).

3.2 The company agrees to post a $25,000.00 Letter of Credit (in form substantially similar to that contained in Exhibit C attached hereto and incorporated herein by reference) to cover one year of operation and maintenance expense and a major repair and overhaul fund should Hampshire Meadows Development Corporation be financially unable to support the operation of the sewer facility. Mr. Cowette, President of both Bodwell and Hampshire Meadows Development Corporation, agrees that Hampshire Meadows will financially support the development where revenues do not cover operation and maintenance expenses in the early years before full build out.

4.0 Conditions. The making of this Agreement shall not be deemed in any respect to constitute an admission by any Party that any allegation or contention in these proceedings is true and valid, and nothing in this Agreement shall have any impact on the final determination of the just and reasonable level for the company's permanent rates.

4.1 This Agreement is expressly conditioned upon the commission's acceptance of all its provisions, without change or condition, and if the commission does not accept it in its entirety, without change or condition, the agreement shall be

Appendix A Page 4 of 7

deemed to be null and void and without effect, and shall not constitute any part of the record in this proceeding nor be used for any other purpose.

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed in their respective names by their agents, each being fully authorized to do so on behalf of the principal.

BODWELL WASTE SERVICES CORPORATION

Dated: 1/10/92 By: Paul Cowette, Pres. /s/

MANCHESTER DEPARTMENT OF HIGHWAYS

Dated: 2/5/92 By:

STAFF OF THE PUBLIC UTILITIES COMMISSION

Dated: 2/13/92 By: Susan Chamberlin /s/

Appendix A Page 5 of 7

EXHIBIT A

NOTICE TO RESIDENTS

Public sewer service is now, or soon will be furnished to your home by two separate providers: the City of Manchester's Public Works Department (hereinafter "City") and Bodwell Waste Services Corporation (hereinafter "Bodwell"). The City operates the local waste water treatment plant, as well as public sewer lines serving much - but not all - of the City of Manchester. Because the City's sewer line does not extend to the Bodwell Road Service area, Bodwell has been created for the specific purpose of operating a sewer line as a public utility, which will link the homes in the Bodwell Road service area to the City's sewer system.

In the days ahead, you will be billed separately for sewer service provided by both the City and Bodwell.

The City will send you its bills on a quarterly basis. The amount of the City's sewer bill will be determined by the quantity of water used by, or attributed to your home. A typical quarterly bill for sewer service provided by the City of Manchester might be in the range of $25 to $30.

Although Bodwell has not yet been authorized by the Public Utilities Commission to charge you for its services, Bodwell anticipates that it will receive this authorization by April of 1992. If so, Bodwell will, thereafter, bill you for sewer service on a quarterly basis. It is estimated that the amount of Bodwell's quarterly bill will be $25 to $30. The bill of Bodwell will be separate from and in addition to the bill from the City.

In the event you wish to obtain any additional information in connection with the matters outlined in this notice, you may contact the Consumer Assistance Department of the New Hampshire Public Utilities Commission at 1-800-852-3793.

Appendix A Page 6 of 7

EXHIBIT B

NOTICE AS TO SEWER SERVICE

The property you are bout to purchase or lease will receive public sewer service from two separate entities: the Public Works Department of the City of Manchester (hereinafter the "City") and the Bodwell Waste Services Corporation (hereinafter "Bodwell"). You will be billed separately by the City and by Bodwell for their services.

The bills of the city will be based upon the amount of water used by, or attributed to your household. Although the exact amount of the City's sewer bills to you will vary, it is estimated that you will receive a bill in the range of $25 to $30 quarterly.

Bodwell will also bill you on a quarterly basis for sewer service. The amount of its bills will be determined by the Public Utilities Commission and may change from time to time. At this time, it is estimated that Bodwell will send you quarterly bills in the approximate amount of $25 to $30.

In the event you wish to obtain any additional information in connection with the matters outlined in this notice you may contact the consumer Assistance Department of the New Hampshire Public Utilities Commission at 1-800-852-3793.

Appendix A Page 7 of 7

First NH International 1000 Elm Street JANUARY 10, 1992 Manchester, NH 03101 USA PUBLIC UTILITIES COMMISSION ORIGINAL Telephone (603) 644-6497 8 OLD SUNCOOK ROAD FAX (603) 644-6476 CONCORD, NH 03301-5185 Telex 6817575 FSTNHMER A Division of First NH Bank, N.A. STANDBY LETTER OF CREDIT NUMBER S204210

DEAR SIRS:

WE HEREBY ESTABLISH IN YOUR FAVOR OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER S204210, BY ORDER AND FOR ACCOUNT OF HAMPSHIRE MEADOWS DEVELOPMENT CORP., 1791 BODWELL ROAD, MANCHESTER, NH 03109, FOR A SUM OR SUMS NOT EXCEEDING A TOTAL OF US DOLLARS 25,000.00 (TWENTY FIVE THOUSAND U.S. DOLLARS), VALID AT OUR COUNTERS UNTIL DECEMBER 31, 1992, AVAILABLE BY YOUR DRAFTS AT THREE DAYS SIGHT, DRAWN ON US, ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

*THE ORIGINAL OF THIS LETTER OF CREDIT

*AN ORIGINAL AFFIDAVIT, PURPORTEDLY SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF THE PUBLIC UTILITIES COMMISSION, STATING THAT HAMPSHIRE MEADOWS DEVELOPMENT CORPORATION HAS DEFAULTED IN ITS DUTY TO PAY (I) ALL EXTRAORDINARY EXPENSES (UP TO A TOTAL OF FIVE THOUSAND ($5,000.00) DOLLARS) RELATED TO THE PHYSICAL FAILURE OF ANY PORTION OF A SEWER SYSTEM PRESENTLY OWNED BY HAMPSHIRE MEADOWS DEVELOPMENT CORPORATION, BUT TO BE TRANSFERRED TO A NEWLY FORMED PUBLIC UTILITY KNOWN AS BODWELL WASTE SYSTEMS CORPORATION, OR (II) ALL REGULAR MAINTENANCE AND OPERATING EXPENSES (UP TO A TOTAL OF TWENTY THOUSAND ($20,000.00) DOLLARS) OF THE SAID BODWELL WASTE SERVICES CORPORATION, NOT OTHERWISE PAID BY BODWELL WASTE SERVICES CORPORATION FROM REVENUES RECEIVED FROM ITS CUSTOMERS, OR (III) BOTH (I) AND (II) ABOVE.

*A STATEMENT, PURPORTEDLY SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF THE PUBLIC UTILITIES COMMISSION, INDICATING THE AMOUNT DUE AS THE RESULT THE RESULT OF HAMPSHIRE MEADOWS DEVELOPMENT CORPORATION'S DEFAULT.

DRAFTS DATED PRIOR TO THE ISSUANCE DATE OF THIS CREDIT ARE NOT ACCEPTABLE.

PARTIAL DRAWINGS ARE ALLOWED.

EACH DRAFT MUST BEAR UPON ITS FACE THE CLAUSE "DRAWN UNDER LETTER OF CREDIT NUMBER S204210 OF FIRST NH INTERNATIONAL, A DIVISION OF FIRST NH BANK, N.A., MANCHESTER, NEW HAMPSHIRE."

WE HEREBY UNDERTAKE THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WILL BE DULY HONORED, IF PRESENTED AT OUR COUNTERS ON OR BEFORE DECEMBER 31, 1992.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS, 983 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION 400.

YOURS FAITHFULLY,

MCQUADE FERRIN /s/

==========

NH.PUC*02/27/92*[72865]*77 NH PUC 112*CONNECTICUT VALLEY ELECTRIC COMPANY INC.

[Go to End of 72865]

CONNECTICUT VALLEY ELECTRIC COMPANY INC.

DR 92-008
ORDER NO. 20,401

77 NH PUC 112

New Hampshire Public Utilities Commission

February 27, 1992

Petition to Increase Short Term Debt

WHEREAS, Connecticut Valley Electric Company, Inc. (the "company" or "CVEC") Pursuant to RSA 369:7 filed with this commission on January 13, 1992 a petition to increase short term Debt Limit; and

WHEREAS, the company states that the additional short term debt is required to meet temporary working capital needs resulting from the company's growth and from the introduction of seasonal rates in the Connecticut Valley service territory which will produce revenue flow not in synchronization with cash flow requirements; and

WHEREAS, the company's current authorization short term debt limit is $650,000 and the company requests that this short term debt limit be increased to $1,000,000 for the next 12 months; and

WHEREAS, the company has a short term note for $1,000,000 with the Bank East Division of First New Hampshire Bank with a limit of $600,000 unless the waiver of the amount is approved by the New Hampshire Public Utilities Commission; and

WHEREAS, the company states that the short term note is a demand note issued December 20m 1991 with a floating interest rate equal to Bank of Boston's base rate; it is hereby

ORDERED, that the New Hampshire Public Utilities Commission, pursuant to RSA 369:7, finds that the increase in short term debt limit of $650,000 to $1,000,000 as proposed in the petition is consisten with the public good; and it is

FURTHER ORDERED, that the $1,000,000 short term debt level will remain in effect until February 28, 1993; and it is

FURTHER ORDERED, that Connecticut Valley Electric Company, Inc. shall on January first and July first of each year, file with this commission a detailed statement, duly sworn by its Treasurer, showing the disposition of the proceeds of such note; and it is

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of February, 1992.

==========

NH.PUC*02/27/92*[72866]*77 NH PUC 112*ENERGYNORTH NATURAL GAS, INC.

[Go to End of 72866]

ENERGYNORTH NATURAL GAS, INC.

DR 91-212
ORDER NO. 20,402

77 NH PUC 112

New Hampshire Public Utilities Commission

February 27, 1992

Suspension Of Tariffs

On January 31, 1992, EnergyNorth Natural Gas, Inc. (ENGI), filed with the New Hampshire Public Utilities Commission, (Commission), a revision to tariff NHPUC No. 1 Gas; and

WHEREAS, a thorough investigation is necessary prior to rendering a decision thereon; it is hereby

ORDERED, that proposed tariff pages;

Twelfth Revised Page 2,

Original Page 2A,

Twelfth Revised Page 3,

Original Page 3A

Original Page 3B

Original Page 3C

Thirteenth Revised Page 4

Original Page 4A

Original Page 4B

Original Page 4C

Twelfth Revised Page 6

be and hereby are suspended pending further investigation and decision.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of February, 1992.

==========

NH.PUC*02/27/92*[72867]*77 NH PUC 113*NEW ENGLAND TELEPHONE COMPANY, INC.

[Go to End of 72867]

NEW ENGLAND TELEPHONE COMPANY, INC.

DR 92-017
ORDER NO. 20,403

77 NH PUC 113

New Hampshire Public Utilities Commission

February 27, 1992

Digital Centrex Special Contract with McLane, Graf, Raulerson and Middleton

---

On January 21, 1992, New England Telephone,(NET or the company) petitioned for commission approval of a seven year special contract to provide McLane, Graf, Raulerson and Middleton with Digital Centrex service with both Exchange Access and System and Centrex features; and

WHEREAS, the accompanying cost support uses the same methodology provided in the New Hampshire Special Contract for Centrex service, which was approved by the commission on December 12, 1988 by Order No. 19,260, in Docket DR 88-172 (72 NHPUC 506); and

WHEREAS, the company has not yet filed a tariff, or the accompanying incremental cost support for ISDN Service in the State of New Hampshire; and

WHEREAS, the commission found in Re New England Telephone & Telegraph Co., 72 NH PUC 293 (1987) that while the company had met its burden of proof that the proposed rates covered the costs of the proposed services, the commission would reserve judgement on whether the methodology used in DR 86 236 was the most appropriate method for determining NET's costs of service until completion of the NHPUC investigation into NET's costs of service; and

WHEREAS, the company chose to omit a re-examination of the costs of Centrex service when submitting its incremental cost study in DR 89-010, in its Report and Order No. 20,082

dated March 11, 1991, and the commission has required that NET include an analysis of the incremental costs of Centrex service when filing its updated Incremental Cost Study in 1993; and

WHEREAS, McLane, Graf, Raulerson and Middleton have available competitive substitutes for Centrex service in the form of customer owned private branch exchanges; and

WHEREAS, it is likely that the service that is the subject of this special contract will fall under the heading of an emergingly competitive service which, pursuant to Order No. 20,149, dated June 10, 1991, will receive more relaxed regulatory treatment and pricing flexibility; it is hereby

ORDERED NISI, that New England Telephone's Special Contract with McLane, Graf, Raulerson and Middleton be and hereby is approved; and it is

FURTHER ORDERED, that the rates for this contract be subject to review following the completion of the updated NET Incremental Cost Study to be supplied in 1993; and it is

FURTHER ORDERED, that the parties are hereby put on notice that if review of the Incremental Cost Study and subsequent discovery indicates that the rates are below their incremental costs, the commission may review the contract and after adequate opportunity for the parties to be heard, take appropriate action which may include modification or withdrawal of approval; and it is

FURTHER ORDERED, that any subsequent ISDN petition whether submitted in the form of a special contract or tariff filing be accompanied by service specific ISDN incremental cost studies which do not rely on any former Centrex cost analysis; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, the Company cause an attested copy of this Order NISI to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than March 9, 1992, and it is to be documented by affidavit filed with this office on or before March 30, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than March 24, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective on March 30, 1992, unless the commission provides otherwise in a

supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of February, 1992.

==========

NH.PUC*03/02/92*[72869]*77 NH PUC 123*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICES COMPANY

[Go to End of 72869]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICES COMPANY

DR 91-119
ORDER NO. 20,406

77 NH PUC 123

New Hampshire Public Utilities Commission

March 2, 1992

Order on Joint Motion for Dismissal of Proceeding and for Summary Approval of Revised Seabrook Power Contract

---

WHEREAS, on February 7, 1992, Public Service Company of New Hampshire (PSNH), Northeast Utilities Services Company (NUSCO) and the Office of the New Hampshire Attorney General (AG) filed a Joint Motion for Dismissal of Proceeding and for Summary Approval of Revised Seabrook Power Contract; and

WHEREAS, this docket was originally opened on the motion of the commission to establish whether conditions imposed by the Federal Energy Regulatory Commission (FERC) in Northeast Utilities Service Co., Opinion No. 364, 56 FERC 61,269 (1991) in its approval of the proposed PSNH/NU merger...affect materially the balancing of risks and benefits inherent in the rate plan approved by this commission in docket DR 89-244 (rate plan), and, if so, what, if any, actions should be undertaken by the commission; and

WHEREAS, on January 29, 1992, the FERC issued its amended decision, on rehearing, in Northeast Utilities Service Co., Opinion No. 364-A, 58 FERC 61,070 (1992) removing to the commission's satisfaction any conditions which could materially affect the balance and risks and benefits inherent in the rate plan; and

WHEREAS, the parties concur with the Joint Motion to Dismiss with the exception of Ms. Shelley Nelkens, who indicated her nonconcurrence but did not file an objection citing the reasons for her nonconcurrence; it is hereby

ORDERED, that the Joint Motion to Dismiss and for Summary Approval of the Revised Seabrook Power Contract is granted.

By order of the New Hampshire Public Utilities Commission this second day of March, 1992.

==========

NH.PUC*03/09/92*[72870]*77 NH PUC 123*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72870]

NEW ENGLAND TELEPHONE COMPANY

DR 91-105
ORDER NO. 20,407

77 NH PUC 123

New Hampshire Public Utilities Commission

March 9, 1992

Order on Staff's Motion to Compel Response to Data Request and Motion to Extend Deadline for Filing Testimony by Leszek Stachow

---

The Staff of the New Hampshire Public Utilities Commission (staff), having filed on March 4, 1992 a Motion to Compel Response to Data Request and Motion to Extend Deadline for Filing Testimony by Leszek Stachow; and

WHEREAS, Staff testimony is currently due on March 6, 1992, the date hereof; and

WHEREAS, the ten day period as mandated by N.H. Admin. Rule Puc 203.04(c) for the parties to respond to staff's Motion will not terminate until March 14, 1992; it is hereby

ORDERED, that staff's Motion to Extend the Deadline for the Filing of Testimony by Staff Witness Leszek Stachow is granted until ten days after receipt of the requested information or until ten days after the commission acts on staff's Motion to Compel; and it is

FURTHER ORDERED, that the remaining relief requested by staff in its Motion to Compel will be addressed by the commission at its first commission meeting following the end of the ten day objection period.

By order of the New Hampshire Public Utilities Commission this ninth day of March, 1992.

==========

NH.PUC*03/10/92*[72871]*77 NH PUC 124*Oliver's Bakery & Restaurant, Inc.

[Go to End of 72871]

Oliver's Bakery & Restaurant, Inc.

DE 92-034
Order No. 20,408

77 NH PUC 124

New Hampshire Public Utilities Commission

March 10, 1992

ORDER NISI granting authorization for a sewer main crossing of state-owned railroad property in the Town of Tilton.

WHEREAS, on February 25, 1992 Oliver's Bakery & Restaurant, Inc. (petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under

RSA 371:17 to construct, use, maintain, repair and reconstruct a sewer main across state-owned railroad property in the Town of Tilton, New Hampshire; and

WHEREAS, the sewer main is proposed to serve the petitioner's restaurant and adjacent jewelry store at the intersection of Routes 3 and 132 in Tilton, with provision made for extension to additional parties in the future; and

WHEREAS, the proposed sewer consists of 160 feet of 6-inch service lateral and 715 feet of 12-inch gravity main, the last 20 or so feet of which enters state railroad property to tie into an existing state-owned 60-inch interceptor sewer, all as shown on plans on file with the Commission; and

WHEREAS, the proposed crossing of railroad property occurs at approximate Valuation Station 1053+79, Map V21/55 of the Concord-to-Lincoln Railroad; and

WHEREAS, the only other private property affected is that of Pike Industries, Inc., from which the petitioner intends to obtain a easement; and Inc., from which the petitioner intends to obtain an easement; and

HWEREAS, the Commission finds the above construction is necessary to meet the reasonable requirements of the petitioner without substantially affecting the public rights in said state property, thus it is in the public good; and

WHEREAS, the petitioner represents and staff has confirmed that the NHDOT Bureau of Railroads is in agreement with this petition; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than April 2, 1992; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Tilton area, said publications to be no later than March 25, 1992. In addition, pursuant to RSA 541-A:22, the petitioner shall serve a copy of this order to the Tilton town clerk, by first class U.S. mail, postage prepaid, and postmarked on or before March 25, 1992. Compliance with these notice provisions shall be documented by affidavit(s) to be filed with the Commission or or before April 2, 1992; and it is

FURTHER ORDERED, NISI that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Oliver's Bakery & Restaurant, Inc., RR #2, Box 399B, Tilton, New Hampshire 03276 to construct the aforementioned crossing of a sewer main on public railroad property in Tilton, New Hampshire identified at approximate Valuation Station 1053+79, Map V21/55, effective April 3, 1992 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that such license is conditional upon the petitioner providing this Commission with copies of approval letters from the Town of Tilton and the Department of Environmental Services and of a signed easement from Pike Industries, Inc.; and it is

FURTHER ORDERED, that all construction conform to requirements of the NHDOT Bureau of Railroads, the Department of Environmental Services and other applicable codes mandated by the Town of Tilton; and it is

FURTHER ORDERED, that prior to hookup of any other users to the proposed

Page 124

sewer, the petitioner or any future owner shall submit to this Commission for required review and approval details including drawings and a description of any proposed charges or hookup fees, until such time as the sewer is turned over to the town of Tilton.

By order of the New Hampshire Public Utilities Commission this tenth day of March, 1992.

==========

NH.PUC*03/11/92*[72872]*77 NH PUC 125*PENNICHUCK WATER WORKS, INC.

[Go to End of 72872]

PENNICHUCK WATER WORKS, INC.

DE 92-046
ORDER NO. 20,409

77 NH PUC 125

New Hampshire Public Utilities Commission

March 11, 1992

Request for Waiver of N.H. Admin. Rule Puc 201.05

Pennichuck Water Works (PWW), having filed on March 4, 1992, Form E-22, pursuant to N.H. Admin. Rule Puc 609.07, for relocation of certain water works facilities in East Spit Brook Rd. in Nashua, New Hampshire; and

WHEREAS, PWW requests a waiver of the thirty day notification provision of N.H. Admin. Rule Puc 201.05, asserting that the New Hampshire Department of Transportation requires that construction commence prior to the expiration of the thirty day notice period; and

WHEREAS, PWW is required under New Hampshire Law to ensure that the work performed in this matter is consistent with its approved tariffs on file with this commission and any resultant expenditures by PWW are at PWW's own risk, subject to possible commission review in subsequent rate proceedings; it is hereby

ORDERED, that PWW's request for waiver of N.H. Admin. Rule Puc 609.07 is granted pursuant to N.H. Admin. Rule Puc 201.05.

By order of the New Hampshire Public Utilities Commission this eleventh day of March, 1992.

==========

NH.PUC*03/11/92*[72873]*77 NH PUC 125*EASTMAN SEWER COMPANY, INC.

[Go to End of 72873]

EASTMAN SEWER COMPANY, INC.

DR 90-170
ORDER NO. 20,410

77 NH PUC 125

New Hampshire Public Utilities Commission

March 11, 1992

Rate Case Expenses

Appearances As previously noted.

REPORT

I. PROCEDURAL HISTORY

On February 19, 1992, the Commission issued Report and Order No. 20,390 establishing a revenue requirement for Eastman Sewer Company, Inc. ("Eastman" or the "company") which included a detailed procedural history. This Supplemental Order addresses recovery of rate case expenses.

II. POSITION OF THE PARTIES

Eastman Sewer Company

Eastman is requesting that $70,702 be charged to the ratepayers for rate case expenses. In the company's closing brief Atty. Marshall stated that the expenses were unusually high for two reasons:

> First, this is the first rate case for the Company and therefore all items of expense revenue, plant etc. had to be established, and established from company and CEC records up to 20 years old. Secondly, when Staff recommended exclusion of about all of the sewer system facilities costs, the Company was required to expend substantial effort to prepare a case that would meet the Company's burden of

> showing that, notwithstanding the tax accounting treatment of the sewer systems costs by CEC, in fact CEC has never recovered those costs from Sewer Company Customers.
>
> (Brief of Eastman Sewer Company, Inc. at 40.)

The company proposed a four year recoupment period.

Eastman Sewer Committee

David Springsteen, an intervenor and representative of the Eastman Sewer Committee, wrote to the Commission on January 9, 1992, stating that, "for the ratepayer to shoulder these legal and accounting costs is unfair and unjust." The letter continues:

> If it had not been for the unreasonable position of Eastman Sewer Company's owner, the case would have been simple and straightforward, the request would have been only a fraction of the amount requested, our opposition probably would have been passive, and the legal and accounting costs would have been only a small fraction of what is now being requested...If it is the practice of the Commission to allow expenses associated with rate cases to be recovered in revenues, we do not believe this practice should be allowed to extend to permitting utility owners or stockholders pursuing reckless, unreasonable or frivolous cases without regard to cost, and without any risk of having to pay the legal and other costs.

Staff

The staff of the New Hampshire Public Utilities Commission ("staff") reviewed the detail of rate case expenses provided by Eastman. Staff acknowledges that rate case expenses are quite high but after a careful review of the rate case expense billing detail did not find specific grounds for recommending a disallowance. Due to the difficulties involved in preparing the company's first rate case and the complex issues in the case staff recommends allowing a complete pass through of legal expenses. Staff recommends a six year amortization period to ameliorate the impact on rates.

III. COMMISSION ANALYSIS

Rate case expenses may be disallowed if unreasonably incurred, undue in amount, or chargeable to other accounts. Lakes Region Water Co. 75 NH PUC 89 (1990). See State v Hampton Water Works Co. 92 NH 278 (1941) at 296.

In this case the Eastman Sewer Committee makes the argument that the legal expenses are undue in amount because of the frivolous nature of the company's original petition for rates. Although the company was not successful in its rate request, the record does not support a finding that the company made its filing in bad faith. And although the legal expenses are undoubtedly high in comparison to the capital structure of the company, the staff did not uncover costs that were patently unreasonable or chargeable to other accounts. The Commission accepts the company's explanation that expenses related to the first rate case after more than fifteen years of operation are unusual and account for the high expenses. Therefore the Commission accepts staff's recommendation that the $70,702 legal expenses be surcharged to the ratepayers. To lessen the impact on rates we accept a six year amortization period.

Our Order will issue accordingly.

March 11, 1992

SUPPLEMENTAL ORDER

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

ORDERED that the company will surcharge $70,702 of rate case expenses over a period of six years; and it is

FURTHER ORDERED that the company shall file an accounting of the rate case expense

surcharge on a yearly basis.

By Order of the Public Utilities Commission of New Hampshire this eleventh day of March, 1992.

==========

NH.PUC*03/12/92*[72874]*77 NH PUC 127*ECI TELEPHONE COMPANY, INC.

[Go to End of 72874]

ECI TELEPHONE COMPANY, INC.

DE 91-133
ORDER NO. 20,413

77 NH PUC 127

New Hampshire Public Utilities Commission

March 12, 1992

Revocation of Authorization to Provide Customer-Owned Coin Operated Telephone Service and Imposing Fine

---

REPORT

ECI Telephone Company, Inc. (ECI), by and through its registered agent, John Buczynski, President of ECI, was granted authorization to provide Customer-Owned, Coin Operated Telephone (COCOT) service on May 13, 1988. This docket was opened by Order No. 20,241, dated September 11, 1991, on the recommendation of the staff of the New Hampshire Public Utilities Commission (staff). ECI did not reply to staff inquiries relating to various investigations into customer complaints regarding maintenance, service quality and inability to contact ECI's designated agent, John Buczynski, to correct deficiencies experienced by the owners of various premises on which ECI COCOTs are located. ECI was also investigated by staff for allegedly charging rates above those authorized by this commission. ECI did not respond to a staff inquiry in this regard by letter dated April 9, 1991. ECI was also charged by staff with not filing its Annual Report, Form F-29, in violation of N.H. Admin. Rule Puc 408.13 for the year 1990. Staff represented to the commission that it attempted on numerous occasions to contact Mr. Buczynski by telephone but he could not be reached at the telephone number he had registered with the commission.

Because of the allegations against ECI and because of ECI's non-responsiveness to staff, inquiries regarding said allegations, Order No. 20,241 was issued by the commission requiring that ECI, its officers, specifically, John Buczynski, and agents appear before the commission at 9:00 a.m. on October 3, 1991 for the purpose of showing cause why ECI's authority to provide

COCOT service should not be revoked pursuant to N.H. Admin. Rule Puc 408.18 and to show cause why ECI, its officers and agents should not be fined or brought before the Attorney General for criminal prosecution in accordance with RSA 365:41 or RSA 365:42. Notice was provided to ECI by certified mail, return receipt requested to the last known address on file with the commission and to the agent listed with the Secretary of State and with this commission as their authorized agent for service, John Buczynski. The show cause notice was also published in the Manchester Union Leader on September 14, 1991. The certified mail was returned marked, "undeliverable as addressed, box closed, unable to forward."

No one appeared for ECI at the show cause hearing on October 3, 1991. Appearances were filed by Attorney Eugene F. Sullivan, III, for the New Hampshire Public Utilities Commission; Jill Wurm for New England Telephone Company; Steve Mazur of Mazur's Home Center in Northfield, New Hampshire; and Tom Neftor, owner of the Tilton Depot in Tilton, New Hampshire. Messrs. Mazur and Neftor house two ECI COCOTs each on their respective premises. Staff witness, Kathryn M. Bailey, Telecommunications Engineer for the Public Utilities Commission, testified that ECI is a dually franchised COCOT operator in the State of New Hampshire. Ms. Bailey testified as to several complaints received by the commission's engineering department regarding ECI operations. The proprietor of Wayne's Market of North Woodstock, New Hampshire complained that the ECI COCOT on his premises has been out of service for more than two weeks and he has been unable to reach ECI at the prescribed telephone number

Page 127

for service calls. (Exhibit 1)

A second complaint was received from Steven E. Mazur, Sr., of Mazur's Home Center, who was present at the show cause hearing. Mr. Mazur complained that ECI has not maintained its COCOTs on his premises, had been unreachable by telephone or by mail for service, and has failed to make payments to reimburse expenses incurred on ECI's behalf by Mr. Mazur for the use of electrical power and property space. (Exhibits 2 and 3)

Mr. Neftor, who appeared at the hearing also complained to Ms. Bailey of ECI's lack of maintenance of its COCOTs on his premises.

Ms. Bailey received a complaint from Wilson's Mobile Station in North Woodstock, New Hampshire, alleging that ECI had physically removed its COCOT from his premises without disconnecting ECI's telephone service to the local telephone company. The commission's Consumer Assistance Department also received a complaint from an ECI customer who alleged being overcharged substantially by ECI for toll calls. The commission's Consumer Assistance Department attempted to contact Mr. Buczynski by telephone and by letter mailed on April 9, 1991. There was no answer at the designated telephone number nor was there a response by Mr. Buczynski to the April 9, 1991 correspondence. Ms. Bailey affirmed that she repeatedly attempted to contact Mr. Buczynski at the phone number listed on ECI's COCOT application on file with the commission which was submitted by Mr. Buczynski and approved by the commission in granting ECI's authority to provide COCOT service. Although Ms. Bailey left numerous messages over a period of several months for Mr. Buczynski to return her calls, he did

not do so. On or about the end of July, 1991, Ms. Bailey called the same phone number and the phone rang once and went dead. On investigation, Ms. Bailey was informed by his answering service that they are no longer taking his calls and that they were no longer able to get in touch with him.

Staff asserts that ECI violated a number of its obligations under its certificate to operate as a COCOT. ECI failed to maintain or provide service as mandated under their certificates, failed to disconnect telephone lines once service was removed and failed to properly notify the commission of its action. ECI failed to keep the commission informed of the whereabouts and telephone numbers of their officers and agents. Failure to specify an accurate address and telephone number at which ECI can be reached violates, inter alia, N.H. Admin. Rule 408.15. Fifteen of the seventeen ECI COCOTs in New Hampshire have been disconnected by New England Telephone Company (NET) for nonpayment of amounts due NET. Until ECI officially disconnects its telephone service from those locations where pay phones have been removed, the pay phones cannot be replaced. ECI also failed to file its Annual Report, Financial Form F-29, for 1990, in violation of N.H. Admin. Rule Puc 408.13. ECI failed to file this report although they were sent a reminder by the NHPUC Consumer Assistance Division by letter dated December 14, 1990, that the report is due. (Exhibit 4) The report was due on March 29, 1991 and had not been filed as of the date of the show cause hearing.

Regarding the allegations that ECI overcharged its customers, Ms. Bailey testified that N.H. Admin. Rule Puc 408.08 authorizes COCOT owners to charge NET's authorized toll rates plus a twenty percent surcharge. The staff investigation indicated that ECI substantially and regularly overcharged its customers. (Exhibit 5) In the five calls analyzed by staff, the following resulted:

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

	AUTHORIZED NET RATES	ACTUAL COCOT RATES	CALL # ECI CHARGE
No. 1	.64	.70	2.83
No. 2	1.03	1.17	3.45
No. 3	.67	.73	2.82
No. 4	2.18	2.55	7.05
No. 5	.64	.70	3.04

Source: Exhibit 5, docket DE 91-133

Staff further alleged that ECI violated N.H. Admin. Rule Puc 408.19 in that ECI failed to notify the commission of termination of service.

In conclusion, the staff recommended that

Page 128

the commission revoke ECI's authorization to operate COCOTs pursuant to N.H. Admin. Rule Puc 408.18 and authorize the premises owners to remove the service from customer locations served by ECI so that the COCOTs may be replaced by other pay phones. Staff further recommended that the commission impose a $2,500 fine on ECI and Mr. Buczynski because of the nature of the offense. ECI abandoned service, failed to maintain its telephones in usable condition and otherwise failed to meet its obligations under the statutes and regulations governing COCOT operations in New Hampshire.

At the conclusion of the hearing, Mr. Mazur requested that the ECI phones be removed from the premises and that they constitute a public nuisance and make it difficult to connect new pay telephone service. We agree with staff's analysis and recommendations. We also agree with Mr. Mazur that it would be in the public interest for the ECI telephones to be removed from the premises. Since ECI cannot be reached, we will authorize the premise owners to remove any ECI telephones that remain on customer premises in this state and dispose of them as they deem appropriate. Our order will issue accordingly. Concurring March 12, 1992

ORDER

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

ORDERED, that all authority previously granted by the commission for ECI to provide COCOT service in the state of New Hampshire is hereby revoked; and it is

FURTHER ORDERED, that the premise owners are authorized to remove ECI COCOTs from their premises for disposition as they deem appropriate; and it is

FURTHER ORDERED, that John Buczynski, as President and Agent of ECI Telephone Company, Inc., shall pay a civil penalty in the amount of $2,000 to this commission pursuant to RSA 365:42; and it is

FURTHER ORDERED, that ECI Telephone Company, Inc. pay a civil penalty in the amount of $1,000 pursuant to RSA 365:41; and it is

FURTHER ORDERED, that NET disconnect any remaining Public Access Line service subscribed to by ECI or John Buczynski in the state of New Hampshire.

By order of the New Hampshire Public Utilities Commission this twelfth day of March, 1992.

==========

NH.PUC*03/13/92*[72875]*77 NH PUC 129*RESORT WASTE SERVICES CORPORATION

[Go to End of 72875]

RESORT WASTE SERVICES CORPORATION

DR 91-032
ORDER NO. 20,414

77 NH PUC 129

New Hampshire Public Utilities Commission

March 13, 1992

Show cause order.

On January 16, 1992, the commission received a letter from the New Dartmouth Bank, agent of the Federal Deposit Insurance Corporation (FDIC), stating that Resort Waste Services Corporation (Resort Waste), a not-for-profit franchised public sewer utility under this

commission's jurisdiction, had been dissolved as a corporation by the State in February of 1991; and

WHEREAS, the commission has previously dealt with the precarious financial position of Resort Waste in Docket DR 90-035, which resulted in a stipulation by which Dartmouth Bank would infuse capital into Resort Waste to insure its financial integrity; and

WHEREAS, the FDIC has recently taken action relative to Dartmouth Bank resulting in the formation of the New Dartmouth Bank calling into question the continued infusion of capital into Resort Waste;

WHEREAS, Order No. 20,392 was issued setting an appearance date on the first day of April, 1992; and

WHEREAS, there has since developed a scheduling conflict with the first day of April, 1992 date; it is hereby

Page 129

ORDERED, the former officers and agents of Resort Waste, in particular, Robert Satter and Patrick DiSalvo, and its current management company, Crawford Management Group, appear at the commission offices at 8 Old Suncook Road, Concord, New Hampshire on the second day of April, 1992, at ten o'clock in the forenoon, pursuant to RSA 374:4 to inform the commission of the financial, managerial and technical competence of the current utility operations and to show cause why the utility should not be placed in receivership to ensure its continued viability; and it is

FURTHER ORDERED, the public should be offered an opportunity to respond in support or in opposition of any commission action; and it is

FURTHER ORDERED, that Resort Waste Services Corporation give notice of this proceeding by mailing a copy of this order first class mail to each of its customers, postmarked no later than March 19, 1992; and it is

FURTHER ORDERED, that the Executive Director and Secretary of the Public Utilities Commission effect said notification by publication of an attested copy of this order once in the Littleton Courier and once in the Manchester Union Leader, such publication to be no later than March 19, 1992, and designated in an affidavit to be made on a copy of this order and filed with this office on or before April 2, 1992.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of March 1992.

==========

NH.PUC*03/18/92*[72876]*77 NH PUC 130*GRANITE STATE ELECTRIC

[Go to End of 72876]

GRANITE STATE ELECTRIC

DR 91-096
ORDER NO. 20,415

77 NH PUC 130

New Hampshire Public Utilities Commission

March 18, 1992

RE: Franchise Tax-Electric Utilities Order Approving Tax Allocation

---

Appearances: David J. Saggau, Esq. for Granite State Electric Co.; Amy L. Ignatius, Esq. for the staff of the New Hampshire Public Utilities Commission.

REPORT

I. INTRODUCTION

On September 3, 1991, the New Hampshire Public Utilities Commission (commission) issued Report and Order No. 20,230 ("Order No. 20,230") in this case implementing new legislation regarding the franchise tax related to electric utilities, RSA 83-C, and the effect of the enactment of the nuclear property tax, RSA 83-D, on the tax liabilities of utilities as a result of the changes. See also, 1991 Laws 354:1. On September 15, 1991, Granite State Electric Company ("Granite State" or "company") filed a petition for rehearing of Order No. 20,230. The company sought rehearing of the commission's denial of the treatment proposed by the company for the reconciliation of its offsetting franchise tax, nuclear property tax and business profits tax liabilities. In Order No. 20,264 (October 4, 1991) the commission granted Granite State's motion and scheduled a hearing for December 5, 1991.

II. BACKGROUND

Granite State is a subsidiary of the New England Electric System ("NEES"). NEES is a registered holding company under the Public Utility Holding Company Act of 1935 [cite]. Another NEES subsidiary is the New England Power Company ("NEP"), a generation and transmission utility which sells electricity at wholesale pursuant to tariffs established by the

Federal Energy Regulatory Commission ("FERC"). NEP's customers include inter alia NEES' distribution subsidiaries, which are Granite State in New Hampshire, Massachusetts Electric Company in Massachusetts and Narragansett Electric Company in Rhode Island.

NEP is a joint owner of Nuclear Station Property as defined in RSA 83-D:2. That property is located in Seabrook, New Hampshire. NEP is accordingly subject to the nuclear property tax. RSA 83-D:3. Granite State, as a New Hampshire corporation, is subject to the New Hampshire Business Profits Tax ("BPT"). RSA 77-A. Pursuant to the requirements of RSA 77-A:3, it is taxed on a unitary basis, and it has been so taxed since 1986. Accordingly, the income and liabilities of NEES and all of its subsidiaries are consolidated for BPT tax purposes, with a subsequent allocation to ensure that New Hampshire imposes the tax only on its proportionate share of the business. The affiliates are treated for BPT purposes as a single entity, with a single,

collective tax liability. The BPT allows credits for certain other taxes paid under the New Hampshire law. Two such taxes are the franchise tax under RSA 83-C and the nuclear property tax under RSA 83-D. Thus, NEP's nuclear property tax liability is a dollar-for-dollar reduction of Granite State's BPT liability.

In Order No. 20,230, we rejected the company's proposal to allocate the BPT tax benefits resulting from NEP's nuclear property tax liability to NEP's customers on a proportional basis. Instead, we determined that is appropriate to allocate 100% of those benefits to Granite State, because Granite State is the entity responsible for the payment of the BPT. The company has asked us to reconsider that determination.

III. POSITION OF GRANITE STATE

At the December 5, 1991 hearing, Granite State presented testimony by John L. Palmer and John T. Forryan which addressed the company's proposal for the treatment of the elimination of the franchise tax and the allocation of New Hampshire tax liabilities to Granite State on a stand-alone basis. The company argued that the commission's order inequitably and impermissibly disallowed recovery of an appropriate cost. In particular, Granite State argued that:

1. Granite State's Filing Incorporates an Appropriate Methodology for Reflecting the Elimination of the Franchise Tax; and

2. The Methodology Utilized by Granite State for Allocation of Tax Liability is Supported by Securities and Exchange Commission ("SEC") Regulations, FERC Precedent, and Has Been Approved by The Commission; and

3. Order 20,230 Impermissibly Disallows Granite State Recovery of an Appropriate Cost.

The company states that each of its affiliates is ultimately held responsible for its own share of the BPT liability through the use of the allocation terms in a System Tax Agreement, ("Tax Agreement").[1(9)] Each affiliate pays no more than the actual calculated amount it would have paid on a stand-alone basis. Granite State argues that actual cash payments flow between affiliates to reflect the use of excess credits by affiliates with a BPT liability. The inter-company allocation of taxes methodology assigns the amount of business profits tax an affiliate would have incurred on a stand-alone basis. Granite State claims that its BPT liability was offset by payments it would have received for its payment of the franchise tax, even though a limited amount of the franchise tax could have been reflected on a unitary tax basis. Granite State further argues that it has benefitted by $618,000 during the last five years due to the use of the methodology provided under the tax agreement, which benefit ultimately inured to the benefit of its ratepayers.

Granite State argues that the elimination of the franchise tax results in the loss of Granite State's tax credit against the business profits tax and, although the affiliates will pay

no BPT because of a tax credit of $2.2 million in nuclear property tax, Granite State will incur a BPT liability of $200,000, which it must pay to NEP in accordance with the Tax

Agreement. Granite State claims that the savings due to the elimination of the franchise tax ($450,000) are offset to some extent by the annual BPT liability of $200,000. The company disagrees with the previous finding that it is entitled to the credit that NEP receives as a result of applying the credit for the nuclear property tax against the business profits tax liability.

Granite State also claims that the methodology that it utilizes is consistent with applicable SEC regulations in that the company complies with 17 CFR 250.45(c) (governing holding companies' allocation of tax liabilities and benefits among affiliates filing consolidated state or federal tax returns). The affiliates seek to allocate the benefits of tax credits to the companies that generate them on a stand-alone basis through the use of the intercompany allocation of taxes methodology. Because it is NEP which must pay the nuclear property tax, the company claims that NEP is entitled to the tax credits arising from that payment. Granite State submits that FERC has endorsed the use of a similar stand-alone methodology through the use of a "benefits-burden test." Columbia Gulf Transmission Co., 23 FERC 61,396 at 61,847 (1983). The company argues that this commission approved the use of the stand- alone tax allocation in Re UNITIL Corporation, 71 NH PUC 203 (1986), although it concedes that the order, by its terms, did not establish a precedent with respect to the approval of further tax sharing agreements.

Granite State further argues that it will incur a BPT liability of approximately $200,000 annually and the commission has impermissibly disallowed recovery of an appropriate cost because it will be required to pay that amount to NEP. The company states that it is not seeking to withhold tax benefits from ratepayers and is seeking to recover taxes properly allocated to Granite State on a standalone basis. Thus, the commission's decision is inequitable and impermissible because the actual cash expense — the BPT liability — cannot be recovered from ratepayers.

III. COMMISSION ANALYSIS

In Order No. 20,230, the commission found that the SEC regulations promulgated pursuant to the Public Utilities Holding Company Act of 1935 require each subsidiary of a registered holding company to be treated on a stand-alone basis. We were unable to identify a SEC regulation which required the type of tax treatment proposed by Granite State. We concluded that Granite State was entitled to the BPT credit and that it was inappropriate to calculate rates based upon a hypothetical BPT liability that is higher than Granite State's actual BPT liability. The company's proposal was accordingly rejected and it was directed to file tariffs to implement the commission's decision effective September 1, 1991.

After consideration and evaluation of the company's petition for rehearing we decided that it would be appropriate to accept further testimony related to the elimination of the franchise tax and the proper allocation of tax liabilities to Granite State. The company submitted testimony by witnesses Palmer and Forryan which further explained the federal and state income tax allocation agreement of the NEES and its subsidiaries. The witnesses explained that the agreement provides for each affiliate within the holding company arrangement to be treated on a stand- alone basis. They further explained that NEP would be required to pay the nuclear property tax and that under the agreement any affiliate which incurred a business profits tax on a stand-alone basis would pay the amount of the liability to NEP to be used to reduce the amount of the nuclear property tax on a unitary tax basis in New Hampshire. The net nuclear property tax liability (after credits for the unitary business profits tax) would be included in NEP's

wholesale electric rates. Witness Forryan explained that the credits had not been included in NEP's W92 filing with the FERC but that he anticipated the credits would be used as part of a settlement in that case. NEP has recently furnished the commission with the detailed

settlement agreement in W-92 which includes changes to the tax amounts and references by footnote that each affiliate is being credited with its share of the reduced nuclear property tax.

The testimony presented which addressed previous treatment of the franchise tax is somewhat persuasive that the company's position is correct. Granite State testified that it received full credit for the franchise tax which is paid even though the credit could not be fully utilized when calculating the unitary business profits tax. In the period from 1986 through 1990, Granite State was credited with savings of $614,822, or the equivalent amount that would have been realized as a stand-alone company. It is important to point out that on a stand-alone basis, Granite State could have used all of its franchise taxes as a credit against any business profits tax liability. The franchise tax was a gross receipts tax which is paid directly by customers by adding approximately one percent to their bills.

The commission will accept the arguments put forth by Granite State. We are convinced that the tax sharing agreement is consistent with Title 17 CFR 250.45(c) of the SEC regulations regarding the allocation of tax liabilities and benefits among affiliates of companies participating in the filing of consolidated state and federal tax returns. The company states that its affiliates have adopted the allocation method specified in 250.45(c)(2), which states that "(t)he consolidated tax shall be apportioned among the several members of the group in proportion to . . . (ii) the separate return tax of each such member, but the tax apportioned to any subsidiary shall not exceed the separate return tax of such subsidiary."

The company's allocation method is also consistent with the provisions of 250.45(c)(5), which states that the method employed may "include all members of the group in the tax allocation, recognizing . . . a negative corporate tax" and "shall provide that those associated companies with a positive allocation will pay the amount allocated and those subsidiary companies with a negative allocation will receive current payment of their corporate tax credits."

Review of the company's testimony and an interpretation of the above quoted sections of the SEC regulations would indicate that all of the affiliates would share in any credits realized in the filing of a unitary return for N.H. Business Profits Tax purposes. NEP will pay no business profits tax in 1992 because its $1.6 million estimated unitary business profits tax will be offset by a $2.2 million credit earned by NEP for its payment of the nuclear property tax. NEP's wholesale filing includes the total $2.2 million nuclear property tax in rates. By adopting the company's position, we will expect that the NEP wholesale filings will reflect the effect of the nuclear property tax credit in the calculation of the business profits tax for future cost of service filings at the FERC. We would also remind the company that all affiliated contracts are required to be filed with this commission. Affiliated contracts should be filed separately and not as documentation in another company's case in which it intervenes.

The commission recognizes that this decision to accept Granite State's tax allocation will result in a need for new tariff pages to reflect the consequences of the tax allocation. Further, we

understand that there will be a need to reconcile those amounts undercollected as a result of Order No. 20,230. We will order Granite State to file new tariff pages to reflect the change and ask that the company include the amount of undercollection in its next fuel adjustment filing.

The commission is also aware that there are continuing potential developments in legislation and a court decision in the area of consolidated tax issues. We will follow these developments with interest in the future to determine whether this methodology should be adjusted.

Our Order will issue accordingly.

March 18, 1992

ORDER

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

ORDERED, that the Tax Sharing Agreement proposed by Granite State Electric

Company (Granite State) for allocation of obligations and credits of the New Hampshire business profits tax, RSA 77-A, and the New Hampshire nuclear property tax, RSA 83-D, is hereby accepted and approved; and it is

FURTHER ORDERED, that the change in rates as a result of the tax allocation shall be included in all bills rendered on or after April 1, 1992; and it is

FURTHER ORDERED, that Granite State shall file with the Public Utilities Commission within 10 days of the date of this order new tariff pages which shall accurately reflect the consequences to Granite State's ratepayers of applying the tax sharing agreement; and it is

FURTHER ORDERED, that Granite State shall include in its next fuel adjustment filing the amount undercollected as a result of Order No. 20,230 and calculations for the necessary reconciliation of the amount undercollected.

By order of the New Hampshire Public Utilities Commission this eighteenth day of March, 1992.

FOOTNOTE

[1]The Tax Agreement was not filed with the company's materials in the initial part of this proceeding, nor had it previously been filed with the commission in accordance with the requirements of RSA 366:3. Indeed, the document was first mentioned and presented to us for review on rehearing. When asked why it had not presented such critical evidence in its initial presentation, Granite State replied that it had filed an earlier version of the document with the commission as an exhibit in Re UNITIL, Docket No. DR 85-362 and it assumed that the commission, sua sponte and without notice, would review that exhibit. Granite State conceded that the document had been amended since that filing and that the amendments were not on file with the commission. Granite State's explanation hardly approaches plausibility. See e.g., Appeal of Granite State Electric Company, 121 N.H. 787 (1981). Under these circumstances, we were

entitled to exclude the Tax Agreement and the arguments relating thereto from our consideration on rehearing. Appeal of Gas Service, Inc., 121 N.H. 797 (1981). However, we have elected in this instance to exercise our discretion not to allow a procedural deficiency to stand as a barrier to a proper substantive result.

==========

NH.PUC*03/19/92*[72877]*77 NH PUC 134*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, INC./ NORTHEAST UTILITIES/ NORTH ATLANTIC ENERGY CORPORATION

[Go to End of 72877]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, INC./ NORTHEAST UTILITIES/ NORTH ATLANTIC ENERGY CORPORATION

DF 91-193
ORDER NO. 20,416

77 NH PUC 134

New Hampshire Public Utilities Commission

March 19, 1992

Order Approving Financing

REPORT

Appearances: Rath, Young, Pignatelli and Oyer, by William F. Ardinger, Esq. and Day, Berry and Howard, by Robert Knickerbocker, Esq. for Northeast Utilities and North Atlantic Energy Corporation; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire, Inc.; Shelley A. Nelkens, pro se; Office of Consumer Advocate by Michael W. Holmes, Esq. for Residential Ratepayers; Amy L. Ignatius, Esq. for the staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

By Order of Notice dated November 27, 1991, the New Hampshire Public Utilities Commission (Commission) opened docket DF 91-193 to consider the plan of financing jointly filed on November 18, 1991, by Public Service Company of New Hampshire, Inc. (PSNH), Northeast Utilities (NU) and North Atlantic Energy Corporation (NAEC). The financing plan was submitted by PSNH, NU and NAEC in anticipation of approval of the merger proposed between PSNH and NU. Shelley A. Nelkens was granted leave to intervene. Robert Knickerbocker, Esquire, of Day, Berry and Howard, counsel to NU and NAEC, was granted permission to appear pro hac vice. The Commission scheduled an evidentiary hearing for January 14, 1992, which was subsequently rescheduled to February 18, 1992.

II. FINANCING PROPOSAL

NU, NAEC and PSNH (collectively referred to as the companies) propose to finance the merger transaction between NU and PSNH by means of a financing plan involving approximately $355 million in mortgage bonds at a projected interest rate of 9.25% to 9.50% but in no event greater than 11.5%, issuance by NAEC of common stock to NU to provide approximately 20% equity component of NAEC's capitalization to fund the costs of the merger, and issuance by PSNH of common stock to provide cash needed for the merger transaction. In addition, the companies intend to participate in the NU "money pool" by which pool members may borrow at rates lower than rates available to them as individual borrowers, and for NU to make capital contributions when necessary, particularly in order to maintain required debt ratios under borrowing agreements.

At the February 18, 1992 hearing, the companies presented two financial witnesses who testified to the components of the companies' financing proposal: Michael Wiater, Manager of NU's Corporate Financial Forecasting and Eugene Vertefeuille, NU's Assistant Treasurer, responsible for Short Term Financing. According to Mr. Wiater and Mr. Vertefeuille, the companies intend to market the mortgage bonds upon final approval of all regulatory entities, including the Commission, the Connecticut Department of Public Utility Control, the Securities and Exchange Commission, and the Nuclear Regulatory Commission. Although the decisions of some regulatory agencies may be appealed, the companies intend to proceed with the development of the financing package, unless any appeal filed appears to fundamentally challenge the viability of the merger.

The companies submitted a Preliminary Request for Findings and Approvals on February 3, 1992, detailing the components of the proposed financing. The proposed findings are attached hereto as Appendix A. In addition, on February 14, 1992, the companies submitted to the Commission a letter requesting an additional approval of a letter agreement between PSNH and NAEC dated February 13, 1992, which explains the terms of the Seabrook Power Contract and the First Mortgage Indenture and Deed of Trust regarding insurance proceeds in the event of condemnation of the Seabrook Plant. The February 13 letter agreement is attached hereto as Appendix B.

III. COMMISSION ANALYSIS

The major components of the financing package appear consistent with those components contemplated in the Commission's decision in DR 89-244, 75 NH PUC 396 (1990), though particular details have now changed. For example, interest rates are lower than anticipated in 1990, while costs of the merger are higher due to the greater than anticipated length of time it has taken for the merger to reach the point of being financed. We do not find the changed circumstances to be detrimental to PSNH's ratepayers or to cause us to reconsider our approval of the merger transaction.

Based upon the current estimates of the rates at which the mortgage bonds can be issued (9.25% - 9.50%) and the rate of return on equity that was found by the Federal Energy Regulatory Commission (FERC) of 12.53%, it appears that the overall cost of capital will be lower than was anticipated in Docket No. DR 89-244.

The following is a comparison of the current projections as compared to those approved in DR 89-244:

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

Current Projections
Docket 89-244
(000's)

PSNH	NAEC	PSNH	NAEC		
Common Equity	$ 390,000	$ 157,300	$ 320,000	$ 140,000	
Preferred Stock	125,000	0	127,551	0	
Long-term Debt	1,232,200	549,600	1,150,805	560,000	
Capitalization	$1,747,200	$ 706,900	$1,598,356	$ 700,000	
% Common Equity	22.32%	22.25%	20.02%	20.00%	
% Preferred Stock	7.15	0.00	7.98	0.00	
% Long-term Debt	70.53	77.75	72.00	80.00	
Total	100.00%	100.00%	100.00%	100.00%	
Embedded Cost					
Common Equity	13.25%	12.53%	13.25%	13.75%	
Preferred Stock	10.60*	0	11.40	0	
Long-term Debt	7.60*	12.01**	10.41	13.20	
Weighted Cost of Capital					
Common Equity	2.96%	2.78%	2.65%	2.75%	
Preferred Stock	.76	.00	.91	.00	
Long-term Debt	5.36	9.34	7.50	10.56	
Total	9.08%	12.12%	11.06%	13.31%	

---

*Reflects the actual embedded costs from the Step 1 financings which occurred on May 16, 1991 for the fixed rate securities and an estimate of interest rates at the time of the merger for the variable rate securities.

**Includes the assumption from PSNH at merger date of the existing $205 million of Seabrook notes at 15.23% and the issuance of a projected new NAEC $355 million first mortgage bond with an estimate interest rate of 9.5%.

The company also furnished the following information related to the transactions which will occur if the merger were to occur on April 1, 1992. PSNH would require the following cash requirements:

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

Millions	
Purchase of PSNH Common Stock	$ 771.1
Seabrook Transfer Tax	7.9
Reimbursement of NU Expenses	45.0
Reduction of Term Loan	52.0
Reduction of Short-term Debt	46.3
Cash Requirement (4/1/92)	$ 922.3

The sources of funds needed to satisfy the $922.3 million requirement are as follows:

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

Millions	
Capital stock purchases by NU to PSNH	$ 410.0
Capital stock purchases by NU to North Atlantic	157.3
North Atlantic First Mortgage Bonds	355.0
Total	$ 922.3

Upon consummation of the merger North Atlantic will provide PSNH with the funds obtained from the sale of the first mortgage bonds and the capital contribution from NU, along with the assumption of $205 million of Seabrook notes in return for the Seabrook asset.

One financial transaction not contemplated by the Commission in DR 89-244 is the NU money pool. Participation in the money pool, according to the companies' witnesses, is voluntary on the part of each member; members are free to borrow from and extend loans to the pool if they so wish; at no point are they required to do so. Because members would be able to borrow money at lower rates than they could obtain elsewhere, which inures to the benefit of ratepayers, we find that the participation of the companies in the NU money pool to be consistent with the public good and an acceptable component of the financing proposal.

In addition, our order in DR 89-244 did not contemplate capital contributions from NU to maintain required debt ratios. The companies testified that they intend to undertake such borrowing only in the event it is necessary to maintain required debt ratios or in other emergency situations, and in most

Page 136

circumstances the companies would notify the Commission staff prior to such contributions. When this is not possible, the companies have agreed to notify the staff immediately after such contributions. Given the companies' commitment to involve the Commission staff in all circumstances except emergencies, and the representation of the companies that they anticipate a need for emergency contributions to be extremely rare, we find the capital contributions proposal to be consistent with the public good and an acceptable component of the financing.

Finally, the companies have submitted a letter agreement explaining the operation of the Seabrook Power Contract and insurance proceeds in the event of condemnation of the Seabrook Plant. We find that the letter agreement is consistent with our understanding of the Seabrook Power Contract and in the public good and, therefore, an acceptable component of the financing.

Our order will issue accordingly.

Concurring March 19, 1992

ORDER

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

ORDERED, that the financing proposal presented by Northeast Utilities, North Atlantic Energy Corporation (NAEC) and Public Service Company of New Hampshire, Inc. (PSNH) (collectively the companies) is consistent with the public good and hereby approved; and it is

FURTHER ORDERED, that the Preliminary Request for Findings and Approvals proposed by the companies and attached to the Report as Appendix A is hereby accepted; and it is

FURTHER ORDERED, that the letter agreement between NAEC and PSNH dated February 13, 1992, interpreting the Seabrook Power Contract and describing payment of insurance proceeds in the event of condemnation of the Seabrook Plant, attached to the Report as Appendix B, is hereby accepted.

By order of the New Hampshire Public Utilities Commission this nineteenth day of March, 1992.

==========

NH.PUC*03/19/92*[72878]*77 NH PUC 137*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, INC./NORTHEAST UTILITIES

[Go to End of 72878]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, INC./NORTHEAST UTILITIES

IR 90-218
ORDER NO. 20,417

77 NH PUC 137

New Hampshire Public Utilities Commission

March 19, 1992

Order Approving Agreed Upon Portions of Monitoring Plan

The New Hampshire Public Utilities Commission (Commission) opened Docket IR 90-218 for development of a plan to monitor the operations of Public Service Company of New Hampshire, Inc. and Northeast Utilities (collectively PSNH/NU); and

WHEREAS, after extensive negotiation, PSNH/NU and Commission staff (staff) have reached agreement on the majority of the provisions of the monitoring plan; and

WHEREAS, staff believes that the agreed upon terms should be put into effect while the remaining terms are negotiated; and

WHEREAS, after review of the staff's December 10, 1991 monitoring report, attached hereto as Exhibit A, PSNH/NU's January 31, 1992 response, attached hereto as Exhibit B, and staff's March 13, 1992 memo regarding agreed upon terms, attached hereto as Exhibit C, it appears that the following provisions have been agreed to between PSNH/NU and staff:

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

I. A(1-5), B through W

II. 4

III. 1 through 9

IV. 1 through 17

V. 1a through 1e, 2a, 2b, 3, 4,5a

VI. 3, 4

VII. 1; and

WHEREAS, PSNH/NU and staff have not yet agreed upon the following provisions of the monitoring plan:

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

II. 1 through 3, 5, 6

V. 5b

VI. 1

Page 137

future reports; and

WHEREAS, PSNH/NU and staff believe that further negotiation may result in resolution of these issues; it is hereby

ORDERED NISI, that the agreed upon sections of the monitoring plan as delineated above are approved and hereby adopted, with monitoring reports to commence immediately and where appropriate, to be filed retroactively; and it is hereby

FURTHER ORDERED, that PSNH/NU and staff continue to negotiate to resolve the sections of the plan not yet agreed upon, as delineated above; and it is hereby

FURTHER ORDERED, that if after 90 days the parties are not able to reach agreement on the remaining portions of the monitoring plan that they shall so report to the Commission, and the Commission shall order such monitoring as it deems appropriate; and it is hereby

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, PSNH/NU cause an attested copy of this Order Nisi to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than March 26, 1992, and is to be documented by affidavit filed with this office on or before the twentieth day of April, 1992; and it is hereby

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than the fifteenth day of April, 1992;, and it is hereby

FURTHER ORDERED, that this Order Nisi will be effective on April 20, 1992, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this nineteenth day of March, 1992.

==========

[Go to End of 72879]

CONTINENTAL CABLEVISION, INC.

DE 92-043
ORDER NO. 20,418

77 NH PUC 138

New Hampshire Public Utilities Commission

March 20, 1992

Order NISI granting authorization for an aerial cable television crossing of the Merrimack River between the Towns of Boscawen and Canterbury, New Hampshire.

WHEREAS, on March 5, 1992 Continental Cablevision, Inc. (petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to install and maintain an aerial cable-TV crossing of the Merrimack River between the towns of Boscawen and Canterbury, New Hampshire; and

WHEREAS, an existing electric crossing at this site was approved by this Commission as crossing number 1 in Re Concord Electric Co., 44 NH PUC 372 (1962); and

WHEREAS, the existing and proposed crossings are from Concord Electric Co. pole 8 (also identified as Kearsarge Telephone Co. pole 7) in Boscawen to Concord Electric Co. pole 1 in Canterbury, immediately upstream of the West Road bridge; and

WHEREAS, the cable-TV crossing is proposed to provide service to approximately 350 homes in Canterbury; and

WHEREAS, the proposed cable-TV line will be strung approximately 31 feet above the river and a minimum of 40 inches below the existing electric crossing and will meet National Electrical Safety Code standards; and

WHEREAS, the Commission finds the above installation and maintenance is necessary to enable the petitioner to provide service, without substantially affecting the public rights in or above said waters, and thus it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is

Page 138

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than April 15, 1992; and it is

FURTHER ORDERED, that the petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Boscawen and Canterbury area, said publications to be no later than April 2, 1992. In addition, pursuant to RSA 541-A:22, the

petitioner shall provide copies of this order to the Boscawen and Canterbury town clerks, by first class U.S. mail, postage prepaid, and postmarked on or before April 2, 1992. Compliance with these notice provisions shall be documented by affidavit(s) to be filed with the Commission on or before April 15, 1992; and it is

FURTHER ORDERED, NISI that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Continental Cablevision, Inc., 8 Commercial Street, Concord, New Hampshire 03301 to install and maintain the aforementioned crossing of an aerial cable-TV line over the Merrimack River between the towns of Boscawen and Canterbury, New Hampshire, effective April 17, 1992 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the towns of Boscawen and Canterbury.

By order of the New Hampshire Public Utilities Commission this twentieth day of March, 1992.

==========

NH.PUC*03/20/92*[72880]*77 NH PUC 139*WILTON TELEPHONE COMPANY

[Go to End of 72880]

WILTON TELEPHONE COMPANY

DR 90-221
ORDER NO. 20,419

77 NH PUC 139

New Hampshire Public Utilities Commission

March 20, 1992

Rate Case Expenses Appearances As previously noted.

REPORT

I. PROCEDURAL HISTORY

On February 18, 1992, the New Hampshire Public Utilities Commission (Commission) issued Report and Order No. 20,391 which approved a Stipulation Agreement in all respects except that of rate case expenses and established a revenue requirement for Wilton Telephone Company ("Wilton" or the "company"). The revenue requirement reflected an approximate rate case expense level of $45,000.00. As part of the Stipulation Agreement, the parties agreed that any subsequent rate case expenses would be submitted to the Commission for review and, if appropriate, authorization. The Company agreed that any additional rate case expense be amortized over a three- year period. The only remaining issue in the Wilton rate case, therefore was ruling on the additional rate case expenses. This Supplemental Order addresses recovery of

the additional rate case expenses.

II. POSITION OF THE PARTIES

A. Wilton Telephone Company

Wilton requests that an additional $17,695.53 be charged to the ratepayers for rate case expenses. In the company's direct examination, witness John Chandler stated that as of the date of the Stipulation, the company had rate case expenses of $59,284.02, which were comprised of McLane, Graf, Raulerson & Middleton fees of $21,962.97, Bower Rohr & Associates' fees of $13,103.05 and Berry, Dunn, McNeil & Parker of $24,758. Mr.

Page 139

Chandler further indicated that Wilton would submit back- up for additional expenses pursuant to the terms of the Stipulation.

On February 13, and March 6, 1992, Wilton submitted invoices detailing the Company's total rate case expenses as follows: McLane, Graf, Raulerson & Middleton fees of $24,365.48, Bower Rohr & Associates' fees of $13,103.05 and Berry, Dunn, McNeil & Parker of $25,225.00, for a total of $62,695.53. This amount is $17,695.53 greater than the $45,000 approximated at the time of the Stipulation Agreement.

B. Public Utilities Commission Staff

The staff of the New Hampshire Public Utilities Commission ("Staff") during discovery, reviewed the detail of rate case expenses of $45,000 provided by Wilton in its filing and viewed them as reasonable. Staff and the company further agreed that any subsequent rate case expenses would be submitted to the Commission for review. Staff is concerned about the Bower Rohr & Associates' fees of $13,105.05, but after a careful review of the invoices, Staff does not find specific grounds for recommending a disallowance. Staff, therefore, recommends that the additional rate case expenses of $17,695.53 be approved.

III. COMMISSION ANALYSIS

Rate case expenses may be disallowed if unreasonably incurred, undue in amount, or chargeable to other accounts. Re Lakes Region Water Co. 75 NH PUC 89 (1990). See, State v. Hampton Water Works Co., 92 NH 278, 296 (1941). Although Staff was concerned about the level of rate case expenses incurred by Bower Rohr & Associates of $13,105.05, Staff did not uncover costs that were patently unreasonable or chargeable to other accounts. Therefore the Commission accepts Staff's recommendation that the additional level of $17,695.53 rate case expenses be approved and amortized over a three year period.

Our Order will issue accordingly.

March 20, 1992

SUPPLEMENTAL ORDER

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

ORDERED, that additional rate case expenses in the amount of $17,695.53 incurred by Wilton Telephone Company (Wilton) are approved, for a total of $62,695.53, and it is

FURTHER ORDERED, that Wilton shall amortize the total rate case expenses over a period of three years; and it is

FURTHER ORDERED that in accordance with the terms of the Rate Case Stipulation Agreement incorporated by reference and made a part of Order No. 20,391, Wilton shall file revised tariffs which reflect the inclusion of the additional rate case expenses no later than March 20, 1992.

By Order of the Public Utilities Commission of New Hampshire this twentieth day of March, 1992.

==========

NH.PUC*03/23/92*[72881]*77 NH PUC 140*NORTHEAST UTILITIES SERVICE COMPANY/ PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, INC.

[Go to End of 72881]

NORTHEAST UTILITIES SERVICE COMPANY/ PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, INC.

DE 92-053
ORDER NO. 20,420

77 NH PUC 140

New Hampshire Public Utilities Commission

March 23, 1992

Order Approving Technical Modifications to Seabrook Power Contract

---

On March 23, 1992, Northeast Utilities Service Company and Public Service Company of New Hampshire, Inc. (the companies) filed a petition with the New Hampshire Public Utilities Commission (commission) seeking approval of two technical modifications to the Seabrook Power Contract pursuant to the terms of paragraph 2(c) of the Rate Agreement entered into between Northest Utilities Service Company and the State of New Hampshire,; and

WHEREAS, the modifications are made in compliance with an order of the Federal

Energy Regulatory Commission (FERC), requiring the companies 1) to remove from the definition of cash working capital allowance any investment in nuclear fuel owned by North Atlantic Energy Corporation and 2) to reflect the companies' agreement that they would return to the FERC for approval of an automatically adjusted return on equity after ten years; and

WHEREAS, the State has consented to the proposed modifications; and

WHEREAS, by Report and Order No. 19,889 (dated July 20, 1990) the commission found the aforementioned Rate Agreement to be in the public good; and

WHEREAS, Paragraph 17 of the Rate Agreement requires the commission's approval of all modifications made after the enactment of RSA Chapter 362-C; and

WHEREAS, commission finds no rate effect as a result of the modifications required by the FERC; and

WHEREAS, commission finds the Seabrook Power Contract to be just and reasonable as modified; it is hereby

ORDERED NISI, that the two technical modifications to the Seabrook Power Contract are approved; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, the companies cause an attested copy of this Order Nisi to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than March 25, 1992, and is to be documented by affidavit filed with this office on or before the sixth day of April 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than the sixth of April 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective on April 8, 1992, unless the commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-third day of March, 1992.

==========

NH.PUC*03/23/92*[72882]*77 NH PUC 141*NEW ENGLAND TELEPHONE

[Go to End of 72882]

NEW ENGLAND TELEPHONE

COMPANY DR 91-170
ORDER NO. 20,421

77 NH PUC 141

New Hampshire Public Utilities Commission

March 23, 1992

Order Granting Protective Treatment

On October 16, 1991, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (commission) a request for approval of a new service to be known as Simplified Message Desk Interface Service; and

WHEREAS, Commission staff (staff) filed data requests on February 11, 1992, regarding the service offering; and

WHEREAS, NET filed responses to staff's data requests but requested interim proprietary treatment and filed a Motion for Protective Order on responses and exhibits to data request numbers 8, 13, 16, 17 and 18; and

WHEREAS, in its motion NET states that its responses to staff's data requests contain competitively sensitive data including "forecasting information and assumptions, and product development and related cost analyses" regarding the service; and

WHEREAS, the information identified above is a necessary part of the filing, and important for staff to review in evaluating the proposed offering; and and

WHEREAS, the commission recognizes the importance of staff having the opportunity to review fully the materials which support a proposed service offering, in order to responsibly carry out its duties; it is hereby

ORDERED, that the Motion for Protective Order be, and hereby is, granted to allow staff review of the supporting documents to the proposed service offering known as Simplified Message Desk Interface; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the commission, on it own motion or on the motion of commission staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this twenty-third day of March, 1992.

==========

NH.PUC*03/23/92*[72883]*77 NH PUC 142*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72883]

NEW ENGLAND TELEPHONE COMPANY

DR 91-171
ORDER NO. 20,422

77 NH PUC 142

New Hampshire Public Utilities Commission

March 23, 1992

Order Granting Protective Treatment

On October 16, 1991, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (commission) a request for approval of a new service to be known as Call Forwarding II; and

WHEREAS, Commission staff (staff) filed data requests on February 11, 1992, regarding the

service offering; and

WHEREAS, NET filed responses to staff's data requests but requested interim proprietary treatment and filed a Motion for Protective Order on responses and exhibits to data request numbers 2, 3, 4, 6, 8 and 10; and

WHEREAS, in its motion NET states that its responses to staff's data requests contain competitively sensitive data including "product development, switching and maintenance cost analyses, sales forecasts and actual results, market trial and related studies, exchange line forecasts and customer (ESP)-specific identifications" regarding the service; and

WHEREAS, the information identified above is a necessary part of the filing, and important for staff to review in evaluating the proposed offering; and

WHEREAS, the commission recognizes the importance of staff having the opportunity to review fully the materials which support a proposed service offering, in order to responsibly carry out its duties; it is hereby

ORDERED, that the Motion for Protective Order be, and hereby is, granted to allow staff review of the supporting documents to the proposed service offering known as Call Forwarding II; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the commission, on it own motion or on the motion of commission staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this twenty-third day of March, 1992.

==========

NH.PUC*03/24/92*[72884]*77 NH PUC 142*NORTHERN UTILITIES - NEW HAMPSHIRE DIVISION

[Go to End of 72884]

NORTHERN UTILITIES - NEW HAMPSHIRE DIVISION

DR 91-153
ORDER NO. 20,423

77 NH PUC 142

New Hampshire Public Utilities Commission

March 24, 1992

1991/92 Winter Cost of Gas Adjustment

In an order issued November 4, 1991 in the above mentioned docket, the New Hampshire Public Utilities Commission noted that new service options from Tennessee Gas Pipeline (Tennessee), an interstate pipeline serving the New England region, offer the prospect of gas cost savings for New Hampshire ratepayers; and

WHEREAS, those options allow New Hampshire gas companies to convert some or all of their sales service capacity to transportation; and

WHEREAS, the commission directed staff to meet with Northern Utilities (the Company) to discuss the decision processes which led Granite State Gas Transmission on behalf of Northern to remain a sales service customer of Tennessee; and

WHEREAS, in January, 1992 staff and the Company agreed that a meeting would be unproductive prior to Northern submitting a report on this matter, which Northern

Page 142

undertook to file before the end of February; and

WHEREAS, Northern failed to meet the agreed filing date, but has undertaken to provide the report by the first week of April, 1992; it is hereby

ORDERED, that the above mentioned report be filed with this commission no later than April 10, 1992.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of March, 1992.

==========

NH.PUC*03/24/92*[72885]*77 NH PUC 143*AT&T COMMUNICATIONS OF NEW HAMPSHIRE,INC.

[Go to End of 72885]

AT&T COMMUNICATIONS OF NEW HAMPSHIRE,INC.

DR 92-033
ORDER NO. 20,424

77 NH PUC 143

New Hampshire Public Utilities Commission

March 24, 1992

AT&T MEGACOM 800 Plus and AT&T 800 READYLINE Plus.

On February 20, 1992, AT&T Communications of New Hampshire, Inc.(the company) filed a petition, for effect on March 23, 1992, seeking to revise Sections 1, 4 and 5 of PUC Tariff No 1, Custom Network Services, by the introduction of AT&T MEGACOM 800 Plus and AT&T 800 READYLINE Plus and by proposing a number of administrative changes, and;

WHEREAS, the Plus Service Options are premium versions of AT&T MEGACOM 800 and AT&T 800 READYLINE and have been developed to meet the needs of business customers who require enhanced service provisioning, maintenance and account representation; and

WHEREAS, proposed administrative changes will ensure that the New Hampshire tariffed

offering conforms to the proposed interstate AT&T 800 Plus and AT&T 800 READYLINE Plus offerings filed with the Federal Communications Commission on January 22, 1992, and;

WHEREAS, the New Hampshire Public Utilities Commission is interested in encouraging the emergence of competition in the intraLATA toll market on an interim basis; it is hereby

ORDERED NISI, that AT&T Communications of New Hampshire, Inc. be and hereby is authorized to implement the following tariff changes:

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

PUC Tariff No 1,
CUSTOM NETWORK SERVICES.

Table of Contents


Tariff Information


Section 1
REGULATIONS


Section 4
and AT&T
MEGACOM 800 Plus

through 5

Section 5
READYLINE PLUS
```

and it is

FURTHER ORDERED, that MEGACOM 800 Plus and 800 READYLINE Plus is to be offered subject to the conditions as specified in NHPUC Order No. 20,040, dated January 21, 1991, in Docket DE 90-002; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, the Company cause an attested copy of this Order Nisi to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than April 6, 1992, and it is to be documented by affidavit filed with this office on or before April 24, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this

matter no later than April 21, 1992; and it is

FURTHER ORDERED, that this Order NISI will be effective on April 24, 1992, unless the commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-fourth day of March, 1992.

==========

NH.PUC*03/24/92*[72886]*77 NH PUC 144*AT&T COMMUNICATIONS OF NEW HAMPSHIRE,

[Go to End of 72886]

AT&T COMMUNICATIONS OF NEW HAMPSHIRE,

INC. DR 92-035
ORDER NO. 20,425

77 NH PUC 144

New Hampshire Public Utilities Commission

March 24, 1992

AT&T OPTIMUM SERVICE

On February 27, 1992, AT&T Communications of New Hampshire, Inc. (the company) filed a petition for effect on March 30, 1992, seeking to revise PUC Tariff No 1, Custom Network Services, by the introduction of AT&T OPTIMUM Service and;

WHEREAS, OPTIMUM service provides business customers with the option to use either a local exchange access line or a dedicated special access facility to originate their calls, and offers enhanced service provisioning, customized billing options, sales support and account inquiry representation; and

WHEREAS, OPTIMUM Service was approved in the interstate jurisdiction by the Federal Communications Commission on February 14, 1992; and

WHEREAS, the New Hampshire Public Utilities Commission is interested in encouraging the emergence of competition in the intraLATA toll market on an interim basis; it is hereby

ORDERED NISI, that AT&T Communications of New Hampshire, Inc. be and hereby is authorized to implement the following tariff changes:

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

PUC Tariff No 1,  - CUSTOM NETWORK
SERVICES
table of Contents - 5th Revised Page 1
                  - Original Page 13
Section 11        - AT&T OPTIMUM
SERVICE
                  - Original pages 1
through 9;
```

and it is

FURTHER ORDERED, that AT&T OPTIMUM service is to be offered subject to the conditions as specified in NHPUC Order No. 20,040, dated January 21, 1991, in Docket DE 90002; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, the Company

cause an attested copy of this Order NISI to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than April 6, 1992, and it is to be documented by affidavit filed with this office on or before April 24, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than April 21, 1992; and it is

FURTHER ORDERED, that this Order NISI will be effective on April 24, 1992, unless the commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-fourth day of March, 1992.

==========

NH.PUC*03/31/92*[72887]*77 NH PUC 145*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72887]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-036
ORDER NO. 20,426

77 NH PUC 145

New Hampshire Public Utilities Commission

March 31, 1992

Order NISI Approving Special Contract with Crotched Mountain Rehabilitation Center

---

On February 25, 1992, Public Service Company of New Hampshire (PSNH) filed a petition pursuant to RSA 378:18 with the New Hampshire Public Utilities Commission (Commission) for authority to provide non-firm service to the Crotched Mountain Rehabilitation Center, Inc. (CMRC) in accordance with the terms of a special contract, Contract No. NHPUC-70 which is attached hereto; and

WHEREAS, the special contract would enable CMRC to receive service unlike any currently provided for by PSNH in its general rate schedules; and

WHEREAS, CMRC has constructed facilities that allow it to provide reliable stand-alone electrical power; and

WHEREAS, the rates specified in the special contract are greater than PSNH's short-term marginal energy costs and greater than the base costs included in the Fuel and Purchased Power Adjustment Clause (FPPAC) thereby benefiting PSNH's firm customers; and

WHEREAS, the special contract subjects CMRC to interruption upon six (6) hours advance notification from PSNH if PSNH expects electrical system constraints or if the estimated incremental price of electric service will exceed the contract price; and

WHEREAS, PSNH has the right to charge CMRC if CMRC does not interrupt upon a request from PSNH; and

WHEREAS, PSNH claims it is not obligated to plan its system to serve CMRC on a firm basis; and

WHEREAS, the special contract appears to be in the public good as well as consistent with the requirements of NH RSA 378:18 and N.H. Admin. Rules Puc 1600; it is hereby

ORDERED NISI, that the petition by PSNH to provide nonfirm service to CMRC pursuant to Special Contract No. NHPUC70 is approved effective April 30, 1992 unless the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that PSNH file each year on the anniversary of the effective date of this Order, a report detailing the amount of energy consumed by CMRC under the special contract, the date and time of all interruptions that were called by PSNH or NEPOOL, including interruption audits, should CMRC be declared a NEPOOL interruptible customer, the reason for the interruption, and the actual load relief and duration provided by CMRC; and it is

FURTHER ORDERED, that PSNH conduct, based on six- hour notification to CMRC, a six-hour audit of CMRC's non-firm service capability each capability period should CMRC not be required to test its interruptible capability under a NEPOOL interruptible program; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard to file comments or exceptions by causing an attested copy of this order to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than April 13, 1992 and documented by affidavit filed with this office on or before April 30, 1992; and it is

FURTHER ORDERED, that all persons desiring to heard on this matter may file comments or exceptions no later than April 28, 1992.

By order of the New Hampshire Public Utilities Commission this thirty-first day of March, 1992.

Page 145

ATTACHMENT

Date of Execution: February 14, 1992

Effective Date: March 1, 1992

Subject to NHPUC Approval

Date of Termination: To remain in effect for a period of one (1) year; thereafter,

Agreement may be terminated upon 90 days' written notice by either party with a continuing provision for re-establishment of service

STATEMENT OF THE SPECIAL CIRCUMSTANCES RENDERING DEPARTURE FORM GENERAL SCHEDULES JUST AND CONSISTENT WITH THE PUBLIC INTEREST

1. The furnishing of electric service under this agreement is a voluntary purchase by Crotched Mountain Rehabilitation Center, Inc. (CMRC) and a voluntary sale by Public Service Company of New Hampshire (PSNH).

2. In the absence of this Special Contract, CMRC does not intend to remain a customer of PSNH. CMRC has installed adequate electrical generation equipment to provide all of its electrical power requirements for normal and contingent conditions.

3. If economically feasible for CMRC, CMRC desires to purchase non-firm electricity from PSNH during scheduled periods.

4. In the absence of this agreement, PSNH would be unable to make economic power sales to CMRC because PSNH's tariff does not contain provisions for the sale of non-firm power. Non-firm power sales by PSNH which are priced above PSNH's marginal energy costs can serve to provide a contribution to the recovery of PSNH's fixed costs.

AGREEMENT BETWEEN CROTCHED MOUNTAIN REHABILITATION CENTER, INC. AND PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

This Agreement entered into this 14th day of February 1992, by and between the Crotched Mountain Rehabilitation Center, Inc., a non-profit educational and health care facility located in Greenfield, New Hampshire (hereinafter referred to as "CMRC") and Public Service Company of New Hampshire, a New Hampshire Corporation having its principal place of business in Manchester, New Hampshire (hereinafter referred to as "PSNH").

WITNESSETH

WHEREAS, PSNH has historically provided electric service to CMRC under the terms of PSNH's electric Tariffs; and

WHEREAS, CMRC has installed electrical generation equipment on its premises which is capable of providing all of CMRC's electrical requirements under normal and contingent situations; and

WHEREAS, CMRC does not intend to take electric service from PSNH under its current and expected future Tariff rates but is willing to purchase electricity from PSNH when it is economic for CMRC to do so; and

WHEREAS, PSNH is willing to provide electric service to CMRC at rates which differ from standard tariff rates provided such sales of electricity are economic for PSNH and provided that PSNH is not required to stand-by and backup CMRC's generation at any time;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, including Exhibit A, Schedule of Charges, and Exhibit B, Description of Electrical Interface, CMRC and PSNH agree as follows:

Article 1 - Basic Understanding

This Agreement is for the sale of non-firm electricity by PSNH to CMRC. CMRC will

purchase and PSNH will sell non-firm electricity at those times when both parties agree to

engage in such transactions. Pricing for non-firm electricity shall be at rates specified herein. The furnishing of non-firm electricity is interruptible upon six hours' notice by PSNH to CMRC.

Article 2 - Term

This Agreement shall remain in effect for a minimum of one year from the later of (1) January 1, 1992 or, (2) the date it is first effective as approved by the New Hampshire Public Utilities Commission (NHPUC). Following the minimum one year term, this agreement may be terminated by either party by giving the other party at least ninety (90) days' prior written notice except that the provisions of Article 4 shall remain in effect until all payments are received and the provisions of Article 7 shall remain in effect until such provisions are satisfied and service is provided by PSNH under another agreement or under its standard Tariff.

Article 3 - Interconnection of Facilities

The interconnection of CMRC's electrical facilities with PSNH's electrical facilities during times that CMRC purchases electricity from PSNH shall be configured and operated in accordance with the "Description of Electrical Interface" (DEI) attached hereto as Exhibit B. The DEI includes a one-line diagram showing the electrical arrangement of the interface point between PSNH and CMRC, and describes the nature of any interlocks and/or operating requirements necessary to ensure quality of service and safety. PSNH may make prospective changes to Exhibit B at any time by making the appropriate filing with the regulatory agency having jurisdiction. Prior to making any changes to Exhibit B, PSNH shall discuss such changes with CMRC.

CMRC shall not connect its electrical system with PSNH's electrical system without the prior knowledge and consent of PSNH. At the conclusion of each scheduled period identified in Article 4, CMRC shall promptly disconnect its electrical system from PSNH's electrical system.

The point of delivery of electricity from PSNH shall be at the point of connection existing at the time of the effective date of this agreement, such point being located on or near CMRC's main campus in Greenfield, New Hampshire through a PSNH 12.47 kilovolt circuit currently identified as circuit number 24X1 as shown on Exhibit B to this agreement. Service 8shall be three-phase, 60 Hertz, alternating current at 12,470 volts.

Metering of electricity sold by PSNH shall be owned and maintained by PSNH and, if required, CMRC shall provide PSNH with a suitable location for metering and reasonable access to the metering. Metering shall be at primary voltage, provided, however, that metering may be at a lower voltage at the option of PSNH, in which case PSNH may correct for transformer losses by compensated metering or estimate such losses by another suitable method. The amount of kilowatt- hours of electricity purchased by CMRC shall be determined by measurement through such metering. At PSNH's option, the maximum amount of 30-minute kilowatt or kilovolt-ampere demand may also be metered.

Article 4 - Electricity Sales and Purchases

PSNH will sell and CMRC will purchase and pay for electricity during scheduled periods agreed to by both part8ies. The agreed upon period of sale shall be established prior to the actual commencement of service through either oral or written communication but if established by oral agreement, the parties shall document such agreement by later written communication. CMRC

shall not be required to purchase, and PSNH shall not be required to supply, any electricity at any time other than the scheduled periods agreed to by both parties.

PSNH may interrupt sales to CMRC prior to the end of a previously scheduled period if PSNH expects to incur electrical system constraints and the ceasing of sales to CMRC can assist in removing the effected constraint, or if PSNH estimates that its incremental cost of providing the service exceeds the level of

Page 147

prices set forth in Exhibit A, provided that PSNH provides CMRC at least six (6) hours' prior notice of its intent to cease sales.

Article 5 - Failure to Terminate the Taking of Electricity

In the event that CMRC fails to terminate the taking of electricity after notification by PSNH pursuant to Article 4 above or fails to terminate the taking of electricity at the end of the scheduled period, PSNH shall have the right to charge CMRC for such electricity under the provisions of standard Tariff rates, including Backup Service Rate B if applicable, for a period of at least twelve (12) months from the time CMRC failed to terminate the taking of electricity.

Article 6 - Charges and Payment Terms

For each month during the term of this Agreement, CMRC shall pay PSNH for all service rendered hereunder the total of amounts calculated in accordance with Exhibit A, as that exhibit may be in effect from time to time.

PSNH may make prospective changes to Exhibit A at any time by making the appropriate filing with the regulatory agency having jurisdiction. Prior to any such filing, PSNH shall notify CMRC of any revisions that PSNH intends to make to Exhibit A.

Bills shall be rendered monthly and due upon presentation. If any amount of any bill payable hereunder by CMRC remains unpaid for more than thirty (30) days from rendering, simple interest shall accrue from the date of rendering of said bill amount at an annual rate of 18%.

Article 7 - Conditions for Re-Establishment of Standard Electrical Service

The parties acknowledge that at some future date CMRC may wish to re-establish their taking of electrical service from PSNH under PSNH's standard Tariff rates and provisions. The parties further acknowledge that under the terms of this Agreement PSNH is not required, nor does it plan, to service CMRC's electrical requirements on a continuous, uninterrupted basis subject only to interruption for conditions beyond PSNH's reasonable control (hereinafter referred to as "firm electrical service").

In the event that this Agreement is terminated by its own terms and CMRC desires to re-establish firm electrical service, PSNH shall cooperate with CMRC to establish such service under standard Tariff rates and CMRC shall reimburse PSNH for the cost of any additional distribution or transmission facilities required to provide firm service to CMRC. Under these circumstances, CMRC shall be required to take firm electrical service under tariff rates for a minimum period of two (2) years.

Article 8 - Governmental Review

This Agreement, and all the provisions hereof, are subject to present and future state and federal statutes and to present or future regulations or orders of any regulatory agencies or other governmental authorities having jurisdiction over the subject matter thereto.

Article 9 - Liability and Insurance

Each party will be responsible for its facilities and the operation thereof and will indemnify and hold the other party harmless from all costs and damage by reason of bodily injury, death or damage to property arising out of that party's negligence or intentional conduct and shall carry such insurance as necessary to indemnify and hold the other party harmless.

In no event shall PSNH or CMRC be liable, whether in contract, tort (including negligence), strict liability, warranty, or otherwise, for any special indirect, incidental, or consequential loss or damage, including but not limited to cost of capital, cost of replacement power, loss of profits or revenues or the loss of the use thereof. This paragraph shall apply notwithstanding any other provisions of this AGREEMENT.

Page 148

Article 10 - Force Majeure

Either party shall not be considered to be in default hereunder and shall be excused from performance hereunder if and to the extent that it shall be prevented from doing so by storm, flood, lightning, earthquake, explosion, civil disturbance, labor dispute, act of God or the public enemy, action of a court or public authority, or any cause beyond the reasonable control of either party and not due to the fault or negligence of the party claiming force majeure.

However, an event of Force Majeure shall not excuse either party from making a payment which it is legally required to make. CMRC's inability to operate its generating equipment, for any reason, shall not qualify as a Force Majeure event. If either party is rendered wholly or partly unable to perform its obligations under the AGREEMENT because of Force Majeure, that party shall be excused from whatever performance is affected by the Force Majeure to the extent so affected provided that:

(A) The non-performing party, promptly after the occurrence of the Force Majeure, gives the other party written notice describing the particulars of the occurrence;

(B) The suspension of performance be of no greater scope and of no longer duration than is reasonably required by the Force Majeure;

(C) No obligations of either party which arose before the occurrence causing the suspension of performance he excused as a result of the occurrence; and

(D) The non-performing party use its best efforts to remedy its inability to perform.

Article 11 - Prior Agreements Superseded

This Agreement shall supersede all existing electric service arrangements between CMRC and PSNH at CMRC's main campus on Crotched Mountain including PSNH's obligation to provide service to CMRC under its electric

Tariff as revised from time to time, and CMRC's obligation to make payment for service

taken under PSNH's Tariff, except for payment obligations incurred prior to the effective date of this Agreement, until service is re- established under the terms of Article 5. Electric service by PSNH to CMRC's facilities located adjacent to Sunset Lake in Greenfield, New Hampshire or other locations remote from CMRC's main campus on Crotched Mountain, shall be unaffected by this Agreement.

Article 12 - Waiver of Terms or Conditions

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall remain at all times in full force and effect.

Article 13 - Assignment

This Agreement shall be binding upon, and inure to the benefit of the respective successors and assigns of the parties hereto. In the event of an assignment by either party, such party shall notify the other in writing within fifteen (15) days of the effective date of the assignment.

Article 14 - Applicable Law

This Agreement is made under the laws of the State of New Hampshire and the interpretation and performance hereof shall be in accordance with and controlled by the laws of that State.

Article 15 - Mailing Addresses

The mailing addresses of the parties are as follows: PSNH:
Public Service Company of New Hampshire
P.O. Box 330
Manchester, New Hampshire 03105-0330
Attention: Rates Division

CMRC:

Crotched Mountain Rehabilitation Center, Inc.

Greenfield, New Hampshire

Page 149

Attention: Michael Terrian, Vice President

IN WITNESS WHEREOF, the parties have hereunto caused their names to be subscribed, each by a duly authorized officer, as of the day and year first above written.

Crotched Mountain Rehabilitation Center, Inc

Public Service Company of New Hampshire

Public Service Company of New Hampshire
Exhibit A
Special Contract No. 70
Original Sheet No. 1

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

SCHEDULE OF CHARGES FOR SERVICE

TO CROTCHED MOUNTAIN REHABILITATION CENTER, INC.

Monthly Administrative Charge: $200.00

Monthly Energy Charge:

The monthly energy charge shall be the amount of kilowatt- hours sold to CMRC during a scheduled period of service times the rate shown in the table below. Where a scheduled period of service extends through December 31 of any year, kilowatt-hours of service shall be separately applied to each applicable rate listed below through direct measurement of kilowatt-hours during each rate period or through daily proration of 8kilowatt-hours depending upon the capability of the installed metering.

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

Calendar Year	Cents/KWH
1992	6.40
1993	6.90
1994	7.30
1995	7.90
1996	8.30

Public Service Company of New Hampshire Exhibit B
Special Contract No. 70
Original Sheet No. 1

DESCRIPTION OF ELECTRICAL INTERFACE (DEI) CROTCHED MOUNTAIN REHABILITATION CENTER, INC. (CMRC)

I. INTRODUCTION

CMRC has installed generation facilities to supply its internal needs. Under the terms of the Special Contract of which this is a part, it is the intention of both PSNH and CMRC that CMRC generation shall not be connected to the PSNH grid under any circumstances. PSNH has examined the relationship between the PSNH and CMRC electrical systems and developed the interface requirements contained within this Exhibit. These provisions are designed to ensure that CMRC generation cannot be inadvertently connected to the PSNH system. It is understood that at some future date, CMRC may desire to operate its generation facilities in parallel with PSNH's system. Prior to such operation, CMRC must contact PSNH and arrange for a study to be performed in which the requirements for such an operating mode would be determined. Once CMRC is prepared to meet any additional requirements for parallel operation, this Exhibit will be revised to allow for parallel operation.

II. PSNH INTERFACE REQUIREMENTS - PHYSICAL

A. A three-phase disconnect switch with a visible open point and "Kirk" key interlock will be located on pole 267/12 near the entrance to the CMRC facility. This switch will be applied at the 12,470 volt level and will, when open, isolate the PSNH supply from the CMRC distribution system.

B. A three-phase disconnect switch with a visible open point and "Kirk" key interlock will be

located at the CMRC generation switchboard. This switch will be operated at the 480 volt level and will, when open, isolate all CMRC generation from the CMRC distribution system.

C. The switches described in A. and B. above will be key interlocked in such a way that only one switch can be closed at a time.

D. The electrical and physical arrangements of the switches described in A. and B. above are shown on drawings SK1-PAM-478-0 and SK2-PAM-478-0 respectively.

III. PSNH INTERFACE REQUIREMENTS - OPERATIONAL

A. Under no circumstances shall any attempt be made to operate CMRC generation in parallel with the PSNH system.

Public Service Company of New Hampshire Exhibit B
Special Contract No. 70
Original Sheet No. 2

B. CMRC shall only connect its electrical distribution system to the PSNH electrical system per the terms of this Special Contract, including this Exhibit B.

C. The switching necessary to transfer the CMRC electrical system to/from the PSNH electrical system will normally be performed by CMRC personnel after appropriate communication with PSNH.

IV. NOTIFICATIONS

CMRC shall provide in writing to PSNH, the names and telephone numbers of CMRC personnel who CMRC has designated as points of contact for the purpose of complying with the requirements of this Exhibit B, whenever such names or telephone numbers change. Initially, the CMRC point of contact shall be CMRC's Director of Building Services, John Parisi or the on-duty generator operator at (603) 547-3311.

Correspondingly, PSNH shall provide in writing to CMRC, the names and telephone numbers of PSNH personnel designated as points of contact for the purpose of complying with the requirements of this Exhibit B as well as receiving and responding to CMRC requests for electric service, whenever such names or telephone numbers change. Initially, the PSNH point of contact shall be PSNH's Manager of Systems Operations, Joseph A. S. Breton, or the on-duty Systems Operations Coordinator at (603) 634-3576 or 3577.

Page 151

(Graph intentionally omitted; see printed book, page 152)

Page 152

(Graph intentionally omitted; see printed book, page 153)

==========

MERIDEN TELEPHONE COMPANY, INC.

DR 91-111
ORDER NO. 20,427

77 NH PUC 154

New Hampshire Public Utilities Commission

March 31, 1992

Order Approving Tariff Pages Filed For Custom Calling

On August 2, 1991, Meriden Telephone Company, Inc. (the Company) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce three custom calling features (Call Forwarding, Call Waiting and Three Way Calling) to all of Meriden Telephone Company's customers, at the cutover of the Company's new digital switch scheduled for September 26, 1991; and

WHEREAS, the company proposes to offer the three new features and any other subsequently available custom calling feature at the customer's request at no charge or service connection charge during a 90 day period following the date of the offering; and

WHEREAS, the Company provided an embedded cost of service study in support of the proposed rates; and

WHEREAS, while recognizing its obligation to provide incremental cost support for this service, the Company requested a temporary waiver of this requirement until June 30, 1992; and the proposed tariff was filed for effect on September 2, 1992; and

WHEREAS, by Order No. 20,223, dated August 26, 1991, the Commission suspended the filing pending further staff investigation, and granted the waiver from filing incremental cost of service support until June 30, 1992; it is hereby

ORDERED, that the following tariff pages:

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

NHPUC No. 4 -Telephone
Section 6, -Original Sheets
3, 4, 5,6,7,8,
and 9

be and hereby are approved; and it is

FURTHER ORDERED, that these rates may be subject to review pending the outcome of the June 1992, Incremental Cost Study.

By Order of the New Hampshire Public Utilities Commission this thirty-first day of March, 1992.

==========

NH.PUC*03/31/92*[72889]*77 NH PUC 154*MERIDEN TELEPHONE COMPANY, INC.

[Go to End of 72889]

MERIDEN TELEPHONE COMPANY, INC.

DR 91-131
ORDER NO. 20,428

77 NH PUC 154

New Hampshire Public Utilities Commission

March 31, 1992

Order Approving Centrex Service Tariff Pages

On August 30, 1991, Meriden Telephone Company, Inc. (the Company) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to make available Centrex Services to all of Meriden Telephone Company's customers, at the cutover of the Company's new digital switch scheduled for September 26, 1991; and

WHEREAS, the Company provided an embedded cost of service study in support of the proposed rates; and

WHEREAS, while recognizing its obligation to provide incremental cost support for this service, the Company has requested a temporary waiver of this requirement until December 1992; and

WHEREAS, the proposed tariff was filed for effect on October 3, 1991; and

WHEREAS, by Order No. 20,252, the Commission suspended the filing pending further staff investigation, and granted the waiver from filing incremental cost of service support until June 30, 1992, consistent with the Commission's finding in Meriden Telephone Company, DR 91-111, Order No. 20,223 dated August 26, 1991; it is hereby

ORDERED, that the following tariff pages:

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

NHPUC No. 4 - Telephone
Section 2, - Original Sheets
3 through 7

be and hereby are approved; and it is

FURTHER ORDERED, that these rates may be subject to review pending the outcome of the June 1992, Meriden Incremental Cost Study.

By order of the New Hampshire Public Utilities Commission this thirty-first day of March, 1992.

==========

NH.PUC*03/31/92*[72890]*77 NH PUC 155*GRANITE STATE TELEPHONE INC.

[Go to End of 72890]

GRANITE STATE TELEPHONE INC.

DR 90-219
ORDER NO. 20,429

77 NH PUC 155

New Hampshire Public Utilities Commission

March 31, 1992

Order Denying Motions to Strike and Amending Procedural Schedule

---

REPORT

Appearances: Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. and Anu R. Mather, Esq. for Granite State Telephone Inc.; Victor Del Vecchio, Esq. for New England Telephone and Telegraph Company; Office of Consumer Advocate by Michael W. Holmes, Esq. for Residential Ratepayers; Eugene F. Sullivan, III, Esq. for the staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

By Order of Notice dated December 14, 1990, the New Hampshire Public Utilities Commission (commission) opened docket DR 90-219 to investigate the earnings of Granite State Telephone, Inc. (Granite State). New England Telephone and Telegraph Company, on May 27, 1991, was granted intervention, on the limited issue of the toll settlement pool. See Report and Order No. 20,136.

In the ensuing months, the staff and Granite State have been engaged in extensive discovery and negotiations. The current agreed upon procedural schedule (which is the product of many modifications) called for prefiled direct testimony from Granite State on June 3, 1991, and from the staff on September 27, 1991. Granite State's responsive testimony was to be filed by January 31, 1992, with the staff's responsive testimony due on February 28, 1992. Hearing on the merits is scheduled to begin in April, 1992.

On February 3, 1992, months after Granite State and the staff had filed their direct testimony, Granite State filed extensive new testimony from three Granite State witnesses: Controller Otto Nielsen, consultant Michael Campbell and consultant Robert Rohr. The new testimony contained a depreciation study, a lead-lag study, use of 1992 Universal Service Fund data and a new cost of capital methodology.

The staff objected to the filing, moving that it be stricken or, in the alternative, that the staff be given an additional six months in order to adequately prepare for hearing on the merits.

On February 28, 1992, Granite State moved to strike the October 11, 1991 testimony of staff

witness ChristiAne Mason. The staff objected to this Motion on March 16, 1992.

II. POSITION OF THE PARTIES

A. Granite State Telephone, Inc.

Granite State argues that the staff's motion to strike the testimony of Mr. Nielsen, Mr. Campbell and Dr. Rohr is improper in that Granite State did not initiate this proceeding and should not bear the burden of proof. Granite State argues that it cannot adequately respond to the staff's position without this testimony, and that its rights under the Administrative Procedure Act and federal and state constitutions would be violated if such testimony were stricken.

Granite State further argues that the testimony of Ms. Mason should be stricken because it was late filed by eleven calendar days and that her recommendation for a residual rate of return (derived by subtracting the interstate from intrastate revenues) violates state and federal law.

Page 155

B. Commission Staff

The staff contends that the bulk of Granite State's testimony filed in February, 1992 constitutes new direct testimony rather than responsive testimony. The studies and cost of capital testimony will require extensive examination in order to provide the Commission a thorough analysis for its full consideration of the issues.

As an alternative grounds for relief, the staff asks that if the testimony is not to be stricken, that the staff be given an additional six months in which to prepare for hearing on the merits, and to provide for staff advisory testimony on the newly submitted materials.

The staff further contends that Ms. Mason's testimony should not be stricken, as the Commission should review as part of its consideration of this case, Granite State's total revenue and the burdens imposed on Granite State's ratepayers.

III. COMMISSION ANALYSIS

The Commission's focus in evaluation such motions as have been filed by the staff and Granite State is to ensure that the Commission is presented the best and most relevant evidence, while endeavoring the ensure fairness to the staff and all parties. For that reason, we are not inclined to strike the testimony of Granite State's three witnesses or the staff's witness.

We recognize that the procedure in this docket, opened at the request of the Commission, is unlike traditional rate cases initiated by a company. For that reason, we will allow the extensive new testimony submitted by Granite State and will, therefore, deny in part the staff's motion to strike the February 3, 1992 testimony of Mr. Nielsen, Mr. Campbell and Dr. Rohr.

The staff requested, in the alternative, that it be granted six months to evaluate the new testimony and provide the Commission with advisory testimony on the new materials. We find it appropriate to extend the time in which to prepare for hearings but believe that six months may be an excessive extension, given that all testimony and the data on which it is based risks becoming stale the longer the hearings are delayed. We will grant the staff's request for an extension of time, but limit it to three rather than six months. We encourage the staff and parties to confer to develop a new procedural schedule.

We find Granite State to be correct in its statement that Ms. Mason's testimony was late filed by a number of days and, therefore, was not in compliance with the procedural schedule. We do not, however, consider the late filing to have disadvantaged Granite State, noting that Granite State raised no such motion to strike when Ms. Mason's testimony was filed in October, 1991. We will, therefore, deny Granite State's motion to strike the October 11, 1991 testimony of Ms. Mason.

Finally, we find that the decision by Granite State to file extensive new testimony in advance of the hearings, thereby necessitating an extension of time for staff evaluation of that evidence constitutes a waiver of any rights Granite State may have pursuant to RSA 378:6,I and RSA 378:27, for resolution of rate matters within twelve months of the filing of schedules or tariffs. As there have been no tariffs filed in this case, there may in fact be no right to resolution of the rate issues within a specific time frame. To the extent that Granite State finds such a right, however, we consider it to have been waived by Granite State's actions. To conclude otherwise would substantially limit the Commission's ability to be presented with a full and thorough analysis of the testimony and all supporting data.

Should Granite State contest the Commission's finding that Granite State's filing caused the extension of the schedule and thereby a waiver of the aforementioned statutory rights in this case, it should notify the Executive Director immediately, at which point we will reconsider the staff's motion to strike Granite State's February 3, 1992 testimony.

Our order will issue accordingly.

Concurring March 31, 1992

Page 156

ORDER

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

ORDERED, that Granite State Telephone Inc.'s Motion to Strike the Testimony of ChristiAne Mason be and hereby is denied; and it is hereby

FURTHER ORDERED, that the staff's Motion to Strike the Testimony of Otto Nielsen, Michael Campbell and Robert Rohr be and hereby is denied; and it is hereby

FURTHER ORDERED, that the staff's request for an additional six months in which to prepare for hearing on the merits be denied but instead, that the staff and parties be given an additional three months in which to prepare for hearing on the merits, and opportunity for the staff to file advisory testimony, such that hearing on the merits should occur no later than July, 1992, subject to scheduling on the Commission agenda; and it is hereby

FURTHER ORDERED, that Granite State, by its filing of extensive new testimony on February 3, 1992, is considered to have waived any rights it may have to determination of rate matters within twelve months of the filings of tariffs pursuant to RSA 378:6,I and RSA 378:27; and it is hereby

FURTHER ORDERED, that the staff and the parties confer on a procedural schedule regarding the hearing dates and other dates as may be necessary.

By order of the New Hampshire Public Utilities Commission this thirty-first day of March, 1992.

==========

NH.PUC*04/01/92*[72891]*77 NH PUC 157*CONCORD ELECTRIC COMPANY EXETER AND HAMPTON ELECTRIC COMPANY

[Go to End of 72891]

CONCORD ELECTRIC COMPANY EXETER AND HAMPTON ELECTRIC COMPANY

DE 90-071
ORDER NO. 20,430

77 NH PUC 157

New Hampshire Public Utilities Commission

April 1, 1992

Order Closing Docket DE 90-071

Appearances: LeBoeuf, Lamb, Leiby & MacRae by Paul B. Dexter, Esq. and Elias G. Farrah, Esq. on behalf of Concord Electric Company and Exeter and Hampton Electric Company; McLane, Graf, Raulerson & Middleton by Richard A. Samuels, Esq. on behalf of Eastern Utilities Associates; Joseph W. Rogers, Esq. on behalf of the Office of the Consumer Advocate; and Amy L. Ignatius, Esq. on behalf of the Commission Staff.

REPORT

I. PROCEDURAL HISTORY

By letter to the New Hampshire Public Utilities Commission (Commission) dated April 25, 1990, Concord Electric Company and Exeter and Hampton Electric Company (the UNITIL companies) requested an extension of time for filing their least cost integrated resource plan (LCIP) from May 1, 1990 to June 1, 1990. By secretarial letter dated May 1, 1990, the Commission granted an extension of time to May 31, 1990.

On May 31, 1990, the UNITIL companies filed their least cost integrated resource plan. An Order of Notice was issued on August 28, 1990.

On September 24, 1990 a prehearing conference was held at which the parties agreed to submit a written proposed procedural schedule and Eastern Utilities Associates was granted limited intervenor status.

The parties submitted a stipulated procedural schedule on September 24, 1990 and on November 2, 1990, the UNITIL companies submitted their updated least cost

integrated resource plan. On February 1, 1991, staff requested that the procedural schedule in the instant docket be suspended pending issuance of the Commission's order in docket DF 89-085, discussed below. The parties were notified that staff's request had been granted by secretarial letter dated February 13, 1991.

II. ADDITIONAL BACKGROUND

On May 18, 1989, the Commission opened docket DF 89- 085 in response to the Petition of Eastern Utilities Associates for Approval to Acquire Shares of UNITIL Corporation. During April and May 1990, the UNITIL companies and Eastern Utilities Associates filed testimony, addressing inter alia resource planning issues. Discovery was conducted over the summer of 1990 and hearings in docket DF 89- 085 were held through August and September, 1990. Resource planning issues were the subject of much of the testimony and the focus of several of the days of hearing. Initial Briefs were filed on October 23, 1990; Reply Briefs were filed on November 6, 1990.

On April 1, 1991, the Commission issued order no. 20,094 denying Eastern Utilities Associates' petition and requiring the UNITIL companies to file a compliance plan addressing resource planning issues, including

(1) A schedule for compliance with the commission order and revised resource planning guidelines consistent with the foregoing Report within 3 months [by July 1, 1991];

(2) A detailed [demand-side management] DSM development and implementation plan within 6 months [by October 1, 1991], with implementation scheduled to begin within 9 months [by January 1, 1992];

(3) A complete least cost integrated resource planning filing that fully complies with prior commission orders on UNITIL's least cost planning filings and this order by April 30, 1992.

Report and Order No. 20,094.

On July 1, 1991, the UNITIL companies filed revised resource planning guidelines that were reviewed by staff. On October 1, 1991, the companies filed a detailed DSM development and implementation plan and by January 1, 1992 began implementation of three conservation and load management programs.

On November 18, 1991, the Commission closed docket DF 89085 upon review of staff memoranda indicating that the UNITIL companies had complied or were in the process of complying with the Commission's order no. 20,094.

III. COMMISSION ANALYSIS

Because of the timing of the filings and Commission investigations in docket DF 89-085 and the instant docket, the UNITIL companies' resource planning activities were reviewed and investigated in docket DF 89-085 before they could be addressed in this docket. Thus, the Commission finds that the resource planning issues that were the subject of the instant docket, DE 90-071, were addressed in DF 89-085 and that it is in the public interest, therefore, to close docket DE 90-071. The one remaining requirement is the filing of the UNITIL companies' 1992 integrated resource plan due April 30, 1992. The Commission finds that it is not necessary to leave the instant docket open to monitor compliance with that requirement.

Our order will issue accordingly.

Concurring April 1, 1992

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that docket DE 90-071 be, and hereby is, closed; and it is

hereby

FURTHER ORDERED, that Concord Electric Company and Exeter and Hampton Electric Company file their 1992 least cost integrated resource plan in accordance with

Page 158

state statute and prior commission orders on or before April 30, 1992.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1992.

==========

NH.PUC*04/02/92*[72892]*77 NH PUC 159*US SPRINT COMMUNICATIONS COMPANY OF NEW HAMPSHIRE,INC.

[Go to End of 72892]

US SPRINT COMMUNICATIONS COMPANY OF NEW HAMPSHIRE,INC.

DR 92-042
ORDER NO. 20,432

77 NH PUC 159

New Hampshire Public Utilities Commission

April 2, 1992

NISI Order Approving Tariff Pages For SPRINT 10333 Calling, OPERATOR/MECH-ANIZED Calling Card, and FONCARD Travel Service.

On February 28, 1992, US Sprint Communications Company of New Hampshire,Inc. (the company) filed a petition, for effect on April 1, 1992, seeking the introduction of SPRINT service (10333 calling), Operator and Mechanized Calling Card Service (MCCS) and FONCARD Travel Service; and

WHEREAS, SPRINT 10333 calling will enable end-users who are not pre-subscribed to Sprint as their primary long distance carrier for switched services or Sprint subscribers with switched products to make in-state direct dial calls using the Sprint long distance network from an equal access end office; and

WHEREAS, Sprint Operator Service enables end-users who are not pre-subscribed to Sprint as their primary long distance carrier for switched services to make in-state operator assisted

calls using the Sprint long distance network from an equal access end office and bill calls to a third party, collect, or to a Local Exchange Company calling card. Mechanized Calling Card Service applies when the customer can complete the call without the assistance of an operator and the call is originated from a coin or coinless payphone; and

WHEREAS, FONCARD Travel Service is available to both Sprint subscribers and non-Sprint customers for use when away from their primary service location; and

WHEREAS, the proposed services are being offered to New Hampshire customers as add-on services to Sprint's existing interstate offerings and;

WHEREAS, the New Hampshire Public Utilities Commission is interested in encouraging the emergence of competition in the intraLATA toll market on an interim basis; it is hereby

ORDERED NISI, that SPRINT service, Operator and Mechanized Calling Card service and FONCARD Travel service be offered subject to the conditions as specified in NHPUC Order No. 20,042, dated January 21, 1991, in Docket DE 90 002; and it is

FURTHER ORDERED, that US Sprint Communications Company of New Hampshire Inc, be and hereby is authorized to implement the following tariff changes:

PUC Tariff No 3,

1st Revised Page 1

1st Revised Page 2

1st Revised Page 5

1st Revised Page 12

1st Revised Page 15

1st Revised Page 20

1st Revised Page 22

1st Revised Page 29

1st Revised Page 31

1st Revised Page 32

1st Revised Page 42

1st Revised Page 44

1st Revised Page 46

1st Revised Page 47

1st Revised Page 48

1st Revised Page 49

1st Revised Page 50

1st Revised Page 52

1st Revised Page 60

1st Revised Page 61

1st Revised Page 62

1st Revised Page 63;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, the Company

Page 159

cause an attested copy of this Order NISI to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than April 17, 1992, and it is to be documented by affidavit filed with this office on or before May 4, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than May 2, 1992; and it is

FURTHER ORDERED, that this Order NISI will be effective on May 4, 1992, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this second day of April, 1992.

==========

NH.PUC*04/07/92*[72893]*77 NH PUC 160*ENERGYNORTH NATURAL GAS,INC.

[Go to End of 72893]

ENERGYNORTH NATURAL GAS,INC.

DR 90-183
ORDER NO. 20,435

77 NH PUC 160

New Hampshire Public Utilities Commission

April 7, 1992

Order Approving Non-Peak Firm Service Tariff

The New Hampshire Public Utilities Commission (Commission) heard testimony on January 21, 22, 23, 28, 29, and 30, 1992, in DR 90-183 regarding issues of rate design, charitable contributions and a weather adjustment factor; and

WHEREAS, Commission staff and three of the four parties in this proceeding agreed to the proposed rate design, including the introduction of a new Non- Peak Firm Service tariff, with the Office of the Consumer Advocate objecting to the proposed rate design though not specifically to the Non-Peak Firm Service tariff; and

WHEREAS, the tariff establishes that natural gas will be available for a minimum of 280 days, subject only to the condition that the price charged does not fall below the company's floor price at any given time; and

WHEREAS, the agreement requires that all revenues received from Non-Peak Firm Service be treated similarly to revenues from other firm service rates; and

WHEREAS, the proposed Non-Peak Firm Service rate appears to be just and reasonable and in the public interest; it is hereby

ORDERED, that the proposed Non-Peak Firm Service rate be, and hereby is, approved; and it is

FURTHER ORDERED, that the Non-Peak Firm Service rate tariff be made effective as of April 6, 1992; and it is

FURTHER ORDERED, that the remaining issues in this docket shall be determined at a later date, and all rulings, including those contained within the instant order, shall be incorporated into a full report and order; any request for rehearing of the Commission's approval of the Non-Peak Firm Service tariff, therefore, need not be filed until the full report and order is issued.

By order of the New Hampshire Public Utilities Commission this seventh day of April, 1992.

==========

NH.PUC*04/08/92*[72894]*77 NH PUC 161*NORTHEAST UTILITIES SERVICE COMPANY/ PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72894]

NORTHEAST UTILITIES SERVICE COMPANY/ PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DE 92-053
ORDER NO. 20,436

77 NH PUC 161

New Hampshire Public Utilities Commission

April 8, 1992

Order Approving Revision of Power Contract Modification

On March 23, 1992, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,420, which granted approval by Order NISI of two technical modifications to the Seabrook Power Contract (Contract); and

WHEREAS, Northeast Utilities Service Company and Public Service Company of New Hampshire (the companies), by petition dated March 20, 1992, requested the following two modifications to the Contract: 1) removal from the definition of "cash working capital allowance" any nuclear fuel owned by North Atlantic Energy Corporation, and 2) statement of

the companies' agreement that they would return to the Federal Energy Regulatory Commission (FERC) for approval of an automatically adjusted return on equity after ten years; and

WHEREAS, the companies' petition stated that the two modifications were proposed in response to an order of the FERC; and

WHEREAS, the companies submitted a letter to the Commission on April 7, 1992, stating that their original petition sought modification of Section G(c)(ii) of the Contract regarding nuclear fuel, but that by letter of April 6, 1992, the FERC notified them that the appropriate section to be amended regarding nuclear fuel is Section G(c)(i); and

WHEREAS, the Order NISI granted interested parties leave to file comments on the modifications until the close of business April 6, 1992, and provided that the Order NISI would become effective on April 8, 1992 unless the Commission provided otherwise on or before April 8, 1992; and

WHEREAS, no comments were filed by the close of business April 6, 1992; and

WHEREAS, the companies now request revision of the Contract modification which removes nuclear fuel owned by North Atlantic Energy Corporation from the definition of "cash working capital allowance," in order to identify accurately Section G(c)(i) as the section being modified; and

WHEREAS, the State of New Hampshire and all parties to the Rate Agreement have consented to this revision; it is hereby ORDERED, that the further modification to the Seabrook Power Contract regarding investment in nuclear fuel, as revised by the companies in their April 7, 1992 letter to the Commission be, and hereby is, approved; and it is

FURTHER ORDERED, that Order NISI No. 20,420 otherwise remain unchanged.

By order of the New Hampshire Public Utilities Commission this eighth day of April, 1992.

==========

NH.PUC*04/10/92*[72895]*77 NH PUC 161*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72895]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-009
ORDER NO. 20,437

77 NH PUC 161

New Hampshire Public Utilities Commission

April 10, 1992

Order Regarding Requests for Intervention

REPORT

I. PROCEDURAL HISTORY

New Hampshire Electric Cooperative, Inc. (NHEC) on January 16, 1992 filed a notice of intent to file rate schedules. On March 6, 1992, NHEC filed a motion for establishment of temporary rates. As a result of these filings the New Hampshire Public Utilities Commission (Commission) issued an order of notice on March 20, 1992 setting a prehearing conference for April 9, 1992 and requiring all motions to intervene to be filed by April 9, 1992.

The Commission received a number of requests for intervention. The requests which are relevant to this order are the motion by the

Page 161

National Rural Utilities Cooperative Finance Corporation (NRUCFC) dated April 1, 1992, the petition for intervention by the Official Member Committee of the New Hampshire Electric Cooperative, Inc. (Official Member Committee) dated April 6, 1992, the motion to intervene submitted by the Business and Industry Association (BIA), and the petition to intervene and request for finding of eligibility for compensation filed by the Campaign for Ratepayers Rights (CRR) on April 9, 1992. The Office of the Consumer Advocate filed an objection to NRUCFC's motion to intervene on April 8, 1992. The Consumer Advocate also filed on April 8, 1992 an objection to the petition for intervention filed by the Official Member Committee. The NHEC filed an objection to the petition for intervention by the Official Member Committee on April 9, 1992.

At the hearing held on April 9, 1992, additional oral objections were raised to the various motions and petitions. The State of New Hampshire objected to the petition for intervention by the Official Member Committee as did the staff of the Public Utilities Commission (Staff). On the motion by the CRR, which was submitted on the same day as the hearing, objections were raised by the NHEC, the State of New Hampshire and Staff. The Staff also raised an objection to the request by the CRR for a finding of eligibility for compensation under the Public Utilities Regulatory Policy Act of 1978 (PURPA).

II. COMMISSION ANALYSIS.

After reviewing the motions and petitions to intervene, objections and the arguments offered at the hearing on April 9, 1992, the Commission will deny the NRUCFC motion to intervene. The Commission is satisfied that the rights and interests of this petitioner will be represented to a large degree by other parties who are appearing before the Commission. In the interest of ensuring the orderly and prompt conduct of the proceedings and avoiding impairment thereto, the Commission is denying full intervenor status to the NRUCFC. The Commission will, nonetheless, allow it limited intervenor status pursuant to Puc 203.03. If at any point in these proceedings the NRUCFC can demonstrate that its interests are not being adequately represented it is free to file again for full intervenor status.

In regard to the Members Committee's motion to intervene the Commission denies the motion in total. The Members Committee is an "entity" of the United States Bankruptcy Court which has no existence outside of that jurisdiction. It is our understanding that the Members Committee was created by the United States Trustee to ensure that the members of the NHEC were adequately represented by the parties to the bankruptcy proceeding. If the Members Committee believes that the Bankruptcy Court's decision confirming NHEC's plan of

reorganization to be in error it should exhaust its remedies in the federal courts which created it.

However, the Commission recognizes that the Members Committee is a group of customers, and, therefore, members of the NHEC and as such are free to file a motion to intervene in that capacity.

Intervention for BIA and CRR must necessarily be limited by virtue of the fact that neither is at this juncture represented by attorneys. The participation of both groups is therefore limited by the parameters described in DR 91 011 and DR 91-054, Order No. 20,206 dated August 12, 1991, without prejudice to the right of either group to petition for full intervention and participation should they obtain representation by legal counsel.

Insofar as CRR's request for funding of eligibility for compensation is concerned, the Commission finds that CRR has made no showing that it is entitled to compensation under PURPA and/or the Commission's rules, N. H. Admin. Rule Puc 205. In reaching this determination the Commission relies on its ruling in DR 91-011, Order No. 20,254 dated September 24, 1991, and its rules. The request in this docket does not appear to substantially differ from CRR's request in DR 91-011 and is therefore denied for the same reasons.

Our order will issue accordingly.

Concurring April 10, 1992

Page 162

ORDER

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

ORDERED, that the Petition for Intervention by the Official Member Committee of the New Hampshire Electric Cooperative, Inc. is hereby denied, without prejudice to members of the New Hampshire Electric Cooperative, Inc, who may file an independent motion to intervene; and it is

FURTHER ORDERED, that the petition for full intervenor status of the National Rural Utilities Cooperative Finance Corporation is denied and it is granted limited intervenor status; and it is

FURTHER ORDERED, that the Campaign for Ratepayers Rights' Request for Funding of Eligibility for Compensation is hereby denied; and it is

FURTHER ORDERED, that the intervention by the Campaign for Ratepayers Rights and the Business and Industry Association is limited as described in the Report accompanying this Order.

By order of the New Hampshire Public Utilities Commission this tenth day of April, 1992.

==========

APOLLO COMMUNICATIONS,

INC. DE 92-006
ORDER NO. 20,438

77 NH PUC 163

New Hampshire Public Utilities Commission

April 13, 1992

Order Approving Public Access Line Service

On January 7, 1992, Apollo Communications, Inc. (Apollo) requested a tariff for Public Access Line (PAL) service in the service area of Merrimack County Telephone (MCT) for the provision of Customer-Owned Coin-Operated Telephone (COCOT) service; and

WHEREAS, by Order 20,323, (December 4, 1991) in DE 91- 187, the Commission ordered Bretton Woods Telephone Company to provide PAL service to allow COCOTs to operate in its franchised service territory, including Apollo; and

WHEREAS, MCT has filed tariff pages, which make PAL service available to COCOTs in its franchised service territory; and

WHEREAS, MCT tariff pages mirror the current PAL tariffs offered to COCOTs by New England Telephone; and

WHEREAS, the tariff pages proposed by MCT will enable COCOT service to be provided in MCT's franchised service territory which the Commission finds is consistent with the public good; it is hereby

ORDERED, that the tariff pages NHPUC No. 7 Part III General, Section 5, Page 1 Original, and Page 2 Original, filed March 16, 1992, effective April 15, 1992 be and hereby are approved.

By order of the New Hampshire Public Utilities Commission this thirteenth day of April, 1992.

==========

NH.PUC*04/14/92*[72897]*77 NH PUC 163*LOCHMERE GOLF AND COUNTRY CLUB, INC.

[Go to End of 72897]

LOCHMERE GOLF AND COUNTRY CLUB, INC.

DE 92-049
ORDER NO. 20,440

77 NH PUC 163

New Hampshire Public Utilities Commission

April 14, 1992

Order NISI granting authorization for a sewer main crossing of state-owned railroad property in the Town of Tilton.

WHEREAS, on March 11, 1992 the Lochmere Golf and Country Club (petitioner) filed via its authorized agent, Holden Engineering & Surveying, Inc., with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to construct, use and maintain a sewer main across state-owned railroad property in the Town of Tilton, New Hampshire; and

WHEREAS, the sewer main is proposed to serve the petitioner's property on Route 3 in the Lochmere section of Tilton; and

WHEREAS, the proposed sewer consists of 579 feet of 8- inch sewer main with

associated manholes and service laterals, the last 65 feet of which enters state railroad property, passing beneath the railroad tracks inside a 14-inch steel sleeve and tying into an existing state-owned 60-inch interceptor sewer, all as shown on plans on file with the Commission; and

WHEREAS, the proposed crossing of railroad property occurs at approximate Valuation Station 1120+03, Map V21/56 of the Concord-to-Lincoln Railroad; and

WHEREAS, the only other private property affected is that of Allen and Susan Blake, the same being the grantor of a sewer easement for the proposed sewer; and

WHEREAS, said easement allows said grantor to construct service laterals from the proposed sewer to two houses owned by the grantor and, subject to required approvals, to any future buildings owned by the grantor on said property; and

WHEREAS, the petitioner will pay for, own and maintain the proposed sewer, and the grantor of the easement will pay for (except for an initial deductible), own and maintain any service laterals installed for his own use, and there will be no other charges for use of the sewer; and

WHEREAS, the Commission finds the above construction is necessary to meet the reasonable requirements of the petitioner without substantially affecting the public rights in said state property, and thus it is in the public good; and

WHEREAS, the petitioner represents and Commission staff has confirmed that the NHDOT Bureau of Railroads is in agreement with this petition; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than May 11, 1992; and it is

FURTHER ORDERED, that the petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation and

once in a newspaper having general circulation in the Tilton area, said publications to be no later than April 27, 1992. In addition, pursuant to RSA 541A:22, the petitioner shall provide a copy of this order to the Tilton town clerk, by first class U.S. mail, postmarked on or before April 27, 1992. Compliance with these notice provisions shall be documented by affidavit(s) to be filed with the Commission on or before May 11, 1992; and it is

FURTHER ORDERED, NISI that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Lochmere Golf and Country Club, Inc., P.O. Box 130, Lochmere, New Hampshire 03252 to construct, use and maintain the aforementioned crossing of a sewer main on public railroad property in Tilton, New Hampshire identified at approximate Valuation Station 1120+03, Map V21/56, effective May 13, 1992 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the NHDOT Bureau of Railroads, the NH Department of Environmental Services and other applicable codes mandated by the Town of Tilton; and it is

FURTHER ORDERED, based on the petitioner's representation that no billing for provision of sewer service will occur beyond the allocation of construction and maintenance costs detailed in the above referenced sewer easement, so long as said billing structure remains in place, provision of service by the petitioner to said grantor is hereby exempted from the public utility provisions of RSA 362.

By order of the New Hampshire Public Utilities Commission this fourteenth day of April, 1992.

==========

NH.PUC*04/14/92*[72898]*77 NH PUC 165*NEW ENGLAND POWER COMPANY

[Go to End of 72898]

NEW ENGLAND POWER COMPANY

DF 91-221
ORDER NO. 20,441

77 NH PUC 165

New Hampshire Public Utilities Commission

April 14, 1992

Report and Order Approving Financing

Petition for authorization and approval of one or more additional issues of General and Refunding Mortgage Bonds, one or more additional issues of First Mortgage Bonds, execution of one or more loan agreements or supplemental loan agreements, and execution of one or more interest rate swap agreements, in connection with refinancing outstanding bonds and pollution control revenue bonds.

Appearances: Ta-Ko Chen, Esq. and Robert King Wulff, Esq. for New England Power Company; Eugene F. Sullivan, Finance Director and Sarah P. Voll, Chief Economist for the commission staff.

REPORT

New England Power Company (the "company"), is a utility subject to our jurisdiction. On December 23, 1991, the company filed a petition requesting authorization and approval from the commission for the issue and sale of not exceeding $477,000,000 aggregate principal amount of the company's General and Refunding Mortgage Bonds ("Additional G&R Bonds"). The $477,000,000 authorization request for Additional G&R Bonds consists of two parts: (i) $202,000,000 would be used to refinance existing General and Refunding Mortgage Bonds ("G&R Bonds") previously issued to support pollution control revenue bonds ("PCRBs") issued on the company's behalf and (ii) the remaining $275,000,000 may be used to refinance the company's outstanding G&R Bonds and First Mortgage Bonds. The company's petition also requests authority to issue and pledge First Mortgage Bonds ("New Pledged Bonds") in aggregate principal amount equal to the aggregate principal amount of the Additional G&R Bonds issued. The company also requests authorization and approval of the commission for the execution of one or more loan agreements or supplemental loan agreements with the Massachusetts Industrial Finance Agency ("MIFA"), The Industrial Development Authority of the State of New Hampshire ("NHIDA"), and the City of Salem, Massachusetts Industrial Financing Authority ("SALEM"), each of which is a public agency empowered to issue PCRBs on behalf of corporations such as the company (hereinafter referred to as the "Issuing Authorities" or an "Issuing Authority"). The company also requests authorization and approval of the commission for the execution of one or more interest rate swap agreements ("swaps") with one or more couterparties in notional amounts aggregating not in excess of $617,000,000, to be entered in conjunction with the Additional G&R Bonds and other existing G&R Bonds of the company.

A public hearing was held on the petition on February 24, 1992.

The company presented one witness, John G. Cochrane, Director of Corporate Finance for New England Power Service Company, an affiliate of the company.

The company also filed the following exhibits: NEP-1, direct testimony of John G. Cochrane; NEP-2, the company's financial exhibits; NEP=3, a refinancing plan summary; and NEP-4, a diagram of an interest rate swap.

The company's financial statements provided the basis of testimony relating to the company's capitalization. They indicate that as of September 30, 1991, the company's outstanding common stock totaled $128,997,920, represented by 6,449,896 shares of outstanding having a par value of $20 per share. Premiums on capital stock amounted to $86,891,450. Other paid-in capital was $288,000,000. Retained earnings were $282,049,309, and unappropriated undistributed subsidiary earnings were $12,386,899. The company had 860,280 shares of preferred stock outstanding which were composed of two classes: 6% cumulative preferred stock having a par value of $100, of

which one series is outstanding; and dividend series preferred stock, also having a par value of $100, of which seven series are outstanding with dividend rates ranging from 4.56% to 8.68%. The combined aggregate par value of the company's preferred stock was $86,028,000. Long-term debt outstanding, net of unamortized premiums and discounts, amounted to $811,626,611, consisting of eleven issues of First Mortgage Bonds and twelve issues of G&R Bonds with interest rates ranging from 4-3/8% to 10-5/8% and with maturity dates from 1991 to 2021. Not shown in the capitalization was $590,000,000 of pledged First Mortgage Bonds held by the trustee from the G&R Bonds.

The company reported that as of September 30, 1991 its utility plant was $2,553,670,289 (including capital lease). Construction work in progress was shown to be $67,253,571, for a total utility plant of $2,620,923,860. The accumulated depreciation reserve against such property amounted to $873,256,224. In addition, the company reported its investment in nuclear fuel as $12,796,911, for a net utility plant of $1,760,464,547. Other property and investments, of which a majority was authorized investments in securities of nuclear generating companies, was shown as $53,038,659.

REFINANCING PLAN

The company requests authority to issue one or more issues of Additional G&R Bonds with maturities not exceeding 30 years from the date of issuance, in an aggregate principal amount of not exceeding $477,000,000. Mr. Cochrane testified that $202,000,000 of the Additional G&R Bonds would be issued to refinance existing G&R Bonds previously issued to support PCRBs (tax-exempt G&R Bonds) and, depending on market conditions, the remaining $275,000,000 may be issued to refinance a portion of the company's currently outstanding G&R Bonds and First Mortgage Bonds.

In addition, the company requests authority to enter into one or more swaps in notional amounts aggregating not in excess of $617,000,000. Mr. Cochrane testified that, of this total, up to $202,000,000 may be entered in conjunction with new issues of Additional G&R Bonds issued to support PCRBs, up to $140,000,000 in conjunction with other outstanding issues of tax-

exempt G&R Bonds, and up to $275,000,000 in conjunction with new issues of Additional G&R Bonds not issued to support PCRBs.

The company's witness, Mr. Cochrane, testified that the proposed refinancing plan would enable the company to take advantage of favorable conditions in the current capital markets and refinance a portion of the company's outstanding bonds at reduced interest costs, which would result in significant benefits for the company's customers.

A. Tax-Exempt G&R Bonds and Related Swaps

Mr. Cochrane testified that the proposed refinancing of PCRBs previously issued on the company's behalf could save the company approximately $6,000,000 annually in net interest costs. On a net present value basis, the savings (net of tax effect) could amount to approximately $45,000,000 over the next 20 years. The new PCRBs would be sold by the Issuing Authorities through competitive bidding, negotiation with underwriters, or negotiation directly with investors. While the company would not be a party to any agreements, any such agreements will

provide that their terms shall be satisfactory to the company. Furthermore, the company may provide certain written assurances to the underwriters or investors.

The company plans to request the Issuing Authorities to issue PCRBs to be sold to the public with provisions whereby the interest rate is either (i) fixed for the entire term of the bonds or (ii) periodically adjusted by a remarketing agent on the basis of prevailing market conditions. In the case of variable rate bonds, the company would determine the length of the interest period.

Pursuant to one or more loan agreements or supplemental loan agreements between the company and an Issuing Authority, the Issuing

Page 166

Authority would lend the proceeds from the sale of the PCRBs to the company in exchange for the company's promise to make payments to the Issuing Authority in amounts corresponding to the payments of the principal of and premium, if any, and interest on the PCRBs sold to the public. The secure its obligations, the company would issue G&R Bonds to the Issuing Authority.

Mr. Cochrane testified that Additional G&R Bonds issued in connection with the issuance of PCRBs may bear interest from a date before their authentication. In addition, the redemption provisions of these Additional G&R Bonds issued to support PCRBs may differ from those of typical G&R Bonds.

Because the interest paid to holders of the PCRBs would be exempt from Federal income tax under the Internal Revenue Code (except possibly for certain alternative minimum taxes), the company anticipates that purchasers of these bonds would be willing to accept a lower interest rate than on a taxable security of like maturity. Mr. Cochrane stated that, based on the current market conditions, the company would expect a two percentage point differential (for a fixed interest rate) between the cost of the proposed tax exempt bonds and any taxable G&R Bonds issued directly to the public by the company.

The company would apply the proceeds from the new issues of PCRBs to refund PCRBs previously issued on the company's behalf. Mr. Cochrane explained that under current tax code rules, PCRBs issued for the purpose of refunding outstanding PCRBs may be issued no earlier than 90 days before the date on which the outstanding PCRBs mature or may be called. Mr. Cochrane testified that if new PCRBs were to be issued within this 90-day window, the proceeds would be invested in obligations issued or guaranteed by the United States government until disbursed to refund the outstanding PCRBs.

In conjunction with the issue of Additional G&R Bonds issued to support PCRBs and other outstanding tax-exempt G&R Bonds, the company may enter into one or more swaps. Mr. Cochrane explained that a swap is essentially an exchange of interest payment obligations between the company and a counterparty and no principal payments are made either when the swap is initiated or when it is terminated. Therefore, a swap is used to create synthetic floating or fixed interest rate obligations.

According to the witness, in the tax-exempt market, depending on factors such as the state tax rate, population of the state, and whether the PCRBs are subject to the alternative minimum

tax, a synthetic obligation may be less costly than a traditional obligation. The use of swaps to create either a floating rate obligation or a fixed rate obligation would enable the company to take advantage of such market conditions. Mr. Cochrane state that the PCRBs issued by MIFA may be good candidates for floating-to-fixed rate swaps and the PCRBs issued by NHIDA may be good candidates for fixed-to-floating rate swaps.

Mr. Cochrane also testified that because of the 90-day restriction on refunding of PCRBs, the company may enter a swap prior to this 90-day window, but delay closing until the first call day, to lock in favorable interest rates before actually issuing the new refunding PCRBs. Typically, there would be a premium associated with such delayed settlement transactions. The use of swaps in this context would act as a hedge against changes in interest rates between the date the outstanding bonds are called and the new bonds are issued.

Mr. Cochrane further testified that it is anticipated that the terms of the swaps would allow the company to terminate the swap arrangements under certain conditions, with the counterparty's consent and/or with early termination payments (which could be substantial depending on market conditions).

The company stated that the Additional G&R Bonds issued to support PCRBs would be issued for a price not less than 95% nor more than 100% of the principal amount and bear interest at a variable rate not exceeding 12% per annum, or a fixed rate not exceeding 9% per annum. In addition, any related floating-to-fixed swaps would not exceed 9% per annum. If a higher rate were subsequently required, the company would come before the commission to request approval to increase the

Page 167

rate. The witness testified that the market for fixed-to floating interest rate swaps cannot accommodate rate ceilings.

B. Taxable G&R Bonds and Related Swaps

Mr. Cochrane testified that the company has outstanding $275,000,000 of G&R Bonds and First Mortgage Bonds with interest rates higher than 8% and, depending on market conditions, it may become economical for the company to refinance these outstanding bonds. Exhibit NEP-3 listed the "break-even" refinancing rates for each series of these bonds.

The company stated that the taxable Additional G&R Bonds would be issued from time to time through December 31, 1996, with maturities not more than 30 years from the date of issuance, and sold at a price not less than 95% nor more than 100% of the principal amount. Mr. Cochrane testified that the company will not issue the taxable Additional G&R Bonds at a rate higher than the "break-even" rate of the particular series of bonds being refinanced, taking into consideration any related swaps.

The company also request authority to enter into swaps in conjunction with the $275,000,000 taxable Additional G&R Bonds. The witness explained that the company currently has adequate funds on hand to refinance a portion of its outstanding taxable bonds. Entering into a swap with a delayed settlement would allow the company to call the outstanding bonds and delay the issuance of the Additional G&R Bonds to a later date when the company needs the proceeds

from the sale. This would allow the company to lock in favorable interest rates before actually issuing the bonds. The swap, therefore, would act as a hedge against changes in interest rates between the date the outstanding bonds are called and the date the new bonds are issued.

At the time the Additional G&R Bonds are issued, the company would terminate the related swap. If interest rates rise during the period of the swap, the termination of the swap would produce a profit to offset the higher rate on the bonds being issued. The converse would occur if interest rates were to decline. Any profits or losses from the termination of a swap would be for the account of the company's customers.

C. General Provisions of G&R Bonds and New Pledged Bonds

Under the company's proposal, the Additional G&R Bonds would be issued under and pursuant to the terms of the company's General and Refunding Mortgage Indenture and Deed of Trust dated January 1, 1977, as amended and supplemented. The Additional G&R Bonds will have a lien subordinate to the company's First Mortgage Bonds, and will mature in not more than 30 years from the date of the initial issue. The exact maturity date will be fixed before each issue. Only fully registered bonds will be issued.

The New Pledged Bonds would be issued and pledged from time to time to the trustee for the G&R Bonds as additional security, representing a first mortgage claim for the holders of all G&R Bonds. When issued, the New Pledged Bonds will contain the same interest payment provisions and have the same maturity date as the issue of G&R Bonds with respect to which they are issued. Interest on the New Pledged Bonds is not required to be paid as long as interest payments are made on the G&R Bonds. The company will receive no proceeds from the issue and pledge of the New Pledged Bonds.

Upon investigation and consideration of the evidence submitted, the commission is of the opinion that granting the petition will be consistent with the public good.

Our order will issue accordingly.

Concurring April 14, 1992

ORDER

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

ORDERED, that the commission hereby grants to New England Power Company its authorization and approval of the issue and sale of one or more issues of General and Refunding Mortgage Bonds, in an aggregate

Page 168

principal amount not exceeding $477,000,000, to mature in not more than 30 years from the date on which the Bonds are issued; and it is

FURTHER ORDERED, that the proceeds from the issue and sale of the General and Refunding Mortgage Bonds shall be applied to (i) the refunding of up to $202,000,000 of pollution control revenue bonds issued on the company's behalf by the Massachusetts Industrial Finance Agency, the Industrial Development Authority of the State of New Hampshire, and the City of Salem, Massachusetts Industrial Development Financing Authority and (ii) the

reimbursement of the treasury for, or to the payment of short-term borrowings incurred for, retirement or refunding of $275,000,000 of other outstanding General and Refunding Mortgage Bonds and First Mortgage Bonds of the company; and it is

FURTHER ORDERED, that the General and Refunding Mortgage Bonds authorized and approved by the commission herein (i) if issued to support pollution control revenue bonds, shall bear interest at a variable rate not in excess of 12% per annum, or a fixed interest rate not in excess of 9% per annum (in either case unless a subsequent Order of the commission approves a higher rate) and on such terms as shall be determined by the directors of the company or officers of the company pursuant to delegated authority to match the interest rate, price (but not less than 95% nor more than 100% of the principal amount), and other terms of the corresponding pollution control revenue bonds issued by the Massachusetts Industrial Finance Agency, The Industrial Development Authority of the State of New Hampshire, or the City of Salem, Massachusetts Industrial Development Financing Authority; and (ii) if not issued to support pollution control revenue bonds, shall bear interest not in excess of the break-even rate of the particular series of bonds being refinanced as shown on Exhibit NEP-3, taking into consideration any related interest rate swap agreements, to be sold at a price not less than 95% nor more than 100% of the principal amount thereof, and on such terms as shall be determined by the directors of the company of officers of the company pursuant to delegated authority through competitive bidding, negotiation with underwriters, or negotiation directly with investors; and it is

FURTHER ORDERED, that the commission hereby grants to New England Power Company its authorization and approval of execution and delivery of one or more loan agreements or supplemental loan agreements, in connection with the refinancing of pollution control revenue bonds, between New England Power Company and the Massachusetts Industrial Finance Agency, The Industrial Development Authority of the State of New Hampshire, and the City of Salem, Massachusetts Industrial Development Financing Authority, under which loan agreements or supplemental loan agreements, New England Power Company will agree to make payments to such agencies at such times and in such manner as will correspond to the payments for principal of and premium, if any, and interest on pollution control revenue bonds issued on the company's behalf; provided, however, the terms of any such loan agreements or supplemental loan agreements will provide that the maximum variable interest rate payable by the company is not to exceed 12% per annum and the maximum fixed interest rate payable by the company is not to exceed 9% per annum, unless otherwise ordered by the commission; and it is

FURTHER ORDERED, that the commission hereby grants to New England Power Company its authorization and approval of execution of one or more interest rate swap agreements in notional amounts aggregating not in excess of $617,000,000, to be entered in conjunction with the additional General and Refunding Mortgage Bonds authorized and approved by the commission herein and other existing General and Refunding Mortgage Bonds of the company, for a period of not more than 30 years, to be either fixed-to-floating interest rate swaps of floating-to-fixed interest rate swaps, and where it is floating-to-fixed interest rate swap entered into conjunction with General and Refunding Mortgage Bonds issued to support pollution control revenue bonds, the maximum fixed interest rate payable by the company under the interest rate swap

agreement shall not exceed 9% per annum; and it is

FURTHER ORDERED, that the commission hereby grants to New England Power Company its authorization and approval of the issue and pledge, from time to time, of one or more additional issues of First Mortgage Bonds, in an aggregate principal amount not exceeding $477,000,000, said additional First Mortgage Bonds to bear the same interest rate and to have the same maturity as the General and Refunding Mortgage Bonds with respect to which they are issued; and it is

FURTHER ORDERED, that the commission hereby authorized New England Power Company to mortgage, or to confirm the mortgage of, its present and future property, tangible and intangible, including franchises in New Hampshire, as security for all outstanding issues of its General and Refunding Mortgage Bonds and First Mortgage Bonds, including the additional General and Refunding Mortgage Bonds and First Mortgage Bonds authorized and approved by the commission herein, and bonds hereafter issued under the provisions of the company's General and Refunding Mortgage and First Mortgage Indentures; and it is

FURTHER ORDERED, that the authorization to issue securities contained herein, except with regard to the First Mortgage Bonds, shall be exercised on or before January 1, 1995, unless the company files with the commission a petition with supporting affidavit requesting an extension of authorization contained herein and such period is extended by order of this commission; and it is

FURTHER ORDERED, that the authorization to issue and pledge First Mortgage Bonds contained herein shall expire at such time as there are no longer any publicly held First Mortgage Bonds outstanding; and it is

FURTHER ORDERED, that on or about January first and July first in each year, said New England Power Company shall file with this commission a detailed statement, duly sworn by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of said securities, until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the New Hampshire Public Utilities Commission this fourteenth day of April, 1992.

==========

NH.PUC*04/14/92*[72899]*77 NH PUC 170*GRANITE STATE ELECTRIC COMPANY

[Go to End of 72899]

GRANITE STATE ELECTRIC COMPANY

DE 90-072
ORDER NO. 20,442

77 NH PUC 170

New Hampshire Public Utilities Commission

April 14, 1992

Order Approving Least Cost Integrated Resource Planning Process and Suspending Long Term Avoided Cost Estimates

---

Appearances: Cynthia A. Arcate, Esq. and David J. Saggau, Esq. on behalf of Granite State Electric Company; Eugene F. Sullivan, III, Esq. on behalf of the New Hampshire Public Utilities Commission staff.

REPORT

I. PROCEDURAL HISTORY

On April 30, 1990, Granite State Electric Company (GSEC) filed with the New Hampshire Public Utilities Commission (Commission) its Integrated Least Cost Resource Plan for the 15 year period 1990-2004, including updated long term avoided costs. On August 28, 1990 an Order of Notice was issued setting a prehearing conference for September 29, 1990. On October 16, 1990, the Commission issued order no. 19,958 setting a procedural schedule which was revised by secretarial letter dated November 2, 1990.

Staff explored technical issues of the filing through data requests and technical sessions through December 1990. GSEC filed testimony on its integrated least cost resource plan on February 28, 1991 and a hearing on the merits was held on March 6, 1991.

Page 170

II. ESUMMARY OF THE COMMIS-SION'S LCIP FILING REQUIREMENTS

A. THE COMMISSION'S OBJECTIVE

In April 1988, the Commission established least cost integrated planning (LCIP) requirements for New Hampshire's electric utilities pursuant to order no. 19,052. The goal of order no. 19,052 was to establish a LCIP process whereby the Commission could review and evaluate utility resource planning practices and capabilities and assess the context in which utilities were negotiating and contracting for power purchases from qualifying facilities (QFs). The objective of this review is to evaluate whether the utilities are planning properly.

In the 1990 legislative session, the New Hampshire General Court codified the Commission's LCIP requirements by enacting legislation requiring utility least cost integrated planning. RSA 378:37-39 (supp). The statute states, "The commission shall review proposals for integrated least-cost resource plans in order to evaluate the adequacy of each utility's planning process."

Commission acceptance of a utility's least cost resource plan indicates that the utility's resource planning process is adequate. Approval of a particular filing does not constitute approval of specific resources included in the plan. However, one of the ways that the Commission determines whether a utility's resource planning process is adequate is by evaluating the specific resources in the plan. In the Commission's least cost planning reviews, our evaluation of specific resources does not rise to the level of determining the prudence of the particular resource, but rather, the adequacy and prudence of the utilities' planning processes. The Commission will review and analyze whether any particular resource option is prudent and

used and useful when the utility brings it before us in a cost recovery or rate proceeding.

B. THE COMMISSION'S REQUIREMENTS

The utilities are required to file reports in seven areas to document their LCIP processes. The seven reports include:

1. a 15 year forecast of future demand with base, high and low alternatives;

2. an assessment of demand-side resource options;

3. an assessment of supply-side resource options;

4. an assessment of transmission requirements, limitations and constraints;

5. an integration of demand- and supply-side resource options;

6. a two-year implementation plan; and

7. projections of long term avoided costs.

Order no. 19,052 in DR 86-41 et al., Re Public Service Company of New Hampshire, 73 NHPUC 117 (1988), established the Commission's basic requirements for the seven reporting areas; Order no. 19,546 in DE 89-075, Re Granite State Electric Company, 74 NHPUC 325 (1989) further elaborated on these requirements.

C. THE COMMISSION'S REVIEW CRITERIA

The Commission reviews the utilities' LCIP filings according to the criteria indicated by the requirements of order no. 19,052:

1. completeness in meeting the reporting requirements;

2. comprehensiveness in identifying and assessing all resource options, both on the demand-side and the supply side;

3. integration of the planning process, i.e.,

evaluating demand- and supply-side options in an equivalent manner and addressing issues of coordinated timing in the acquisition of resources;

4. feasibility of implementation of the least cost resource plan; and

5. adequacy of the planning process, i.e., providing for resources in a timely manner sufficient to meet the electricity and energy service needs of utility customers both now and for the future.

III. SUMMARY OF COMMISSION FINDINGS AND ORDERS ON GSEC'S PRIOR LCIP FILING

In order no. 19,546, the Commission found that GSEC's LCIP filing was complete and approved it as fulfilling the requirements of order no. 19,052 for the year 1989. The Commission also approved GSEC's long term avoided costs as amended. 74 NHPUC at 334.

The Commission ordered GSEC, in its 1990 LCIP filing, to report on the timing of the

availability of proposed supply side resource options; provide a transmission map as required by order no. 19,052; and provide additional detail in its 1990 two-year implementation plan. GSEC was also ordered to meet with staff to resolve inconsistencies in the estimation of its avoided costs. Id. at 334. GSEC has addressed all of these issues in its 1990 LCIP filing. Exh. IA at 2-3.

IV. SUMMARY OF GSEC'S 1990 LCIP FILING

GSEC is the New Hampshire retail subsidiary of New England Electric System (NEES), a holding company with generation, transmission and retail subsidiaries serving Massachusetts and Rhode Island as well as New Hampshire. GSEC represents approximately 3 percent of the NEES system in terms of both peak load and annual energy requirements.

NEES develops its long range resource plans on an integrated system-wide basis using a process that evaluates demand-side options, QFs and independent power projects (IPPs), traditional utility power purchases and new utility generation on a consistent economic basis. GSEC's resource needs are addressed as part of NEES' resource planning process which is what is described in GSEC's LCIP filing. Exh. III at 3.

A. NEED FOR ADDITIONAL CAPACITY

At the time of GSEC's 1990 LCIP filing, it indicated a need and plans for additional capacity over the forecast period. Exh. IA at 2. This need for capacity was reflected in GSEC's long term avoided cost estimates (Exh. IA at 211) and its two year implementation plan (Exh. IA at 187-200).

At the March 6, 1991 hearing on GSEC's LCIP filing, GSEC's witness indicated that its new load forecast would show lower resource requirements over the 1993-1998 period and that GSEC expected that this would defer the need for additional capacity, beyond that already under way, beyond 1998. Exh. III at 5.

B. SUMMARY OF GSEC'S INTEGRATED LEAST COST RESOURCE PLAN

GSEC's parent company, NEES, develops its resource plans using an iterative planning process that relies on four basic analysis techniques: program analysis, probability analysis, scenario analysis and financial analysis. The analyses are designed to produce a portfolio of resources that are then compared according to four planning criteria: low cost to customers; stable prices under a range of possible conditions; reliability of supply; and environmental impact. Exh. IA at 5. The plan that results may reflect tradeoffs among the four criteria.

NEES' integrated least cost resource plan as filed on April 30, 1990 included a combination of demand- and supply side resources, including purchases from QFs and independent power producers (IPPs), purchases from other utilitysystems, repowering of

existing generation and construction of new peaking generation. Specifically, NEES projected energy growth at 1.7% and summer peak demand at 0.9% from 1989 to 2004 (including conservation and load management). With this growth, NEES projected a need for 4400 megawatts of new resources by 2009. Exh. IA at 2.

At the March 6, 1991 hearing, GSEC indicated that these resources originally included 823

megawatts (supply side equivalent) from conservation and load management by 1997; approximately 300 megawatts of contracted QFs and IPPs to be brought on line between 1992 and 1995; 300 megawatts of additional capacity from the repowering of Manchester Street station in Providence, Rhode Island; 300 megawatts of gas fired combined cycle capacity in 1999; 200 megawatts of purchased power in the mid-1990s (potentially from Canadian sources); and 210 megawatts of gas turbine peaking units in the mid to late 1990s. Exh. III at 4. However, GSEC also indicated that it expected the new 1991 forecast to defer the need for additional resources until 1998 because of lower projections for energy and load growth. Exh. III at 5. Specifically, GSEC testified that it was unlikely that NEES would need the 200 megawatts of purchased power originally projected for the mid 1990s and that it was unlikely, but possible, that the 210 megawatts of gas turbine peaking units originally planned for the mid to late 1990s would be needed. Tr. at 24.

NEES plans for its resource needs using an 80% confidence level for the first five years gradually lowering to a 70% confidence level or less by the tenth year. Exh. IA at 59. GSEC expected to be able to maintain the 80% confidence level between 1992 and 1995 with no new additions to capacity. GSEC was still working with the new load forecast and was not sure whether any additional resources would be needed to meet the confidence level in later years. Tr. at 21.

NEES' planned supply-side resources reflect a significant commitment to natural gas due to its lower costs and environmental impacts when compared to coal. This was weighed against the greater uncertainty with respect to gas supply. Tr. at 36-37. With existing and firm projected commitments to new gas resources (not including the 210 megawatts of gas turbines), NEES' reliance on gas-fired generation will increase to 1400 megawatts over the planning period. Tr. at 43.

C. AVOIDED COSTS

On April 30, 1990, GSEC filed long term avoided cost projections based on the avoided costs of New England Power Company (NEP), its wholesale supplier. Exh. IA at 211. The avoided cost projections reflected GSEC's assessment of its resource needs at the time of the 1990 filing. At the hearing on March 6, 1991, GSEC indicated that it was in the process of reevaluating its resource situation in light of its 1991 load forecast and that it would be revising its resource plan accordingly. Tr. at 15-16. At that time, GSEC had not yet decided whether it would be updating its avoided cost forecast for the purpose of negotiations with QFs. Tr. at 23. On May 1, 1991, GSEC indicated, in response to Staff's record request at the March 6, 1991 hearing, that it did intend to file updated long run avoided cost projections. These projections were filed on July 26, 1991 and reflected NEES' view that it did not need any additional resources which could be avoided by additional purchases from QFs during the next eight years.

D. PROCEDURES FOR NEGOTIAT- ING AND CONTRACTING WITH QFS

GSEC and NEES use a combination of requests for proposals (RFPs) and individual negotiation to contract for power purchases from QFs. In 1988, NEP issued an RFP for 200 megawatts of capacity in the 1992 to 1995 time period. Bids were received in July 1988 and first cut evaluations completed in September 1988. Second cut evaluations were completed by January 1989 and three contracts for 124 megawatts were signed by April 1989. A final contract

was signed in December 1989 bringing the total to 205 megawatts. Qfs

constituted 39 megawatts of the 205 megawatts total. Details on the four projects are as follows:

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

Project Name	Capacity(MW)	Fuel Type	Facility Type
Enron Power	81	Natural Gas	IPP
Swift River Recycling	11	Waste Wood	QF
Ware Management, Inc.	28	Coal	QF
Coastal Power	85	#2 Oil	IPP

Exh. IA at 182-184.

V. COMMISSION FINDINGS

The Commission has reviewed and analyzed GSEC's integrated least cost resource plan for the period 1990-2004 (Exh. I), the responses to staff's data requests (Exh. II), its testimony (Exh. III) and the hearing transcript in our evaluation of GSEC's least cost integrated resource planning. We have taken into account GSEC's affiliations with NEES and NEP and that it is largely NEES' planning process that is reflected in GSEC's filing.

A. COMPLETENESS OF THE FILING

The Commission finds GSEC's filing to be complete. The presentation of the integrated least cost resource planning process at the NEES level is very thorough enabling us to follow its logic. We note that GSEC's 1990 presentation is significantly more straightforward than its 1989 filing and that it more closely follows the format of our order no. 19,052. The Commission further notes and commends the inclusion of more detail at the GSEC level.

B. ADEQUACY OF THE PLANNING PROCESS

1. Forecasting

NEES uses a combination of econometric and end-use models to forecast peak and energy demands for the system and its retail subsidiaries. The Commission notes that the level of sophistication of GSEC's forecasting is appropriate to and to be expected from a utility the size of NEES. The Commission finds GSEC's forecasting to be reasonable and appropriate.

2. Assessment of Demand-Side Options

GSEC's filing clearly demonstrates that it has, through its parent company, a process for assessing and developing demand-side options. The Commission notes that since its 1990 LCIP filing, GSEC has filed comprehensive conservation and load management program proposals for 1991 and 1992 and that these proposals, including financial incentives for the utility, have been approved. Order nos. 20,011 (Re Granite State Electric Company, 75 NHPUC 765 (1990)), 20,186, and 20,362. The Commission notes that concerns about GSEC's planning for its 1991 conservation and load management programs were addressed in order no. 20,186. For the purposes of this proceeding, we find GSEC's assessment of demand-side options to be comprehensive and to fulfill the requirements of order no. 19,052.

3. Assessment of Supply-Side Options

The Commission also finds GSEC's process for assessing and developing supply-side options to be comprehensive and to fulfill the requirements of order no. 19,052. Given the increased reliance GSEC is placing on gas-fired generation, we will require GSEC to provide a more detailed description of the sources of gas it expects to use for these resources. Also given GSEC's plans to purchase gas and oil fired generation from IPPs and the Commission's stated preference for renewable and indigenous non-utility resources (Re Granite State Electric Company, 74 NHPUC at 334), we will require GSEC to explain the benefits it believes it gets when contracting for independent generation of the type it (or NEP, the NEES generation subsidiary) has traditionally built itself. Lastly, the Commission expects GSEC to report on actions it is taking with respect to its existing supply side resources to comply with the 1990 Clean Air Act Amendments.

Page 174

---

4. Assessment of Transmission Requirement, Limitations and Constraints

The Commission finds that GSEC's transmission assessment is comprehensive and fulfills the requirements of order nos. 19,052 and 19,546.

5. Integration of Demand- and Supply-Side Resource Options

The Commission finds that GSEC's process for integrating demand- and supply-side resource options, as described in its LCIP filing, is comprehensive, integrated and adequate to meet the requirements of order nos. 19,052. The Commission further finds that the probabilistic approach GSEC has taken toward assessing its future resource needs and particularly, the confidence level of 80 percent it has chosen for planning in the early years, is reasonable and constitutes good planning practice. The Commission understands that GSEC has changed the confidence level it is using for later years from 80% to 70% or less. We will be watching in GSEC's future LCIP filings to see that this does not cause GSEC to increase its reliance on short term resource options and jeopardize the reliability of its system.

6. Two-Year Implementation Plan

The Commission finds GSEC's two-year implementation plan to be feasible and adequate to meet the requirements of order nos. 19,052 and 19,546. We note that it includes additional detail on personnel used in the implementation of the plan.

7. Avoided Costs

GSEC's long term avoided cost projections as filed with its integrated least cost resource plan on April 30, 1990 are clearly out of date. At the hearing on March 6, 1991, GSEC indicated that it was reevaluating its resource plan and would be deciding whether to update its avoided costs. GSEC has since revised its resource plan and updated its avoided costs in the interim between the 1990 LCIP filing and the filing due within the next month on April 30, 1992. However, the revised resource plan and new avoided costs have not been formally reviewed by the Commission.

Therefore, the Commission finds that it is not in the public interest to approve GSEC's long term avoided cost projections as filed with its 1990 integrated least cost resource plan. The

Commission further finds that it is not in the public interest to approve more recent long term avoided cost projections that have not been formally reviewed. The Commission notes that GSEC will be filing a new resource plan with new avoided cost projections within the next two months. We therefore find it to be in the public interest to await the filing of GSEC's 1992 integrated least cost resource plan and the formal review of its new avoided cost projections.

In the interim, GSEC may use its most recent estimates of long term avoided costs as the basis for negotiations with any QFs that may approach it during this time period; however, the Commission emphasizes that these estimates are not approved. Should GSEC and any QF wishing to sell its output to GSEC negotiate a contract or be unable to reach agreement on the value of the output, we expect that one of the parties will petition the Commission for formal approval of the rates to be paid and the avoided costs on which they are based or for adjudication of any dispute. Given the current lack of activity in the QF market in New Hampshire, the Commission believes that this interim arrangement is just and reasonable and will not pose any hardship for either GSEC or QFs.

8. Overall Evaluation

The Commission finds GSEC's 1990 LCIP filing to be excellent and the format to be an improvement over the 1989 filing. We note that GSEC is the beneficiary of a well developed and integrated resource planning process at NEES, its parent company. GSEC's filing indicates that its planning process is adequate and meets the requirements of order

Page 175

nos. 19,052 and 19,546.

C. ADDITIONAL COMMISSION FINDINGS

In accordance with the process outlined in order no. 19,052, the Commission finds that QFs may be able to meet some of GSEC's resource needs within the next eight years and, for the purposes of this proceeding, that the process that GSEC has established for negotiating and contracting for power purchases from QFs is adequate and consistent with Commission policy, and consistent with GSEC's integrated least cost resource plan.

Given that GSEC receives virtually all of its power supplies from NEP, its wholesale supplier and the generation subsidiary of NEES, and the role that QFs play in NEP's resource mix, and GSEC's current capacity situation, the Commission finds no need to set a megawatt amount of QF capacity that GSEC should be seeking. However, we reiterate the Commission's policy preference for QFs using renewable and indigenous fuels, including municipal solid waste, and cogeneration based on existing industrial use of fossil fuels, over technologies that increase the dependence of New Hampshire on fossil fuels.

Our order will issue accordingly.

Concurring: April 14, 1992

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that Granite State Electric Company's resource planning process as described in

its filing of April 30, 1990 and subsequent responses to data requests and testimony be, and hereby is, accepted and approved as fulfilling the requirements of order no. 19,052 for the biennium beginning 1990; and it is

FURTHER ORDERED, that Granite State Electric Company's long term avoided cost estimates be, and hereby are, suspended pending the filing of its 1992 estimates on April 30, 1992; and it is

FURTHER ORDERED, that Granite State Electric Company petition the Commission for an interim finding on its most recently filed long term avoided cost estimates if negotiations with any qualifying facilities are undertaken before the 1992 avoided cost estimates are reviewed and approved.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of April, 1992.

==========

NH.PUC*04/16/92*[72900]*77 NH PUC 176*MCI TELECOMMUNICATIONS CORPORATION

[Go to End of 72900]

MCI TELECOMMUNICATIONS CORPORATION

DR 92-051
ORDER NO. 20,443

77 NH PUC 176

New Hampshire Public Utilities Commission

April 16, 1992

Order NISI approving a change in tariff language to clarify the Operator Dialed Surcharge.

On March 16, 1992, MCI Telecommunications Corporation, (the Company), filed a petition before the New Hampshire Public Utilities Commission, for effect on April 17, 1992, seeking to add language to their existing tariff to clarify the Operator Dialed Surcharge; and

WHEREAS, the Company is seeking to exempt handicapped customers, who are unable to dial the appropriate numbers to complete a call due to his/her handicap, from paying the surcharge; and

WHEREAS, the New Hampshire Public Utilities Commission is interested in encouraging the emergence of competition in the intraLATA toll market on an interim basis; it is hereby

ORDERED NISI, that MCI Telecommunications Corporation, be and hereby is authorized to implement the following tariff changes:

MCI Telecommunications Corp NHPUC Tariff No.1

Sixth Revised Page No. 1

Third Revised Page No. 2

First Revised Page No. 26.1

First Revised Page No. 26.2;

and it is

FURTHER ORDERED, that the Operator Assisted Service containing revised language concerning the Operator Dialled Surcharge be offered subject to the conditions as specified in NHPUC Order No. 20,041, dated January 21, 1991, in Docket DE 90-108; and it is

FURTHER ORDERED, that pursuant to N.H. Admin.

Rules PUC 203.01, the company cause an attested copy of this Order Nisi to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than April 28, 1992, and is to be documented by affidavit filed with this office on or before May 18, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than May 13, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective on May 18, 1992, unless the commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this sixteenth day of April, 1992.

==========

NH.PUC*04/21/92*[72901]*77 NH PUC 177*EASTMAN SEWER COMPANY REPORT

[Go to End of 72901]

EASTMAN SEWER COMPANY REPORT

DR 90-170
ORDER NO. 20,445

77 NH PUC 177

New Hampshire Public Utilities Commission

April 21, 1992

Order Denying Petitioner's Motion for Rehearing

Appearances: Castaldo, Hanna & Malmberg, by David Marshall, Esq. for Eastman Sewer Company; David Springsteen for the Eastman Community Association Sewer Committee; the Office of the Consumer Advocate by Joseph Rogers, Esq. for the residential ratepayers; Susan Chamberlin, Esq. for the staff of the Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On November 1, 1990, Eastman Sewer Company ("Eastman" or the "company") filed with the New Hampshire Public Utilities Commission (the "commission") a proposed rate schedule and supporting documentation which would result in a one hundred five percent (105%) increase in the rates; or an additional annual revenue of $88,932.00.

On November 27, 1990, the commission ordered a prehearing conference to be held on January 8, 1991 to address a procedural schedule, motions to intervene and the company's request for temporary rates.

On March 5, 1991, the commission issued Order No. 20,072 granting the motions to intervene filed by Donald Taylor and the Eastman Community Association (referred to collectively as the "ECA"), accepting the procedural schedule proposed by the parties, and denying the company's request for temporary rates without prejudice.

Subsequent to the March 5, 1991 order, the company chose not to repetition for temporary rates, though Order No. 20,072 gave the company that option.

On August 20 - 22, 1991, the commission held hearings on the merits as scheduled.

On September 23, 1991, at its public meeting, the commission issued a partial resolution of the pending case, accepting staff's position that most of the rate base is contributions in aid of construction. The commission deferred ruling on the final valuation of the company because of its concern that the new utility was undercapitalized. The parties were directed to submit their suggestions on valuation based on the evidence presented at the August 20 -22 hearing.

On September 25, 1991, in a secretarial letter, the commission notified the parties of its September 23, 1992, decision and request for

additional argument.

On November 26, 1991, at its public meeting, the commission made its final deliberations on the outstanding issues of the case.

On December 11, 1991, the commission issued Order No. 20,330 stating that the company will have a total revenue requirement of $103,051 for ratemaking purposes, which includes a capital reserve account. The commission authorized the company to increase its rates accordingly.

On February 19, 1992, The commission issued Order No. 20,390 providing the analysis and discussion of the decision issued in Order No. 20,330.

On March 10, 1992, the company filed a motion for rehearing on the merits and requested a surcharge be granted for rate case expenses.

On March 11, 1992, the commission issued Order No. 20,410 authorizing the company to collect rate case expenses over a six year period.

On March 12, 1992, staff filed a Motion to Object to Eastman's Motion for Rehearing.

On March 18, 1992, in its public meeting the commission denied the Motion for Rehearing stating that the company did not provide grounds for reopening the case and presented no new evidence for consideration. The commission reaffirmed its authorization of a surcharge for rate case expenses.

II. POSITION OF THE PARTIES

A. Eastman Sewer Company

Eastman's March 10, 1992 Motion for Rehearing contends that the commission's February 19, 1992 Report and Order No. 20,390 (the "Order") is arbitrary, unlawful, unjust and unreasonable. The company claims that the commission's finding that Eastman's parent company, Controlled Environment Corporation ("CEC"), recovered the major portion of the sewer plant investment through the sale of lots and condominiums is not supported by the evidence on the record.

Eastman states that the resulting rates are confiscatory and unlawful and constitute an unconstitutional taking without just compensation. Therefore the effect of the commission's Order is the practical destruction of the economic value of the sewer system.

Finally, the company argues that the 11.14% rate of return is not adequate where the commission accepts a de minimis rate base. It states that an undercapitalized company has greater financial risk and a resultingly higher cost of capital. Therefore, the company concludes that the commission's adoption of staff's 12% rate of return recommendation without adjustment is unlawful.

B. Staff

Staff maintains that the findings made by the commission in its Order are amply supported by the evidence. The tax and accounting treatment of the costs of the sewer system, the fact that the sewered lots were priced higher than nonsewered lots and the fact that Eastman did not charge compensatory rates supports the commission finding that the company had largely recovered its sewer costs before becoming a regulated entity. Staff reiterates that the uncontroverted evidence is that although a lease was created between CEC and the Eastman Sewer Company, no payments were ever collected.

Staff argues that the resulting rates are just and reasonable as they reflect the financial structure of the company. The record supports the commission finding that most of the sewer plant was contributed and therefore the exclusion of this property is not an illegal confiscation in violation of Articles V and XIV of the Amendments to the Constitution of the United States or the 12th and 15th Articles of Part One of the New Hampshire Constitution. The commission finding similarly is not in contravention of RSA Chapter 378, because Eastman Sewer is not entitled to a return on contributed property.

III. COMMISSION ANALYSIS

The Commission may grant a motion for rehearing if it is of the opinion that the

rehearing is requested for "good reason." RSA 541:3; NH Admin. Rules, Puc 203.14. The

company's Motion for Rehearing does not provide the commission with any new grounds for reopening the case and presents no new evidence. Simply because the commission did not accept the company's arguments does not imply that the decision was without evidentiary support.

The Commission's findings in its Order are amply supported by the evidence. As shown in the exhibits, all the sewer expenditures on CEC's books were allocated to a cost inventory pool, Exh 12. The cost of goods sold was deducted from the cost pool leaving a remaining figure of $21,143 as the total sewer assets in inventory as of March 31, 1990. Id. at 3. Staff used this number, which was supplied by the company, as the value of the capital lease. Exh 26. The commission accepts this calculation as a just and reasonable reflection of the company's economic picture.

Eastman's arguments that the system was neither conveyed to its customers nor the subject of a purchase and sales agreement are irrelevant. In Re Sacoridge Water, Inc., 74 NHPUC 32 (1989), the commission set the price for ratemaking purposes for the Sacoridge Village water system at zero after ruling that the company had not met its burden of proving that it did not already recover its investment in the original system. Id. at 39. Where that burden is not met, the original system investment is treated for accounting and rate making purposes as a contribution in aid of construction. ("CIAC") Id. at 39. The commission found in Eastman that the cost of the original investment had been largely recovered and therefore treated the recovered costs as CIAC. In line with long standing commission practice of not allowing a return on funds which were not invested by the utility, the CIAC was excluded from rate base. Order at 16. [cites omitted]. Excluding CIAC is not confiscatory as the company is not entitled to a double recovery and therefore does not violate the United States Constitution or the New Hampshire Constitution.

That the company was previously unregulated is not a determining factor in the investigation as to whether or not system costs have been previously recovered. As staff pointed out in its "Objection to Petitioner's Motion for Rehearing", coming under commission regulation does not give the company an opportunity to recover its investment a second time.

Eastman claims that the fair market value of the sewer system in 1987 was $5 million. The company proposed to reduce the recovery of that amount to $480,462, to be collected through a lease between CEC and the Sewer Company. Eastman's Motion for Rehearing (March 8, 1992). The company then asserts that "there is no lawful justification for the commission to further reduce that amount to approximately $21,000 given the value of the asset". Id at 8.

The company's logic is faulty. First, fair market value is not the standard for determining the regulatory value of an asset. If the commission were to accept the 1987 $5 million valuation as accurate, it still would be irrelevant. "In New Hampshire, rates are set based on the historical cost of property not on the replacement cost." In Re Sacoridge Water, Inc. 74 NHPUC 32 (1989) at 40. Secondly, the commission rejects the company's $480,482 valuation of the lease because those historical costs have been largely recovered. In Re Eastman Sewer Company, Inc., 74 NHPUC 431 (1989), the commission ruled that it would grant Eastman's petition for a franchise based on the lease arrangement but stated, "...the commission is not ruling on the reasonableness or the prudency of the base." Id. at 433. In today's rate case the commission has found that the lease, if enforced as the company proposed, would be providing for payment of capital costs which have already been recovered. Therefore the commission cannot include these costs in the rate base. We reject the company's $480,462 valuation of the lease and substitute the

unrecovered amount of $21,143.

Eastman's argument that the commission made no distinction between the actions and accounting procedures of its parent company CEC and the subsidiary Eastman Sewer Company does not withstand careful scrutiny

of the true economic relationship between the two entities. Eastman Sewer Company is a wholly owned subsidiary of CEC and was financially supported substantially and continuously by its parent until it came under this commission's regulation in 1989. As staff pointed out in its objection, the uncontroverted evidence is that although a lease was created between the parent company and the subsidiary, no payments were ever collected. We will not place blinders on and ignore the financial relationship between the parent and the subsidiary. To do so would be to ignore the economic reality of the sewer system's operations.

Eastman further claims that the commission's decision relies on presumptions in supporting its findings. Eastman cites Jodoin v Baroody, 95 NH 154 (1948) to support its argument that the presumption cannot take the place of actual evidence. This argument is in complete opposition to the text of the Order, which states, "This commission declines the opportunity to create a presumption; however, the record supports a finding in this case that the developer recovered the major portion of the sewer plant investment through the sale of lots and condominiums." Order at 15-16. We based our decision on evidence presented and expressly did not rely on presumptions. The company did not rebut a "presumption" and continued to have the burden of proving the necessity of the requested rate increase. RSA 378:8. It did not meet this burden.

Eastman further argues that if the recovery of the costs were from the sale of all assets and not just the sale of lots and condominiums, the commission's decision would be unlawful. This attempt to distinguish the source of funds of the contribution does not change the fact that a contribution occurred. The company also argues that the capital reserve account created to compensate for an undercapitalized utility will not improve the company's ability to maintain credit and attract real capital. Even if such a fund is appropriate, the amount calculated is artificially low.

The capital reserve account is an appropriate ratemaking tool where the utility is severely undercapitalized. As stated in our order, "...we are mindful that the commission's responsibility to ratepayers to determine a just and reasonable rate may go beyond a simple mathematical calculation of rate base." In Re Eastman Sewer Company, Inc., Order No. 20,390 (February 19, 1992); citing Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944). The amount of the fund is a calculation based on the overall financial history of the company as reflected in the evidence. It will allow the company sufficient reserves to operate its utility. As a point of reference, at 6% interest the fund value after five years (assuming no withdrawals) will be worth $57,855; after ten years, $135,778 and after fifteen years, $240,792. A steady stream of income from a constant source of customers will provide the company with the security to adequately attract capital and maintain its standing in financial markets.

Eastman's claim that the commission double deducted for its tax benefits in the calculation for the capital reserve account is unsupported by the record and represents the first time that the

company characterizes the 70% reduction as an estimate of these benefits. Eastman's proposal to exclude 70% of its investment from rate base as a contribution in aid of construction was modeled after the 1973 filing of its sister corporation, Eastman Water Company. See Re Eastman Water Company, 58 NHPUC 43 (1973). There is nothing in that case nor in the record of the Eastman Sewer case being litigated today that suggests the 70% reduction was an estimate of the tax and other benefits received by the company and its parent. Eastman's assertion that the Commission's 70% reduction is a double deduction has no merit and is not supported by any evidence in the record.

Eastman's contention that the rate of return of 11.14% is too low is equally unpersuasive. As stated in the Order, the use of the Discounted Cash Flow ("DCF") method to calculate the company's equity cost rate is consistent with well established ratemaking principles. Re Hanover Water Works, 71 NH PUC 775 (1986). There is no need to further adjust the calculation for risk as that factor is considered in the DCF analysis.

Page 180

The commission finds Eastman's arguments that Order No. 20,390 was unreasonable, arbitrary and capricious and a denial of due process to be without merit. The Motion for Rehearing, therefore, will be denied.

Our order will issue accordingly.

April 21, 1992

ORDER

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

ORDERED, that the Motion for Rehearing filed by Eastman Sewer Company be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of April, 1992.

==========

NH.PUC*04/21/92*[72902]*77 NH PUC 181*KEENE GAS CORPORATION

[Go to End of 72902]

KEENE GAS CORPORATION

DR 92-056
ORDER NO. 20,446

77 NH PUC 181

New Hampshire Public Utilities Commission

April 21, 1992

Approval of 1992 Summer Cost of Gas Adjustment

Appearances: John F. DiBernardo, Assistant General Manager, for Keene Gas Corporation; Richard B. Deres, PUC Examiner, for the staff of the New Hampshire Public Utilities Commission.

REPORT

On March 31, 1992, Keene Gas Corporation, (Keene or the Company), a public utility engaged in the business of distributing gas within the State of New Hampshire, filed with this commission certain revisions to its tariff providing for a 1992 Summer Cost of Gas Adjustment (CGA), effective May 1, 1992. The filing requests a CGA rate of $0.0586 per therm, excluding the N. H. State Franchise Tax, which is a decrease from the rate of $0.0804 per therm approved by the Commission for the 1991 summer period.

A duly noticed public hearing was held at the commission's office in Concord, N.H. on April 13, 1992.

It was learned through direct testimony of Company witness, Mr. John F. DiBernardo, Assistant General Manager, that Keene has not obtained any gas contracts for the forthcoming summer period. The Company feels that because of current events in the Middle East, conditions are not conducive to firm gas contracts this year.

Also discussed at the hearing was the unaccounted for gas as reported by the Company. In the last reporting period, that which ended on June 30, 1991, the Company had experienced a 4.9% unaccounted for gas rate which was a decrease from 5.9% reported the year before.

We find it not unreasonable that a gas company purchases propane from the spot market during the summer period instead of acquiring product through firm contracts.

The projected costs, sales, and adjustments to the CGA filing are consistent with those approved by the commission in past CGA's. The commission finds that Keene Gas Corporation's proposed CGA of $0.0586 per therm is just and reasonable, therefore accepts such as filed.

Our order will be issued accordingly.

Concurring: April 21, 1992

ORDER

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

ORDERED, that the 13th Revised Page 27, Superseding 12th Revised Page 27 of Keene Gas Corporation Tariff, NHPUC No. 1 - Gas, providing for a Cost of Gas Adjustment of $0.0586 per therm for the period May 1, 1992 through October 31, 1992 be, and hereby is, approved; and it is

FURTHER ORDERED, that the revised tariff page approved by this order become effective with all billings issued on or after May 1, 1992; and it is

FURTHER ORDERED, that public notice of this Cost of Gas Adjustment be given by a

one time publication in newspapers having a general circulation in the territories served; and

it is

FURTHER ORDERED, the above rate is to be adjusted by a factor of approximately 1% according to the utilities classification in the Franchise Tax Docket DR 83-205, order no. 16,524.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of April, 1992.

==========

NH.PUC*04/21/92*[72903]*77 NH PUC 182*CLAREMONT GAS CORPORATION

[Go to End of 72903]

CLAREMONT GAS CORPORATION

DR 92-057
ORDER NO. 20,447

77 NH PUC 182

New Hampshire Public Utilities Commission

April 21, 1992

Approval of 1992 Summer Cost of Gas Adjustment

Appearances: Dom S. D'Ambruoso, Esquire of Ransmeier and Spellman on behalf of Claremont Gas Company; Stuart Hodgdon and Bob Egan, for staff.

REPORT

I. PROCEDURAL HISTORY

On April 1, 1992, Claremont Gas Corporation, (Claremont or the company), a public utility engaged in the business of supplying gas in the State of New Hampshire, filed with this commission 135th Revised, Page 12-2 Tariff, N.H.P.U.C. No. 9 -Gas. (Exhibit #1). Said tariff was withdrawn prior to the CGA hearing.

On April 13, 1992, Claremont filed with this commission 135th Revised, Page 12-2 Tariff, N.H.P.U.C. No.9 - Gas. (Exhibit #2). Said tariff provided for a 1992 Summer Cost of Gas Adjustment (CGA) for effect May 1, 1992 of $0.0000 per therm, before franchise tax. This is a decrease of ($0.0647) over the current effective rate of $0.0647 per therm before franchise tax.

An Order of Notice was issued setting hearings for April 13, 1992. It was further ordered that a copy of the

Order of Notice be published in a local newspaper.

II. ISSUES

During the hearing the following issues were addressed: a.) competitive bids; b.) reporting requirements; c.) lost and unaccounted for gas.

III. COMPETITIVE BIDS

Formal written letters of solicitation seeking bids for propane were mailed by Synergy to suppliers. Four letters refusing to bid were presented to the commission and are shown as Exhibit 3. Synergy will purchase all propane for Claremont at spot market pricing at Selkirk, New York.

IV. REPORTING REQUIREMENTS

Claremont's monthly (over)/under reports have not been filed for the year 1991. In addition monthly Income and Revenue reports have been submitted late.

In Docket DR 89-059, Order No. 19393, Claremont Gas Corporation was ordered to file monthly (over)/under collection reports and monthly lost and unaccounted for gas. In response to questions from staff, company witness Mr. Joseph Broomell, Manager of Customer Service for Synergy stated that he did not know why these reports have not been filed. He stated that maybe these reports were to be done at Claremont but because of a management change these duties weren't delegated properly. Mr. Broomell stated that he would look into the problem and file the missing reports in the next couple of weeks.

In response to questions from staff, Mr. Broomell acknowledged that Synergy has not been prompt in sending the monthly Income and Revenue reports for Claremont. He stated that Synergy has been working on the

Claremont rate case filing and because of this, other work assignments have lagged. Mr. Broomell promised that the January and February 1992 reports would be submitted within the next couple of weeks.

V. LOST AND UNACCOUNTED FOR GAS

From the Winter CGA, DR 91-157, it was stated by company witness, Mr. James Allen, Manager Corporate Accounting at Synergy that improvements other than safety related expenditures have been put on hold at Claremont due to the recession. Therefore no improvements were being made to reduce lost and unaccounted for gas during the fall and winter of 1991.

Per questions from staff Mr. Broomell stated that this freeze on capital expenditures is no longer in effect. He further stated that during February of 1992 a new calorimeter was purchased and installed at Claremont.

In response to questions by staff engineer Bob Egan on an update of improvements made since a report submitted by John Churchill from Dr 89-185, Mr.Broomell stated that a three step improvement plan has been completed.

Step (1) was the replacement of all residential non temperature corrected "tin case" meters. About 900 meters were replaced however today there are only about 740 new meters in use because of the loss of customer base.

Step (2) was the replacement of 90% of the commercial meters. This has only recently been done. The remainder of the commercial meters is to be replaced in the next few months.

Step (3) was the replacement of the calorimeter in February of this year. Testing of this new

equipment is presently being done by the installer.

Upon further questions on lost gas from staff engineer, Bob Egan, Mr. Broomell stated that he was familiar with the annual U.S. Department of Transportation report filed for Claremont. He stated that this report showed the percent of unaccounted for gas to be 14.6% for the year ending 6/30/91.

VI. COMMISSION ANALYSIS

During the hearing on Claremont's cost of gas adjustment it was determined that the Company's reporting requirements are not being met. The Company witness, Mr. Broomell, stated that he is aware of our reporting requirements and will make sure reports are submitted in a timely manner.

We note the Company's willingness to provide written instructions on the calorimeter testing and to share testing results with the commission.

Finally based on Claremont's projected gas costs we find the Company's revised filing (Exhibit # 2) CGA showing a rate of $0.0000, before the franchise tax, to be reasonable.

Our order will issue accordingly.

Concurring April 21, 1992

ORDER

WHEREAS, on October 13, 1991 the New Hampshire Public Utilities Commission issued Report and Order No. 20,283 approving the Claremont Gas Corporation, 135th Revision CGA for effect November 1, 1991; and

WHEREAS, on April 1, 1992 Claremont filed a 135th. Revision CGA, that should be changed to read 136th, which was withdrawn prior to the CGA hearing; it is hereby

ORDERED, that Claremont Gas Corporation, 135th Revision, which should read 137th, Page 12-2, NHPUC No. 9 - Gas, issued April 13, 1992 for effect May 1, 1992 through October 31, 1992 providing for a Summer Cost of Gas Adjustment of $0.0000 per therm, before the franchise tax, is approved; and it is

FURTHER ORDERED, that Claremont file all reports per the commission requirements which include monthly (over)/under collection reports and monthly lost and unaccounted for gas.

By order of the New Hampshire Public Utilities Commission this twenty-first day of April, 1992.

==========

NH.PUC*04/22/92*[72904]*77 NH PUC 184*CONNECTICUT VALLEY ELECTRIC COMPANY

[Go to End of 72904]

CONNECTICUT VALLEY ELECTRIC COMPANY

DE 90-053
ORDER NO. 20,450

77 NH PUC 184

New Hampshire Public Utilities Commission

April 22, 1992

Report and Order Approving Least Cost Integrated Planning Filing and Suspending Long-Term Avoided Costs

---

Appearances: Kenneth C. Picton, Esq. on behalf of Connecticut Valley Electric Company; Audrey A. Zibelman, Esq. and Amy L. Ignatius, Esq. on behalf of the Commission staff.

REPORT

I. PROCEDURAL HISTORY

Connecticut Valley Electric Company (CVEC) filed with the New Hampshire Public Utilities Commission (Commission) a detailed outline and draft of its 1990 least cost integrated plan (LCIP) on March 14, 1990 and March 30, 1990, respectively, in compliance with order no. 19,547 in docket no. DE 89-078. Re Connecticut Valley Electric Company, 74 NHPUC 334 (1989) at 343.

By letter dated April 27, 1990, CVEC requested an extension of time until May 31, 1990 for filing portions of its 1990 LCIP. By secretarial letter dated May 1, 1990 the Commission granted the extension.

On April 30, 1990, CVEC filed the major portion of its LCIP, including projections of long-term avoided costs, and on May 31, 1990, filed the remainder. On August 28, 1990 an Order of Notice was issued setting a prehearing conference for September 28, 1990.

At the prehearing conference a procedural schedule was set that included a deadline of February 1, 1991 for CVEC's filing of a comprehensive conservation and load management (C&LM) program proposal. The procedural schedule was subsequently revised by secretarial letters dated February 21, 1991 and April 15, 1991.

On January 21, 1991, CVEC requested an extension from February 1, 1991 to March 1, 1991. By letter dated February 8, 1991, the Commission granted the extension with the condition that if the C&LM filing were not made by March 1, 1991, it would open a proceeding on its own motion. On March 1, 1991, CVEC filed a comprehensive C&LM program proposal and docket no. DR 91-024 was opened for its review.

Staff explored technical issues raised by the filing through data requests and technical sessions through May 1991. CVEC filed testimony on its LCIP filing on March 8, 1991 and Staff filed testimony on June 12, 1991. CVEC filed rebuttal testimony at the June 18, 1991 hearing on the merits.

On June 20, 1991, CVEC filed its response to the Commission's record request at the hearing and on August 6, 1991 filed a revised exhibit for the record. On September 13, 1991, CVEC filed updated projections of long-term avoided costs.

II. SUMMARY OF THE COMMISSION'S LCIP FILING REQUIREMENTS

A. THE COMMISSION'S OBJECTIVE

In April 1988, the Commission established least cost integrated planning (LCIP) requirements for New Hampshire's electric utilities pursuant to order no. 19,052. The goal of order no. 19,052 was to establish a LCIP process whereby the commission could review and evaluate utility resource planning practices and capabilities and assess the context in which utilities were negotiating and contracting for power purchases from qualifying facilities (QFs). The objective of this review is to evaluate whether the utilities are planning properly.

In the 1990 legislative session, the New Hampshire General Court codified the Commission's LCIP requirements by enacting state legislation requiring utility least cost integrated planning. RSA 378:37-39 (supp). The statute provides, "The commission shall review proposals for integrated least-cost resource plans in order to evaluate the adequacy of each utility's planning process."

Page 184

Commission approval of a utility's least cost resource plan indicates that the utility's resource planning process is adequate. Acceptance of a particular filing does not constitute approval of specific resources included in the plan. However, one of the ways that the Commission determines whether a utility's resource planning process is adequate is by evaluating the specific resources in the plan. In the Commission's least cost planning reviews, our evaluation of specific resources does not rise to the level of determining the prudence of the particular resource, but rather, the adequacy and prudence of the utilities' planning processes. The Commission will review and analyze whether any particular resource option is prudent and used and useful when the utility brings it before us in a cost recovery or rate proceeding.

B. THE COMMISSION'S REQUIRE- MENTS

The utilities are required to file reports in seven areas to document their LCIP processes. The seven reports include:

1. a 15 year forecast of future demand with base, high and low alternatives;

2. an assessment of demand-side resource options;

3. an assessment of supply-side resource options;

4. an assessment of transmission requirements, limitations and constraints;

5. an integration of demand- and supply-side resource options;

6. a two-year implementation plan; and

7. projections of long term avoided costs.

Order no. 19,052 in DR 86-41 et al., Re Public Service Company of New Hampshire, 73 NHPUC 117 (1988), establishes the Commission's basic requirements for the seven reporting areas and Order No. 19,547 in DE 89-078, Re Connecticut Valley Electric Company, 74 NHPUC 334 (1989) further elaborated on these requirements.

C. THE COMMISSION'S REVIEW CRITERIA

The Commission reviews the utilities' LCIP filings according to the criteria indicated by the requirements of order no. 19,052:

1. completeness in meeting the reporting requirements;

2. comprehensiveness in identifying and assessing all resource options, both on the demand-side and the supply side;

3. integration of the planning process, i.e., evaluating demand- and supply-side options in an equivalent manner and addressing issues of coordinated timing in the acquisition of resources;

4. feasibility of implementation of the least cost resource plan; and

5. adequacy of the planning process, i.e., providing for resources in a timely manner sufficient to meet the electricity and energy service needs of utility customers both now and for the future.

III. SUMMARY OF COMMISSION FINDINGS AND ORDERS ON CVEC'S PRIOR LCIP FILING

In order no. 19,547, the Commission found that CVEC's LCIP filing was not complete but that the record developed by staff provided sufficient information for review of CVEC's planning process. The Commission set intermediate deadlines for CVEC to file a detailed outline and draft of its 1990 LCIP filing, prior to the LCIP itself. Id at 343. The Commission further ordered CVEC to provide in its next LCIP filing, more detailed information on the status of implementation of its demand-side options, its supply-side plans,

Page 185

---

and its two year implementation plan. CVEC was also required to provide a transmission map and additional supporting information on the calculation of its avoided costs. Id at 343. CVEC addressed all of these issues in its 1990 LCIP filing and the subsequent review process.

IV. SUMMARY OF CVEC'S 1990 LCIP FILING

A. NEED FOR ADDITIONAL CAPACITY

At the time of CVEC's 1990 LCIP filing, it indicated a need and plans for additional capacity by the mid- 1990s, increasing to about 300 megawatts (MW) by 2010. CVEC indicated that this need for resources would be accelerated without committed but unapproved resources. Exh. I, BWB-8, Executive Summary at 1. This need for capacity was reflected in CVEC's long-term avoided cost projections (Exh. I, BWB-8, Table III.E.-25) and its two year implementation plan (Exh. I, BWB-8, Section VI).

At the June 18, 1991 hearing, CVEC indicated that its need for additional resources had changed due to lower load growth, small increases in supply sources due to New England Power Pool rule changes, and the Hydro Quebec Phase II interconnection. Assuming the availability of the committed but unapproved resources, CVEC anticipated that it would not need new resources until after 2000. Exh. I at 5.

B. SUMMARY OF CVEC'S INTEGRATED

LEAST COST RESOURCE PLAN

CVEC's LCIP filing reflects combined resource planning for Central Vermont Public Service (CVPS) and CVEC (the Consolidated Company). CVEC is the New Hampshire subsidiary of

CVPS. CVPS has identified two planning objectives: 1) flexibility to alter the plan to accommodate changes and 2) diversity to reduce the impact of any single change that cannot be avoided. Planning is directed by a Corporate Review Committee composed of upper management. This Committee provides policy guidance and reviews recommendations for resource acquisition and management. Resource options are evaluated by the demand and supply planning staff according to common criteria established by the economic analysis staff. The integrated planning staff compares supply and demand options to assure that resource investments contribute to the planning objectives of flexibility and diversity. Exh. I, BWB-8, Section I at 2.

In the 1990 filing, CVEC projected energy growth at a compound annual rate of 3.4% from 1988 to 2007. Exh. I, BWB8, Section II at 5. CVEC uses a system of internally developed rate classification based models for its forecasting. Exh. I, BWB-8, Section II at 9. During the review of the 1990 LCIP filing, CVEC respecified two of its models, for rate classifications GV and T, and updated the model inputs. CVEC presented a revised forecast in its testimony of March 8, 1991 and further corrected the forecast for modeling errors at the hearing on June 18, 1991. Exh. II and IIA. The revised forecast projected growth at a compound annual rate of 2.79% from 1990 to 2010. Exh. IIA, Table II- 3 Revised.

Since the 1989 LCIP filing, CVEC has made two investment decisions: 1) to enter into a collaborative process in Vermont to develop comprehensive demand-side programs and 2) to sign contracts for 55 MW with the best bidders in its first supply Request for Proposals (RFP). Exh. I, BWB-8, Section I at 3. These options, along with expanded Hydro Quebec contracts to provide 50 MW of firm capacity with an option for an additional 59 MW comprise CVEC's committed resources. Exh. I, BWB- 8, Executive Summary at 1. At the June 18, 1991 hearing and in the August 6, 1991 revised Exhibit BWB-3 (See Exh. I, BWB-3.), CVEC projected that these resources would be sufficient to meet needs to 2000.

CVEC noted that the Hydro Quebec option and a 52 MW gas fired cogeneration project, Sheldon Springs, were not yet approved at the time of the June 18, 1991 hearing. Exh. I at 7-8. Under a high load forecast without the Sheldon Springs unit, CVEC indicated that the year of need could move forward as far as 1995. CVEC testified

Page 186

---

that the Sheldon Springs approval process could be resumed if early load growth demonstrated a need for it or the "cancelable" contract option of the Hydro Quebec/Vermont Joint Owners (HQ/VJO) contract could be made available. Exh. I at 9.

C. AVOIDED COSTS

On April 30, 1990, CVEC filed long term avoided cost projections reflecting CVEC's assessment of its resource needs at the time of the 1990 filing. At the hearing on June 18, 1991, CVEC indicated that it was in the process of reevaluating its resource situation in light of its 1991 load forecast. CVEC indicated that its parent company, CVPS, had developed avoided cost projections in the spring of 1991 reflecting the Consolidated Company's revised forecast and that it could provide revised CVEC avoided cost projections for the purpose of negotiations with QFs by September 15, 1991. Tr. at 9.

By letter dated August 6, 1991, CVEC filed a summary of its revised resource plan. The plan indicated that it would not need additional resources which could be avoided by additional purchases from QFs during the next eight years, if the Hydro Quebec and Sheldon Springs options were available. Exh. I, Revised Exh. BWB-3. On September 13, 1991, CVEC filed revised avoided costs reflecting the updated resource situation.

D. PROCEDURES FOR NEGOTIATING AND CONTRACTING WITH QFS

CVEC's procedures for negotiating and contracting with QFs have not changed since its 1989 LCIP filing. CVEC uses a combination of bidding and negotiations. Short term energy and capacity rates are offered for projects that do not avoid long term resources during the first eight years of the planning horizon. Standard long-term offers based on projected avoided costs are available to renewable projects between 100 KW and 1000 KW and privately negotiated contracts are pursued with larger projects. Exh. I at 10.

As of the 1990 LCIP filing, CVEC had negotiated and signed contracts with four projects through its RFP process. It had also signed a contract with Sweetwater Hydro in Claremont, New Hampshire and had offers outstanding to Celley Mill and Eastman Brook in Piermont, New Hampshire. Exh. I at 11.

V. SUMMARY OF STAFF TESTIMONY

Staff's testimony addressed four areas: CVEC's compliance with order no. 19,547; CVEC's 1990 forecast and its forecasting process; CVEC's contingency planning with respect to supply-side options; and CVEC's avoided cost projections.

While Staff remained concerned about some areas of the 1990 LCIP filing, Staff testified that CVEC had complied with the Commission's order no. 19,547 on CVEC's 1989 filing. Exh. IV at 5.

Staff's major concern was with CVEC's forecasting process. Staff noted that CVEC had revised its forecast considerably between the time of the LCIP filing in May 1990 and the filing of testimony in March 1991. As noted above, CVEC hadrespecified two of the models a nd updated the inputs to all of them. Staff was concerned that the respecification was driven by its own scrutiny and not by CVEC's. Staff was also concerned about CVEC's choice of variables in the respecified models. Exh. IV at 8-9, Tr. at 60-62.

At the time of the hearing, the level of Staff's concern increased (Tr. at 63) when CVEC's witness corrected almost all of the forecast numbers from his March 1991 testimony. Tr. at 16-19. On cross- examination, it was revealed that the corrections were made in response to the discovery of coding errors in CVEC's forecasting models. Tr. at 32.

Staff believed that the overall impact of CVEC's forecasting problems was to increase the uncertainty surrounding the timing of its need for additional resources. Exh. IV at 10. Staff recommended that the Commission require CVEC to continue to work on the development of its forecasting models and that CVEC be required to plan to a broader range of

contingencies than might otherwise be appropriate. Exh. IV at 11.

Staff's concern with CVEC's supply-side contingencies centered on CVEC's reliance on resources to which it was committed but that had not yet been approved. Exh. IV at 12. Staff's concern with respect to CVEC's avoided costs was that at the time of the June 18, 1991 hearing the avoided costs had not yet been updated despite changes in CVEC's resource situation. Exh. IV at 15.

VI. COMMISSION FINDINGS

The Commission has reviewed and analyzed CVEC's 1990 least cost integrated plan (Exh. I, BWB-8), its testimony (Exh. I, Exh. II and IIA, Exh. III), Staff's testimony (Exh. IV), the responses to Staff's data requests (Exh. V) and the hearing transcript in our evaluation of CVEC's integrated resource planning. We have taken into account CVEC's affiliation with CVPS and that CVEC's LCIP filing reflects planning for the Consolidated Company.

A. COMPLETENESS OF THE FILING

The Commission finds CVEC's 1990 LCIP filing to be complete. CVEC's presentation of its planning process is greatly improved over its 1989 filing and facilitates the Commission's evaluation.

B. ADEQUACY OF THE PLANNING PROCESS

1. Forecasting

The Commission is concerned about the accuracy and reliability of CVEC's forecasting process. While we recognize that the errors or inaccuracies may not have had a substantial impact on the Consolidated Company's forecast results (Exh. III), the effect for the CVEC forecast was significant, as CVEC acknowledged. Tr. at 37. Further, the Commission finds that the overall impact of CVEC's forecasting problems leads us to question the reliability of CVEC's forecasting process. We therefore agree with Staff that these problems magnify the uncertainty of the timing of CVEC's need for additional resources. To remedy this situation, therefore, we find that CVEC should be planning to a broader range of contingencies and demonstrate that it has improved the quality of its forecasting.

The Commission will not make a finding on the adequacy of CVEC's forecasting process at this time. Rather we will await the 1992 LCIP filing. We trust that CVEC continues to work to improve both its forecasting and contingency planning capabilities and expect to see this reflected in the 1992 filing.

2. Assessment of Demand-Side Options

The Commission notes that on March 1, 1991, during the review of the 1990 LCIP filing, CVEC filed a comprehensive C&LM program and cost recovery proposal that has been evaluated and approved in docket no. DR 91-024. We therefore find that for the purposes of this proceeding, CVEC has fulfilled the Commission's requirements for an assessment of demand-side options as established in order no. 19,052.

3. Assessment of Supply-Side Options

The Commission finds that CVEC's process for assessing and developing supply-side options is comprehensive and fulfills the requirements of order no. 19,052. However, because of the uncertainties related to CVEC's forecasting and because CVEC is relying on committed but not

yet approved resources during the planning period, the Commission finds that CVEC should be planning for resources sufficient to cover a broader range of contingencies. We are not asking CVEC to commit to these resources, but to identify additional resources, beyond Hydro Quebec and Sheldon Springs, that can be developed or acquired should the need arise.

4. Assessment of Transmission Requirement, Limitations and Constraints

The Commission finds that CVEC's transmission assessment is comprehensive and fulfills the requirements of order nos. 19,052 and 19,547.

5. Integration of Demand- and Supply-Side Resource Options

The Commission finds that CVEC's process for integrating demand- and supply-side resource options, as described in its 1990 LCIP filing is adequate to meet the requirements of order no. 19,052. The Commission agrees that rate impacts, customer service, bill impacts, reliability and environmental impacts, along with revenue requirements impacts, must all be considered in developing an integrated resource plan. Exh. I, BWB-8, Section IV at 96. However, we note that we continue to place significant weight on the revenue requirements criterion. Re Public Service Company of New Hampshire, 73 NHPUC 117 (1988) at 128.

6. Two-Year Implementation Plan

The Commission finds CVEC's 1990 short term implementation plan adequate for the purposes of this filing. We note that CVEC has not indicated the personnel responsible for each task, as required, (Exh. I, BWB- 8, Section VI and Exh. IV at 5) but recognize that the action plan is an improvement over the 1989 filing. The Commission will require CVEC to indicate in its 1992 LCIP filing the personnel its intends to use in the implementation of the plan. We are not looking for individual names so much as job and department titles. 7. Avoided Costs CVEC's long term avoided cost projections as filed with its integrated least cost resource plan on April 30, 1990 are clearly out of date. At the hearing on June 18, 1991, CVEC indicated that it would be revising its resource plan and updating its avoided costs by September 15, 1991. By letter dated September 13, 1991, CVEC filed updated avoided costs. However, these updated avoided costs have not been formally reviewed by the Commission.

Therefore, the Commission finds that it is not in the public interest to approve CVEC's long term avoided cost projections as filed with its 1990 integrated least cost resource plan. The Commission further finds that it is not in the public interest to approve more recent long term avoided cost projections that have not been formally reviewed. The Commission notes that CVEC will be filing a new resource plan with new avoided cost projections within the next month. We therefore find it to be in the public interest to await the filing of CVEC's 1992 integrated least cost resource plan and the formal review of its new avoided cost projections.

In the interim, CVEC may use its most recent estimates of long term avoided costs as the basis for negotiations with any QFs that may approach it during this time period; however, the Commission emphasizes that these estimates are not approved. Should CVEC and any QF wishing to sell its output to CVEC negotiate a contract or be unable to reach agreement on the value of the output, we expect that one of the parties will petition the Commission for formal

approval of the rates to be paid and the avoided costs on which they are based or for adjudication of any dispute. Given the current lack of activity in the QF market in New Hampshire, the Commission believes that this interim arrangement is just and reasonable and will not pose any hardship for either CVEC or QFs.

8. Overall Evaluation

The Commission finds CVEC's LCIP filing to be adequate and to fulfill the requirements of order nos. 19,052 and 19,547. We note that the reporting and presentation of CVEC's 1990 least cost integrated resource plan has significantly improved since its 1989 filing and we look forward to seeing this continue. CVEC has been able to demonstrate that it has an evolving integrated resource planning process in place. With progress in the areas where we have identified concerns, the

Page 189

Commission believes CVEC shows the potential to have an excellent planning capability for a utility its size.

C. ADDITIONAL COMMISSION FINDINGS

In accordance with the process outlined in order no. 19,052, the Commission finds that QFs may be able to meet some of CVEC's resource needs within the next eight years and, for the purposes of this proceeding, that the process that CVEC has established for negotiating and contracting for power purchases from QFs is adequate and consistent with Commission policy, and consistent with CVEC's integrated least cost resource plan.

Given that CVEC receives virtually all of its power supplies from CVPS, its wholesale supplier, and the role that QFs play in CVPS' resource mix, and CVEC's current capacity situation, the Commission finds no need to set a megawatt amount of QF capacity that CVEC should be seeking. However, we would encourage CVEC to consider proceeding with another resource solicitation as part of its contingency planning in the near future. We reiterate the Commission's policy preference for QFs using renewable and indigenous fuels, including municipal solid waste, and cogeneration based on existing industrial use of fossil fuels, over technologies that increase the dependence of New Hampshire on fossil fuels.

Our order will issue accordingly.

Concurring: April 22, 1992

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that Connecticut Valley Electric Company's resource planning process as described in its filing of April 30, and May 31, 1990 and subsequent responses to data requests and testimony be, and hereby is, accepted and approved as fulfilling the requirements of order no. 19,052 for the biennium beginning 1990; and it is

FURTHER ORDERED, that Connecticut Valley Electric Company's long term avoided cost estimates be, and hereby are, suspended pending the filing of its 1992 estimates on April 30, 1992; and it is

FURTHER ORDERED, that Connecticut Valley Electric Company petition the Commission for an interim finding on its most recently filed long term avoided cost estimates if negotiations with any qualifying facilities are undertaken before the 1992 avoided cost estimates are reviewed and approved.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of April, 1992.

==========

NH.PUC*04/22/92*[72905]*77 NH PUC 190*PENNICHUCK WATER WORKS, INC.

[Go to End of 72905]

PENNICHUCK WATER WORKS, INC.

DE 92-026
ORDER NO. 20,451

77 NH PUC 190

New Hampshire Public Utilities Commission

April 22, 1992

Report and Order on Procedural Prehearing Conference of March 20, 1992 Denying Motion to Modify Report and Order 20,062 in DE 89-137

REPORT

This docket was opened on the filing by Pennichuck Water Works, Inc. (PWW) of a petition on February 11, 1992, for condemnation of a certain parcel of land located in the City of Nashua, New Hampshire on the westerly side of FE Everett Turnpike, shown as Lot A-46 on a plan entitled "Proposed Tower Location off Shakespeare Road, Nashua, New Hampshire," dated October 15, 1991 and owned by Thomas Flatley. This docket is an outgrowth of docket DR 89-137, an earlier petition for condemnation submitted by PWW which, by Order No. 20,062, granted PWW's petition regarding the necessity for an additional water tank but denied the petition for condemnation regarding the proposed location of the tank. Accordingly, the petition now before us requests authorization to condemn an alternative site and to establish the appropriate valuation therefore pursuant to RSA 371:1, et. seq., but does not address the issue of necessity.

An Order of Notice was issued on February 25, 1992, scheduling a prehearing conference for March 20, 1992 for the purpose of addressing preliminary matters, such as motions to intervene and to establish a procedural schedule for the duration of the proceedings.

At the duly noticed prehearing conference on March 20, 1992, appearances were made on behalf of PWW, the Flatley Companies, the public utilities commission staff and Peter Schuler,

one of the twenty- six parties cited by PWW in its petition as having an interest in the land in question. Mr. Schuler filed a timely motion to intervene in the proceedings which the Hearings Examiner found to be unnecessary as Mr. Schuler, along with the other twenty-five parties of interest cited in the PWW petition are automatic parties to the proceedings. Although Mr. Schuler was the only party among the twenty-six to personally appear at the proceeding, the other affected parties may choose to participate at later stages of the proceedings once the record more amply indicates how the proceedings could potentially affect them.

At the prehearing conference, Mr. Schuler requested that the scope of the proceedings be expanded to readdress the issue of necessity. The Hearings Examiner asked Mr. Schuler to frame his request as a written motion pursuant to RSA 365:28, governing commission authority to alter its previous orders. Mr. Schuler filed said motion on March 27, 1992 asserting, inter alia, that there is no longer a need for the tank because:

1. Water usage in the Nashua area has gone down since the commission's decision in Order No. 20,062, dated February 20, 1991.

2. The increase in demand projected by PWW in docket DE 89-137 did not come to pass because of the recession in New Hampshire and the bankruptcy of a developer who had planned to construct an additional eight thousand homes in the area that would be served by the new water tank.

3. The current water supply for fire protection purposes is adequate without an additional storage tank.

The reasons asserted by Mr. Schuler in his motion are not sufficient to reopen the issue of necessity. The recession cited by Mr. Schuler in support of his motion is a temporary phenomenon which was already in progress at the time Order No. 20,062 was issued. The bankruptcy of the developer, related to the recession, is likewise not sufficient cause to reopen the issue of necessity. Finally, in regard to the issue of the adequacy of the current fire protection service in the southwest region of Nashua, Mr. Schuler merely raises a proposition with no support for said proposition.

Mr. Schuler's motion did not offer any evidence which was not available at the time of the hearings in DE 89-137 and does not assert changes in circumstances sufficient to relitigate the issue of necessity. Accordingly, we will deny his motion to modify Report and Order No. 20,062 in DE 89-137.

PROCEDURAL SCHEDULE

At the prehearing conference on March 20, 1992, the parties conferred regarding a procedural schedule and were able to reach agreement only regarding the time frames in which Mr. Schuler should file his motion, addressed above, regarding reopening the issue of necessity. PWW proposes the following procedural schedule:

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

April 3, 1992 Data requests to company from staff and parties

April 17, 1992 Company responses to staff and parties

May 1, 1992 Schuler and Staff prefiledtestimony


```
May 15, 1992    Company data requests to Schuler and Staff

May 29, 1992    Schuler and Staff responses to Company
```


Mr. Schuler proposes having another prehearing conference to discuss procedural schedule after the commission resolves the issue of whether or not to expand the scope of these proceedings to include necessity. The Flatley Company requested at least ninety days, until approximately June 18, 1992, to put together their data on valuation, the issue of primary importance to them. Staff offered no position on procedural schedule.

The procedural schedule proposed by PWW is too ambitious to fit the requirements of some of the other parties and the commission schedule. Given that some of the earlier dates proposed by PWW have already passed, the due date for data requests to be served on PWW will commence two weeks from the date hereof and will continue as follows:

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

May 4, 1992     Data requests to company from staff and parties

May 18, 1992    Company responses to staff and parties

June 12, 1992   Schuler and Staff prefiled testimony

June 26, 1992   Company data requests to Schuler and Staff

July 10, 1992   Schuler and Staff responses to Company

August 4, 1992  Hearing on the merits
```

Our order will issue accordingly.

Concurring April 22, 1992

ORDER

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

ORDERED, that Peter Schuler's motion of March 25, 1992 to amend, suspend, anul, set aside, or otherwise modify Report and Order 20,062 in DE 89-137 is denied; and it is

FURTHER ORDERED, that the procedural schedule to govern the duration of these proceedings shall be as set forth in the foregoing report.

By order of the New Hampshire Public Utilities Commission this twenty-second day of April, 1992.

==========

NH.PUC*04/22/92*[72906]*77 NH PUC 192*GRANITE STATE TELEPHONE

[Go to End of 72906]

GRANITE STATE TELEPHONE

DR 92-047
ORDER NO. 20,452

77 NH PUC 192

New Hampshire Public Utilities Commission

April 22, 1992

Order Approving Special Contract Between Granite State Telephone Company and The Town of Deering, New Hampshire For the Provision of Emergency Communications

---

On February 24, 1992, Granite State Telephone Inc. filed with the New Hampshire Public Utilities Commission Special Contract No. 1 between itself and the Town of Deering, New Hampshire for effect March 10, 1992; and

WHEREAS, this special contract provides a private line radio circuit from the Deering Fire Department to the Deering Town Hall; and

WHEREAS, the Deering Fire Department and Town Hall are located in different telephone exchanges franchised to Granite State Telephone Inc. and GTE New Hampshire respectively; and

WHEREAS, the Fire Department and Town Hall are both located in the municipality of Deering, New Hampshire; and

WHEREAS, this circuit will be used in the provision of communications for the protection of life and property; and

WHEREAS, the Commission finds the rates proposed for such service just and reasonable; and

WHEREAS, the Commission finds this special contract to be in the public good; it is hereby

ORDERED, that Special Contract No. 1 between Granite State Telephone Inc. and the Town of Deering, New Hampshire, be and hereby is approved effective March 10, 1992.

By Order of the New Hampshire Public Utilities Commission this twenty-second day of April, 1992.

==========

NH.PUC*04/22/92*[72907]*77 NH PUC 193*MERRIMACK COUNTY TELEPHONE

[Go to End of 72907]

MERRIMACK COUNTY TELEPHONE

DE 92-071
ORDER NO. 20,453

77 NH PUC 193

New Hampshire Public Utilities Commission

April 22, 1992

Order Approving Extension of a Special Contract Between Merrimack County Telephone and the Town of Sutton, New Hampshire For Emergency Call Conferencing System

---

On March 27, 1992, Merrimack County Telephone (MCT) filed with the New Hampshire Public Utilities Commission an extension of its Special Contract No. MCT-004 under which it proposed to continue the provision of Emergency Call Conferencing for the Fire Department of the Town of Sutton, New Hampshire; and

WHEREAS, such conferencing service contract is an extension of Special Contract MCT-004 which was approved by Commission Order No. 18,671, dated May 13, 1987; and

WHEREAS, the original Special Contract MCT-004, approved by Order No. 18,671, expires on April 20, 1992; and

WHEREAS, the terms, conditions and rates for such service are the same as those approved by Order No. 18,671; and

WHEREAS, the service provided will be used for the provision of communications for the protection of life and property and is therefore in the public good; it is hereby

ORDERED, that the Extension of Special Contract No. MCT- 004, between Merrimack County Telephone and the Town of Sutton be, and hereby is approved for effect April 21, 1992.

By order of the New Hampshire Public Utilities Commission this twenty-second day of April, 1992.

==========

NH.PUC*04/22/92*[72908]*77 NH PUC 193*CONTINENTAL CABLEVISION, INC.

[Go to End of 72908]

CONTINENTAL CABLEVISION, INC.

DE 92-063
ORDER NO. 20,454

77 NH PUC 193

New Hampshire Public Utilities Commission

April 22, 1992

Order NISI granting authorization for an aerial cable television crossing of the Contoocook River in the City of Concord, New Hampshire.

WHEREAS, on March 31, 1992 Continental Cablevision, Inc. (petitioner) filed with the New

Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to install and maintain an aerial cable-TV crossing over the Contoocook River in the City of Concord, New Hampshire; and

WHEREAS, an existing electric crossing at this site was approved by this Commission as crossing number 2 in Re Concord Electric Co., 37 NH PUC 211 (1955); and

WHEREAS, an existing telephone crossing at the same site was approved as crossing number 12 in Re New England Telephone & Telegraph Co., 37 NH PUC 227 (1955); and

WHEREAS, the existing and proposed crossings are from Concord Electric Co. pole 33 (also identified as NET pole 10/76) on River Road, to Concord Electric Co. pole 10 (NET pole 10A/1) on or near Hardy Lane, said crossings being approximately 1.2 miles northeast (downstream) of the Riverhill Bridge; and

WHEREAS, the cable-TV crossing is proposed to provide service to sixteen homes on the northwest (Hardy Lane) side of the river under the petitioner's franchise agreement with the City of Concord; and

WHEREAS, the proposed cable-TV line will be strung a minimum of 40 inches below the existing electric cable and one foot above the existing telephone cable, the latter being approximately 21 feet above the river, therefore meeting National Electrical Safety Code standards; and

WHEREAS, the Commission finds the

above installation and maintenance is necessary to enable the petitioner to provide service, without substantially affecting the public rights in or above said waters, and thus it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than May 18, 1992; and it is

FURTHER ORDERED, that the petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Concord area, said publications to be no later than May 4, 1992. In addition, pursuant to RSA 541- A:22, the petitioner shall provide a copy of this order to the Concord city clerk, by first class U.S. mail, postmarked on or before May 4, 1992. Compliance with these notice provisions shall be documented by affidavit(s) to be filed with the Commission on or before May 18, 1992; and it is

FURTHER ORDERED, NISI that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Continental Cablevision, Inc., 8 Commercial Street, Concord, New Hampshire 03301 to install and maintain the aforementioned crossing of an aerial cable-TV line over the Contoocook River in the City of Concord, New Hampshire, effective May 20, 1992 unless the

Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the city of Concord.

By order of the New Hampshire Public Utilities Commission this twenty-second day of April, 1992.

==========

NH.PUC*04/22/92*[72909]*77 NH PUC 194*NORTHERN UTILITIES, INC.

[Go to End of 72909]

NORTHERN UTILITIES, INC.

DE 91-209
ORDER NO. 20,455

77 NH PUC 194

New Hampshire Public Utilities Commission

April 22, 1992

Order Modifying Gas Main Replacement Authorization

WHEREAS, Public Service Company of New Hampshire is in the process of converting its electrical generating station in Newington, New Hampshire from oil to co-firing gas capability, with natural gas to be supplied by Northern Utilities, Inc. (Northern), through a pipeline to be constructed by Northern; and

WHEREAS, on January 14, 1992, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,368 ordering NISI waiver of specifications contained within Admin. Rule Puc 506.02(b) for construction of the pipeline under the south side of Gosling Road; and

WHEREAS, Northern has discovered that other utility installations are located under the south side of Gosling Road in such a way that pipeline installation as planned would be unsafe and contrary to safety and engineering standards; and

WHEREAS, construction under the north side of Gosling Road would not jeopardize the natural gas pipeline or other utility installations in place; it is hereby

ORDERED, that Order No. 20,368 be modified to identify the location of the pipeline under the north side of Gosling Road; and it is

FURTHER ORDERED, that all other terms and conditions of Order No. 20,368 shall remain unchanged.

By order of the New Hampshire Public Utilities Commission this twenty-second day of April, 1992.

==========

NH.PUC*04/23/92*[72910]*77 NH PUC 195*CONNECTICUT VALLEY ELECTRIC COMPANY

[Go to End of 72910]

CONNECTICUT VALLEY ELECTRIC COMPANY

DR 91-024
ORDER NO. 20,457

77 NH PUC 195

New Hampshire Public Utilities Commission

April 23, 1992

Approval of Conservation and Load Management Stipulated Agreement

---

Appearances: Kenneth C. Picton, Esq. for Connecticut Valley Electric Company; Office of the Consumer Advocate by Michael W. Holmes, Esq. for the residential ratepayers; Susan Chamberlin, Esq. for the New Hampshire Public Utilities Commission Staff.

I. PROCEDURAL HISTORY

On March 1, 1991 the Connecticut Valley Electric Company Inc. ("CVEC" or "Company") filed with the New Hampshire Public Utilities Commission ("Commission") a petition requesting approval of certain Conservation and Load Management ("C&LM") programs.

On March 15, 1991 the Commission issued an Order of Notice scheduling a prehearing conference for April 9, 1991 and setting a deadline of April 5, 1991 for motions to intervene.

On April 9, 1991, the Staff and parties agreed to a procedural schedule, which was accepted by the Commission in Order No. 20,111. There were no motions to intervene.

A series of technical sessions with CVEC, Staff and the Office of Consumer Advocate ("OCA") were held in July and August, 1991. Staff filed testimony on August 22, 1991. Settlement discussions among the parties were held through September 1991.

On October 9, 1991, the Commission held a hearing on the merits to resolve outstanding issues.

On December 4, 1991, the Commission held a hearing at which the parties presented testimony and exhibits in support of a stipulated agreement.

On December 30, 1991, at its public meeting the Commission accepted the parties' stipulated agreement and outlined its resolution of the disputed issues and on December 31, 1991, the Commission issued Order No. 20,359 allowing the Company to implement its programs as described in the stipulation and the Company's filing. The Commission referenced a forthcoming report fully detailing the procedural history, positions of the parties, Commission analysis, findings and conclusions; this report fulfills that purpose.

II. PROGRAM DESCRIPTIONS

1. Residential Electric High Use Service Program

This program is targeted at electric heat customers as well as other residential customers with high electric use. The program will use an on-site audit to identify the most cost effective energy conservation opportunities and will install electric water heating conservation devices and compact fluorescent lights at no direct charge. Exh. 11 Revised ("R") at 18.

CVEC is exploring with financial institutions the possibility of making market based loans available for all other electric energy efficiency measures recommended. CVEC indicates that it will work to ensure that risks associated with loan defaults will be borne by the bank. Exh. 11R at 18 and Exh. 7 at 2.

The program is scheduled to begin in November, 1992. Exh. 9A. Over the life of the measures installed, the program is expected to save 2,292 Megawatthours MWH at a cost of $52,000. Exh. 11R at 19.

2. Residential Direct Installation/Water Heater Service Program

This program is designed to directly install a limited menu of electric energy efficiency measures in a home at no direct cost to the customer. The measures include the direct installation of electric water heating jackets, low flow showerheads, pipe insulation, faucet aerators, and compact fluorescent lights. Exh. 11R at 19 and 20.

Page 195

The program is targeted at all electric water heating customers without electric space heat and is expected to begin in September, 1992. Exh. 9A. Over the life of the measures installed, this program is expected to save 8,256 MWH at a cost of $182,000. Exh. 11R at 20.

3. Residential New Construction Service Program

This program will offer financial incentives to builders in an effort to encourage optimum electric efficiency in new home construction and substantial rehabilitation projects. Incentives will be available for energy efficient lighting, refrigerators, water heaters and other major appliances. A critical component of the program will be education and technical assistance. Exh. 11R at 17.

The program is scheduled to begin in January, 1993. Exh. 9A. Over the life of the measures installed, the estimated savings are 276 MWH at a cost of $14,000. Exh. 11R at 17.

4. Residential Energy Efficient Products and Services Program.

a. Energy Efficient Products

The mail order/district office component of this program will make selected energy efficiency products available at reduced prices to all residential customers by mail order at the CVEC district office and by catalog mail order until other market sources are developed to the point where they can meet this need. Exh. 11R at 16.

b. Point-of-Sale Energy Efficient Lighting Component

The point-of-sale component will use financial incentives to accelerate the market share of energy efficient products by increasing availability of products through existing distribution

channels. The program will address both light fixtures and lamps (i.e., bulbs). The primary buyer incentive mechanism will be coupons, distributed to CVEC customers upon request, that effectively reduce the cost of lamps and fixtures at the time of sale. Exh. 11R at 16 and Exh. 8A at Tab II. C. 1. p. 8.

The Energy Efficent Products component is scheduled to begin in July, 1992 and the Point-of-Sale component in April, 1993. Exh. 9A. The estimated cost of the program over the life of the measures installed is $113,000 and the total estimated savings is 2736 MWH. Exh. 9A, BWB-8 p. 6.

5. Large Commercial Retrofit

This program targets the nine CVEC customers whose peak demand exceeds 100 KW. CVEC will monitor these customers to determine which ones are remodeling or replacing equipment. The program will target customers planning to remodel during the first year and set priorities for future projects for other customers.

CVEC's service package will include:

- Rebates. CVEC will offer to buy down the incremental cost of the energy efficiency investment to a two year simple payback.

- Technical assistance by CVEC or contracting engineers. Primary measures for inspection include lighting, heating, ventilation and air conditioning (HVAC) systems, and refrigeration. Contract bid preparation, contract reviewand selection, and equipment installation oversight can also be provided.

- Installation verification, technical commissioning assistance, energy consumption monitoring, and operation and maintenance guidelines will be offered. Exh. 10R at 11-12.

The program is scheduled to begin in April, 1992. Exh. 9A. Program savings are estimated to be 15,965 MWH at an estimated cost of $541,000. Exh. 9A BWB-8 p. 6

Page 196

6. Small Commercial Retrofit Program

This program targets existing small commercial, institutional and municipal customers within CVEC's territory with a peak billing demand of 100 KW or less. Exh. 11R at 10. Emphasis will be on installing cost effective measures such as lighting, HVAC equipment, commercial refrigeration and electric hot water heating and cooking equipment. Exh. 8A Tab II. B. 3. p. 3. All recommendations will be based upon an energy audit conducted by CVEC contracted personnel. Financial incentives will be offered to reduce the cost to install qualifying measures to a level not to exceed the cost which would result in a 1.5 year payback. CVEC is working to

develop market based loans to meet the customer portion of the cost of a measure. Exh. 11R at 11.

In addition, CVEC will coordinate with other local utilities including Granite State Electric to simplify the process for local product and service providers to participate in utility programs. Exh. 11R at 11.

The program is scheduled to begin in April, 1993. Exh. 9A at BWB-11. Over the life of the program 9241 MWH are expected to be saved at a cost of $289,000. Exh. 11R at 12.

7. Commercial Remodeling and Equipment Replacement

This program targets the 751 commercial customer facilities with a peak demand of less than 100 KW where equipment is being replaced for non-energy reasons, including remodeling and end of equipment service life. Exh. 11R at 9 and Exh 8A Tab II. B. 4. p. 1. These projects have a small window of opportunity where energy efficient products can be installed for incremental cost. CVEC will provide the following services:

-Financial incentives to offset the incremental cost of equipment efficiency upgrades. -Design technical assistance to ensure full energy conservation measures are included at time of remodeling. -Inspection of installations and commissioning asssistance. -Technical training to trade allies. Exh. 11R at 9.

Over the life of the program, 315 participants are expected to save 19,787 MWH at a cost of $451,000. Exh. 11R at 10.

8. Commercial Lighting Program

a. Phase I

Phase I was completed by the end of 1991 and included the retrofitting of Stevens High School in Claremont, N.H. with selected lighting technologies and lighting products. Funds for this project were provided by a U.S. Department of Energy grant and matching CVEC dollars. Phase I CVEC costs were $21,000 and Stevens High is expected to save 27 MWH per year. Exh. 8A Tab. II. B. 7. pp. 5-6. Monitoring and end use evaluation will be performed; the data generated will be used as part of ongoing efforts to promote new lighting technologies. Exh. 11R at 13.

b. Phase II

Phase II services include continued promotion of energy efficient lighting technology through incentives offered to customers within the demonstration area. Incentive payment levels will provide no more than a 2.5 year payback and will be adjusted to ensure maximum customer participation. Exh. 11R at 14.

Phase II costs are expected to be $10,000. Exh. 8A Tab II. B. 7. Phase 2 p. 2. Savings for both phases are expected to be 1,776 MWH over the life of the measures at an approximate cost of $31,000. Exh. 11R at 13.

9. New Commercial Construction Program

This program will offer financial incentives to encourage customers to exceed current new construction practice when building a new facility, adding to or completely

renovating an existing facility. Primary program components include the following:

-Building design assistance with design incentives to reduce additional architectural and engineering design time.

-Inspection and commissioning of all participating buildings.

-Operations and maintentance support to ensure proper operation of new equipment or measures.

-Technical training for trade allies and progam staff.

-Program evaluation and monitoring to ensure that consistent and cost-effective services are being delivered. Exh. 11R at 7-8.

The program is scheduled to begin 9 to 12 months following commission approval. CVEC expects to save 25,014 MWH over the life of the program at an estimated cost of $398,000. Exh. 11R at 8.

10. Dairy Farm Program

This program is similar to the Small Commercial Retrofit Program except that the services are designed to reach all dairy farmers in the CVEC territory. Recommendations for retrofit will be based on the results of an energy audit. Financial incentives will buy down the cost of measures to a level not to exceed the cost which would result in a 1.5 year payback. Exh. 11R at 12.

The program is expected to begin in April, 1992. Exh. 9A. at BWB-11. CVEC expects to save 733 MWH at a cost of approximately $20,000 for this program. Exh. 11R at 13.

11. Industrial Retrofit Program

CVEC will target its 14 large industrial customers. Once areas of potential savings are identified by a walk- through energy audit, an independent engineering firm or vendor will perform an economic and engineering evaluation. Exh. 10R at 4.

Measures with less than a two year payback must be installed by the customer in order to receive incentives on other measures. Measures with two to six year paybacks will be eligible for incentives. Measures with greater than a six year payback will be catalogued and revisited once all customers have participated in the program. Exh 10R at 4.

The program was scheduled to start in November, 1991. Exh. 9A at BWB-11. The estimated savings are 19,721 MWH at an anticipated cost of $641,000. Exh. 9A at BWB-8 p. 6.

12. Industrial New Construction Program

CVEC estimates that two industrial customers occupy new facilities or bring new processes to existing facilities within their territory every five years. Through cooperative efforts with local and state economic development programs, CVEC will ask these customers to submit an engineering proposal for energy efficiency improvements to their facilities. An evaluation performed by CVEC or an engineering firm will assess the efficiency baseline of the customer's

equipment as well as the cost and energy savings projections for higher efficiency options. Paybacks will be bought down to two years for the incremental cost of the energy efficient equipment versus new equipment. Exh. 10R at 7.

The program was scheduled to begin in November, 1991. Exh. 9A at BWB-11. CVEC estimates it will save 2,320 MWH and expects to spend $49,000. Exh. 9A at BWB-8 p. 6.

13. Industrial Motors Program

Trade allies and motor vendors will be used to promote the purchase of energy efficient motors at times of normal replacement. Standard rebates, based on paying the full incremetal cost difference between an energy efficient motor and standard efficiency motor, will be offered for motors meeting minimum energy efficiency standards. Exh. 10R at 9 and 10.

The program was scheduled to begin in January, 1992. Exh. 9A at BWB-11. CVEC expects to spend $67,000 on this program with total energy savings estimated to be 2,288

Page 198

MWH. Exh. 9A at BWB-11 p. 6.

III. STIPULATION

Staff, the OCA and CVEC discussed the proposed programs extensively to resolve problems in program design, implementation and evaluation. The results of those discussions are described in the Stipulated Agreement. (Exh 7) Briefly summarized, the settlement resolves inter alia the following subjects:

1. CVEC will continue to explore financing packages for customers and will seek to pursue options that are less risky than guaranteeing loans. Exh 7 at 2. CVEC will also contact banks regarding lending practices to encourage energy efficiency in new construction (Exh 7 at 4.

2. CVEC will use a threshold for evaluating C&LM measures in its screening tool of 1.5:1 for commercial and industrial ("C&I") programs and 1.2:1 for residential programs. Measures which fall below these thresholds may be included only if they constitute a lost opportunity or if affiliated measures grouped together pass the threshold as a whole. These thresholds are used to ensure the cost effectiveness of the programs. Exh 7 at 2-3. CVEC has also adjusted measure lives used in screening as outlined in 20 of the Stipulated Agreement. Exh 7 at 5.

3. CVEC will not provide incentives for any customers who do not install measures with a two year or less payback unless extraordinary circumstances as outlined in the Stipulated Agreement. This will prevent "cream skimming." Exh 7 at 3.

4. CVEC agrees that it will defer implementation of the major appliance component of its residential energy efficient products program until evidence gathered in Vermont indicates whether the program will be cost effective. CVEC will file its findings and recommendations on this program with its 1993 program filing on June 1, 1992. Exh 7 at 4.

5. The parties will continue to work on expanding the percentage of expenditures for low income customers. Exh 7 at 4.

6. In light of anti-trust concerns, CVEC will use competitively selected contractors to deliver

services used in the C&LM programs. Exh 7 at 5.

7. CVEC will allocate program cost recovery based upon program expenses by rate class grouping and will collect incentives on an across-class percentage. This allocation method will be open to reconsideration should data gathered in the future indicate that a different allocation distributes the costs as related to the benefits more equitably. This component of the Stipulated Agreement resolves one of the issues litigated at the October 9, 1991, hearing. Exh 7 at 5.

8. The Conservation and Load Management Percentage Adjustment ("C&LMPA") effective date is January 1, 1992. Annual adjustments will occur on October 1 of each year. CVEC agrees to file its 1993 program filing by June 1, 1992 for a revised C&LMPA effective October 1, 1992. Exh 7 at 6.

9. CVEC agrees to provide the results of its cost allocation studies by June 1, 1992. Exh 7 at 7.

10. CVEC agrees not to seek recovery of any incentives for pre-October 1, 1991 C&LM activities. This agreement resolves one of the issues presented to the Commission on October 9, 1991. Exh 7 at 7.

11. CVEC will compound interest annually on C&LMPA over- and under-collections. This agreement resolves one of the issues presented to the Commission on October 9, 1991. Exh 7 at 7.

12. CVEC has provided a copy of Central Vermont Public Service Company's ("CVPS") monitoring and evaluation plan. Exh 14. CVEC will provide a summary of the CVEC-specific adaptation of this plan, along with sample tracking system output and formats for monthly and quarterly reports. CVEC will provide sample formats by January 1, 1992. Exh 7 at 3.

13. CVEC will compare the results of its commercial and industrial programs that use a 2.0 year payback with the results of CVPS' programs that use a 1.5 year payback and provide a report of these results as part of its

Page 199

annual reconciliation due November 15 of each year. Exh 7 at 3.

14. CVEC will file a report on its revised marketing and outreach efforts for its commercial and industrial programs by June 1, 1992. Exh 7 at 3-4.

15. CVEC will confer with staff and propose, by June 1, 1992, an interim accounting system for allocation of development and other common C&LM costs. Exh 7 at 5.

16. CVEC will meet with staff to develop future C&LM program filing formats and will propose such formats by June 1, 1992. In future C&LM program reviews, CVEC will file its testimony simultaneously with its program filing. Exh 7 at 6.

17. CVEC will file its 1993 C&LM program proposal by June 1, 1992 for a C&LMPA effective October 1, 1992. The annual reconciliation of the 1992 program will be filed by November 15, 1992.

IV. LITIGATED ISSUES

Several issues were litigated on October 9, 1991. The parties' positions on each subject are described herein.

1. The Inclusion of the Tax Effect in the Incentive Payments

a. CVEC

CVEC argues that the tax effect of any incentive collected should be included in the award. The recovery of an incentive is revenue which, if collected, has no expense associated with it which would shield it from being taxed. Therefore the Internal Revenue Service will recover 34% of the payment. The Company will then recover only 66% of the incentive to which it is entitled. The incentive award will also be further eroded by the New Hampshire Business Profits Tax becoming effective in 1992.

CVEC believes that the incentive payment should be treated the same as a return awarded to a utility in a rate case, which is "grossed up" for taxes.

b. Staff

Staff argues that the incentive should not be adjusted upwards for income taxes. The incentive payment is a sharing of C&LM benefits between ratepayers and shareholders. Without a tax adjustment the Company retains approximately fifteen percent of the benefits that otherwise would have gone to customers. Staff asserts that this is an adequate amount to give the Company an incentive to pursue C&LM programs; staff does not believe that the Company deserves a larger portion of the savings simply because it is responsible for taxes. The benefit to the Company is that it is receives greater income. One of the consequences of greater income is a higher tax liability.

2. Incentive Payments on a Prospective Basis

a. CVEC

CVEC believes that the timing of the recovery of incentive payments should be consistent with the recovery of all other C&LM costs; that is, incentive payments should be collected prospectively rather than retroactively. CVEC believes that an incentive paid after the fact delays the rate recovery and mitigates the value of the incentive.

b. Staff

Staff believes that an incentive payment to CVEC should be paid after it is earned. Staff wants to be sure that the Company earns the incentive before receiving it, especially where CVEC is implementing its first C&LM programs. If there are problems or delays in the programs, a substantial adjustment could be necessary which would be detrimental to the ratepayers. By paying the incentive retroactively, as was done for Granite State Electric Company, the incentive, if earned, can be calculated on known program costs and savings, avoiding an adjustment.

3. Maximizing incentive

a. CVEC

CVEC believes that the maximizing incentive is an important part of the mechanism the Company has proposed. The maximizing component provides an incentive based on gross benefits as opposed to net benefits, and therefore provides greater encouragement for the Company to undertake programs which are marginally cost effective. The presence of the maximizing component also provides greater encouragement for the Company to undertake conservation and load management efforts in the non-industrial sector where programs tend to be less cost-effective.

b. Staff

Staff recommends eliminating the maximizing incentive because it is not accomplishing its stated objective which is to encourage energy savings in all areas not just the highest savings areas. The maximizing incentive de- emphasizes the cost of achieving savings as long as the programs are minimally cost effective. This was designed to give the utility an incentive to search for savings which are hard to achieve. Staff believes that because the maximizing incentive is based on only the value of the savings, in practice, it causes customer and company interests to diverge. Staff asserts that the original objective is accomplished more effectively through program design.

V. FINDINGS OF FACT

CVEC requests that the Commission make certain findings of fact in response to its proposed C&LM programs: The Commission accepts findings 1, 2, 3, 7, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20 as they are presented in the December 5, 1991 "Brief of Connecticut Valley Electric Company, Inc. Regarding Anti-Trust Concerns and a Request for Specific Commission Action." The following findings of fact, numbers 4, 6, 9, 14 and 21 are accepted with modification:

4. If the Company believes or the Commission determines that the market barriers which created the need for some or all of the programs have been removed or are determined not to exist, the Company may petition the Commission or the Commission on its own motion may move to halt the provision of such programs.

6. The Company's portfolio of C&LM programs has been designed to serve the public's conservation and efficiency. It is prudent utility practice to take advantage of all cost effective resource options including demand side management options. The Commission reviews programs developed by the company to determine whether they are in line with Commission policies.

9. The Commission does not believe that the Company's proposed C&LM activities will cause the Company to gain monopoly control over prices and competition within the markets in which it will operate. The Company's activities are designed to integrate with and be regulated by prevailing market forces; the Company will not regulate or attempt to regulate such forces. Nothing the Company has proposed is intended to operate improperly to control prices or exclude competitors from the energy or related product and service market in which the Company's C&LM programs will operate.

14. The programs proposed by the Company have been designed to remove market barriers, not create them. The programs are designed to remedy market failures.

21. The Company's program activities are not designed to squelch competition but will

instead promote conservation, efficiency and load control market development: a public good desired and regulated by the commission. The following findings, numbers 5 and 8 are denied as being beyond Commission jurisdiction:

5. The Commission cannot make findings on the Company's intentions. We accept that the Company has stated that it does not intend to fund or subsidize activities which are not or presently could be served by the marketplace

without the Company's assistance.

8. The Commission cannot grant state action immunity to the Company for the implementation of its programs as such an action is beyond Commission jurisdiction. The Commission provides review for the Company programs and authorizes the Company to offer approved programs to customers and provides for cost recovery for such programs where the programs prove to be a cost effective resource option for the utility.

CVEC requests a finding by the Commission regarding the application of RSA 356: 8-a Exemption for Authorized Activity to its C&LM programs.

The Commission finds that CVEC's C&LM programs are "permitted, authorized, approved, required, or regulated by a regulatory body acting under a federal or state statutory scheme or otherwise subject to the jurisdiction of a regulatory agency." The Commission's review and supervision of CVEC's proposed programs is described above.

CVEC requests a finding that its provision of C&LM programs is pursuant to state policy and is subject to state supervision. The Commission has expressed a state policy of requiring companies to participate in least cost integrated resource planning. Re Public Service Company of New Hampshire, 73 NHPUC 117 (1988); Re Public Service Company of New Hampshire, 73 NHPUC 285 (1984). Conservation and load management falls within the parameters of least cost planning in that conservation is often the most efficient means of meeting New Hampshire's energy needs. The Company's activities are subject to initial and ongoing supervision and review by the Commission as detailed above.

VI. COMMISSION ANALYSIS

Several issues were left unresolved by the proposed Stipulated Agreement. The Commission makes the following determination on those issues:

1. The Inclusion of the Tax Effect in the Incentive Payments

The Commission agrees with staff that any incentive earned by the Company should not be adjusted upward for taxes. There is a very clear difference between the revenue requirement determined in a rate case and the award of an incentive for conservation programs. Under rate of return regulation, a public utility is allowed to earn sufficient revenue to recover its costs and a fair return on its investment. See Bluefield Water Works & Improvement v. Public Service Commission of West Virginia, 262 U.S. 679 (1923). Taxes are part of the cost of operating in rate of return regulation. The same is not true for an incentive payment. A Company's recovery of the costs of the conservation programs is independent of earning an incentive and will recover

all prudently incurred costs whether or not it earns an incentive. The incentive is strictly a bonus; a sharing of benefits that would otherwise flow entirely to ratepayers. Grossing up taxes on the incentive would cause fewer savings to be realized by ratepayers and more by the company. This is not the intent of the incentive payment. The Commission believes that the balance in savings between the ratepayers and the CVEC is justly set without adjusting the incentive payment for taxes and we will not shift it in favor of the company.

2. Incentive Payments on a Prospective Basis

The Commission is not persuaded by the Company's argument that incentives should be collected in the same manner as other C&LM costs. Incentives are a performance based award. They are a payment separate and distinct from the cost of C&LM programs and should have a separate and distinct means of recovery. The Commission believes that it is not appropriate to allow incentives prospectively in that incentives are not an automatic return for the Company. They are provided only when extraordinary savings are actually achieved. As the incentive is based on actual savings it cannot be accurately calculated until after the savings have accrued.

Page 202

The Commission does not believe that the value of the incentive is diminished if it is collected after it has been earned.

3. Maximizing Incentive

The Commission will grant a maximizing incentive of 3.5%. The Commission is not convinced at this time that the maximizing incentive does not encourage the Company to pursue the harder to earn savings. This maximizing incentive level is also consistent with the level settled to for Granite State Electric Company's 1992 C&LM program. Report and Order No. 20,362 at 7. The Commission will reconsider eliminating the maximizing incentive in future dockets should the evidence warrant a change in our position but at this time we decline to do so.

VI. CONCLUSION

The Commission accepts the Stipulated Agreement, Exh 7, as described herein as a just and reasonable proposal for the design, implementation and monitoring of CVEC's 1992 Conservation and Load Management programs. The findings of fact and resolution of outstanding disputes support Order No. 20,359 issued on December 31, 1991.

Our Order will issue accordingly.

Concurring: April 23, 1992

ORDER

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

ORDERED, that the Stipulated Agreement entered into between Connecticut Valley Electric Company, The Office of The Consumer Advocate and The New Hampshire Public Utilities Commission Staff is hereby accepted under the terms set forth in Order No. 20,359 (December 31, 1991); and it is

FURTHER ORDERED, that all the terms of The Stipulated Agreement (including

supporting schedules) are incorporated by reference and made a part of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of April, 1992.

==========

NH.PUC*04/23/92*[72911]*77 NH PUC 203*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72911]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 91-054
ORDER NO. 20,458

77 NH PUC 203

New Hampshire Public Utilities Commission

April 23, 1992

Order Approving Integrated Least Cost Resource Plan

REPORT

Appearances: Thomas B. Getz, Esq. for Public Service Company of New Hampshire; M. Curtis Whitaker, Esq. of

Rath, Young, Pignatelli and Oyer for Northeast Utilities; Kenneth A. Colburn for the Business and Industry Association of New Hampshire; Ms. Shelley Nelkens, pro se; Kenneth Traum for Office of the Consumer Advocate; James T. Rodier, Esq., for the staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On April 30, 1991, Public Service Company of New Hampshire, in compliance with RSA 378:37 et seq. and various orders of the New Hampshire Public Utilities Commission (PSNH) filed its 1991 Integrated Least Cost Resource Plan (ILGRP). By its Order of Notice, dated May 8, 1991, the Commission acknowledged the filing of the 1991 Plan and set a prehearing conference for June 5, 1991.

Following the prehearing conference, the Commission, in its order dated July 1, 1991, allowed the intervention of Northeast Utilities Service Company (NU), the Office of Consumer Advocate, and the Business and Industry Association; the motions of the Campaign for Ratepayer Rights and Ms. Shelley Nelkens were subsequently granted.

The Commission also approved the parties' proposed procedural schedule which called for discovery and a series of technical sessions culminating in a Status Report which would identify any unresolved issues and provide a recommendation for further action.

After some slippage in the original procedural schedule resulting from resource and time conflicts among the parties, discovery was initiated and technical sessions were held on September 5, 1991, and October 15, 1991.

II. POSITIONS OF THE PARTIES

On January 31, 1992, a Status Report was filed with the Commission. A hearing on the Status Report was held on February 10, 1992.

In the Status Report and at the hearing held on February 19, 1992, the Commission Staff, noting the current uncertain status of the timing of the merger and the resultant effects on least cost planning, cited several areas for further attention in the Company's next filing:

1. The Staff has several areas of concern with the Company's Load Forecast assumptions and inputs as submitted in the current filing. Actual loads in 1991 are below levels of the forecast and the Company has adjusted the short-term forecast down in the recent FPPAC proceeding. As part of the merger, it is currently planned that the long-term load forecasting for the PSNH system will be done at NU.

2. Conservation and load management options have been discussed in an informal collaborative process. A Report of the collaborative parties to the Commission on Phase 1 activities was filed on November 14, 1991. In docket no. DE-92-028, the Commission's formal process will review proposed C&LM programs, expenditures, and filing procedures in accordance with the Commission's Order No. 19,889 in Docket No. DR 89- 244 and various C&LM related orders.

3. The following significant supply side issues have been identified and are being addressed in other proceedings or forums: ongoing review of the Newington Conversion and further study of availability improvements. Assessing compliance with and the effects of the 1990 Clean Air Act Amendments will be addressed in detail in the 1992 ILCRP filing.

4. No major planning issues have been identified in transmission. The Company's proposed construction of a 115 KV Line (Y138) from White Lake top Saco Valley is being addressed in a separate proceeding.

5. The current filing does not reflect the full integration of Public Service Company of New Hampshire (PSNH) into the NU system. It is anticipated that the 1992 filing will reflect the full integration of PSNH into the NU system.

6. The short term action plans reflect that much of the supply and demand implementation plans are contingent on the merger occurring in the near future.

7. Staff raised a concern regarding the value of avoided capacity cost prior to PSNH's year of need. Following discussions, the avoided cost of capacity, was agreed upon for purposes of this proceeding. The attached avoided costs are recommended to be used by PSNH until the matter is reviewed again in the 1992 filing.

In reliance on the Company's agreement to the preceding plan refinements, Staff concludes that further review of the 1991 Plan is not warranted. The Office of Consumer Advocate and the Business and Industry Association support Staff's position and all urge the Commission to accept the Company's filing and terminate this docket.

With respect to the future obligations, staff recommended that the next filing be required by April 30, 1992 and that it reflect the full integration of PSNH into the NU system; similar filings are currently planned by NU for Massachusetts and Connecticut in the spring of 1992. As a result of delays in the merger, PSNH and NU may request an extension of time to make the filing. If the merger should be jeopardized or significantly delayed, PSNH should be required to make a filing no later than April 30, 1993 in order to satisfy the biennial filing requirement.

III. COMMISSION ANALYSIS

We have reviewed the record and the recommendations of the parties and find those recommendation just and reasonable. Accordingly, we will close this proceeding in anticipation of commencing a new proceeding to evaluate PSNH's next Least Cost filing due on April 30, 1992. As noted, that filing should reflect a full integration of PSNH into NU. We will not grant an extension to that filing date unless the companies can demonstrate that the delay in consummating the e certain information necessary to prepare that filing unknown and unavailable.

Our order will issue accordingly.

Concurring: April 23, 1992

ORDER

Order Approving Integrated Least Cost Resource Plan

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

ORDERED, that the recommendations of the parties are approved by the commission; and it is

FURTHER ORDERED, that this proceeding be closed in anticipation of PSNH's next Least Cost filing due on April 30, 1992.

By order of the New Hampshire Public Utilities Commission this twenty-third day of April, 1992.

==========

NH.PUC*04/23/92*[72912]*77 NH PUC 205*MCI TELECOMMUNICATIONS CORPORATION

[Go to End of 72912]

MCI TELECOMMUNICATIONS CORPORATION

DR 92-066
ORDER NO. 20,459

77 NH PUC 205

New Hampshire Public Utilities Commission

April 23, 1992

Order NISI approving a tariff change distinguishing Credit Card Call rates for calls originating in non equal access central offices.

On April 6, 1992, MCI Telecommunications Corporation, (the Company), filed a petition before the New Hampshire Public Utilities Commission, for effect on May 7, 1992, seeking to establish differentiated rates for Credit Card calls originating from non equal access central offices; and

WHEREAS, on April 14, 1992, the Company filed substitute tariff pages detailing the rates to be applied to Credit Card calls originating in central offices where equal access is not available; and

WHEREAS, due to recent enhancements in the company's billing system, MCI Telecommunications will now be able to identify calls originating from non-equal access areas and apply the appropriate 800 banded rate; and

WHEREAS, the New Hampshire Public Utilities Commission is interested in encouraging the emergence of competition in the intraLATA toll market on an interim basis; it is hereby

ORDERED NISI, that MCI Telecommunications Corporation, be and hereby is authorized to implement the following tariff changes:

MCI Telecommunications Corp NHPUC Tariff No.1

Seventh Revised Page No. 1

Fourth Revised Page No. 2

Second Revised Page No 27

and it is

FURTHER ORDERED, that the rates for credit card calls originated from central offices where equal access is unavailable, be offered

subject to the conditions as specified in NHPUC Order No. 20,041, dated January 21, 1991, in Docket DE 90-108; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, the company cause an attested copy of this Order NISI to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than May 8, 1992, and is to be documented by affidavit filed with this office on or before May 27, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than May 23, 1992; and it is

FURTHER ORDERED, that this Order NISI will be effective on May 27, 1992, unless the commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-third day of April, 1992.

==========

NH.PUC*04/27/92*[72913]*77 NH PUC 206*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72913]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-050
ORDER NO. 20,460

77 NH PUC 206

New Hampshire Public Utilities Commission

April 27, 1992

Fuel and Purchased Power Adjustment Clause Granting Motion for Protective Treatment

---

On April 23, 1992, Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) a Motion for Protective Order regarding responses to certain data requests; and

WHEREAS, Commission staff (Staff) filed data request Number 68 which "requests PSNH to disclose the terms of transportation agreements with three rail carriers, CSX Railroad, Conrail and P&LE/CP"; and

WHEREAS, for PSNH to respond, it would have to provide "transportation rates, penalty provisions, minimum train sizes, minimum numbers of tons to be transported annually and escalation terms for each agreement"; and

WHEREAS, PSNH does not object to filing such information, but is constrained by contractual terms with the above named rail carriers that such information is to be treated confidentially; and

WHEREAS, the information identified above is necessary to the Staff's evaluation of the issues raised in the docket; and

WHEREAS, Staff and the other parties to this proceeding, Shelley Nelkens and the Office of the Consumer Advocate do not object to this Motion, provided they receive copies of the information afforded protective treatment, which PSNH has agreed to do; and

WHEREAS, the Commission recognizes the importance of Staff having the opportunity to review fully the underlying circumstances and terms of agreements with rail carriers, in order to responsibly carry out its duties; it is hereby

ORDERED, that the Motion for Protective Order be, and hereby is, granted to allow Staff review of the responses to Data Request No. 68; and it is

FURTHER ORDERED, that this Order is subject to the ongoing rights of the Commission,

on it own motion or on the motion of Commission Staff or any other party or member of the public, to reconsider this Order in light of the standards of RSA 91-A; and it is

FURTHER ORDERED, that the post-hearing storage or disposition of materials contained within the response shall be determined during or after the hearings on the merits of the case itself.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of April, 1992.

==========

NH.PUC*04/28/92*[72914]*77 NH PUC 207*NORTHERN UTILITIES - SALEM DIVISION

[Go to End of 72914]

NORTHERN UTILITIES - SALEM DIVISION

DR 92-059
ORDER NO. 20,461

77 NH PUC 207

New Hampshire Public Utilities Commission

April 28, 1992

Cost of Gas Adjustment Approval of Summer 1992 Filing

REPORT

Appearances: LeBoeuf, Lamb, Leiby & MacRae by Scott Meuller, Esquire for Northern Utilities, Inc.; James T. Rodier, Esquire, Staff Attorney.

I. PROCEDURAL BACKGROUND

On April 1, 1992 Northern Utilities, Inc., (Northern of Company), a public utility engaged in the business of supplying gas in the State of New Hampshire, filed with this commission Seventh Revised Page 28, superseding Sixth Revised Page 28, N.H.P.U.C., providing for Summer 1992 Cost of Gas Adjustment (CGA) effective May 1, 1992. The proposed CGA is a credit of ($0.0329) per therm before New Hampshire franchise tax.

An Order of Notice was issued setting the date of the hearing for April 17, 1992 at 2:00 p.m. at the commission's office in Concord, New Hampshire.

The topics covered in the Company's direct testimony included a description of the gas supplies and costs for the Salem Division.

II. COMMISSION ANALYSIS

Based on staff review of the filing and the books and records of the Company, the commission finds that this rate is just and reasonable and in the public interest. We will therefore issue an order approving the rate for effectiveness on May 1, 1992.

Our order will issue accordingly.

Concurring: April 28, 1992

ORDER

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

ORDERED, that 7th Revised Page 28, superseding 6th Revised Page 28, N.H.P.U.C. tariff of Northern Utilities, Inc. - Salem Division, providing for a cost of gas adjustment (CGA) of credit ($0.0329) per therm for the period of May 1, 1992 through October 31, 1992 is approved by this Order, said rate to become effective with all billings issued for service rendered on or after May 1, 1992; and it is

FURTHER ORDERED, that the over/under collection will accrue interest at the Prime Rate reported in the Wall Street Journal. The rate is to be adjusted each quarter using the rate reported on the first day of the month preceding the first month of the quarter; 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; and it is

FURTHER ORDERED, that the above rate is to be adjusted by a factor of approximately 1 percent according to the utility classification in the Franchise Docket DR 83-205, Order No.. 15,624.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of April, 1992.

==========

NH.PUC*04/28/92*[72915]*77 NH PUC 207*ENERGYNORTH NATURAL GAS, INC.

[Go to End of 72915]

ENERGYNORTH NATURAL GAS, INC.

DR 92-058
ORDER NO. 20,462

77 NH PUC 207

New Hampshire Public Utilities Commission

April 28, 1992

Cost of Gas Adjustment Approval of Summer 1992 Filing

REPORT

Appearances: Jacqueline Lake Killgore, Esq. for EnergyNorth Natural Gas, Inc.; Kenneth Traum for the Office of Consumer Advocate; James T. Rodier, Esq., for the Staff

of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On March 31, 1992, EnergyNorth Natural Gas, Inc. (Company), a public utility engaged in the business of supplying gas in the State of New Hampshire, filed with this Commission 10th revised page 1, superseding 9th revised page 1, Tariff, N.H.P.U.C No. 1-Gas accompanied by pre-filed testimony and supporting attachments of Carolyn J. Huber and David B. Doskocil. Said tariff provided for a 1992 Cost of Gas Adjustment (CGA), effective May 1, 1992, of $0.0183 per therm, exclusive of the

N.H. State Franchise Tax. This represents an increase of $0.1319 over the 1991 Summer period credit of ($0.1134).

On April 1, 1992 the Commission issued an Order of Notice establishing a hearing date of April 17, 1992 and ordering the petitioner to publish the Order of Notice in a local newspaper no later than April 3, 1992.

II. POSITIONS OF THE PARTIES

Pre-filed testimony was submitted by Carolyn J. Huber, Manager of Regulatory Affairs and Budgets, and David B. Doskocil, Manager of Gas Supply. Mrs. Huber's testimony detailed the cost of gas adjustment calculations, addressed the increased demand charges resulting from a new supply from Iroquois, and explained increases in Tennessee Gas Pipeline (Tennessee) demand charges resulting from a recent Federal Energy Regulatory Commission (FERC) filing. Demand charges account for 57% of the anticipated cost of gas. The witness indicated that should the final decision by the FERC on Tennessee's "Cosmic Settlement" impact the total anticipated cost of gas, the Company would file a revised CGA.

Mr. Doskocil stated that gas volumes would be primarily supplied through Boundary, Iroquois, and third party contracts. The witness went on to say that the third party gas originates in Canada and the Gulf of Mexico, and that the former is less costly than the latter. Minimal volumes of Propane and LNG will complete the supply portfolio. The witness also indicated that year round benefits resulting from the recently acquired firm supply from Iroquois would outweigh the increase in demand charges, some of which are recovered in the summer period. Staff witness McCluskey stated in oral testimony that the Company's projections reflect maximum utilization of the least cost supply resources available to it, and thus minimizes gas costs in the upcoming summer period.

Mr. Doskocil also discussed the uncertainties surrounding implementation of the "Cosmic Settlement" but indicated that the CGA filing did not reflect any of the proposed changes that the settlement could have on gas costs. The pipeline rates and charges in this filing reflect the Tennessee rate case mentioned above. In response to questions from staff concerning the difference between the Company's and Northern's projected spot gas prices, the witness stated that the Company's price incorporates the higher transportation rate included in the Tennessee FERC rate case, and the expectation of a rising spot market as a result of recent developments in producing states.

With respect to the issue of lost and unaccounted for gas, the witness explained that the factors contributing to the Company's estimate relate largely to measurement and conversion. He

stressed that leakage was minimal on ENGI's system. Nonetheless, Mr. Doskocil offered to review Company data on lost gas and report to the Commission.

In response to questions from staff, the witness identified the procedures utilized to set interruptible sales prices. Mr. Doskocil explained that the sales price is determined monthly, and based on posted oil prices and the circumstances of individual customers.

III. COMMISSION ANALYSIS

The Commission finds that the Company has utilized its available resources in a manner which minimizes gas costs. We also find that the Company's interruptible sales

Page 208

pricing practices have resulted in sizeable margins for the benefit of firm ratepayers. With regard to the issue of forecasted supplier rates, we recognize the uncertainties associated with the spot market and thus reserve comment on the reasonableness of the Company's spot price prediction vis-*-vis Northern's prediction.

The Commission finds the proposed CGA rate of $0.0183/therm, before adjustment for the franchise tax, just and reasonable and in the public interest. Nonetheless, we would expect the Company to make a mid-course correction should implementation of the "Cosmic Settlement" and/or spot market gas prices result in gas costs markedly different from those projected.

Our order will issue accordingly.

Concurring: April 28, 1992

ORDER

Cost of Gas Adjustment Approval of Summer 1992 Filing

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

ORDERED, that the 10th revised page 1, superseding 9th revised page 1, Tariff, N.H.P.U.C No. 1-Gas, providing for a Cost of Gas Adjustment of $0.0183 per therm for the period May 1, 1992 through October 31, 1992 be, and hereby is, approved; and it is

FURTHER ORDERED, that public notice of this Cost of Gas Adjustment be given by a one time publication in newspapers having a general circulation in the territories served; and it is

FURTHER ORDERED, that the Company file an analysis of the factors contributing to lost and unaccounted for gas; and it is

FURTHER ORDERED, that should the monthly reconciliation of known and projected gas costs diviate from the 10% trigger mechanism, the Company shall file a revised Cost of Gas Adjustment.

FURTHER ORDERED, the above rate is to be adjusted by a factor of approximately 1% according to the utilities classification in the Franchise Tax Docket DR 83-205, Order No. 16,524.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of April, 1992.

RESORT WASTE SERVICES CORPORATION

DR 91-032
ORDER NO. 20,463

77 NH PUC 209

New Hampshire Public Utilities Commission

April 28, 1992

Report and Order Addressing Receivership

APPEARANCES: Robert Satter for Resort Waste Services Corporation; Castaldo, Hanna & Malmberg by David W. Marshall, Esq. for Banc One of Ohio as agent of the Federal Deposit Insurance Corporation; and Eugene F. Sullivan III, Esq. for the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

Resort Waste Services Corporation (Resort Waste), a not- for-profit corporation created pursuant to RSA Chapter 292, received a franchise from this Commission on February 23, 1988, to construct and operate a sewage disposal facility to service condominium developments in the Town of Carroll, New Hampshire, in that area more commonly known as Bretton Woods, pursuant to RSA 374:22 and 26. Re Resort Waste Services Corporation, 73 NH PUC 68 (1988).

The facility began operations in December of 1989 and permanent rates were established on July 14, 1989. Re Resort Waste Services Corporation, 74 NH PUC 243 (1989).

Pursuant to the permanent rate order and Resort Waste's tariff filed in compliance with the order there are essentially two distinct classes of customers. User Members are charged a flat rate of $404 per year, and a

Capacity Control Member is charged $275 per year per undeveloped unit. The rates were established using the capacity of the plant, as set by the Water Supply and Pollution Control Division of Environmental Services. The rate for the Capacity Control Member is intended to recover the costs of excess capacity of the plant. This methodology was adopted in recognition of the fact that the Capacity Control Member, Satter Companies of New England, was developing condominiums in the area serviced by the sewer utility and the condominiums could not be constructed without the sewer utility because the geology of the area would not support

septic systems. Thus, as its name implies, the Capacity Control Member paid for the excess capacity of the sewer plant without which it would be unable to construct condominiums on its land.[1] The User Members are those customers that own condominium units at Bretton Woods. The nomenclature of the rate classes is paralleled in the membership (shareholder) conditions in the Articles of Agreement and the Bylaws of Resort Waste. That is, the members (shareholders) of the corporation are the "User Members" and the "Capacity Control Member".

Pursuant to the Articles of Agreement and the Bylaws, there was to be a seven member board of directors. The initial board was created by the incorporators, and the directors' tenures were subject to reelection at the annual members meeting, in accordance with terms set forth in the Bylaws. The Capacity Control Member was given the power to elect four members of the board until the condominiums are at 50% build-out at Bretton Woods, and three members thereafter. The User Members were given authority to elect three members of the board until fifty-percent build-out and four members thereafter. Furthermore, the Capacity Control Member was given certain "special rights" pursuant to Article VII of the Articles of Agreement.

On January 19, 1990, Dartmouth Bank, which had provided financing to Satter Companies of New England (the Capacity Control Member) to construct condominiums to be serviced by the sewer treatment facility, abruptly ceased its financial participation in the development of the area to be served. Subsequently, Satter Companies of New England failed to make payments pursuant to the corporation's tariff on file with the Commission, leaving the sewer utility without the funds to meet operation and maintenance expenses.

In response, the Commission opened docket DE 90-035 to determine whether Dartmouth Bank was a partner of the Capacity Control Member and, therefore, responsible to meet its obligations under the tariff. Re Resort Waste Services Corporation, 75 NH PUC 237 (1990). On June 26, 1990, the Commission accepted a six month stipulation among the Staff of the Commission, Dartmouth Bank and Resort Waste Services Corporation by which Dartmouth Bank would infuse $3,000 per month into Resort Waste as a "protective advance under its loans" to ensure the financial viability of the utility. Re Resort Waste Services Corporation, 75 NH PUC 330 (1990).

On January 16, 1992, the Commission received a letter from the New Dartmouth Bank, the agent of the Federal Deposit Insurance Corporation (FDIC), now holding the "troubled" assets of Dartmouth Bank which had been "dissolved" by the FDIC, indicating that Resort Waste had been dissolved as a corporation by the New Hampshire Secretary of State. In response to this letter and the actions taken by the FDIC relative to Dartmouth Bank, the Commission issued Order No. 20,392 on February 20, 1992, ordering the former officers and directors of Resort Waste to show cause why Resort Waste should not be placed in receivership to ensure its viability.

II. COMMISSION ANALYSIS

The issue before the Commission is whether to place Resort Waste in receivership and if not, what appropriate actions should be taken.

A duly noticed hearing was held on April 2, 1992, on the issues set forth in Order No. 20,392. The testimony revealed that Resort Waste had in fact been dissolved by the Secretary of State in February of 1991 for failure to file a return and pay an annual $25

fee.[2] It further revealed that Robert Satter, who purported to be a director and officer of Resort Waste, was unaware that it had been dissolved and was unable to recall if any members' meetings had ever been held in accordance with the Articles of Agreement and the Bylaws of the corporation to elect members to the board of directors.

Testimony further indicated that although the officers and directors had neglected their duties to the corporation, the stipulation entered into in DE 90-035 which placed the Crawford Management Group in charge of the day to day operations of the utility had, in fact, resulted in the maintenance of the utility's integrity. It is only due to Crawford's management under the stipulation that safe and reliable service has been provided to the utility's customers.

Given that the utility is currently providing safe and adequate service to its customers on a day to day basis we will not appoint a receiver at this time. However, the long term financial condition of the utility is extremely precarious and the Commission has serious reservations relative to the control of the defunct corporation by the Capacity Control Member in light of its admitted uncertainty as to its financial capabilities.

As stated above, the Commission has serious reservations relative to the current Articles of Agreement and Bylaws of the defunct corporation as they place far too much power and control in the hands of the Capacity Control Member which has an outstanding debt of over $100,000 to the corporation and the right to control customer hook-ups to protect its development interests in Bretton Woods. This conflict of interest threatens the very survival of the utility and may require the appointment of a receiver if the situation is not resolved through the amendment of the Articles of Agreement and Bylaws.

The Commission will give the de facto directors forty- five days to reconstitute the corporation and, in conjunction with the members (shareholders), develop a plan which is consistent with Re Resort Waste Services Corporation, 73 NH PUC 68 (1988) granting the franchise, to ensure the future viability of the utility. During that time the Corporation shall communicate with the staff of the Commission on a weekly basis and report its progress towards the resolution of the areas of concern outlined above. Failure by the Corporation to do so will result in either the imposition of receivership or our submission of the facts to the Attorney General pursuant to the provisions of 374:41. Our order shall issue accordingly. Concurring: April 28, 1992

ORDER

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

ORDERED, that the de facto directors of Resort Waste Services Corporation shall file, within forty-five days, a plan that addresses the financial viability and each of the concerns set forth in the forgoing order.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of April, 1992.

FOOTNOES

[1]There are actually two Capacity Control Members, Satter Company of New England and its wholly owned subsidiary partnership Satter Companies of Bretton Woods. Re Resort Waste Services Corporation, 73 NH PUC 283 (1988). Thus, for our purposes we will treat the parent as the Capacity Control Member.

[2]There were in fact two Resort Waste Services Corporations in the State of New Hampshire. The not-for- profit sewer utility which had been dissolved and a for profit corporation bearing the same name which remains a corporation in good standing.

==========

NH.PUC*04/28/92*[72917]*77 NH PUC 212*NORTHERN UTILITIES - NEW HAMPSHIRE DIVISION

[Go to End of 72917]

NORTHERN UTILITIES - NEW HAMPSHIRE DIVISION

DR 92-060
ORDER NO. 20,464

77 NH PUC 212

New Hampshire Public Utilities Commission

April 28, 1992

Cost of Gas Adjustment Approval of Summer 1992 Filing

REPORT

Appearances: LeBoeuf, Lamb, Leiby & MacRae by Scott Meuller, Esquire for Northern Utilities, Inc.; James T. Rodier, Esquire, New Hampshire Public Utilities Commission Staff Attorney.

I. PROCEDURAL BACKGROUND

On April 1, 1992 Northern Utilities, Inc., (Northern or Company), a public utility engaged in the business of supplying gas in the State of New Hampshire, filed with the New Hampshire Public Utilities Commission (commission), Seventh Revised Page 28, superseding 6th Revised Page 28, N.H.P.U.C., providing for Summer 1992 Cost of Gas Adjustment (CGA) effective May 1, 1992. The proposed CGA is a credit of ($0.0329) per therm before New Hampshire franchise tax.

An Order of Notice was issued setting the date of the hearing for April 17, 1992 at 2:00 p.m. at the commission's office in Concord, New Hampshire. The topics covered in the company's direct testimony included a description of the gas supplies and costs for the Salem division.

II. ISSUES PRESENTED BY THE PARTIES

Spot Gas Prices

The issue addressed pertains to the level of transportation charges underlying the spot gas purchases of Granite State Gas Transmission, Northern's affiliate and sole pipeline supplier. Transportation charges could reflect either the terms contained in Tennessee Gas Pipeline's "Cosmic Settlement" or the terms of a recent base rate filing made by Tennessee with the FERC. According to Mr. Ferro for Northern, transportation charges under the "Cosmic Settlement" will be about $.25 per MMBTU lower than the charges under the new base rate filing. The spot purchases in Granite's resource mix reflect the "Cosmic Settlement" rates.

Domtar-Gypsum Inc. (Domtar) Sales Volume

The Company's filing reflects the conversion of Domtar- Gypsum Inc. (Domtar) from an interruptible sales customer to a firm sales customer. The firm sales projection for Domtar for the 1992 summer period is approximately two-thirds of the volumes actually used by Domtar last year according to information on file with the commission. Mr. Ferro stated that changing the Domtar sales projection to match last year's level would probably have little impact on the CGA because the Northern New Hampshire Division would incur demand charges that otherwise would have been borne by the Maine Division.

Unaccounted for Gas

The percent unaccounted for gas that is included in Northern's filing is significantly higher than that estimated by EnergyNorth Natural Gas Inc. (ENGI); i.e., 3.6% versus 1.8% for ENGI. The unaccounted for estimate used by the Company is composed of company use, lost gas, fuel and processing gas and billing lag. In computing its unaccounted for gas factor, the Company assumes that for any twelve month period, the billing lag factor is zero and that unaccounted for gas is a constant percentage of monthly sendout. Statistics on unaccounted for gas filed by Northern with the Department of Transportation shows losses at about 4.2%.

Margins on Interruptible Sales

Staff raised the issue of the prices charged by Northern to interruptible sales customers during the 1991 summer period. While the margins earned on summer interruptible sales

are credited to the following winter's CGA, staff was concerned that Northern's interruptible pricing practices would affect interruptible sales margins in the current period. Exhibit 3, submitted by staff witness Egan, shows the average margin earned from each No. 6 oil, (2.2% sulphur) interruptible customer for the 1991 summer period. That exhibit revealed considerable variance in the margins earned and hence considerable variance in the prices charged. Exhibit 4 also shows that on two occasions some customers were sold gas at little or no margin. Further, in Exhibit 5, the above results were compared with the margins earned by ENGI from similarly situated customers.

In response Mr. Ferro stated that those customers that benefitted from lower priced gas did so because they had demonstrated to the Company that such prices were warranted based on the prices that they would have paid had they purchased alternative fuels.

III. COMMISSION ANALYSIS

Unaccounted For Gas

The commission is concerned about the apparent disparity between the percentage loss factors reported by Northern in this proceeding and by ENGI in DR 92-058. Although Northern reported an overall unaccounted for factor of 3.6%, the "lost" gas component was estimated at 3.8%. The equivalent overall unaccounted for factor for ENGI of 1.8% comprises a loss factor of less than 0.05%. We will require Northern to undertake a study that will enable it to estimate the extent to which system gas is lost through (a) measurement methods; (b) leakage; and (c) theft. The results of the study are to be filed with the Company's 1992/93 winter CGA.

Spot Gas Prices

Mr. Ferro testified that TGP's FERC Rate case transportation charges would increase spot gas prices by only $0.25 per MMBTU and thus would have minimal impact on Northern's CGA. He also testified that he is confident, based on Granite's track record of obtaining low cost gas, that the actual delivered spot prices will be close to the projected prices irrespective of those transportation rates in effect. Based on that testimony, the commission finds the projected supplier rates to be reasonable.

Interruptible Sales Margins

In Report and Order 19,599, Northern Utilities Winter 1989/90 CGA, DR 89-176, the commission directed staff to meet with the Company to discuss and resolve the pricing practices which led Northern to return small interruptible sales margins to its firm ratepayers. Based on the information submitted in this proceeding it is clear that concerns relating to the pricing practices have not been fully resolved.

Staff Exhibits 3 through 5 show that the average interruptible margin earned by ENGI during the summer of 1991 is significantly greater than the margin earned by Northern for similarly situated customers. One interpretation of these data is that some smaller users of No. 6 oil, 2.2% sulphur, are able to obtain lower priced oil than much larger users and hence should receive lower cost gas. Alternatively, as noted by Mr. Ferro, large oil users may not care sufficiently about the price of gas to report the oil price discounts they may be receiving. Neither of these explanations seem plausible to us. We will require Northern to respond to the data submitted by staff and to explain in detail how interruptible gas prices are set and what steps are taken to verify customers' alternative fuel prices.

Domtar Sales

With the exception of Domtar, the company's sales forecast for the 1991 summer period was developed using each customer's recent years history, while factoring in anticipated changes in market conditions. The projected sales for Domtar reflect the expectations of Domtar management. Given the fact that Northern has been supplying Domtar with a combination of interruptible and

firm gas for more than a year we find the change in methodology unusual. Nonetheless, we accept Mr. Ferro's statement that the use of higher volumes would attract higher demand charges

and most likely leave the CGA rate substantially unchanged.

Based on the record before us, the commission finds the proposed rate to be just and reasonable and in the public interest. We will therefore issue an order approving the rate for effectiveness on May 1, 1992.

Our order will issue accordingly.

Concurring: April 28, 1992

ORDER

Cost of Gas Adjustment

Approval of Summer 1992 Filing

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

ORDERED, that Twenty-second Revised Page 24, superseding Twenty-first Revised Page 24 N.H.P.U.C. tariff of Northern Utilities, Inc. - New Hampshire Division, providing for a cost of gas adjustment (CGA) of credit ($0.0345) per therm for the period of May 1, 1992 through October 31, 1992 is approved by this Order, said rate to become effective with all billings issued for service rendered on or after May 1, 1992; and it is

FURTHER ORDERED, that the Company file comments on the apparent difference in margins earned by Northern and ENGI as indicated by Exhibits 3 through 5 in this proceeding; and it is

FURTHER ORDERED, that Northern submit in its 1992/1993 winter CGA filing a study detailing the extent of unaccounted for gas on its system; and it is

FURTHER ORDERED, that the over/under collection will accrue interest at the Prime Rate reported in the "Wall Street Journal". The rate is to be adjusted each quarter using the rate reported on the first day of the month preceding the first month of the quarter; 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; and it is

FURTHER ORDERED, that the above rate is to be adjusted by a factor of approximately 1% according to the utility classification in the Franchise Docket DR 83-205, Order No. 15,624.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of April, 1992.

==========

NH.PUC*04/28/92*[72918]*77 NH PUC 214*HAMPTON WATER WORKS COMPANY

[Go to End of 72918]

HAMPTON WATER WORKS COMPANY

DR 91-023
ORDER NO. 20,465

77 NH PUC 214

New Hampshire Public Utilities Commission

April 28, 1992

Order Accepting Rate Case Settlement Agreement

Appearances: Ransmeier & Spellman by Dom D'Ambruoso, Esq. for Hampton Water Works Company; Office of Consumer Advocate by Michael Holmes, Esq. for Residential Ratepayers; Richard Crowley, Selectman for the Town of North Hampton; Susan Chamberlin, Esq. for the New Hampshire Public Utilities Commission staff.

REPORT

I. PROCEDURAL HISTORY

On April 16, 1991, Hampton Water Works Company ("Hampton" or "Company") filed with the New Hampshire Public Utilities Commission ("Commission") proposed rate schedules and supporting documents, which would result in an increase of $584,405 or 21.51%. The Company's proposal was made up of two phases. Phase I consisted of test year average investment and operation and maintenance expenses and amounted to $399,731 or a 14.72% increase. Phase II consisted of the investment in the new Hobbs Well and it represented an increase of $184,673 in annual revenues over the Phase I revenues

On June 20, 1991, the Company, through its attorney, submitted correspondence stating that it would not seek rate relief with respect to Phase II of its rate filing.

On May 14, 1991, the Commission issued Order number 20,131 suspending the filing and setting a July 2, 1991 hearing date for the petitioner's request for temporary rates. On June 20, 1991, the Commission issued an order of notice setting a separate prehearing conference for July 2, 1991, to address the procedural schedule regarding the proposed permanent rate increase. It further ordered a second date to address the issue of temporary rates. Originally scheduled for July 19, 1991, that hearing was rescheduled several times. The Commission heard evidence on the temporary rate request on August 27, 1991.

On July 15, 1991 in Hampton and on October 24, 1991, in North Hampton, the Commissioners attended public hearings.

On October 4, 1991, the Commission issued Report and Order number 20,262 which denied Hampton's petition for temporary rates. On October 24, 1991 the Company filed a Motion For Rehearing of this order. The Commission issued Report and Order number 20,311 on November 22, 1991, denying Hampton's Motion for a Rehearing. The Company appealed this decision to the state Supreme Court which, on March 23, 1992, affirmed the Commission ruling.

In response to the denial of temporary rates, Hampton exercised its option under RSA 378:6(III), to place under bond the proposed rate schedule on November 16, 1991.

Throughout the proceedings the parties engaged in discovery and on January 3 and February

4 and 5, 1992, met to narrow the issues and arrived at the proposed agreement.

On February 25, 1992, the Commission held a hearing on the permanent rate increase at which the Company and staff presented the Settlement Agreement.

II. POSITION OF THE PARTIES

A. Hampton Water Works

Staff and Hampton agreed to a rate base of $8,254,434 (Exh. 12 II). The agreed upon rate of return is 10.04% (Exh. 12 III). This results in an agreed upon utility operating income of $828,745 (Exh. 12 I). The proforma revenues will be $2,816,783, an increase of approximately $101,000 or a 3.72% increase over existing rates (Exh. 12 4.0).

On November 16, 1991, Hampton placed its requested 14.75% rate increase into effect under bond. The Company will refund the difference to the ratepayers at the prime rate, effective on the date of this Order; the refund will be a one time billing credit to the respective customer account (Exh. 12 6.0). The Company agreed to try to make refunds to any customers who have left the system.

The revenue increase will apply equally to all customer classes (Exh. 12 5.0). The Company will include a cost of service study and a depreciation study in its next filing (Exh. 12 9.0).

The proposed Settlement Agreement will enable the Company to provide its normal level of service on a going forward basis into the foreseeable future. It allows the Company to meet its required debt coverage ratios. The Company believes the Settlement Agreement is just and reasonable and in the public good.

B. Staff

Staff's recommendations are incorporated into the Settlement Agreement. Mary Anne Lutz, Customer Representative, reviewed customer comments from a staff initiated customer survey and recommends the following (Exh. 12 8.0):

1. That Hampton reevaluate its on/off policy regarding seasonal customers needs. Adequate personnel should be available for weekend on/off requests.

2. That Hampton retrain its office personnel to notify the customer of her or his right to appeal contested issues to the New Hampshire Public Utilities Commission.

3. That Hampton take steps to resolve taste, smell, chlorine or any other water quality or service complaints. James Lenihan, Utility Analyst, recommends the Company do a cost of service

study. This recommendation was incorporated into the Agreement (Exh. 12 9.0).

Robert Lessels, Water Engineer, came to an agreement with the Company that a $1,000 fine for each of three unreported capital additions is appropriate (Exh. 12 9.1). Mr. Lessels agrees with the testimony of Keith Bossung, Manager of Hampton Water Works Company, in the steps the Company is taking to insure chlorine levels are maintained at .2 at the extremities. The six point plan calls for increased sampling, the use of undiluted sodium hypochlorite to eliminate

chlorine odor, the purchase of chemical feed equipment to improve chlorine distribution, the purchase of equipment to monitor ammonia, the implementation of chlorine sensing devices to improve monitoring chlorine levels and efforts over time to address the wells in terms of ph level to better stabilize the chlorine (Exh. 12 9.2).

Mr. Lessels testified that well cleaning and tank painting should be done after a definite indication from records that it is necessary (Exh. 12 9.3 and 9.5). Water used for flushing sewer lines should be billed to the municipalities (Exh 12 9.4). The Company accepted these recommendations.

Richard Deres, Financial Examiner, filed testimony reflecting rate base adjustments (Exh. 17A). The allocation of costs between Hampton and its related company Salisbury Water Supply Company ("Salisbury") was adjusted to better reflect the shared expenses of the two companies. Mr. Deres accepted costs for three additional positions. Moving costs for personnel were disallowed. Depreciation expenses were adjusted to remove completely depreciated items and to reflect a proper allocation between Hampton and Salisbury. Mr. Deres also stated in his prefiled testimony that the Company could achieve savings by reducing its reliance on contract labor by acquiring the equipment needed and hiring the necessary staff to perform the construction work. Although Staff did not recommend a disallowance for the outside labor costs, it urges the company to consider changing its current practice (Exh. 17). Mary Coleman, Economist, made an overall cost of capital recommendation for Hampton of 10.04% based on the capital structure, costs of debt and estimated cost of equity (Exhs. 19 and 19a). The Company agreed with these recommendations (Exh. 12 III).

C. The Office of the Consumer Advocate ("OCA")

The OCA supports the Settlement Agreement.

D. The Town of North Hampton

The Town of North Hampton supports the Settlement Agreement.

III. COMMISSION ANALYSIS

The Commission accepts the testimony and recommendations made by staff and the Company in support of the proposed Settlement Agreement. We find that the adjustments made in reducing the originally requested $750,000 increase (including rate case expenses) to an $100,000 increase (excluding rate case expenses) shows an appreciation of New Hampshire's difficult financial circumstances and is responsive to the concerns of Hampton Water Works customers. The Commission finds that the adjustments and recommendations described above and in Exh. 12, the Settlement Agreement, are just and reasonable and in the public good. We withhold acceptance of the rate case expenses until the exact amount of these expenses is known. The Commission will then determine the proper time frame over which to recover all prudent expenses and issue a Supplemental Order to that effect.

Our order will issue accordingly.

Concurring: April 28, 1992

ORDER

Based upon the following report, which is made a part hereof, it is hereby

ORDERED, that the rate case Settlement Agreement entered into between Hampton, the Office of the Consumer Advocate, the Town of North Hampton and Staff, a copy of which is attached hereto, is hereby accepted; and it is

FURTHER ORDERED, that Hampton submit final rate case expenses to the Commission for review, at which time a further order will be issued regarding the amount of rate case expenses and the appropriate method of recovery. By order of the New Hampshire Public Utilities Commission this twenty-eighth day of April, 1992.

ATTACHMENT

SETTLEMENT AGREEMENT

1.0 This Settlement Agreement ("Agreement") is entered into this 25th day of February, 1992, between Hampton Water Works Company (the "Company"), the office of Consumer Advocate (the "Consumer Advocate"), the Staff ("Staff") of the Public Utilities Commission (the "Commission") and the Town of North Hampton ("North Hampton") for the purposes and subject to the terms and conditions hereinafter stated.

2.0 Introduction. On March 1, 1991, the Company filed a Notice Of Intent to File Rate Schedules requesting an increase of approximately $750,000 or, approximately at 27.6% rate increase. On April 16, 1991, the Company filed the direct testimony and exhibits of several witnesses comprehensively addressing the issues of revenue requirements and rate design to support a requested increase in annual revenues of $584,405 or an increase of 21.52% over existing revenues, including an estimate of rate case expense. The Company's filing proposed revisions to Fifth Revised Page 11 and Fifteenth Revised Pages 12, 13, 14, and 15 of its tariff No. 7-Water, to become effective May 16, 1991, and providing for various changes in the terms and conditions of service in Tariff No. 7 and providing for a combined Phase 1, and Phase 2 rate increase. The Phase 1 increase was $399,732, or 14.72%, which represented the total effect of the Company's proforma adjustments for operations. The Phase 2 increase was an increase of $184,673 or 5.93%, which represented the Company's investment in Well No. 15, also known as the Hobbs' Well. Both Phase 1 and Phase 2 included an estimate of rate case expense. The Company's filing was based upon a test year of twelve-month period ending December 31, 1990. The Company simultaneously filed a Petition For Temporary Rates pursuant to the provisions of RSA 378:27 requesting the Commission to determine and establish the Company's existing rates as temporary rates during the pendency of this proceeding and until permanent levels of rates were established.

2.1 By its Order No. 20,131, dated May 14, 1991, the Commission suspended the requested increase, ordered public notice, established dates for the filing of intervention petitions and established July 2, 1991 as the date for a prehearing conference and hearing on the issue of temporary rates. On June 20, 1991, the Company modified its filing by requesting that Phase 2 be eliminated from consideration in the temporary rate hearing. On June 20, 1991, the Commission over the Company's objection issued revised Order of Notice stating "that it is in the public good in all cases to separate the pre hearing conference

2.2 On June 28, 1991, the Company filed a letter with the Commission explaining that the Phase 2 request would not be pursued as part of the twelve-month pro-forma adjustment to rates but would be deferred and requested as a second step increase at some future time. This modification had the effect of reducing the rate request to $399,732 or 14.72%.

2.3 At the July 2, 1991 pre-hearing conference, the Consumer Advocate requested a delay in the temporary rate hearing scheduled for July 19, 1991. The Company objected to the delay because each day of delay amounted to a loss of $1,095. The parties entered into a Stipulation agreeing to delay the temporary rate hearing date until August 2, 1991, but retaining July 19 as the effective date for temporary rates in the event the Commission approved them.

Page 217

2.4 On July 23, 1991, the Company, the Consumer Advocate and the Staff filed testimony on the matter of temporary rates. The Company and Staff supported temporary rates while the Consumer Advocated objected to them. The Commission for its own reasons again rescheduled the temporary rate hearing to August 25, 1991.

On October 4, 1991, the COmmission issued Order No. 20,262 denying Hampton's request for temporary rates. On October 23, 1991, the Company filed a Motion For Rehearing of Order No. 20,262. On November 26, 1991, the Commission issued Order No. 20,311 denying the Company's Motion for Rehearing on the matter of temporary rates. Therafter, the COmpany filed a Notice of Appeal with the New Hampshire Supreme Court appealing the denial of temporary rates. Pursuant to RSA 378:6(III), the Company exercised its statutory right and placed its proposed rates into effect under bond subject to refund if the rates finally determined by the Commission were less than the proposed rates collected under bond. Also, pursuant to RSA 378:6(III), the Company furnished the Commission with an adequate surety bond on November 15, 1991. The bonded rates became effective November 16, 1991, 6 months from the originally proposed effective date of the Company's filed rates (i.E., May 16, 1991).

2.5 Staff testimony was filed on November 15, 1919 (Lenihan on rate and Coleman on cost of capital), on November 19, 1991 (Lessels on water quality, well cleaning, tank painting and reporting of capital expenditures), on November 20, 1991 (Deres on rate base, pro forma net operating income and revenue deficiency) and on January 15, 1991 (Lutz on customer survey results). The Consumer Advocate filed testimony on November 12 limited to the issue of cost of capital. North Hampton did not file testimony throughout the pendency of this case the parties engaged in voluminous discovery and there were severasl miscellaneous motions regarding the alteration of dates in discovery process.

2.6 During the pendency of this proceeding, the Commission Staff also conducted an audit of the Company's offices culminating in the issuance of a draft audit report dated January 9, 1991. An audit exit conference was held at the Commission's offices on January 22, 1992. On February 12, 1991, Staff issued its final report acknowledging that the Company will at some time in the near future file its responses to be made a part of the audit report. Both the final audit report of Staff and the Company's responses are incorporated in this settlement agreement by reference.

2.7 The parties held settle ment conference at the Commission offices on January 3, February 4 and 5, and February 20, 1992 and conducted additional telephone conference calls in an effort

to reach a stipulation on the issues raised by the Company's filing, the Staff audit, and the testimony of all parties. North Hampton attended only a portion of the January 3rd settlement conference. As a result of settlement discussions, the parties have entered into this Agreement which together with the attached schedules and the documents referenced in it compris the Settlement Agreement.

As indicated in section 4.0 below, the annual increase in revenues is $100,898 or, a 3.72% increase, exclusive of rte case expense which will be treated in accordance with the procedure set forth in the paragraph 7.0 herein. The Company and the Staff are prepared to present testimony in support of this agreement at the hearings which are scheduled to commence on February 25, 1992.

3.0 Agreement an Intergrated Whole; All Provisions as Conditions of Each Other Provision. Each of the parties understands and agrees that this Agreement constitutes an integrated and entire understanding and that each of the terms and provisions hereof is in consideration and support of every other provision and is an essential condition of each such other provision.

4.0 Stipulated Level of Test Year Operating Revenues, Expenses, Rate Base and Rate of Return. Ther are attached hereto revised versions of certain of the exhibits which the Company submitted on April 16,

1992 to support its tariff filing. As revised, these exhibits, together with this narrative agreement, reflect the agreements with respect to all issues and result in an annual increase in revenues of $100,898 or an increase of 3.72%.

I. Test Year Operating Revenues and Expenses

Exhibit 1, Schedule 3, revised 2/21/92 indicates that the overall adjusted test year utility operating income which the parties have agreed the Company shall be allowed in this matter is $828,745. This figure is supported by numerous other schedules which are listed on Exhibit 1, Schedule 7, the "Summary of Pro Forma Adjustments To Operating Expenses".

II. Rate Base. Exhibit 1, Schedule 3, indicates that

the total rate base of the Company upon which the Company shall be allowed to earn a return at teh conclusion of this proceeding is

$ 8,254,434 (See also Exhibit 3, Schedule 1)

III. Rate of Return. Exhibit 1, Schedule 28, indicates the capital structure and computation of cost of capital which the parties have agreed that the Company shall be allowed the opportunity to earn as a result of this proceeding. The agreed return on common equity is 10.42% and the agreed overal rate of return is 10.04% (See also Exhibit 1, Schedule 3).

5.0 Stipulated Rate Structure.. The parties agree that the increase approved by the Commission in this case shall be applied equally to all classes of customers. Upon receipt of the Commission rate order in this docket approving this Agreement, the Company will file a compliance tariff providing for the rate increase stipulated herein.

6.0 Refund of Bonded Rates. In the Commission's final order to be entered authorizing the

increase in the Company's annual revenues to be finally determined after hearing, provision shall be included for the Company also to refund the difference between th revenue level so provided for, and the Company's existing rates which have been collected under Bond, pursuant to RSA 378:6(III) since November 16, 1992, said refund to be made interest at the prime rate in effect on the date of the Commission's final order and by a one-time billing credit to each customer's account. Upon receipt of the Commission rate order in this docket approving theis Agreement, the Company will file a tariff supplement calculating the bonded rate refund and providing for its repayment in the manner described above.

7.0 Recover of Rate Case Expense. The partis afree the rate

case expense approved by the Commission in this proceeding shall be collected by means of a surcharge on customer bills for a period of 24 months or until fully collected. At the conclusion of these proceedings the Company shall submit a report of rate case expense for Commission review including the date and description of the service rendered, the name of the individual who performed the service, the hours and the rate charged. Upon approval of the Commission, the COmpany shall file a tariff supplement calculating the rate case expense surcharge and providing for its collection. The Company shall also report to the Commission when the surcharge has been collected.

8.0 Customer Survery results the parties agree that the testimony regarding the results of Staff's Customer Survey is incorporated into this Agreement as revised.

9.0 Other Issues. The parties agree that the Company shall conduct a cost of service study and a depreciation study to be filed as part of its next rate increase filing. The parties agree that when calculating depreciation from this time forward, the depreciation expenses ends when any item of plan or equipment which is readily identifiable under teh Company's current accounting procedures is fully depreciated.

9.1 The parties agree that The Company shall pay a fine of $1,000 for each of three instances in which it had failed to report proposed capital expenditures in accordance with Commission regulations.

9.2 The parties agreed that the Company

Page 219

will maintain the American Water Works guideline of 0.2 mg/L free chlorine residual at the sstem extemeties in accordance with the Company's Proposed Disinfection PLan Modifications.

9.3 The parties agreed that well cleaning procedures will continue to be employed when pumping records show a sustained drop in yield as demonstrated by a reduction in specific capacity (GPM/foot of drawdown) such demonstration being independent of a drop in the water table of the aquifier.

9.4 The parties agreed that the Company will develop a proposal to bill individual customers for sewer flushing and file said proposal for Commission approval. The parties also agreed that the Company will closely monitor water usages for sch items as "flushig mains" and "bleaders and blowoffs".

9.5 Tank Painting. It is agreed that tank painting systems will incorporate standard specification for tank surface prepartion, paint type and mil thickness as well as means of Works Company System Engineering. Quality assurance inspections firms in accordance with American Water Works Company guidelines for Steel Tank Maintenance. This documented tank maintenance program will assure maximum potential life for tank paint systems.

10.0 Non-Waiver. By this Agreement, the Company has not waived their right to seek additional revenue by means of a full rate proceeding, or otehrwise, and neither the Staff nior the Consumer Advocate has waved the right to seek a reducton in the Company's rates by means of a show cause proceeding or otherwise.

11.0 General Conditions. This Agreement is subject to the following further conditions:

11.1 The Agreement shall be promptly presented to the Commission for acceptance and approval, such acceptance and approval shall be forthcoming without delay.

11.2 The making of this Agreeement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in these proceedings, other than those specifically agreed to herein, is true and valid.

11.3 The Commission's acceptance of this Agreement does nto constitute approval of or precedent regarding any principle or issue in this proceeding.

11.4 The making of this Agreement establishies no principles or precedents and shall not be deemed to foreclose any party from making any contention in any proceeding or investigation, except that no contention shall be so made which is inconsesten with any express commitment or obligation hereunder.

11.5 The issuance of an order by the Commission implementing this Agreement shall not in any respect constitute a determination by the Commission as to the merits of any allegations or contetions made in this rate proceeding.

11.6 This Agreement is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition, adn if the Commission does not accept it in its entirety, without change or condition, the Agreement shall be deemed to be withdrawn and shall not constitute any part of the record in this proceeding nor be used for any other purpose.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their respective names by their agents, each being fully authorized to do so on behalf of his principal.

Hampton Water Works Company

Staff of Public Utilities Commission

Office of Consumer Advocate

Town of North Hampton

==========

NH.PUC*04/28/92*[72919]*77 NH PUC 221*BIRCHVIEW BY THE SACO, INC.

[Go to End of 72919]

BIRCHVIEW BY THE SACO, INC.

DR 89-207
ORDER NO. 20,466

77 NH PUC 221

New Hampshire Public Utilities Commission

April 28, 1992

Rate Increase Denial of Staff's Motion for Consideration of Rate Case Expenses and Denying Objection by Birchview to Staff's Motion

---

The staff of the public utilities commission, having filed on March 11, 1991, a Motion for Consideration of Rate Case Expenses in DR 89-207, Birchview-by-the-Saco, Inc. (Birchview); and

WHEREAS, Birchview filed an objection to the staff motion on April 6, 1992; and

WHEREAS, in its motion, staff asserted that Birchview's rate case expenses of approximately $37,130 substantially exceeds the rate case expenses for other small water utilities who have undergone rate increases in recent years and are due in large part to Birchview's inadequate record keeping; and

WHEREAS, in its objection to staff's motion, Birchview argues, inter alia, that the amount of rate case exenses was due to the complexity of the issues involved in this particular case, and was not caused by inadequate record keeping as asserted by staff; and

WHEREAS, at its public meeting of April 13, 1992, the commission found that it did not have sufficient information in the record now before it to address its concerns regarding the amount of Birchview's rate case expenses announced at a previous commission meeting on February 3, 1992; it is hereby

ORDERED, that Staff's Motion for Consideration of Rate Case Expenses and Birchview's Objection thereto are denied without prejudice; and it is

FURTHER ORDERED, that docket DR 89-207 is hereby reopened for 8the purpose of allowing the parties 30 days from the date hereof to provide the commission with further documentation to support their respective arguments relating to rate case expenses in this docket; and it is

FURTHER ORDERED, that on submission of said additional documentation, and upon commission review thereof, the com2mission will determine additional hearings or orders will be appropriate to resolve this issue. By order of the New Hampshire Public Utilities Commission this twenty-eighth day of April, 1992.

==========

NH.PUC*04/29/92*[72920]*77 NH PUC 221*GTE NEW HAMPSHIRE, INC.

[Go to End of 72920]

GTE NEW HAMPSHIRE, INC.

DR 92-069
ORDER NO. 20,467

77 NH PUC 221

New Hampshire Public Utilities Commission

April 29, 1992

900 Blocking Service Approval of Initial 900 Blocking Service Tariff Provisions and Suspension of Subsequent Blocking Tariff Provisions

---

On March 27, 1992, GTE New Hampshire, Inc., (the company) filed a petition with the New Hampshire Public Utilities Commission (Commission) for effect April 26, 1992, seeking to introduce 900 Blocking Service for all its customers served by suitably equipped offices; and

WHEREAS, the company proposed to offer blocking free of charge for a period of 60 days after initial telephone service is established, or 90 days after blocking service becomes available in the customer's specific exchange, with all subsequent requests for blocking incurring the appropriate service order charge and a nonrecurring charge per line of $2.50; and

WHEREAS, the company has provided extremely limited cost support for the nonrecurring charge; and

WHEREAS, the Commission staff requires adequate time to review the filing and identify the appropriate cost support; it is hereby

ORDERED, that the provisions regarding blocking free of charge for a period of 60 days for new customers and 90 days for existing

customers after blocking service becomes available in the customer's specific exchange, contained within the following tariff pages:

NHPUC No. 11:

Contents and Subject Index

Eleventh Revised Sheet 1

Section 6

Eighth Revised Sheet 1

Sixth Revised Sheet 2

be, and hereby are, approved; and it is

FURTHER ORDERED, that the provisions regarding the service order charge and

non-recurring $2.50 charge contained within the following tariff pages:

NHPUC No. 11:

Contents and Subject Index

Eleventh Revised Sheet 1

Section 6

Eighth Revised Sheet 1

Sixth Revised Sheet 2

be, and hereby are, suspended pending further investigation and decision.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of April, 1992.

==========

NH.PUC*04/29/92*[72921]*77 NH PUC 222*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72921]

NEW ENGLAND TELEPHONE COMPANY

DR 92-075
ORDER NO. 20,468

77 NH PUC 222

New Hampshire Public Utilities Commission

April 29, 1992

Special Contract with GTC Leasing Company, Inc. Granting Motion for Proprietary Treatment

---

On April 16, 1992, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission) a special contract with GTC Leasing Company, Inc. for Digital Centrex service, pursuant to RSA 378:18; and

WHEREAS, concurrent with the contract, NET filed a Motion for Proprietary Treatment for the contract itself and materials being submitted in conjunction with the contract, pursuant to RSA 91-A and PUC 204.07; and

WHEREAS, in its motion NET states that information submitted with the contract contains "customer specific, competitively sensitive data" including "cost analyses, network size, routing and configuration data, information regarding specific service features, and other contract terms such as term, special rates and billing information"; and

WHEREAS, the information identified above is a necessary part of the filing, and important for the staff of the Commission (Staff) to review in evaluating the contract terms; and

WHEREAS, Staff concurs in the Motion for Proprietary Treatment as it relates to the

materials submitted with the contract but not as it relates to the contract itself; and

WHEREAS, the Commission recognizes the importance of Staff having the opportunity to review fully the materials which support a special contract, in order to responsibly carry out the duties placed upon it pursuant to RSA 378:18; it is hereby

ORDERED, that the Motion for Proprietary Treatment be, and hereby is, granted to allow Staff review of the supporting documents to the special contract, but not to the contract itself; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on it own motion or on the motion of Commission Staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of April, 1992.

==========

NH.PUC*04/29/92*[72922]*77 NH PUC 223*NEW HAMPSHIRE ELECTRIC COOPERATIVE

[Go to End of 72922]

NEW HAMPSHIRE ELECTRIC COOPERATIVE

DR 92-062
ORDER NO. 20,469

77 NH PUC 223

New Hampshire Public Utilities Commission

April 29, 1992

Petition for Change in Fuel Adjustment Clause Approval of FAC

Appearances: Stephen Merrill, Esq., and Timothy Reiniger, Esq., of Merrill & Broderick for the New Hampshire Electric Cooperative; Representative Arthur Ferlan; Michael Holmes, Esq., and Kenneth Traum for the Office of Consumer Advocate; Eugene F. Sullivan, Jr., Thomas C. Frantz and Dr. Sarah Voll for the staff of the Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On March 31, 1992, the New Hampshire Electric Cooperative (NHEC or Coop) filed a request to reduce the fuel component included in its retail rates from a credit of $0.00336 per kWh to a larger credit of $0.01596 per kWh effective May 1, 1992 on a bills rendered basis and ending October 31, 1992. The March 31, 1992 filing was based on actual fuel data through February 1992 and forecasted fuel data through October 1992.

By Order of Notice issued April 6, 1992, the New Hampshire Public Utilities Commission (commission) scheduled a hearing for Thursday, April 23, 1992, to establish the Coop's Fuel

Adjustment Clause (FAC) for the six month period May 1, 1992 through October 31, 1992.

II. POSITIONS OF THE PARTIES

A. NHEC

NHEC, in its March 31, 1992 filing, presented no pre- filed testimony, but supported its proposal with documentation on the current period over-recovery and the forecast of fuel costs from its primary power supplier, Public Service Company of New Hampshire (PSNH). Exhibit 5. As of February 29, 1992, the Coop had over-recovered $2,416,617 and forecasted that the over-recovery at the end of the current FAC period, April 30, 1992, would be slightly over $3,000,000. Exhibit 2.

Based on PSNH's fuel cost estimates for the upcoming FAC period and NHEC's May through October sales forecast, NHEC estimates that an increase in the credit from $0.00179 per kWh to $0.01596 will result in approximately a zero FAC balance at the end of the FAC period. Exhibit 2. NHEC expects the proposed increase in the FAC credit will reduce average rates by 13% exclusive of any surcharges over rates currently in effect. Exhibit 4.

At the hearing the Coop presented one witness who supported the Coop's pre-filed exhibits. The Coop also notes that it has petitioned the commission for a temporary base rate increase, also effective May 1, 1992, as part of its filing in docket no. DR 92-009. NHEC estimates that customers would see a slight decrease on average if the commission grants its proposals for temporary rates and the immediate petition.

B. Staff and Office of Consumer Advocate

At the hearing, both the staff and the Office of the Consumer Advocate stipulated orally that they support the Coop's filing.

III. COMMISSION ANALYSIS

Based upon the record before us, including Exhibits 1 - 5, we find that a Fuel Adjustment Clause credit of $0.01596 per kWh, effective for six months beginning May 1, 1992 on a bills rendered basis, is just and reasonable.

Our order will issue accordingly.

Concurring: April 29, 1992

ORDER

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

ORDERED, that a Fuel Adjustment

Clause credit of $0.01596 per kWh shall be applicable to the billing period from May 1, 1992 through October 31, 1992; and it is

FURTHER ORDERED, that the Coop file properly annotated tariff pages in compliance with this order within 20 days from the issuance date of this order.

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

April, 1992.

==========

NH.PUC*04/29/92*[72923]*77 NH PUC 224*ENERGYNORTH NATURAL GAS, INC.

[Go to End of 72923]

ENERGYNORTH NATURAL GAS, INC.

DE 91-102
ORDER NO. 20,470

77 NH PUC 224

New Hampshire Public Utilities Commission

April 29, 1992

Petition for Condemnation under RSA 371 (Tires, Inc.) Granting Joint Motion to Dismiss Condemnation Proceeding

---

On July 18, 1991, EnergyNorth Natural Gas, Inc. (ENGI) filed with the New Hampshire Public Utilities Commission (Commission) a petition for condemnation of land owned by Tires, Incorporated (Tires, Inc.), pursuant to RSA 371; and

WHEREAS, on April 6, 1992, ENGI and Tires, Inc. filed a Joint Motion to Dismiss Condemnation Proceeding; and

WHEREAS, the dispute between ENGI and Tires, Inc. which led to the filing of the petition for condemnation, has been resolved between the parties, with concurrence by the Office of Consumer Advocate and Commission Staff, as evidenced by the Settlement Agreement dated March 13, 1992, attached hereto; and

WHEREAS, with the settlement of the dispute between ENGI and Tires, Inc. there are no further issues requiring Commission action; it is hereby

ORDERED, that the Joint Motion to Dismiss Condemnation Proceeding be, and hereby is, granted.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of April, 1992.

==========

NH.PUC*04/29/92*[72924]*77 NH PUC 224*COLD SPRINGS PROPERTIES, INC./ ROPEWALK WEST TOWNHOUSE ASSOCIATION

[Go to End of 72924]

COLD SPRINGS PROPERTIES, INC./ ROPEWALK WEST TOWNHOUSE ASSOCIATION

DE 90-113
ORDER NO. 20,471

77 NH PUC 224

New Hampshire Public Utilities Commission

April 29, 1992

Petition for Exemption from PUC Rules Granting Request for Emergency Rate Increase

---

WHEREAS, on December 11, 1991, the Commission issued Report and Order No. 20,331 placing a public water utility located in a limited portion of the Town of Ashland owned and operated by Cold Springs Properties, Inc. in the receivership of Ropewalk West Townhouse Association, one of the utilities customers; and

WHEREAS, pursuant to that order the receiver was authorized to charge each of the 126 customers receiving service from the water utility a flat rate fee of sixty dollars ($60) per year based on estimated operation and maintenance expenses; and

WHEREAS, on April 14, 1992, the receiver filed a petition for emergency rates pursuant to RSA 378:9 based on actual operation and maintenance expenses experienced since it took control of the water utility in December of 1991; and

WHEREAS, RSA 378:9 provides that the Commission may temporarily alter rates when it finds there to be an emergency; and

WHEREAS, the documentation provided by the receiver establishes that the utility will not be able to pay its bills under the current rates; and

WHEREAS, the Commission finds this to be an emergency within the meaning of RSA 378:9; and

WHEREAS, the documentation of operation and maintenance expenses provided by the receiver justifies a flat rate fee of $81.29

per year, or $20.32 per quarter (See Attachment A); it is hereby

ORDERED NISI, that the receiver is authorized to increase the flat rate charge to $20.32 per quarter as emergency rates; and it is

FURTHER ORDERED, that the emergency rates remain in effect until the fixing of permanent rates by the Commission; and it is

FURTHER ORDERED, that a copy of this Order shall be provided to (a) the manager of the time-share units for notification of its clients, (b) the country club/golf course, and (c) each individual owner of a condominium unit either in hand or via first class mail postage prepaid to allow the utility's customers to comment on this order or request a hearing; and it is

FURTHER ORDERED, that an affidavit of notification be filed with this Commission; and it is

FURTHER ORDERED, that this order shall become effective twenty days after the filing of the aforementioned affidavit unless otherwise ordered by this Commission.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of April, 1992.

[Graphic Not Displayed Here]

==========

NH.PUC*04/29/92*[72925]*77 NH PUC 227*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72925]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-009
ORDER NO. 20,472

77 NH PUC 227

New Hampshire Public Utilities Commission

April 29, 1992

Order Granting Temporary Rates

Appearances: Merrill and Broderick by Mark W. Dean, Esq. for the New Hampshire Electric Cooperative, Inc., Senior Assistant Attorney General Harold T. Judd and Devine, Millimet and Branch by Frederick C. Coolbroth, Esq. for the State of New Hampshire; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Rath, Young, Pignatelli and Oyer by Eve H. Oyer, Esq. and Day, Berry and Howard by Robert P. Knickerbocker, Esq. for Northeast Utilities Service Company; Representative Mary C. Chambers (limited intervenor); Campaign for Ratepayers Rights (limited intervenor) by Robert C. Cushing, Jr.; Business and Industry Association (limited intervenor) by Kenneth Colburn; McLane, Graf, Raulerson & Middleton by Joseph A. Foster, Esq. for National Rural Utilities Cooperative Finance Corporation (limited intervenor); Michael W. Holmes, Esq. and Joseph W. Rogers, Esq. of the Office of the Consumer Advocate on behalf of residential ratepayers; Amy L. Ignatius, Esq. on behalf of the Commission Staff.

REPORT

I. PROCEDURAL HISTORY

On January 16, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed with the New Hampshire Public Utilities Commission (Commission) a notice of intent to file rate schedules; on February 24, 1992 a petition for approval of certain debt obligations; on March 6, 1992 a proposed temporary rate surcharge tariff and motion for approval to escrow temporary

rates as well as a petition for approval of a permanent rate increase; and on March 20, 1992, a revised temporary rate surcharge tariff. These filings are in accordance with NHEC's Plan of Reorganization (Plan), which was approved by the United States Bankruptcy Court on March 20, 1992. See In re: New Hampshire Electric Cooperative, Inc., Memorandum Opinion (March 20, 1992).

By Order of Notice dated March 20, 1992, the Commission scheduled a prehearing conference for April 9, 1992. In addition to agreeing upon a procedural schedule for the duration of the docket, the Commission heard arguments regarding intervention by the State of New Hampshire (State), Public Service Company of New Hampshire (PSNH), Northeast Utilities Service Company (NUSCO), the Bankruptcy Court Official Member Committee (Member Committee), National Rural Utilities Cooperative Finance Corporation (CFC), Campaign for Ratepayers Rights (CRR), Business and Industry Association (BIA), and the Honorable Mary C. Chambers.

At the April 9, 1992 prehearing conference, there were no objections raised to intervention by PSNH, NU, and the State of New Hampshire as full parties; these three motions to intervene were granted. Also granted was the request that Mr. Knickerbocker be granted leave to appear pro hac vice. By Report and Order No. 20,437, the Commission found the Member Committee was a creation of the Bankruptcy Court and denied its motion to intervene, but granted members, either individually or as a group, leave to seek intervention. The Commission also granted limited intervention status to CFC, Representative Chambers, CRR, and BIA. The Commission denied CRR's request for PURPA compensation.

On April 14, 1992, the Commission heard evidence on NHEC's request for temporary rates.

II. POSITIONS OF THE PARTIES

A. New Hampshire Electric Cooperative

NHEC Finance and Administration Director Frederick Anderson and Rates and Financial Analysis Manager Roland Von Ohlsen testified as a panel in support of the

temporary rate request. NHEC originally requested an increase of 14.72% exclusive of the fuel adjustment cost, effective on a bills rendered basis as of May 1, 1992, to be applied evenly across all rate classes. NHEC, however, submitted additional reports of proposed rate changes after the temporary rate hearing, in response to a request by the Commission staff. Those reports show that the increase would be 14.76% based on rates in effect in April, 1992 and exclusive of the fuel adjustment charge and the purchased power adjustment clause. Concurrently with the implementation of the temporary surcharge the fuel adjustment charge will be decreased by $7,043,158 or 13.15%. The net effect of the changes is to reduce rates by approximately 1%.

The temporary rates would generate approximately $6.5 million or 12.06% in increased revenue above rates in effect in April, 1992. See Exh. Temp 11 and NHEC Response to Record Requests Attachment 3. The increase is necessary in order to generate sufficient capital to meet certain obligations due on January 1, 1993 as part of the Plan. According to Mr. Anderson, if temporary rates are not granted, NHEC will be forced back into bankruptcy.

Mr. Anderson testified that the revenues generated by the temporary rate increase would be held in an interest bearing escrow account by the Treasurer of the State of New Hampshire, for full refund to customers on a customer specific basis. Interest would be applied to the customers' refund, if refunds become necessary. NHEC introduced a Stipulation Agreement (Exh. Temp 3) and letter of the Assistant State Treasurer (Exh. Temp 2) confirming the terms of the escrow arrangement.

NHEC contends that although this is a "traditional" rate case, some allowance must be made for the unusual circumstances of a company in bankruptcy reorganization. The books and records on file with the Commission, therefore, are reliable except to the extent that 1) they include Seabrook Station (Seabrook) assets and 2) they do not reflect the debt reorganization agreed to as part of the Plan. NHEC believes that Seabrook assets should be removed from consideration, as NHEC has entered into a new long-term Sellback Agreement with PSNH and, therefore, Seabrook assets are not included in the ratebase.

B. State of New Hampshire

The State is a joint proponent of the Bankruptcy Court Plan and as such supports the temporary and permanent rate requests before the Commission.

C. Office of Consumer Advocate

OCA questioned NHEC's witnesses regarding NHEC's assertion that the books and records on file with the Commission should not be relied on, and further that NHEC was creating a mechanism by which it could avoid a prudence analysis of the decision to participate in the development of Seabrook. OCA further argued that documents such as Exh. Temp 5 wrongly compared actual revenues because NHEC did not properly match the sales revenues with the rate base and expenses for the same time periods and, as such, the conclusions reached were not reliable. OCA also asked that the Commission conduct one or more public hearings in the NHEC service territory prior to the permanent rate request hearings.

D. Commission Staff

Staff, after review of NHEC's financial analysis, which relied in part on the reports on file with the Commission and in part on projections for December 31, 1992, conducted its own analysis of the temporary rate request, relying only on NHEC's reports on file with the Commission. Finance Director Eugene F. Sullivan testified that he adjusted those reports to remove all Seabrook assets, and found that the temporary rates requested by NHEC were justified, in that NHEC had a revenue deficiency of $6,478,618 based on a rate of return of 6.16% (the non-Seabrook debt). See Exh. Temp 13. Staff, therefore, supports the temporary rate request as the amount requested

is approximately equivalent to the revenue deficiency that was calculated from the records on file with the Commission.

E. PSNH and NUSCO

PSNH and NUSCO are joint proponents of the Bankruptcy Court Plan and as such support

the temporary and permanent rate requests before the Commission.

F. Limited Intervenors

CFC, CRR, BIA, and Representative Chambers took no position on the temporary rate request.

III. COMMISSION ANALYSIS

After review of the evidence, we are persuaded that the temporary rate increase requested by NHEC is just and reasonable and should be granted, pursuant to RSA 378:27. We find that the resulting rate of return of 3.72%, based upon a pro forma test year, or a 6.16% rate if return based upon actual test year results, to be reasonable and in the public interest.

We recognize that a company in bankruptcy reorganization presents unusual problems of accounting and review in a rate case. By statute, we are required to rely on "the reports of the utility filed with commission, unless there appears to be reasonable ground for questioning the figures in such reports." RSA 378:27. NHEC asserts that the reports on file are reliable in all but two respects: they contain Seabrook assets which NHEC believes should not be considered in this case as they are not included in rate base, and they do not reflect the debt reorganization which is part of the Bankruptcy Plan.

We find the testimony of Finance Director Sullivan useful in this respect, as he testified that he adjusted the reports on file to remove Seabrook assets, but otherwise evaluated NHEC's request solely on the basis of the reports on file. His analysis led to similar results, and he testified that in his opinion, NHEC's request was justified and reasonable. We are persuaded, therefore, that even given the unusual circumstances of bankruptcy, the reports on file demonstrate that temporary rates are justified.

We are concerned, however, that a company in bankruptcy presents risks to its customers. Until NHEC emerges from bankruptcy and is able to proceed on a sound financial basis, the risk to customers of granting temporary rates is great. Were it not for the agreement of NHEC and other plan proponents to place those moneys in an interest bearing escrow account, we would not be favorably inclined to grant such a request. We find, however, that the arrangements to keep those moneys in an account under the control of the State, protected from the claims of other creditors, and with provisions for customer specific refunds if necessary, adequately protect NHEC customers. NHEC's request for escrow of temporary rates in an account maintained by the State Treasurer, therefore, will be granted.

We are not persuaded by the OCA's argument that we should be conducting a "Seabrook rate case", at least as it relates to the temporary rate request, as Seabrook assets are not included in the ratebase. The OCA is free to raise this issue as part of the litigation of the permanent rate increase requested by NHEC. We are willing to grant the OCA's request that we conduct a public hearing within the service territory of NHEC prior to the permanent rate request, and will instruct the Executive Director to schedule such a hearing.

Our order will issue accordingly.

Concurring: April 29, 1992

ORDER

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

ORDERED, that temporary rates as requested by the New Hampshire Electric Cooperative, Inc. (NHEC) in the amount of 14.76% over base rates, exclusive of the adjustments for fuel costs and purchased power costs, are just and reasonable and in the public

Page 229

interest and, therefore, are hereby granted; and it is

FURTHER ORDERED, that such temporary rates shall be effective on a bills rendered basis as of May 1, 1992; and it is

FURTHER ORDERED, that temporary rate surcharge collected shall be held in escrow by the Treasurer of the State of New Hampshire in accordance with the Stipulation Agreement filed as Exhibit Temp 3, for full refund to customers, with interest, and that such moneys shall not become part of the bankruptcy estate and shall not be subject to the claims of other creditors, in the event NHEC does not emerge from bankruptcy as anticipated under the Plan of Reorganization; and it is

FURTHER ORDERED, that the Commission shall conduct a public hearing, within the service territory of NHEC, at a date to be determined but in no event later than the first day of hearings on the merits of the permanent rate request in this docket; and it is

FURTHER ORDERED, that NHEC submit a revised temporary surcharge tariff reflecting the 14.76% temporary surcharge prior to the first billing cylce which reflects the terms of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1992.

==========

NH.PUC*04/30/92*[72926]*77 NH PUC 230*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72926]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-002
ORDER NO. 20,473

77 NH PUC 230

New Hampshire Public Utilities Commission

April 30, 1992

Request for Approval of Special Contract No. NHPUC-69

On December 23, 1991, Public Service Company of New Hampshire (PSNH) filed Special Contract No. NHPUC-69 between PSNH and CE-KSB Pump Company (CE-KSB Pump)

superseding Contract No. NHPUC-50 that has been in effect since July 1987; and

WHEREAS, the terms of Special Contract NHPUC-69 are identical in every way with Special Contract NHPUC-50 except Special Contract NHPUC-69 extends the termination date by one year to December 31, 1992; and

WHEREAS, service rendered under this Special Contract consists of PSNH providing interruptible power at a reduced rate to CE-KSB Pump to drive large pumps while they are tested by CE-KSB Pump; and

WHEREAS, CE-KSB Pump has received service under an interruptible contract since 1978; and

WHEREAS, CE-KSB Pump receives service from PSNH under Rate TR at all other times; and

WHEREAS, PSNH intends to treat CE-KSB Pump's Interruptible Load as NEPEX Interruptible Load in accordance with NEPEX Criteria, Rules and Standards No. 16 thereby providing some benefit to ratepayers during periods of capacity shortages or emergencies; and

WHEREAS, PSNH has the ability to interrupt service provided under NHPUC-69 without any notice to CE-KSB Pump; and

WHEREAS, Special Contract NHPUC-69 provides some benefit to PSNH's system load factor; and

WHEREAS, the capacity market has changed considerably since 1987 with PSNH now estimating it will not need additional capacity until the mid-1990s; and

WHEREAS, the benefits of the extension of this Special Contract flow primarily to CE-KSB Pump via a discounted demand charge; and

WHEREAS, the commission is currently deciding the issue of discounted rates which may affect special contracts such as NHPUC-69; it is hereby

ORDERED NISI, that Special Contract No. NHPUC-69 between PSNH and CE-KSB Pump is approved for one year beginning January 1, 1992 and ending December 31, 1992; and it is

FURTHER ORDERED, that PSNH provide a report to the commission by

November 1, 1992 detailing the value CE-KSB Pump brings to PSNH's long-term resource plan, the number, nature and time of interruptions called by PSNH as well as the response to calls for interruption by CE-KSB Pump since July 1987; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than May 11, 1992, said publication to be documented by affidavit filed with this office on or before May 29, 1992; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of Puc 1601.02(c), that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that

Special Contract will be retroactively effective as of January 1, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order Nisi will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this thirtieth day of April, 1992.

==========

NH.PUC*05/08/92*[72927]*77 NH PUC 231*NORTHERN UTILITIES, INC.

[Go to End of 72927]

NORTHERN UTILITIES, INC.

DC 92-086
ORDER NO. 20,474

77 NH PUC 231

New Hampshire Public Utilities Commission

May 8, 1992

Request to Deny Application for Service

I. ISSUE.

On May 1, 1992, Northern Utilities, Inc., (Northern or the Company) a natural gas utility operating with facilities located in the City of Dover, New Hampshire, requested the opinion of the Commission relative to its rights to deny a request for service pursuant to Chapter 500 of the Commission rules and regulations.

II. FACTS

On September 20, 1991, a Mr. C. J. James requested residential gas service for his duplex located at 9 1/2 West Concord Street in Dover, New Hampshire. The duplex is occupied by two unrelated tenants which share the benefits of the gas service provided to the building via a single meter; there is only one source of heat and hot water for the two apartments. Mr. James' address of record with the Company is 3900 City Line Avenue, Apartment #D630, Philadelphia, Pennsylvania.

On February 4, 1992, Mr. James was in arrears to the Company in the amount of $340.32. On that same date Sardina French, the downstairs tenant at 9 1/2 West Concord Street, applied to place the service in her name. The Company complied with that request.

On April 29, 1992, the Company served a notice of termination on Ms. French because the account was in arrears with an outstanding balance in the amount of $230.58 On that same date

Mr. Michael LaPierre, the upstairs tenant at 9 1/2 West Concord Street, requested that the service be placed in his name.

The Company has requested permission to deny Mr. LaPierre's request for service and for permission to follow through on its termination notice to Ms. French pursuant to N. H. Admin. Rules, Puc 503.04 (Special Cases). In the alternative, the Company requests a ruling

from the Commission that a landlord requesting service for an account serving more than one unit must place the service in his name pursuant to Puc 503.02 (Application for Service).

III. COMMISSION ANALYSIS

This is a case of first impression before the Commission and a case which is not directly addressed in any of our rules and regulations. However, Puc 503.04 (d), relative to deposits states as follows;

Special Cases. A deposit or guarantee may be required in a particular case in such amount and for such period of time as may be approved by the Commission.

We believe this is the type of particular case that could require a deposit from Mr. LaPierre in the amount of the arrearage owed by the two previous customers of record as he has benefitted from the service provided by the Company for which the Company has not been paid. However, there has been no showing that Mr. LaPierre has not paid Mr. James or Ms. French his prorata portion of the gas bill. Thus, a more equitable resolution of this case would be to give Mr. James, Ms. French and Mr. LaPierre until June 1, 1992, to come to an arrangement to pay the arrearage and assure the Company that all future bills will be paid or the Company may terminate service to 9 1/2 West Concord Street.

Our Consumer Assistance Staff is available to assist all of the parties in resolving this dispute and we would hope that the parties would avail themselves of this resource.

In regard to the Company's request to require all landlords of buildings with service being provided to more than one unit to place the service in their names we suggest that the Company file an amendment to its tariff to so require at which time we will consider the issue.

Our Order will issue accordingly.

Concurring: May 8, 1992

ORDER

Request to Deny Application for Service

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

ORDERED, that Northern Utilities, Inc. shall accept Mr. Michael LaPierre's application for service and provide service to 9 1/2 West Concord Street until June 1, 1992, at which time it may terminate service if all arrearages for the service have not been paid and an arrangement for the payment of future bills has not been reached.

By order of the New Hampshire Public Utilities Commission this eighth day of May, 1992.

==========

NH.PUC*05/11/92*[72928]*77 NH PUC 232*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72928]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-077
ORDER NO. 20,475

77 NH PUC 232

New Hampshire Public Utilities Commission

May 11, 1992

Order Approving Increase in Nuclear Decommissioning Charge

On April 14, 1992, Public Service Company of New Hampshire (PSNH) filed a Motion for Further Orders in DR 90- 019 with the New Hampshire Public Utilities Commission (Commission), which the Commission docketed in DR 92-077; and

WHEREAS, on January 29, 1992 the Nuclear Decommissioning Finance Committee (NDFC), after evidentiary hearings which were duly recorded, ordered a new schedule of contributions to the nuclear decommissioning fund, for payments to begin on April 1, 1992; and

WHEREAS, the Motion requests that, pursuant to 5(a)(v)B of the Rate Agreement and RSA 162-F:19(III), the increase in nuclear decommissioning charges ordered by the NDFC should be reflected in PSNH's retail rates and delineated on all PSNH bills rendered on or after June 1, 1992; and

WHEREAS, PSNH requests approval of an increase in base rates of 0.013 cents per kwh in order to recover the costs of the increased contributions to the nuclear decommissioning fund and further requests authorization to separately state on customers' bills the total nuclear decommissioning fund charge of 0.038 cents per kwh, on a bills rendered basis as of June 1, 1992; and

WHEREAS, PSNH requests that it be allowed to recalculate its nuclear decommissioning charge on June 1 of each year, so that any changes be made at the same time as other regularly scheduled tariff changes; and

WHEREAS, PSNH appears to have properly allocated the increase in the decommissioning charge according to its wholesale and retail sales; and

WHEREAS, the Commission finds that PSNH is entitled to recover the increase in contributions ordered by the NDFC, that the revised amounts should be reflected on customers' bills and that recalculations of the nuclear decommissioning charge on June 1 of each year would promote the efficiency of PSNH and the Commission; and

WHEREAS, the Commission is not certain that the amount PSNH has proposed to be assessed on a kwh basis is correct; the Commission finds that the amount should be determined by PSNH on the basis of the following method of calculation, utilizing the Delivery Efficiency factor rather than the Retail Loss Adjustment factor:

1. Identify the original amount of decommissioning costs included in the base rates;

2. Compound that amount by the January 1990 5.5% increase, then by the May 1991 5.5% increase, then by the anticipated June 1992 5.5% increase;

3. Surcharge any remaining amount to be assessed in order to collect the amount ordered by the NDFC; and

WHEREAS, the Commission recognizes that in DR 92-050, PSNH's Fuel and Purchased Power Clause docket, PSNH's sales forecasts will be litigated, and further recognizes that the sales forecasts submitted by PSNH in this docket may have to be modified as a result of the hearings in DR 92-050, thereby necessitating a reconciliation; and

WHEREAS, the Commission recognizes that the January 29, 1992 order of the NDFC has been appealed to the New Hampshire Supreme Court (Supreme Court Docket No. 92-178) and as such, there is a possibility that the increases ordered by the NDFC may be vacated or modified; it is hereby

ORDERED NISI, that PSNH be, and hereby is, authorized to implement changes to its tariff on a temporary basis, subject to refund, to reflect the increase in the nuclear decommissioning charge as ordered by the NDFC and in accordance with the calculation set forth herein, said tariff changes to be filed with the Commission on or before June 1, 1992, and that such nuclear decommissioning charges be recalculated on June 1 of each year as necessary, and it is

FURTHER ORDERED, that the sales forecasts which form the basis for PSNH's calculation of the increase in the decommissioning charge per kwh is subject to modification and all amounts collected subject to reconciliation if the Fuel and Purchased Power Adjustment Clause proceedings in DR 92-050 result in sales forecasts which differ from those contained within PSNH's April 14, 1992 filing with the Commission in the instant docket; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, PSNH cause an attested copy of this Order NISI to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than May 13, 1992, and to be documented by affidavit filed with this office on or before May 27, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than May 27, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective on June 1, 1992, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this eleventh day of May, 1992.

==========

NH.PUC*05/12/92*[72929]*77 NH PUC 234*SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

[Go to End of 72929]

SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

DF 92-089
ORDER 20,476

77 NH PUC 234

New Hampshire Public Utilities Commission

May 12, 1992

Order Approving Extension of Short-Term Debt

WHEREAS, Southern New Hampshire Water Company, Inc. is authorized to operate as a public utility with a principal place of business in Londonderry, Rockingham County, New Hampshire; and

WHEREAS, Southern New Hampshire Water Company, Inc., pursuant to RSA 369:7, filed with this Commission, on May 5, 1992, a Petition for Authority to Extend its Short-Term Debt Limit; and

WHEREAS, Southern New Hampshire Water Company, Inc. has a current short-term debt limit of $6,550,000 authorized by Commission Order 20,340 in Docket DF 91-182; and

WHEREAS, Southern New Hampshire Water Company, Inc. short- term debt limit is extended at or near the $6,550,000, which limit expires June 30, 1992; and

WHEREAS, Southern New Hampshire Water Company, Inc. requests that this short-term debt limit be extended until December 31, 1992 in order for it to have sufficient time to pursue additional long-term debt financing which it cannot do until the pending Appeal of the Consumer Advocate to the New Hampshire Supreme Court of the Commission's Order in the Company's recent rate case proceeding, Docket DR 89-244, is decided; and

WHEREAS, any loans from Consumers Water Company is included in the overall short-term debt limit and will always be included as part of the overall short-term debt limit of Southern New Hampshire Water Company, Inc.; and

WHEREAS, Southern New Hampshire Water Company, Inc. has arranged with its parent company, Consumers Water Company, to issue to Consumers Water Company its short-term debt in an amount up to $3,550,000 at interest rates below the rates charged by its other available short-term creditors; it is hereby

ORDERED, that the New Hampshire Public Utilities Commission, pursuant to RSA 369:7, finds that the level of the short-term debt limit as proposed in the petition is consistent with the public good; and it is

FURTHER ORDERED, that the petition of Southern New Hampshire Water Company, Inc.

for authority to extend its short-term debt limit until December 31, 1992 be, and hereby is, approved; and its is

FURTHER ORDERED, that Southern New Hampshire Water Company, Inc. will consider any loan from the parent, Consumers Water Company, as part of Southern New Hampshire Water Company, Inc. short-term debt; and it is

FURTHER ORDERED, that the waiver of Puc 609.18 pursuant to Puc 201.05, authorizing a short-term debt limit in excess of ten percent (10%) of net assets less depreciation, is in the public interest and that unusual circumstances, as described in the Petition, warrant departure from the just and reasonable rule; and it is

FURTHER ORDERED, that Southern New Hampshire Water Company, Inc. may issue to its parent company, Consumers Water Company, up to $3,550,000 in short-term debt at an interest rate no greater than the interest rate on its other available lines of credit; and it is

FURTHER ORDERED, that Southern New Hampshire Water Company, Inc. pursue the long-term debt financing as quickly after a final decision on the Appeal of the Consumer Advocate to the New Hampshire Supreme Court of the Commission's Order in Docket DR 89-224 so that it may complete its Long-Term Debt financing while the interest rates are low; and it is

FURTHER ORDERED, that Southern

New Hampshire Water Company, Inc. shall, on January first and July first of each year, file with this Commission a detailed statement, duly sworn to by its Treasurer, showing the disposition of the proceeds of such notes; and it is

FURTHER ORDERED, that this Order shall be effective as of the date of this Order.

By order of the Public Utilities Commission of New Hampshire this twelfth day of May, 1992.

==========

NH.PUC*05/12/92*[72930]*77 NH PUC 235*CONCORD ELECTRIC COMPANY EXETER & HAMPTON ELECTRIC COMPANY

[Go to End of 72930]

CONCORD ELECTRIC COMPANY EXETER & HAMPTON ELECTRIC COMPANY

DR 91-158
ORDER NO. 20,477

77 NH PUC 235

New Hampshire Public Utilities Commission

May 12, 1992

Order Accepting Stipulation Agreement on Conservation and Load Management

---

Appearances: LeBoeuf, Lamb, Leiby & MacRae by Paul B. Dexter, Esquire for Concord Electric Company and Exeter & Hampton Electric Company; Maurice J. Lamy for RPL Energy Enterprises, Inc.; Michael W. Holmes, Esquire for the Office of Consumer Advocate; Susan W. Chamberlin, Esquire for the staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On October 1, 1991 Concord Electric Company and Exeter and Hampton Electric Company ("the Companies") filed a demand-side management ("DSM") program plan and DSM development and implementation plan with the Commission to satisfy Commission Order No. 20,094 dated April 1, 1991. On October 9, 1991 the Commission issued an order of notice setting a prehearing conference on October 29, 1991 and a hearing on December 13, 1991.

Although the initial proposal was for full program implementation by January 1, 1992, the parties agreed to a stipulation filed on December 13, 1991 (Exh. 1) that three of the proposed DSM programs (the residential energy efficient lighting program, the utilities' facilities program, and the residential water heater wrap-up program) should be developed and implemented according to a revised schedule during the pendency of the proceeding. The parties also agreed that reasonable direct costs incurred to develop and implement the interim programs would be recoverable, but that recovery would be deferred until completion of this docket.

The Commission approved this stipulation (Exh. 1) on December 31, 1991, and established a new procedural schedule. By letter dated January 15, 1992, RPL Enterprises ("RPL") of Manchester, a private contractor in the business of installation and sales of energy-efficient products, requested intervention, which the Commission granted on February 4, 1992.

The Companies, the staff of the Public Utilities Commission and the Consumer Advocate entered into a second stipulation (Exh. 2) on the 26th of March, 1992. RPL Enterprises did not sign the stipulation, objecting to one of the six programs. A hearing on the merits was held on March 26, 1992.

II. BACKGROUND

The six proposed DSM programs that are the subject of this proceeding involve two residential programs, three commercial and industrial programs and one program involving improvement to the facilities owned by the Companies. RPL's objection was to the small commercial and industrial program. Under the terms of this program commercial and industrial customers with an annual demand of less than 30 kilowatts ("KW") are eligible to receive retrofits of energy efficient lighting equipment at no direct cost.

The other programs, which are not in dispute, cover a variety of areas. There is a residential wrap-up program under which electric water heating customers are eligible to have installed a

water heater wrap, 6 feet of pipe insulation, two faucet aerators, a low-flow shower head, and two compact fluorescent bulbs. The residential lighting program provides energy efficient lighting measures through existing social service agency programs, targeting elderly and low-income residential customers. The trade ally lighting program, provides incentives based on savings and customer contributions for the installation of energy efficient lighting equipment for eligible medium and large commercial and industrial customers. The largest commercial and industrial customers (with an annual demand of 200 KW or more) may receive cost-effective, customized, energy- efficiency improvements, including lighting, motors, process measures, and other energy conservation measures with incentives paid based on savings and customer contributions. Finally, under the utility facilities program, the Companies will complete cost-effective, energy-efficient improvements in their own facilities, with lighting improvements being the primary focus.

III. POSITIONS OF THE PARTIES

A. RPL Enterprises

RPL believes that the small commercial and industrial program will be devastating to its business. While it supports conservation and believes the Commission should encourage it, RPL believes that it is being put in a position where it has to compete with large utilities. RPL indicates that utilities involved in DSM programs in the past have awarded special contracts to out-of-state contractors, which is unfair to New Hampshire businesses and to New Hampshire ratepayers. In support of its position that the plan is anti-competitive RPL cites Title 42 of the United States Code, sections 7901 - 10226 and related portions of the Code of Federal Regulations.

RPL also argues that because small commercial and industrial customers would not mind paying their share for this type of equipment, payment of the entire cost of this program is unnecessary. RPL further believes that this program would unfairly increase rates to New Hampshire ratepayers.

B. The Companies

The Companies' rebuttal to these arguments is that a study done with Fitchburg Gas and Electric Company of small industrial and commercial customers (Exh. 10) showed that the incentive level is important and that without payment of the direct costs few small businesses would commit to the program. The Companies also indicate that they are committed to using outside vendors and contractors where reasonable and that they will select them using competitive bidding. The Companies also argue that the program is not anti-competitive and that it does not violate federal or state laws or regulations.

C. Staff

Staff argues that the incentive level for the small commercial industrial customers is designed to increase participation in the programs. Competitive bidding will give companies such as RPL an opportunity to bid for contracts and is designed to stimulate rather than eliminate competition.

Staff refutes RPL's assertion that the costs of the conservation and load management programs unfairly increase rates to New Hampshire ratepayers. Staff supports the Companies'

investment in conservation because in the long term it will be more cost effective for them to conserve than to invest in new power sources.

IV. COMMISSION ANALYSIS

The Commission agrees that the study introduced as evidence supports the finding that small industrial and commercial customers probably would not participate in the conservation program absent the proposed incentive. Furthermore, contracts generated by

Page 236

this program may very well result in more business for companies such as RPL than would otherwise be the case without an incentive oriented program. The program at issue actually encourages competition by selecting conservation vendors provided through competitive bids and will foster a market for energy efficient products and services.

The Commission does not believe that the Companies' proposed C&LM activities will cause them to gain monopoly control over prices and competition within the markets in which it will operate. The Companies' activities are designed to integrate with and be regulated by prevailing market forces; the Companies will not regulate or attempt to regulate such forces. The Companies' C&LM programs are not intended to operate improperly to control prices or exclude competitors from the energy or related products and service market in which these programs will operate.

To insure a fair method of awarding the contract for any business generated by this program the Commission considers the competitive bidding of the contract(s) involved to be an integral part of the program.

The Commission finds that the six proposed DSM programs are expected to provide net benefits to the Companies' customers in that the value of the programs to customers exceeds the total cost of the programs' implementation. The programs cover all three of the Companies' major customer classes and involve a variety of approaches. The commission finds the programs to be consistent with the public interest and of benefit to the ratepayers.

The Companies are therefore authorized to recover the costs associated with the planning, design and implementation of the DSM programs and a 15% shared savings incentive through a conservation charge for each customer class, although the shared savings incentive may not be collected until a performance threshold of 50% of the projected lifetime savings is reached. The Commission hereby adopts the Stipulation dated March 26, 1992 which also specifies reporting requirements placed on the Companies. The Companies will file monthly and quarterly reports for C&LM activities to date by June 15, 1992 and compliance tariff pages by June 1, 1992.

Our order will issue accordingly.

Concurring: May 12, 1992

ORDER

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

ORDERED, that the Stipulation Agreement dated March 26, 1992 attached hereto as Appendix A is hereby approved; and it is

FURTHER ORDERED, that Concord Electric Company and Exeter & Hampton Electric Company ("the Companies") file monthly and quarterly reports for C&LM activities to date by June 15, 1992; and it is

FURTHER ORDERED, that the Companies file compliance tariff pages by June 1, 1992.

By order of the New Hampshire Public Utilities Commission this twelfth day of May, 1992.

==========

NH.PUC*05/13/92*[72931]*77 NH PUC 238*CLAREMONT GAS CORPORATION/SYNERGY GAS CORPORATION

[Go to End of 72931]

CLAREMONT GAS CORPORATION/SYNERGY GAS CORPORATION

DE 90-161
ORDER NO. 20,478

77 NH PUC 238

New Hampshire Public Utilities Commission

May 13, 1992

Gas Safety/Show Cause Report and Order Denying Motion to Extend Time for Payment of Fine

---

REPORT

I. BACKGROUND

On April 8, 1991, the Commission issued Report and Order No. 20,105 fining Claremont Gas Corporation (Claremont), a public gas utility operating in limited areas of the City of Claremont, New Hampshire, $25,000 for violations of the Commission's rules relative to safety. Claremont subsequently moved for rehearing pursuant to RSA 541:3 which motion was denied. Thereafter, Claremont posted a bond with the Commission while it pursued its right of appeal.

In response to the issuance and posting of the bond and the Commission's acceptance of the bond the Commission Staff requested clarification of the Commission's acceptance of the bond averring to Claremont's suspect financial situation under the management of its parent corporation, Synergy Group Incorporated (Synergy). The Staff requested that the Commission reject the bond filed by Claremont and require its parent, Synergy, to file the bond.

On May 15, 1991, Claremont and Synergy filed a responsive pleading to Staff's motion, stating that the bond was signed by Stephen Vogel, Claremont's president, and that Claremont had the financial capability to pay the fine if its appeal proved unsuccessful.

Subsequently Claremont and Synergy appealed the Commission's Orders to the New Hampshire Supreme Court. On April 13, 1992, the Court affirmed the Commission's decision without opinion to fine Claremont $25,000 based on briefs and oral arguments without opinion.

On April 30, 1992, Claremont requested a sixty day extension to pay the fine as it allegedly

does not generate sufficient revenues to pay the fine and has no access to funds in the form of debt or equity to pay the fine.

II. COMMISSION ANALYSIS

Based on Claremont's and Synergy's representations that Claremont could and would pay the fine should their appeal fail, we deny this request for an extension of time in which to pay the fine. We reject the assertion that Claremont has no access to debt or equity. Its parent, Synergy, was a co- petitioner to the Supreme Court, a co-signatory to all previous motions to the Commission and appeared at the hearings in this docket. We find the assertion that Claremont cannot turn to Synergy as a source of funds somewhat disingenuous. Thus, Claremont's motion for sixty days to pay the $25,000 fine is denied.

Our Order will issue accordingly.

Concurring May 13, 1992

ORDER

In consideration of the foregoing report, which is incorporated herein; it is hereby

ORDERED, that Claremont's motion to delay payment of the fine is denied; and it is

FURTHER ORDERED, that Synergy Group, Inc. resubmit the $1,000.00 check in payment of the fine levied in Docket DE 89-236 as the Commission has held the check for over one year in recognition of its appellate rights.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of May, 1992.

==========

NH.PUC*05/13/92*[72932]*77 NH PUC 239*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72932]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-009 ORDER NO. 20,479

77 NH PUC 239

New Hampshire Public Utilities Commission

May 13, 1992

Order Denying CRR's Motion for Rehearing

Appearances: Merrill and Broderick by Mark W. Dean, Esq. for the New Hampshire Electric Cooperative, Inc., Senior Assistant Attorney General Harold T. Judd and Devine, Millimet and Branch by Frederick C. Coolbroth, Esq. for the State of New Hampshire; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Rath, Young, Pignatelli and Oyer by Eve H. Oyer, Esq. and Day, Berry and Howard by Robert P. Knickerbocker, Esq. for Northeast Utilities Service Company; Representative Mary C. Chambers (limited intervenor); Campaign for

Ratepayers Rights (limited intervenor) by Robert C. Cushing, Jr.; Business and Industry Association (limited intervenor) by Kenneth Colburn; McLane, Graf, Raulerson & Middleton by Joseph A. Foster, Esq. for National Rural Utilities Cooperative Finance Corporation (limited intervenor); Michael W. Holmes, Esq. and Joseph W. Rogers, Esq. of the Office of the Consumer Advocate on behalf of residential ratepayers; Amy L. Ignatius, Esq. on behalf of the Commission Staff.

REPORT

I. PROCEDURAL HISTORY

During January and February 1992 the New Hampshire Electric Cooperative, Inc. (NHEC) filed with the New Hampshire Public Utilities Commission (Commission) petitions for temporary and permanent rate increases and approval of certain debt financing. These filings are a part of NHEC's Plan of Reorganization (Plan), which was approved by the United States Bankruptcy Court on March 20, 1992. See In re: New Hampshire Electric Cooperative, Inc., Memorandum Opinion (March 20, 1992). For a full procedural history, see Report and Order No. 20,437 (April 10, 1992)). This Report and Order will address the issue of intervention by the Campaign for Ratepayers Rights (CRR) and CRR's request for compensation under the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601 et seq.

The Commission, on April 9, 1992, heard arguments regarding intervention by CRR and CRR's request for PURPA compensation. The Commission denied CRR's request for PURPA compensation, finding the proceeding not to be the type of proceeding for which PURPA compensation was intended. See Order No. 20,437 at 4. On April 29, CRR timely filed a Motion for Rehearing of Order No. 20,437, pursuant to RSA 541:3. Objections to the Motion for Rehearing were timely filed on May 4, 1992 by NHEC, PSNH/NUSCO and the Commission Staff; OCA filed a response on May 5, 1992.

II. POSITIONS OF THE PARTIES AND STAFF

A. Campaign for Ratepayers Rights

CRR challenged the Commission's determinations in Order No. 20,437 and the sufficiency of the Order itself. It argued that the case was one which involved PURPA purposes and for which compensation should be granted and argued the Commission's decision in an unrelated case, Report and Order No. 20,254 (September 24, 1991), Re PSNH, Fuel and Purchased Power Adjustment Clause, Docket No. DR 91-011, was incorrect. It also argued that the Commission was amiss in never having conducted a PURPA proceeding involving NHEC. Further, CRR asserted that the OCA did not represent the interests of its members. Finally, CRR argued that it should be exempt from the limitations of State v. Settle, 129 N.H. 171 (1987) (Settle II) and that Order No. 20,437 was deficient because it did not contain findings of fact and rulings of law separately stated.

B. New Hampshire Electric Cooperative

NHEC filed an objection to the Motion for Rehearing, arguing that this case was not one for which compensation was designed, as it did not involve establishment of PURPA standards and

that if CRR were opposed to NHEC's Plan of Reorganization, it should have participated in the U.S. Bankruptcy Court proceedings.

C. PSNH/NUSCO

PSNH and NUSCO filed a joint objection to the Motion for Rehearing, arguing that this proceeding is not one for which PURPA compensation was designed and that in any event, PURPA compensation cannot be granted prospectively. PSNH/NUSCO also argued that CRR should not be exempt from the standards regarding unauthorized practice of law.

D. Office of Consumer Advocate

OCA filed a response to the Motion for Rehearing, arguing that CRR should be granted PURPA compensation should it present a marginal cost study to evaluate the impact of NHEC's rate design on residential ratepayers and otherwise responding to CRR's allegations concerning OCA's positions in other matters.

E. Commission Staff

The Commission Staff filed an objection to the Motion for Rehearing, arguing, inter alia, that this is not a proceeding for which PURPA compensation was designed, PURPA compensation could not be granted prospectively, CRR raised no new issues which could not have been raised previously, CRR should not be exempt from the strictures of Settle II regarding unauthorized practice of law and the Commission's Order No. 20,437 was not technically deficient.

III. COMMISSION ANALYSIS

After consideration of the Motion for Rehearing and the responses filed by NHEC, PSNH/NUSCO, OCA and the Staff, we conclude that the Motion for Rehearing should be denied. This conclusion is based upon the following four determinations:

A. Unauthorized Practice of Law

We see no basis on which to exempt CRR from the limitations of Settle II. Therefore, we find CRR's non- attorney agent is not authorized to file pleadings, engage in discovery (including the filing of data requests) or examine witnesses. He is free to make a public statement and express to the Commission any issue which CRR feels should be further considered. We note that the same standards apply to the Business and Industry Association's non-attorney agent. We do not by this ruling mean that non- attorneys play no role at the Commission, as anyone familiar with Commission practice is aware. Pro se litigants are often granted full party status, with freedom to engage in all aspects of the proceeding. Non-attorney agents who do not "commonly" appear before the Commission and who are of good standing are granted the right to represent businesses or organizations. Non-attorney agents who have commonly appeared, such as the representatives of CRR and the BIA, however, cannot be allowed to continue to do so. To allow on-going regular, common representation by a non-attorney would sanction a violation of RSA 311:7 and the limits set forth by the Supreme Court in Settle II.

B. PURPA Purposes

We do not find the NHEC rate case to be the type of matter for which PURPA compensation was designed. PURPA and N.H. Admin. Rules, Puc Part 205, were developed to enable the meaningful participation of consumer groups in cases in which PURPA standards were to be

developed. N.H. Admin. Rules, Puc 205.02(a) states:

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 related to a PURPA

standard, or for judicial review of the 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 the rule.

Although the NHEC rate case will undoubtedly involve issues which relate to the implementation of PURPA standards, we do not find that to justify PURPA compensation. CRR has failed to specifically identify an issue it intends to raise in these proceedings or any basis for its objection to the proposal to justify PURPA compensation. See N.H. Admin. Rule Puc 205.03(b). Neither are we persuaded that every utility company must undergo a PURPA standards setting proceeding, as alleged by CRR.

We also find CRR's attempt to have us in effect reconsider Report and Order No. 20,254 some seven months after its issuance to be inappropriate, and find a Memorandum submitted in that docket not to form a basis on which to analyze the question at hand. Similarly, we have not relied on a Memorandum jointly submitted by PSNH/NUSCO in that docket in reaching this decision.

OCA suggests that CRR should be compensated if it develops a marginal cost of service study on NHEC's proposed rate redesign. Because we do not find a marginal cost study to be one of the PURPA purposes for which compensation was designed, we will not grant CRR compensation for such a study.

We note, for the record, that we do not assume that OCA and CRR share a common viewpoint at all times. We do believe, however, that CRR's constituency can be adequately addressed by OCA, which is publicly funded, and that where CRR's views differ, CRR is free to make its position known either through counsel as a full intervenor or through its non-attorney agent as a limited intervenor. Because there appears to be an alternative means for assuring representation of CRR's consumer interests, see 16 U.S.C. 2632(a), CRR's request will be denied.

C. Prospective Request

We consider PURPA compensation to be inappropriate prior to the litigation of a case, as we cannot determine in advance the contribution CRR would make to the proceeding. N.H.. Admin. Rules, Puc 205.02(a) requires the Commission to determine whether the contribution by a consumer to have been "substantial" which cannot be determined until the proceedings are complete. Under our rules, therefore, compensation cannot be approved in advance.

D. Sufficiency of Order

We reject CRR's claim that Order No. 20,437 is deficient because it fails to separately state

findings of fact and rulings of law. There is no requirement that an agency set forth findings and rulings if proposed findings and rulings have not been proffered. It is ironic that a leading case on this point is Appeal of Campaign for Ratepayers Rights, 133 N.H. 480 (1990). CRR proposed no findings of fact and rulings of law in this case as such cannot claim that the Commission's Order is deficient in that respect.

Our order will issue accordingly.

Concurring: May 13, 1992

ORDER

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

ORDERED, that the Campaign for Ratepayers Rights Motion for Rehearing is hereby denied.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of May, 1992.

==========

NH.PUC*05/13/92*[72933]*77 NH PUC 242*ENERGYNORTH NATURAL GAS, INC.

[Go to End of 72933]

ENERGYNORTH NATURAL GAS, INC.

DR 91-212
ORDER NO. 20,480

77 NH PUC 242

New Hampshire Public Utilities Commission

May 13, 1992

Rate Request Report and Order Addressing Temporary Rates

REPORT

Appearances: McLane, Graf, Raulerson and Middleton by Steven V. Camerino, Esq. on behalf of EnergyNorth Natural Gas, Inc.; Office of Consumer Advocate by Michael Holmes, Esq. on behalf of residential ratepayers; and Eugene F. Sullivan III, Esq. on behalf of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On January 31, 1992, EnergyNorth Natural Gas, Inc. (ENGI or the Company) filed a request for an increase in base rates of $2,234,813 or 3.2%. On March 3, 1992, ENGI filed a request for temporary rates pursuant to RSA 378:27. On March 19, 1992, the Commission issued an Order of Notice scheduling a hearing on the temporary rate request and to establish a procedural schedule for the duration of the permanent rate proceeding for April 16, 1992.

The Office of the Consumer Advocate (OCA) and ENGI prefiled testimony on the issue of temporary rates.

II. POSITIONS OF THE PARTIES AND STAFF

ENGI requested that temporary rates be set at $1,403,798 or a 1.9% temporary rate increase. Michelle L. Chicoine, company treasurer, testified that the Company was currently earning a rate of return of 9.41% as compared to the allowed rate of return of 10.77%.

The OCA took the position that the Commission should deny the Company's request for temporary rates. The OCA supported its position through the testimony of Mr. Kenneth Traum. Mr. Traum testified that under the standards set forth by the Commission in Re: Hampton Water Works, Inc., Report and Order No. 20,311 (1991), the Company was not entitled to temporary rates. Mr. Traum further testified to a methodology for implementing temporary rates which is not currently provided for under RSA 378:27.

Staff took no position relative to temporary rates.

Staff and the parties stipulated to the following procedural schedule:

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

```
May 15, 1992 Staff and
Intervenor data
requests.
June 5, 1992 Company
responses.
June 19, 1992 Staff and
Intervenor
second set of
data requests.
July 6, 1992 Company
responses.
July 31, 1992 Staff and
Intervenor
testimony.
August 10, 1992 Company data
requests.
August 28, 1992 Staff and
Intervenor
responses.
September 18, 1992 Company
rebuttal
testimony.
October 9, 1992 Staff and
Intervenor
surrebuttal
testimony.
October 20-23, Hearings on the
27-29 merits.
and November 3-5, 1992
```

III. COMMISSION ANALYSIS

The issue before the Commission is whether or not to allow ENGI to collect $1.4

million as temporary rates pursuant to RSA 378:27 during the pendency of the permanent rate proceeding. Pursuant to RSA 378:27, the Commission may set temporary rates for the

duration of a permanent rate proceeding if it determines that the "public interest so requires...." In Re: Hampton Water Works, Inc., the Commission, applying this standard, found that a water utility earning only 160 basis points below its last authorized rate of return had failed to demonstrate that it was in the public interest to provide for temporary rates where there was no showing that the "underearning harmed the company's financial stability or otherwise disadvantaged the company or its ratepayers." Id., at 4.

In this case, the Company testified that it was only earning 136 basis points below its last found rate of return. More importantly, however, the testimony revealed that the Company does not anticipate any borrowings during the pending case or before the six month bonding period (See RSA 378:6), that service would not suffer if temporary rates were not granted and that the Company's revenue analysis was not certain as it had not annualized the increased revenues it received in 1991 in its last rate case.

Thus, the Company has not met its burden of demonstrating that its "underearnings" harmed the Company's financial stability or otherwise disadvantaged the Company or its customers. Nor has the Company demonstrated in some other way that temporary rates are in the public interest. Therefore, the Company's request for temporary rates is denied.

Having reviewed the procedural schedule set forth above the Commission finds it to be in the public good.

Our Order will issue accordingly.

Concurring: May 13, 1992

ORDER

In consideration of the forgoing report, which is incorporated herein, it is hereby

ORDERED, that EnergyNorth Natural Gas, Inc.'s request for temporary rates is denied; and it is

FURTHER ORDERED, that the procedural schedule set forth in the foregoing report is adopted.

By order of the New Hampshire Public Utilities Commission this thirteenth day of May, 1992.

==========

NH.PUC*05/18/92*[72934]*77 NH PUC 243*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/NORTHERN UTILITIES

[Go to End of 72934]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/NORTHERN UTILITIES

DR 91-095
ORDER NO. 20,481

77 NH PUC 243

New Hampshire Public Utilities Commission

May 18, 1992

Newington Station Gas Conversion Cost Recovery Proceeding Order Authorizing Temporary Supply of Gas to PSNH's Newington Station

---

WHEREAS, at its public meeting on August 5, 1991, the commission accepted a stipulation agreement between Public Service Company of New Hampshire ("PSNH"), Northeast Utilities, the Office of the Consumer Advocate and Staff concerning the recovery of PSNH's investment to convert its Newington Station to dual-firing of fuel oil and natural gas; and

WHEREAS, on May 6, 1992 Northern Utilities ("Northern") filed for commission approval a fully executed interruptible sales contract to supply PSNH's Newington Station with natural gas; and

WHEREAS, on May 8, 1992, a second stipulation agreement was filed between Northern and Staff concerning the recovery of Northern's investment to supply gas to the Newington Station; and

WHEREAS, the Newington Station is currently off-line undergoing planned maintenance; and

WHEREAS, the gas supply contract contemplates gas being made available for test operation purposes May 15, 1992 and for regular operation on or about June 1, 1992; and

WHEREAS, a hearing on the merits of the proposed gas supply contract and the second stipulation agreement is required to determine whether the agreements are in the public interest; it is hereby

ORDERED, that Northern be authorized to temporarily supply gas to PSNH's Newington Station under the terms of the proposed contract for a period commencing with the date of this order and ending with the station's return to regular operation; and it is

FURTHER ORDERED, that a hearing be held to determine the reasonableness of the above mentioned agreements before said Public Utilities Commission at its offices in Concord, 8 Old Suncook Road, Building 1, in said State at ten o'clock in the forenoon, on the twenty-first day of May, 1992.

By order of the New Hampshire Public Utilities Commission this eighteenth day of May, 1992.

==========

NH.PUC*05/18/92*[72935]*77 NH PUC 244*CONTINENTAL CABLEVISION, INC.

[Go to End of 72935]

CONTINENTAL CABLEVISION, INC.

DE 92-087
ORDER NO. 20,482

77 NH PUC 244

New Hampshire Public Utilities Commission

May 18, 1992

Order NISI Granting Authorization for an Aerial Cable Television Crossing of the Contoocook River in the City of Concord, New Hampshire.

WHEREAS, on May 1, 1992 Continental Cablevision, Inc. (petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to install and maintain an aerial cable-TV crossing over the Contoocook River in the City of Concord, New Hampshire; and

WHEREAS, an existing electric crossing at this site was approved by this Commission as crossing number 9 in Re Concord Electric Co., 37 NH PUC 211 (1955); and

WHEREAS, an existing telephone crossing at the same site was approved as crossing number 10 in Re New England Telephone & Telegraph Co., 37 NH PUC 227 (1955); and

WHEREAS, the existing and proposed crossings are from Concord Electric Co. pole 27A (also identified as NET pole 10K/1) on Broad Cove Drive on the southeast side of the river, approximately 0.7 miles west of Carter Hill Road, to Concord Electric Co. pole 41 (NET pole 10K/2) on the northwest side of the river; and

WHEREAS, the cable-TV crossing is proposed to provide service to a single customer on the northwest side of the river under the petitioner's franchise agreement with the City of Concord; and

WHEREAS, the proposed cable-TV line will be strung a minimum of 40 inches below the existing electric cable and one foot above the existing telephone cable, the latter being approximately 29 feet above the river, therefore meeting National Electrical Safety Code standards; and

WHEREAS, the Commission finds the above installation and maintenance is necessary to enable the petitioner to provide service, without substantially affecting the public rights in or above said waters, and, thus, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than June 16, 1992; and it is

FURTHER ORDERED, that the petitioner effect said notification by: (1) Causing an attested copy of this order to be published no later than June 2, 1992, once in a newspaper having general

statewide circulation and once in a newspaper having general circulation in the Concord area; (2) Providing, pursuant to RSA 541-A:22, a copy of this order to the Concord City Clerk, by First Class U.S. mail, postmarked on or before June 2, 1992 and; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before June 16, 1992; and it

Page 244

is

FURTHER ORDERED NISI, that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Continental Cablevision, Inc., 8 Commercial Street, Concord, New Hampshire 03301 to install and maintain the aforementioned crossing of an aerial cable-TV line over the Contoocook River in the City of Concord, New Hampshire, effective June 17, 1992 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the city of Concord.

By order of the New Hampshire Public Utilities Commission this eighteenth day of May, 1992.

==========

NH.PUC*05/19/92*[72936]*77 NH PUC 245*BALDWIN HYDROELECTRIC CORP. and NEW ENGLAND TELEPHONE CO.

[Go to End of 72936]

BALDWIN HYDROELECTRIC CORP. and NEW ENGLAND TELEPHONE CO.

DE 92-083
ORDER NO. 20,483

77 NH PUC 245

New Hampshire Public Utilities Commission

May 19, 1992

Order NISI Granting Authorization for a Crossing of Electric and Telephone Lines Over the Connecticut River Between the Towns of Pittsburg and Clarksville, New Hampshire.

WHEREAS, on April 23, 1992 Baldwin Hydroelectric Corp. (Baldwin) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to construct, operate and maintain aerial electric lines over the Connecticut River between the towns of Pittsburg and Clarksville, New Hampshire; and

WHEREAS, the electric crossing consists of 34.5 KV cables necessary to carry power from the powerhouse of Baldwin's proposed nearby hydroelectric facility (to be located in the area

immediately downstream of the Route 145 bridge) to the distribution system of Citizens Utility Co. in Beecher Falls, Vermont; and

WHEREAS, included with the petition is a letter from New England Telephone & Telegraph Co. (NET) requesting that authorization of a telephone line to serve Baldwin's proposed facilities be included in the petition; and

WHEREAS, the telephone line would consist of a single line crossing beneath the proposed electric lines; and

WHEREAS, only two property leases are required for the project, one from New England Power and one from a private property owner (Andrews); and

WHEREAS, negotiations are underway with New Hampshire Electric Cooperative for use of their poles between the proposed crossing site and the Vermont border; and

WHEREAS, a Power Purchase Agreement must be signed with Citizens Utilities and approved by the Vermont Public Service Board for sale of Baldwin's power; and

WHEREAS, the proposed electric and telephone line clearances meet the requirements of the National Electrical Safety Code; and

WHEREAS, a map and profile of the proposed crossing are on file with this Commission; and

WHEREAS, the Commission finds the above construction, operation and maintenance is necessary to enable Baldwin and NET to provide service without substantially affecting the public rights in or above said waters, and, thus, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than June 16, 1992; and it is

FURTHER ORDERED, that Baldwin and NET jointly effect said notification by: (1) Causing an attested copy of this order to be

published, no later than June 2, 1992, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Pittsburg and Clarksville area; (2) Providing, pursuant to RSA 541-A:22, a copy of this order to the Pittsburg and Clarksville Town Clerks, by First Class U.S. mail, postmarked on or before June 2, 1992; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before June 16, 1992; and it is

FURTHER ORDERED NISI, that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Baldwin Hydroelectric Corp., P.O. Box 1073, Dover, New Hampshire 03820 to construct, operate and maintain the aforementioned crossing of aerial electric lines over the Connecticut River between the towns of Pittsburg and Clarksville, New Hampshire, and similar

license is given to New England Telephone & Telegraph Co., 24 Prescott Road, Laconia, NH 03246 to construct, operate and maintain the aforementioned telephone crossing at the same site; all to be effective on June 17, 1992 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the towns of Pittsburg and Clarksville; and it is

FURTHER ORDERED, that Baldwin file with the commission: (1) a copy of signed property leases from private property owner Andrews and from New England Power; (2) a signed agreement with New Hampshire Electric Cooperative for use of their poles; and (3) a signed Power Purchase Agreement with Citizens Utilities, with accompanying certification from the Vermont Public Service Board indicating approval; all to be provided before construction on said crossing begins.

By order of the New Hampshire Public Utilities Commission this nineteenth day of May, 1992.

==========

NH.PUC*05/19/92*[72937]*77 NH PUC 246*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72937]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-009
ORDER NO. 20,484

77 NH PUC 246

New Hampshire Public Utilities Commission

May 19, 1992

Request for Temporary and Permanent Rates Order Denying Bankruptcy Members Committee Motions to Strike

---

On April 30, 1992, the Bankruptcy Court's Official Members Committee of the New Hampshire Electric Cooperative, Inc. (Bankruptcy Members Committee) filed with the New Hampshire Public Utilities Commission (Commission) a Motion to Strike (Motion) portions of the transcript of the April 9, 1992 prehearing conference in the docket for temporary and permanent rate increases and certain debt approvals requested by the New Hampshire Electric Cooperative, Inc. (NHEC); and

WHEREAS, in its Motion, the Bankruptcy Members Committee states that representations made by NHEC and the State of New Hampshire were "unfounded and a mischaracterization of the views of Judge Yacos and of the proceedings which had occurred in the Bankruptcy Court" and requested that certain unnamed portions be stricken and the transcript of a subsequent

Bankruptcy Court proceeding be added to the Commission record; and

WHEREAS, the State of New Hampshire on May 5, 1992, objected to the Motion, asserting that the request was untimely, lacking in specificity and demonstrated no justification for inclusion of an unauthenticated Bankruptcy Court transcript into the Commission record; and

WHEREAS, NHEC on May 8, 1992, objected to the Motion, asserting that the Bankruptcy Members Committee had no standing to file a Motion to Strike, as it was not a party to the proceeding, there was no justification for a "rewriting of the record" and that NHEC did not mischaracterize the Bankruptcy Court's views on the involvement

Page 246

of the Bankruptcy Members Committee in NHEC's plan of reorganization; and

WHEREAS, also on May 8, 1992, the Bankruptcy Members Committee filed a Supplemental Motion to Strike (Supplemental Motion) which provided with specificity the sections of the transcript which it sought to be stricken; and

WHEREAS, the Commission finds that the purpose of the Bankruptcy Members Committee's Motion and Supplemental Motion are to clarify for the Commission the Bankruptcy Members Committee's relationship and standing with the United States Bankruptcy Court in NHEC's reorganization proceedings; and

WHEREAS, the Commission finds that the clarifications sought by the Bankruptcy Members Committee have been made part of the record by virtue of the filing of the Motions, but that to alter the transcript of the April 9, 1992 hearing would be improper, as an altered transcript would not provide an accurate depiction of the hearing as it transpired; it is hereby

ORDERED, that the Bankruptcy Members Committee's Motion to Strike and Supplemental Motion to Strike be, and hereby are, denied.

By order of the New Hampshire Public Utilities Commission this nineteenth day of May, 1992.

==========

NH.PUC*05/19/92*[72938]*77 NH PUC 247*ATLANTIC CONNECTIONS, LTD.

[Go to End of 72938]

ATLANTIC CONNECTIONS, LTD.

DE 90-042
ORDER NO. 20,485

77 NH PUC 247

New Hampshire Public Utilities Commission

May 19, 1992

Report and Order Addressing Motion to Stay Cease and Desist Order

---

REPORT

I. BACKGROUND

On January 15, 1991, the New Hampshire Public Utilities Commission ("Commission") issued Report and Order No. 20,131 finding Atlantic Connections, Ltd. ("Atlantic" or the "Company"), which is a reseller of intrastate, intraLATA telecommunications, a public utility within the meaning of RSA 362:2. As part of that Order the Commission directed Atlantic to, inter alia, cease and desist its operations as an intrastate reseller of telecommunications until it received a franchise pursuant to RSA 374:22 and 26. After moving for rehearing of the Commission's Orders, Atlantic appealed the decision to the New Hampshire Supreme Court.

On May 5, 1992, the New Hampshire Supreme Court upheld the Commission's decision. Appeal of Atlantic Connections, Ltd., 135 N.H. 510 (1992).

On May 7, 1992, Atlantic filed with the Commission a motion to stay that portion of the Commission's decision ordering it to cease and desist operations until Atlantic has been granted permission to operate by the Commission pursuant to RSA 374:22 and 26.

II. COMMISSION ANALYSIS

In its motion Atlantic states a number of grounds for relief from the Commission's Order requiring it to cease and desist operations until it has obtained the Commission's approval to operate as a public telecommunications utility in the State of New Hampshire. Among the stated grounds is the severe disruption that the cessation of operations by Atlantic would have on Atlantic's customers.

Contrary to the Company's representations at hearing, each of its customers is not free to choose Atlantic or New England Telephone ("NET") each time a call is placed. In its motion Atlantic states that a majority of its customers have installed automatic dialing systems that access Atlantic's switch automatically when the numeral "1" is hit on the caller's phone. Apparently, each of these systems would have to be manually reprogrammed at each customers' premises by a Company technician before calls could be placed over the NET

network. Thus, if the Company were required to cease and desist from intrastate operations it could potentially cause severe disruptions to Atlantic's customers, most of which are small to medium sized businesses, which can ill afford such disruptions in these economic times.

While the Commission does not want to cause hardship to these customers, it can not condone the violation of New Hampshire law by one reseller when other resellers, such as AT&T, Sprint, MCI, Cable and Wireless and Long Distance North, have come to the Commission in accordance with New Hampshire law and requested the authority to provide such services as public telecommunications utilities in the manner prescribed by the Commission. Thus, we will allow Atlantic to choose between a) ceasing its intrastate operations; or b) providing its intrastate services free of charge to its customers until it has obtained a permission to operate, filed its rates with the Commission pursuant to RSA chapter 378 and agreed to

comply with the rules and regulations set out by the Commission for the resale of telecommunications services. We have instructed our Staff to give priority treatment to such an application. While the Commission has the authority to order Atlantic to cease and desist its intrastate activities, the Commission believes the second alternative would best serve the Company's customers. The Commission, however, does not choose to force the Company to provide free services.

The Commission further notes that Atlantic states in its motion that it has been providing intrastate, intraLATA reseller services in New Hampshire since 1988. A fundamental element of the provision of reseller services is the payment of access fees by the reseller to the Local Exchange Companies ("LEC") to ensure that the LEC's captive customers (e.g., residential customers) do not subsidize resellers for the costs they place on the network.

The Commission is currently in the process of establishing a permanent access fee in Docket DE 90-002, however, a terminating switched access rate has been in place since 1987, and an originating switched access rate has been in place since 1989; furthermore, the Commission has established an interim access rate until a permanent rate can be established. We believe it is appropriate for Atlantic to pay these access fees for the period it has provided unauthorized service. Therefore, we direct Atlantic, NET and the Staff to work together to determine any access fees that should have been collected by the LECs during that period of time in which Atlantic has provided unauthorized service.

Our Order shall issue accordingly.

Concurring: May 19, 1992

ORDER

Report and Order Addressing Motion to Stay Cease and Desist Order

In consideration of the foregoing report, which is incorporated herein, it is hereby

ORDERED, that Atlantic Connections, Ltd. a) cease and desist intrastate operations until it has received permission to operate from this Commission; or b) continue to provide intrastate service to its customers at no charge as of May 5, 1992 until it has received permission to operate from this Commission; and it is

FURTHER ORDERED, that Atlantic Connections, Ltd., New England Telephone, and the Staff of the Commission work together to determine the appropriate access fees that are due, if any, the Local Exchange Companies from Atlantic Connections, Ltd. during its period of unauthorized operations with a report to the Commission by June 17, 1992; and it is

FURTHER ORDERED, that Atlantic Connections, Ltd. provide a copy of this report and order to each of its customers.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of May, 1992.

==========

NH.PUC*05/26/92*[72939]*77 NH PUC 249*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72939]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-009
ORDER NO. 20,487

77 NH PUC 249

New Hampshire Public Utilities Commission

May 26, 1992

Rate Case, Reorganization and Debt Approvals Order Denying CRR's Motion for Extension of Time

---

Appearances: Merrill and Broderick by Mark W. Dean, Esq. for the New Hampshire Electric Cooperative, Inc., Senior Assistant Attorney General Harold T. Judd and Devine, Millimet and Branch by Frederick C. Coolbroth, Esq. for the State of New Hampshire; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Rath, Young, Pignatelli and Oyer by Eve H. Oyer, Esq. and Day, Berry and Howard by Robert P. Knickerbocker, Esq. for Northeast Utilities Service Company; Representative Mary C. Chambers (limited intervenor); Campaign for Ratepayers Rights (limited intervenor) by Robert C. Cushing, Jr.; Business and Industry Association (limited intervenor) by Kenneth Colburn; McLane, Graf, Raulerson & Middleton by Joseph A. Foster, Esq. for National Rural Utilities Cooperative Finance Corporation (limited intervenor); Michael W. Holmes, Esq. and Joseph W. Rogers, Esq. of the Office of the Consumer Advocate on behalf of residential ratepayers; Amy L. Ignatius, Esq. on behalf of the Commission Staff.

REPORT

I. PROCEDURAL HISTORY

During January and February 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed with the New Hampshire Public Utilities Commission (Commission) petitions for temporary and permanent rate increases and approval of certain debt financing. These filings are a part of NHEC's Plan of Reorganization (Plan), which was approved by the United States Bankruptcy Court on March 20, 1992. See In re: New Hampshire Electric Cooperative, Inc., Memorandum Opinion (March 20, 1992). For a full procedural history, see Report and Order No. 20,437 (April 10, 1992). This Report and Order will address the issue of Motion for Extension of Time in which to file data requests, filed by the Campaign for Ratepayers Rights (CRR).

In Order No. 20,437, the Commission granted CRR full intervenor status, if it were represented by counsel, and limited intervenor status, if it were represented by Robert C. Cushing, Jr, its non-attorney agent. CRR timely filed a Motion for Rehearing of this order, which was denied on May 13, 1992 in Report and Order No. 20,479 .

On May 4, 1992, prior to the Commission's ruling on CRR's Motion for Rehearing, CRR filed a Motion for Extension of Time in which to file data requests (Motion). The Motion was filed by Mr. Cushing on behalf of CRR. Attached to the Motion was a one page list of data

requests directed to NHEC, regarding PURPA standards and NHEC's rates and demand.

II. POSITIONS OF THE PARTIES AND STAFF

A. Campaign for Ratepayers Rights

CRR asserts that it should have additional time in which to file data requests, pending the outcome of the Commission's ruling on its Motion for Rehearing. The Motion does not make clear if the attached data requests are filed, with further data requests to follow if the Motion were to be granted, or that the attached data requests were merely an example of what CRR would file if the Motion were granted.

B. New Hampshire Electric Cooperative

On May 12, 1992, prior to the Commission's order on the Motion for Rehearing, NHEC filed responses to the data requests attached to CRR's Motion, believing that CRR was entitled to such requests. On May 13, 1992 NHEC filed an objection to the Motion, stating that as to future data requests, CRR had made no showing demonstrating a need for an extension.

Page 249

C. Other Parties and Staff

Commission Staff and other parties to the docket did not file responses to the Motion.

III. COMMISSION ANALYSIS

As a full intervenor when represented by counsel, CRR has full discovery rights, which include the right to file data requests in accordance with the procedural schedule established by the Staff and the parties and approved by the Commission at the prehearing conference on April 9, 1992. CRR was present at the prehearing conference and was placed on the Commission's service list, and as such was well aware of the deadlines established.

As a limited intervenor when represented by a non- attorney agent who has regularly appeared before the Commission, CRR does not have discovery rights. Mr. Cushing, therefore, is not entitled to file discovery requests or other pleadings with the Commission. To allow such practice of law by one who has regularly appeared before the Commission on behalf of CRR would sanction a violation of RSA 311:7, as delineated in State v. Settle, 129 N.H. 171 (1987) (Settle II). The Motion as filed by Mr. Cushing, therefore, is denied as improperly filed.

If the Motion had been filed by counsel, the pleading would not be rejected as improperly filed. It would, however, still be denied, as CRR makes no showing or justification for its failure to file data requests within the required time frame.

It is important for all attorneys and those non-attorneys appearing, pro se or, on an irregular basis, on behalf of an organization or business entity, to understand our treatment of discovery requests. Any person or entity granted full intervenor status has full discovery rights, including the right to file motions, objections, data requests and testimony and to cross examine witnesses during the course of hearings.

Limited intervenors, whether or not represented by counsel, have the right to make public statements before the Commission and suggest to the Commission certain issues which they feel

have not been adequately addressed. They are also free to contact the Staff and full intervenors regarding data requests which they would like to see covered. Whether the Staff or full intervenor agrees to make such a filing on the limited intervenor's behalf, however, is within their professional judgement and discretion; they are under no obligation by the Commission to make such a filing.

Our order will issue accordingly.

Concurring: May 26, 1992

ORDER

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

ORDERED, that the Campaign for Ratepayers Rights' Motion for Extension of Time in which to file data requests be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of May, 1992.

==========

NH.PUC*05/26/92*[72940]*77 NH PUC 250*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/NORTHEAST UTILITIES SERVICE COMPANY

[Go to End of 72940]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/NORTHEAST UTILITIES SERVICE COMPANY

DR 91-095
ORDER NO. 20,488

77 NH PUC 250

New Hampshire Public Utilities Commission

May 26, 1992

Newington Station Gas Conversion Proceeding Order Approving Gas Supply to PSNH's Newington Station and Settlement Agreement on Cost Recovery

---

WHEREAS, at its public meeting on August 5, 1991, the New Hampshire Public Utilities Commission (commission) accepted a stipulation agreement between Public Service Company of New Hampshire ("PSNH"), Northeast Utilities Service Company, the Office of the Consumer Advocate

and Commission Staff (Staff) concerning the recovery of PSNH's investment to convert its Newington Station to dual- firing of fuel oil and natural gas; and

WHEREAS, on May 6, 1992 Northern Utilities ("Northern") filed for commission approval a

fully executed interruptible sales contract to supply PSNH's Newington Station with natural gas; and

WHEREAS, on May 8, 1992, a second stipulation agreement was filed between Northern and Staff concerning the recovery of Northern's investment to supply gas to the Newington Station; and

WHEREAS, on May 18, 1992, the commission issued Order No. 20,481 approving a temporary supply of gas to Newington for a period ending with the beginning of regular dual fuel operation at Newington Station; and

WHEREAS, regular dual fuel operation is expected to begin during the first week of June, 1992; and

WHEREAS, a hearing on the merits of the proposed gas supply contract and the second stipulation agreement was held May 21, 1992; and

WHEREAS, the commission finds that early implementation of the above mentioned gas supply contract and the settlement agreement is in the public interest; and

WHEREAS, the commission will issue a full and complete report on all aspects of this proceeding at a later date; it is hereby

ORDERED, that Northern be authorized to supply gas to Newington Station, under the terms of the gas contract, when the station starts regular dual fuel operation; and it is

FURTHER ORDERED, that Northern be authorized to implement the provisions of the settlement agreement with staff on cost recovery.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of May, 1992.

==========

NH.PUC*05/26/92*[72941]*77 NH PUC 251*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICE COMPANY

[Go to End of 72941]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICE COMPANY

DR 92-068
ORDER NO. 20,489

77 NH PUC 251

New Hampshire Public Utilities Commission

May 26, 1992

Implementation of Agreement with New Hampshire Electric Cooperative, Inc. Order Requiring Testimony in Support of a Valuation of Seabrook for Purposes of PSNH Retail Rates

---

WHEREAS, the New Hampshire Public Utilities Commission (Commission), by Order of Notice dated March 20, 1992, opened docket no. DR 92-009 to investigate New Hampshire Electric Cooperative, Inc.'s (NHEC) petitions for temporary and permanent rates, debt reorganization and amendments to its Power Supply Contract and Sell-Back Contract, motion for approval of proposal of escrow of temporary rates, and NHPUC Tariff #15 - New Hampshire Electric Cooperative, Inc.; and

WHEREAS, the Commission, by secretarial letter dated April 9, 1992, opened docket no. DR 92-068 to investigate the joint petition of Public Service Company of New Hampshire (PSNH) and Northeast Utilities Service Company (NUSCO) for approvals necessary to implement the terms of its agreement with NHEC; and

WHEREAS, an integral part of the agreement between NHEC and PSNH/NUSCO is the valuation of Seabrook for purposes of the Sell-Back Contract at approximately $101 million; and

WHEREAS, in Re New Hampshire Electric Cooperative, DR 90- 078, Report and Order No. 20,122 at 33-34 (May 3, 1991), the Commission stated that

"...Our Order herein cannot be construed as approving an PSNH retail rate that reflects the cost of the sellback. Section 12 of the PSNH/NU approved Rate Agreement specifically

provides that the Rate Plan will be reopened once the sellback issue is finally determined. Thus, in accordance with the agreement, PSNH/NU are not necessarily entitled to recover all of their sellback costs from retail ratepayers; rather, the Rate Agreement contemplates a future proceeding for resolution of this issue" (cites omitted); and

WHEREAS, on May 22, 1992, the State of New Hampshire and NHEC withdrew their request for Commission approval of NHEC's proposed accounting for its Seabrook interest in its post-reorganization books of account in the amount of approximately $101 million as of January 1, 1993 and NHEC's proposed depreciation methodology for its Seabrook interest in DR 92-009; and

WHEREAS, in DR 90-078 John W. Noyes testified that "the maximum value which NHEC could charge to PSNH under the terms of the sell-back agreement would be $72.5" (Direct Testimony at 12) and his Direct Testimony in the instant docket did not address the issue of the reasonableness of a value of $101 million for NHEC's Seabrook interest in the Sell-back Agreement; and

WHEREAS, the Commission does not, therefore, have before it a request for a finding and supporting testimony that the valuation of Seabrook embodied in the current Sell-back agreement is reasonable for the purposes of PSNH retail rates; it is hereby

ORDERED, that PSNH/NUSCO file supplemental testimony to address the issue of the reasonableness of the valuation of $101 million for NHEC's Seabrook interest embodied in the Sell-back Agreement for the purposes of PSNH's retail rates, according to the following schedule:

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

```
June 5, 1992  PSNH/NUSCO
Supplemental
testimony
June 12, 1992 Data requests to
PSNH/NUSCO
June 19, 1992 PSNH/NUSCO
data responses
June 26, 1992 Staff/Intervenor
testimony
July 3, 1992  Data requests to
Staff/Intervenors
July 10, 1992 Staff/Intervenor
data
responses
July 24, 1992 Hearing
```

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of May, 1992.

==========

NH.PUC*05/26/92*[72942]*77 NH PUC 252*SOUTHERN NEW HAMPSHIRE WATER COMPANY

[Go to End of 72942]

SOUTHERN NEW HAMPSHIRE WATER COMPANY

DE 92-100
ORDER NO. 20,490

77 NH PUC 252

New Hampshire Public Utilities Commission

May 26, 1992

Request for Rate Increase Order Recommending that Southern New Hampshire Water Company Conduct Investigation in Green Hills

---

WHEREAS, in Report and Orde No.r 20,196 in docket DR 89- 224, the issue of metering individual customers at the Green Hills system in Raymond was addressed at page 38 and 39, with the conclusion that "... we will not order the installation of meters at this time, but will reserve the rights of the parties to petition for such an order at any time."; and

WHEREAS, at the public hearing in Londonderry, New Hampshire on March 30, 1992 and in correspondence from the customers at Green Hills, it has been stressed to the Commission that these customers prefer metered services, whereby they would only pay for water used; and

WHEREAS, the majority of homes in Green Hills are manufactured housing and may have insufficient space within the enclosed housing to accommodate the installation of a meter; and

WHEREAS, staff testimony in docket DR 89-224 recommended that Southern New

Hampshire Water Company conduct an investigation to determine how many homes there are in Green Hills in which there is insufficient space to install a meter; it is hereby

ORDERED, that Southern New Hampshire Water Company undertake an investigation, with the assistance of each home owner, to determine in which homes it would be possible to install a meter internally or to otherwise assess the possibility of the customer constructing an insulated chamber under the house to accommodate a meter; and it is

FURTHER ORDERED, that such investigation shall commence as soon as possible and that Southern New Hampshire Water Company shall file the results of such investigation with the commission on or before August 3, 1992.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of May, 1992.

==========

NH.PUC*05/26/92*[72943]*77 NH PUC 253*PUBLIC SERVICE CO. OF NH NEW ENGLAND TELEPHONE CO.

[Go to End of 72943]

PUBLIC SERVICE CO. OF NH NEW ENGLAND TELEPHONE CO.

DE 92-088
ORDER NO. 20,492

77 NH PUC 253

New Hampshire Public Utilities Commission

May 26, 1992

Order NISI Granting Authorization for Two Aerial Electric and Telephone Crossings of Bow Lake in the Town of Strafford, New Hampshire

---

WHEREAS, on May 4, 1992 Public Service Company of New Hampshire and New England Telephone and Telegraph Company (petitioners) jointly filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to construct and maintain aerial electric and telephone crossings of Bow Lake in the Town of Strafford, New Hampshire; and

WHEREAS, the crossings are proposed to provide service to George DeCamp, owner of York Island and to Paul Longeil, owner of Middle Island, said islands being at the eastern end of Bow Lake; and

WHEREAS, the crossings will consist of a single circuit 34.5 kV electric line operating at 7.2 Kv to York Island, a secondary 240 volt circuit to Middle Island, and a single 5 pair telephone line, all fed from existing lines on Province Road; and

WHEREAS, the crossings will be on new poles, the first being from Public Service of New

Hampshire (PSNH) pole 820/124A1 (also identified as New England Telephone and Telegraph Company (NET) pole 23/13-2L) on the northeast shore of Bow Lake to PSNH pole 820/124A2 (also identified as NET pole 23/13-3L) on York Island, and the second from the latter pole to PSNH pole 820/124A3 (also identified as NET pole 23/13-4L) on Middle Island; and

WHEREAS, plans and profiles of the proposed crossings are on file with this Commission; and

WHEREAS, included with the petition are copies of easements required for the crossings; and

WHEREAS, the crossings will be constructed in accordance with all clearances and other requirements of the National Electrical Safety Code; and

WHEREAS, the Commission finds the above construction and maintenance is necessary to enable the petitioners to provide service, without substantially affecting the public rights in or above said waters, and, thus, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than June 23, 1992; and it is

FURTHER ORDERED, that the petitioners jointly effect said notification by: (1) Causing an attested copy of this order to be published no later than June 9, 1992, once in a newspaper having general statewide circulation and once in a newspaper having general

circulation in the Strafford area; (2) Providing, pursuant to RSA 541-A:22, a copy of this order to the Strafford Town Clerk, by First Class U.S. mail, postmarked on or before June 9, 1992; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before June 23, 1992; and it is

FURTHER ORDERED NISI, that license be, and hereby is granted, pursuant to RSA 371:17, et seq., to Public Service Co. of NH, P.O. Box 330, Manchester, NH 03105 and to New England Telephone and Telegraph Co., 24 Prescott Road, Laconia, NH 03246, to construct and maintain the aforementioned crossings of aerial electric and telephone lines over Bow Lake in the Town of Strafford, New Hampshire, effective June 24, 1992, unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the Town of Strafford.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of May, 1992.

==========

NEW ENGLAND TELEPHONE COMPANY

DE 91-105
ORDER NO. 20,494

77 NH PUC 254

New Hampshire Public Utilities Commission

May 27, 1992

Phonesmart Services Report and Order on Proposed Stipulation and Agreement Between the Parties On Phonesmart Services

---

Appearances: Robert A. Lewis, Esq., for New England Telephone and Telegraph Company; Devine, Millimet & Branch by Anu R. Mathur, Esq., for Dunbarton Telephone Company, Granite State Telephone Inc., Merrimack County Telephone Company and Wilton Telephone Company; Leahy, Vanacore, Nielsen & Trombly by John Vanacore, Esq., for the New Hampshire Coalition Against Domestic and Sexual Violence; Orr & Reno by Thomas C. Platt, Esq., for GTE Maine and GTE New Hampshire; Representative Neal Kurk; Office of the Consumer Advocate by Michael W. Holmes, Esq., for residential ratepayers; and Susan Chamberlin, Esq., for the staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On July 23, 1991, New England Telephone and Telegraph Company ("NET" or "the Company") filed a tariff introducing Phonesmart Services, consisting of Repeat Dialing, Call Return, Call Trace and Caller ID, for effect August 22, 1991. A description of the proposed services was published in the Union Leader on July 30, 1991 and August 6, 1991.

On August 8, 1991, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,204 suspending the filing pending further investigation, and scheduled a prehearing conference for September 20, 1991. Order No. 20,204 was published in the Union Leader on September 4, 1991.

After due notice, a prehearing conference was held on September 20, 1991. GTE New Hampshire and GTE Maine (collectively "GTE"), the New Hampshire Association of Chiefs of Police, the New Hampshire Coalition Against Domestic and Sexual Violence, (the Coalition) Granite State Telephone, Inc., Merrimack County Telephone Company, Wilton Telephone Company, Dunbarton Telephone Company, Representative Neal Kurk, and MCI were granted intervenor status.

On September 25, 1991, the Commission issued an Order of Notice setting a public informational hearing in Concord, New Hampshire, for November 7, 1991 at 7:00 p.m. The Order of Notice was published in the Union Leader on October 7, 1991 and October 28, 1991.

Gerald Malette of NET filed direct testimony in support of Phonesmart services on October 11, 1991.

The Commission held a public hearing on November 7, 1991, at which the Commission heard testimony from nine members of the public. On December 10, 1991, the parties participated in a settlement conference. The procedural schedule was amended by Secretarial letter on January 1, 1992.

On February 20, 1992, Charles M. Clemmons on behalf of GTE, Annette Greenfield on behalf of the Coalition, and Kenneth Traum on behalf of the Office of Consumer Advocate (OCA) filed intervenor testimony. The Commission staff (staff) filed testimony regarding Phonesmart's effect on existing telephone service on March 6, 1992.

On March 9, 1992, the Commission issued Order No. 20,407 extending the deadline for the staff to file testimony regarding rate design until 10 days after receipt of cost support information required from NET.

On April 22, 1992, NET filed a Stipulation and Agreement Between the Parties (stipulation) for review and approval and requested a hearing for April 28, 1992. GTE and MCI neither signed nor opposed the stipulation. The Coalition had not signed the stipulation.

At the hearing on April 28, 1992, the Company, the OCA and staff presented the stipulation on the rates, terms and conditions for Phonesmart services in New Hampshire. The stipulation reserved the right of Representative Kurk and the Coalition to present testimony and evidence on the appropriateness of a nonrecurring charge to customers who want per line blocking. Since the Coalition did not sign the stipulation, its rights were reserved on all issues. During the hearing, the Coalition's issues were narrowed to per line blocking and the provision of stickers to per line blocking customers that were proposed to state: "THIS TELEPHONE IS LINE BLOCKED. IF YOU DO NOT WANT THIS TELEPHONE NUMBER RELEASED TO A CALLER ID UNIT, DO NOT PRESS *67."

On May 15, 1992, NET filed a letter outlining further agreement between NET and the Coalition and a copy of the Coalition's signature to the stipulation agreement.

II. BACKGROUND

The Phonesmart tariff filed by the Company included four services: Caller ID, Call Return, Call Trace and Repeat Dialing. Caller ID transmits the telephone number of the calling party to the called party. The calling party's telephone number is displayed to the called party on a Caller ID device.

Existing technology permits the calling party to prevent his number from being forwarded in two ways. "Per call blocking" blocks the calling party's number from being forwarded, if the calling party dials a three digit activation code before he dials the called party's telephone number. Per call blocking blocks the call placed immediately following the three digit activation code. The calling party's number is not blocked from subsequent calls unless the caller redials the activation code before each call.

"Per line blocking" is a subscriber line configuration that blocks the caller's number from

being forwarded on all calls. The calling party may choose to forward his number on a specific call by dialing a three digit activation code that unblocks the number from being forwarded on the next call.

Call Trace allows the subscriber to trace the last incoming call. After receiving a call the subscriber wishes to trace, the subscriber dials an activation code and the annoying caller's telephone number is noted and forwarded to NET's annoyance call bureau.

Repeat Dialing checks and redials a busy number for 30 minutes. When the call is successfully completed, the service notifies the subscriber with a distinctive ring.

Call Return automatically returns the last incoming call after the subscriber dials a three digit activation code.

Page 255

III. POSITIONS OF THE PARTIES AND STAFF

A. New England Telephone and Telegraph Company

NET witness Gerald Malette testified that the stipulation represented a compromise of the parties and that the rates for the services were appropriate as outlined in the stipulation in paragraph 9. Mr. Malette confirmed that the omission of the nonrecurring charge of $9.22 for residence and $15.03 for business customers who subscribe to Caller ID was inadvertent and that it was the parties' intent that each of the services offered include an identical nonrecurring charge.

The Company argued that the nonrecurring charge for per line blocking was appropriate since the rate was equivalent to the administrative cost of taking the service order to configure the customer's line.

Mr. Malette explained that Call Trace was a service that would augment and improve the Company's annoyance call bureau and its trap and trace method of identifying harassing or annoying callers. He stated Call Trace would reduce the time required to identify annoying callers and would reduce the general number of annoying calls as abusive callers become aware of the service and the threat of being easily identified. He explained that, as stipulated, customers who want Call Trace will be required to subscribe to this service and pay a nonrecurring charge at which time the Company will install the service within 24 hours.

Mr. Malette stated that the Company agreed to withdraw Call Return as part of the stipulation.

Mr. Malette argued that stickers should not be distributed to customers who select line blocking because the Company would have no way of ensuring the stickers would be placed on all phones that were line blocked and removed from phones if line blocking were removed. The Company averred that the stickers could be provided to customers who requested them, but that the Company could not, in any way, be responsible for their appropriate use. He recommended the stickers be provided solely to the Coalition for their distribution.

When questioned about the time necessary to develop a unique code for per call unblocking, Mr. Malette indicated it could possibly take between two and three years.

B. The Coalition Against Domestic and Sexual Violence

Coalition witness Nancy Burnell, argued that NET must provide stickers to every customer who uses per line blocking because the Coalition is only in contact with approximately 10 to 20 percent of battered spouses who need help. Ms. Burnell explained many battered people live in group homes or flee to homes of friends and relatives where they may not know how the telephone line is configured. Ms. Burnell pointed out that children often contact the parent (usually the father) from whom they have fled. If the battered mother does not know how the line is configured, dialing *67 may reverse the desired result, releasing the phone number to the father and placing the battered victim in danger. Ms. Burnell argued if a sticker were placed on the phone that clearly identifies the consequences of dialing *67, the risk of inadvertently releasing the number through Caller ID would be reduced. She explained that the stickers must be provided to all per line blocked customers (rather than merely to the Coalition and its clients) in order to reduce the risk to the 80 percent of battered women with whom the Coalition is not in contact.

The Coalition submitted a letter, dated April 22, 1992, from Annette Greenfield outlining the Coalition's requests if Phonesmart is approved, as Exhibit 2.

C. The Office of Consumer Advocate

Kenneth Traum testified on behalf of the OCA and supported NET's position that the stipulation was a compromise of the parties and in its entirety, was fair. Responding to questions on the nonrecurring charge for per line blocking, Mr. Traum explained that this

issue was one of many included in the agreement with which not all parties agreed when considered independently, but in which they acquiesced for purposes of settlement.

D. The Staff of the New Hampshire Public Utilities Commission

Staff witness Kathryn Bailey testified that staff supported the stipulation as a complete package. She also supported the Company's position that the stipulation included concessions by all parties but in its entirety, the stipulation provided a choice for customers and balanced the needs of customers who want Caller ID with those who do not want Caller ID. Ms. Bailey argued that Phonesmart services can provide value to customers who want the service.

Ms. Bailey also clarified answers to questions about blocking options in the other NYNEX states that had been asked of previous witnesses. She testified that in Massachusetts, the Company filed a similar Phonesmart proposal. The Massachusetts Department of Public Utilities ordered the Company to provide generally available free per line blocking and develop a unique code for per call unblocking; the Company subsequently withdrew the filing. The Vermont Commission, Ms. Bailey asserted, had ordered free per line blocking for nonpublished number customers and people who certify that Caller ID is a safety threat but that she understood the Company had asked the Vermont Commission for clarification. She also explained that in Maine the legislature mandated free per line blocking for persons who certify the need for reasons of health or safety. Finally, Ms. Bailey stated that the New York Commission requires that New York Telephone offer free per line blocking for six months, after which a nonrecurring charge

will apply.

E. Representative Kurk

Although Representative Kurk did not testify, he reiterated his position during closing arguments that customers should not be charged for per line blocking.

IV. COMMISSION ANALYSIS

It is clear from the testimony and evidence that there are opposing positions regarding the offering of Caller ID. On balance, we find that the advantages afforded to customers who wish to enhance their knowledge of, and control over, incoming telephone calls clearly outweigh the disadvantages posed by this new generation of informational technologies. However, there is equally persuasive testimony that certain callers' privacy and security may be jeopardized if adequate controls are not provided. Rather than deny benefits to "called" customers, we will allow the company to proceed with the offering of Caller ID, but we will establish certain requirements which will assure that "calling" parties can protect themselves from risks which might develop as a result of their telephone numbers being identified.

We are also mindful of the fact that the stipulation was not supported in its entirety by all twelve parties. Two parties opted to "not oppose" but did not sign the stipulation. Two other parties, who signed the stipulation, objected to the inclusion of nonrecurring charges for per line blocking and provided testimony during the hearing on that issue. It is difficult to approve a stipulation that is not signed by all the parties or leaves certain issues (e.g. per line blocking) unresolved. However, the testimony and exhibits convince us that approval of the offerings is in the public interest, and we find that the following will balance the opportunities of the called parties with the needs of the calling parties.

The rates outlined in paragraph 9 of the stipulation appear just and reasonable and we will approve them subject to the Company's written explanation to staff of the cost model (SCIS) and its input variables and confirmation by staff based on its analysis of the SCIS that the rates cover the appropriate costs. The Company's written explanation of the SCIS and input variables shall be filed within two months of the this Order.

On the issue of free per line blocking, we will allow the Company to recover $9.22 from

residence customers and $15.03 from business customers after an initial opportunity for customers to select a particular line configuration at no charge, and subject to opportunities for certain customers to obtain such service at any time without incurring the nonrecurring charge. We will require the Company to provide the service to domestic violence agencies and their employees, volunteers and safe houses at no charge, as stipulated. We will require that it further provide per line blocking at no charge to any requesting customer who has an unpublished or unlisted number and, as was recently required by the Maine legislature, to any customer who certifies that Caller ID threatens his or her health or safety. We will authorize our staff to resolve the issue of a proper certification procedure, similar to the procedure used in Maine and Vermont, and expect that it will be simple, straight- forward, and require a minimum of documentation.

We note from the record that various forms of free per line blocking options are offered in all other NYNEX states. We do not find it unreasonable to require a period of time during which all New Hampshire customers have the opportunity to select a line blocking configuration free of charge. New services are often offered without a nonrecurring charge during a promotional period. For example, we approved a waiver of nonrecurring charges for 90 days after the introduction of Selective Blocking Service for NET in DE 90-150, Order No. 20,106 issued April 8, 1991; for Granite State Telephone, Inc. in DR 91-183, Order No. 20,335 issued December 16, 1991; and for GTE in DR 92-069, Order No. 20,467 issued April 29, 1992. Additionally, NET typically submits a plan every January informing the Commission of the promotional periods scheduled for the year that waive the nonrecurring charges, including most recently, the waiver of nonrecurring charges for Custom Calling Services, Ringmate and Additional Exchange Lines. Waiver of these nonrecurring charges are part of the Promotional Market Trial Program tariff approved in Re New England Telephone and Telegraph Company, 71 NHPUC 360 (1986), in which the Commission found promotional periods would educate consumers about available services.

While we encourage the Company to fully utilize the inherent capabilities of an increasingly sophisticated network, we recognize advances in technology may cause a change in the status quo. Caller ID, without per line blocking, reverses the privacy expectations of a person placing a telephone call. As a result, customers who do not wish to purchase Caller ID or who do not wish to release their phone number to the called party may not benefit from Caller ID and should be given an opportunity to maintain the status quo at no charge since it is technically possible. Therefore, we will require a period of 30 days prior to the implementation date of Phonesmart and 60 days after the implementation of Phonesmart (a total of 90 days) during which nonrecurring charges will not apply for per line blocking. Additionally, the Company will be required to educate its customers on Caller ID, and per call and per line blocking options, for two consecutive months prior to the implementation date. Customers who elect per line blocking beyond 60 days after Phonesmart is implemented, and who do not meet the standards for free per line blocking as defined above, may be charged the nonrecurring charge. Additionally, to insure customers are aware of blocking options upon request for initial service, the Company will incorporate a procedure for its service order representatives to offer new customers both blocking options upon initial request for service.

During the hearing, the Company offered to provide stickers as a service to its customers who select per line blocking. The Company may provide the stickers solely to customers who request them, provided that all promotional material clearly indicates sticker availability, and customer service representatives ask every customer who selects per line blocking if they would like stickers that indicate the line is blocked and the consequences of dialing *67. In the alternative, the Company may choose to routinely mail stickers to all customers who select per line blocking. We emphasize that the Company will provide these stickers as a

service, and will not be held responsible for customer use.

We hold the Company to the agreement to provide the Coalition with the requests outlined in

Exhibit 2 and note that arguments were not raised during the hearing regarding these requests, other than the request for stickers.

We expect the Company to actively pursue the development of a unique unblocking code as stipulated, and report the status of such development every six months. When a distinct code becomes available, the Company shall submit a report outlining the associated costs and any other issues necessary to evaluate the appropriateness of introducing the unique unblocking code.

We accept the provision of Call Trace as stipulated. However, the record persuades us that universal offering of this service without specific subscription may well be in the public interest. Because there is not enough information on the record about this point, we will ask the Company to provide a report in six months explaining why it is necessary to subscribe to this service and whether it ought to be provided on a universal basis. Upon review of said report, we direct staff to advise us on the appropriateness of opening a new docket to consider universal availability of Call Trace.

We accept the withdrawal of Call Return.

Our order will issue accordingly.

Concurring May 27, 1992

ORDER

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

ORDERED, that the Stipulation Agreement (attached hereto as Appendix A) and associated agreements between NET and the Coalition outlined in letters dated April 22, 1992, (exhibit 2, attached hereto as Appendix B) and May 13, 1992, (attached hereto as Appendix C) are hereby accepted and approved with the following conditions:

(1) that per line blocking be offered without a nonrecurring charge to nonpublished and unlisted telephone number customers,

(2) that per line blocking be offered without a nonrecurring charge to customers who certify that Caller ID threatens their health or safety,

(3) that per line blocking be offered without a nonrecurring charge to all customers during a 90 day promotional period as outlined in the report; and it is

FURTHER ORDERED, that the additional agreements outlined in Appendices B and C, attached hereto be made a part hereof; and it is

FURTHER ORDERED, that NET provide, within two months, a complete written explanation of the cost model (SCIS) and its input variables, used to determine the cost for Phonesmart services; and it is

FURTHER ORDERED, that NET include information in its Phonesmart promotional material and service order procedures for initial service, about per line and per call blocking options and the availability of stickers at no charge, and it is

FURTHER ORDERED, that the Company report progress on the availability of a unique unblocking code every six months from the date of this Order; and it is

FURTHER ORDERED, that when a unique unblocking code is developed the Company submit a report outlining the associated costs and any other issues necessary to evaluate the appropriateness of introducing a unique unblocking code; and it is

FURTHER ORDERED, that six months from the date of this Order the Company provide a report outlining whether Call Trace could be offered universally to all customers without subscription and at what cost to the Company.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of May, 1992.

==========

NH.PUC*05/28/92*[72945]*77 NH PUC 260*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72945]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-077
SUPPLEMENTAL ORDER NO. 20,495

77 NH PUC 260

New Hampshire Public Utilities Commission

May 28, 1992

Nuclear Decommissioning Finance Charge Order Granting Public Service Company of New Hampshire's Request for a Hearing on Commission Order NISI No. 20,475

WHEREAS, Public Service Company of New Hampshire (PSNH) having filed on May 22, 1992, a request for a hearing on New Hampshire Public Utilities Commission (commission) Order Nisi No. 20,475; and

WHEREAS, said Order NISI No. 20,475 provided, in pertinent part, that it will become effective on June 1, 1992, unless the commission provides otherwise in a supplemental order; and

WHEREAS, the PSNH request for hearing conforms with the requirement of Order No. 20,475 that any interested party may file written comments or request an opportunity to be heard in this matter no later than May 27, 1992; and

WHEREAS, the staff of the commission (staff) filed a response to PSNH's request for hearing on May 27, 1992; it is hereby

ORDERED, that Order NISI 20,475 will not take effect unless and until the commission provides otherwise in a supplemental order.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of May, 1992.

==========

NH.PUC*06/02/92*[72946]*77 NH PUC 260*SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

[Go to End of 72946]

SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

DR 90-004
ORDER NO. 20,496

77 NH PUC 260

New Hampshire Public Utilities Commission

June 2, 1992

Second Revised Tariff No. 8 Order Approving in Part and Denying in Part Revisions Contained in Second Revised Tariff No. 8

Appearances: Southern New Hampshire Water Company, Inc. by Larry S. Eckhaus, Esq.; Office of Consumer Advocate by Joseph W. Rogers, Esq. for residential ratepayers; Eugene F. Sullivan, III, Esq. for the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On December 22, 1989, Southern New Hampshire Water Company, Inc. (Southern) filed with the New Hampshire Public Utilities Commission (Commission) a reorganized NHPUC Tariff No. 8 governing Southern's existing terms and conditions regarding administrative and operational charges. By Order No. 19,671 (January 18, 1990) the Commission suspended the proposed tariff pending further investigation and instructed Commission Staff (Staff) to review the tariff revisions. After review and consultation with Staff and the Office of Consumer Advocate (OCA), on December 9, 1991, Southern filed First Revised NHPUC Tariff No. 8.

By Order No. 20,345 (December 23, 1991) the Commission suspended First Revised NHPUC Tariff No. 8 and ordered a prehearing conference for January 14, 1992, at which time Staff and the parties agreed upon a procedural schedule. There were no petitions to intervene. See Order No. 20,371 (January 20, 1992).

Direct testimony on behalf of Southern was filed by Robert W. Phelps, Lawrence T. Gingrow, Jr. and Donna E. White on February 14, 1992 and on behalf of Staff by Robert B.

Lessels on March 4, 1992. On March 12, 1992, the Commission heard testimony on a proposed stipulation between Staff and the parties concerning the tariff revisions and on March 23, 1992, Southern submitted Second Revised NHPUC Tariff No. 8, with a proposed effective date of April 13, 1992, in compliance with the proposed stipulation. The Second Revised NHPUC Tariff No. 8 was suspended pending Commission review. See Order No. 20,448 (April

21, 1992).

II. POSITIONS OF THE PARTIES AND STAFF

A. Southern New Hampshire Water Company

1. Changes in Administrative Charges

Southern proposed a number of increases to its billing charges, as follows: for reconnection of water service that had previously been disconnected, from $50.00 to $75.00; for initiating service or change of ownership, from $9.00 to $27.00; for a bad check, from $5.00 or 5% of the face value of the check, whichever is greater to $15.00 or 10%;; for customer payment at the time of disconnection, from $5.00 to $20.00; for meter testing, if the meter results are accurate within 3%, from no rates published to $62.00 for domestic meters, $78.00, $168.00, $188.00 and $218.00 for turbo meters, and $93.00, $173.00, $198.00 and $238.00 for compound meters; for administration and inspection of customers' installed service lines, from no rates published $35.00; for curb box or hydrant tampering, to remain at the actual cost of repair; and for a change of billing address, from $0.00 to $9.00; and for interest on bills not paid within 28 days of postmark, from 1.0% per month or 12% per annum to 1.5% per month or 18% per annum.

2. Development of Bulk Water Services Charges

Southern also proposed tariffs for bulk water service, as follows: for filling from hydrant, $50 (plus the tariff rate for metered water service); for use of the Company's 400 ft. fire hose, $25.00, in addition to a $200.00 deposit; and for filling from tanker, $113.00 per 5000 gallons (within 20 mile radius), $196 per 5000 gallons (beyond 20 mile radius), with an additional $30.00 charged if filling occurs after 3 p.m.

3. Clarification of Tariffs

Southern proposed minor changes in wording of tariffs, which have no revenue effect but would either improve Southern's operations or conform Southern's tariff more clearly and precisely to this Commission's Rules and Regulations for Water Companies. The changes include proper identification of service areas; changes in definitions and modifications of terms and conditions to be consistent with Commission rules, including a requirement for written service applications and provisions regarding outstanding arrearages; proper identification of Commission orders on tariff pages; addition of Rate GUS-P for General Unmetered Service - Policy Division for the Green Hills Service Area; notification of fire departments when fire protection service is discontinued; clarification of a customer's responsibility regarding auxiliary meters installed at the customer's request; clarification of terms regarding metered or other charges for fire protection and use of water for other than fire protection purposes; clarification of provisions regarding causes of "dirty water"; reduction from 30 days to 28 days for customers to pay bills without incurring a late charge, a change which Southern argues is necessary in order to avoid computer problems with the 30 day period; a change from "seasonal" service to "temporary" service because there are customers who require temporary service that does not correlate to the seasons; and to include provisions for the temporary rate surcharge previously approved by this Commission.

4. Denial of Service

Southern also requested authorization to deny new service when there are undisputed

arrearages on a past account.

B. Office of Consumer Advocate

The OCA agreed to the stipulation reached between the parties and Staff.

C. Commission Staff

Staff agreed to the stipulation reached between the parties and that with the exception of the increase in the interest rate on overdue bills from 12% to 18%, that Second Revised NHPUC Tariff No. 8 complied with the stipulation.

III. COMMISSION ANALYSIS

Although Southern, OCA and Staff agreed to the tariff revisions summarized above and presented us with a stipulation to that effect, the Commission is not persuaded that increases are appropriate at this time. Southern only recently concluded a lengthy rate case, which resulted in significant rate redesign and an annual revenue increase of approximately $1.1 million. See Order No. 20,313 (November 27, 1991) in DR 89-224. The new rates went into effect January 20, 1992; neither Southern nor the Commission has had an opportunity to evaluate the effects of the new rates and rate design. For that reason, we will reject the Second Revised NHPUC Tariff No. 8 and the stipulation as they relate to changes in charges for administrative and bulk water services, without prejudice to Southern to include in a future rate case some or all of these tariff revisions in the future.

We also note that Southern presented no cost study or other justification for the significant increases in their administrative and bulk water charges. Should Southern refile these tariff changes, after it has had a chance to observe the effects of the newly enacted rates, we believe greater cost support should accompany the filing.

We are persuaded that many of the non-revenue producing changes, which clarify the existing tariff and in many cases bring tariff provisions into compliance with our rules, are in the public interest. We will, therefore, approve the tariff revisions contained within 3 of II A of this Report.

We deny Southern's request for a waiver of our rules regarding denial of new service to customers who have an undisputed arrearage on a past account. We find that our deposit provisions are adequate to protect against unpaid bills.

In the event Southern refiles some or all of these tariff revisions as part of a rate case, we will require Southern to make available at its offices and publish in an appropriate newspaper a detailed summary of the proposed changes, which describes in laypersons' terms, the effect of the changes.

Our order will issue accordingly.

Concurring June 2, 1992

ORDER

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

ORDERED, that the changes in administrative and bulk water charges contained within Second Revised NHPUC Tariff No. 8 proposed by Southern New Hampshire Water Company, Inc. (Southern) be, and hereby are, denied, without prejudice to Southern to file for some or all of those changes in a future rate case, at which time the proposed changes should be supported by appropriate cost justification; and it is

FURTHER ORDERED, that the changes in wording of tariff provisions contained within Southern's Second Revised NHPUC Tariff No. 8, as delineated in 3 of II A of the accompanying report be, and hereby are approved.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1992.

==========

NH.PUC*06/02/92*[72947]*77 NH PUC 263*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72947]

NEW ENGLAND TELEPHONE COMPANY

DR 92-075
ORDER NO. 20,497

77 NH PUC 263

New Hampshire Public Utilities Commission

June 2, 1992

Special Contract with GTC Leasing Company, Inc. Order Granting Motion for Reconsideration of Protective Treatment

---

On April 29, 1992, in Order No. 20,468, the New Hampshire Public Utilities Commission (Commission) accorded protective treatment over certain supporting documents connected to a special contract between New England Telephone and Telegraph Company (NET) and GTC Leasing Company, Inc. but did not grant protective treatment over the contract itself; and

WHEREAS, the Commission's grant of protective treatment was less extensive than had been requested by NET which, by its Motion dated April 16, 1992, had requested protective treatment over both the supporting documents and the contract itself; and

WHEREAS, on May 8, 1992 NET timely filed a Motion for Reconsideration pursuant to RSA 541:3; and

WHEREAS, the Commission is persuaded by NET's arguments regarding its need for protection of the contract; it is hereby

ORDERED, that the special contract between NET and GTC Leasing Company, Inc. be, and hereby is, afforded protective treatment and thereby is not subject the public disclosure pursuant to RSA 91-A:5; and it is

FURTHER ORDERED, that this order is subject to the on- going rights of the Commission and the public to reconsider this order in the future should circumstances so warrant.

By order of the New Hampshire Public Utilities Commission this second day of June, 1992.

==========

NH.PUC*06/03/92*[72948]*77 NH PUC 263*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72948]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-077
ORDER NO. 20,498

77 NH PUC 263

New Hampshire Public Utilities Commission

June 3, 1992

Nuclear Decommissioning Charges Order Modifying Order No. 20,475 on NDFC Increases

---

On May 11, 1992, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,475 (Order) which granted, NISI, increases in the nuclear decommissioning charge to be assessed to Public Service Company of New Hampshire (PSNH) customers, in response to an increase ordered by the Nuclear Decommissioning Finance Committee (NDFC); and

WHEREAS, on May 22, 1992, and in a further letter of clarification on May 28, 1992, PSNH filed comments on the Order, addressing the use of the Delivery Efficiency Factor and the amount of decommissioning charges included in base rates; and

WHEREAS, the Commission Staff (Staff) on May 27, 1992 filed comments on the Order, addressing the methodology used in calculating the proper charge for decommissioning costs, including its view that decommissioning costs should not be a basis on which PSNH can generate profits; and

WHEREAS, from PSNH and Staff's comments it appears that the Order's methodology for calculating the increase was in error, in that it called for compounding of the decommissioning charge by 5.5% in 1990, 1991 and 1992 when in fact there has been no increase on which compounding by 5.5% could have occurred; and

WHEREAS, PSNH acknowledged in its May 28, 1992 filing that 5.5% compounding of the increase ordered by NDFC is not an issue for the 1992 decommissioning charge, but remains an issue for the June 1993 rate increase under the Rate Agreement; and

WHEREAS, the Staff's comments express opposition to a 5.5% compounding of the increase amount, and suggest that the issue is

one on which a hearing should be held in anticipation of the treatment of the decommissioning charge in 1993; it is hereby

ORDERED, that the methodology for calculation of the increase in nuclear decommissioning charges ordered by the NDFC be and hereby is as follows:

1. Identify the amount of decommissioning costs included in the base rates;

2. Using the Delivery Efficiency Factor, surcharge the remaining amount to be assessed in order to collect the amount ordered by the NDFC, taking into effect the April 1, 1992 effective date set by the NDFC for the decommissioning charge increase;

3. Within ten days, file a compliance tariff with the Commission which identifies the amount to be surcharged; and it is

FURTHER ORDERED, that a hearing on the relationship between increases in decommissioning charges ordered by the NDFC and the PSNH Rate Agreement and orders in DR 89-244 is to be held on June 29, 1992, at 11:00AM at the Commission offices; and it is

FURTHER ORDERED, that PSNH effect notification of this hearing by causing an attested copy of this order to be published no later than June 12, 1992, once in a newspaper having general statewide circulation. Compliance with this notice provision shall be documented by affidavit(s) to be filed with the Commission on or before June 26, 1992; and it is

FURTHER ORDERED, that pursuant to RSA 541-A:17 and Puc 203.02, any party seeking to intervene in the proceeding shall submit a petition to intervene with a copy to PSNH and Commission no later than June 23, 1992.

By order of the New Hampshire Public Utilities Commission this third day of June, 1992.

==========

NH.PUC*06/03/92*[72949]*77 NH PUC 264*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72949]

NEW ENGLAND TELEPHONE COMPANY

DR 92-075
ORDER NO. 20,499

77 NH PUC 264

New Hampshire Public Utilities Commission

June 3, 1992

Order Approving Centrex Special Contract No. 92-3, with GTC Leasing, Inc.

On April 16, 1992, New England Telephone (NET or the company) petitioned for commission approval of a special contract to provide GTC Leasing, Inc. (GTC) with Analog Centrex Service; and

WHEREAS, the costs contained in this contract are based on the cost study methodology approved by the commission in docket DR 88-172, Report and Order No. 19,260, dated December 12, 1988, in which the commission found that NET had met its burden of proof that the proposed rates covered the costs of providing service; and

WHEREAS, the commission will reserve judgment on whether the methodology used in DR 88-172 is the most appropriate method for determining NET's costs of service until, as required in Report and Order No. 20,082, dated March 11, 1991, NET includes an analysis of the incremental costs of Centrex service when filing its updated Incremental Cost Study in 1993 (1993 ICS); and

WHEREAS, GTC has available competitive substitutes for Centrex service in the form of customer owned private branch exchanges; and

WHEREAS, it is likely that the service that is the subject of this special contract will fall under the heading of an emergingly competitive service which will receive more relaxed regulatory treatment and pricing flexibility; it is hereby

ORDERED NISI, that New England Telephone's Special Centrex contract with GTC be and hereby is approved; and it is

FURTHER ORDERED, that the rates for this contract be subject to review following the completion of the updated NET Incremental Cost Study to be supplied in 1993; and it is

FURTHER ORDERED, that NET provide

Page 264

---

an analysis comparing the rates in this contract to the costs identified in the 1993 ICS, citing the location in the 1993 ICS of each component used to determine the incremental cost of Centrex service, no later than 30 days after submission of the 1993 ICS; and it is

FURTHER ORDERED, that the parties are hereby put on notice that the commission will review NET's analysis of the costs identified in the 1993 ICS with the rates in this contract and, if after adequate opportunity to be heard, the commission finds that the contract rates are below their incremental costs, the commission will take appropriate action which may include modification or withdrawal of approval; and it is

FURTHER ORDERED, that upon finding that the contract rates are below their incremental costs, NET stockholders will make up the deficiency between the rates charged and the incremental cost, for the period during which rates for this service did not recover their costs; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules PUC 203.01, the company cause an attested copy of this Order Nisi to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than June 15, 1992 and it is to be documented by affidavit filed with this office on or before July 3, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than June 30, 1992; and it is

FURTHER ORDERED, that this Order NISI will be effective thirty days from the date of this order, unless the commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this third day of June, 1992.

==========

NH.PUC*06/03/92*[72950]*77 NH PUC 265*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72950]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DE 92-070
ORDER NO. 20,500

77 NH PUC 265

New Hampshire Public Utilities Commission

June 3, 1992

Order NISI Granting Authorization for Transfer of a Portion of the Service Territory of New Hampshire Electric Cooperative, Inc. to Public Service Company of New Hampshire in the Town of Plymouth.

WHEREAS, on April 10, 1992 the New Hampshire Electric Cooperative (petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking permission under RSA 374:22-c to transfer a portion of its service territory in the Town of Plymouth, New Hampshire to Public Service Company of New Hampshire (PSNH); and

WHEREAS, RSA 374:22-c has been repealed and the petition falls instead under the scope of RSA 374:22; and

WHEREAS, the transfer is being requested to provide service to a Gerald Walsh in the Town of Plymouth; and

WHEREAS, extension of service to the Walsh property by PSNH involves installation of approximately 5500 feet of new poles along Pike Hill Road, beginning at an existing pole in PSNH's service territory in the Town of Hebron; and an additional 700 feet of poles on Mr. Walsh's property; and

WHEREAS, documentation from both the petitioner and PSNH indicates that provision of service to said property by any alternative reasonably available to the petitioner would be much more costly and indirect, involving at least 13,000 feet of new installation; and

WHEREAS, Mr. Walsh is willing to pay for the cost of provision of said service by PSNH, and PSNH is willing to provide said service; and

WHEREAS, the portion of the service territory to be transferred is a 1000 foot by 2000 foot area on the Plymouth/Hebron town boundary, approximately centered on Pike Hill Road, a more

detailed description of which is provided in the petition; and

WHEREAS, it appears from the Commission's investigation that the proposed transfer of service territory is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than July 1, 1992; and it is

FURTHER ORDERED, that the petitioner effect said notification by:

(1) Causing an attested copy of this order to be published no later than June 17, 1992, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Plymouth and Hebron areas; (2) Providing, pursuant to RSA 541-A:22, a copy of this order to the Plymouth and Hebron Town Clerks, by First Class U.S. mail, postmarked on or before June 17, 1992; (3) Providing a copy of this order by First Class U.S. mail, postmarked on or before June 17, 1992, to each owner of record of land affected by this transfer; and (4) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before July 1, 1992; and it is

FURTHER ORDERED NISI, that authority be, and hereby is granted, pursuant to RSA 374:22, et seq., to the New Hampshire Electric Cooperative, RR #4, Box 2100, Tenney Mountain Highway, Plymouth, NH 03264-9420 to transfer to Public Service Company of New Hampshire that portion of its service territory in the Town of Plymouth described in the subject petition, effective July 2, 1992, unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that the petitioner and PSNH file revised Commission service territory maps by September 30, 1992, reflecting the above transfer of service territory and specifying thereon that the maps are effective July 2, 1992 by authority of the above Commission order number.

By order of the New Hampshire Public Utilities Commission this third day of June, 1992.

==========

NH.PUC*06/04/92*[72951]*77 NH PUC 266*ECI TELEPHONE COMPANY, INC.

[Go to End of 72951]

ECI TELEPHONE COMPANY, INC.

DE 91-133
ORDER NO. 20,501

77 NH PUC 266

New Hampshire Public Utilities Commission

June 4, 1992

Reconsideration of Order Imposing Fines for Non-Compliance with COCOT Rules

---

On March 24, 1992, Mr. John Buczynski submitted a letter to the New Hampshire Public Utilities Commission (Commission) asking for relief from fines that had been imposed against ECI Telephone Company, Inc., (ECI) in Order No. 20,413, dated March 12, 1992.

WHEREAS, the Commission heard Mr. Buczynski's plea for relief at a hearing on May 26, 1992; and

WHEREAS, Mr. Buczynski stated he filed for personal bankruptcy on May 6, 1992, and ECI was defunct, without assets; and

WHEREAS, Mr. Buczynski stated he has an outstanding personal loan in the amount of approximately $47,000 which was invested in ECI; and

WHEREAS, Mr. Buczynski estimated his outstanding telephone bill owed to New England Telephone and Telegraph Company (NET) for services used in the provision of ECI COCOT service was approximately $8,700; and

WHEREAS, Mr. Buczynski indicated he was unable to pay the fine, but was not disputing revocation of his authority to provide COCOT service in the State of New Hampshire; and WHEREAS, Mr. Buczynski stated that

---

five pay-telephone sets remained installed at former customer premises, one of which Mr. Buczynski stated, the customer contended could not be removed until Mr. Buczynski fulfilled his contractual obligations; it is hereby

ORDERED, that Mr. Buczynski remove the four undisputed pay-telephone sets from his former customers' premises no later than June 9, 1992; and it is

FURTHER ORDERED, that Mr. Buczynski make arrangements satisfactory to the proprietor of Wayne's Market regarding his contractual obligations of the fifth phone located at Wayne's Market no later than June 12, 1992; and it is

FURTHER ORDERED, that Mr. Buczynski notify this Commission, in writing by June 16, 1992, of the disposition of the five phones; and it is

FURTHER ORDERED, that Mr. Buczynski make payment arrangements with NET to resolve ECI's outstanding telephone bill and notify this Commission of such an arrangement; and it is

FURTHER ORDERED, that the decision on Mr. Buczynski's request for relief from payment of the fines imposed in Order No. 20,413, be delayed until July 6, 1992, pending a satisfactory payment arrangement for the unpaid NET bill.

By order of the New Hampshire Public Utilities Commission this fourth day of June, 1992.

==========

NH.PUC*06/05/92*[72952]*77 NH PUC 267*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICE COMPANY

[Go to End of 72952]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICE COMPANY

DR 89-219
ORDER NO. 20,502

77 NH PUC 267

New Hampshire Public Utilities Commission

June 5, 1992

Order Authorizing Disbursement of Escrow Funds

By Report and Order No. 19,655 (dated December 28, 1889) in Docket DR 89-219 (Order No. 19,655), the New Hampshire Public Utilities Commission (Commission) approved the escrow of the temporary 5.5% rate increase collected between January 1, 1990 and June 30, 1990, to be maintained by the Treasurer of the State of New Hampshire in an interest bearing escrow fund (Escrow Fund); and

WHEREAS, in accordance with Order No. 19,655, the Commission must authorize release of the Escrow Fund upon either of two conditions, one of which is the merger between Public Service Company of New Hampshire (PSNH) and Northeast Utilities (NU); and

WHEREAS, all regulatory requirements necessary to the merger have been met; and

WHEREAS, in accordance with the Recommendations of the Parties for Escrow of PSNH Temporary Rates, dated December 20, 1989 and approved by this Commission in Order No. 19,655, NUSCO has provided the Commission written notification that the Acquisition Effective Date has occurred, in that final documents effectuating the merger were filed with the New Hampshire Secretary of State on June 5, 1992; and

WHEREAS, in accordance with Order No. 19,655, NUSCO has provided the Commission written notification that the

principal amount of the Escrow Fund now totals $15,798,955.95 and is to be released to PSNH for inclusion in income and use by PSNH; and

WHEREAS, in accordance with Order No. 19,655, NUSCO has provided the Commission written notification that the earned interest portion of the escrow account, totalling approximately $1,800,000.00, will be applied towards the current Fuel and Purchased Power

Adjustment Clause charges pursuant to the Commission's order; it is hereby

ORDERED, that the Treasurer of the State of New Hampshire, acting as Escrow Agent, disburse the Escrow Fund to PSNH for inclusion in income and use by PSNH; and it is

FURTHER ORDERED, that in accordance with Order No. 19,655, the portion of the Escrow Fund representing interest earnings shall be expensed and applied by PSNH to reduce charges to be recovered from ratepayers under the Fuel and Purchased Power Adjustment Clause for the current period.

By order of the New Hampshire Public Utilities Commission this fifth day of June, 1992.

==========

NH.PUC*06/05/92*[72953]*77 NH PUC 268*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72953]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-050
ORDER NO 20,503

77 NH PUC 268

New Hampshire Public Utilities Commission

June 5, 1992

Report Approving in Part and Denying In Part Fuel and Purchased Power Adjustment Clause Charges

---

Appearances: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Rath, Young, Pignatelli and Oyer by William F. Ardinger, Esq. and Day, Berry and Howard by Robert P. Knickerbocker, Esq. and Gerald Garfield, Esq. for Northeast Utilities Service Company; Shelley A. Nelkens, pro se; Representative Mary C. Chambers (limited intervenor); Campaign for Ratepayers Rights (limited intervenor) by Robert C. Cushing, Jr.; Business and Industry Association (limited intervenor) by Kenneth Colburn; Michael W. Holmes, Esq. and Joseph W. Rogers, Esq. of the Office of the Consumer Advocate on behalf of residential ratepayers; James T. Rodier, Esq. on behalf of the Commission Staff.

REPORT

I. PROCEDURAL HISTORY

On March 18, 1992, Public Service Company of New Hampshire (PSNH) filed a request for a hearing on the Fuel and Purchased Power Adjustment Clause (FPPAC) for the period from June 1, 1992, through November 30, 1992. An Order of Notice set a prehearing conference for April 9, 1992. (March 25, 1992). At the prehearing conference, the New Hampshire Public Utilities Commission (commission) granted intervention to Northeast Utilities Service Company (NUSCO), Business and Industry Association (BIA) and Shelley Nelkens. Tr. April 9, 1992 at 6. On March 16, 1992, PSNH submitted a Stipulation and Recommendations on Procedure and

Scope. The commission adopted the Stipulation, set a technical conference for May 1, 1992, and scheduled the hearing to be held May 5 through 8, 1992. Report and Order No. 20,444 (April 20, 1992). The hearing was held on May 6 through 8, 1992, with the Seabrook outages issues to be continued at a later undetermined date.

On April 23, 1992, PSNH filed a Motion for Protective Order pertaining to Staff Data Request No. 68 which the commission subsequently granted. Report and Order No. 20,460 (April 27, 1992).

On May 22, 1992, PSNH submitted a letter to the commission identifying those issues that were either uncontested or would be deferred for late briefing. This letter has been attached hereto as Attachment 1.

On May 27, 1992, PSNH, Staff and OCA filed briefs containing their respective positions and arguments on the four contested issues in this proceeding.

II. SCOPE OF THE PROCEEDING

The scope of this proceeding is to establish an FPPAC rate for effect from June 1, 1992 through November 30, 1992. PSNH is proposing an FPPAC rate of 0.000 /Kwh for

that period. PSNH filed a document entitled "Stipulation and Recommendations on Procedure and Scope" with the commission on March 16, 1992. The Stipulation, noted supra, was adopted by the commission on April 20, 1992, and provided that the currently-effective FPPAC rate remain in effect through May 31, 1992; and that a new FPPAC rate will be implemented on a bills-rendered basis as of June 1, 1992.

This proceeding will also include an examination and reconciliation of actual FPPAC costs for the period from May 16, 1991, through January 31, 1992.

III. POSITIONS OF THE PARTIES AND STAFF

As noted supra, there are four issues which have been contested in this proceeding.

A. Trigger Mechanism

1. Staff and OCA

Staff and OCA argue that PSNH should have acted sooner in informing the parties as to the growth and magnitude of PSNH's over collection from ratepayers. FPPAC should not be used for the purposes of a short-term loan to PSNH at a prime interest rate when customers are borrowing at double digit rates of interest. The trigger mechanism needs to provide a meaningful opportunity for the parties to request interim changes. OCA also proposes that PSNH be penalized in the amount of $10,000 for its unreasonable conduct.

Staff and OCA recommend that the commission order the parties to consult on this matter and report to the commission within 30 days on a mechanism that will ensure that such huge overrecoveries/underrecoveries will not occur in the future.

2. PSNH

PSNH argues that the magnitude and rate of growth of the swap savings were unanticipated.

The fact that the trigger threshold had been exceeded was not fully known to PSNH's personnel responsible for FPPAC until such time as estimates and calculations were being made for this FPPAC filing. PSNH is prepared to consult with Staff and other parties to ensure that an update of estimated data will be provided in a monthly FPPAC data filing. This update will provide an opportunity for an interim review and correction, if required, in the future.

B. Swap with Boston Edison Company

1. Staff and OCA

Staff and OCA argue that PSNH should have taken more vigilant action to ensure that the benefits of the swap with Boston Edison Company (BECo), as originally anticipated, were realized.

2. PSNH

PSNH and NUSCO argue that the agreement provided no guarantee of savings, only an opportunity, and that PSNH was prudent to revise the agreement and obtain all the energy from BECo during Seabrook's outage when it had the most value to PSNH.

C. Central Vermont Public Service Energy Penalty

1. Staff and OCA

Staff and OCA argue that PSNH should have anticipated the existence of a swap with Northeast Utilities (NU) at the time when the Newington sale was made and factored that element into the arrangements with Central Vermont Public Service (CVPS). The results of the sale ought to be restated to exclude any energy penalty resulting from the sale.

2. PSNH

PSNH argues that the Newington sale was made before the swap was consummated. It should be analyzed based upon the information available when the sale was made, rather than after the fact. The effects of the swap must be

excluded when analyzing the results of the Newington sale to CVPS.

D. PSNH/NU Swap

1. Staff and OCA

Staff and OCA argue that the commission stated, in its final decision in the last FPPAC proceeding, that PSNH must show quantitatively that it optimized its relationship with NU including maximizing the swap savings and its share of the swap savings, and that no other markets were available for PSNH base load energy sales which would have been more attractive than the swap. All savings from the PSNH/NU swap ought to be divided between PSNH and NU based upon attribution to the generating stations that produced the savings. PSNH should have had a swap in effect for the full month of October, 1991. PSNH should also have exchanged more megawatts of Seabrook entitlement during August, 1991.

2. PSNH

PSNH argues that PSNH met its burden of showing that PSNH and NU maximized the possible savings available to the companies prior to merger. Section 4 of the Rate Agreement does not require PSNH and NU to create an exact facsimile of the Sharing Agreement prior to merger, just use their best efforts at achieving as much energy savings through an energy exchange agreement, i.e. energy swaps. Imitating the Sharing Agreement is not possible under NEPOOL rules prior to merger; furthermore, all sales and purchases of capacity by both companies should be taken into account. The Management Services Agreement suggests that an equal split of the savings was reasonable in the current energy and capacity market.

According to PSNH, PSNH and NU were restructuring the swap arrangements in October, 1991, and could not come to agreement on a monthly continuation of the swap. PSNH did not have much exposure at this time, and PSNH mitigated the lack of a swap with daily transactions. PSNH had set up an optimal swap for August, 1991, contingent upon Newington being in service. When Newington went out of service, PSNH saved the swap by offering Seabrook outage service.

IV. APPLICABLE LEGAL STANDARDS

The New Hampshire General Court granted the commission authority to determine rates based upon what is "just and reasonable." RSA 378:7. Case law provides guidance for interpreting this broad standard. When a utility has exhibited inefficiency, improvidence, economic waste, abuse of discretion, or action inimical to the public interest, costs incurred may not be passed on to ratepayers. Appeal of Seacoast Anti-Pollution League, 125 N.H. 708 (1985). The prudence standard is one of the specific standards that has been developed by the Court to govern the inclusion or exclusion of costs for ratemaking purposes. Appeal of Conservation Law Foundation, 127 N.H. 606, 637 (1986).

Prudence is "essentially....an analogue of the common law negligence standard". Id. "While the scope of the prudence principle is by no means clear, it at least requires the exclusion from rate base of costs that should have been foreseen as wasteful." Id. "[P]rudence judges an investment or expenditure in the light of what due care required at the time an investment or expenditure was planned and made...." Id. at 638.

The test of due care asks what a reasonable person would do under the circumstances existing at the time of a decision. Fitzpatrick v. Public Service Co. of N.H., 101 N.H. 35 (1957). Stated differently, a lack of due care is the failure to use that degree of care that the ordinary reasonably careful and prudent person would use under like circumstances. 57A Am. Jur. 2d Negligence 7 (1989).

One of the factors relevant to determination of reasonable care under the circumstances is special skill or knowledge:

One who engages in a business, occupation, or profession must exercise the requisite degree of learning, skill, and ability of that calling with reasonable and ordinary care; furthermore, the specialist within a profession may be held to a standard of care greater than that required of the general practitioner.

Id. at 190.

Consequently, it is the commission's responsibility and obligation under the law to determine whether PSNH conducted itself with the ordinary and reasonable level of care expected of highly trained and compensated specialists with regard to the four contested issues in this proceeding.

V. COMMISSION ANALYSIS

We now turn to our analysis and findings with respect to the four contested issues in this proceeding.

A. Trigger Mechanism

All parties and staff agree and we are persuaded that the current mechanism does not work well. Accordingly, we direct staff and parties to meet and discuss the problem and present to the commission within 30 days of the date of this order a joint recommendation or, if unable to agree on one recommendation, a series of individual recommendations for an improved mechanism.

B. Boston Edison Swap

During the period which is subject to reconciliation in this proceeding, PSNH entered into a transaction with Boston Edison Company, described by PSNH in the following manner:

PSNH sold Seabrook to BECo during Pilgrim's outage during May through mid July 1991. BECo was to have returned a like amount of energy to PSNH during Seabrook's outage in late July through early October. The energy was to have come from Pilgrim and BECo's share of Millstone 3. Unfortunately, Pilgrim was late returning from its outage and Millstone 3 went off line unexpectedly just prior to the start of Seabrook's outage. BECo followed through on the obligation to return power to PSNH, but they were not able to deliver from Pilgrim until later in the period than originally planned and the balance of the energy was delivered from BECo System Power. PSNH realized only about one tenth of its expected savings because the energy was not returned at the most optimal times. (Emphasis added).

Exhibit No. 19 at 11.

We agree with Staff's position that PSNH did not demonstrate that it undertook reasonable efforts to ensure that the return of energy from the BECo swap would be at comparable value. We are particularly persuaded by the testimony of Ms. Wood as to the intent and meaning of the contract with BECo:

What we're saying is that the energy was expected to have a certain value to Public Service during Seabrook's outage and if for some reason BECo can't return that energy during the Seabrook outage, then the intent is to try to schedule the return of that energy in a period that would have comparable value for Public Service to the period when Seabrook was out.

Tr. May 6, 1992 at 135.

Our attention is drawn to the words "comparable value", and it is clear from the record that no such value resulted from the swap in this instance. The sequence of events leading up to the swap, in fact, leads us to question whether or not the swapping mechanism, as used in this instance, is a

prudent negotiating tool. From the initiating party's viewpoint, it probably is, since that party is aware of an imminent shut-down and is aware of the likelihood of availability of the swapping partner's capacity. The passing of time before the returned capacity is claimed, however, reduces the likelihood that the expected capacity will be available, and therefore reduces the likelihood that the expected comparable savings will be achieved.

The instant case exemplifies the problem. BECo and PSNH negotiated the swap in late April, just one week before BECo's Pilgrim plant went off line. The return of the swapped capacity from BECo, however, was to occur four months after the negotiations a length of time which, at best, increased the possibility of the unavailability of BECo's plants for replacement power.

PSNH testified that it was only due to their extraordinary efforts that even $100,000 of offsetting power was received. We are persuaded by the record that there were other measures that they could have taken to obtain a more advantageous power mix and which would have reached a more "comparable value" than was achieved. If we accepted that such were not the case, however, and we accepted that PSNH had done all it should have done to reach "comparable value", then we would be inclined to investigate whether the mechanism by which swaps occur is prudent, and whether such swaps should be disallowed unless provisions were added to assure that comparable value is assured.

We find that the record does not support a conclusion that PSNH used its best efforts to ensure that the swap would achieve comparable value, and therefore, we will not allow recovery of the $900,000 in additional costs which should have been avoided.

C. Newington/Central Vermont Energy Penalty

PSNH indicated, in its prefiled testimony, that it had negotiated a sale of 7 MW of Newington to Central Vermont Public Service for the months of December, 1991, and January and February, 1992. CVPS was motivated by a need for reasonably priced energy; they didn't particularly need the capacity.

Exhibit No. 19 at 11, 12.

In this proceeding, an issue was raised by staff as to whether there was any incremental energy (i.e. an "energy penalty") cost flowing through FPPAC as a result of the sale by PSNH of 7 MW from Newington to CVPS.

During cross-examination, PSNH testified as follows:

If we had committed to the swaps with Northeast Utilities that we did commit to prior to making this sale to Central Vermont Public Service, in all likelihood we would have seen an energy penalty.

At the time I made the commitment to Central Vermont Public Service, I was aware that there was a high likelihood that we would have a swap in place with Northeast Utilities -

Tr. May 6, 1992 at 145-147.

In essence, PSNH appears to contend that, because the Newington sale was made before the

swap with NU was consummated, even though a swap was a "high likelihood", they should be allowed to pocket all of the capacity-related revenue received from CVPS and should not have to offset any energy penalty that will be visited on its ratepayers. We disagree.

The sale to CVPS might have been a prudent decision if it had been made in the absence of any negotiations with other utilities which would materially affect the economics of the sale to CVPS. In the instant case, however, the company knew there was a "high likelihood" of a pending NU swap which would, if it occurred, incur energy penalties. The record provides no insight as to whether or

not there were economic advantages to the company and its customers which resulted from the sale even after consideration of the energy penalty. If there had been, we might view the prudency of this transaction differently. The record reveals no such advantages, however. We find, therefore, that PSNH did not give adequate consideration to the risk that the energy penalties would be imposed, and we will not allow them to impose those penalties on to their customers.

We will require PSNH to credit to FPPAC a portion of the capacity-related revenue it would otherwise retain as income sufficient to offset the "energy penalty" on its customers including any impact on the NU/PSNH swap savings.

D. NU/PSNH Swap

There are three sets of transactions between PSNH and NU at issue: a swap with NU in August 1991; a swap with NU in October, 1991; and a series of transactions with NU and third parties during the FPPAC reconciliation period.

Contrary to the urgings of Staff and other parties, we do not find evidence that PSNH was in error in contracting for the August, 1991, swap with NU during the period in which Newington Station and Seabrook were out of service.

The August, 1991 swap provided NU with an entitlement of 270 megawatts from PSNH's Newington Station. The agreement allowed NU to suspend the swap if Newington went out of service, evidencing the importance to NU of Newington as part of the mix of swapped units. Id. at 119. When Newington did go out of service, instead of allowing NU to suspend the swap, PSNH reformed the agreement and offered NU Seabrook scheduled outage service and took back NU combustion turbines which were more expensive on NU's system. PSNH made this change to the agreement at little or no cost, and the remaining benefits of the swap were rescued for PSNH's customers.

Similarly, we find no evidence that PSNH was in error in contracting for the October, 1991 swap with NU.

Seabrook's availability has a substantial impact upon the economics of the PSNH system. During the early autumn of 1991, PSNH and NU were discussing ways of adjusting swaps after Seabrook completed its refueling and returned to service. The September swap was merely continued during this period. Tr. May 6, 1992 at 110-111. In October, 1991, PSNH and NU were attempting to restructure the swap arrangements and could not come to agreement on sharing the

risk of unit availability, particularly for the large nuclear units on both systems. Id. Prior to October, 1991, PSNH and NU were adjusting the monthly swap agreements based upon the actual availability of large base load nuclear units and, as noted earlier, the process evolved to longer- term swaps based on projected data. The new swap began on November 1, 1991, after the arms-length negotiations over availability risk were resolved. A portion of the October swap became a victim of that negotiation process. Id. at 113-114.

We now turn to the principal issue in this proceeding which involves the sharing of swap savings prior to merger.

Mr. Staszowski, PSNH's director of power supply, discussed the capacity swaps between PSNH and NU which were in effect for the period July, 1991, through April, 1992. These capacity swaps were designed to realize, prior to merger, some of the combined system energy savings which will be created by the PSNH/NU merger. They account for the majority, in dollar volume and energy, of PSNH's power contracting business in this period. Exhibit 19 at 2.

According to Mr. Staszowski,

The objective of the swap capacity between two utilities is to increase or to create savings that aren't otherwise present on this system by swapping units on one system which has less value than the units have on the other person's system. By reducing the size of the units such that they operate more efficiently in the on-load dispatch.

Page 273

Tr. May 6, 1992 at 77.

Under cross-examination, Mr. Staszowski agreed that PSNH typically transferred 700 MW of its generating capacity to NU, which is about 40 percent of its total resources. Id. at 78. During the current period, PSNH received in excess of $80 million in revenue from the sale of over four billion kilowatt hours to NU. Id. at 80.

During the cross-examination of Mr. Staszowski, as noted in staff's brief, the essence of the swap reduced to the following description:

Q Okay. Basically what I think they're saying is that, with Seabrook in service, Public Service has an awful lot of base load energy to get rid of out-of-state, is that correct?

A We have more base load capacity than we need for our load curve.

Q Okay. Well, if you're selling six million to people in the state and four out-of-state, I mean, I would say that's substantial, wouldn't you?

A Yes, I would.

Q Okay. And can we agree that the lion share of this energy going out-of-state is going to NU?

A Yes.

Id. at 89.

Moreover, if PSNH surplus power is sold off the combined system after the merger, PSNH will get the lion's share of the benefit as confirmed in the following exchange during cross

examination:

Q In any event, I think we agreed that NU will call the shots on, if there is a sale of Public Service surplus power, NU will call the shots on it and if Seabrook is running, Public Service will get the lion's share of the benefit back, is that correct?

A If PSNH creates the savings, PSNH will get the lion's share of the benefit.

Id. at 107.

It also became readily apparent during cross-examination that there was no good reason why PSNH should not have received the lion's share of the benefits generated by the current swap prior to the merger:

Q What I'm wondering is there anything that you know of that would prevent NU from giving back to Public Service more than fifty percent of the savings that PSNH creates on the NU system?

A John Ash. Northeast Utilities would, in all likelihood, not agree to a swap that did not divide the savings 50/50. I've asked.

Q Okay.

A The level is proportioned to vary, but in their favor.

Q The simple fact of the matter is, they wouldn't agree to give you back more than fifty percent of the savings you created?

A That's correct.

Tr. May 6, 1992 at 172. (Emphasis added.)

PSNH argued strenuously that the Rate Agreement provides for an even division of energy savings between the NU and PSNH systems and requires a "best effort" to achieve as much of the expected energy savings as possible before the merger through energy exchange contracts. In the last FPPAC proceeding, the commission categorically

Page 274

rejected this position and admonished PSNH as follows:

PSNH has the burden of demonstrating that its ratepayers are obtaining the maximum benefits possible from the sale of PSNH's surplus capacity. In subsequent proceedings, we will require PSNH to demonstrate quantitatively that not only has it optimized its contractual arrangements with NUSCO, but that it has also ascertained that other possible markets for the sale of the surplus power would not be as productive and profitable for PSNH ratepayers as selling the surplus to NUSCO.

Report and Order No. 20,475 (October 25, 1991) at 17.

The record does not clearly delineate the full details of the final category of transactions, and thus, we cannot yet rule on the prudency of those arrangements. We are not persuaded, however, by PSNH/NU's arguments that the savings of any pre-merger swaps or sales be shared on an equal 50/50 basis between PSNH and NU. Our concerns are heightened by Ms.

Wood's own apparent attempt to garner more than 50 per cent of the savings. We are inclined to believe that since the full benefits were provided by PSNH and prior to the merger, those benefits should accrue to PSNH's ratepayers. We recognize, however, that NU, upon further record development of these transactions, may persuade us that some portion of the savings should accrue to NU. We are not able on the basis of this record now before us, however, to determine what, if any, sharing mechanism is appropriate.

In its brief, OCA expressed an additional concern pertaining to the PSNH/NU swap,

Through cross-examination, record request 4, and a clarification to said record request, the OCA sought to learn if NU was making off-system sales (energy or capacity) and retaining 100% of those sales margins, while concurrently receiving PSNH power (sales or capacity) through the swap to meet NU's retail needs, while also receiving 50% of PSNH's generated savings.

OCA Brief at 5-6.

OCA has requested the commission to defer ruling on this issue until further investigation and discovery can take place.

Clearly, another hearing is necessary to present full evidence on all of the swap-related transactions on the record. We ask PSNH to quantify each transaction in greater detail, providing us with the amount of energy in question, the cost, and with whom the transaction occurred, as we believe it may be relevant to distinguish between swaps with NU and sales to third parties.[1(10)] We suggest the matter be addressed in conjunction with the Seabrook outage issues deferred until June 25, 1992. Of course, if PSNH is not able to present evidence on the questions we have identified by that date, we ask PSNH to consult with the Staff and parties to determine a mutually agreeable hearing date for this issue.

E. Conclusion

As noted supra, PSNH has proposed an FPPAC rate of 0.000 /Kwh. Although the foregoing analysis and findings will likely result in a substantial disallowance of cost recovery for PSNH, it is nevertheless just and PSNH Form 10-Q at 20 (May 14, 1992). reasonable to approve PSNH's proposed FPPAC rate of 0.000 /Kwh. Mr. Hall of PSNH quite accurately summarized in simple terms how Paragraph B.K. of FPPAC works under current circumstances:

As a result of that increased over-recovery, which we then incorporated into the calculation of the rate in effect from June through November '92 that increased over-recovery resulted in a negative FPPAC rate even with recovering all of the Cooperative's cost. Now under that scenario, what

Page 275

we did in response to the data request is we didn't file calculations showing a negative FPPAC rate. Rather, we filed calculations again showing an FPPAC rate of zero. The way we got from a negative FPPAC rate up to a rate of zero was to assume that we would begin amortizing some of the previously deferred Cooperative cost in a sufficient amount to eliminate the negative FPPAC rate and bring the rate to zero. Tr. May 6, 1992 at 13 (Emphasis added).

Stated differently, it is necessary to decouple PSNH's proposed FPPAC from its current level of prudent cost recovery. Even though the ultimate level of prudent cost recovery allowed by the commission will be less than the BA reference level contained in FPPAC, PSNH is entitled under Paragraph B.K., to bill an FPPAC rate 0.000 /Kwh rather than a negative FPPAC rate (i.e., a bill credit). This will allow PSNH to recover some of the FPPAC costs that have been deferred for future recovery, thereby benefitting customers over the long run.

Our order will issue accordingly.

Concurring June 5, 1992

ORDER

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

ORDERED, that PSNH's proposed FPPAC rate of 0.000 cents per kilowatt hour is approved for all bills rendered on or after June 1, 1992, until November 31, 1992; and it is

FURTHER ORDERED, that PSNH shall recalculate their recoverable FPPAC costs in a manner consistent with the foregoing report and any further report and order issued by this commission subsequent to completion of the record in this proceeding; and it is

FURTHER ORDERED, that PSNH's proposed rates for small power producers (Exhibit 15) are approved.

By order of the Public Utilities Commission of New Hampshire this fifth day of June, 1992.

FOOTNOTES

[1]PSNH very recently reported the following information to the Securities and Exchange Commission:

Revenues for the quarter ended March 31, 1992 include $53.7 million in short-term power sales, of which $47.8 million was sold to NU, compared to $32.2 million in total short-term power sales, of which $29.6 million was sold to NU, for the same period in 1991. The significant increase in short term sales to NU is primarily due to a decrease in the availability of NU system capacity, since NU's Millstone units were out of service at various points during the period.

==========

NH.PUC*06/08/92*[72954]*77 NH PUC 276*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72954]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 91-001
ORDER NO. 20,504

77 NH PUC 276

New Hampshire Public Utilities Commission

June 8, 1992

Order Approving Stipulation on Retail Rate Redesign

Appearances: Thomas B. Getz, Esq., for Public Service Company of New Hampshire; Rath, Young, Pignatelli and Oyer, by Eve H. Oyer, Esq., for Northeast Utilities Service Company; Brown, Olson & Wilson by Paul Savage, Esq., for the Biomass Intervenors; Business and Industry Association by Kenneth Colburn; Office of Consumer Advocate by Michael Holmes, Esq., for Residential Ratepayers; Campaign for Ratepayer Rights by Robert Cushing; Shelley Nelkens, appearing pro se; and James T. Rodier, Esq. for the staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

The instant proceeding stems from New Hampshire Public Utilities Commission (Commission) Order No. 19,889 in docket DR 89-244, the Northeast Utilities/Public Service

Page 276

Company Reorganization Proceeding that approved the Rate Agreement between Northeast Utilities (NU) and the State of New Hampshire and, inter alia, ordered the Commission Staff and Public Service Company of New Hampshire (PSNH) to consult and propose a rate design proceeding by January 1, 1991. On December 20, 1990, PSNH filed a Petition for a Rate Design Proceeding (Petition or Proposal) with a proposed procedural schedule.

An order of notice issued on January 14, 1991 opened the proceeding and scheduled a prehearing conference for January 31, 1991. At the prehearing conference, the Commission received petitions and heard oral argument concerning intervention, procedural schedule, scope, and discovery. The

Commission received written motions for intervention from the following before the January 31, 1991 prehearing conference: Ms. Shelley Nelkens, representing New Hampshire Citizens v. Price Anderson, as well as herself as an individual ratepayer of PSNH; Mr. Robert Cushing, representing Campaign for Ratepayers Rights (CRR) on behalf of its members; and Northeast Utilities Service Company (NUSCO). Kenneth Colburn of the Business and Industry Association (BIA) filed a motion for intervention at the prehearing conference.

PSNH filed an Objection to CRR's Petition to Intervene on January 30, 1991, claiming, inter alia, that CRR did not establish that the proceeding would affect CRR's rights, duties, privileges, immunities, or other interests. Additionally, at the prehearing conference, PSNH opposed Ms. Nelkens' petition to represent New Hampshire Citizens v. Price Anderson citing many of the same arguments PSNH applied to its Objection to CRR. PSNH's Objections to CRR and Ms. Nelkens were joined by NUSCO.

At the prehearing conference the Commission granted full party intervention to NUSCO, BIA, and CRR. Ms. Nelkens was granted intervenor status as an individual ratepayer of PSNH

appearing pro se. Tr. at 10. New Hampshire v. Price Anderson was denied its motion to intervene on the grounds that the group had failed to demonstrate an interest in the immediate proceeding. Tr. at 11.

On April 3, 1991, a Motion to Intervene was filed on behalf of Alexandria Power Associates, Hemphill Power and Light Company, Whitefield Power and Light Company and Pinetree Power - Tamworth, Inc., (Biomass). On April 10, 1992, Biomass refiled its Motion to Intervene in accordance with the newly promulgated rules for intervention, citing that PSNH's filing would substantially affect the interests of Biomass while not impairing the orderly or prompt conduct of the proceeding. The Commission granted Biomass full party intervention on April 17, 1991, subject to the requirement that Biomass not be the cause, in and of itself, of any delay to the procedural schedule. See Order No. 20,115, issued April 17, 1991.

The procedural schedule approved by the Commission on March 12, 1991, was amended numerous times to afford the parties additional time to review and, if possible, resolve the various rate design issues proposed by PSNH. After filing a status report with the Commission on August 2, 1991, detailing the position of the Parties in regard to a Stipulation, PSNH filed on September 20, 1991, with the support of the Staff and all the Parties, a new Motion to Establish a Procedural Schedule. The PSNH Motion was approved by the Commission in a letter to the Parties dated September 23, 1991. On October 2, 1991, PSNH filed a Report and Stipulations As To Retail Rate Design (Stipulation attached hereto as Attachment A). A narrative of the Stipulation was filed on December 2, 1991.

On October 23, 1991, Biomass filed on behalf of Hemphill Power and Light Company and Whitefield Power and Light Company a Motion for Extension of Time in Which to Submit Testimony (Motion for Extension). On October 25, 1991, PSNH filed an Objection to the Biomass Motion for Extension. At the Commission's October 25, 1991 public meeting, Biomass' Motion for Extension of Time in Which to Submit Testimony was denied. Among the reasons cited by the Commission were Biomass' April 10 Motion to Intervene, which indicated Biomass would not

hinder or disrupt the proceeding, its agreement to the September 20, 1991 procedural schedule approved by the Commission, the lack of concurrence by the Parties, the lateness of the Motion for Extension which provided only two days for filing of objections from other Parties, and Biomass' failure to mention any reason whatsoever other than "circumstances" for its Motion.

During the proceeding CRR, through its agent, Mr. Robert Cushing, filed a Motion to Reserve, Certify and Transfer Question of Law to the Supreme Court (Motion on Question of Law). CRR requested that the Commission reserve, certify and transfer two questions to the New Hampshire Supreme Court pertaining to rate design class allocations as described in RSA 362-C:8 and RSA 362-C:9. CRR Motion at 4.

PSNH objected to CRR's March 22 Motion on Question of Law contending that "its rate design proposals are designed to be revenue neutral and, since the revenue integrity of the four major customer classes remains intact and the overall level of rate increases is unaffected, its

proposed rate design changes are consistent with RSA 362-C:8 and C:9." PSNH Objection at 1. The Commission denied CRR's Motion on Question of Law, citing the Commission's lack of a record upon which to make findings of fact; thus, no justiciable controversy for Supreme Court review existed at the time of CRR's Motion on Question of Law. Report at 2. Report and Order No. 20,126 dated May 6, 1991. Further, the Commission invited argument during the proceedings concerning the Commission's authority to allow rate changes under RSA 362 C:8 and stated the final order would delineate its position. Report at 3. On December 3, 1991 the Commission heard testimony from PSNH and the Staff on the Stipulation. On December 13, 1991, Mr. Paul Savage, Esq., filed on behalf of Hemphill Power and Light Company and Whitefield Power and Light Company (Hemphill and Whitefield), a Proposed Findings of Fact and Rulings of Law (Proposed Findings).

By letter from Ms. Deborah S. Smith, Esq., dated December 13, 1991, the Conservation Law Foundation (CLF) expressed its concern about the Stipulation.

On April 30, 1992, PSNH filed a technical statement proposing that certain rate design proposals in the October 3, 1991 Stipulation be amended before becoming effective on June 1, 1992. A Rate Phase-In Stipulation (Phase-In Stipulation) on the proposed changes was filed by PSNH on May 15, 1992. An Order of Notice was issued May 19, 1992 setting a hearing for May 28, 1992 on the merits of the Rate Phase-In Stipulation. On May 25, 1992, an Objection to the Rate Phase-In Stipulation was filed by Mr. Savage on behalf of Hemphill and Whitefield. A hearing on the Rate Phase-In Stipulation was held May 28, 1992. At the hearing PSNH amended the Rate Phase-In Stipulation and Mr. Savage withdrew his Objection to Rate Phase-In Stipulation as proposed on May 15, 1992.

II. RATE DESIGN PROPOSAL OF PSNH

In its February 1, 1991 filing, PSNH provides an overview of its past rate design proceedings, the rate design standards, principles and objectives PSNH advocates in this proceeding, proposed tariff changes and supporting cost studies. PSNH points out that the immediate filing differs from the three most recent proceedings involving rate design, dockets DR 79-187 (Phase II), DR 82-333 (Part B), and DR 86-122, because, due to the Rate Agreement which was approved by the Commission in docket DR 89-244, PSNH is not seeking neither an increase in revenues nor a reallocation of cost responsibility among the residential, commercial or industrial classes. The Rate Agreement sets forth a specific schedule of base rate increases over the term of the Rate Agreement; RSA 362-C, its enabling legislation, states that

... during the fixed rate term of the approved agreement or plan the commission shall not cause the allocation of rate responsibility among residential, commercial, industrial and municipal customers in effect on September 15, 1989, for the electric

customers, serviced by Public Service Company of New Hampshire or its successor, to change without legislative approval...

RSA 362-C:8.

PSNH views its petition as an opportunity to examine and move toward a better, more cost

reflective rate design within each customer class without the intrinsic difficulties of class revenue allocation.

PSNH refers to the Public Utilities Regulatory Policies Act of 1978 (PURPA) ratemaking standards it and the other parties to DR 79-187 adopted, as well as the understanding among the parties in DR 79-187 that for any particular case, other ratemaking objectives or provisions of state law may govern the applicability or implementation of the agreed upon PURPA standards.[1](11) PSNH, in DR 79-187, adopted and continues to support the objectives of rate continuity, revenue stability, and practicality of rates. By rate continuity, PSNH refers to the consistency of rates and their gradual adjustments. Revenue stability reflects matching the Company's revenues with its costs. PSNH believes feasibility, understandability, simplicity and customer acceptance are all part of the practicality of rates. As PSNH moves closer to merging with the Northeast Utilities system (NU), PSNH envisions and supports movement that will minimize the differences between the rate design practices of the NU affiliates other than those differences due to costs, customer specific circumstances, regulatory practices, state law, and practical constraints.

PSNH continues to support the principle agreed to by the Parties in DR 79-187, and endorsed and applied in DR 82-333, that marginal costs are the appropriate basis for retail pricing policy even though no definitive agreement on marginal cost methodology has ever been reached. PSNH asserts that although it supports the standards and objectives noted above, the importance accorded to each may change over time as circumstances change. PSNH views the present electric utility environment as one that is more competitive than existed in the past and likely to become even more competitive in the future. PSNH believes that the presence of competition introduces another criterion for designing rates; namely, that its price must be less than the value customers place on the utility's service while pricing the service above marginal cost. PSNH states that past regulatory and utility practices may need to be changed. Particularly, PSNH believes and endorses a flexible pricing and regulatory policy that provides PSNH with the opportunity of meeting customer and company competitive pricing requirements.[2](12)

In this rate design proceeding, PSNH wished to emphasize intraclass rate design, movement of rates toward marginal costs, recovery of revenue provided for in the Rate Agreement, avoidance of uneconomic bypass, a flexible pricing and regulatory policy to meet an increasingly competitive environment, rate continuity, and consistency with PSNH's Least Cost Resource Plan and Conservation and Load Management objectives. Exhibit 1, Vol. 1, p.8. PSNH was concerned that its current rate design, within a class of customers, does not give customers proper price signals because it does not adequately reflect marginal costs. The result is that inappropriate price signals may lead certain customers to take uneconomic actions that would reduce revenue to PSNH while not being optimal from the customer's perspective. PSNH believed the current rate design for the commercial and industrial customers taking service under Rate GV and Rate TR is especially inadequate and should be addressed first, although it believes it is proposing some important and needed changes to the residential class and the small commercial class served under Rate G.

Primarily, PSNH proposed to focus on the four residential customer classes that are currently closed to new customers: (1) the electric space heating rate; (2) the controlled 17 hour water heating rate; (3) the Elderly Customer Discount Rate D-EC; and (4) the Targeted Lifeline Rate

D-TL, Pilot Program rate. PSNH proposed to phase out (1), (2) and

(4) over the term of the fixed rate period of the Rate Agreement. PSNH expressed that the phase-out of Rate D-EC needs to be resolved and that Rate D-EC, as currently in effect, does not have a discount over Rate D at certain usage levels. PSNH proposed to change the rates under Rate D-EC to be the same as those charged Rate D customers and reduce the discount of the Rate D bill by 7 percent. PSNH contends that this restructuring will ensure all customers under Rate D-EC will receive a discount and that PSNH will receive the same revenue as it would have under the current structure.

Other than the above changes, PSNH proposed to increase the residential customer charge gradually over time while lowering the energy charges as supported by the marginal cost of service study (MCOSS).

PSNH proposed no structural changes to General Service Rate G, but did propose as in other rate classes to increase the customer and demand charges and reduce the energy charges to more closely reflect marginal demand and energy charges. An Optional General Service Time-of-Day Rate G- OTOD, considered by PSNH as somewhat experimental and intended to work with Rate LCS, was also proposed.

Under the Primary General Service Rate GV, PSNH did not propose any changes to the structure of the rate, but added language under the "AVAILABILITY" section of the tariff to exclude services provided under the new backup and standby service Rate B. PSNH also changed the "MAXIMUM DEMAND" section of the illustrative tariff to indicate that demand would be measured "during any thirty minute interval." The current tariff specifies demand is measured "during each thirty minute period." The change is to conform with the tariff reading under Rate G and to match the capabilities of newer meters.

The first noticeable change to Large General Service Rate TR is its name. PSNH proposed to change the name to Large General Service Rate LG. More substantive changes included revising the "AVAILABILITY" section of the tariff, as in Rate GV, to specify that service to backup customer generation is to be provided under the terms of Backup and Standby Rate B, and to allow customers who have significant thermal storage equipment and loads between 500 and 1,000 kilowatts to be eligible for Rate LG. Additionally, the hours' use of demand energy charges in the tariff which currently has non-time differentiated hours of use blocks were replaced with on-peak and off-peak energy block charges. PSNH believes this change addresses the intent of the Settlement Agreement in DR 82-333, Part B, to reflect time-differentiated energy charges, although the primary purpose is to smooth the transition of customers near 1,000 kilowatts between Rate GV and Rate LG and vice versa. As in the changes to the customer, demand, and energy charges, it also moves rates closer to marginal cost.

PSNH also proposed to lower the ratchet demand exemption from 1,500 kVA to 1,000 kVA in order to smooth a transition from Rate GV, which has no ratchet to Rate LG, which does. The "MAXIMUM DEMAND" provision of Rate LG will read "during any thirty minute period" as in Rate GV.

PSNH submitted a new rate schedule, Rate B, for backup and standby service. PSNH stated

that, until recently, there was little need for this rate because few customers had their own generation. The ones that did used it primarily for emergency service. Emergency service, which is a customer's own generation when PSNH is physically unable to provide power to that customer, is not proposed to change. PSNH believes there is now a growing need for Rate B.

The Company lists four problems which it believes develop when rates for potential self-generators do not adequately reflect the services required: (1) customers may make the wrong or inefficient decision by using poor or inappropriate information; (2) economic customer generation may not be developed, while uneconomic generation may be developed; (3) other PSNH ratepayers are harmed; and (4) PSNH is harmed financially.

Basically, PSNH believes that as the rates for full requirements service more closely reflect marginal costs, application of the standard rates will provide increasingly inappropriate price signals to customers

Page 280

considering self-generation. Thus, as PSNH's rate structure addresses the problems of harm to PSNH and its other customers it exacerbates the problems of economic decision making by potential self-generators (problems 1 and 2).

PSNH intends Rate B for (1) those customers whose own generation fails or is operating at less than its rated output; and (2) those customers who also receive some of their service under either Rate GV or Rate LG. For the latter, only service which replaces or backs up the customer's generation when it is down or operating below rated capacity would be provided under Rate B.

The billing demand applied to Rate GV and Rate LG customers' bills would be reduced by the customers' own generating capacity. The energy billed would equal the total energy required by the customer less the energy from the customer's generation. Energy billed under Rate B would equal the amount of energy needed to replace the energy not produced by the customer's generator. It would be charged at the higher of the tail block of the applicable rate, either Rate GV or Rate LG, or 125 percent of PSNH's incremental cost.

The rate for backup generation capacity would be at PSNH's marginal costs adjusted for the possibility that during peak load periods Rate B customers may not need backup capacity. PSNH proposes to base the discount on a multiplier that ranges from zero to one, depending on how well the customer's generator operates. A perfectly reliable generator would result in no need for backup capacity and thus no production capacity charge. Likewise, a customer who had installed a generator that never works would require PSNH to always provide backup service and the Rate B customer would incur the full production capacity charge. PSNH uses a mathematical function to compute the discount value, similar to one used by NU in Connecticut. PSNH believes the mathematical function is reasonable and representative of how customers' load characteristics affect costs of backup service. PSNH emphasizes that generation refers only to the power generated on the customer's side of the meter and used by the customer, not to generation output sold to PSNH or another utility. Metering would be required at the point of connection between PSNH and the Rate B customer, as well as at the customer's generator.

Based upon the rules of the New England Power Pool (NEPOOL), specifically the deduction of station service load from PSNH's peak load in calculating PSNH's NEPOOL Capability

Responsibility, PSNH does not believe service provided to Seabrook Station during times when Seabrook Station is not producing power should come under Rate B. In addition to the NEPOOL exemption, PSNH believes that other special circumstances pertaining to servicing Seabrook entitle it to a special rate contract which PSNH has proposed. Exhibit 1, PSNH 1-E. Nonstation service load at Seabrook, i.e., the education center, would be billed under Rate LG.

III. REPORT AND STIPULATIONS AS TO RETAIL RATE DESIGN

The Report and Stipulations as to Retail Rate Design (Stipulation) was filed on October 3, 1991.[3(13) ,4(14)] The Stipulation indicates that Staff and the Parties met numerous times and held a number of intensive technical sessions over a seven month period. Due to the productive nature of the meetings, the schedule was amended to allow for more time for Staff and the Parties to reach a comprehensive settlement or to understand and agree upon what issues could not be resolved. PSNH, NU and the Staff reached agreement on all issues. The OCA supports the Stipulation as it pertains to residential ratepayers; the BIA supports the Stipulation, based on average rate effects, as it affects the commercial and industrial classes of customers. Neither the OCA nor the BIA takes a position on aspects of the Stipulation not affecting their respective customers.

Attachment A, the Stipulation, details the changes from the current rate structure. Some of the changes in the Stipulation from what PSNH filed originally are described below by service class.

Residential

* The discount in the Elderly Customer Discount Rate DEC will be increased to 8 percent from the 7 percent proposed by PSNH in its February 1, 1991 filing. The rate will be structured the same as Rate D Power and Light as PSNH proposed originally.

* The Targeted Lifeline Rate D-TL, a pilot program rate closed to new customers, will be phased out for existing customers who will receive C&LM services approved by the Commission. Eligibility for this rate is not transferable to a new location.

* The off-peak hours of Rate D-OTOD will increase. Currently, it is 10:00 p.m. to 7:00 a.m. weekdays, weekends and New Hampshire Holidays. The starting hour will change to 8:00 p.m. and meters will be upgraded to account for changes between Standard Time and Daylight Savings Time.

* Rates COPE and LCS will add an eleven hour night- time option to their existing options.

* Elimination of residential "G-option" space heating.

* Movement toward a two block rate structure.

General Service Rate G

* Elimination of the "G-option" space heating rate by servicing those customers taking the rate, whether G or GV customers, under their respective standard rate.

* For customers utilizing thermal storage equipment, a new optional time-of-day rate, Rate

G-OTOD will be offered.

Primary General Service Rate GV

* A change to the MAXIMUM DEMAND section of the tariff to include a demand ratchet based on the customer's previous 11 monthly maximum demands over 500 kW for all Rate GV customers who are not part of an interruptible program. This change is not proposed to take effect until later and although a definitive date was not proposed, the intention is to change it sometime before the end of the fixed rate period approved in DR 89244.[see footnote 5 below on the change from May 16 to June 1]

Large General Service Rate LG

* The MAXIMUM DEMAND section of the tariff is not changed from PSNH's February 1, 1991 filing, but the 1,000 kVa reduction is proposed to be eliminated for all Rate LG customers not on an interruptible rate by the end of the fixed rate period approved in DR 89-244.

Backup and Standby Rate B

* The formula for calculating the generation demand charge now uses an exponent of 3 rather than 6 which, ceteris paribus, for the same backup demand load factor would reduce the Generation Demand Charge.

* The energy charge for backup energy no longer includes the use of the higher of (a) or (b), where (b) was 125 percent of PSNH's incremental fuel cost.

* Rate B now includes a discount for service taken at 115,000 volts or higher. The discount is $1.50 per kW of Backup Contract Demand per month.

Page 282

* Inclusion of a Generation Demand Charge Exemption which states that a customer shall be exempt from the monthly Generation Demand Charge if NEPOOL CRS No. 24 or its equivalent allows PSNH to exclude the customer's station service load supplied by PSNH from PSNH's Adjusted Peak Load that PSNH reports to NEPOOL, and provided that the customer is a NEPOOL member and has a non-zero Capability Responsibility under the NEPOOL Agreement, or that the generation station is a NEPOOL planned unit.

* A change from using kW to kVa in the measurement of Backup Contract Demand.

Other Obligations and Concerns Expressed in the Stipulation

The Stipulation indicates that Ms. Nelkens and CRR do not support the rate design proposal in the Stipulation. Both advocate a rate design that increases price as usage increases, i.e., an inclining block rate design.

The Stipulation adds that PSNH will not bill customers on a rolling demand basis without first receiving approval from the Commission. The Parties express their desire to reserve the right to re-examine the design of Rate B once sufficient data have been collected from Rate B customers. Concern centers on potential inequities or unintended results as the new rate is implemented.

PSNH seeks to implement the changes in the Stipulation at the same time as the Fuel and

Purchased Power Adjustment Clause (FPPAC), except for those changes not involving new rate design as described in PSNH's September 19, 1991 filing; PSNH proposes they become effective on or about October 19, 1991.[5(15)]

IV. COMMISSION ANALYSIS

We have before us two issues which must be decided. One is the Motion on Question of Law raised by CRR. The other is the determination of whether the Stipulation is in the public good. We will turn first to CRR's Motion on Question of Law before addressing the Stipulation.

CRR's Motion on Question of Law

On March 22, 1991, CRR, through its non-attorney agent, Mr. Robert Cushing, asked the Commission to transfer to the New Hampshire Supreme Court two questions.[6(16)] As described above in the PROCEDURAL HISTORY, CRR sought to reserve, certify and transfer the following questions of law to the New Hampshire Supreme Court:

(A) Does RSA 362-C:8 require that any changes to the design of the rate structure for PSNH customers that was in effect on September 15, 1989, including changes in intraclass allocations of base rate responsibilities, must be approved by the legislature before the changes can go into effect? and

(B) Does RSA 362-C:9 require that any changes in the design of the rate structure for PSNH customers that was incorporated into the plan approved, pursuant to RSA 362-C:3, in DR 89-244 IN THE MATTER OF NORTHEAST UTILITIES/PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, must be approved by the New Hampshire legislature before the changes can go into effect?

In Report and Order No. 20,126, we addressed two issues that CRR's Motion raised. The first was whether the Commission should reserve, certify and transfer the questions of law. We denied CRR's request on the grounds that the question of whether to reserve, certify and transfer the questions of law was untimely without a record upon which to make findings of fact, as well as an

inappropriate question of law to be reserved, certified and transferred. Report at 2 (May 6, 1991). On the second issue, the actual merits of CRR's argument, we found no dispute that inter-class allocations of revenue responsibility is prohibited without legislative approval under RSA 362-C:8. The crux of this dispute centers on intra-class allocations of revenue responsibility. We invited argument during the proceedings concerning our authority to allow rate design changes under RSA 362- C:8 and indicated we would specify our views at that time. Report at 3. We received no comment or findings of law pertaining to our invitation for additional argument on this issue. Our views concerning the statutory language follow.

The first issue of statutory construction before us is whether RSA 362-C:8 prohibits only changes to allocation of revenue responsibility among the residential, commercial, industrial and municipal classes, or whether it also prohibits changes in allocation of revenue responsibility within classes, e.g., altering the allocation of revenue responsibility between Residential Power and Light Rate R and Residential Optional Time-of- Day Rate D-OTOD. If it is the latter, then

virtually all efforts at rate design would be prohibited absent legislative approval.

The New Hampshire Supreme Court has held that:

In addressing the issues of statutory interpretation, we follow familiar principles. In seeking the intent of the legislature, we will consider the language and structure of the statute. State v. Flynn, 123 N.H. 457, 462, 464 A.2d 268, 271 (1983). We will follow common and approved usage except where it is apparent

that a technical term is used in a technical sense. RSA 21:2. If the statute is unambiguous when so viewed, there is no justification for judicial modification, State v. Flynn, supra, and we will look to legislative history as a guide to meaning only if ambiguity requires choice. Greenhalge v. Dunbarton, 122 N.H. 1038, 1040, 453 A.2d 1295, 1296 (1982)

Appeal of Public Service Company of New Hampshire, 125 N.H. 46, 52(1984).

Thus, the first area of inquiry for us should be to determine whether "it is apparent that a technical term is used in a technical sense".

RSA 362-C:8 states:

Rate Design. Notwithstanding any law or rule to the contrary, during the fixed rate term of the approved agreement or plan the commission shall not cause the allocation of base rate revenue responsibility among the residential, commercial, industrial and municipal customers in effect on September 15, 1989, for the electric customers, serviced by Public Service Company of New Hampshire or its successor, to change without legislative approval of the commission's finding that such revenue responsibility allocation is unjust or unreasonable.(Emphasis added).[7(17)]

We believe that the above emphasized language, namely, "the allocation of base rate revenue among residential, commercial, industrial and municipal customers" are technical terms and should be interpreted in accordance with their technical meanings. Traditionally, when used to design rates for regulated entities, "cost allocation" refers to the allocation of the revenue requirement to customer classes. We will reference here a commonly used and respected publication on rate design, Electric Utility Cost Allocation Manual, page 15, published January 1992 by the National Association of Regulatory Utility Commissioners. "Rate design" is the process of developing rates for the customer classes based upon, inter alia, cost allocation, or in other words, the allocation of the revenue requirement to the classes. Id. Thus, the term "rate design" is broader than the concept of allocating the revenue requirement to customer classes. Stated differently, allocation of the revenue requirement is subsumed within the

term "rate design".

Based upon the foregoing, we find that the legislature utilized the technical terms "rate design" and "allocation of base rate revenue responsibility" in a technical sense and, therefore, that the legislature only intended to preclude inter-class rate allocations. Matter of Gamble, 118 N.H. 771 (1978) (expression of one thing in a statute implies the exclusion of another).

Indeed, as PSNH points out, if the legislature intended to preclude all rate design, it could

easily have done so. The only sensible reading of the statute is that the legislature intended to allow the Commission to engage in rate design that does not involve allocation of base rate revenue responsibility among the identified customer groupings.[8](18) "It is an elementary principle of statutory construction that all of the words of a statute must be given effect and that the legislature is presumed not to have used superfluous or redundant words." Merrill v. Great Bay Disposal Serv., 125 N.H. 541, 543 (1984)

The second issue of statutory construction which we must address is whether RSA 362-C:9 requires that any rate design changes be approved by the legislature.

RSA 362-C:9 states:

Modifications in Agreement or Plan. Any modifications to an approved agreement or plan, including its exhibits, made in accordance with such agreement or plan, which potentially could increase rates, fares or charges shall, in addition to any requirements set forth in such agreement or plan, require the approval of the legislature.

The enactment of 362-C:9 appears to be responsive to Paragraph 17 of the Rate Agreement, not Paragraph 6:

17. Modification of the Agreement - This Agreement shall not be modified, and no new Parties, other than PSNH and NEWCO and one or more additional officers of the State or other public bodies, shall be added hereto except upon the express written agreement of the Parties. The New Hampshire Attorney General is the person to act for the State with respect to modifications in all other respects where the NHPUC is not designated to act; provided that any modification made after the enactment of the legislation contemplated in paragraph 14 will also be subject to the approval of the NHPUC.

This construction of RSA 362-C:9 is supported by legislative history. Senator Bartlett introduced 362-C:9 with the following comments:

It is my understanding that the present plan says that if we pass the Northeast plan on Thursday, that is the last time that we will address it, but there is a provision in the plan which says that the Attorney General and the Public Utilities Commission can modify that plan. As a member of the Senate, and I'm sure you, as members of the House, should find it rather unusual that we would pass legislation that would allow the Attorney General to change that legislation in any manner he so conceives. So I feel that if we are going to pass legislation and the legislation, if it is to be changed, it should be changed by the body that made that legislation.

The Joint Committee to Monitor the Public Service Company of New Hampshire Reorganization Proceedings, December 11, 1989, at 49.

As discussed supra, the Rate Agreement through Paragraph 6 expressly contemplated the possibility of rate design changes and the Commission's discretion thereunder was circumscribed by RSA 362-C:8. RSA 362-C:9 requires legislative approval for any modifications to the Agreement in accordance

with Paragraph 17. Changes to rate design expressly contemplated in Paragraph 6 are not a

modification to the Rate Agreement. On this basis, we do not as a matter of law interpret RSA 362-C:8 to prohibit all rate design, and find, therefore, that intraclass rate design may be undertaken during the fixed rate period without legislative approval.

The Stipulation and Rate Phase-In Stipulation

Rate redesign will, by definition, result in certain ratepayers paying a higher and certain ratepayers paying a lower monthly bill for the same level of service. This is true whether the often inflammatory issue of class allocation must be decided or not. The instant proceeding, as we have determined, allows us to address rate design issues without the additional task of changing revenue allocation among the residential, commercial and industrial classes. We do believe that the necessity to reallocate class revenue responsibility, though not permitted under the Rate Agreement without legislative approval, could surface before the end of the fixed rate period as cost responsibility changes. We raise this issue not with the intention of proposing or endorsing such action, but because there is a need as we proceed under the Rate Agreement to keep one eye looking ahead to the changes that will or could occur at the end of the fixed rate period.[9](19)

We are cognizant of, and endorse, many of the ratemaking objectives, such as revenue stability, rate continuity, simplicity and understandability outlined by PSNH in its filing. The objective of the Rate Phase-In Stipulation is to add some measure of needed protection and time for customers to adjust to the changes proposed in the Stipulation. We commend the Staff, PSNH and the other Parties for their sensitivity to those affected customers. Nonetheless, if we viewed rate design as a house, the important aspects of equity, continuity, simplicity, understandability, and revenue stability are the attributes that make the house liveable, in other words they make the house a home. The support - the foundation and the frame is the cost studies; particularly, it rests on the marginal cost of service study (MCOSS) as we have indicated a number of times in various dockets over the past few years.[10](20)

We believe efficiency is enhanced by sending customers proper price signals and marginal cost of service pricing sends better long-term price signals than prices based on embedded cost of service studies. Additionally, marginal cost pricing complements our integrated resource planning process. PSNH proposes to update its MCOSS by the end of 1992. We expect PSNH to update its MCOSS on a yearly basis and to be consistent with its Integrated Resource Planning filings.

We disagree with and find no support in the record for CRR's and Ms. Nelkens' contention or the CLF's concerns that the Stipulation does not send a conservation signal, which they interpret as an increasing block structure. Conservation of a product or resource does not necessarily mean its price should increase (or decrease) with usage. Its price is a function of the prices of the inputs used to produce it, the demand for it and the availability, and thus price, of competing products or resources. Those factors change. Regulated products, such as electricity or natural gas, should not (and cannot) be exempt from those changes. Their contention does relate, in part, to the whole issue of rate blocks, an issue we would like addressed more closely when PSNH files its next rate redesign.

A new aspect of rate design is included in the Stipulation, Rate B, the backup and standby rate. Its proposal is not unexpected as partial requirements customers and those that self-generate

need the electricity services of the local utility as backup or standby power when the primary source of power for their facility is no longer available. PURPA requires that utilities provide this service to qualifying facilities (QF's). No one in this proceeding disputes the need of a backup and standby rate. Hemphill and Whitefield, through the Proposed Findings of Fact and Rulings of Law submitted

by their attorney, Mr. Savage, do contest the supporting marginal cost study used to determine various aspects of the rate design, including the demand charge in Rate LG and the proposed transmission and distribution (T&D) charge for Backup Contract Demand in Rate B. Additionally, Hemphill and Whitefield question the use of kilovolt-ampere (kVa) instead of kilowatt (kW) for measuring Backup Contract Demand and the exemption of certain generating units, such as Seabrook, from the monthly Generation Demand Charge, but not the New Sales QFs. First, we will note that only two of the four Biomass firms have represented that they oppose the Stipulation. The record indicates that without Rate B, the four Biomass customers would see an increase of 21 percent (moving just from the current rate design to that proposed in the Stipulation), although that increase will not take place immediately under the revised Rate Phase-In Stipulation. Under Rate B, the four Biomass customers would see with power factor correction, on average an 11 percent rate decrease, mostly due to the fact that one takes service at 115,000 volts and thus receives a discount. Poor load and power factors are the primary causes customers would see rate increases under Rate B. Tr. at 102. Customers with poor load and/or power factors drive up costs to the utility which should be reflected in rates.

The marginal cost study may have been based on older data than what could have been used to match the 1991 Integrated Least Cost Plan, but the results would have only decreased, not eliminated, the capacity generation value. The capacity generation value used in the marginal cost study is a levelizing of a stream of generation costs back to the current year. Tr. at 104. The methodology employed by PSNH is one we have approved in the past because it gives customers a long-term price signal of capacity. Hemphill and Whitefield are unsupported in their assertion that the marginal cost study is unreasonable.

Finally, we find no support in the record for Hemphill and Whitefield's recommendation that they be treated as a NEPOOL planned unit and, thus, be exempt from the monthly demand charge. We are concerned about how this new rate will effect customers; therefore, we will direct PSNH to provide us with a full report on this rate after it has been in effect for one year. We find the record fully supports that the Stipulation and the Rate Phase-In Stipulation are just and reasonable. We will approve them as filed.

Our order will issue accordingly.

Concurring June 8, 1992

ORDER

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

ORDERED, that the Report and Stipulations as to Retail Rate Design appended hereto as Attachment A be, and hereby is, accepted; and it is

FURTHER ORDERED, that PSNH file a report with the Commission by June 1, 1993, on the effects to customers under the new backup and standby rate, Rate B; and it is

FURTHER ORDERED, that PSNH file properly annotated tariffs in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that PSNH file an updated Marginal Cost of Service Study no later than January 1, 1993. By order of the New Hampshire Public Utilities Commission this eighth day of June, 1992.

FOOTNOTES

[1]See page 2 of the "Stipulated Recommendations of the Parties" in DR 79-187, Phase II.

[2]On November 16, 1990, in DR 90-187,EnergyNorth Natural Gas,Inc. filed with the Commission a special contract with Hadco Corporation (Hadco) pursuant to RSA 378:18, which contained a discounted industrial rate for natural gas service to Hadco. After staff filed testimony concerning policy considerations raised by discounted industrial and other economic development rates, PSNH and others filed for and were granted intervenor status in DR 90-187. The Parties in DR 90-187 recommended that the important policy issues concerning discounted rates be explored and resolved by the Commission in a new docket on a generic docket basis. The Parties to DR 90-187 would be granted party status in the new generic docket and allowed to withdraw all or part of their testimony, supplement their testimony or file testimony if none was

originally filed in DR 90-187.

DR 91-172 was opened as the generic docket to investigate issues pertaining to discounted and economic development rates. Report and Order No. 20,272 (October 21, 1991). Hearings in the generic proceeding were held on February 19, 20, and 21, 1992. Briefs were filed on April 3, 1992. Presently, the Commission is deliberating on the issues of economic development and competitive market-based rates.

[3]A supplemental original and 8 copies of the signature page were filed by PSNH on October 8, 1991. The October 3, 1991 filing did not contain Ms. Nelkens' signature or the support of CRR and Biomass. Ms. Nelkens' signature, indicating she agreed the Report and Stipulations accurately represented her position and the positions of the parties though not her support on the resolution of the issues, was later added and included to the October 8th filing. On October 11, 1991, Biomass indicated it would not support the Stipulation.

[4]The Report and Stipulations, attached hereto as Attachment A, will not be repeated verbatim herein.

[5]As part of DR 92-050, the Commission approved extending the FPPAC rate through the end of May and billing the new FPPAC rate on June 1, 1992, on a bills rendered basis. Order No. 20,444, April 20, 1992. Additional issues, such as elimination of the Rate WI rider, elimination

of Rate D-TOU, the correction of the "Holidays" section of the Terms and Conditions to replace Fast Day with Civil Rights Day, an extension of the service provision in the Controlled Water Heating Rate, and a revision to the Availability section of Rate D-TL to limit the rate to existing customers and locations, were approved by Order No. 20,261, October 2, 1991.

[6]Since the prehearing conference on January 31, 1991, at which the commission granted Mr. Cushing leave to represent CRR in this matter, we found that Mr. Cushing has appeared so regularly before this commission on behalf of CRR as to be "commonly" practicing law in violation of RSA 311:3. Should CRR seek reconsideration of this Report and Order, therefore, Mr. Cushing is without authorization to make such a filing.

[7]The use of the terms "base retail rates" in Paragraph 6 and "allocation of base rate responsibility" in RSA 362- C:8 refers to the subject matter of Paragraph 5 of the Rate Agreement provides that "FPPAC will have no impact on [base] rates if reference assumptions....are achieved....."

[8]If the statutory language precluded changes to allocation of revenue responsibility among residential, commercial, industrial and municipal classes, we would be much more comfortable with this analysis. While we must acknowledge that this is not the case, we do not believe that use of the term "customers" in the statute rather than "classes" is fatal to our analysis. As discussed supra, the technical term "allocation of base rate revenue responsibility" inherently contemplates allocation to classes. Moreover, the four types of customers enumerated in the statute, i.e., residential, commercial, industrial and municipal, closely resemble the customer groupings routinely represented on company business records for, inter alia, purposes of reporting to the commission.

[9]The information NU/PSNH will provide in the monitoring docket, IR 90-218, is intended to help Staff track and evaluate both the short-term and long- term financial and operational effects and changes of the merged company during the fixed rate period. Some effects, such as whether seven years of fixed rate increases without a reallocation of revenue responsibility could lead to significant rate redesign and allocation changes later, are not included in the monitoring. Staff and PSNH/NU should consider this possibility, though not necessarily as part of the monitoring docket.

[10]See, for example, Re Connecticut Valley Electric Company, 74 NHPUC 165 (1989), in which we approved, inter alia, seasonal and hourly rates based on marginal costs. In Re Connecticut Valley Electric Company, Rate Redesign Phase II, Docket DR 91-189, Report and Order No. 20,385 (February 7, 1992), we approved further seasonality in rates and based the phased-in cost allocation among the classes on marginal costs. A marginal cost basis for rates was adopted in gas in Re Gas Rate Design, 73 NHPUC 492 (1988) in an order establishing the theoretic framework for the calculation of marginal cost and directing EnergyNorth, Inc. and Northern Utilities, Inc. to develop marginal cost of service studies based on the framework to be filed in their subsequent rate cases. On May 12, 1992, we approved the use of the resulting cost of service study as the basis of rate design in Re EnergyNorth Natural Gas, Inc., Docket No. DR 90-183. The Settlement Agreement in Re Northern Utilities, Inc., Docket No. DR 91-081, which incorporates a marginally cost based rate design, is currently before the commission. We adopted the incremental cost study as the basis of rates in Re New England Telephone and Telegraph

Co., Inc., 123 PUR4th 289 (1992), and on an individual basis have directed or accepted commitments from the independent telephone companies to develop and submit incremental cost studies within the next year: Re Meriden Telephone Company, Docket DR 92-012, Order No. 20,381 (February 3, 1992); Re Chichester Telephone Company, Docket DR 92-010, Order No. 20,379 (February 3, 1992); Re Kearsarge Telephone Company, Docket DR 92-011, Order No. 20,380 (February 3, 1992); Re Granite State Telephone Company, Docket DR 91- 183, Order No. 20,335 (December 16, 1992); Re Union Telephone Company, Docket 90-220, Report and Order No. 20,328 (December 9, 1991); Re Wilton Telephone Company, Docket 90-221, Report and Order No. 20,391 (February 18, 1992).

Page 288

Attachment A

October 2, 1991

Mr. Wynn E. Arnold, Esq. Executive Director and Secretary State of New Hampshire Public Utilities Commission 8 Old Suncook Road, Bldg. 1 Concord, NH 03301

Re: Docket No. DR 91-001

Public Service Company of New Hampshire

Retail Rate Design

Dear Mr. Arnold:

Enclosed find an original and eight copies of the Report and Stipulations as to Retail Rate Design executed by certain of the parties to the above-captioned proceeding. The Biomass Intervenors and the Campaign for Ratepayers Rights have declined to participate in the execution and submission of the Report and Stipulations.

Ms. Nelkens has indicated she will sign the Report and Stipulations but has not done so for logistical reasons. I have mailed her a copy of the signature page already executed by the other signators which will later be filed to supplement the signature page included with this filing.

The current status of the case finds the CRR and Ms. Nelkens in opposition to the settlement agreement among PSNH, NUSCO, Staff, the Consumer Advocate, and the Business & Industry Association; the Biomass Intervenors' position is yet to be determined. Correspondingly, PSNH is continuing its audit efforts with respect to the Biomass Intervenors.

Very truly yours,

Thomas B. Getz

Corporate Counsel

Public Service Company of New Hampshire

TBG:stt Enclosures cc: Attached Service List

STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

NHPUC DOCKET NO. DR 91-001 PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

REPORT AND STIPULATIONS AS TO RETAIL RATE DESIGN

I. INTRODUCTION

After intensive consultation over a period of seven months, a settlement has been achieved among certain of the parties to the above-captioned docket. Public Service Company of New Hampshire (PSNH or the Company), Northeast Utilities Service Company (NUSCO) and Staff of the New Hampshire Public Utilities Commission have reached agreement on all issues. Correspondingly, the Office of Consumer Advocate (OCA) supports the rate design stipulations affecting residential customers while the Business and Industry Association (BIA), based on projections of average impacts, supports the rate design stipulations affecting the classes of commercial and industrial customers; the OCA and BIA do not take a position on the stipulations which do not affect their respective constituents. As for Ms. Shelley Nelkens and the Campaign for Ratepayers Rights (CRR), in general they do not support the settlement although 8there are a number of issues on which one or both have not taken a position. The remaining party, the Biomass Intervenors, has not determined whether it will support the settlement.

II. BACKGROUND

This effort at alternative dispute resolution was prompted by the Commission's Order No. 19,889 in Docket No. DR 89- 244, issued July

20, 1990, pertaining to the Reorganization of Public Service Company of New Hampshire in which the New Hampshire Public Utilities Commission ordered PSNH to consult with the Commission Staff and propose by January 1, 1991 a schedule for rate design proceedings. The Staff and PSNH conducted the required discussions and on December 20, 1990 PSNH submitted a proposed rate design procedural schedule that was supported by both PSNH and the Staff. In the December 20, 1991 submittal, PSNH and the Staff jointly requested that the Commission open a docket to investigate rate design issues for PSNH.

On January 15, 1991, the Commission established Docket No. DR 91-001 and issued an order of notice for a pre-hearing conference to be held on January 31, 1991. Subsequent to the pre-hearing conference, the Commission issued Order No. 20,080, on March 12, 1991, establishing a procedural schedule. Additional parties admitted to the proceeding were NUSCO, the OCA, the BIA, the CRR, and Shelley Nelkens. Later, in April 1991, the Biomass Intervenors requested and received permission to become a party to the proceeding on behalf of four small power producers which currently sell power to PSNH. On September 11, 1991, Crotched Mountain Rehabilitation Center sent a letter to the Commission expressing an interest in the proceeding.

In accordance with the procedural schedule, on February 1, 1991, PSNH filed technical statements, a position paper, and an illustrative tariff concerning PSNH's proposed rate design. The procedural schedule also provided for technical sessions among the parties to be held during the month of February 1991 and for formal data requests to begin March 1, 1991. Numerous technical sessions were held d8uring the period from February, 1991 to July, 1991. Due to the productive information exchange and discussions that occurred throughout this period, the

parties informally agreed to continue discovery after the initially scheduled deadline of March 1, 1991. Addi-tionally, the parties agreed to an extension of the schedule to allow further discussion of the issues. During this period, PSNH responded to approximately 100 formal data requests and many informal data requests.

III. DISCUSSION

The rate design changes described herein are in reference to the rate design contained in PSNH's Tariff NHPUC No. 32, effective May 16, 1991. The actual rates and charges associated with the new rate design are shown in Attachment 1. Any changes to rates which occur between May 16, 1991 and the effective date of the rate design proposed herein would also be made to the rates and charges in Attachment 1 upon implementation of the new rate design. The rates and charges contained in Attachment 1 are designed to be consistent with NH RSA 362-C:8.

A. RESIDENTIAL RATE D

The new residential rate design is shown on Attachment 1. Compared to the existing rate structure, the following changes are to be made:

o Establish the customer charge for Residential Service Standard Rate D at $7 per month.

o Adjust the second energy block rate to accomplish the overall class revenue level that exists before the rate design change. This results in a lower second block energy rate.

o Move toward a Rate D structure with only two energy blocks. The lowering of the middle block moves in this direction. The parties did not settle on the specific kilowatt-hour range for each block but intend to address this matter in a future rate design proceeding.

o Eliminate the Space Heating rate. Existing customers served under the residential space heating rate will be served under other applicable residential rates.

o Eliminate the residential "G-option" space heating service. Existing residential customers served under the "G- option" space heating rate will be served under other applicable residential rates.

Page 290

o The Uncontrolled Water Heating rate (the "QR" rate) and service will continue at the rates proposed by PSNH but will be closed to new customers no later than the end of the fixed rate period approved by the Commission in Docket No. DR 89-244. The Meter Charge will be $1.50.

o The Elderly Discount Rate D-EC will be restructured to be the same as Rate D but with a separate 8% discount. The 8% discount results in the same overall revenue level for this

group of customers as the 10% discount and the flat rate design of the existing Rate D-EC. PSNH will continue to audit this rate on a sample basis to ensure general compliance with the eligibility requirements of this rate.

o The Targeted Lifeline Rate D-TL pilot program rate, which is closed to new customers, will be phased out for existing customers, who will be offered instead specific cost-free conservation and load management (C&LM) services from PSNH as may be approved by the Commission in future reviews of PSNH's C&LM programs. PSNH will continue to audit this

rate for compliance with the terms for eligibility. Addi-tionally, the terms for availability shall be modified to only include existing customers who receive service at the current location; i.e., the eligibility will not be transferable to a new location. The Customer Charge will be $5.00. The first block energy charge will be set 2 cents/KWH less than Rate D.

o Rate D-TOU will be removed from the tariff since there are no customers currently served under this space heating rate schedule.

o The off-peak hours of Rate D-OTOD will be expanded to be the period from 8 p.m. to 7 a.m. weekdays, plus weekends and New Hampshire holidays. The meters used to serve existing Rate D-OTOD customers will be upgraded so that the on- and off-peak periods will be set at the prevailing time; i.e., no shift in the periods due to daylight savings time.

o Rate LCS will be modified to include an 11-hour night- time option. The energy charge for this option will be the same as the energy charge for the Rate COPE 10-hour option. The meter charge will be $3.60 where the switching option is chosen and $3.00 where the option is not chosen.

o Rate COPE will be modified to include an eleven hour night-time option in addition to the existing 8-hour night- time option and the 10-hour option (8 night-time hours and 2 daytime shoulder period hours). The energy charge for the 11-hour night-time option will be the same as the energy

option will be the same as the energy charge for the 10- hour option. The meter charge will be $3.60 where the switching option is chosen and $3.00 where the option is not chosen.

o The closed Controlled Water Heating service rate will remain closed. A meter charge of $3.00 will be added to the rate.

B. GENERAL SERVICE RATE G

The new General Service Rate G rate design is shown on Attachment 1. Compared to the existing rate structure, the following changes are to be made:

o Eliminate the "G-option" space heating service. Existing Rate G customers served under the "G-option" space heating rate will be served under standard Rate G. Correspondingly, existing Rate GV customers taking service under the "G-option" space heating rate will be served under standard Rate GV.

o The various water heating rates and Rate LCS are to continue to be set the same as those offered to residential customers.

o A customer charge of $7.50 for single phase service and $15.00 for three phase service will be implemented.

o The demand charge will be set at $7.00 per KW.

o The energy charges are to be adjusted on a uniform percentage basis to offset any changes in revenue for the Rate G class resulting from changes to the space or water

heating rates billed to Rate G customers or the customer or demand charges; i.e., the overall

revenue level for Rate G customers will remain unchanged on a test period basis.

o A new optional time-of-day Rate G-OTOD is to be made available to customers who utilize thermal storage devices or other applications approved by PSNH.

C. PRIMARY GENERAL SERVICE RATE GV

The new Primary General Service Rate GV rate design is shown on Attachment 1. Compared to the existing rate structure, the following changes are to be made:

o The "Availability" section of Rate GV is to be revised to specify that service to back up customer generation is to be provided under the terms of Rate B and that service which is supplemental to service provided under Rate B is available under Rate GV insofar as the supplemental service meets the other requirements of Rate GV.

o The Customer Charge will be $100.00 and the Demand Charge will be $6.70 per kilowatt for the first 100 KW of Maximum Demand and $6.25 per each additional KW.

o The definition of Maximum Demand will not be changed at the effective date of the rate design contained herein. How- ever, by the end of the fixed rate period approved by the Commission in Docket No. DR 89-244, a demand ratchet will be included in Rate GV based on the customer's previous 11 monthly maximum demands over 500 KW, for all Rate GV customers who are not part of an interruptible rate program.

D. LARGE GENERAL SERVICE RATE LG (formerly Rate TR)

The new Large General Service Rate LG rate design is shown on Attachment 1. Compared to the existing rate structure, the following changes are to be made:

o The "Availability" section of Rate LG is to be revised from that specified in Rate TR to specify that service to back up customer generation is to be provided under the terms of Rate B and that service which is supplemental to service provided under Rate B is available under Rate LG insofar as the supplemental service meets the other requirements of Rate LG.

o The Customer Charge will be $300.00 and the Demand Charge will be $6.50 per kilovolt-ampere of Maximum Demand.

o The definition of Maximum Demand will be revised to include a 1,000 KVA, rather than 1,500 KVA, reduction to the customer's previous eleven monthly demands when determining the current monthly Maximum Demand, but will otherwise be unchanged. However, by the end of the fixed rate period approved by the Commission in Docket No. DR 89-244, the 1,000 KVA reduction will be eliminated, for all Rate LG customers who are not part of an interruptible rate program.

o The method of calculating energy charges will be changed from the three-block, hours' use format employed under Rate TR to a time-differentiated format. On-peak energy charges will incorporate a two-block, hours' use format.

E. DEMAND MEASUREMENT

The Company will not issue bills on a rolling demand basis without the prior approval of the NHPUC. The existing practice of calculating bills on a non-rolling demand basis will be continued.

F. BACKUP SERVICE RATE B

Backup and standby service will be provided on a standard basis under a separate rate schedule which conforms to the design and provisions shown in Attachment 2. Also included in Attachment 2 is a revised Section 13 of the Terms and Conditions, Conjunctional Service, which incorporates changes required as a result of the implementation of Rate B.

Page 292

Unless otherwise ordered by the Commission, service shall be provided to Seabrook Station under standard Rate LG for non-station service load (the so-called "campus" load) and under Rate B for Seabrook station service.

G. OUTDOOR LIGHTING RATE ML AND RATE ML-HPS

No changes are to be made to Outdoor Lighting Rate ML or High Pressure Sodium Outdoor Lighting Rate ML-HPS.

IV. IMPLEMENTATION

The rate design included in Attachments 1 and 2 will be implemented at the time of the first FPPAC change in 1992 which is currently expected to be in May 1992. Changes which do not involve new rate design shall be implemented on or about October 19, 1991 subject to approval by the Commission of revised tariff pages filed by PSNH on September 19, 1991 which incorporate the changes. These changes include: 1) the elimination of the Rate WI rider; 2) the elimination of Rate D-TOU; 3) the correction to the "Holidays" Section of the Terms and Conditions to remove Fast Day and substitute Civil Rights Day; 4) revision to the Controlled Water Heating text to provide for continuation of the service; and 5) revision to the Availability section of Rate D-TL to limit the availability of the rate to existing customers and locations.

V. ONGOING OBLIGATIONS

A. Residential Rate D-TL C&LM

PSNH shall provide to the Commission and the parties, a report describing the C&LM services that are to be provided to Rate D-TL customers prior to placing a Rate D-TL customer on the standard residential Rate D.

B. Metering Changes

Within 60 days prior to the estimated effective date of the new rate design PSNH shall report to the Commission the status of any metering changes that are required to implement the new rate design.

C. Cost of Service Methods

Prior to July 1, 1992, PSNH and the Commission staff shall propose a schedule and procedure to review the methods used by PSNH to determine its embedded and marginal costs by class of customer.

D. Marginal Costs

Prior to the end of 1992, PSNH shall submit an update of its marginal and embedded cost

studies by class of customer. PSNH shall compare the results of the updated studies to PSNH's rates and charges then in effect.

E. Subsequent Rate Design Changes

Prior to the end of 1992, the NHPUC Staff, the Office of Consumer Advocate and PSNH shall consult to propose a schedule for addressing future rate design changes. The parties also reserve the right to re-examine the design of Rate B once sufficient billing data is available in order to ascertain whether the design of Rate B has created any inequities or unintended results. Such re-examination may include assessment of the Staff's concern over whether Rate B should apply to those customers, if any, who utilize their generation infrequently for the sole purpose of reducing their monthly billing demand.

VI. EXCEPTIONS AND RESERVATIONS OF PARTIES

The Campaign for Ratepayers Rights and Shelley Nelkens advocate a rate design where the price increases as electricity use increases. Consequently, CRR and Ms. Nelkens do not support the rates described herein and they reserve all rights they may have to challenge said rates.

Page 293

The OCA, which represents residential customers, neither supports nor opposes the non-residential rate design described herein.

The BIA, which represents commercial and industrial customers, neither supports nor opposes the residential rate design described herein.

It is the position of the signators hereto supporting the stipulations that each term of the foregoing report and stipulation is in consideration and support of every other term and that this agreement shall not take effect unless approved and accepted in its entirety and without change or condition by the Commission.

VII. EXECUTION

Accordingly, each of the undersigned attests that the foregoing report, which may be executed in counterparts, is an accurate statement of its respective position and that each of the undersigned agrees to and supports the stipulations except insofar as has been expressly excepted or reserved.

Attachment 2 Page 1 of 5

NHPUC NO. - ELECTRICITY Original Page 12 PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE Terms and Conditions

13. CONJUNCTIONAL SERVICE

Conjunctional service is the use of electric service furnished under this Tariff in addition to any other source of electric service. Con-junctional service must be taken in accordance with the Company's "Require-ments for Electric Service Connections"; the Company's technical guidelines and requirements pertaining to Qualifying Facilities ("QF's", as defined in Sections 201 and 210 of Title II of the Public Utility Regulatory Policies Act of 1978) filed with the New Hampshire Public Utilities Commission in compli-ance with Commission Order No. 14,797, and

as further provided hereinafter. Conjunctional service is available to QF's and to other customers who are not QF's who have available another source of electric service.

A. Conjunctional Service for QF's

For billing purposes, any QF may take conjunctional service at its option on either a "simultaneous purchase and sale" basis or on a "net purchase and sale" basis. "Simultaneous purchase and sale" is an arrangement whereby a QF's entire output is considered to be sold to the Company, while all electric energy used internally by the QF for its own load ("total internal load") is considered to be simultaneously purchased from the Company by the QF, as determined by appropriate metering.

"Net purchase and sale" is an arrangement whereby the output of a QF is considered to be used to the extent needed to meet the electric service requirements of the QF's total internal load, any additional electric service requirements needed by the QF from time to time are purchased from the Company, and any electricity generated by the QF in excess of its total internal load from time to time is sold to the Company, as determined by appropriate metering.

QF's taking conjunctional service on a "net purchase and sale" basis who, except for their own generation, would otherwise qualify for service under either Rate GV or Rate LG, must take conjunctional service under the provisions of Backup Service Rate B and either Rate G, Rate GV or Rate LG, as appropriate, if the customer's generation was installed or rebuilt after January 1, 1985.

B. Conjunctional Service for Other Customers

All other customers who utilize their other source of electric service on a regular basis who, except for that other source of electric service, would otherwise qualify for Rate GV or Rate LG, must take conjunctional service under the provisions of Backup Service Rate B

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

SPF NORTHERN UTILITIES DR 91-081
5/7/92 OPERATING INCOME STATEMENT ATTACHMENT
TWELVE MONTHS ENDED
SOURCE: NU-3-2

12 MONTHS ENDED MAR 31,1991	TEST YEAR COMPANY AS PROFORM	STAFF ADJUSTMENT	TEST BY COMPANY	ADJUSTMENT	YEAR
OPERATING REVENUES					
REVENUES- FIRM	18,246,635	472,413	18,719,048	(174,730)	18,544,318
REVENUES- INTERRUPTIBLE	3,516,100	3,516,100			3,516,100
REVENUES-OTHER	331,232	(41,393)	289,839		289,839
TOTAL REVENUES	22,093,967	431,020	22,524,987	(174,730)	22,350,257
OPERATING EXPENSES					
COST OF GAS - FIRM	11,048,213	(210,458)	10,837,755		10,837,755
COST OF GAS - INTERRUPTIBLE	3,516,100	3,516,100			3,516,100

OTHER PRODUCTION 124,000 720 124,720 (757) 123,963
DISTRIBUTION 1,627,080 36,531 1,663,611 (135,554) 1,528,057
CUSTOMER ACCOUNTING 1,009,758 (2,221) 1,007,537 (16,358) 991,179
SALES & NEW BUSINESS 461,020 (103,405) 357,615 (57,841) 299,774
ADMINISTRATIVE & GENERAL 1,466,646 236,415 1,703,061 (20,144) 1,682,917
INTEREST ON CUSTOMER DEPOSI 23,241 (443) 22,798 22,798
TAXES:
FEDERAL INCOME TAX (20,536) 71,984 51,448 173,216 224,664
PROPERTY AND PAYROLL 435,739 (16,801) 418,938 418,938
STATE 211,096 211,096 211,096
OTHER 159,735 9,907 169,642 (11,724) 157,918
DEPRECIATION 1,105,860 102,702 1,208,562 (226,929) 981,633
AMORTIZATION 6,107 35,066 41,173 (44,135) (2,962)
------------ ----------- ------------ ------------ ---------------

TOTAL REVENUE DEDUCTIONS 21,174,059 159,997 21,334,056 (340,226) 20,993,830

OPERATING RENTS NET 109,778 109,778 19,223 129,001
------------ ------------ ------------ ------------ ---------------
NET GAS OPERATING INCOME 1,029,686 271,023 1,300,709 184,720 1,485,428
============ ============ ============ ============ ===============

Page 295

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

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE Attachment 1
COMPARISON OF RATES EFECTIVE 5/16/91 AND PROPOSED REDESIGN

Redesigned Redesigned Redesigned Redesigned
Based on Based on Based on Based on
Effective 5/16/91 5/16/91 Effective 5/16/91 5/16/91
RESIDENTIAL RATE D 5/16/91 Rate Level Rate Level RESIDENTIAL RATE D-EC 5/16/91 Rate Level
Rate Level

Power & Light Power & Light
Customer Charge ($/customer/month) $6.01 $7.00 $7.00 Customer Charge ($/customer/month)
6.01
Energy Charges (cents/KWH): Energy Charges (cents/KWH): 10.785
First 250 KWH 8.849 8.849 9.109
Next 550 KWH 12.593 12.050 12.310 Space Heating
All additional KWH 10.785 10.785 11.045 Customer Charge ($/customer/month) 6.01
Energy Charges (cents/KWH):
Space Heating First 800 KWH 10.785
Customer Charge ($/customer/month) $6.01 $7.00 $7.00 All additional KWH 10.185
Energy Charges (cents/KWH):
First 250 KWH 8.849 8.849 9.109 Elderly Customer Discount 10%
Next 550 KWH 12.593 12.050 12.310
All additional KWH 10.185 10.785 11.045 RESIDENTIAL RATE D-OTOD
Elderly Customer Discount 8.0% 8.0%
Customer Charge ($/customer/month) $6.01 $15.00 $15.00
Uncontrolled Water Heating Time of Use Meter Charge ($/month) 3.01 — —
Meter Charge ($/meter/month) $1.22 $1.50 $1.50 Energy Charges (cents/KWH):
Energy Charges (cents/KWH) 9.344 9.234 9.494 On-peak Hours 13.58 13.813 14.073
Off-peak Hours 6.95 7.07 7.33
Controlled Water Heating

Meter Charge ($/meter/month) — $3.00 $3.00 RESIDENTIAL RATE D-TL
Energy Charges (cents/KWH) 6.95 5.921 6.181
Power & Light
Customer Charge ($/customer/month) $3.62 $5.00 $5.00
Rate LCS Energy Charges (cents/KWH):
First 250 KWH 5.242 6.849 7.109
Customer Charges ($/customer/month) Next 250 KWH 11.994 12.050 12.310
No switch Option $1.22 $3.00 $3.00 Next 300 KWH 12.593 12.050 12.310
Switch Option $1.78 $3.60 $3.60 All additional KWH 10.785 10.785 11.045
Energy Charges (centers/KWH):
8-Hour Option 6.34 5.921 6.181 Space Heating

11-Hour Night Option — 7.041 7.301
Customer Charge ($/customer/month) $3.62 $5.00 $5.00
Rate COPE Energy Charges (cents/KWH):
First 250 KWH 5.242 6.849 7.109
Customer Charges ($/customer/month) Next 250 KWH 11.994 12.05 12.31
No switch Option $1.22 $3.00 $3.00 Next 300 KWH 12.593 12.05 12.31
Switch Option $1.78 $3.60 $3.60 All additional KWH 10.185 10.785 11.045
Energy Charges (cents/KWH):
8-Hour Option 6.34 5.921 6.181
10-Hour Night Option 7.55 7.041 7.301
11-Hour Night Option — 7.041 7.301

Page 296

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

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
COMPARISON OF RATES EFECTIVE 5/16/91 AND PROPOSED REDESIGN

Redesigned Redesigned
Redesigned Redesigned Based on Based on
Based on Based on Effective 5/16/91 5/16/91
Effective 5/16/91 5/16/91 5/16/91 Rate Level Rate Level
5/16/91 Rate Level Rate Level
General Service Rate G
Rate LCS
Power & Light Customer Charges ($/customer/month)
Customer Charge ($/customer/month) No switch Option $1.22 $3.60 $3.00
Single Phase $6.34 $7.50 $7.50 Switch Option $1.78 $3.60 $3.60
Three Phase $6.34 $15.00 $15.00 Energy Charges (centers/KWH):
Load Charge ($/KW over 5.0/month) $5.57 $7.00 $7.00 8-Hour Option 6.34 5.921 6.181
Energy Charges (cents/KWH): 11-Hour Night Option — 7.041 7.301
First 500 KWH 12.243 11.479 11.739
Next 1,000 KWH 8.712 8.169 8.429 Rate COPE
All additional KWH 7.736 7.254 7.514 Customer Charges ($/customer/month)
Space No switch Option $1.22 $3.00 $3.00
customer Charge ($/customer/month):* Switch Option $1.76 $3.60 $3.60
Single Phase — $7.50 $7.50 Energy Charges (cents/KWH):
Three Phase — $15.00 $15.00 8-Hour Option 6.34 5.921 6.181
Load Charge ($IKW over 5.0/month) — $7.00 $7.00 10-Hour Night Option 7.55 7.041 7.301
Energy Charges (cents/KWH): 10.185 11-Hour Night Option — 7.041 7.301
First 500 KWH 11.479 11.739
Next 1,000 KWH 8.169 8.429 Rate G-OTOD
All additional KWH 7.254 7.514 Customer Charges ($/Customs/month)
Single Phase — $17.50 $17.50
Three Phase — $25.00 $25.00
Uncontrolled Water Heating Load Charge ($/KW) — $7.00 $7.00
Meter Charge ($/meter/month) $1.22 $1.50 $1.50 Energy Charges (cents/KWH):
Energy Charges (cents/KWH) 9.344 9.234 9.494 Off Peak — 8.000 8.260
On Peak — 6.000 6.260
Controlled Water Heating
Meter Charge ($/meter/month) — $3.00 $3.00
Energy Charges (cents/KWH) 6.95 5.921 6.181

* To be applied to acount with no associated Power and Light account.

Page 297

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

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
COMPARISON OF RATES EFECTIVE 5/16/91 AND PROPOSED REDESIGN

Redesigned Redesigned
Based on Based on
Effective 5/16/91 5/16/91

```
5/16/91 Rate Level Rate Level

Customer Charge ($/customer/month) $72.35 $100.00 $100.00
Demand Charges ($KM:
First I 00 KW  $5.23 $6.70 $6.70
Over 100 KW  $4.84 $6.25 $6.25
Energy Charges (cents/KWH):
First 200,000 KWH  7.610 7.210 7.470
All additional KWH  6.990 6.610 6.870

Long Hours' Use Discount  0.570 0.538 0.538


Customer Charge ($/customer/month) $122.43 $300.00 $300.00
Demand Charge ($/KVA)  $5.01 $6.50 $6.50
Energy Charges (cents/KWH):
First 250 hours' use 7.082 — —
Next 10O hours' use  6.653 — —
All additional KWH  6.425 — —

Energy Charges (cents/KWH):
On-peak, First 1 50 hours' use — 7.590 7.850
On-peak, All additional KWH — 6.392 6.652
Off-peak   — 5.892 6.152

Demand Ratchet:
Multiplier  80% 80% 80%
```

Page 298

and either Rate G, Rate GV or Rate LG, as appropriate, if the customer's generation was installed or rebuilt after January 1, 1985. "Regular basis" means that the customer normally utilizes its other source of electric service to provide some or all of its electric requirements, excluding use for testing of generating equipment, and excluding use of generating equipment installed for the purpose of providing a backup or emergency supply during service outages on the Company's system.

Attachment 2

NHPUC NO. - ELECTRICITY Original Page 57 PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE Rate B

BACKUP SERVICE RATE B

AVAILABILITY

Subject to the Terms and Conditions of the Tariff of which it is a part, this rate is for backup and maintenance electric service provided by the Company in conjunction with electricity produced by customer's own generation which supplies all or a portion of customer's electric load requirements on a regular basis. Service under this rate is mandatory for customers who take conjunctional service as specified in Section 13 of the Terms and Conditions, and who, except for their own generation, would otherwise qualify for service under either Rate GV or Rate LG. This rate is not mandatory for service to customers whose generating equipment is installed for the purpose of providing a backup or emergency supply during service outages on the Company's system, nor is it mandatory for customers whose generation was installed prior to and has not been rebuilt since January 1, 1985. Such customers may take service under this rate at their option, but must continue to take service hereunder once that option is sel2ected.

Customers taking service under this rate shall be required to execute an electric service agreement for such service which shall be available only at the delivery point specified therein.

Any customer taking service under this rate shall be subject to the provisions of: a) Section 13 of the Terms and Conditions of the Tariff, Conjunctional Service, and b) the applicable full requirements rate under which the customer would otherwise take service from the Company if the Company were the sole supplier of electricity to the customer, except as such provisions may be modified by, or conflict with, the terms of this rate schedule.

The purchase of any electricity generated by the customer in excess of the customer's total electric load requirements and made available for sale to the Company shall be governed by the terms of a separate purchase agreement.

DEFINITIONS

Full Requirements Rate: The full requirements rate, either Primary General Service Rate GV or Large General Service Rate LG, under which the customer would otherwise take service if the Company were the sole supplier of electricity to the customer.

Backup Contract Demand: An amount of demand which the customer may impose on the Company under this rate schedule to back up the customer's generating facilities. Backup Contract Demand shall be the normal output rating in kilowatts of the customer's generating facilities as determined by

Attachment 2

NHPUC NO. - ELECTRICITY Original Page 58 PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE Rate B

the company from time to time by test operation for those customers who have a non-zero Supplemental Demand (i.e., whose maximum demand exceeds their generating capacity). For customers whose generating

capacity is larger than their total internal load, Backup Contract Demand shall be based on thirty minute meter readings for on-peak periods during the current month and previous eleven months. For customers who would otherwise be served under Rate GV, Backup Contract Demand shall be the greater of a) the highest kilowatt demand during those periods, or b) 80% of the highest kilovolt-ampere demand during those periods. For customers who would otherwise be served under Rate LG, Backup Contract Demand shall be the highest kilovolt-ampere demand during those periods.

Backup Demand: The amount of demand in kilowatts taken by the customer under this rate schedule during a particular thirty minute interval. Backup Demand shall be the lesser of a) Backup Contract Demand minus the amount of generation registered by the generation meter, or b) the total amount of demand registered. If such amount is less than zero, it shall be deemed to be equal to zero.

Backup Energy: The amount of kilowatt-hours taken by the customer under this rate schedule during a particular thirty minute interval. Backup Energy shall be equal to Backup Demand for

that thirty minute interval divided by two.

On-Peak Hours: The period from 7:00 a.m. to 8:00 p.m. weekdays excluding holidays.

Supplemental Demand: The amount of demand in kilowatts taken by the customer in excess of its Backup Demand during a particular thirty minute interval. Supplemental Demand shall be equal to the total amount of demand registered less the amount of Backup Demand taken. If such amount is less than zero, it shall be deemed to be equal to zero. Supplemental Demand and related energy shall be billed under the Company's standard rate (Rate G, Rate GV, or Rate LG) available to the customer for the amount of Supplemental Demand taken.

RATE PER MONTH

Administrative Charge $150.00 per month

Translation Charge

$25.00 per recorder per month

Distribution and

Transmission Demand Charge

$4.00 per KW of Backup Contract Demand

DISCOUNT FOR SERVICE AT 115,000 VOLTS

A discount of $1.50 per month per KW of Backup Contract Demand shall be given to customers who take service at 115,000 volts or higher.

GENERATION DEMAND CHARGE EXEMPTION

A customer shall be exempt from the monthly Generation Demand Charge provided that NEPOOL CRS No. 24 or its equivalent allows PSNH to exclude the customer's station service load supplied by PSNH from PSNH's Adjusted Peak Load reported to NEPOOL, and provided that the customer is a NEPOOL member and has a non-zero Capability Responsibility under the NEPOOL Agreement, or that the generating station is a NEPOOL planned unit.

METERING

Metering shall be provided by the Company in accordance with the provisions of customer's Full Requirements Rate, except as modifications to such metering may be required by the provisions of this rate. The Company may install any metering equipment necessary to accomplish the purposes of this rate, including the measurement of output from the customer's generating

---

Attachment 2 Page 4 of 5

NHPUC NO. - ELECTRICITY Original Page 59 PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE Rate B

Generation Demand Charge [1-(1-LF)3] X $5.25 per KW of Backup Contract Demand

where LF = Backup Demand Load Factor determined as follows:

LF = __A__ B x C

where A = Backup Energy (KWH) taken during on-peak hours in the particular month;

B = Backup Contract Demand; and

C = The number of on-peak hours in the particular month

Energy Charge for Backup Energy The lowest kilowatt-hour charge during the respective on-peak or off-peak period, if the rate includes both on- and off-peak energy charges, in the Full Requirements Rate (including applicable credits, discounts or surcharges).

Page 301

Attachment 2

NHPUC NO. - ELECTRICITY Original Page 60 PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE Rate B

Facilities. Customer shall provide suitable meter locations for the Company's metering facilities. All costs of metering equipment in excess of costs normally incurred by the Company to provide service under customer's Full Requirements Rate shall be borne by the customer.

REFUSAL TO PROVIDE ACCESS

In the event that the customer refuses access to its premises to allow the Company to install metering equipment to measure the output of the customer's generating facilities, the Company may estimate the amount of demand and energy taken under this rate. The customer shall be responsible for payment of all bill amounts calculated hereunder based on such estimates of demand and energy.

CONTRACT TERM

The contract term shall be for not less than one year and for such longer periods as may be determined by the operation of the sections of customer's Full Requirements Rate entitled "Guarantees" and "Apparatus".

SPECIAL PROVISIONS

1. Notwithstanding the general provisions of this rate schedule, the Company may include such other provisions in customer's electric service agreement, executed pursuant to this Rate B, as may be necessary to reflect the specific circumstances of such customer, the operating characteristics of customer's generating equipment or any other particular facts, without limitation, which are necessary, in the Company's sole judgment and subject to NHPUC approval, to give effect to the purpose and intent of this rate.

2. The customer's failure to execute an electric service agreement pursuant to the terms of this Rate B shall not preclude the application of this rate to any partial requirements service provided by the Company to the customer.

TERMS

The charges for service under this rate are net, billed monthly and payable upon presentation of bill. All amounts previously billed but remaining unpaid at any meter reading date (normally

30 days from the prior meter reading date) shall be subject to a late payment charge of one and one-half percent (1 1/2%) thereof, such amounts to include any prior unpaid late payment charges.

==========

NH.PUC*06/15/92*[72955]*77 NH PUC 302*LOV WATER COMPANY, INC.

[Go to End of 72955]

LOV WATER COMPANY, INC.

DR 89-033
ORDER NO. 20,505

77 NH PUC 302

New Hampshire Public Utilities Commission

June 15, 1992

Petition to Increase Short Term Debt Limit

WHEREAS in 1989 the Commission opened docket DR 89-033 to investigate the rates and charges of LOV Water Company, Inc. (LOV) and

WHEREAS, LOV has been an existing unfranchised, public water utility since the late 1970's; and

WHEREAS, an issue in dispute in this docket is LOV's ratebas; and

WHEREAS, LOV has recently obtained counsel to represent it in this docket; and

WHEREAS, LOV has requested to set its short term debt limit at $20,000 to cover potential legal expenses as there are insuffiecient funds in the corporation to cover these expenses; and

WHEREAS, N.H. Admin. Rule Puc 609.18 sets the short term debt limit of a water utility at 10% of the value of its net assets; and

WHEREAS, the net asset value of LOV is in dispute; and

WHEREAS, LOV is entitled to legal representation; it is hereby

ORDERED, the LOV Water Company, INc. is authorized to obtain short term debt up to the amount of $20,000 without prejudice to a determination of its net asset value or the value of legal representation as it relates to rate case expenses.

By order of the Public Utilities COmmission of New Hampshire this fifteenth day of June, 1992.

==========

NH.PUC*06/17/92*[72957]*77 NH PUC 304*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72957]

NEW ENGLAND TELEPHONE COMPANY

DR 92-091
ORDER NO. 20,507

77 NH PUC 304

New Hampshire Public Utilities Commission

June 17, 1992

Special Contract with Concord Hospital Order Granting Motion for Proprietary Treatment

---

On May 18, 1992, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission), pursuant to RSA 378:18, a special contract with Concord Hospital for the provision of Centrex service; and

WHEREAS, concurrent with the special contract, NET filed a Motion for Proprietary Treatment of the special contract with Concord Hospital and the supporting documents to the contract; and

WHEREAS, in its motion NET states that the contract and the supporting documents should be afforded proprietary treatment, pursuant to RSA 91-A, in that they contain "cost analyses, network size, routing and configuration data; information regarding specific service features; and other contract terms such as term, special rates and billing information"; and

WHEREAS, the Commission recognizes that the information identified above is critical to review of the special contract by the Commission and Commission Staff, as required by RSA 378:18; it is hereby

ORDERED, that NET's Motion for Proprietary Treatment of the special contract between NET and Concord Hospital for the provision of Centrex service and all supporting documents be, and hereby is, granted; and it is

FURTHER ORDERED, that this order is subject to the on- going rights of the Commission to reconsider this order in light of RSA 91-A should circumstances so warrant.

By order of the New Hampshire Public Utilities Commission this seventeenth day of June, 1992.

==========

NH.PUC*06/17/92*[72958]*77 NH PUC 305*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72958]

NEW ENGLAND TELEPHONE COMPANY

DR 92-098
ORDER NO. 20,508

77 NH PUC 305

New Hampshire Public Utilities Commission

June 17, 1992

Special Contract with NHEC Order Granting Motion for Proprietary Treatment

---

On May 19, 1992, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission), pursuant to RSA 378:18, a special contract with New Hampshire Electric Cooperative, Inc. (NHEC) for the provision of Centrex service; and

WHEREAS, concurrent with the special contract, NET filed a Motion for Proprietary Treatment of the special contract with NHEC and the supporting documents to the contract; and

WHEREAS, in its motion NET states that the contract and the supporting documents should be afforded proprietary treatment, pursuant to RSA 91-A, in that they contain "cost analyses, network size, routing and configuration data; information regarding specific service features; and other contract terms such as term, special rates and billing information"; and

WHEREAS, the Commission recognizes that the information identified above is critical to review of the special contract by the Commission and Commission Staff, as required by RSA 378:18; it is hereby

ORDERED, that NET's Motion for Proprietary Treatment of the special contract between NET and NHEC for the provision of Centrex service and all supporting documents be, and hereby is, granted; and it is

FURTHER ORDERED, that this order is subject to the on- going rights of the Commission to reconsider this order in light of RSA 91-A should circumstances so warrant.

By order of the New Hampshire Public Utilities Commission this seventeenth day of June, 1992.

==========

NH.PUC*06/17/92*[72959]*77 NH PUC 305*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72959]

NEW ENGLAND TELEPHONE COMPANY

DR 92-105
ORDER NO. 20,509

77 NH PUC 305

New Hampshire Public Utilities Commission

June 17, 1992

Special Contract with Cheshire Medical Center Order Granting Motion for Proprietary

Treatment

On June 2, 1992, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission), pursuant to RSA 378:18, a special contract with Cheshire Medical Center for the provision of Centrex service; and

WHEREAS, concurrent with the special contract, NET filed a Motion for Proprietary Treatment of the special contract with Cheshire Medical Center and the supporting documents to the contract; and

WHEREAS, in its motion NET states that the contract and the supporting documents should be afforded proprietary treatment, pursuant to RSA 91-A, in that they contain "cost analyses, network size, routing and configuration data; information regarding specific service features; and other contract terms such as term, special rates and billing information"; and

WHEREAS, the Commission recognizes that the information identified above is critical to review of the special contract by the Commission and Commission Staff, as required by RSA 378:18; it is hereby

ORDERED, that NET's Motion for Proprietary Treatment of the special contract between NET and Cheshire Medical Center for the provision of Centrex service and all supporting documents be, and hereby is, granted; and it is

FURTHER ORDERED, that this order is subject to the on- going rights of the Commission to reconsider this order in light of RSA 91-A should circumstances so warrant.

By order of the New Hampshire Public Utilities Commission this seventeenth day of June, 1992.

==========

NH.PUC*06/17/92*[72960]*77 NH PUC 306*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72960]

NEW ENGLAND TELEPHONE COMPANY

DE 92-099
ORDER 20,510

77 NH PUC 306

New Hampshire Public Utilities Commission

June 17, 1992

Order NISI Granting Authorization for a Crossing of Telephone Lines Over the Ammonoosuc River in the Town of Bath, New Hampshire

---

On May 20, 1992 New England Telephone & Telegraph Co. (NET) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA

371:17 to construct, operate and maintain aerial telephone lines over the Ammonoosuc River in the Town of Bath, New Hampshire; and

WHEREAS, the telephone crossing consists of fiber optic and copper cables necessary to provide telephone service to the Lisbon exchange (to be located from tel pole 36/1 to tel pole 33/8 in Bath); and

WHEREAS, the proposed telephone line clearances as depicted on NET drawing # 15-1 meet the requirements of the National Electric Safety Code; and

WHEREAS, a map and profile of the proposed crossing are on file with this Commission; and

WHEREAS, the Commission finds the above construction, operation and maintenance is necessary to enable NET to provide service without substantially affecting the public rights in or above said waters, and thus, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than July 15, 1992; and it is

FURTHER ORDERED, that NET effect said notification by: (1) causing an attested copy of this order to be published no later than July 1, 1992 once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Bath area; (2) providing, pursuant to RSA 541-A:22, a copy of this order to the Bath Town Clerk, by First Class U.S. Mail, postmarked on or before July 1, 1992; and (3) documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before July 15, 1992; and it is

FURTHER ORDERED NISI, that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to New England Telephone & Telegraph Co., 24 Prescott Road, Laconia, New Hampshire 03246, to construct, operate and maintain the aforementioned telephone crossing; to be effective on July 16, 1992, unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electric Safety Code and other applicable codes mandated by the Town of Bath.

By order of the New Hampshire Public Utilities Commission this seventeenth day of June, 1992.

==========

NH.PUC*06/17/92*[72961]*77 NH PUC 306*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72961]

NEW ENGLAND TELEPHONE COMPANY

DE 92-101
ORDER NO. 20,511

77 NH PUC 306

New Hampshire Public Utilities Commission

June 17, 1992

Order granting waiver of N.H. Admin. Rule Puc 1601.05(j), approval of tariff page Part A, Section 5, Page 23, 13th revision adding Bennington Municipal Calling to the Hancock, New Hampshire exchange.

New England Telephone & Telegraph Company (NET), having filed on May 21, 1992, a request for waiver of N.H. Admin. Rule Puc 1601.05(j), to update NET's tariff to reflect activation of the Bennington Municipality code for the Hancock, New Hampshire exchange; and

WHEREAS, a recent request for service

Page 306

in a portion of the Hancock exchange serves a customer in the Bennington Municipality; and

WHEREAS, the filing is administrative and adds Municipal Calling Service to Bennington in the Hancock exchange; and

WHEREAS, this administrative filing will update the tariff to reflect the Municipal Code activation and this filing does not affect customers; it is hereby

ORDERED, that tariff page Part A, Section 5, Page 23, 13th revision cancelling 12th revision, hereby is approved; and

FURTHER ORDERED, that NET's request for waiver of N.H. Admin. Rule Puc 1601.05(j) is granted.

By order of the New Hampshire Public Utilities Commission this seventeenth day of June, 1992.

==========

NH.PUC*06/17/92*[72962]*77 NH PUC 307*CONCORD STEAM CORPORATION / CONCORD HOSPITAL

[Go to End of 72962]

CONCORD STEAM CORPORATION / CONCORD HOSPITAL

DR 92-023
ORDER NO. 20,513

77 NH PUC 307

New Hampshire Public Utilities Commission

June 17, 1992

Order Approving a Special Contract for Interruptible Steam Supply to the Concord Hospital

---

WHEREAS, in 1990 Concord Steam Corporation (Concord Steam or Company) received about 18% of its total revenues from the sale of steam to Concord Hospital (Hospital) under its firm tariffed rate; and

WHEREAS, in the fall of the 1990 the Hospital installed a medical waste incinerator, which, among other things, supplies part of the Hospital's steam requirements; and

WHEREAS, the remainder of the Hospital's steam requirements are met by two oil-fired boilers; and

WHEREAS, on March 22, 1991 the Hospital ceased to take service from Concord Steam and physically disconnected its facilities from the utility's service line; and

WHEREAS, the distribution line that delivers steam from Concord Steam's plant on Pleasant Street to the Hospital site does not currently serve any other customer; and

WHEREAS, the Hospital recently agreed to purchase steam from the utility to displace steam generated from its oil- fired boilers, but only at a price less than the firm tariffed rate; and

WHEREAS, on February 3, 1992 Concord Steam petitioned the commission for expedited approval of a special interruptible sales contract with the Hospital, which filing was subsequently amended on February 5, 1992; and

WHEREAS, the proposed contract provided for a price equal to the firm tariffed rate less $2.50 per 1,000 lbs of steam, but not less than Concord Steam's marginal cost; and

WHEREAS, at its public meeting on February 18, 1992 the commission denied Concord Steam's request and subsequently ordered that a prehearing conference be held March 11, 1992 to allow for intervention of interested parties; and

WHEREAS, at said hearing the parties presented an agreement that incorporated a recommendation to approve the contract subject to the following conditions:

(a) the revenues received from the sale of steam under the contract be computed, for ratemaking purposes only, at Concord Steam's firm rate;

(b) the cost of reconnecting Concord Steam's service line to the Hospital's facilities be excluded from rate base;

(c) in future rate cases, but not including the next case, the Company can request different ratemaking treatment to conditions (a) and (b) above;

(d) the distribution line running from the Company's plant on Pleasant Street to the Hospital will remain in rate base. and;

WHEREAS, the additional steam load will increase the operating efficiency of

---

Concord Steam's plant and thus provide immediate benefit to other customers through lower

energy charges; and

WHEREAS, the additional steam load will also enable the fixed costs of the Company to be spread over a larger sales base and thus limit the size of future rate increases; and

WHEREAS, the commission finds the proposed contract just and reasonable and in the public interest; it is hereby

ORDERED, that Concord Steam be authorized to supply steam to the Concord Hospital under the terms of the interruptible steam sales contract.

By order of the New Hampshire Public Utilities Commission this seventeenth day of June, 1992.

==========

NH.PUC*06/18/92*[72963]*77 NH PUC 308*ATLANTIC CONNECTIONS, LTD.

[Go to End of 72963]

ATLANTIC CONNECTIONS, LTD.

DE 90-042
ORDER NO. 20,514

77 NH PUC 308

New Hampshire Public Utilities Commission

June 18, 1992

Report and Order Granting in Part and Denying in Part Atlantic Connections, Ltd. Motion for Rehearing of Report and Order No. 20,485

REPORT

The background of this proceeding is set forth fully in Report and Order No. 20,485 and will not be repeated here.

On May 19, 1992, the Commission issued Report and Order No. 20,485 in response to a motion to stay filed by Atlantic Connections, Ltd. (Atlantic). The motion requested a stay of that part of Report and Order No. 20,063 that ordered Atlantic to cease and desist unauthorized, intrastate, telephone resale operations. Atlantic's motion was filed in response to the New Hampshire Supreme Court's affirmance of Report and Order No. 20,063. See, Appeal of Atlantic Connections, Ltd., 135 N.H 510 (1992).

Report and Order No. 20,485 denied Atlantic's motion, but, based on representations of the hardship that would accrue to its customers if Atlantic were to cease and desist operations the Commission gave Atlantic the option to cease and desist operations or provide intrastate service to its customers at no charge as of May 5, 1992. The Report and Order went on to require Atlantic to pay access fees to New England Telephone (NET) for its years of illegal operations.

On June 5, 1992, Atlantic filed a motion for rehearing of Report and Order No. 20,485

pursuant to RSA 541:3. In its motion Atlantic alleges that the Commission lacks jurisdiction to enforce its order to cease and desist until its pending motion for reconsideration of the Supreme Court's opinion is addressed by the Court. Atlantic further contends that the Commission's order that it pay access fees to NET is illegal because it constitutes a fine which was not levied in the Commissions original order, access rates were not in place until March of 1991, and because Atlantic is not an "approved utility".

I. COMMISSION ANALYSIS

In regard to Atlantic's argument relative to the cease and desist order the Commission disagrees. As was stated above, the Commission issued a cease and desist order at the conclusion of hearings in this case. The cease and desist order was subsequently stayed by the Supreme Court while the matter was on appeal. However, on May 5, 1992, the Court affirmed the Commission's decision thereby reinstating the Commission's cease and desist order as of that date. The fact that Atlantic has moved for reconsideration of the Court's decision does not negate the effectiveness of that decision. Thus, as of May 5, 1992, Atlantic was required to cease and desist operations. This fact is borne out by Atlantic's request for a stay of the Commission's cease and desist order on May 7, 1992.

In regard to Atlantic's arguments relative to the payment of access fees in Report and Order No. 20,485, while the Commission does not agree with its arguments we do not believe it is our role to enforce a utility's tariff when the utility has failed to act on its own behalf. Thus, that portion of Report and Order No.

20,485 which "requires" Atlantic to pay access fees to NET is rescinded without prejudice to NET's rights to seek compensation for access fees which it believes it is due from Atlantic.

Our order will issue accordingly.

Concurring June 18, 1992

ORDER

In consideration of the foregoing Report, which is incorporated herein; it is hereby,

ORDERED, that portion of Atlantic Connections, Ltd.'s motion for rehearing addressing the Commission's cease and desist order is denied; and it is

FURTHER ORDERED, that the portion of Report and Order No. 20,485 addressing access fees is rescinded without prejudice to New England Telephone's right to pursue the collection of any monies it believes it is due.

By order of the Public Utilities Commission of New Hampshire eighteenth day of June, 1992.

==========

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-050
ORDER 20,515

77 NH PUC 309

New Hampshire Public Utilities Commission

June 18, 1992

Fuel and Purchased Power Adjustment Clause Order Granting Ms. Nelkens' Motion to Compel.

WHEREAS, on April 15, 1992, Ms. Shelly Nelkens, a party to this proceeding, submitted Data Request No. 19 asking Public Service Company of New Hampshire (PSNH) "to submit a line item budget for Seabrook for this FPPAC period"; and

WHEREAS, on April 22, 1992, in response to Data Request No. 19, PSNH provided Ms. Nelkens with a one-page summary of the 1992 Seabrook operating budget; and

WHEREAS, on May 26, 1992, Ms. Nelkens submitted a follow- up request to PSNH seeking detailed information on actual and estimated Seabrook operating budgets provided to this commission and the United States Nuclear Regulatory Commission; and

WHEREAS, on June 1, 1992, PSNH and Northeast Utilities Service Company filed an objection to Ms. Nelkens' follow-up request asserting that it was both untimely and burdensome; and

WHEREAS, on June 9, 1992, Ms. Nelkens filed a Motion to Compel with the New Hampshire Public Utilities Commission (commission) which argued that she was entitled to seek clarification at any time on any PSNH data response; and

WHEREAS, in her Motion to Compel, Ms. Nelkens amended the original follow-up request so as to reduce the need for burdensome production of monthly data by PSNH; and

WHEREAS, the commission finds that Ms. Nelkens' follow-up request is within the scope of initial Data Request No. 19 and seeks clarification and amplification of PSNH's initial response; and

WHEREAS, parties are entitled to seek discovery on any matter which is calculated to lead to the discovery of admissible evidence, is not difficult to comply with, and the request is clearly directed to the party best able to gather the information, Re Eastern Utilities Associates/UNITIL Corp., 75 NHPUC 192 (1990); it is hereby

ORDERED, that PSNH provide to Ms. Nelkens' information and data which is responsive to Ms. Nelkens follow-up request as amended.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of June, 1992.

==========

[Go to End of 72965]

AT&T COMMUNICATIONS OF NEW HAMPSHIRE, INC.

DR 92-092
ORDER NO. 20,518

77 NH PUC 310

New Hampshire Public Utilities Commission

June 22, 1992

Order NISI Authorizing Implementation of Tariff Changes Related to AT&T's EasyReachsm Service

---

On May 15, 1992 AT&T Communications Company of New Hampshire, Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce enhancements to AT&T Custom Network Servicessm by introducing their EasyReachsm service; and

WHEREAS, the Commission finds that implementation of these enhancements is in the public good; it is hereby

ORDERED NISI, AT&T, hereby is authorized to implement the following tariff changes for its EasyReachsm service:

AT&T Communications of New Hampshire, Inc. NHPUC Tariff No. 1

Table of Contents - 6th revised Page 1

Original Page 14

Tariff Information - 4th Revised Page 4

General Regulations

Section 1 - 4th Revised Pages 23 and 24

- 2nd Revised Page 25

- 1st Revised Pages 26 & 27

- Original Page 28

AT&T Easy Reach Service

Section 12 Original Pages 1 through 8

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rule Puc 203.01, the company cause an attested copy of this Order NISI to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be documented no later than July 6, 1992, and is to be documented by

affidavit filed with this office on or before the twenty-second day of July, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than July 20, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective on July 22, 1992 unless the commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-second day of June, 1992.

==========

NH.PUC*06/22/92*[72966]*77 NH PUC 310*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES

[Go to End of 72966]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES

DE 92-119
ORDER NO. 20,519

77 NH PUC 310

New Hampshire Public Utilities Commission

June 22, 1992

Order NISI for PSNH to Provide a List of all PSNH Customers That are Served at Primary Voltage to Assist the Division in carrying out its New Hampshire Inspection Scheme

---

The New Hampshire Department of Environmental Services, Air Resources Division ("Division") has requested Public Service Company of New Hampshire ("PSNH") to provide a list of all PSNH customers that are served at primary voltage in order to assist the Division in carrying out its New Hampshire Neutral Inspection Scheme, a program which is designed to determine if users are complying with federal rules governing polychlorinated biphenyls ("PCBs") (20 CFR 761); and

WHEREAS, PSNH observes a policy of declining to disclose specific information

regarding its customers, and PSNH has declined to provide the list of customers voluntarily to the Division without the list being protected from public disclosure; and

WHEREAS, the Division has requested the assistance of the Commission in this matter, and the Staff has made a similar request of PSNH; and

WHEREAS, under RSA 363:18 the Commission shall cooperate with other state agencies and assist them in the conduct of their official duties; and

WHEREAS, under PSNH's tariff, customers served under Primary General Service Rate GV and Large General Service Rate LG are responsible for providing transformers to reduce the voltage delivered by PSNH, with some customers renting transformers from PSNH and others purchasing or leasing and maintaining their own transformers; and

WHEREAS, the Commission finds that the confidentiality of customer records protects both the customers' privacy interests and the utility's competitive interests, and that this information is exempt from public disclosure under RSA 91-A:5, IV (Supp.); it is hereby

ORDERED NISI, that, under the conditions of this order, PSNH shall provide the Division with one copy of a list of the names and service addresses of its customers currently provided service under its Rate LG and Rate GV rates that own or lease transformers; and it is

FURTHER ORDERED, that the Division shall use the list only for its New Hampshire Neutral Inspection Scheme; and it is

FURTHER ORDERED, that the Division's files, either electronic or paper, containing the list of names and addresses supplied by PSNH pursuant to this order shall continue to be subject to this order and shall not be disclosed; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, PSNH cause an attested copy of this Order Nisi to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than July 6, 1992, and to be documented by affidavit filed with this office on or before July 22, 1992; and it is

FURTHER ORDERED, that any interested person may file a written statement or objection or request and opportunity to be heard on this matter no later than July 20, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective on July 22, 1992, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of June, 1992.

==========

NH.PUC*06/22/92*[72967]*77 NH PUC 311*BIRCHVIEW BY THE SACO, INC.

[Go to End of 72967]

BIRCHVIEW BY THE SACO, INC.

DR 89-207
ORDER NO. 20,520

77 NH PUC 311

New Hampshire Public Utilities Commission

June 22, 1992

Order Granting in Part and Denying in Part Birchview's Motion for Rehearing

---

On June 5, 1992 the New Hampshire Public Utilities Commission (Commission) granted the June 4, 1992 Motion to Strike Data Requests and to Extend Staff's Deadline to Report to Commission on Rate Case Expenses filed by the Commission Staff (Staff); and

WHEREAS, on June 8, 1992 Birchview by the Saco, Inc. (Birchview) filed a Motion for Rehearing, alleging violations of Commission administrative rules because Birchview was not afforded a ten day opportunity to respond to the Staff's motion; and

WHEREAS, the Staff, on June 11, 1992 objected to the Motion for Rehearing, alleging that 1) without a procedural schedule establishing discovery, Birchview had no authority to file data requests and therefore the data requests should be stricken; and 2) the extension was requested in order to review Birchview's amended petition filed the date the

Page 311

Report was due; and

WHEREAS, the Commission agrees with the Staff's position that Birchview is without rights to discovery, at this point, but rather than to occasion further legal expenses on the part of Birchview in arguing this point, we will instruct the Staff to file responses to the data requests, with an eye towards moving this case forward at the least possible cost; and

WHEREAS, the Commission finds that to grant Birchview's request to respond to Staff's motion regarding the extension of time would be meaningless at this point, as the extension period expired June 11, 1992 and the Report for which the extension was requested was filed with the Commission on June 11, 1992; it is hereby

ORDERED, that the Motion for Rehearing is granted as to the data requests, solely for the sake of expediency and limiting of costs, and Staff is instructed to file responses to the data requests no later than June 29, 1992; and it is

FURTHER ORDERED, that the Motion for Rehearing is denied as to the extension of time, as the request is rendered moot by the passage of time.

By order of the New Hampshire Public Utilities Commission this twenty-second day of June, 1992.

==========

NH.PUC*06/25/92*[72968]*77 NH PUC 312*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72968]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-125
ORDER NO. 20,521

77 NH PUC 312

New Hampshire Public Utilities Commission

June 25, 1992

Special Contract with James River Corporation Order Granting Protective Treatment

---

On June 22, 1992, Public Service Company of New Hampshire (PSNH), pursuant to RSA 378:18, filed with the New Hampshire Public Utilities Commission (Commission) two special contracts with James River Corporation (James River) for provision of electric service to James River at its Berlin/Gorham and Groveton locations; and

WHEREAS, concurrent with the special contracts filed on June 22, 1992, PSNH filed a Motion for Protective Order (Motion), pursuant to RSA 91-A, for protective treatment of technical materials to be submitted in conjunction with the special contracts; and

WHEREAS, in its Motion PSNH states that the technical materials be submitted contain "specific information concerning James River's operations, processes, market position, financial health and prospects for recovery", dissemination of which "would result in substantial harm to James River by allowing its competitors an unfair competitive advantage"; and

WHEREAS, the information identified above is a necessary part of the filing, and important for the Commission Staff (Staff) to review in evaluating the contract terms; and

WHEREAS, Staff concurs in the Motion regarding protective treatment; and

WHEREAS, the Commission recognizes the importance of Staff having the opportunity to review fully the materials which support a special contract, in order to responsibly carry out the duties placed upon it pursuant to RSA 378:18; it is hereby

ORDERED, that the Motion for Protective Order be, and hereby is, granted to allow Staff review of the supporting technical materials to be submitted in support of the special contract; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on it own motion or on the motion of Commission staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of June, 1992.

==========

NH.PUC*06/29/92*[72969]*77 NH PUC 313*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72969]

NEW ENGLAND TELEPHONE COMPANY

DR 91-105
ORDER NO. 20,522

77 NH PUC 313

New Hampshire Public Utilities Commission

June 29, 1992

Phonesmartsm Services Report and Order Granting Motion for Clarification and Denying Motion for Rehearing

---

Appearances: As previously noted.

REPORT

I. PROCEDURAL HISTORY

On April 28, 1992, the New Hampshire Public Utilities Commission (Commission) held a hearing on the merits in the above-captioned docket. New England Telephone and Telegraph Company (NET) presented a "Stipulation and Agreement Between the Parties" (Stipulation) signed by the following:

Staff of the New Hampshire Public Utilities Commission (Staff)

New England Telephone & Telegraph Company

Granite State Telephone Company

Merrimack County Telephone Company

Wilton Telephone Company

Dunbarton Telephone Company

Office of Consumer Advocate (OCA)

The New Hampshire Association of Chiefs of Police

The Honorable Neal Kurk

Contel of New Hampshire and Contel of Maine (d/b/a GTE New Hampshire and GTE Maine, respectively), and MCI Telecommunications Corporation (MCI) neither signed nor opposed the Stipulation. The New Hampshire Coalition Against Domestic and Sexual Violence (Coalition) did not sign the Stipulation at the hearing but did sign it several days later, after further negotiations with NET.

On April 28, 1992, the Commission heard testimony from Staff and NET in support of the proposed Stipulation. The Coalition and Representative Kurk presented their positions on per line blocking and the provision of informative stickers through testimony and cross examination.

On May 27, 1992, the Commission issued Order No. 20,494 modifying the terms proposed in the Stipulation. On June 15, 1992, NET timely filed a Motion for Clarification or Rehearing (Motion). Staff, on June 17, 1992, filed a response to NET's Motion.

II. POSITIONS OF THE PARTIES AND STAFF

A. New England Telephone and Telegraph Company

NET requested that the Commission clarify Order No. 20,494 by stating that the Order does not require compliance pursuant to RSA 365:40-42 and that the Commission's intent was to

accept the Stipulation subject to the signatories' right to reject the Stipulation if the Commission modified the Stipulation's terms. In the alternative, NET requested rehearing on the Stipulation.

B. Intervenors

Granite State Telephone Company, Merrimack County Telephone Company, Wilton Telephone Company, Dunbarton Telephone Company, the OCA and the New Hampshire Association of Chiefs of Police concurred in NET's motion. MCI neither concurred nor opposed the Motion. Representative Kurk and the Coalition opposed the Motion.

C. Staff

Staff concurred in NET's request that the Commission declare its intent was to accept the Stipulation subject to the signatories' right to reject it if the Commission modified the Stipulation's terms. Staff also concurred with NET's request that the Commission state that the Order does not require compliance pursuant to RSA 365:40-42. Staff objected to NET's motion to the extent that it asked the

Commission to rehear testimony in support of the Stipulation on the grounds that NET did not offer any evidence that could not have been presented at the original hearing.

III. COMMISSION ANALYSIS

Based upon review of the pleadings, the Commission grants NET's Motion for Clarification and denies its alternative Motion for Rehearing. We find that Staff and the parties, through paragraph 13 of the Stipulation, incorporated into the Stipulation each parties' right to reject the Stipulation if it was not accepted in its entirety. We agree with NET's statement that Order No. 20,494 modified the terms of the Stipulation. Therefore, we direct any party that wishes to reject the modifications to the Stipulation contained in Order No. 20,494 to submit within thirty days of this Order a request for a full hearing on the merits. A request for a full hearing will extinguish all agreements and compromises contained in the Stipulation and Staff and the parties will return to the positions held before entering into the Stipulation.

NET's compliance with Order No. 20,494 is waived until after a full hearing on the merits at which time a new order will supersede it or until the end of the thirty day period should all parties choose to accept Order No. 20,494 as written.

This procedure will ensure that NET and any other party has sufficient notice and an opportunity to be heard on all aspects of the filing, not just the limited areas explored during the presentation of the Stipulation. We find that by granting NET's Motion for Clarification, we are adhering to the principles set forth in Appeal of Concord Steam Corporation, 130 NH 422 (1988), and that NET's due process rights are protected and fulfilled as required by the due process clause of the New Hampshire Constitution, N.H. CONST. pt I, art. 15.

We deny NET's Motion for Rehearing on the Stipulation because NET failed to show that there was any evidence to be presented at a rehearing that could not have been presented at the original hearing.

Our order will issue accordingly.

June 29, 1992

ORDER

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

ORDERED, that any party that wishes to reject the modifications to the Stipulation contained in Order No. 20,494 shall submit within thirty days of this Order a request for a full hearing on the merits; and it is

FURTHER ORDERED, that NET's compliance with Order No. 20,494 is waived until after a full hearing on the merits at which time a new order will supersede it or until the end of the thirty day period should all parties choose to accept Order No. 20,494 as written; and it is

FURTHER ORDERED, that NET's Motion for Rehearing is denied for the reasons set forth in the preceding Report.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of June, 1992.

==========

NH.PUC*06/29/92*[72970]*77 NH PUC 314*GRANITE STATE ELECTRIC COMPANY

[Go to End of 72970]

GRANITE STATE ELECTRIC COMPANY

DR 92-094
ORDER NO. 20,523

77 NH PUC 314

New Hampshire Public Utilities Commission

June 29, 1992

Fuel Adjustment Charge, Oil Cost Adjustment

Appearances: David J. Saggau, Esq. for Granite State Electric Company; James T. Rodier, Esq. for the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On June 1, 1992, Granite State Electric Company (Granite State) filed tariff pages with supporting testimony and exhibits reflecting Granite State's proposed fuel adjustment clause

(FAC), oil conservation adjustment (OCA) and qualifying facility power purchase rate (QF) for the second six months of 1992.

An Order of Notice was issued by the New Hampshire Public Utilities Commission (Commission) on May 28, 1992, and, pursuant thereto, a hearing on the merits was held on June 17, 1992.

II. POSITION OF GRANITE STATE ELECTRIC COMPANY

Granite State is proposing a FAC factor of $0.00827 per kWH during the months of July through December, 1992. The proposed factor is expected to recover fully the fuel- related expenses Granite State incurs from its wholesale power supplier, New England Power Company (NEP). The proposed FAC factor is an increase of $0.00277 per kWh over the currently effective FAC factor of $0.00550 per kWh. The proposed FAC will increase the bill for a residential customer using 500 kWh per month by $1.39.

Granite State cites two factors for the increase in the FAC: 1) it expects the total fuel costs for the second half of 1992 to be higher than the projected fuel costs for the first half of 1992, and 2) the actual fuel costs for the first half of 1992 were higher than what had been forecasted. For the July through December period, Granite State expects oil prices to increase slightly over a fairly narrow range as they move in response to normal seasonal variations in supply and demand. Natural gas prices, which have firmed recently at the wellhead, are expected to remain competitive with alternative fuels due to NEP's ability to negotiate discounted transportation costs from the pipelines. Coal costs are forecasted to remain stable at approximately the current price per ton of $44.00.

Granite State is proposing an OCA factor of $0.00123 per kWh for the second half of 1992. This factor represents an increase of $0.00011 per kWh from the currently effective OCA factor of $0.00112 per kWh. The proposed increase in the OCA factor will increase the bill of a residential customer using 500 kWh per month by $0.06.

The QF energy rate Granite State is proposing for energy provided at the subtransmission level is $0.02445 per kWh in the on-peak period, $0.01949 per kWh in the off-peak period, and $0.02180 per kWh on average. For QF energy at the primary distribution level, the proposed rate is $0.02626 per kWh on-peak, $0.02045 per kWh off-peak, and $0.02385 per kWh on average.

Granite State believes the short-term capacity value is zero for the second half of 1992 as NEP has no short-term purchase contracts in effect to meet capacity needs and none are anticipated during the second half of 1992.

During the hearing Staff focused its cross-examination primarily on two issues: the short-term market transactions of New England Power, Granite State's wholesale supplier, and the procurement of natural gas from several interstate pipelines as well as from TransCanada Pipelines, Limited. Additionally, during cross-examination by Staff, the question arose as to when and whether Manchester Street Station will undergo repowering due to problems in the acquisition of the land title.

Leonard Fowler, Director of Power Supply for NEP, testified that NEP was very active in the short-term energy markets in the fall of 1991, particularly with direct sales to Northeast Utilities (NU) during the period when NU's nuclear units were down. Mr. Fowler also testified that NEP conducts much more short-term energy transactions with the New England Power Pool (NEPOOL) than it does on a direct utility-to-utility basis, primarily, because NEPOOL

transactions earn Savings Shares. Savings Shares consist of Standard Shares, which are based on volume but give no recognition to value, and Bonus Shares, which explicitly recognize the value the utility brings to NEPOOL.

Jeffrey Van Sant, Manager of Natural Gas and Oil Supply, testified on the procurement of fuel supplies, especially NEP's natural gas supply strategy. Mr. Van Sant explained that NEP can reduce its fuel costs by directly transporting gas on interstate pipelines and the TransCanada Pipeline. Additionally, Mr. Van

Page 315

Sant stated natural gas provides NEP with supply diversity and environmental benefits. During cross-examination, Mr. Van Sant explained that NEP is incurring pipeline demand charges of about $10 million in 1992 of which half is held in a deferred asset account and the remaining $5 million is flowed through NEP's FAC.

Manchester Street Station repowering is NEP's largest construction project, estimated to cost between $600 and $650 million. Manchester Street Station, located in Providence, Rhode Island, is operated currently by Narragansett Electric Company, an affiliate of NEP and Granite State. The output from the repowering, which will approximately triple the output of Manchester Street Station to 450 MW, is scheduled to start in mid-1992 and be completed by late 1995 or early 1996.

During the hearing, Staff questioned the current status of Manchester Street Station in light of a recent Rhode Island State Supreme Court case and pending legislation concerning who legally holds title to lands created by fill from ocean dredging. Manchester Street Station is located on lands built by fill from ocean dredging. Granite State's witness, Lawrence J. Reilly, Director of Rates for New England Power Service Company, agreed that there does exist some risk that Manchester Street Station will not undergo repowering due to the uncertainty of title ownership, but believed that the resolution of ownership is highly likely to occur soon.

III. COMMISSION ANALYSIS

Based on the record in this docket, the Commission will accept the FAC and OCA rates as filed and shown in the exhibits. The Commission also finds that the proposed short-term rates for energy and capacity to be just and reasonable, and calculated in accordance with the methodologies outlined in previous Commission orders. Additionally, we find that our decision in Order No. 19,052 establishing procedures for contracting for QFs in a least cost planning framework obviates the need for Granite State to reconcile short-term avoided cost rates to actual costs.

We will order that Granite State keep the Commission informed concerning the title dispute of Manchester Street as soon as any actions affecting the repowering are made.

Our order will issue accordingly.

Concurring: June 29, 1992

ORDER

Upon consideration of the foregoing report which is incorporated by reference herein; it is

hereby

ORDERED, that Granite State Electric Company's proposed Fuel Adjustment Charge for the period July through December 1992 shall be $0.00827 per kWh; and it is

FURTHER ORDERED, that Granite State Electric Company's Oil Conservation Adjustment factor for the period July through December 1992 shall be $0.00123 per kWh; and it is

FURTHER ORDERED, that for the same period, the short-term power purchase (short-term energy and capacity) rates for Qualifying Facilities shall be as follows:

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

Energy Rates On-peak Off-peak Average

Subtransmission
Distribution  2.445 1.949 2.180
Primary
Distribution  2.626 2.045 2.316
Secondary
Distribution  2.719 2.093 2.385

Capacity Rate $0.00 per kW-yr.
```

and it is

FURTHER ORDERED, Granite State Electric Company file compliance tariff pages with proper annotation in accordance with this Report and Order.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of June, 1992.

==========

NH.PUC*06/30/92*[72971]*77 NH PUC 317*LAKELAND MANAGEMENT COMPANY, INC.

[Go to End of 72971]

LAKELAND MANAGEMENT COMPANY, INC.

DR 91-058
ORDER NO. 20,525

77 NH PUC 317

New Hampshire Public Utilities Commission

June 30, 1992

Report and Order Approving Permanent Rate Increase and Other Matters

---

Appearances: Jay C. Boynton, Esq. on behalf of Lakeland Management Company, Inc.; Amy Ignatius, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

Lakeland Management Company, Inc. (Lakeland) filed with the New Hampshire Public Utilities Commission (Commission) an incomplete petition for a permanent rate increase and significant rate redesign on May 3, 1991, supplemented by a further filing on January 8, 1992. The filings, including proposed tariffs, encompassed both water and sewer service to 104 residential and commercial customers in Belmont. The tariffs were suspended by Order No. 20,375 (January 28, 1992) pending review of the filings by Commission Staff (Staff). Lakeland did not request temporary rates.

A number of Lakeland's customers submitted letters to the Commission indicating their intention to intervene or requesting that the Commission deny the requested rate increase. A duly noticed prehearing conference was held on February 20, 1992. There were no requests for full intervention.

On May 1, 1992, Staff filed written testimony of Mark A. Naylor regarding rate base calculations and other financial matters and Scott W. Harrold regarding cost of capital. On May 6, 1992 Staff filed written testimony of James L. Lenihan regarding rate design and on May 27, 1992, Staff filed written testimony of Douglas W. Brogan regarding pressure meter readings experienced by Lakeland's customers. On the day of the scheduled hearing on the merits, Lakeland and the Staff presented a Stipulation, attached hereto as Exhibit 1 and made a part hereof.

II. POSITIONS OF THE PARTIES AND STAFF

A. Lakeland Management Company, Inc.

Lakeland initially requested rate redesign by which commercial customers would experience a reduction in water and sewer rates while residential customers would experience an increase in those rates. Lakeland also requested a change from a flat rate for water usage to a combined flat rate and metered usage rate. It requested a and cost of capital of 10.5%.

B. Commission Staff

The Staff recommended significant modifications to Lakeland's rate design, so that increases would be more evenly shared among the rate classifications. Staff recommended a return on equity of 10.71%, based on a discounted cash flow analysis. Staff did not oppose the change to a metered rate but had serious concerns about the water pressure readings and recommended a number of capital improvements to the system.

C. Stipulation

The Stipulation agreed to between Lakeland and the Staff provided for the following resolution of all issues:

Page 317

1. Cost of Capital

Lakeland and the Staff stipulate to a return on equity and a cost of capital of 10.71%, based on a capital structure of 100% equity.

2. Revenue Requirement and Rate Base

Lakeland and the Staff stipulate to revenue requirements of $44,060 for the sewer division and $38,015 for the water division. The overall revenue increase stipulated to is $11,185 or 41.7% for the water division and $3,119 or 7.6% for the sewer division, for a total increase in company revenues of $14,304 or 21.1%.

Lakeland and the Staff stipulate to a rate base of $124,934 for the water division and $108,236 for the sewer division. Lakeland intends to convert $200,000 in debt obligations in the form of a loan from Lakeland President Mark Mooney to Lakeland as a capital contribution, and agrees to provide appropriate proof of same to Staff. This conversion from debt to equity eliminates all tax-deductible interest expense, thereby creating an additional tax effect of $2,788 for each division which are included in the stipulated revenue requirements.

3. Rate Design

Lakeland and the Staff stipulate to allocation of the rate increases

for the water division as follows: Residential customers: customers to

pay $45 per quarter flat charge and $3.00 per hundred cubic foot of

water used;

Commercial customers, class A: customers to pay $600 per quarter flat

charge and $8.78 per hundred cubic foot of water used;

Commercial customers, class B: customers to pay $200 per quarter flat

charge and $4.50 per hundred cubic foot of water used.

Sewer rates are calculated on a multiple of 1.18 times water bills, representing an increase of 7.8% for residential customers, 18% for commercial class A customers, and 19% for commercial class B customers. This would result in an combined rate increase for sewer to the average residential customer of approximately 29%, for the commercial A customer of approximately 29% and for the average commercial B customer of approximately 26%.

4. Capital Improvements

Lakeland and the Staff stipulate to resolving the issue of capital improvements under the following schedule: not later than June 30, 1992, Lakeland shall submit to the Staff an initial proposal, including preliminary cost estimates, regarding its plans to increase water pressure for its customers; not later than September 1, 1992, Lakeland and the Staff shall present to the Commission an agreed upon proposal, if such agreement has been reached, or their separate proposals if agreement has not been reached, regarding capital improvements. Staff will seek to enter into evidence the testimony of Douglas Brogan at this hearing. Included in the Staff's proposal shall be a recommendation that the cost of capital improvements approved by the Commission be recovered in a step increase to Lakeland's customers, rather than requiring Lakeland to file a new rate case for recovery.

5. Rate Case Expenses

Lakeland and the Staff stipulate that until the issue of capital improvements has been resolved, rate case expenses cannot be

determined, but will be addressed at the hearing regarding capital improvements before the Commission on or about September 1, 1992.

6. Compliance Tariffs

Lakeland and Staff stipulate that tariffs in compliance with the rate increases addressed above be filed no later than ten days after the Commission's order approving this Stipulation.

III. COMMISSION ANALYSIS

Based upon review of the record and testimony at the June 11, 1992 Stipulation hearing, we are persuaded that the Stipulation agreed to by Lakeland and the Staff is just and reasonable and in the public good. We will, therefore, accept it.

We are concerned, however, about the remaining issue of capital improvements and urge Lakeland and the Staff to promptly develop proposals for resolution of capital improvements as delineated in the Stipulation.

Our order will issue accordingly.

Concurring: June 30, 1992

ORDER

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

ORDERED, that permanent rates for water and sewer service be increased, in accordance with the June 11, 1992 Stipulation which is attached to the accompanying Report as Exhibit 1; and it is

FURTHER ORDERED, that Lakeland shall file within ten days of this order new tariffs in compliance with this order; and it is

FURTHER ORDERED, that Lakeland and the Staff shall pursue proposals for capital improvements in accordance with the Stipulation.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1992.

ATTACHMENT

RATE CASE STIPULATION AGREEMENT

This Agreement is entered into this eleventh day of June, 1992, by and between Lakeland Management Company, Inc. (Lakeland) and the Staff of the New Hampshire Public Utilities Commission (Commission), with the intent of resolving all of the issues that were raised or could have been raised by Lakeland and the Staff concerning revenues and rates in the above-captioned case.

I. INTRODUCTION

Lakeland filed an incomplete petition for a permanent rate increase on May 3, 1991, supplemented by a further filing on January 8, 1992. The filings, including proposed tariffs, encompassed both water and sewer service to 104 residential and commercial customers in Belmont. The tariffs were suspended by Order No. 20,375 (January 28, 1992) pending review of the filings by Staff. Lakeland did not request temporary rates.

A number of Lakeland's customers submitted letters to the Commission indicating their intention to intervene or requesting that the Commission deny the requested rate increase.

On May 1, 1992, Staff filed written testimony of Mark A. Naylor regarding rate base calculations and other financial matters and Scott W. Harrold regarding cost of capital. On May 6, 1992 Staff filed written testimony of James L. Lenihan regarding rate design and on May 27, 1992, Staff filed written testimony of Douglas W. Brogan regarding pressure meter readings experienced by Lakeland's customers. Staff and Lakeland have engaged in extensive discovery in anticipation of the hearing on the merits set for June 11, 1992.

On June 2, 1992, Lakeland and the Staff discussed all rate issues in order to explore the possibility of reaching agreement on some or all of the issues in the case. This Stipulation is the result of Lakeland's rate filing, all testimony, exhibits, data requests and responses and the settlement discussions between Lakeland and the Staff.

Lakeland and the Staff are prepared to present testimony to the Commission in support of this Stipulation at the hearing scheduled for June 11, 1992.

II. COMPONENTS OF AGREEMENT

A. Cost of Capital

Lakeland and the Staff stipulate to a return on equity and a cost of capital of 10.71%, based on a capital structure of 100% equity. This amount is slightly higher than the amount proposed by Lakeland in its prefiled testimony.

B. Revenue Requirement

Lakeland and the Staff stipulate to revenue requirements of $44,060 for the sewer division and $38,015 for the water division. The overall revenue increase stipulated to is $11,185 or 41.7% for the water division and $3,119 or 7.6% for the sewer division, for a total increase in company revenues of $14,304 or 21.1%.

Lakeland and the Staff stipulate to a rate base of $124,934 for the water division and $108,236 for the sewer division. The water division rate base remains the same as that proposed by the Staff; the sewer division rate base increases slightly due to an increase of the KWH or by $0.00600 per KWH for Exeter & Hampton. Mr. Collin explained the derivation of the UNITIL Power wholesale rates, and the increase in the demand and energy charges and the decrease in the fuel charge. The increase in the demand charge rate is due to the forecasted

increase in demand costs from the companies' wholesale supplier, UNITIL Power, transmission costs and unbilled prior amounts.

The companies filed revised calculations on June 23, 1992 to calculate the FAC and PPAC rates to include actual May 1992 data. The rates for the companies' PPAC and FAC are as follows: for Concord the PPAC would be $0.03489 per KWH and for Exeter it would be $0.03600 per KWH. The rates for the companies' FAC would be ($.01164) per KWH for Concord and ($.01112) per kwh for Exeter and Hampton.

The calculation of the companies' short term avoided energy rates was based on the use of an average of a 5 megawatt increment and a 5 megawatt decrement to load. This is in accordance with the methodology specified in the settlement agreement in DR 86-41, et al., Phase I, as revised in DR 89-225 and DR 89-227.

The short term avoided capacity rate, $0.00 per KW-year, reflects, the continuing weakness in the economy, the current surplus of capacity in the New England market and the companies' expectation that they will not be making any short-term purchases or sales in the next six-month period.The staff raised the issue of the pass-through to ratepayers of the expenses incurred by UNITIL in the Fitchburg gas and Electric merger(F & G) through the purchased power costs of UNITIL Power. Mr. Collin explained the line item on Exhibit DL-5 labelled "Ware Cogen ETA". According to Mr. Collin, this proposed cost recovery is associated with the Ware Cogen Early Termination Amendment. Ware Cogen is a non-utility generator which has sold its output to UNITIL under contract. UNITIL has been in negotiations with Ware Cogen and their banks to terminate this contract early. The terms have not been finalized, but generally will allow UNITIL to make payments to Ware Cogen that will allow them to pay off notes with their banks early. In return, UNITIL will be relieved of its obligation to buy output from this facility as of July 1, 1992.

During cross-examination, Mr. Collin indicated that the fixed price per unit of output negotiated by UNITIL in 1987 was now far above prevailing market levels. Mr. Collin also testified that the Ware facility was generally well-managed and that its high costs were not the result of mismanagement.

As a result of the termination of Ware Cogen and other entitlements, UPC, through its bid solicitation process, has entered into a contract with the Connecticut Municipal Electric Cooperative to purchase entitlements in Millstone 1 and 2 as well as Middletown 4. Mr. Collin also testified that UPC expects to enter into a short-term purchase to realize energy savings, and that the purchase would likely be from a low sulfur oil unit located in Southern New England. Mr. Collin also testified that UNITIL is expecting to purchase a high level of secondary energy from NEPOOL in order to lower its energy costs.

Mr. Collin testified that no transactions with PSNH were contemplated. Mr. Collin agreed that, while there may be valid underlying reasons, it does appear to be questionable why PSNH is exporting its surplus low-priced baseload energy to Southern New England, while at the same time UNITIL plans to import power from Southern New England. Mr. Collin agreed that if UNITIL bought in-state from PSNH, a substantial amount of transmission cost might be avoided.

With respect to the Ware Cogen termination and UNITIL's lack of transactions with its neighbor, PSNH, staff recommended in its closing statement that the commission's order in this proceeding not have any precedential or prejudicial effect on staff's ability in any future hearing to investigate and litigate cost recovery issues.

Lakeland intends to convert $200,000 in debt obligations in the form of a loan from Lakeland President Mark Mooney to Lakeland as a capital contribution, and agrees to provide appropriate proof of same to Staff. This conversion from debt to equity eliminates all tax-deductible interest expense, thereby creating an additional tax effect of $2,788 for each division which are included in the stipulated revenue requirements.

The stipulated sewer division revenue requirement includes an increase in Laconia sewer charges over that recommended by Staff, which provides for payment of a newly increased sewer customer charge due to the City of Laconia on a quarterly basis for all Lakeland sewer customers. Lakeland collects these sewer charges as part of its sewer rates and then pays the sewer charges in full to the City. Although the amount included for these sewer payments is higher than the amount mandated by the City in the twelve months following Lakeland's 1990 test year, they have been included in this Stipulation as a known and measurable change over which Lakeland has no control.

The alternative would be to refuse to allow recovery

as the amount is out of the test year, knowing that

Lakeland would be forced to consider a new rate case to recover that amount, which is ultimately costly to the ratepayers.

C. Rate Design

Lakeland and the Staff stipulate to allocation of the rate increases for the water division as follows:

Residential customers: customers to pay $45 per quarter flat charge and $3.00 per hundred cubic foot of water used;

Commercial customers, class A: customers to pay $600 per quarter flat charge and $8.78 per hundred cubic foot of water used;

Commercial customers, class B: customers to pay $200 per quarter flat charge and $4.50 per hundred cubic foot of water used;

Sewer rates are calculated on a multiple of 1.18 times water bills, representing an increase of 7.8% for residential customers, 18% for commercial class A customers, and 19% for commercial class B customers. This would result in an combined rate increase to the average residential customer of approximately 29%, for the commercial A customer of approximately 29% and for the average commercial B customer of approximately 26%.

This rate design will result in a lower increase in annual rates for the residential customers and a higher increase in rates for commercial customers than originally proposed by Lakeland, which proposed a reduction in rates for its commercial customers.

D. Capital Improvements

There remains a significant issue as to capital improvements in the area of water pressure. In Staff's view such improvements will be necessary for Lakeland to continue to provide safe and

reliable service. Lakeland and the Staff stipulate to resolving the issue of capital improvements under the following schedule: not later than June 30, 1992, Lakeland shall submit to the Staff an initial proposal, including preliminary cost estimates, regarding its plans to increase water pressure for its customers; not later than September 1, 1992, Lakeland and the Staff shall present to the Commission an agreed upon proposal, if such agreement has been reached, or their separate proposals if agreement has not been reached, regarding capital improvements. Included in the Staff's proposal shall be a recommendation that the cost of capital improvements approved by the Commission be

recovered in a step increase to Lakeland's customers, rather than requiring Lakeland to file a new rate case for recovery.

E. Rate Case Expenses

Lakeland and the Staff stipulate that until the issue of capital improvements has been resolved, rate case expenses cannot be determined, but will be addressed at the hearing regarding capital improvements before the Commission on or about September 1, 1992.

III. IMPLEMENTATION OF AGREEMENT

Lakeland and Staff stipulate that tariffs in compliance with the rate increases addressed above be filed no later than ten days after the Commission's order approving this Stipulation.

IV. CONDITIONS

A. The making of this Stipulation shall not be deemed in any respect to constitute an admission by any party but instead is entered into for the purpose of resolving matters efficiently and without resort to litigation.

B. This Stipulation is expressly conditioned upon the Commission's acceptance of all of its provisions, without change or condition. If the Commission does not accept it in its entirety, the Stipulation shall be deemed to be null and void and without effect, and shall not constitute any part of the record in the proceeding and shall not be used for any other purpose.

IN WITNESS WHEREOF, Lakeland Management Company, Inc. and the Public Utilities Commission Staff have caused this Stipulation to be duly executed in their respective names by their agents, each being fully authorized to do so.

==========

NH.PUC*06/30/92*[72972]*77 NH PUC 323*CONCORD ELECTRIC CO. - EXETER & HAMPTON ELECTRIC CO.

[Go to End of 72972]

CONCORD ELECTRIC CO. - EXETER & HAMPTON ELECTRIC CO.

DR 92-095, DR 92-096
ORDER NO. 20,526

77 NH PUC 323

New Hampshire Public Utilities Commission

June 30, 1992

Fuel Adjustment Clause and Purchased Power Adjustment Clause

Appearances: LeBoeuf, Lamb, Leiby & MacRae by Scott Mueller, Esquire for Concord Electric Company and Exeter & Hampton Electric Company; James T. Rodier, Esquire for the Public Utilities Commission Staff.

REPORT

I. PROCEDURAL HISTORY

On June 1, 1992, Concord Electric Company ("Concord") and Exeter & Hampton Electric Company ("Exeter & Hampton") (collectively the "companies") filed revised Fuel Adjustment Clause (FAC) rates and Purchased Power Adjustment Clause (PPAC) rates for the period July through December 1992. The FAC rate request was $(0.01142) for Concord and $(0.01100) for Exeter & Hampton. The PPAC rate request for Concord was $0.03497 per KWH and $0.03626 per KWH for Exeter & Hampton.

The companies also filed revised tariffs for Short-term Power Purchase (short term avoided capacity and energy) rates for Qualifying Facilities (QF) as follows:

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

Energy Rates On Peak 3.44 cents per KWH
Off Peak  2.49 cents per KWH
All Hours 2.82 cents per KWH
Capacity Rate $0.00 per KW year
```


The New Hampshire Public Utilities Commission (commission) held a duly noticed hearing at its office in Concord on June 18, 1992 to review the Fuel Adjustment Clause and Purchased Power Adjustment Clause and short-term power purchase rate filings of the companies. Concord Electric and Exeter & Hampton Electric presented one witness, Mark H. Collin who adopted the prefiled testimony of Karen M. Asbury, and David W. Lavoie who where unable to attend the hearing.

II. POSITIONS OF THE PARTIES

The instant filing covers the six month period from July through December 1992. Witness Collin presented the calculations of the fuel adjustment clauses and the purchased power adjustment clauses for Concord Electric and Exeter & Hampton Electric. He indicated that the FAC rate was being increased from the prior period from ($0.00986) to ($0.01142) per KWH or by $0.00156 per KWH for Concord and from ($0.00964) to ($0.01100) per KWH or by $0.00136 per KWH for Exeter & Hampton. The PPAC would be increased over the prior period from $ 0.02993 to $ 0.03497 per KWH or by $0.00504 per KWH for Concord and from $0.03026 to $0.03626 per KWH or by $0.00600 per KWH for Exeter & Hampton. Mr. Collin

explained the derivation of the UNITIL Power wholesale rates, and the increase in the demand and energy charges and the decrease in the fuel charge. The increase in the demand charge rate is due to the forecastedincrease in demand costs from the companies' wholesale supplier, UNITIL Power, transmission costs and unbilled prior amounts.

The companies filed revised calculations on June 23, 1992 to calculate the FAC and PPAC rates to include actual May 1992 data. The rates for the companies' PPAC and FAC are as follows: for Concord the PPAC would be $0.03489 per KWH and for Exeter it would be $0.03600 per KWH. The rates for the companies' FAC would be ($.01164) per KWH for Concord and ($.01112) per kwh for Exeter and Hampton.

The calculation of the companies' short term avoided energy rates was based on the use of an average of a 5 megawatt increment and a 5 megawatt decrement to load. This is in accordance with the methodology specified in the settlement agreement in DR 86-41, et al., Phase I, as revised in DR 89-225 and DR 89-227.

The short term avoided capacity rate, $0.00 per KW-year, reflects, the continuing weakness in the economy, the current surplus of capacity in the New England market and the companies' expectation that they will not be making any short-term purchases or sales in the next six-month period.The staff raised the issue of the pass-through to ratepayers of the expenses incurred by UNITIL in the Fitchburg gas and Electric merger(F & G) through the purchased power costs of UNITIL Power. Mr. Collin explained the line item on Exhibit DL-5 labelled "Ware Cogen ETA". According to Mr. Collin, this proposed cost recovery is associated with the Ware Cogen Early Termination Amendment. Ware Cogen is a non-utility generator which has sold its output to UNITIL under contract. UNITIL has been in negotiations with Ware Cogen and their banks to terminate this contract early. The terms have not been finalized, but generally will allow UNITIL to make payments to Ware Cogen that will allow them to pay off notes with their banks early. In return, UNITIL will be relieved of its obligation to buy output from this facility as of July 1, 1992.

During cross-examination, Mr. Collin indicated that the fixed price per unit of output negotiated by UNITIL in 1987 was now far above prevailing market levels. Mr. Collin also testified that the Ware facility was generally well-managed and that its high costs were not the result of mismanagement.

Page 324

As a result of the termination of Ware Cogen and other entitlements, UPC, through its bid solicitation process, has entered into a contract with the Connecticut Municipal Electric Cooperative to purchase entitlements in Millstone 1 and 2 as well as Middletown 4. Mr. Collin also testified that UPC expects to enter into a short-term purchase to realize energy savings, and that the purchase would likely be from a low sulfur oil unit located in Southern New England. Mr. Collin also testified that UNITIL is expecting to purchase a high level of secondary energy from NEPOOL in order to lower its energy costs.

Mr. Collin testified that no transactions with PSNH were contemplated. Mr. Collin agreed that, while there may be valid underlying reasons, it does appear to be questionable why PSNH is exporting its surplus low-priced baseload energy to Southern New England, while at the same

time UNITIL plans to import power from Southern New England. Mr. Collin agreed that if UNITIL bought in-state from PSNH, a substantial amount of transmission cost might be avoided.

With respect to the Ware Cogen termination and UNITIL's lack of transactions with its neighbor, PSNH, staff recommended in its closing statement that the commission's order in this proceeding not have any precedential or prejudicial effect on staff's ability in any future hearing to investigate and litigate cost recovery issues.

III. COMMISSION ANALYSIS

The commission will accept the revised filings of the companies as shown in the exhibits. The commission finds that the FAC for the July through December 1992 period will be ($0.01164) per KWH for Concord Electric and ($0.01112) per KWH for Exeter & Hampton. The PPAC for Concord Electric will be $0.03489 per KWH and for Exeter & Hampton will be $0.03600 per KWH for the same period.

Our approvals will not have any preclusive effect on staff's ability to pursue further examination of the Ware Cogen termination or UNITIL's lack of transactions with PSNH. The record indicates that the following requests for further information are presently outstanding:

NHPUC Record Request #1: Please provide a copy of Public Service

Company of New Hampshire's bid in UNITIL Power Corp.'s 1991 Request

for Proposals.

NHPUC Record Request #2: Please provide information regarding the

UNITIL Power Corp.'s contacts with PSNH and EUA Power concerning power

supply contracting.

NHPUC Record Request #3

Please provide an overview of the Company's analysis

of the Ware Gogen buyout.

The commission also finds the proposed short term avoided capacity rates to be just and reasonable, and calculated in accordance with the methodologies outlined in previous commission orders. We also find the short term avoided energy rates to be just and reasonable.

Our order will issue accordingly.

Concurring: June 30, 1992

ORDER

Based upon the foregoing report which is incorporated by reference herein, it is hereby

ORDERED, that Concord Electric Co. Fuel Adjustment Charge for the period of July through December 1992 shall be ($0.01164) per KWH; and it is

FURTHER ORDERED, that for the period of July through December, 1992

Concord Electric Co. Purchased Power Adjustment Clause (PPAC) shall be $.03489 per KWH; and it is

FURTHER ORDERED, that for the period July through December 1992 Exeter & Hampton Electric Co. Fuel Adjustment Charge (FAC) shall be ($0.01112) per KWH; and it is

FURTHER ORDERED, that for the period of July through December 1992 Exeter & Hampton Electric Co. Purchased Power Adjustment Clause (PPAC) shall be $0.03600 per KWH; and it is

FURTHER ORDERED, that for the same period, Concord Electric Co. and Exeter & Hampton Electric Co. short-term power purchase (short-term avoided capacity and energy) rates for Qualifying Facilities (QF) shall be as follows: and it is

FURTHER ORDERED, that Concord Electric Co. and Exeter & Hampton Electric Co. file Revised Tariff Pages to comply with this order and bearing the appropriate annotations.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1992.

==========

NH.PUC*07/01/92*[72973]*77 NH PUC 327*QUIN-LET TRUST

[Go to End of 72973]

QUIN-LET TRUST

DE 90-126
ORDER NO. 20,527

77 NH PUC 327

New Hampshire Public Utilities Commission

July 1, 1992

Establishing Permanent Rates

REPORT

Appearances:William D. Paine, Esq., Burnham E. Quint Jr. and Gerard L. Cote, on behalf of Quin-Let Trust; Susan Chamberlin, Esq., on behalf of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On July 25, 1990, Quin-Let Trust (Quin-Let) petitioned the New Hampshire Public Utilities Commission (Commission) for permission to engage as a public utility to provide water service in a certain area in the town of Albany, New Hampshire. On August 6, 1990, the Commission issued an Order of Notice setting a prehearing conference for September 25, 1990. On August 13, 1990, the Commission issued the revised Order of Notice setting the prehearing conference for September 27, 1990, which was held at the Commission offices in Concord, New Hampshire.

There were no requests for intervention.

On October 29, 1990, in Order No. 19,968, the Commission adopted the procedural schedule agreed to by Commission Staff (Staff) and Quin-Let. On November 26, 1990, after reveiw of revised information, Staff and Quin-Let reached agreement on a number of terms concerning insurance rates and increases to caretaking expenses which adjusted an original annual revenue level of $12,315.00 to $13,454.89. Also stipulated to at the November 26, 1990 meeting was an 11.9% return on equity and an overall rate of return of 11.54%. The resulting temporary rate was $320.35 per customer per year. See Stipulated Agreement, attached hereto as Attachment 1.

On May 29, 1991 the Commission held a hearing on temporary rates and the franchise request, at which time the terms of the Stipulated Agreement were presented to the Commission. Staff and Quin-Let agreed to a temporary rate base of $23,044.76, effective May 29, 1991.

In Order No. 20,194 (July 25, 1991) the Commission approved the Stipulated Agreement granting Quin-Let's request for a franchise in the limited service area in Albany and establishing temporary rates as of May 29, 1991 in the amount of $320.35 per customer per year, to be billed quarterly in arrears at $80.09 per customer per quarter.

On July 29, 1991 the Commission issued an amended procedural schedule which established a settlement conference on October 25, 1991 and set a hearing on the merits of the permanent rate level request for October 31, 1991. Staff and Quin-Let agreed to a continuance of the permanent rate hearing to December 31, 1991.

On December 31, 1991, the Commission held a hearing on permanent rates. A Hearing Examiner presided. At the hearing on the merits Burnham E. Quint, Jr., Trustee and Gerard Cote, of Cote and Gamwell, Public Accountants, testified on behalf of Quin-Let; Mary Coleman, Mary Jean Newell, Robert Lessels and James Lenihan testified on behalf of Staff.

II. POSITION OF THE PARTIES AND STAFF

Quin-Let Trust

Mr. Quint confirmed that the franchise was granted to Quin-Let to run the water system and that a water corporation was established for the purpose of transferring the water ownership and service to a corporation named Wildwood Water Company, Inc. (Wildwood). According to Mr. Quint, when the Commission grants permanent rates, Quin-Let will transfer the water company to Wildwood. The franchisee, therefore, will become Wildwood. The books of the water company presently are kept on a separate and distinct basis. (12/31/91 Transcript, hereinafter Tr. at 10)

Page 327

Mr. Quint accepted Staff's recommendation for total expenses (12/31/91 Tr. at 44-45) and stated that he did not object to the overall rate of return of 10.65% recommended by Ms. Coleman. (12/31/91 Tr. at 46) Mr. Quint also testified that Quin-Let was seeking the temporary rate base, $23,044.76, as the permanent rate base as well. (12/31/91 Tr. at 46)

Mr. Cote testified that certain costs incurred by the partnership would have to be capitalized and made part of the cost of the water system. These startup costs relate to licensing, the

development of the books and involvement in the Commission hearings. Mr. Cote expressly stated that these costs should be capitalized to meet proper accounting requirements. (12/31/91 Tr. at 29-31) Mr. Cote had not prefiled testimony documenting the actual costs associated with these licensing, accounting and legal fees.

Commission Staff

Ms. Newell, through prefiled testimony recommended a total expense of $10,637.11 based on a Staff audit. Of that figure, $8,561.33 were Operation and Maintenance expenses. (EX 13, Schedule 3) The Staff audit recommended a rate base of $22,696.75. (EX 13, Schedule 2) Ms. Coleman testified that the rate of return on equity should be 10.65% and that 10.65% should also be used for the overall rate of return. (EX 14 at 9)

III. COMMISSION ANALYSIS

For the purposes of this proceeding and the establishment of permanent rates, the Commission will accept the rate base of $22,696.75, as identified in Ms. Newell's testimony. The Petitioner submitted no documentation to support a different rate base.

Costs associated with the initial startup of the new corporation (licensing, attorney and accounting fees) should be capitalized on Wildwood's books and reviewed as part of Wildwood's next permanent rate proceeding.

We will accept the Staff's recommendation, which was agreed to by Quin-Let, for an overall rate of return of 10.65%. We note that this rate is consistent with our findings for similar utilities.Quin-Let also agreed to Staff's total operating expenses of $10,637.11. We concur and will adopt that amount.

For those costs associated or identified with the actual rate case expenses, the Commission notes that Staff has reviewed and recommended at what level these should be recovered. The total figure submitted by Quin-Let for rate case expenses was $19,154.74. Staff recommends that $15,520.49 be recovered, through a five year surcharge.

The difference between Quin-Let's and Staff's totals is $3,634.25, which is due to the following adjustments recommended by Staff: $2,276.75 is part of the startup costs for Wildwood which should be capitalized under the Franchise and Consents account and amortized over twenty years; $526.50 of accounting expenses are to be charged to the development company as this charge was not a rate case expense; $375.00 are expenses properly charged to the Operation & Maintenance Expense account and $456.00 are legal expenses which should be disallowed as excessive as they result from the unnecessary delay of the docket by the Petitioner and the time spent due to unpaid invoices. We agree with Staff's recommendations and will allow a five year surcharge of $15,520.49. The amount capitalized as part of the start up of Wildwood will be reviewed in a future rate case should Wildwood so petition.

By allowing the surcharge for rate case expenses, we do not suggest that we are pleased to see this type of cost imposed on a small number of ratepayers. We continue to be troubled by the high rate case expenses incurred in small utility cases. Accordingly, we ask Staff to provide guidance to Wildwood on an ongoing basis so that similar future charges may be controlled to the extent possible.

In conclusion, the Commission, for the purpose of establishing permanent rates, finds the

following:

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

Rate base $22,696.75
Rate of Return 10.65%
Total Operation & Maintenance
and other Expenses $10,637.11
Number of Customers 42
Annual Customer Rate $ 315.84

[1(21)]Total Annual Revenue $13,264.51

Bills shall be issued quarterly in arrears. The difference between temporary and permanent rates shall be reconciled by means of a one time refund on the first quarterly bill rendered at the date of our order. Costs approved by the Commission for rate case expenses in the amount of $15,523.20 shall be recovered through a surcharge over a period of five years.

We hereby authorized Quin-Let to transfer its water company related assets and franchise to Wildwood, immediately upon receipt of this order and submit documentation confirming the transfer. Wildwood shall file appropriate compliance tariffs indicating the franchise transfer and the new permanent rates within thirty days of this order. Our order will issue accordingly. Concurring: July 1, 1992

ORDER

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

ORDERED, that permanent rates in the amount of $315.84 per customer per year are hereby approved; and it is

FURTHER ORDERED, that Quin-Let Trust transfer its water company related assets and its franchise to Wildwood Water Company, Inc. and submit confirming documentation; and it is

FURTHER ORDERED, that within thirty days of this order, Wildwood Water Company, Inc. shall file with the Commission a compliance tariff containing the terms and conditions under which the provision of water service will be rendered to its customers; and it is

FURTHER ORDERED, that Wildwood Water Company, Inc. submit to the Commission a calculation of the difference between revenues at the temporary and permanent level and any over- collection be refunded with the first quarterly bill rendered; and it is

FURTHER ORDERED, that Wildwood Water Company, Inc. include a surcharge for five years on its quarterly bills (or twenty billing cycles) representing approved rate case expenses associated with this proceeding; and it is

FURTHER ORDERED, that Wildwood file an accounting with the Commission of the rate case expenses collected at the end of each of the next five fiscal years.

By order of the Public Utilities Commission of New Hampshire this first day of July, 1992.

FOOTNOTES

[1]Adjusted slightly to facilitate quarterly billing.

==========

[Go to End of 72974]

GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

DE 90-002
ORDER NO. 20,528

77 NH PUC 329

New Hampshire Public Utilities Commission

July 2, 1992

Report and Order Authorizing Additional Testimony on Pooling and Administration of Access Charges

---

Appearances: Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. on behalf of Dunbarton Telephone Company, Granite State Telephone, Inc., Merrimack County Telephone Company and Wilton Telephone Company; Victor D. Del Vecchio, Esq. on behalf of New England Telephone Company; Melinda Butler on behalf of Union Telephone Company; Orr and Reno by Thomas C. Platt, Esq. on behalf of GTE of New Hampshire and GTE of Maine; Jordan and Gfroerer by David W. Jordan, Esq. on behalf of Long Distance North NH, Inc.; Michael Roddy

Page 329

on behalf of Chichester Telephone Company, Kearsarge Telephone Company, Meriden Telephone Company and TDS; Harry S. Davidow, Esq. on behalf of AT&T; Craig Dingwall, Esq. on behalf of Sprint Communications Company; Office of Consumer Advocate by John Rohrbach on behalf of residential ratepayers; Amy L. Ignatius, Esq. on behalf of the New Hampshire Public Utilities Commission staff.

REPORT

I. PROCEDURAL HISTORY

On January 20, 1992, the New Hampshire Public Utilities Commission (Commission) approved a Stipulation agreed to by the parties to the Telephone Generic Competition Docket (the parties) and the Commission Staff (Staff) which narrowed the issues for litigation in this docket. Hearings on the issues identified in the Stipulation for litigation will commence on September 22, 1992.

After approval of the Stipulation and in anticipation of the hearing on the merits of the

remaining issues, a question arose among the parties and Staff as to the applicability of the Stipulation to the issue of access charges. 1.9 and Attachments 1 and 2 to the Stipulation are the pertinent sections in dispute.

1.9 provides for a workshop on "a preferred form of intraLATA toll compensation among [local exchange carriers]" to commence within thirty days of the effective date of the Commission's order on access rates. Attachment 1 (for average schedule companies) and Attachment 2 (for cost companies) provide for a commitment by New England Telephone (NET) to continue the existing settlements process and terms with all independent telephone companies until June 30, 1993.

The heart of the dispute is whether 1.9 should also include negotiation among the parties on pooling and administration of access charges and if not, should Staff and the parties file testimony on treatment of access charges for consideration in the hearings beginning September 22, 1992. Because attempts to resolve the dispute informally were not successful, the Commission requested by secretarial letter that Staff and all parties who were interested should present oral argument on the issue.

On June 12, 1992, the parties and Staff presented arguments to the Commission regarding the construction of 1.9 and Attachments 1 and 2 to the Stipulation.

II. POSITIONS OF THE PARTIES AND STAFF

A. Dunbarton, Granite State, Merrimack, Wilton

Dunbarton Telephone Company, Granite State Telephone, Inc., Merrimack Telephone Company and Wilton Telephone Company (the four independents) are the primary proponents of the position that 1.9 of the Stipulation extends only to toll settlements and does not include discussion of access charges and whether they will be dealt with in a settlements process. The four independents have prefiled testimony of Michael Campbell which delineates their views on pooling of access charges, pool administration, and some of the potential consequences of differing treatment of pooling and administration of access charges. The four independents argue that they cannot develop an access structure that is appropriate for independent telephone companies without addressing access pooling. If access pooling is precluded from the discussion, they assert there is no practical way to form their position on the structure of access. They did not imagine that by signing the Stipulation agreeing to defer the toll settlement issue, they would forego their right to develop meaningful access testimony. The four independents believe that it is more efficient to develop the issue of access settlements on the record as part of the September hearings, but continue to engage in the workshop process as envisioned by 1.9 for toll settlements.

Page 330

B. New England Telephone

NET is the primary proponent of the position that 1.9 of the Stipulation extends to both toll settlements and access settlements. NET's argument is based on its recollection of the negotiations leading to the Stipulation and the protection afforded all independents in Attachments 1 and 2. NET believes it will be more efficient to defer all pooling and settlements

issues (both toll and access) until the workshop process to commence after the final access order is issued in this docket.

C. Union Telephone Company

Union Telephone Company takes no position on the issue, other than to note that the Commission should carefully consider the ramifications of its determination.

D. GTE of NH, GTE of Maine

GTE of New Hampshire and GTE of Maine argue that 1.9 should extend to both toll and access settlements and that the issue should not be addressed in the September, 1992 hearings.

E. Long Distance North NH, Inc.

Long Distance North NH, Inc. argues that 1.9 should extend to both toll and access settlements and that the issue should not be addressed in the September, 1992 hearings.

F. TDS, Kearsarge, Meriden, Chichester

Telephone Data Systems, Chichester Telephone Company, Kearsarge Telephone Company, and Meriden Telephone Company (TDS) argue that 1.9 should extend to both toll and access settlements and that the issue should not be addressed in the September, 1992 hearings. TDS prefiled

testimony in the case which addressed treatment of access moneys, but states both in a letter submitted to the Commission and at the June 12, 1992 hearing that it did not intend by that testimony to remove the issue of access settlements from the workshop process.

G. AT&T

AT&T argues, by letter submitted to the Commission the day of the June 12, 1992 hearing that 1.9 should extend to both toll and access settlements and that the issue should not be addressed in the September, 1992 hearings.

H. Sprint Communications Company

Sprint Communications Company argues that 1.9 should extend to both toll and access settlements and that the issue should not be addressed in the September, 1992 hearings.

I. Office of Consumer Advocate

The Office of Consumer Advocate appeared at the June 12, 1992 hearing but took no position on the matter.

J. Commission Staff

The Staff takes no position on the issue, noting that its understanding of 1.9 was that it extended to all settlements issues, but would be willing to participate in the development of an evidentiary record on the issue of access settlements if the Commission so orders.

III. COMMISSION ANALYSIS

Upon review of the arguments presented, we are persuaded that while the intention of the majority of the signatories to the Stipulation may have been to include all settlements issues, both toll and access, within the 1.9 workshop, there are compelling reasons for developing on the record the parties' and Staff's views on pooling and administration of access charges. We are

convinced that in order for the Commission to make a reasoned and complete order regarding access fees, it is important that we hear evidence on varying approaches to handling access moneys. We therefore, encourage Staff and the parties who wish to, to present testimony on the following questions: whether access charges should be uniform

statewide; whether the recovery of access charges by telephone companies should be uniform, based on cost or based on some other mechanism; whether access charges should be pooled in a manner similar to the toll settlements pool; and any other questions which the parties and Staff feel must be addressed in the litigation of access issues.

We do not intend by this order to encourage the involvement of the Commission in the operational details of any system for administration of access moneys, and would hope that the 1.9 workshop or another informal process could be used among the Staff and parties to develop those details in the future.

Similarly, we do not by this order wish to see the procedural schedule disturbed, as hearings have long been set to begin September 22, 1992. We understand that there is a deadline for reply testimony of July 10, 1992, and trust that Staff and all parties will meet this deadline. In order to facilitate this, we will ask that the Executive Director send this order by facsimile to all parties to this docket and to accept filings by facsimile of any reply testimony filed by July 10, 1992, provided that a regular "hard copy" with standard service copies are received by the Commission no later than Monday, July 13, 1992.

Finally, given the number of parties and issues present in this case, we believe it would be useful, prior to the commencement of the hearings, to have a proposed schedule. We envision an informal document, subject to alteration, which would help to focus the testimony and analysis of the various issues in the hearings. We encourage the Staff and parties, therefore, to develop an agreed-upon outline identifying the witness(es) and/or issue(s) for each day of the scheduled hearings.

Our order will issue accordingly.

Concurring: July 2, 1992

ORDER

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

ORDERED, that the Staff and parties file no later than July 10, 1992 testimony regarding pooling and administration of access charges if they wish their views on these issues to be considered at the hearing on the merits scheduled to commence September 22, 1992.

By order of the Public Utilities Commission of New Hampshire this second day of July, 1992.

==========

[Go to End of 72975]

TAMWORTH WATER WORKS, INC.

DR 92-074
ORDER NO. 20,529

77 NH PUC 332

New Hampshire Public Utilities Commission

July 6, 1992

Order Approving Procedural Schedule and Allocation of Emergency Rates

---

On June 18, 1992, the New Hampshire Public Utilities Commission (Commission) granted Tamworth Water Works Inc. (Tamworth) an emergency rate increase pursuant to RSA 378:9 and asked that the parties and the Commission Staff (Staff) recommend a proposed procedural schedule and a method by which the emergency rate would be allocated among Tamworth's customers; and

WHEREAS, on June 25, 1992 the Staff filed a Motion for Allocation of Emergency Rate Increase and Adoption of Procedural Schedule (Motion), which had been concurred in by the parties, and which is attached hereto as Attachment 1; and

WHEREAS, the proposed procedural schedule, including a public hearing on July 20, 1992, is acceptable to the Commission; and

WHEREAS, the proposed method of allocation of the emergency rate appears to be just and reasonable; it is hereby

ORDERED, that the proposed procedural schedule as contained in the Staff's Motion be, and hereby is, accepted; and it is

FURTHER ORDERED, that the Executive Director prepare an Order of Notice for publication by Tamworth of the public hearing scheduled for July 20, 1992; and it is

FURTHER ORDERED, that the proposed allocation of the emergency rate contained in the Staff's Motion be, and hereby is granted.

By order of the New Hampshire Public Utilities Commission this sixth day of July, 1992.

==========

NH.PUC*07/06/92*[72976]*77 NH PUC 333*BODWELL WASTE SERVICES CORPORATION

[Go to End of 72976]

BODWELL WASTE SERVICES CORPORATION

DR 92-027
ORDER NO. 20,532

77 NH PUC 333

New Hampshire Public Utilities Commission

July 6, 1992

Report and Order Establishing Permanent Rates

Appearances: Backus, Meyer & Solomon by Michael E. Ipavec, Esq. on behalf of Bodwell Waste Services Corporation; Susan Chamberlin, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) granted a franchise to Bodwell Waste Services Corporation (Bodwell) to provide sewer service to a limited area of Manchester, New Hampshire. See Order No. 20,404 (February 28, 1992). On February 7, 1992 Bodwell filed a Notice of Intent to File Rate Schedules and on February 28, 1992, Bodwell filed a petition for permanent rates, which included a proposed tariff and testimony of Bodwell President Paul Cowette. Bodwell is presently serving a small number of customers without charge and anticipates 485 customers when it reaches its total buildout. Bodwell did not request temporary rates.

The Commission held a duly noticed prehearing conference on April 17, 1992. There were no requests for full intervention. On April 23, 1992 the Commission issued Order No. 20,456 approving the agreed-upon procedural schedule.

This schedule did not call for Staff to file written testimony. As this was Bodwell's first rate case, Staff met with Bodwell and assisted in developing Bodwell's petition for permanent rates. As a result of these discussions, Staff anticipated that after discovery, Bodwell and the Staff would likely reach a stipulation on all rate case matters, thereby obviating the need for testimony.

On the day of the scheduled hearing on the merits, as anticipated, Bodwell and the Staff presented a Stipulation, attached hereto as Exhibit 1 and made a part hereof.

II. STIPULATION

The Stipulation agreed to between Bodwell and the Staff provided for the following resolution of all issues:

1. The rate of return on equity will be 8.50%.

2. The annual operating and maintenance expenses will be $12,600.

3. The revenue requirement will be $57,781 and the rate base will be

$402,589. A substantial portion of Bodwell's plant is contribution in

aid of construction.

4. Rates will be $29.78 per quarter per customer, even if full buildout

is not reached as anticipated. 5. Bodwell waives all right to recoup

rate case expenses.

III. COMMISSION ANALYSIS

Based upon review of the record and testimony at the June 19, 1992 Stipulation hearing, we are persuaded that the Stipulation agreed to by Bodwell and the Staff is just and reasonable and in the public good. We will, therefore, accept it. We also commend Bodwell and the Staff in doing what appears to be an admirable job in bringing this matter to completion with a minimum of time and expense, which ultimately inures to the benefit on Bodwell's ratepayers. Our order will issue accordingly. Concurring: July 6, 1992

ORDER

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

ORDERED, that permanent rates for Bodwell Waste Services Corporation for sewer service be established at $29.78 per quarter per customer, in accordance with the June 19, 1992 Stipulation which is attached to the accompanying Report as Exhibit 1; and it is

FURTHER ORDERED, that Bodwell shall file within ten days of this order a tariff in compliance with this order.

By order of the Public Utilities Commission of New Hampshire this sixth day of July, 1992.

Page 333

ATTACHMENT

STIPULATION AGREEMENT

ESTABLISHMENT OF PERMANENT RATES

1.0 This agreement is entered into this 19th day of June, 1992 between Bodwell Waste Services Corporation (Petitioner) and the Staff of the Public Utilities Commission (Staff) for the purposes and subject to the terms and conditions hereinafter stated.

2.0 Introduction: Pursuant to RSA 374:22, on April 17, 1991, Bodwell Waste Services Corporation filed a Petition to provide sewer service to a limited area on the southeast corner of the City of Manchester, New Hampshire, roughly bounded by Blondin Road on the north, Route I-93 on the west, and by the Manchester City Line, and implicitly for rates to be established therefor pursuant to RSA 378:27.

After the franchise hearing was held on November 14, 1991 and a Stipulation was entered into by the Petitioner, by the Staff of the Public Utilities Commission and by the City of Manchester on February 13, 1992, the Commission did enter its Order No. 20,404 on February 28, 1992 granting the Petitioner a franchise to operate a sewer utility (see record of Case No. 91- 050).

Exhibit 1

On February 7, 1992, the Petitioner in this case (92-027) did file its "Notice of Intent to File Rate Schedules". On February 28, 1992 the Petitioner filed its initial set of rate schedules with the Staff of the Public Utilities Commission.

On April 2, 1992. the Commission issued its Order establishing a pre-hearing conference to be held on April 17, 1992, and did further order Petitioner to give all known current and prospective customers notice of the April 17, 1992 hearing, both by first class mail and by publication.

At the pre-hearing conference held on April 17, 1992, the only persons in attendance were the Petitioner and the Staff of the Public Utilities Commission. On April 23, 1992, by Order No. 20,456, the Commission set forth a procedural schedule for this case providing for a settlement conference to be held on June 5, 1992 with hearing on the merits to follow on June 19, 1992, in each case at 10:00 a.m.

Petitioner has subsequently submitted revised rate schedules, copies of which appear as attachments 1, 2, 3 and 4 appended hereto and incorporated herein by reference.

3.0 Operating and Maintenance Expenses: It is agreed that the Petitioner's anticipated annual operating and maintenance expenses, as reflected on attachment 3 attached hereto will be $12,600.00

4.0 Customers: It is agreed that the present plans for the development of the service area, if full build-out is achieved, would result in the equivalent of 485 residential customers. Of these, 143 would be single family homes within the Megan's Meadow Subdivision; 273 would be single family manufactured housing units within the Hampshire Meadows North and South Subdivisions; 62 are separate residential condominium unit owners within the Eastmeadow Condominium; the sewer usage of community buildings within the Hampshire Meadows North and South Subdivisions would result in a use equivalent to that of three residences; and a neighborhood shopping center to be developed within the service area would result in the equivalent use of four residences, for a total of 485 residential customers, or the equivalent. Of this number, there exists at present an estimated 71 individual, residential customers at this time.

5.0 Rate Case Expenses: It is agreed that the Petitioner shall, and does hereby, waive any right it may have to recoup rate case expenses.

6.0 Rate Base: It is agreed that the historical cost of the Petitioner's Plant In Service is $686,694.00, the Petitioner's historical cost for Contributions In Aid of Construction is $286,694.00, with a net plant and service of $400,000.00. Adding a component for Cash Working Capital

of

$2,589.00, it is agreed that the Rate Base for petitioner is $402,589.00 (see Attachment 2 attached hereto).

7.0 Rate of Return: It is understood that the Petitioner is funded almost entirely by long term debt, in the amount of $400,000.00, which carries a present annual cost of 8.50%. Although the component cost attributable to Petitioner's common stock is 10.5%, Petitioner's balance sheet shows only $1.00 of common stock. Consequently, Petitioner's overall Rate of

Return is determined entirely by the component cost attributable to long term debt, and is 8.50% (see Attachment 1, Schedule 1).

8.0 Revenue Requirement: It is agreed that the Revenue Requirement shall be $57,781.00, as shown on Attachment 1 attached hereto.

9.0 Quarterly Rates: It is agreed that the quarterly rate to customers shall be $29.78 as shown on Attachment 4 attached hereto.

10.0 Acknowledgement of the Parties: It is agreed that the rates established in this proceeding are just and reasonable.

11.0 General Conditions: This Agreement is subject to the following further conditions:

11.1 The making of this Agreement shall not be deemed in any respect to constitute an admission by any party that any allegation in these proceedings other than those specifically agreed to herein is true and valid.

11.2 The making of this Agreement establishes no principles or precedents in any other proceeding or investigation.

11.3 The Commission's approval of this Agreement shall not in any respect constitute a termination as to the merits of any allegations made in this rate proceeding.

11.4 This Agreement is expressly conditioned upon the Commission's acceptance of all of its provisions without change

Exhibit 1

Page 5 of 14

or conditions and if the Commission does not so approve, the Agreement may be withdrawn by either staff, or Petitioner and shall not constitute any part of the record in this proceeding or be used for any other purpose at the call of the parties.

11.5 This Agreement constitutes an integrated writing and each of the provisions is in consideration and support of every other provisions and is an essential condition of every other provision.

11.6 The discussions which have produced this Agreement have been conducted on the explicit understanding that all offers of settlement and discussions relating thereto shall remain confidential and privileged, and without prejudice to the position of any participant presenting any such offer or participating in any discussion, and are not to be used in any manner in connection with this proceeding or otherwise.

IN WITNESS whereof, the parties' fully authorized agents have executed this agreement this 19th day of June, 1992.

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

Exhibit 1
Page 6 of 14

Man 6-5-92

BODWELL WASTE SERVICES CORP.
BODWELL, CONTENTS
TABLE OF CONTENTS FOR ATTACHMENTS
STIPULATION

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

Exhibit 1
Page 7 of 14

MAN 6-4-92
BODWELL WASTE SERVICES CORP.
BODWELL, REVREQ
REVENUE REQUIREMENT
ATTACHMENT 1
STIPULATION

RATE BASE (ATT. 2)	402,589
RATE OF RETURN (ATT. 1, SCH. 1)	8.50%
OPERATING INCOME REQUIREMENT	34,220
ADD: OPERATION & MAINT. EXPENSES (ATT. 3)	12,600
DEPRECIATION EXPENSE (ATT. 2, SCH. 1)	10,900
TAX EFFECT (ATT. 1, SCH. 2)	61
REVENUE REQUIREMENT	57,781

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

Exhibit 1
Page 8 of 14

MAN 4-29-92
BODWELL WASTE SERVICES CORP.
BODWELL, ROR
OVERALL RATE OF RETURN
ATTACHMENT 1
SCHEDULE 1
STIPULATION

COMPONENT AMOUNT	WEIGHTED COMPONENT RATIO (PERCENT)	COST RATE (PERCENT)	AVERAGE COST RATE (PERCENT)
COMMON STOCK	1 0.00%	10.50%	0.00%
LONG TERM DEBT	400,000 100.00%	8.50%	8.50%
SHORT TERM DEBT	0 0.00%	0.00%	0.00%
TOTAL	400,001 100.00%		8.50%

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

Exhibit 1
Page 9 of 14

MAN 6-4-92
BODWELL WASTE SERVICES CORP.
BODWELL, INCTAX
REVENUE REQUIREMENT
INCOME TAX COMPUTATION
ATTACHMENT 1
SCHEDULE 2
STIPULATION

TOTAL RATE BASE (ATTACHMENT 2) 402,589

RATE OF RETURN (ATT. 1, SCH. 1) 8.50%

NET INCOME REQUIRED 34,220

DEDUCT: OTHER EXPENSES (INTEREST) (ATT. 3) 34,000

TOTAL TAXABLE INCOME BEFORE REVENUE DEFICIENCY 220

TAX EFFECT (TOTAL TAXABLE INCOME BEFORE REVENUE DEFICIENCY X .27877) (ATT. 1, SCH. 2) 61

TOTAL INCOME REQUIRED BEFORE INCOME TAXES 281

LESS: NH BUSINESS PROFITS TAX @ 8% 23

NET INCOME SUBJECT TO FEDERAL INCOME TAX 259

LESS: FEDERAL INCOME TAX @ 15% 39

NET INCOME AFTER INCOME TAX EXPENSE 220

Page 338

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

Exhibit 1
Page 10 of 14

MAN 6-4-92
BODWELL WASTE SERVICES CORP.
ATTACHMENT 1
BODWELL, TAXFAC
TAX EFFECT FACTOR
SCHEDULE 3
STIPULATION

TAXABLE INCOME (EXAMPLE) 100.00

LESS: NH BUSINESS PROFITS TAX @ 8% 8.00

NET INCOME SUBJECT TO FEDERAL INCOME TAX 92.00

LESS: FEDERAL INCOME TAX @ 15% 13.80

NET INCOME AFTER TAXES 78.20

TOTAL INCOME TAX EXPENSE (8.00 + 13.80) 21.80

DIVIDED BY: NET INCOME AFTER TAXES 78.20

TAX EFFECT FACTOR 0.27877

Page 339

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

Exhibit 1
Page 11 of 14

MAN 6-16-92
BODWELL WASTE SERVICE CORP.
BODWELL, RB
RATE BASE
ATTACHMENT 2
STIPULATION

PLANT IN SERVICE (ATTACHMENT 2, SCHEDULE 1) 686,694
LESS: CONSTRUCTION WORK IN PROGRESS 0

TOTAL PLANT IN SERVICE 686,694

LESS: ACCUM. DEPRECIATION (ATT. 2, SCH. 1) 0
ACCUM. AMORTIZATION 0
CONTRIBUTION IN AID OF CONSTRUCTION
(ATT. 2, SCH. 1) 286,694

NET PLANT CAPITAL: 400,000

TOTAL O&M EXPENSE (ATTACHMENT 3) 12,600
TIMES 20.55% (75 DAYS) 20.55%

CASH WORKING CAPITAL 2,589
MATERIAL AND SUPPLIES 0
PREPAYMENTS 0

RATE BASE 402,589

TEST YEAR OPERATING INCOME 34,220

RETURN ON INVESTMENT 8.50%

Page 340

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

Exhibit 1
Page 12 of 14

MAN 6-16-92
BODWELL WASTE SERVICES CORP.
BODWELL, FIXAST FIXED ASSET DEPRECIATION SCHEDULE
ATTACHMENT 2
SCHEDULE 1
STIPULATION

ORIGINAL DEPRECIATION	DEPR COST	YRLY DEPR RATE	AMOUNT
FORCE MAIN	452,586	2.2%	10,056
PUMP	234,108	5.0%	11,705
686,694			21,762

AMORTIZATION OF CIAC:	YRLY AMORT AMOUNT	RATE	AMOUNT

```
FORCE MAIN      125,000   2.2%  2,778
PUMP      161,694   5.0%  8,085
286,694       10,862

TOTAL DEPRECIATION EXPENSE        21,762
LESS: AMORTIZATION OF CIAC       (10,682)

NET DEPRECIATION EXPENSE          10,900
```


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

```
Exhibit 1
Page 13 of 14

MAN 6-4092
BODWELL WASTE SERVICES CORP.
ATTACHMENT 3
BODWELL, EXP
PROFORMA EXPENSES
STIPULATION

MAINTENANCE AND REPAIR ($300/MO.)    3,600

ACCOUNTING/LEGAL      3,000

ELECTRIC ($500/MO.)      6,000
------
TOTAL ESTIMATED OPERATION & MAINTENANCE EXPENSES  12,600

OTHER NON-UTILITY EXPENSE:  INTEREST     34,000

Exhibit 1
Page 14 of 14

MAN 6-5-92
BODWELL WASTE SERVICES CORP.
ATTACHMENT 4
BODWELL, RATE
RATE CALCULATION
STIPULATION


REVENUE REQUIREMENT (ATT. 1)       57,781

DIVIDED BY:  TOTAL EQUIVALENT CUSTOMERS     485
---------
ANNUAL RATE            119.14
---------
QUARTERLY RATE             29.78
                                    ==========
```

NH.PUC*07/07/92*[72956]*77 NH PUC 303*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC. CONNECTICUT VALLEY ELECTRIC COMPANY, INC.

[Go to End of 72956]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC. CONNECTICUT VALLEY ELECTRIC COMPANY, INC.

DE 92-072

ORDER NO. 20,506

77 NH PUC 303

New Hampshire Public Utilities Commission

July 7, 1992

Order NISI Granting Authority to Continue Service to Mal Tool and Rescinding a Previous Requirement to Exchange Customers, both in the Town of Charlestown.

WHEREAS, on April 7, 1992 the New Hampshire Electric Cooperative (NHEC) and the Connecticut Valley Electric Company, Inc. (CVEC) filed with the New Hampshire Public Utilities Commission (Commission) a joint petition seeking (1) permission under RSA 374:22 for CVEC to continue to provide service to Mal Tool and Engineering Company (Mal Tool) and (2) to amend, modify or rescind that portion of Re Connecticut Valley Electric Company, Inc., 65 NH PUC 180 (1980) requiring an exchange of customers in the Town of Charlestown; and

WHEREAS, Re Connecticut Valley Electric Company, Inc., 65 NH PUC 180 (1980) granted authority for CVEC to provide service to Mal Tool inside NHEC's service territory in the north part of Charlestown under terms of CVEC's line extension tariff based on (1) the request by Mal Tool for three-phase service and (2) NHEC's inability to provide three-phase service at that time; and

WHEREAS, Re Connecticut Valley Electric Company, Inc., 65 NH PUC 180 (1980) also required CVEC and NHEC to "actively pursue the exchange of customers" in NHEC's Charlestown territory north of and including Mal Tool "which will eventually result in the unification of electric service" in that area under CVEC; and

WHEREAS, CVEC has since extended service to Mal Tool, and wishes to continue to serve Mal Tool, and is requesting that the scope of its authority to provide service include any future customers locating on the property owned by Mal Tool; and

WHEREAS, an amended joint petition submitted to this Commission on June 2, 1992 more specifically defines the above Mal Tool property as lot 8 on a map included as Exhibit A of the petition and which is attached to this order; said property being bounded on the east by Route 12A (River Road) and on the west by the Connecticut River; and

WHEREAS, the amended joint petition further limits the request for authority for CVEC to serve the Mal Tool property to solely non-residential load; and

WHEREAS, Mal Tool has no objection to service by CVEC under the above conditions; and

WHEREAS, NHEC has current customer requests for three- phase power in north Charlestown; and

WHEREAS, NHEC expects to obtain the ability to provide both more reliable and three-phase power in that part of its service territory by establishing a wholesale power delivery point with CVEC in Claremont and by using CVEC's existing line extending southerly to Mal Tool for wheeling of said purchased power; and

WHEREAS, it appears from the Commission's investigation that the continuance of service

by CVEC to Mal Tool, such continuance being supported by all parties, is in the public good; and that NHEC's ability to provide reliable three- phase power would sufficiently negate the need for a transfer of NHEC customers to CVEC required by the above- referenced order, so that allowing NHEC to retain its entire service territory in north Charlestown is also in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than July 24, 1992; and it is

FURTHER ORDERED, that NHEC and CVEC jointly effect said notification by: (1)

Page 303

Causing an attested copy of this order to be published no later than July 10, 1992, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Charlestown and Claremont areas; (2) Providing, pursuant to RSA 541-A:22, a copy of this order to the Charlestown Town Clerk and the Claremont City Clerk, by First Class U.S. mail, postmarked on or before July 10, 1992; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before July 25, 1992; and it is

FURTHER ORDERED NISI, that authority be, and hereby is granted, pursuant to RSA 374:22, et seq., to the Connecticut Valley Electric Company, Inc., 77 Grove Street, Rutland, Vermont 05701 to provide any non-residential load to the specified Mal Tool property inside the service territory of the New Hampshire Electric Cooperative, under the terms of CVEC's line extension tariff; and to the New Hampshire Electric Cooperative, Inc., RR #4, Box 2100, Tenney Mountain Highway, Plymouth, NH 03264-9420 to retain its entire existing service territory in the northern part of Charlestown; all effective July 26, 1992, unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that this authority is conditional upon establishment of the proposed wholesale delivery point in Claremont, and upon NHEC providing this Commission with copies of the required service agreements, transmission tariffs and any further evidence necessary to satisfy this Commission of its ability and willingness to provide reliable three-phase service in its north Charlestown service territory.

FURTHER ORDERED, that this order, originally dated June 17, 1992 is hereby reissued at the request of the petitioner NHEC because of its inability to meet original publication time frames.

By order of the New Hampshire Public Utilities Commission this seventh day of July, 1992.

==========

NH.PUC*07/07/92*[72977]*77 NH PUC 343*SPRINT COMMUNICATIONS COMPANY OF NEW HAMPSHIRE, INC.

[Go to End of 72977]

SPRINT COMMUNICATIONS COMPANY OF NEW HAMPSHIRE, INC.

DR 92-093
ORDER NO. 20,535

77 NH PUC 343

New Hampshire Public Utilities Commission

July 7, 1992

Order Approving Sprint Clarity 800sm, Business Cloutsm Service Enhancements

---

On May 15, 1992 Sprint Communications Company of New Hampshire, Inc. (Sprint) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce enhancements to Sprint Claritysm and Business Cloutsm; and

WHEREAS, Sprint proposed, in its filing of May 15, 1992 that Business Cloutsm customers must commit to a "one year service commitment" through reference to Sprint's F.C.C. Tariff No. 9; and

WHEREAS, this Commission limited the length of service contracts during interim IntraLATA competition to 30 days in Order No. 20,077 dated March 11, 1991; and

WHEREAS, the Commission consequently suspended the filing through its Order 20,517, dated June 22, 1992; and

WHEREAS, Sprint resubmitted tariff pages on June 12, 1992, conforming with the requirements of this Commission's Order No. 20,077; it is hereby

ORDERED NISI, Sprint, is hereby authorized to implement its Sprint Claritysm and Business Cloutsm services:

NHPUC PUC Tariff No. 3

2nd Revised Page 1

1st Revised Page 6

1st Revised Page 11

2nd Revised Page 12

1st Revised Page 33

2nd Revised Page 42

Original Page 42.1

2nd Original Page 47

2nd Original Page 48

2nd Original Page 49

Original Page 49.1

2nd revised Page 50

Original Page 62.1

2nd Revised Page 63

Original Page 63.1

Original Page 63.2

and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, Sprint cause an attested copy of this Order NISI to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be documented no later than July 20, 1992, and is to be documented by affidavit filed with this office on or before August 7, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than August 4, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this seventh day of July, 1992.

==========

NH.PUC*07/07/92*[72978]*77 NH PUC 343*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72978]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-126
ORDER NO. 20,537

77 NH PUC 343

New Hampshire Public Utilities Commission

July 7, 1992

Order NISI Approving Special Contract Between Public Service Company of New Hampshire and the Pease Development Authority

---

On June 25, 1992, Public Service Company of New Hampshire (PSNH) filed a petition for the approval of a special contract between itself and the Pease Development

Authority (PDA) pursuant to RSA 378:18; and

WHEREAS, pursuant to the contract PSNH will provide the PDA service at the ML-HPS rate and will continue to master meter the former Air Force Base in contravention to its filed tariffs; and

WHEREAS, subscription to rate ML-HPS is limited, pursuant to PSNH's tariff, to the State Department of Transportation and municipal corporations; and

WHEREAS, PSNH's tariff proscribes the use of master meters; and

WHEREAS, RSA 378:18 provides, inter alia, that a public utility may enter into a contract for service with a customer on terms other than those contained in its filed tariff's if "special circumstances exist which render a departure from the general schedules just and consistent with the public interest..."; and

WHEREAS, the PDA is a body politic and corporate of the State of New Hampshire which resembles a municipality in that it is comprised of ways with street lighting (RSA chapter 12-G); and

WHEREAS, it would be administratively and technically unfeasible for PSNH to individually meter each of the structures located at the PDA at this time; and

WHEREAS, these facts substantiate that there are currently special circumstances justifying a departure from PSNH's filed tariffs; and

WHEREAS, the economical and efficient provision of service to the PDA is in the public interest; and

WHEREAS, PDA property is expected to be acquired by PSNH on or about July 1, 1992; it is hereby

ORDERED, that a waiver of Puc Rule 1601.02 (c) requiring a 15 day filing period is hereby granted; and it is

FURTHER ORDERED NISI, that the special contract executed between Public Service Company of New Hampshire and the Pease Development Authority on June 24, 1992 and filed with the Commission on June 25, 1992 is approved ; and it is

FURTHER ORDERED, that PSNH notify the public by publication of an attested copy of this order, once in a newspaper having general circulation in that portion of the state in which services are provided, such publication to be no later than July 20, 1992, and designated by affidavit to be made with a copy of this order and filed with the Commission on or before August 7, 1992; and it is

FURTHER ORDERED, that the public may file comments on this proposed Order with the Commission or request a hearing on this matter within nineteen days of the publication of this Order; and it is

FURTHER ORDERED, that PSNH submit an annual report to the Commission on the status of and progress towards resolution of the special circumstances regarding this contract; and it is

FURTHER ORDERED, that this Order shall take effect twenty days after its publication unless otherwise ordered by the Commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of July, 1992.

==========

NH.PUC*07/07/92*[72979]*77 NH PUC 344*SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

[Go to End of 72979]

SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

DE 88-108
ORDER NO. 20,538

77 NH PUC 344

New Hampshire Public Utilities Commission

July 7, 1992

Report and Order Accepting Special Contract for Main Extensions in Amherst

---

Appearances: Larry S. Eckhaus, Esq. on behalf of Southern New Hampshire Water Works, Inc.; and Eugene F. Sullivan III, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

This docket was initiated by the Commission upon the filing of several contracts for main extensions along, and in the

area of, Route 101-A in the Town of Amherst, New Hampshire, by Southern New Hampshire Water Company, Inc. (Southern or the Company) Although Southern filed the contracts with the Commission, it took the position that the contracts were in conformance with its main extension tariff. Staff took the position that the contracts were not in compliance with Southern's approved tariff's for main extensions and that the Company had not proffered any "special circumstances" justifying a deviation from its filed tariff pursuant to RSA 378:18.

II. POSITIONS OF THE PARTIES AND STAFF

After a day of hearings, which included the testimony of Staff Engineer Robert Lessels and Southern's president J. Michael Love, Staff and the Company stipulated that the main extension agreements (contracts) which Southern had entered into with parties along, and in the vicinity of, Route 101-A in Amherst were special contracts and that special circumstances existed justifying a deviation from the Company's filed tariff. The Stipulation was filed on November 1, 1990, and contained the support for the agreement along with the testimony of Mr. Love.

III. COMMISSION ANALYSIS

The stipulation states that Southern will be allowed to charge individuals or entities

requesting water service along Route 101-A, Route 122 and Nashua Road in the Town of Amherst $1200 per acre as a connection fee.

The justification for this connection fee is the fact that Southern was approached by the State and the Town and informed that it would not be allowed to lay mains in these areas for a number of years because the roads were being improved and resurfaced and were not to be disturbed. This led Southern to lay the main prior to the commencement of the roadwork before sufficient customers requesting service existed to meet the terms of its tariff.

Based on this fact the Commission finds that there are circumstances which exist justifying a deviation from the Company's filed tariff. Thus, the Company will be allowed to charge $1200 per acre as a connection fee in the areas of Amherst specified above.

The record indicates that the laying of the main was a fait accompli when it came to the Commission's attention. In the future, however, Southern must seek and obtain the permission of the Commission pursuant to RSA 378:18 prior to deviating from its filed tariff.

ORDER

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

ORDERED, that Southern New Hampshire Water Company, Inc. may and shall charge $1200 per acre as a connection fee to any customer seeking to connect to its water mains along Route 101-A, Route 122 and Nashua Road in Amherst, New Hampshire.

By order of the Public Utilities Commission of New Hampshire this seventh day of July, 1992.

==========

NH.PUC*07/14/92*[72980]*77 NH PUC 345*MCI TELECOMMUNICATIONS CORPORATION OF NEW HAMPSHIRE, INC.

[Go to End of 72980]

MCI TELECOMMUNICATIONS CORPORATION OF NEW HAMPSHIRE, INC.

DR 92-112
ORDER NO. 20,539

77 NH PUC 345

New Hampshire Public Utilities Commission

July 14, 1992

Order Approving MCI VNETsm Volume Discounts, Direct Termination Overflow (DTO), and Interswitch and Intraswitch DTO Call Segment Charges and Service Enhancements

---

On June 9, 1992 MCI Telecommunications Corporation of New Hampshire, Inc. (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to offer

volume discounts and service

enhancements to MCI's VNETsm service and to offer the service enhancements of Direct Termination Overflow (DTO), Interswitch DTO Call Segment Charges, and Intraswitch DTO Call Segment Charges; and

WHEREAS the above offering may further competition in the State of New Hampshire, and is therefore in the public good and is consistent with this Commission's Order 20,077; it is hereby

ORDERED NISI, MCI, is hereby authorized to implement volume discounts and service enhancements to MCI's VNETsm service and to offer the service enhancements of Direct Termination Overflow, Interswitch DTO Call Segment Charges, and Intraswitch DTO Call Segment Charges; and it is

FURTHER ORDERED, MCI's NHPUC PUC Tariff No. 1, First Revised Page No. 40 is approved; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, MCI cause an attested copy of this Order Nisi to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be documented no later than July 20, 1992, and is to be documented by affidavit filed with this office on or before August 12, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than August 10, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fourteenth day of July, 1992.

==========

NH.PUC*07/14/92*[72981]*77 NH PUC 346*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 72981]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-125
ORDER NO. 20,540

77 NH PUC 346

New Hampshire Public Utilities Commission

July 14, 1992

Approval of Special Contracts with James River Corporation

REPORT

I. PROCEDURAL HISTORY

On June 22, 1992, Public Service Company of New Hampshire (PSNH), pursuant to NH RSA 378:19 and Puc 1601.02(c), filed with the New Hampshire Public Utilities Commission (Commission) to be effective July 1, 1992, Special Contract - Electricity NHPUC-71 with James River Paper Company, Inc., Berlin/Gorham Group, Special Contract - Electricity NHPUC-72 with James River Paper Company, Inc., Groveton Division (hereinafter James River for both), and the supporting technical statements and exhibits of Messrs. Wyatt Brown and Gary Long. Technical statements of Mr. William McKinnon of PSNH and Mr. Ronald Baillergeon of James River were not included with the June 22nd filing pending PSNH's Motion for Protective Order from the Commission.

On June 25, 1992, the Commission issued, subject to reconsideration, Order No. 20,521 that permitted the Staff of the Commission to review the technical statements and materials of Messrs. McKinnon and Baillergeon. PSNH provided the technical statements of Messrs. Baillergeon and McKinnon on June 25, 1992.

II. POSITION OF PUBLIC SERVICE COMPANY

PSNH states that these Special Contracts[1(22)] are the result of an ongoing team effort that began in June 1990 to analyze and address concerns about the potentially changing business relationship between James River and

PSNH. The technical statement of Mr. Long indicates that PSNH performs an analysis from both the customer's and PSNH's perspective. PSNH looks first at the particular needs, alternatives, financial status and business environment of the customer. Then PSNH analyzes the situation from its own perspective and that of its other customers. Mr. Long states that a key component of that analysis is a comparison of PSNH's marginal or avoided costs with the customer's alternatives and PSNH's tariff rates. More detail on PSNH's position concerning the benefits of special contracts and flexible pricing with regard to all other PSNH customers is included in Attachment A of Mr. Long's technical statement which is an excerpt from his testimony in DR 90-172, the generic discounted rates docket. PSNH believes it and other customers benefit by the greater contribution to PSNH's fixed costs which eventually results in lower rates to all PSNH customers. PSNH indicates that during the Fixed Rate Plan, changes in sales and corresponding "base" revenue changes first affect PSNH's stockholders. If the Return on Equity Collar (ROE Collar) is triggered, then all customers of PSNH would be directly affected. PSNH also believes that all customers indirectly benefit by special contracts such as the two proposed with James River through the improvement in the overall health of the New Hampshire economy.

Mr. Long states that if PSNH's tariff rates are competitive with viable energy alternatives then no special pricing is necessary. If PSNH's tariff rates are not competitive with alternative

energy sources, then PSNH believes special pricing is appropriate so long as, inter alia, PSNH has resources to provide the service consistent with PSNH's least cost resource plans and the price is above PSNH's marginal costs during the terms of the agreement.

PSNH views James River's operations in New Hampshire as warranting special pricing provisions, with conditions, due to the large amount of electricity the plant consumes as a component of its total production costs, the risk that the plants may close down in the near future, or that when the business environment has improved for James River, they may seek an alternative to electricity provided by PSNH.

PSNH indicates that its analysis and discussions with James River focused on the potential for James River to install additional cogeneration at both Berlin and Groveton. PSNH recognizes the potential benefits cogeneration may bring to James River, but believes that new resources are not needed at this time, the value PSNH would pay for any new generation output is low relative to past purchasing arrangements, and that the use of generation at these locations may, in the short-term, cause substantial financial harm to PSNH. Thus, as a result of negotiation, James River has agreed not to displace PSNH sales with additional cogeneration during the length of these Special Contracts. Additionally, James River is expected, and has agreed, to participate in any Conservation and Load Management (C&LM) programs offered by PSNH and approved by the Commission. Mr. McKinnon's technical statement provides detail on the financial status and business environment presently confronting James River as well as providing an overview of the pulp and paper industry. Based on all the information made available to him, Mr. McKinnon's opinion regarding James River's operations in New Hampshire is: 1) both mills are economically distressed and electric energy costs are a substantial cost of production; 2) there exists evidence that action is being taken to return the mills to financial viability; 3) the problems require and are receiving an integrated problem solving approach that addresses the long-term as well as the short-term operations of the mills; and 4) in light of these facts, the proposed Special Contracts are in the best interests of the State of New Hampshire, PSNH, PSNH's other customers and James River.

With details of the organization of James River Corporate, the five-year business plan and product market information for James River Groveton and James River Berlin/Gorham, PSNH contends the proposed Special Contracts will adequately address the following objectives:

Page 347

1. They (the Special Contracts) provide meaningful assistance to James River as part of an overall effort to revive James River's business in New Hampshire;

2. They avoid the potential to "milk" the electricity provider if the business is to be eventually phased out;

3. They provide special pricing for a limited term with greatest benefit to the customer commensurate with the customer's business plan (i.e., greater benefit in early years of the contract term);

4. They continue to provide electricity to James River over that produced from existing James River generation (i.e., avoid new electric sources until PSNH or NEPOOL needs additional capacity);

5. They maintain the existing contractual relationship with James River where appropriate; and

6. They encourage energy efficiency in the James River mills.

III. COMMISSION ANALYSIS

The Special Contracts that PSNH has proposed are not unanticipated. Both the possibility of mill closings at Groveton and Berlin/Gorham and the potentially devastating effects those closures would have on the North Country have been widely reported.

We stated clearly in DR 91-172, the docket on generic discounted rates, that the filing of special contracts under RSA 378:18 should not be withheld while we decide the complex issues in that docket, but neither would we expedite special contract filings. It is in this light that we must question what PSNH considers a reasonable time frame for a filing that it, and no doubt many others, considers an important and urgent proposal. We share today, seven years later, the concerns expressed by Chairman McQuade in a separate opinion in Re Bio-Energy Corporation that:

[the] Commission is expected to respond to utility- responsible crises without being afforded the time necessary to perform the kind of in-depth analysis that would enable it to reach decisions that will stand the test of time.

DR 85-157, Supplemental Order No. l7,687 (June 25, 1985.)

Further, the issue of losing vulnerable customers and its effect on the Northeast Utilities (NU) sales forecast was probed during the hearings in DR 89-244. As with many aspects of that decision, we are again confronted with interpreting and deciding how particular issues in a proceeding, such as the one before us with James River, are consistent with our decision in DR 89-244. Normally, questions of interpretation are explicit in the filing of PSNH or emanate from one of the parties to a proceeding during the course of discovery or through cross-examination. The immediate filing, with its request for expeditious treatment, confronts us with questions that must be answered in fairness to the petitioner as well as to James River and to other ratepayers.

The particular aspects we address in our conditional approval of the Special Contracts[2(23)] are 1) the length of the contract, 2) the discount terms, 3) the assignability provision under Article 16 of the Special Contract with James River-Berlin/Gorham and Article 12 of the Special Contract with James River-Groveton, and 4) the agreement by James River not to cogenerate under Article 11 of the Special Contract with James River-Berlin/Gorham and under Article 7 of the Special Contract with James River-Groveton. Additionally, we believe that, in accordance with the PSNH Rate Agreement, Conservation & Load Management costs are recoverable as described below. We will also address what we consider the pivotal

issue in this filing - whether PSNH is entitled to recovery of lost base rate revenues associated with these James River Special Contracts should the floor of the ROE collar be triggered.

Conservation and Load Management Cost Recovery

One of the conditions PSNH has included in the Special Contracts with James River is that James River shall participate in any C&LM program that is offered to it as part of the programs approved by us in DE 92-028. We do not disagree with this provision, but we believe the issues of program participation and lost revenue recovery are best resolved as part of DE 92-028. Thus, pending the outcome of DE 92-028, we caution James River that our approval of these Special Contracts does not determine whether it is eligible for any C&LM programs ultimately approved in DE 92- 028, nor does it prohibit or entitle PSNH to lost revenue recovery associated with C&LM programs in which James River may participate.

Provisions in the Special Contracts

PSNH proposes the Special Contract with James River- Berlin/Gorham as an amendment to Special Contract No. NHPUC- 42. The Special Contract with James River-Groveton is structured similarly to the proposed one with James River- Berlin/Gorham, but does not include the provisions for Interruptible Service or for Non-Firm Replacement Energy.

We support PSNH's efforts to condition these Special Contracts upon James River's commitment to a long-term viable business plan for the mills at Groveton and Berlin/Gorham. It is important that tangible benefits will accrue to PSNH, James River and the other customers of PSNH by the implementation of these Special Contracts. Thus, we will require PSNH to file with the Commission on July 1 of each of the next 5 years a report that justifies on an on- going basis the discounted demand rates we are approving today.

The discount to the Business Recovery Demand decreases over the term of the Special Contracts and begins while PSNH's avoided short-term capacity rate is valued at $0.00 per kW-yr. We believe the structure of the discount is reasonable and will accept it as proposed.

Both Special Contracts with James River contain an Assignment provision. The Special Contracts can not be assigned or transferred by either James River or PSNH without the prior written approval of the other party, but the other party's consent shall not be unreasonably withheld. This provision is similar to the one now in effect with James River-Berlin/Gorham. We will accept this provision but require PSNH to notify us at least 30 days in advance of when the assignment will occur and to explain why these Special Contracts should remain in effect after assignment.

We are troubled somewhat to find a provision that prohibits James River from displacing electricity purchases from PSNH through the purchases of power from a third party or by the additional power generation of James River. Our concern is with minimizing long-term costs to PSNH ratepayers and, as such, these Special Contracts must not be viewed solely from the perspective of either PSNH or James River. Neither should our examination be confined only to the short-term. These Special Contracts cannot be considered good public policy if the long-term

outcome is to increase costs to all ratepayers by more than the short-term benefits PSNH promises in this filing. It is because these Special Contracts will not, in our estimation, increase costs to all PSNH ratepayers in the long-term, and may in fact greatly benefit ratepayers in the short-term by avoiding the floor of the ROE collar, that we approve this provision in the Special Contracts.

Our determination that PSNH ratepayers will not see long- term costs outweighing these short-term benefits is based partly on the adequate capacity situation PSNH enjoys now and is expected to have during the length of the demand discounts. Our approval of these Special Contracts should not adversely alter PSNH's long-term resource plans.

Page 349

Additionally, our requirement that PSNH/NU calculate its ROE as if the revenues from James River were not lowered by the discount to the Business Recovery Demand, as we explain under Lost Base Revenues below, will help to ensure that other PSNH ratepayers are not harmed by PSNH's decision to enter into these Special Contracts.

Finally, we find no compelling reason to extend the James River-Groveton Special Contract, which has no additional benefits, unlike the Special Contract with Berlin/Gorham which contains a provision for interruptible service, once the discount to the Business Recovery Demand ends. We will direct PSNH, if it wants to extend the James River-Groveton Special Contract past July 1, 1997, to file for an extension with supporting materials by June 1, 1997.

Lost Base Rate Revenues

PSNH states it will do whatever it can to maintain the viability of the mills so long as those actions are not detrimental to other PSNH ratepayers. PSNH believes this filing will benefit other ratepayers directly by reducing the amount of fixed costs to be recovered from individual ratepayers. This beneficial effect is shared with all ratepayers through the Fuel and Purchased Power Clause. Additionally, PSNH believes that the proposed Special Contracts, in that they help to keep the mills open, have secondary effects that spill-over to all the individuals and businesses in the North Country that are tied to the continued operations of the mills.

PSNH is correct in its appraisal of the benefits these Special Contracts offer James River, PSNH, the inhabitants of the North Country, and other PSNH ratepayers if PSNH were to lose James River as a customer. Other than James River management, no one, not PSNH, not the State of New Hampshire, not the people who work at the mills, and certainly not this Commission, knows for certain whether these mills would close absent approval of these Special Contracts. We agree that an integrated, long-term approach is needed for the continued viability of the mills in Berlin/Gorham and Groveton, and by our approval of these Special Contracts we believe we are contributing to that long-term solution. However, we do so with a wary eye, and will, therefore, require continued reporting.

It is clearly PSNH/NU's decision whether to seek Special Contracts. Our responsibility is to ensure that, as proscribed under RSA 378:18, special circumstances exist which render departure from PSNH's general tariff rates just and consistent with the public interest. Based on the information and resources available to us, we believe these Special Contracts with James River meet the requirements of RSA 378:18 and are consistent with the public interest, but in order to

assure that, we have conditioned them to conform to the underlying record evidence and testimony by NU regarding the level of rate increases and its effect on sales and therefore the ROE collar on which our decision in DR 89-244 was based.

There is no dispute that NU took the risk of their sales forecast being too optimistic in DR 89-244. Lost sales, to the extent the floor of the ROE collar is not triggered, are absorbed by NU shareholders. Included in the sales forecast we found reasonable - but at the upper end of the reasonable range as Staff had testified - in DR 89-244 were rate design changes to protect "vulnerable" customers. NU did not consider the effect of those rate design changes to have much impact on sales as NU had modelled them. Even considering these potentially adverse effects on sales, NU and Staff found it unlikely that the ROE collar would be triggered.

If PSNH/NU now believes that sales lost due to "vulnerable" customers could trigger the floor and thus enters into Special Contracts that provide economic incentives for customers not to leave the system, but those economic incentives result in not just lower revenues, but in lower earnings great enough in themselves to trigger the ROE collar, then ratepayers not NU shareholders have absorbed the risk of the poor sales forecast. To ensure that other PSNH ratepayers are not harmed and that the risk remains with NU, we will direct that should NU petition for rate relief because the

floor of the ROE collar has been triggered, NU shall compute the ROE as if the discount to the Business Recovery demand contained in these Special Contracts with James River had been paid at the full tariffed rate. Should NU propose some other change in rates, such as in a rate design proceeding, during the life of the Business Recovery Demand provision contained in these Special Contracts, NU shall impute the revenues as if PSNH had received payment for service at the full tariffed rate. Further, we will require NU to report annually the amount of the lost revenues from these Special Contracts. Our order will issue accordingly. Concurring: July 14, 1992

ORDER

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

ORDERED NISI, that Special Contract Nos. NHPUC-71 and NHPUC-72 between PSNH and James River-Berlin/Gorham and James River-Groveton, respectively, are approved effective July 1, 1992, unless otherwise ordered by the Commission after review of comments which may be submitted during the comment period authorized herein; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules, Puc 203.01, PSNH notify all persons desiring to be heard by causing an attested copy of this order to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication indicating that copies of the full report are available from the Public Utilities Commission, such publication to be no later than July 17, 1992, such publication to documented by affidavit filed with this office on or before August 3, 1992; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of N.H. Admin.

Rules, Puc 1601.02(c) that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that the Special Contracts will be retroactively effective as of July 1, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order NISI will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto. By order of the Public Utilities Commission of New Hampshire this fourteenth day of July, 1992.

FOOTNOTES

[1]The Special Contracts, NHPUC-71 and NHPUC-72, are appended to this Report and Order as Attachment A.

[2]We wish to emphasize that our conditional approval of these Special Contracts between James River and PSNH shall have no preclusive effect on our decision in DR 91-172.

==========

NH.PUC*07/15/92*[72982]*77 NH PUC 351*CARLETON WATER COMPANY TRUST

[Go to End of 72982]

CARLETON WATER COMPANY TRUST

DE 89-083
ORDER NO. 20,541

77 NH PUC 351

New Hampshire Public Utilities Commission

July 15, 1992

Report and Order Regarding Rate Base Valuation, Sale/Leaseback and Financial Approvals

---

Appearances: Harman & Clarke by Mary Ellen Kiley, Esq. for Carleton Water Company Trust; Robert and Joyce Carroll and William DeProfio of the Sunrise Lake Association; Robert Manzelli of the Birch Hill Association; Office of Consumer Advocate by John Rohrbach for Residential Ratepayers; Eugene F. Sullivan, III, Esq. for the staff of the New Hampshire Public Utilities Commission.

Page 351

REPORT

I. PROCEDURAL HISTORY

As a result of proceedings on a show cause order, see Report and Order No. 19,387 (May 2, 1989) in DR 89-032, Carleton Water Company Trust (the Trust) on May 8, 1989, filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide water services in the limited areas of the towns of North Conway, Middleton, Tuftonboro and Thornton, New Hampshire and for approval of temporary rates. For some time the Trust and Water Industries, Inc., a related company, had been operating in these areas without a franchise, in contravention of RSA 374:2 and 374:22.

The Commission, on October 17, 1989, conducted a hearing on the franchise petition. Also on October 17, the Commission Staff (Staff) and the Trust stipulated to temporary rates at current levels. October 17, 1989 transcript at 3-4.

On April 27, 1990, the Commission heard evidence on the franchise petition and permanent rate request for systems known as Birch Hill (East and West), 175 Estates, Sunrise and Hidden Valley. Because Staff felt a need for additional discovery on issues raised by the Trust, additional discovery was ordered and the hearing was continued until May 29, 1990.

On May 29, 1990 the Commission conducted further hearings on the Trust's petition, despite some debate as to whether Mr. Carleton had provided adequate notice of the proceeding. The Trust, at the commencement of the hearing, sought to have Staff attorney Eugene F. Sullivan, III and Staff witnesses Mary Jean Newell and Robert Lessels designated as staff advocates, pursuant to N.H. Admin. Rules, Puc 203.15, which request was denied by the Commission in Report and Order No. 19,886, 75 NHPUC 393 (1990).

After the submission of the case to the Commission for its consideration, the Trust sought to reopen the evidentiary hearings. The reason for this request was that after the conclusion of the hearings, the Trust conveyed all of its interests in real property to the beneficiaries' father, Robert Carleton, the owner of Water Industries, Inc. The conveyance was in the form of a gift which Mr. Carleton then leased back to the Trust. Furthermore, the Trust sought the inclusion of certain long term debts, which it had omitted in the first proceeding, in the ratemaking formula.

The Staff objected to the request to reopen evidentiary hearings after the submission of the case for the Commissioner's consideration; however, the Trust's request was granted conditioned on the Trust's agreement to answer further data requests relative to the two new issues.

On August 9, 1991, the Commission reopened the record for the purpose of hearing testimony on the sale of real property by the Trust to Mr. Carleton and his lease of the property back to the Trust, and the Trust's request to include long term debt in the ratemaking formula.

II. POSITIONS OF THE PARTIES AND STAFF

A. Carleton Water Company Trust

The Trust argues that the Commission should adopt a methodology for valuation of the rate base using something other than original cost less depreciation, particularly in light of the lack of reliable records in this case. The Trust recommends use of replacement value. Robert Carleton testified to the creation of the Trust, under which his two adult children are the sole beneficiaries. The Trust also argues that it should be allowed to collect rates to cover the cost of a lease which it entered into with Robert Carleton for the use of the real property on which the utility's assets sit after the transfer of that property to Robert Carleton for no consideration. The

Trust further argues for the inclusion of long term debt in its ratemaking formula and the inclusion of a stipulated management fee in rates.

The rate increases requested for the four systems were 80.79% for Birch Hill, 177.74% for 175 Estates, 134.16% for Sunrise and 140.43% for Hidden Valley. The total

Page 352

requested rate increase for all systems was 105.3% which would result in a revenue increase of $60,528.

B. Sunrise Lake and Birch Hill Associations

William DeProfio, President of the Sunrise Lake Association, made a public statement on May 29, 1990, alleging problems with the Trust's water quality and reliability and questioning why the rate increases were of the magnitude requested. Robert Manzelli, President of the Birch Hill Association appeared at the prehearing conference but made no public statement.

C. Office of Consumer Advocate

The Office of Consumer Advocate appeared at certain of the proceedings in this docket but took no position on the issues raised.

D. Commission Staff

The Commission Staff stipulated to a rate of return on equity of 11.97%. April 27, 1990 Transcript at 45. Staff argued that replacement cost should not be the measure of the rate base, the stipulated management contract between Water Industries, Inc. and the Trust was unjust and unreasonable, the sale/leaseback agreement was imprudent and should, therefore, be disregarded for ratemaking purposes and the Trust should have petitioned the Commission pursuant to RSA 369 before entering into certain financing arrangements.

III. COMMISSION ANALYSIS

The Commission, having considered the evidence and arguments presented, finds three major issues for resolution: rate base valuation, the conveyance of the property to the Trust with a sale/leaseback arrangement, and the treatment of certain accounts payable.

We are persuaded by Staff that the rate base valuation should be made on the basis of an original cost less depreciation methodology, relying on actual records and accounting. The burden to establish rate base rests with the Trust. By applying this standard, the Trust has been treated no differently than other utilities before this Commission, and we see no reason to change our standards on rate base valuation at this time. Only those original costs which the Trust can support through actual records, therefore, will be allowed in valuation of the rate base. Thus, Staff's valuation of rate base, which was based on a review of those records, shall be used to establish rates. We note that the effective date for temporary rates was July 21, 1989, the date on which customers were notified of the rate proceeding.

We are not persuaded that the conveyance of property from the Trust to Mr. Carleton, and his lease of the property back to the Trust demonstrates proof of benefits to ratepayers, though it certainly demonstrates proof of costs to those ratepayers. The Trust's sole beneficiaries are Mr. Carleton's two children. We conclude that the sale/leaseback arrangement was an imprudent

transfer of the assets of the Trust to an "affiliated" individual and for ratemaking purposes, therefore, we will calculate rates as if the Trust had retained ownership of the assets.

We concur with the Staff's argument that financing transactions of the type found within this case must be reviewed by the Commission, pursuant to RSA Chapter 369. However, because the financing transactions at issue occurred prior to the award of a franchise and due to the Trust's lack of administrative capabilities in dealing with its utility status, we will not hold the Trust to the same standards during this unfranchised period as we would a franchised utility. It should be noted, however, that RSA 362:2 makes no distinction between franchised and illegally unfranchised utilities. Thus, we will not disallow those costs or otherwise penalize Carleton for failing to bring those transactions to the Commission's attention. Any financing transactions which occurred after the approval of the franchise, of course, are subject to the review requirements of RSA Chapter 369.[1(24)]

The last issue is the management fee which Staff counsel stipulated to with the Trust

to which Staff now objects. Although we are troubled by the magnitude of the management fee, we will accept the stipulated management fee as reasonable based on the record now before us. This does not preclude us in future rate proceedings, however, from scrutinizing any management fee the Trust may incur, particularly after the Trust has had an opportunity to develop experience as a franchised utility.

Finally, the return on equity was reasonable at the commencement of the proceeding and we will allow it to stand.

The Trust is granted a franchise to provide water service to the area described in site plans submitted to the Commission; it should file appropriate tariffs in compliance with this order within fourteen days, consulting with Staff if necessary to develop those tariffs.

Our order will issue accordingly.

Concurring: July 15, 1992

ORDER

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

ORDERED, that Carleton Water Company Trust's rate base shall be valued in accordance with standard Commission methodology; and it is

FURTHER ORDERED, that for ratemaking purposes, the Commission shall disregard the Trust's conveyance of real assets to Robert Carleton with a sale/leaseback arrangement; and it is

FURTHER ORDERED, that Carleton Water Company Trust was not obligated, pursuant to RSA Chapter 369, to file financing transactions with the Commission for review for those transactions occurring prior to the award of the franchise to Carleton Water Company Trust; and it is

FURTHER ORDERED, that Carleton Water Company Trust is granted a franchise to provide water to those areas described in site plans previously submitted to the Commission and

shall file tariffs in compliance with this Report and Order within fourteen days of its issuance.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of July, 1992.

FOOTNOTES

[1]The Commission notes that some of the monies that constitute the Trust's long term debt to Water industries were used to pay the costs of these proceedings, as such, they are more properly accounted for as rate case and franchise establishment expenses and should be amortized (franchise expenses) or surcharged (rate case expenses) appropriately. Therefore, the Trust shall remove these expense items from their books as a debt and allocate them appropriately for ratemaking purposes.

==========

NH.PUC*07/20/92*[72983]*77 NH PUC 354*ENERGYNORTH NATURAL GAS INC.

[Go to End of 72983]

ENERGYNORTH NATURAL GAS INC.

DR 90-183
ORDER NO 20,542

77 NH PUC 354

New Hampshire Public Utilities Commission

July 20, 1992

Supplemental Order Addressing Rate Design, Charitable Contributions and Weather Adjustment

---

Appearances: EnergyNorth Natural Gas Inc. by Jacqueline Lake Kilgore, Esquire; The Office of the Consumer Advocate, Michael W. Holmes,Esquire; and Eugene F. Sullivan, III, Esquire, for the Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On September 19, 1991, EnergyNorth Natural Gas, Inc. (ENGI or Company) and the Staff of the commission (Staff) presented a settlement agreement resolving a majority of the cost of service issues in this case, with the exception of the cost of common equity, employee discounts and advertising costs related to a consumer information pamphlet. The three disputed issues were presented to the commission along with the settlement agreement in September of 1991. The

settlement agreement allowed the Company to bill on a temporary basis (pending final

resolution of the case) the revenues associated with two additional contested issues, namely charitable contributions and weather normalization.

Those issues, along with rate design, were set for hearing on January 21-23 and 28-30, 1992, to allow Staff and the Office of the Consumer Advocate to conduct discovery into the Company's late filed testimony on the issues of charitable contributions and weather normalization.

On November 20, 1991, the commission issued Report and Order No. 20,304 accepting the settlement agreement and resolving the contested issues. The result of the Order was to grant ENGI a permanent rate increase of $684,845 and a temporary rate increase comprised of $197,707 and $66,819 for weather normalization and charitable contributions, respectively.

On October 4, 1991, ENGI filed additional testimony relative to rate design. On December 2, 1991, Staff, Anheuser-Busch (AB) and the OCA filed rate design testimony. On January 6, 1992, the parties and Staff, along with the Business and Industry Association (BIA), filed rate design rebuttal testimony. Staff and the parties, excluding the OCA which was notified but elected not to attend, met on January 10 and 17 to discuss and narrow issues. On January 20, 1992, the OCA and AB filed surrebuttal rate design testimony.

On January 29, 1992, ENGI, Staff, the BIA and AB (hereinafter the Staff and the Settlement Parties) submitted a settlement agreement covering all rate design issues in the case. That agreement was opposed by the Office of the Consumer Advocate.

II. POSITIONS OF THE PARTIES

A. Charitable Contributions.

The Company took the position that charitable contributions were a normal operating expense which should be passed on to ratepayers. The Company supported this position through the testimony of Dr. Collin C. Blaydon and the subsequent testimony of the Company's president and chief executive officer, Robert R. Giordano.

Dr. Blaydon testified that the fact that a local gas distribution company (LDC) faced some degree of competition in the marketplace distinguished it from the usual monopoly provider. He made a two pronged argument in support of the pass-through of costs related to charitable contributions based on this observation. First, he asserted that since there were substitutes for gas in the marketplace the consumer was free to object to managements selection of particular charities by purchasing a substitute product rather than natural gas from the LDC. Second, he asserted that allowing the pass through of charitable contributions resulted in economic efficiency through increased public awareness of gas as desirable source of fuel, thereby, increasing usage and lowering the overall costs to customers.

Mr. Giordano took the position that the commission Staff had objected to the pass-through of charitable contributions to ratepayers as a means of lowering the Company's revenues without analyzing the reasonableness of the expenditures. He went on to explain the types of charities the Company contributes to, and the benefits these contributions provide to society as a whole.

The OCA took the position that Company expenditures for charitable contributions should not be passed-through to ratepayers. The OCA, through the testimony of Kenneth Traum, took the position that the ratepayers were in effect being forced to donate to charities of the Company's choice, losing their freedom of choice.

The Staff of the commission, through the testimony of the Finance Director, Eugene F. Sullivan, Jr. took the position that individual ratepayers should decide for themselves which charities they contributed to, rather than having that decision forced on them by management.

The BIA took the position that charitable contributions from utilities were an important source of revenues for New Hampshire charities and that the commission should allow the pass-through of these costs to ensure the continued support of these organizations by

Page 355

New Hampshire utilities.

The commission also received several letters from charitable organizations receiving funds from the Company in support of the pass-through of these costs to ratepayers.

B. Weather Normalization

In testimony filed December 17, 1990, Company witness Mancini contended that a weather normalizing adjustment to the Company's test year firm non-gas revenues was unnecessary because the actual degree days experienced during the test year fell within a zone of reasonableness, i.e., a 95% probability confidence interval centered on the annual degree day normal. Stated differently, in the Company's view a revenue adjustment is necessary only if actual test year degree days are greater (smaller) than the upper (lower) extreme of the confidence interval. On July 9, 1991 Dr. Mills submitted testimony on behalf of the Company supporting the reasonableness of the method used by Mr. Mancini. On October 23, 1991 Mr. Fleming filed testimony on various aspects of the Company's weather adjustment calculation.

In testimony filed May 17, 1991 Staff witness McCluskey recommended that the confidence interval approach used by the Company be rejected and replaced with the method used by the other gas company in the State,Northern Utilities. According to Mr. McCluskey, Northern's method, unlike the Company's approach, is supported by statistical theory and does not require the assumption that the response of customers to temperature changes is the same in cold as in warm weather. Mr. McCluskey testified that the Northern Method differs from the confidence interval approach in two main respects. First, because actual and normal degree days are calculated separately for each test year month (instead of annually) there is no need to assume, as the Company's method does, that class heating coefficients are constant across the year. Empirical results reported in Mr McCluskey's pre-filed testimony indicate customers respond more to unit temperature changes in the winter months than in the summer months. Secondly, and most importantly, adjustments to test year monthly sales are based on the degree day difference between actual and normal weather, i.e., a confidence interval is not used. Applying the Northern Method to the rate classes ENGI considered temperature sensitive, Mr. McCluskey computed a weather normalization adjustment to test year net revenues of about $863,000.

On June 7, 1991, Mr. McCluskey submitted revised testimony reducing his recommended adjustment by about $680,000 to $183,000. That reduction was largely the result of matching calendar month sales (instead of billing month sales) with calendar month degree days. Further, in response to data requests from the Company and the OCA, Mr. McCluskey applied the Northern Method to all ENGI rate classes causing the adjustment to rise to $195,941.

The rebuttal testimony submitted by Dr. Mills on July 9, 1991 focused primarily on the question of whether the test year weather was normal or abnormal. Dr. Mills' testimony did not address the methodology the Company employs to compute the revenue adjustment given abnormal weather. The principle conclusions of Dr. Mills' testimony were:

(a) the confidence interval methodology used by ENGI is appropriate for

determining when a test year is or is not normal;

(b) based on the confidence interval method the test year was not

abnormal and thus no weather adjustment is warranted in this case; and

(c) the Northern Method employed by Staff lacks a theoretical basis and

is flawed in its statistical methodology.

Using the confidence interval approach advocated by the Company and degree day data for the period October 1964 - September 1989, Dr. Mills computed a 95% confidence interval[1(25)] that ranged from 6,968 to 8190 degree days centered on a sample mean of 7,579 degree days. Since the test year degree

Page 356

days fell within that interval he concluded that the test year weather was not abnormal and thus a revenue adjustment was unnecessary. Mr. McCluskey testified that while there is a 95% probability that the true but unknown mean would lie somewhere within the interval, the best estimator of that mean is the sample mean. That view was supported by a paper prepared by Dr. Joskow titled "A Statistical Approach to Weather Normalization" (Staff Exhibit 39), the same paper that the Company claims to be the basis of its approach. Mr. McCluskey also testified that the Company's approach to determining the extent of any abnormal weather is arbitrary since the reference point is dependent on whether the actual test year weather is colder or warmer than the sample mean.

The Company's use of the confidence interval approach was also shown to be inconsistent with its practices in other areas of its operations. For example, Mr. Fleming testified that the sales forecasts that underlie the Company's cost of gas adjustment filings are reflective of normal weather conditions but conceded that his determination of "normal" was based on the use a sample mean and not a confidence interval.

Further, although Dr. Mills supported the Company generally in its use of the confidence interval approach he believed that the formula employed resulted in too narrow an interval and thus too many abnormal weather years. Mr. McCluskey responded that Dr. Mills' method of determining the interval would result in one abnormal year in twenty and, more importantly, would expose ratepayers and the Company to earning swings ranging from plus $1.2 million to minus $1.2 million. Mr. McCluskey noted that a swing of $2.4 million in earnings, amounting to about two thirds of the Company's test year profits, could have a detrimental impact on capital expenditures.

Dr. Mills also took issue with the development by Mr. McCluskey of the monthly heating coefficients, which were computed based on an assumed linear relationship between monthly

degree days (the independent variable) and class sales (the dependent variable) and a constant non-heating load. Mr. McCluskey testified that the assumption of linearity was supported by regression calculations that he performed using daily degree days and total daily sendout as the independent and dependent variables respectively. Dr. Mills disagreed with Mr. McCluskey's interpretation of the regression results and specifically noted the significant "t" statistics for the months of July and August and the variability in the monthly non-heating load. With regard to the former, Dr. Mills testified that a significant "t" and a low R-squared do not mean a zero heating coefficient, but rather a low but significant association between degree days and sales. Consequently, the average load for July and August would tend to overstate the non-heating load and, all other things being equal, understate the heating coefficients. With regard to the latter, Dr. Mills noted that Mr. McCluskey's workpapers do not support a constant non-heating load. On the contrary, the non-heating loads in December 1989 and January 1991 are much higher than in other months of the test year.

C. Rate Design

(a) Settlement Agreement

The Staff and the Company note that the marginal cost studies submitted in this case are the product of a methodology that was approved by the commission in 1988 following several years of discussion and debate between representatives of the Staff, the OCA and the two largest gas companies in the State. Those studies show unequivocally that the test year revenues generated by the residential heating and non-heating classes fell substantially short of the costs to serve those classes. Those shortfalls were made up largely by subsidies from the commercial and industrial classes.

Other important results from the marginal cost studies were: (a) the costs of connecting new customers to the system, regardless of class, are much greater than current levels of customer charges; (b) the cost of supplying gas in the winter months is significantly greater than the supply cost in summer months; and (c) the high cost winter period is more accurately

defined as the five months (instead of six months) commencing November each year.

In light of these results, and consistent with recent decisions by the commission in support of marginal cost based rate design, the Settlement Parties agreed to structural changes in rates that better reflect marginal operating costs. Specifically, the parties agreed to: (a) recover proportionately more costs from the residential classes than from the non-residential classes; (b) introduce seasonal differentials in the commodity charges for all rates classes; (c) increase the summer season from six months to seven and reduce the winter season from six months to five; (d) adjust the sizes of the rate blocks and reduce their number; (e) increase customer charges; (f) add a new rate class for large, high load factor firm customers; and (g) offer a non-peak firm service to customers with alternate fuel capability.

(b) Results of Embedded Studies

The Company and the OCA submitted embedded cost studies. The results of the Company's study show all non-residential classes earning substantially in excess of ENGI's overall test year

return. In contrast the heating and non-heating residential classes contributed negative earnings. The OCA's study largely confirmed the Company's findings but differed slightly in that while the earnings from the residential classes were positive they were not significantly different from zero.

(c) Revenue Requirement

Because the commission had not ruled on the issues of weather normalization and charitable contributions, and hence on ENGI's overall revenue requirement, the settlement agreement incorporated two sets of rates for the purpose of illustrating the positions of Staff and the Company. The Company's proposed rates were based on actual test year sales and a revenue requirement of $67,487,097 that resulted from the addition of test year booked firm revenues of $66,929,962, and a base rate increase of $944,371, minus a recoupment surcharge of $387,236. Included in the base rate increase was $264,526 reflecting the Company's position on the charitable contributions and weather normalization.

Staff's recommended rates were based on normalized test year sales and a revenue requirement $67,595,583 that resulted from the addition of test year booked firm revenue of $66,929,962, a base rate increase of $684,845, and $368,012 to cover the increased gas costs associated with the weather normalized adjustment to sales, less a recoupment surcharge of $390,099. The base rate increase of $684,845 reflected Staff's position on charitable contributions and weather normalization. During direct examination Mr. McCluskey revised Staff's revenue requirement position by noting that he had inadvertently subtracted the $195,941 proposed weather adjustment twice instead of once. Consequently, Staff's corrected revenue requirement is $67,788,798.

(d) Class Revenue Determination

The OCA disagreed with the Settlement Parties on the use of marginal cost studies for interclass allocations of the revenue requirement. According to Mr. Hornby, interclass allocations should be based on embedded cost studies because only those studies show which classes are earning more (less) than the Company as a whole. The Staff rejected this argument because it believes there are no non-arbitrary methods for allocating the costs of shared facilities and thus class rates of return are indeterminate. The Staff also noted that the commission in DE 86-208 unequivocally rejected the argument that marginal cost based rates should be set consistent with class revenues determined by an embedded cost of service study. That decision notwithstanding, the Settlement Parties agreed on the need for gradualism in the ratemaking process and accordingly used the marginal cost based class revenues as guides only in establishing the settlement rates. As a result, residential customers will continue to be subsidized by industrial and commercial customers.

Page 358

(e) Seasonal Differentiation

The marginal cost studies submitted by the Company and Staff support a winter/summer seasonal differential of about 1.8:1. In recognition of this differential, but taking into account the shift in revenue collection from summer to winter that seasonal rates entail, the settlement parties agreed to limit, for this case only, the rate differentials to a maximum of 1.4:1. The OCA

opposes this recommendation based on the expectation of Mr. Hornby that the current differential in gas costs is unlikely to "continue indefinitely". In its place the OCA recommends the commission pursue a cautious approach. The Staff disagrees and sights four reasons: (a) all gas delivered by major pipelines in the US will shortly be priced relative to seasonally differentiated market indices; (b) all major pipelines will shortly be required to levy seasonally differentiated non-gas charges; (c) because high cost supplemental gas is used in the winter months ENGI's gas costs will vary seasonally irrespective of the cost structure of pipeline gas; (d) ENGI's non-gas costs are strongly correlated with seasonal usage.

Finally, because the Company faces the prospect of a shortfall in revenue if the seasonally differentiated rates are implemented during the summer months the parties agreed to delay implementation until November 1, 1992. The parties also agreed to shorten the winter season from six to five months and increase the summer season from six to seven months.

(f) Customer Charge Increases

The settlement parties recommend monthly customer charges of $8.00 and $7.00 for residential heating and non-heating customers respectively, up from the current $3.73 but considerably short of the $25 per month shown in the Company's marginal cost study. The OCA opposes the recommended charges (despite submitting an embedded cost study that indicates a residential customer-related cost of between $27 and $31 per month) for the following reasons: (a) customer charges for existing customers should not be based on the cost of hooking up new customers, and (b) these charges should be increased gradually in order to minimize rate shock. The OCA proposed a monthly charge of $3.93.

The Staff noted that the use of original cost, which the OCA's first argument suggests, would be an administrative nightmare for ENGI since each customer would be charged a different rate depending on when he or she was connected to the distribution system. With respect to the issue of gradualism the Staff believes that the great disparity between on the one hand existing customer charges and on the other marginal and embedded customer costs more than justify increases that are high in percentage terms but low when expressed in terms of additional dollars billed.

(g) Residential Non-Heating Base Rate Increase

The increase in base rates recommended by the settlement parties for the residential non-heating class is significantly greater than the increase for any other class. The settlement parties contend that this is justified by the results of the marginal and embedded cost studies, including the embedded cost study submitted by the OCA, all of which show the non-heating class to be earning substantially below a just and reasonable level.

(h) Standby Rate Schedule

Usage data provided by the Company show that a limited number of customers with alternate fuel capability are meeting most of their energy needs with alternate fuel and using the gas distribution system for back-up or standby purposes. Consequently, the average annual consumption of gas by these "standby customers" is considerably lower than the average annual consumption that underlies the applicable rate schedule. As a result, the Company has been unable to recover from these customers its fixed costs. In light of this, the settlement parties recommend that the Company be authorized to replace the current applicable schedule with a

designed to recover the fixed costs of standing ready to serve.

(i) Large Industrial Rate Schedule

The results of the marginal cost study support the Company's contention that large, high load factor customers are less costly to serve than smaller, low load factor customers. Consistent with this result the settlement parties recommend that a new firm rate schedule be offered designed to attract customers that consume in excess 200,000 therms per year at a load factor of 70% or better.

III. COMMISSION ANALYSIS

A. Charitable Contributions

In regard to the issue of the inclusion of charitable contributions in normal operating expenses the commission finds that these costs should not be borne by ratepayers. There is no evidence in the record that allows us to conclude that charitable contributions contribute to the efficient provision of utility service necessitating their inclusion in normal operating expenses. Moreover, we believe it would be more appropriate for the ratepayers themselves to make decisions relative to which charities they believe are most worthy of their contributions rather than having the Company make those decisions for them.

The commission does not believe it would be appropriate for it to review each contribution by the Company for a determination as to the worthiness of the charities' goals or the "acceptability" of its objectives. While the commission believes that charitable contributions are laudable and necessary for society as a whole, we also believe each individual or entity should have the power to choose which charities deserve their funding or are acceptable to them without that decision being forced upon them by another.

B. Weather Normalization Adjustment

We agree with the parties that test year gas revenues should be normalized if rates are to be set on a consistent basis and in a way that is fair to the utility and ratepayer alike. We also recognize that the achievement of those objectives depends largely on the ability of a methodology to generate a reasonably reliable estimate (over the long term) of "normal" weather. The question before us then is; which of the two methods advocated best achieves that goal? The two methods, which we will label the "Confidence Interval Method" and the "Northern Method", are alike in that both are based on the statistical "mean" of a long term series of degree days (i.e., the sample). However, the two methods differ in that the magnitude of the revenue adjustment under the Northern Method is proportional to the difference between actual test year weather and the sample mean, whereas under the Confidence Interval Method a revenue adjustment is made only if the actual test year weather falls outside of a predetermined interval constructed about the sample mean. In the language of Dr. Mills, the test year weather is judged to be normal or "usual" if it falls within a 95% confidence interval. Another important methodological difference is that the Northern Method computes an adjustment for each month of the test year whereas the Confidence Interval Method computes a single annual adjustment.

Based on the record developed in this case we are persuaded that the method sponsored by the Staff (i.e. the Northern Method) is statistically superior to ENGI's method and less likely to expose the Company and ratepayers to burdensome shifts in non-gas revenues from one year to another. Our decision is based on several compelling facts including; (a) the admission by Mr. Fleming that the Company's CGA related demand forecasts are constructed on a monthly basis using sample mean (as opposed to confidence interval) weather conditions; (b) the journal article that the Company offered as support for its method actually states that the statistically most appropriate measure upon which to base a

determination of "normal" is the sample mean; (c) the Northern Method allows for seasonal variation in the response of customers to unit changes in temperature; (d) the Company and its expert witness disagree on the appropriate method to determine the confidence interval; and (e) accepting Staff's recommendation would allow consistent treatment of the weather normalization issue among New Hampshire gas companies. With respect to Dr. Mills' interpretation of Staff's regression results and its implication for the accuracy of the non-heating load estimate, we note that the calculations were intended only as a sanity check and that the results generally support linearity, which is the basis of the Northern Method. Nonetheless, our decision does not preclude the Company or Staff from recommending alternative means of estimating the non-heating component of monthly class sales, provided of course that any such recommendation is fully supported by accompanying schedules and that the revision is not unduly burdensome.

C. Rate Design

Our acceptance of the Staff's positions on charitable contributions and weather normalization means that the Company should set rates based on a firm revenue requirement of $67,788,798. Because that figure is reflective of weather normalized test year revenues the rates should be designed, consistent with the settlement agreement, based on normalized sales rather than actual test year sales.

With respect to the recommendation of the Settlement Parties to base class revenue allocations on marginal cost principles, we find that the opposing arguments of the OCA add nothing new to the debate in DE 86-208 and thus we affirm our decision in that case[2(26)] , i.e., we reject the use of embedded studies for class allocation purposes[3(27)] .

Having said that, we note that the target marginal cost based class revenues were used only as a guide in establishing the settlement rates. Had the Settlement Parties fully reflected the results of the marginal cost studies in the ratemaking process, the rate increases for the residential classes would likely be many times greater than recommended. That notwithstanding, approval of the settlement rates would mean substantial increases for most residential non-heating customers and smaller increases for residential heating customers, while many non-residential customers would experience rate reductions. Given the economic times and the fact that the Company has recently filed for a further base rate increase, we believe cost-reflective rates can and should be implemented in stages, beginning with the current proceeding. For that reason, we will require the Company to develop revised rates based on the same rate design criteria underlying the settlement rates but limiting the class revenue increase to 0.69%

for non-residential customers, 1.25% for residential heating customers and 2% for residential non-heating customers.

We also believe that economic efficiency will be enhanced by implementation of many of the proposed rate structures, but particularly the introduction of seasonally differentiated commodity rates and the addition of new residential and industrial rate classes.

Our order will issue accordingly.

Concurring: July 20, 1992

ORDER

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

ORDERED, that charitable contributions are not an appropriate operating expense based on the analysis set forth in the foregoing report; and it is

FURTHER ORDERED, that the methodology for determining the weather normalizing adjustment to revenues put forward by staff is adopted; and it is

FURTHER ORDERED, that the permanent rates be designed to recover $67,788,798; and it is

FURTHER ORDERED, that the stipulation relative to rate design between and among EnergyNorth Natural Gas, Inc., Staff, Anheuser-Busch and the Business and Industry

Page 361

Association is adopted subject to the revision of class revenue allocations set forth in the foregoing report.

By order of the Public Utilities Commission of New Hampshire this twentieth day of July, 1992.

FOOTNOTES

[1]i.e., there is a 95% probability that the true but unknown mean

degree days lies within the interval.

[2] See also Report and Order No. 20,385, Connecticut Valley Electric Company, Rate Design Phase II, Docket DR 91- 189 in which we approved further seasonality in rates and based the phased-in cost allocation among the classes on marginal costs.

[3] In Report and Order No. 20,504, Public Service Company of New Hampshire, Retail Rate Redesign, we stated our belief that economic efficiency is enhanced by sending customers proper price signals and that marginal cost pricing sends better long-term price signals than prices based on embedded cost studies.

==========

NEW ENGLAND TELEPHONE COMPANY

DR 92-109
ORDER NO. 20,543

77 NH PUC 362

New Hampshire Public Utilities Commission

July 20, 1992

Order Approving NET's Feature Group A Switched Access Tariff

WHEREAS, on June 4, 1992, New England Telephone & Telegraph Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce Feature Group A Switched Access Service effective July 4, 1992; and

WHEREAS, the Company has requested that Chapter Puc 1601.05 (j) tariff filing requirements be waived; and

WHEREAS, the aforementioned petition seeks to accommodate resellers that originate and terminate intrastate traffic with line side connections; and

WHEREAS, this modification to the Company's Switched Access Tariff may be required to serve some of the companies that have applied to this Commission for authority to resell intraLATA services; and

WHEREAS, such tariff revisions do not change the rates for Switched Access Service; and

WHEREAS, upon review of the proposed revisions the Commission finds the changes to be in the public good; it is therefore ORDERED, that the following revised tariff pages of New England Telephone & Telegraph Company are approved:

NHPUC - No. 78

Section 2 - Third Revision of Page 1

- Third Revision of Pages 4 through 6

Section 3 - Third Revision of Page 1

Section 4 - Third Revision of Page 1

- Third Revision of Pages 3 through 5

Section 5 - Third Revision of Page 1;

and it is

FURTHER ORDERED, that Chapter Puc 1601.05 (j) tariff filing requirements be waived; and it is

FURTHER ORDERED, that the above revisions shall be effective as of the date of this order; and it is

FURTHER ORDERED, that the above revisions to NHPUC No. 78 Tariff be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twentieth day of July, 1992.

==========

NH.PUC*07/20/92*[72985]*77 NH PUC 363*NOS COMMUNICATIONS INC. OF NEW HAMPSHIRE

[Go to End of 72985]

NOS COMMUNICATIONS INC. OF NEW HAMPSHIRE

DE 91-114
ORDER NO.20,544

77 NH PUC 363

New Hampshire Public Utilities Commission

July 20, 1992

Order Granting Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On August 1, 1991, the New Hampshire Public Utilities Commission (Commission) received a petition from NOS Communications Inc., since incorporated as NOS Communications Inc. of New Hampshire, (NOS) for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26; and

WHEREAS, NOS proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of Docket DE 90-002, on the generic issue of whether there should be competition in the intrastate telecommunications market; and

WHEREAS, the Commission finds that NOS demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the

Commission no later than August 14, 1992; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than July 28, 1992. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before August 3, 1992; and it is

FURTHER ORDERED, NISI, that NOS hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions: that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of Docket No. DE 90-002, also refereed to as the Generic Competition docket, at which time the authority granted herein may be revoked or continued on the same or different basis; that NOS shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the Generic Competition docket or continued on the same or different basis;

that NOS shall notify the Commission of its rates by filing a schedule of such rates pursuant to RSA 378:1 within one day after offering service and shall subsequently file any change in rates to be charged the public within one day after offering service at a rate other than the rate on file with the Commission;

that NOS shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400;

that NOS shall be subject to all reporting requirements contained in RSA 374:15-19;

that NOS shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access

charge is approved by the Commission;that all new service offerings are to be accompanied by a description of the service, rates and effective dates; that NOS shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, NOS shall report to the Commission all intraLATA minutes of use, which Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis; that NOS shall report revenues associated with each service on a monthly basis; that NOS shall report the number of customers on a monthly basis; that NOS shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow NOS to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and

it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, that NOS file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that such authority shall be effective 30 days from the date of this order, unless a hearing is requested as provided above or the Commission otherwise orders prior to the proposed effective date.

By order of the New Hampshire Public Utilities Commission this twentieth day of July, 1992.

==========

NH.PUC*07/20/92*[72986]*77 NH PUC 364*ATLANTIC CONNECTIONS, LTD.

[Go to End of 72986]

ATLANTIC CONNECTIONS, LTD.

DE 92-104
ORDER NO. 20,545

77 NH PUC 364

New Hampshire Public Utilities Commission

July 20, 1992

Order NISI Granting Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On May 12, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Atlantic Connections, Ltd. (ACL) for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26; and

WHEREAS, ACL proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission has ordered that ACL's petition receive expedient treatment; and

WHEREAS, ACL has evidenced its incorporation in the State of New Hampshire as required by RSA 374; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of Docket DE 90-002, on the generic issue of whether there should be competition in the intrastate telecommunications market; and

WHEREAS, ACL has specifically and clearly represented that it will pay all intrastate access charges due for each call's originating and terminating intrastate access, and it will properly report its PIU (Percent Interstate Usage) to the Local Exchange Companies; and

WHEREAS, the Commission finds that ACL demonstrated the financial, managerial

and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than August 14, 1992; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than July 28, 1992. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before August 3, 1992; and it is

FURTHER ORDERED, NISI, that ACL is hereby granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions: that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of Docket No. DE 90-002, also referred to as the Generic Competition docket, at which time the authority granted herein may be revoked or continued on the same or different basis; that ACL shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the Generic Competition docket or continued on the same or different basis; that ACL shall notify the Commission of its rates by filing a schedule of such rates pursuant to RSA 378:1 within one day after offering service and shall subsequently file any change in rates to be charged the public within one day after offering service at a rate other than the rate on file with the Commission; that ACL shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400; that ACL shall be subject to all reporting requirements contained in RSA 374:15-19; that ACL shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission; that all new service offerings are to be

accompanied by a description of the service, rates and effective dates; that ACL shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, ACL shall report to the Commission all intraLATA minutes of use, which Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis; that ACL shall report revenues associated with each service on a monthly basis; that ACL shall report the number of customers on a monthly basis; that ACL shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow ACL to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, that ACL file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that such authority shall be effective 30 days from the date of this order, unless a hearing is requested as provided above or the Commission otherwise orders prior to the proposed effective

date.

By order of the New Hampshire Public Utilities Commission this twentieth day of July, 1992.

==========

NH.PUC*07/21/92*[72987]*77 NH PUC 366*NORTHERN UTILITIES, INC.

[Go to End of 72987]

NORTHERN UTILITIES, INC.

DR 91-081
ORDER NO. 20,546

77 NH PUC 366

New Hampshire Public Utilities Commission

July 21, 1992

Report and Order Approving the Settlement Agreement on Permanent Rates and Adopting a Method to Calculate the Temporary Rate Refund

---

Appearances: LeBoeuf, Lamb, Leiby & MacRae by Paul K. Connolly, Jr., Esq. and Scott J. Mueller, Esq. on behalf of Northern Utilities, Inc.; for the Consumer Advocate, Michael W. Holmes, Esq.; and for the Public Utilities Commission, Eugene F. Sullivan, III, Esq.

REPORT

I. PROCEDURAL HISTORY

On July 18, 1991, Northern Utilities, Inc. (Northern or Company) filed, pursuant to RSA 378:3, revised tariff pages designed to produce a permanent increase in annual revenues of 11.5% or $2,547,517. On the same day, Northern also filed a petition for a temporary increase in annual revenues of $1,900,000.

On August 6, 1991, the commission issued an Order of Notice setting a hearing on August 26, 1991 to address the level of temporary rates and to develop a procedural schedule for permanent rates. The Company duly noticed the hearing in accordance with the commission's Order of Notice. On August 12, 1991, in Order No. 20,207, the commission, pursuant to RSA 378:6, suspended the effective date of the permanent rate tariffs.

On August 26, 1991, a hearing was held regarding the above-mentioned issues. Testimony was presented by Northern and Staff in support of the requested increase. In Report and Supplemental Order No. 20,256, dated September 30, 1991, the commission authorized the Company to implement a temporary rate increase at an annual level of $1,900,000, effective for service rendered on or after September 30, 1991.

Staff conducted a field audit between October 1991 and January 1992, and in March 1992 presented prefiled testimony and exhibits on issues relating to the requested permanent rate increase. Northern filed rebuttal testimony on April 23 and 28, and certain Staff members and the Office of the Consumer Advocate (OCA) submitted surrebuttal testimony on or before May 12, 1992.

Following extensive discussions, Staff and Northern reached agreement on all issues relating to the determination of permanent rates. The OCA declined to be a party to the agreement. The fundamental aspects of the settlement agreement, which was submitted June 10, 1992, are the recommendations to: (a) increase permanent revenues by $1,318,714, effective the date of the commission's permanent rate order, and (b) implement step adjustments to permanent rates on November 1, 1992 and annually thereafter until Northern's bare steel replacement program is completed. Attachments 1, 2, and 3 to the settlement agreement are sponsored by Staff and provide computational support for the agreed permanent rate increase. Northern does not concur with the components of that calculation, but does agree that the total stipulated increase is just and reasonable.

Further, because the agreed permanent rate increase is less than the approved temporary rate increase, the Staff and the Company agree that a refund is necessary but do not agree on how the amount to be refunded should be calculated. On June 11, 1992, a hearing was held to present the above mentioned settlement agreement and to hear testimony on the sole contested issue of the refund amount for the temporary rate period. On June 19, 1992, the Staff and the Company submitted briefs on the contested issue, and on June 30, 1992, Northern submitted its reply

brief. The OCA concurs with Staff's refund position.

II. SETTLEMENT AGREEMENT

Revenue Deficiency

The Company's original testimony and exhibits proposed an increase in annual revenues of $2,547,517. Staff's testimony and exhibits supported a permanent increase of $285,023. The parties to the settlement agreed to a permanent increase of $1,318,714. As shown in Attachment 1 to the agreement, the agreed increase is consistent with a rate base of $23,553,791, a cost of capital of 10.01% and a net operating income of $1,485,428.

Rate Base

The agreed rate base of $23,553,791 reflects settlement adjustments totalling $2,264,994. The largest adjustments relate to the removal of plant additions made after the test year (including non-revenue producing bare steel investments) and a $269,242 investment related to the provision of firm service to Domtar Gypsum, Inc. (Domtar).

Cost of Capital

The Company's proposed base rate increase reflected a weighted cost of capital of 11.55%, incorporating a 13.95% cost of equity. Those rates were subsequently revised in rebuttal testimony to 11.09% and 13.15% respectively. Staff witness Coleman initially recommended 9.49% and 11.11%, but revised those rates on surrebuttal to 9.58% and 10.64%. The parties to the settlement agreed to a weighted cost of 10.01%

Net Operating Income

The agreed net operating income for the test year represents a net $184,720 increase over the Company proformed figure of $1,300,709. Included in that adjustment is a reduction in revenues to reflect the removal of Domtar from the revenue deficiency calculation, and a reduction in depreciation expense pending the outcome of a Staff audit relating to the method of accounting for service investments. Any revision to net operating income resulting from that audit will be incorporated in the first step adjustment.

Step Adjustments

In order to implement the bare steel replacement program that the Company designed in conjunction with the Commission's Engineering Department, the parties to the settlement agreed to recommend implementation of step adjustments in base rates starting November 1, 1992 and annually thereafter until the program is completed. The purpose of the replacement program is to ensure safe and adequate service to customers of Northern. Among other things, the step adjustments would provide for recovery of the depreciation and return on non-revenue producing investments related to the bare steel program, and the depreciation and return on $269,242 of capital investments used to serve Domtar. Among other things, the size of the step adjustments will be reduced by an amount equal to the net revenues1 received from the sale of firm gas to Domtar.

Testimony was presented by Company witness Sherman that about $5.7 million of non-revenue producing assets will be added to rate base between the end of the test year and

September 30, 1992. The depreciation and return on those investments less the Domtar net revenues is expected to produce a first year step adjustment of approximately $500,000.

Gas Safety Engineer, Richard Marini, testified that Northern's distribution system consisted of a large amount of bare steel which was installed prior to federal regulations barring its use in 1960. The bare steel is subject to corrosion and Northern has completed a study showing a pattern of leaks in areas where bare steel is concentrated. Mr. Marini testified that the replacement of the bare steel would take years and a substantial investment by the Company. He, therefore, recommended the use of annual step

Page 367

adjustments to ensure the bare steel was replaced promptly and to reduce the regulatory expense of annual rate increase requests.

Weather Normalization

Staff and the Company submitted weather normalizing adjustments to test year revenues. While both parties employed the same general method to calculate their adjustments, they differed on the sample size utilized to determine the mean or "normal" degree days. The Company chose a sample of 20 years, whereas Staff used 30 years of data. As a result, the Company proposed a weather normalizing adjustment of $390,419 and the Staff $474,554. The settlement agreement reflects Staff's adjustment.

Rate Design

(a) Marginal Cost Based Rate Design

The marginal cost studies submitted in this case are the product of a methodology approved by the commission in 1988 following several years of discussion and debate among representatives of Staff, the OCA and the two largest gas companies in the State. Those studies show that the test year revenues generated by residential heating and non heating customers fell substantially short of the costs to serve those customers. Those shortfalls were made up, in part, by subsidies from commercial and industrial customers.

The marginal cost studies also showed that the costs of connecting new customers to the system, regardless of class, are much greater than current levels of customer charges, and that the cost of supplying gas in the winter months is significantly greater than the supply cost in summer months. In addition, the studies pointed out the need to differentiate in the ratemaking process between residential heating and non-heating customers.

In light of these results, and consistent with recent decisions by the commission in support of marginal cost based rate design, Staff and the Company agreed to make certain structural changes in rates in order to better reflect marginal operating costs. Among other things, the parties to the settlement agreed: (a) to use marginal cost principles in conjunction with rate continuity considerations to determine class revenue allocations; (b) that the Company would use in its next base rate case the class allocation methodology approved in EnergyNorth Natural Gas, Inc., DR 90-183; (c) that the rate continuity considerations used to design the rates in this proceeding also be used in its next base rate case; (d) that the base summer cost of gas will be $0.3318 per therm and the base winter cost of gas will be $0.3846 per therm; (e) that a

residential non-heating class be added with rates distinct from those applying to the residential heating class; and (f) that a discounted rate (with the discount set at 15%) be available to low income residential customers. In addition, parties to the settlement agreed to modify the methodology for calculating marginal costs to recognize that main extension costs are a component of marginal distribution capacity costs. The parties to the settlement did not agree on the proper method to calculate marginal production capacity costs or whether bad debts should be reflected in marginal commodity costs. However, they did agree to resolve those issues in Northern's C&LM proceeding, DR 92-048.

(b) Results of Embedded Studies

The Company also submitted an embedded cost study. The results of that study show all non-residential classes earning in excess of the total Company average. Those earnings range from a low of 5.56% for general heating customers to a high of 43.22% for air conditioning customers. In contrast, residential customers contributed a negative 0.26%

(c) Proposed Rates and Rate Structures

As noted above, the proposed rates were designed primarily on two ratemaking principles, namely cost reflection and rate continuity. Because of the need to avoid rate shock, the parties to the settlement initially agreed to move only one-fifth of the way to full marginal cost based rates. With the exception

Page 368

of the new residential non-heating class, this guideline limited class increases to 10%. After further refinements, the parties proposed increases of 5% for non-residential customers, 9.2% for residential heating customers and 10% for residential non-heating customers. Overall, the proposed rates will provide the Company with a 6.5% increase in revenues.

Staff witness McCluskey testified that the proposed class increases are based on the commission's class allocation decision in EnergyNorth Natural Gas, Inc., DR 90-183. The larger rate increases in this case can be explained by Northern's overall increase at 6.5% compared with only 1% for ENGI.

With respect to rate structure, the proposed rates introduce several new features including seasonally differentiated base gas and non-gas rates, fewer rate blocks, and a new extra large volume rate class. The Company has also committed to remove the minimum bill provision in the large volume rate schedule in its next base rate case. Rate levels were calculated based on weather normalized billing determinants.

(d) Extra Large Volume Rate Schedule

The results of the marginal cost study support the view that high load factor customers are less costly to serve than low load factor customers. Consistent with this result, the parties to the settlement recommend that a new firm rate schedule be offered, designed to attract customers that consume in excess of 1,000,000 therms per year and have winter usage less than 70 percent of annual usage.

(e) Salem Division Propane Customers

All except twenty-three customers in Northern's Salem Division have been converted from propane to natural gas and thus are billed based on Northern NH Division's tariffed rates. The Company proposed, and Staff agreed, to cancel the Salem Division tariff and bill the remaining propane customers on a hybrid rate comprising the non-gas component of the NH Division and a propane based gas cost. This change is expected to reduce the administrative burden on the Company.

III. TEMPORARY RATE REFUND

As noted above, the Staff and the Company do not agree on the calculation of the temporary rate refund. This dispute arose because the revenues that the Company receives from the proposed new XLV rate class are treated differently in temporary rates as compared to permanent rates.

Consistent with the Commission's temporary rate order, the Company placed into effect September 30, 1991, rates designed to recover an additional $1,900,000 annually: $1,561,532 from ratepayers served under existing rate schedules and $338,468 from a single new firm customer, Domtar Gypsum, Inc., served under the proposed XLV rate schedule. In contrast, the agreed permanent rate increase of $1,318,714 was determined without including the additional net revenues received from the sale of firm gas to Domtar. As a result, the Staff and the Company differ on whether the Domtar net revenues received during the temporary rate period should be included in the refund calculation and flowed through to ratepayers.

Positions of Staff and the Company

(a) Northern

Northern contends that its refund obligation should reflect the difference between: (a) the rates charged to existing firm customers during the temporary rate period and the rates that would have been charged to them under the permanent rate increase stipulated to in the settlement; and (b) the XLV rates charged to Domtar during the temporary rate period and the XLV rates ultimately approved by the Commission.

In support of its position, Northern makes the following arguments. First, Staff's calculation produces an illogical and erroneous result. Rather than collecting the agreed upon $1,318,714 from existing firm ratepayers during the temporary rate period, Northern would only be entitled to approximately

$980,000 from those customers, i.e., the agreed permanent increase less the projected Domtar net revenues.

Second, Northern argues that while its firm ratepayers did not benefit from interruptible margins during the temporary rate period, they "did benefit from the inclusion of Domtar as a firm customer because the $1.9 million temporary rate increase, which otherwise would have been borne completely by existing firm customers, was also portioned to Domtar, thus reducing the amount of the temporary rate increase for all firm customers by over $330,000". (page 12, Initial Brief)

Third, in its reply brief, Northern argues that as a result of Staff's refund calculation, the agreed permanent rate increase takes effect prospectively instead of retroactively. This, it argues, is contrary to both the agreement of the parties and the statutory ratemaking framework. Northern concludes that as a matter of law, the Commission must apply any approved increase both to the temporary rate period and prospectively.

(b) Staff

Staff's basic position is that the refund amount should reflect the difference between the net revenues actually received during the temporary rate period and the net revenues that would have been received had rates based on the agreed permanent increase been in effect. Since the former includes the net revenues received from the sale of gas to Domtar, Staff contends that those revenues should be incorporated in the refund calculation. The facts relating to this issue are: (a) Domtar has received continuous service from Northern since the beginning of the test year and thus cannot be regarded as a new customer; (b) all net revenues received from the sale of gas to Domtar prior to the effective date of temporary rates were flowed through to ratepayers; and (c) there was no agreement between Staff and the Company that would enable the latter to recover more than the agreed permanent rate increase during the temporary rate period. Based on these facts, Staff contends that equity requires that any Domtar net revenues generated during the temporary rate period be directed to ratepayers.

Staff's position is based on four arguments. First, Staff believes its concession in settlement to exclude the Domtar net revenues from the determination of permanent rate increase (worth $368,833 to Northern) should not be added to by arbitrarily lowering the Company's refund obligation.

Second, Staff urges the commission to reject the Company's argument that the exclusion of the Domtar net revenues from the determination of permanent rate increase was justified on the grounds that non-revenue producing investments made after the test year were excluded from rate base. Staff contends that the issue of non-revenue producing investments is unrelated to the refund calculation and, moreover, their exclusion from rate base is entirely consistent with the commission's previous decisions. Further, the settlement agreement provides for full recovery of those investments through a step adjustment to base rates effective November 1, 1992.

Third, Staff contends that ratepayers and not stockholders should benefit from the Domtar net revenues received during the temporary rate period because they alone bear the costs and expenses incurred in the provision of that service. In particular, Staff notes that all of the costs and expenses that were incurred in serving Domtar during the test year are included in the cost of service and thus will be recovered through the rates charged to existing ratepayers.

Finally, Staff recommends that the commission disregard arguments that alleged investments by Northern to provide Domtar with interruptible service have not contributed to the Company's earnings. Relative to this position, Staff puts forward two arguments. First, with the exception of the service and meter, there is no evidence in the record to support the claim that investments were actually made. Secondly, even if investments were made, the 1989 agreement that Northern reached with the Staff and the Office of the Consumer Advocate requires that Domtar be assessed a capital contribution to recover all

distribution system investments directly incurred in providing interruptible service. Thus, Staff argues, if the Company omitted to levy such capital contribution, its earnings difficulties rest on its own shoulders.

IV. COMMISSION ANALYSIS

(a) Cost of Capital

Although the Company takes the position that it concurs only with the total stipulated permanent increase, and not with the components that support that increase, the commission must authorize a specific rate of return, if only for the purpose of measuring future performance. After reviewing the testimony of Coleman and Moul, we find that the 10.01% cost of capital included in Attachment 1 to the agreement is in line with returns recently authorized for other utilities.

(b) Revenue Deficiency

Staff witness Sullivan testified that in negotiating the recommended permanent rate increase, he agreed to exclude the Domtar profit from the revenue deficiency calculation. Had that profit been included, the permanent increase would have been only $949,881. In its brief, Staff defends the concession on the basis of its understanding that certain investments were made after the test year, and were thus excluded from rate base. Based on this explanation, the concession appears reasonable. However, the Company, in its initial brief, admits that the investments in question (i.e., $269,242) were made during the test year. In light of this information, plus the fact that the costs and expenses of serving Domtar during the test year are included in the cost of service, the decision to make the concession appears less sound. Nonetheless, we accept the exclusion in recognition of the fact that the agreement resulted from numerous concessions by both parties and will allow the recommended permanent rate increase to take effect.

(c) Weather Normalization

In EnergyNorth Natural Gas, Inc., DR 90-183, we rejected the confidence interval approach to weather normalization and adopted instead the so-called "Northern Method." Both the Company and the Staff used that method in this proceeding. The agreed permanent rate increase reflects the Staff's application of that method, an application that differs from the Company's only with respect to the sample size used to determine the mean or "normal" degree days. To further standardize the weather normalization methodology, we will require all companies to employ a 30 year sample size to compute the monthly mean degree days. The submission of additional alternate weather adjustments based on different sample sizes shall be accompanied by a showing that the 30 year sample unreasonably biases the result.

(d) Rate Design

We find the proposed rate class increases consistent with our decision in ENGI, DR 90-183 and thus a reasonable starting point for the rate design process. We also agree with witnesses Simpson and McCluskey that the rate design structures are similar to the structures that we approved for ENGI.

(e) Temporary Rate Refund

With respect to the contested issue of the temporary rate refund, our analysis leads us to the conclusion that Northern's arguments lack an element of fairness. We were particularly struck by the omission of a sound equitable argument as to why stockholders, and not ratepayers, should receive the benefit of Domtar net revenues. Perhaps this omission is due to the fact that prior to the implementation of temporary rates, all net revenues generated from interruptible service to Domtar were flowed through to ratepayers, and effective November 1, 1992, all net revenues generated from the provision of firm service flow through to ratepayers. More importantly perhaps is the fact that the cost of service on which the proposed permanent rates are based, and thus

Page 371

recovered only from existing ratepayers, includes costs and expenses attributable to Domtar. Even the $269,242 investment to provide Domtar with firm service, that was removed from rate base, will be reinstated in full come the first step adjustment.

We also believe that Staff more than adequately rebutted the Company's argument relating to its failure to earn on its Domtar interruptible investments. As for the exclusion from rate base of its non-revenue producing investments, we agree with Staff that the issue is only weakly related to the refund but disagree with the implication that the Company is fully compensated by the step adjustment. Clearly, the Company forgoes the carrying charges on those investments as long as they are excluded from rates. Nonetheless, their exclusion is consistent with previous decisions of this commission.

We also reject the assertion that existing ratepayers benefit during the temporary rate period. While it is true that the rates charged to those customers during that period reflected an increase of only $1,561,532 and not the full $1,900,000, we do not consider this a benefit. Using the Company's refund calculation and the approved temporary rates, Northern's refund obligation would be $242,818 (see table below). If we had not authorized firm service to Domtar, and as a result existing ratepayers bore the full $1,900,000 temporary rate increase, the refund obligation rises to $581,286, again based on Northern's calculation. Clearly then, under both scenarios, existing ratepayers pay the agreed permanent increase of $1,318,714 and thus would receive no benefit from the provision of service to Domtar.

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

Temporary Rate Refund With Domtar	Without
1. Temporary Increase	$1,900,000	$1,900,000
2. Apportioned to Ratepayers	$1,561,532	$1,900,000
3. Apportioned to Domtar	$338,468	$0
4. Permanent Increase	$1,318,714	$1,318,714
5. Refund (2 minus 4)	$242,818	$581,286
6. Net Increase (2 minus 5)	$1,318,714	$1,318,714

Finally, we address Northern's argument that the agreed rate increase must be given effect at the start of the temporary rate period, not prospectively. In essence, the Company believes that if the Domtar net revenues are flowed through to ratepayers, Northern would not receive the full benefit of the agreed permanent rate increase until the end of the temporary rate period. This, according to Northern, is contrary to the settlement agreement and the statutory ratemaking framework. We disagree. While the Company is correct that Staff's refund calculation would only allow for the recovery of an additional $980,246 annually from existing ratepayers during the temporary rate period, that figure assumes Northern received and retained $338,468 from Domtar during that period. Combining the two amounts we find that the Company does not, as claimed, collect less during the temporary rate period than was agreed. Thus, Staff's refund position is consistent with the Commission's statutory responsibility to provide the Company an opportunity to earn the rate of return assumed in the agreed rate increase. In our view, the Company's position would provide an opportunity to earn in excess of that level.

This brings us to the period after temporary rates and before the step adjustment. As we see it, the Domtar net revenues retained during that period are more than offset by the carrying charges that the Company forgoes on non-revenue producing investments made after the test year and therefore we do not find the settlement unreasonable.

Based on the above analysis, we will adopt Staff's calculation of the refund.

Our order will issue accordingly.

Concurring: July 21, 1992

ORDER

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

ORDERED, that the settlement agreement be and hereby is approved; and it is

FURTHER ORDERED, that staff's method to calculate the temporary rate refund as described in Attachment 6 to the settlement agreement be adopted.

By order of the New Hampshire Public Utilities Commission this twenty-first day of July, 1992.

FOOTNOTES

[1]i.e., base rates less gas costs.

Page 372

ATTACHMENT

Settlement Agreement

This Agreement is entered into this 9th day of June, 1992, by and among Northern Utilities, Inc. ("Northern" or "the Company") and the Staff of the Public Utilities commission (the "Staff" and the "Commission" respectively) with the intent of resolving the issues discussed herein. Further, it is the desire of the Company and Staff in executing this Agreement to expedite the Commission's consideration and resolution of the issues which are the subject of this Agreement.

ARTICLE I

Introduction

On July 18, 1991, Northern, pursuant to RSA 378:3, filed revised tariff pages designed to increase annual revenues by $2,547,517. The proposed tariffs were to be effective on August 19, 1991.

On July 18, 1991, Northern also filed, pursuant to Section RSA 378:27, a petition for a temporary rate increase of $1,900,000 for service rendered on or after August 19, 1991. On August 6, 1991, the Commission entered an Order of Notice setting a hearing on August 26, 1991, to address the level of temporary rates and a prehearing conference on the issue of permanent rates. The Company duly noticed the hearings in accordance with the Commission's Order of Notice. On August 12, 1991, in Order No. 20,207, the Commission, pursuant to RSA 378:6, suspended the effective date of the permanent rate tariffs.

On August 26, 1991, a hearing was held regarding the above- mentioned issues. The Company, the Staff and the Consumer Advocate entered appearances. Testimony was presented by Northern and the Staff in support of the temporary rates. In Report and Supplemental Order No. 20,256, dated September 30, 1991, the Commission authorized the Company to implement a temporary rate increase at an annual level of $1,900,000 effective for service rendered on or after September 30, 1991.

Staff conducted a field audit between October 1991 and January 1992 with respect to the Company's request for permanent rate relief, including numerous discovery requests to which the Company responded. In March 1992, the Staff presented prefiled testimony and exhibits stating its position on the cost of service, step adjustments, weather normalization, cost of capital, marginal cost methodology, class revenue allocation, and rate design. Northern filed rebuttal testimony on April 23 and April 28, and certain Staff members and the Consumer Advocate submitted surrebuttal testimony on or before May 12, 1992.

Following extensive discussions the Staff and Northern reached agreement on the issues in this proceeding as set forth below. This Agreement provides for a permanent increase of $1,318,714 effective for meters read on and after the date of the Commission's order approving permanent rates, implementation of step adjustments effective November 1, 1992, and annually until the agreed bare steel replacement program is completed, and a reconciliation and refund as described below.

ARTICLE II

Revenue Deficiency

The Company's original testimony and exhibits proposed an increase in annual revenues of $2,547,517. The Staff's testimony and exhibits recommended an increase of $285,023. The parties have agreed that it is just and reasonable to approve a permanent increase of $1,318,714. A computation of Staff's calculation of this Revenue Deficiency is attached to this Agreement as Attachments 1, 2, and 3. Northern does not concur with the components of that calculation, but does agree to the total stipulated Revenue Deficiency.

ARTICLE III

Step Adjustment

The parties agree that to implement the bare steel replacement program it is reasonable to authorize the Company to implement step adjustments i base rates to be effective for meter readings on or after November 1, 1992, and annually until the agreed bare steel replacement program is completed, which would provide for recovery of:

1. The return and related income taxes on (a) additional investments for the period April 1, 1991 through September 30, 1992, as shown on Schedule NU-1A-a and (b) additional non-revenue producing investments related to the bare steel replacement program on an annual basis until such time as the program is completed and subject to audit prior to implementation. The amuont of the step adjustment would be calculated using the actual capital expenditures during the above periods, and a pre-tax rate of return of 13.19%, and reflecti_ng cost of service principles, as demonstrated in proposed Schedule NU-1-5;

2. Annualized depreciation expense on the actual plant additions referenced in paragraph 1 above based on depreciation rates resulting from the audit and review referred to in paragraph 3 below, and the associated rate of return impact of deferred income taxes on the actual plant additions referenced in paragraph 1 from the previous annual adjustment using a pre-tax rate of return of 13.19%, in accordance with established regulatory principles of the Commission;

3. The difference between the pro formed test year depreciation expense for services proposed by Northern and the depreciation expense for services recommended by Staff, subject to audit and review by the Commission prior to September 30, 1992. All other categories of depreciation will be established based upon the rates in Table 1 of Schedule NU-4-1;

4. Annualized amuounts form incremental property taxes and O&M expenses (savings) related to the plant used to service the Newington electric generation facility owned by Public Service Company of New Hampshire;

5. The return and related income taxes, depreciation and deferred tax impact on $269,242 in rate base reflecting capital investments used at serve Domtar Gypsum, Inc. ("Domtar") as proposed in Company Exhibit NU-3, p.16, using the same calculations as in paragraphs 1 and 2 above;

6. The Staff reserves the right to recommend at any time after implementation of the initial step adjustment on November 1, 1992 that base rate treatment of bare steel investments be accomplished through a general rate case as opposed to step adjustments.

The step adjustments will be reduced by an amount aual to pro forma net revenues from Domtar calculated as follows:

(Actual historical firm volumes for twelve-month period ending September 30, 1992 and succeeding twelve-month periods) times (the non-gas portion of the rates to serve

Domtar as approved pursuant to the tariffs attached to this Agreement) less ($41,393 test year met transportation revenues for Domtar built into base rates).

ARTICLE IV

Rate Design

In regard to rate design, the Parties agree that:

1. The rates set forth on Attachment 4 to this Agreement are just and reasonable and are designed to recover the revenue requirement as set forth on Attachment 5;

2. The class allocations underlying the rates reflect marginal cost principles in conjunction with rate continuity considerations;

3. The step adjustments provided for in Article III of this Agreement will be collected using class allocations and rates which reflet marginal cost principles in conjunction with continuity considerations which could consist of equal percentage adjustments to all components;

4. In the next base rate case filed by the Company the proposed rates will be designed using the class allocatin methodology approved by the Commission in EnergyNorth Natural Gas, Inc., DR 90-183, and that Staff shall support such allocation method. In the event that such allocation methodology is not decided in DR 90-183, then the parties will be free to present and support any allocation method;

5. The rate continuity considerations used to design the rates set forth on Attachment 4 to this Agreement shall be used by the Company in its next base rate case and such considerations shall be supported by Staff in that case;

6. The cost of gas included in the summer base rates set forth on Attachment 4 is $ per therm and in the winter base rates is $ per therm;

7. The minimum bill provisions for the LV-1 rate have been retained as shown on Attachment 4, but such minimum bill provisions will not be used in the rates proposed by the Company in the next base rate case and Staff shall support the exclusin of the min2imum bill provisions in the next case;

8. The resiential non-heating class be added with rates distinct form those applying to the residential heating class;

9. Given that the rates set forth in Attachment 4 reflect marginal cost prinicples and that the utilization of pipeline capacity for the benefit of the summer period customers is also considered, the Parties agree, after FERC Order 636 is implemented, to examine the possibility of revising the cost of gas adjustment clause formula to re- assign a portion of pipeline demand charges to the winter period gas costs;

10. A discounted rate should be available to low income residential customers and that the discount should be 15% off the general residential rates, or at whatever level of discount the Commission deems appropriate, provided, however, that if any different

subsidy level is adopted, the rates set forth in Attachment 4 must be adjusted so as to recover the subsidy from all other rate classes;

11. The Parties agree that it is appropriate to modify the methodology for calculating marginal costs, as set forth in the Report of the Gas Rate Design Investigation, DE 86-208, to recognize that mains extension costs are a component of marginal distribution capacity costs; and

12. Salem Division propane customers will be billed according to the general rates set forth on Attachment 4 but will be billed a specific cost of gas adjustment factor reflecting the applicable gas costs.

The Parties did not reach an agreement as to either the proper method to calculate marginal production capacity costs or whether bad debts should be reflected in marginal commodity costs. It is necessary to resolve both of these issues for future marginal and avoided cost calculations and the parties have agreed to use Northern's C&LM proceeding, Dr 92-048, for that purpose. However, sufficient information was available to design the rates set forth on Attachment 4 according to marginal cost priniciples.

ARTICLE V

Refund Rate

The Parties agree that the Company will be required to refund an amount pursuant to the temporary rate period. The parties did not reach agreement on the specific calculation of the amount to be refunded pursuant to the temporary rate period, and have agreed to reuest a hearing before the Commission to present their respective positins and ask the Commission to render a decision on this one issue. The Staff's and Company's proposed calculations are attached as Attachments 6 and 7, respectively.

Page 375

The parties agree that the refund should be reduced by an amount equal to the reduction in non-gas revenues through September 30, 1992, which will result form the Company's implementation of seasona rates, when compared to the non- gas revenues that would have resulted from applying the temporary rates, adjusted for the stiplated increase, from the end of the temporary rate period until September 30, 1992.

ARTICLE VI

Environmental Remediation

The stipulated revenue deficiency provides for the amortization over a ten-year period of the environmental remediation costs incurred throug the end of the test year withthe unamortized balance included in rate base. The parties further agree that in regard to envirnomental remediation costs subsequent to the end of the test year, the Company should make a formal request to the Commisssion for deferral accounting treatment as a regulatory asset. Such request shall include a detailed explanation and accounting of all such costs.

ARTICLE VII

Post-Retirement Benefits Other Than Pension

The parties agree that to the extent the Commission recognizes, in any other proceeding or otherwise, the impacts of FASB Statement 106 regarding post-retirement benefits other than pension, revenue to recover such expenses may be included in the Step Adjustments described in Article III.

ARTICLE VIII

Exhibits

The parties agree to enter into the record, as Exhibits, all prefiled testimony and data responses for purpose of showing the original of the parties.

ARTICLE IX

Conditions

The making of this Agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in these proceedings is true or valid.

This Agreement is expressly conditioned upon the Commission's acceptance of all of its provisions, without change or condition, except as indicated in Articles IV and V, and if the Commission does not accept it in its entirety, without change or condition, the Agreement shall be deemed to be null and void and without effect, and shall not constitute any part of the record in this proceeding nor be used for any other purpose.

The Commission's acceptance of this Agreement does not constitute continuing approval of or precedent regarding any particular issue in this proceeding, except as provided for in the calculation of Step Adjustments in Article III, and the provisions of Article IV, paragraphs 4 and 10, but such acceptance does constitute a determination that (as the parties believe) the base rates increased to yield the revenue contemplated by this Agreement will be just and reasonable.

The discussions which have produced this Agreement have been conducted on the explicit understanding that all offers of settlement and discussins relating thereto are and shall be privileged, and shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in any manner in connection with this proceeding, any future proceeding or otherwise.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their respective names by their agents, each being fully authorized to do so on behalf of their prinicipal.

Northern Utilities, Inc.

Staff of Public Utilities Commission

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

SPF NORTHERN UTILITIES DR 91-081
5/7/92 REVENUE REQUIREMENT ATTACHMENT 1

RATE BASE 23,553,791

COST OF CAPITAL 10.01%


```
-----------
REQUIRE NET OPERATING INCOME  2,357,899

ADJUSTED NET OPERATING INCOME 1,485,428
----------
DEFICIENCY 872,471

TAX EFFECT (34%) 449,455

REQUIRED INCREASE 1,321,926


BI-MONTHLY BILLING * (3,212)
-----------

REQUIRED INCREASE *  1,318,714

* REQUIRES COMMISSION APPROVAL
```

Page 377

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

```
SPF  NORTHERN UTILITIES INC DR 91-081
5/7/92  RATE BASE ATTACHMENT 2
FOR THE TWELVE MONTHS ENDED
MARCH 31, 1991


COMPANY
13 MONTH PROFORMA RATE  SETTLEMENT  RATE
AVERAGE ADJUSTMENT  BASE  ADJUSTMENTS BASE
----------- ----------- ------------  -------------  ------------

GAS PLANT IN SERVICE  27,310,279 4,105,240 31,415,519 (2,072,144) 29,343,375

LESS: C W I P  0 0  0
------------ ----------- ------------  -------------  ------------
TOTAL PLANT IN SERVICE 27,310,279 4,105,240 31,415,519 (2,072,144) 29,343,375

LESS: ACCUMULATED DEPRECIATION 5,666,904  241,241 5,908,145 0 5,908,145

CONTRIBUTION IN AID OF CONST  0  0  0
------------ ----------- ------------  -------------  ------------
21,643,375 3,863,999 25,507,374 (2,072,144) 23,435,230

CASH WORKING CAPITAL 1,060,907 13,737 1,074,644 (28,440)  1,046,204

ADD: MATERIALS & SUPPLIES  326,572 326,572  326,572
PREPAYMENTS  35,243  35,243  35,243
UNAMORTIZED MERGER COSTS  43,378  43,378  43,378
SOUTHERN NH GAS ACQUISITION 55,069  55,069  55,069
ENVIRONMENTAL REMEDIATION 146,408 146,408  146,408

LESS: CUSTOMER DEPOSITS (243,351)  (243,351)  (243,351)
INTEREST ON CUSTOMER DEPOSITS (15,087)  (15,087) (15,087)
DEFERRED FEDERAL INCOME TAX  (941,157)  122,417 (818,740)  (818,740)
ACCRUED PROPERTY TAXES (1,292) (1,292)  (1,292)
ACCRUED FRANCHISE TAX (57,719)  (57,719) (57,719)
REIMBURSABLE CONTRIBUTIONS (233,714)  (233,714)  (233,714)
PENSION & BENEFITS RESERVES  (164,410) (164,410)
-------------  ----------- ----------- ----------- -----------
TOTAL WORKING CAPITAL 175,257 136,154  311,411 (192,850) 118,561

RATE BASE 21,818,631 4,000,153  25,818,785 (2,264,994) 23,553,791
============  =========== ============  =============  ============
```

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

SPF NORTHERN UTILITIES DR 91-081
5/7/92 OPERATING INCOME STATEMENT ATTACHEMENT 3
TWELVE MONTHS ENDED
SOURCE: NU-3-2

12 MONTHS ENDED MAR 31,1991	TEST YEAR COMPANY ADJUSTMENTS	AS PROFORMED BY COMPANY	SETTLEMENT ADJUSTMENTS	TEST YEAR
OPERATING REVENUES				
REVENUES- FIRM	18,246,635	472,413	18,719,048 (174,730)	18,544,318
REVENUES- INTERRUPTIBLE	3,516,100	3,516,100	3,516,100	
REVENUES- OTHER	331,232	(41,393)	289,839	289,839
	22,093,967	431,020	22,524,987 (174,730)	22,350,257
OPERATING EXPENSES				
COST OF GAS FIRM	1,104,813	(210,458)	10,837,755	10,837,755
COST OF GAS INTERRUPTIBLE	3,516,100	3,516,100	3,516,100	
OTHER PRODUCTION	124,000	720	124,720 (757)	123,963
DISTRIBUTION	1,627,080	36,531	1,663,611 (135,554)	15,288,057
CUSTOMER ACCOUNTING	1,009,758	(2,221)	1,007,537 (16,358)	991,179
SALES & NEW BUSINESS	461,020	(103,405)	357,615 (57,841)	299,774
ADMINISTRATIVE & GENERAL	1,466,646	236,415	1,703,061 (20,144)	1,682,917
INTEREST ON CUSTOMER DEPOSITS	23,241	(443)	22,798	222,798
TAXES:				
FEDERAL INCOME TAX	(20,536)	71,984	51,448	173,216 224,664
PROPERTY AND PAYROLL	435,739	(16,801)	418,938	418,938
STATE	211,096	211,096	211,096	
OTHER	159,735	9,907	169,642 (11,724)	157,918
DEPRECIATION	1,105,860	102,702	1,208,562 (226,929)	981,633
AMORTIZATION	6,107	35,066	41,173 (44,135)	(2,962)
TOTAL REVENUE DEDUCTIONS	21,174,059	159,997	211,334,056 (340,226)	20,993,830
OPERATING RENTS NET	109,778	109,778	19,223	129,001
NET GAS OPERATING INCOME	1,029,686	271,023	1,300,709	184,720 1,485,428

STAFF'S POSITION ON TEMPORARY RATE REFUND

On July 18, 1991 Northern petitioned the commission for a temporary base rate increae of $1,900, 000 annually. the increase comprised $1,561,532 to existing firm customers and $338,468 of projected revenue from a new customer (Domtar Inc.) served under a proposed new rate schedule. Staff supported the company in its request. On September 30, 1991 the commission issued an order approving a temporary increase of $1,900,000.

As a result of the commission's September 30 decision, the firm rates currently in effect will bring in an additional $1,900,000 annually if the sales projections underlying the rates prove to

be correct. Should the sales projections understate actual sales then the additional revenue received by the Company will exceed $1,900,000. Thus, the refund to ratepayers should be based on the difference between the revenues actually received during the temporary rate period and the revenue that would have been received had the rates to existing customers been set to recover the agree permanent increase of $1,318,714 (see Article 2 to Settlement Agreement). Staff contends that the exclusion of Domtar firm revenues from the agreement on the permanent rate increase has no bearing on the commission's refund decision.

In the negotiations which led to the agreed permanent rate increase, staff, as a negotiating concession to the Company, agreed to exclude the sales and revenue associated with the provision of firm service to Domtar. At no time did staff agree that the concession would also apply to the determination of the temporary rate refund.

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

CALCULATION OF REFUND

1. Temporary Rate Increase $1,490,000

2. Agreed Permanent Rate Increase $1,318,714

3. Annualized Refund Amount $581,286

4. Normalized Test Year Sales,
including Company projection
for Domtar $34,164,210

5. Refund per Therm $0.01701

6. Temporary Rate Period Sales,
including Domtar Y

7. Refund Y x $0.01701

Page 380

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

Settlement Agreement
DR 91-081
Attachment 7
Schedule 1

Northern Utilities, Inc.
Calculation of Refund, Excluding Rate XLV

Line
No.
Description
Notes
1 Temporary Increase $1,900,000
2 Portion of Temporary Increase designed for Domtar $338,468 September 30, 1991 Letter to
W. Arnold, Attachment 3
3 Remainder to be collected from all Other Classes $1,561,532 Line 1 - Line 2
4 Settlement Deficiency $1,318,714
5 Annualized refund amount, excluding domtar $242,818 Line 3 - Line 4
6 Annual Staff normalized therm sales 33,766,210 Exhibit SWH 4 plus 195,380 therms (Rate
AC-1)
7 Refund per Annualized Therms $0.0072 Line 5/Line 6
8 Temporary Rate Period Sales, excluding Domtar 32,735,298 Schedule 2
9 Refund, excluding Domtar $235,405 Line 7 x Line 8

Attachment 1

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

NORTHERN UTILITIES, INC.
CALCULATION OF TEMPORARY RATE ADJUSTMENT
ALL RATE SCHEDULES EXCLUDING RATE XLV

Line No.	DESCRIPTION	TOTAL	GAS COST
1	Test Year Revenues	18,246,635	11,048,213
2	Temporary Rate Increase	1,900,000	
3	Revenues including Temporary Rate Increase	20,146,635	11,048,213
4			
5	Non Gas Revenues from Rate XLV (Attachment 3)		
6			
7	Total Temporary Revenues excluding Rate XLV	19,808,167	11,048,213
8	(line 3 - line 5)		
9			
10	Temporary Revenues to Remaining Classes	108.56%	
11	as a % of Test Year Revenues		
12	(line 10/line 1)		
13			

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

Attachment 2

NORTHERN UTILITIES, INC.
CALCULATION OF TEMPORARY RATES:
ALL RATE SCHEDULES EXCLUDING RATE XLV

Line No.	DESCRIPTION	<- - - - RESIDENTIAL - - - ->			Air Commercial		Large	Salem
	R-1	R-65	Comm & Indust	Condition	Heat	Volume		Propane
	(Low inc)	G-1	AC-1	GH-1	LV-1	Rate C&I		
	Determination of Temporary Rates				5	5.00		
1	Current Rates	4.50	3.50	8.00	8.00	8.00	1,350	1055.05 5 1.0000
2	Customer Charge	10	0.8648	0.7923	30	0.8797	10	0.8455 50 0.6200
3	First Block	140	0.7633	0.6997	120	0.7582	40	0.7303 990 0.5200
4	Second Block	150	0.7314		150	0.4200		
5	Third Block	>300	0.3900					
6	Fourth Block							
7	Last Block	>150	0.6982	0.6933	>300	0.7047	0.6166	>50 0.6901 >1350 0.6682
8								
9	Current Rates Adj for Average TY Gas Costs							
10	Customer Charge	4.50	3.50	8.00	8.00	8.00	1,350	826.86 5 6.22
11	First Block	10	0.6958	0.6233	30	0.7107	10	0.6765 5 1.2434
12	Second Block	140	0.5943	0.5307	120	0.5892	40	0.5613 50 0.8634
13	Third Block	150	0.5624		990	0.7634		
14	Fourth Block		150	0.6634				
15	Last Block	>150	0.5292	0.5243	>300	0.5357	0.4476	>50 0.5211 >1350 0.4992 >300 0.6334
16								
17	Temporary Rates *							
18	Customer Charge	4.89	3.80	8.68	8.68	8.68	1,350	897.62 5 6.75
19	First Block	10	0.7553	0.6766	30	0.7715	10	0.7344 5 1.3498
20	Second Block	140	0.6451	0.5761	120	0.6396	40	0.6093 50 0.9373
21	Third Block	150	0.6105		990	0.8287		
	Fourth Block		150	0.7202				
	Last Block	>150	0.5745	0.5691	>300	0.5815	0.4859	>50 0.5657 >1350 0.5419 >300 0.6876

*Temporary Rates = Current Rate adjusted for Average Test Year Gas Costs *1.0856

Page 383

Attachment 3

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

NORTHERN UTILITIES, INC.
CALCLUATION OF TEMPORARY RATES:
Rate XLV

Line No.	Description	
1	Permanent Revenues	23,661,532
2	Proposed Gas Revenues	13,232,824
3	Proposed Net Revenues	10,428,708
4	Temporary Revenues	20,146,635
5	Proposed Gas Revenues	11,048,213
6	Proposed Net Revenues	9,098,422
7	Temporary Revenues as a % of Permanent Net Revenues	87.244%
8	Permanent XLV Rates	$70.00
9	Customer Charge	$0.5493
10	Winter Rate	$0.3207
11	Summer Rate	
12	Permanent Net Revenue Rates XLV Rate	
13	Customer Charge	$70.00
14	Winter Rate	$0.1617
15	Summer Rate	$0.0502
16	Temporary Net Revenue Rates	
17	Customer Charge	$61.07
18	Winter Rate	$0.1411
19	Summer Rate	$0.0438
20	Temporary Total Revenue Rates (with $.3521 of Gas Cost rolled in)	
21	Customer Charge	$61.07
22	Winter Charge	$0.4931
23	Summer Rate	$0.3959
24	Temporary Total Revenues	
25	Customer Charge	$732.85
26	Winter Charge	$828,477
27	Summer Rate	$910,487
28	Total	$1,739,697
29	Temporary Gas Revenues	$1,401,229
30	Temporary Non-Gas Revenues	$338,468

Calculation of Average Cost of Gas in Test Year	TOTAL	NATURAL GAS	PROPANE
Income Statement FIrm Cost of Gas	11,048,213	10,964,259	83,954
Schedule 15 Calendar Month Sales	31,142,490	170,150	
Average Cost of Gas in the Test Year	0.3521	0.4934	

Page 384

Note: This schedule shows XLV Permanent rates proposed by the Company which are subject to change in negotiation with Parties and are also subject to Commission approval.

Northern Utilities, Inc. Schedule 5 Refund Summary

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

XLV Refund $30,736
Refund Excluding XLV $235,405
Total $266,140

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

Schedule 6

Northern Utilities, Inc.
Calculation of October Sales in Temporary Rate Period

Total, Net
Total Rate XLV of XLV
Billing month Sales 251,952 66,056 185,896
% of Sales after 9/30 93.94% 100.00%
Sales after 9/30 236,684 66,056 170,628

Page 385

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

Northern Utilities, Inc. Schedule 2
Temporary Rate Period Sales

Temporary
Actual Forecast Rates Period

Oct (1) Nov Dec Jan Feb Mar Apr May Jun Sales

Total Firm MMBtu Sales 236,684 308,016 474,020 593,915 630,890 569,676 437,935 275,896
182,261 3,709,293
Domtar Sales 66,056 43,898 40,151 47,666 57,333 56,896 51,763 32,000 40,000
435,763

Firm sales, excluding Domtar 170,628 264,118 433,869 546,249 573,557 512,780 386,172
243,896 142,261 3,273,530

(1) Prorated, see Schedule 6

(2) Temporary Rate Period sales will be updated after the completion of the Temporary rate period.

Page 386

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

Northern Utilities, Inc. Schedule 3
Rate XLV Permanent Rates

Line
No Description Notes
---
1 Temporary Sales Net Revenues $9,098,422 September 30, 1991 letter to W. Arnold,
Attchment 1
2 Permanent Net Revenues $8,517,136 Line 2 - $1,900,000 + $1,318,714

3 Permanent Rates as a % of 93.6% Line 2/Line 1
Temporary Net Revenues


```
XLV Temporary Net Revenue Rates
4 Customer  $61.07  September 30, 1991 letter to W. Arnold, Attachment 3, Line 17
5 Winter $0.1411  September 30, 1991 letter to W. Arnold, Attachment 3, Line 18
6 Summer $0.0438  September 30, 1991 letter to W. Arnold, Attachment 3, Line 19

XLV Permanent Net Revenue Rates
7 Customer  $57.17  Line 4 x Line 3
8 Winter $0.1321  Line 5 x Line 3
9 Summer $0.0410  Line 6 x Line 3

Difference
10 Customer $3.90  Line 4 - Line 7
11 Winter $0.0090  Line 5 - Line 8
12 Summer $0.0028  Line 6 - Line 9
```

Note: This schedule shows XLV Permanent rates proposed by the Company which are subject to change in negotiation with parties and are also subject to Commission approval.

Page 387

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

Northern Utilities, Inc.  Schedule 4
Calculation of Rate XLV Refund

Domtar Billing Determinants, Temporary Rate Period
1 Customer Count  9
2 Summer Period Sales  1,380,561 Schedule 2
3 Winter Period Sales  2,977,070 Schedule 2

Refund
4 Customer Count $35.12 Schedule 3, Line 10 x Line 1
5 Summer Period Sales  $3,863.00 Schedule 3, Line 11 x Line 2
6 Winter Period Sales $26,837.00 Schedule 3, Line 12 x Line 3

7 Total  $30,736.00
```

Note: This schedule reflects XLV Permanent rates proposed by the Company which are subject to change in negotiation with Parties and are also subject to Commission approval.

==========

NH.PUC*07/22/92*[72988]*77 NH PUC 389*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72988]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DE 92-127
ORDER NO. 20,547

77 NH PUC 389

New Hampshire Public Utilities Commission

July 22, 1992

Order NISI Granting Authorization for a Crossing of Aerial Electric Distribution Lines Over the Pemigewasset River in the Town of Thornton, New Hampshire

---

On June 23, 1992, New Hampshire Electric Cooperative (NHEC) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to construct, operate and maintain aerial electric distribution lines over the Pemigewasset River in the Town of Thornton, New Hampshire; and

WHEREAS, the New Hampshire Electric Cooperative, Inc., and its predecessors have operated and maintained an electric distribution line across the Pemigewasset River in Thornton, New Hampshire since some time prior to 1935; and

WHEREAS, the above mentioned crossing was in the vicinity of and roughly parallel to, a bridge crossing the river; and

WHEREAS, in 1974 the Thornton Memorial Bridge was built approximately 650 feet downstream from the old bridge; and

WHEREAS, shortly after the new bridge was built the old bridge was removed; and

WHEREAS, due to growth and reliability reasons NHEC must upgrade the distribution lines in the area; and

WHEREAS, to promote reliability, accessibility, and more orderly layout of the distribution lines, NHEC seeks to construct, operate, and maintain a new distribution line across the Pemigewasset River roughly parallel to, and 35 feet north of, the Thornton Memorial Bridge as described on a map and profile dated January 13, 1992, on file with this Commission; and

WHEREAS, the electric crossing consists of four 1/0 AWG conductors and will be operated at distribution voltages below 35kV; and

WHEREAS, the proposed electric line clearances, as depicted on NHEC's drawing dated January 13, 1992, meet the requirements of the National Electric Safety Code; and

WHEREAS, shortly after the new line is in service, the old line and water crossing will be removed; and

WHEREAS, the Commission finds the above construction, operation and maintenance is necessary to enable NHEC to provide service without substantially affecting the public rights in or above said waters, and thus, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to, said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than August 19, 1992; and it is

FURTHER ORDERED, that NHEC effect said notification by: (1) causing an attested copy of this order to be published no later than August 4, 1992, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Thornton area; (2) providing, pursuant to RSA 541-A:22, a copy of this order to the Thornton Town Clerk, by First Class U.S. Mail, postmarked on or before August 4, 1992; and (3) documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before August

19, 1992; and it is

FURTHER ORDERED NISI, that license be, and hereby is granted, pursuant to RSA 371:17 et seq. New Hampshire Electric Cooperative, Inc., RR #4, Box 2100, Tenney Mountain Highway, Plymouth, New Hampshire 03264, to construct, operate and maintain the aforementioned electric distribution crossing; to be effective on August 19, 1992, unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electric Safety Code and other

Page 389

applicable codes mandated by the Town of Thornton.

By order of the New Hampshire Public Utilities Commission this twenty-second day of July, 1992.

==========

NH.PUC*07/22/92*[72989]*77 NH PUC 390*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72989]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-135
ORDER NO. 20,548

77 NH PUC 390

New Hampshire Public Utilities Commission

July 22, 1992

Order NISI approving the New Hampshire Electric Cooperative's short-term avoided costs.

On July 2, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed to adopt for now the short-term avoided cost estimates of its current wholesale supplier, Public Service Company of New Hampshire (PSNH) for the period July 1, 1992 through November 30, 1992 as approved by the Commission in Order No. 20,503 in DR 92-050; and

WHEREAS, NHEC's adoption of PSNH's short-term avoided cost estimates is in accordance with the terms of the Settlement Agreement in Docket No. DR 86-41, et al., which provides for NHEC to adopt the avoided costs of its wholesale supplier, and Order No. 19,555 in Docket No. DE 89- 079; and

WHEREAS, NHEC continues to remain a wholesale customer of PSNH at the current time; it is hereby

ORDERED NISI, that the short-term avoided cost rates approved for PSNH in Order No. 20,503 be applicable to NHEC under the same terms and conditions holding for PSNH for effect

July 1, 1992 unless otherwise ordered or unless there is a request for a hearing as provided below; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than August 3, 1992 and it is to be documented by affidavit filed with this office on or before August 24, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than August 18, 1992; and it is

FURTHER ORDERED, that NHEC file compliance tariff pages within 20 days of the issuance of this Order.

FURTHER ORDERED, that this Order Nisi will be effective thirty days from the date of this order, unless the commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-second day of July, 1992.

==========

NH.PUC*07/27/92*[72990]*77 NH PUC 390*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICE COMPANY

[Go to End of 72990]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICE COMPANY

DR 92-050
ORDER NO 20,549

77 NH PUC 390

New Hampshire Public Utilities Commission

July 27, 1992

Report Denying PSNH/NUSCO Motion for Partial Rehearing

REPORT

I. PROCEDURAL HISTORY

On June 5, 1992, the Commission issued Report and Order No. 20,503 (Order No. 20,503) which found, inter alia, that the record does not support a conclusion that PSNH used its best efforts to ensure that the swap [with Boston Edison Company (BECo)] would achieve comparable value, and therefore, we

will not allow recovery of the $900,000 in additional costs which should have been avoided.

Report at 1.

PSNH/NUSCO, on June 25, 1992, timely filed a Motion for Partial Rehearing of this portion of Order No. 20,503. The crux of its argument is that had it known the Commission would evaluate in detail the projected and actual savings involved in the swap, it would have undertaken a more comprehensive analysis.

The Commission Staff (Staff) filed a timely objection to the Motion for Partial Rehearing, pursuant to N.H. Admin. Rules, Puc 203.04(c) on June 30, 1992.

II. COMMISSION ANALYSIS

Upon review of the pleadings of PSNH/NUSCO and Staff, we find no good cause to disturb our Report and Order No. 20,503 and, therefore, we must deny the PSNH/NUSCO Motion for Partial Rehearing.

As noted above, the crux of the PSNH/NUSCO argument is that had it known that the Commission would evaluate in detail the projected and actual savings involved in the swap between PSNH and BECo, it would have undertaken a more comprehensive analysis. We are not at all persuaded by this argument.

PSNH knew prior to the hearing that the PSNH swap with BECo would be a contested issue. See letter from G. M. Eaton, Esq. to the Commission (May 22, 1992). PSNH conducted both direct and redirect examination on this issue and introduced Exhibits 25 and 26. It is well settled that PSNH, not Staff, has the burden of proving to the Commission's satisfaction that its actions were reasonable. RSA 378:8; Appeal of Sinclair Machine Products, Inc., 126 N.H. 822 (1985).

Related to this, we also find that the Motion for Partial Rehearing should be denied since it does not allege any new facts or arguments which could not have been raised as part of the original motion. Appeal of Gas Service, Inc., 121 N.H. 797 (1981).

PSNH's Motion also asserts that at no time did PSNH ratepayers incur "additional costs" from this transaction. However, PSNH testimony clearly establishes that the lost savings which would have been otherwise credited to customers did in fact amount to $900,000. Tr. May 6, 1992 at 130.

It is axiomatic that lost savings in the amount of $900,000 which would otherwise have been credited to ratepayers in effect means that PSNH incurred an additional $900,000 in costs which should have been avoided.[1(28)]

Consequently, PSNH/NUSCO has demonstrated no good cause for granting a rehearing and we must deny its motion. RSA 541:3.

Our order will issue accordingly.

Concurring: July 27, 1992

ORDER

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

ORDERED, that the PSNH/NUSCO Motion for Partial Rehearing is hereby denied.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of July, 1992.

FOOTNOTE

[1]The Commission recognizes that additional savings may have been foregone because the BECo energy was not available for inclusion in the PSNH/NU swap.

==========

NH.PUC*07/28/92*[72991]*77 NH PUC 392*ENERGYNORTH NATURAL GAS, INC.

[Go to End of 72991]

ENERGYNORTH NATURAL GAS, INC.

DF 92-134
ORDER NO. 20,551

77 NH PUC 392

New Hampshire Public Utilities Commission

July 28, 1992

Approval of Short Term Debt and Fuel Inventory Trust

WHEREAS, EnergyNorth Natural Gas, Inc. ("ENGI" or the "Company") is a gas public utility, having its principal business office at 1260 Elm Street in the City of Manchester, County of Hillsborough, and is duly organized and existing under the laws of the State of New Hampshire; and

WHEREAS, ENGI, on July 1, 1992, filed an application for approval of an increase in the Company's short-term borrowing authority and of an extension and increase in the credit limit of the Company's fuel inventory trust; and

WHEREAS, the Company proposes to use the increased limit in short-term borrowing authority to be able to respond quickly to changes in operating conditions that require more working capital than projected in ENGI's current cash flow forecast; and

WHEREAS, the Company proposes to use the increase in the amount of its revolving credit line for its fuel inventory trust to purchase ENGI's storage contract (known as Storage Service Northeast (SSNE)) from Tennessee Gas Pipeline Company (Tennessee), pursuant to Tennessee's unbundling of services as the result of the "Cosmic" settlement recently approved by the Federal Energy Regulatory Commission (FERC) in Dkt Nos. RP 88-228 et als.; and

WHEREAS, ENGI's aggregate outstanding long-term indebtedness as of April 30, 1992 was $34,441,761; and

WHEREAS, the current portion of that long-term debt as of April 30, 1992 was $3,287,614;

and

WHEREAS, ENGI submitted testimony, financial information, data and various documents related to the increases and extension in credit limits of the Company's short-term indebtedness and fuel inventory trust; and

WHEREAS, the Company requested a prompt hearing or expedited investigation pursuant to RSA 369:4 and 7 in light of its need to comply with the time constraints of Tennessee's decision to sell the SSNE storage contract; and

WHEREAS, it appears that prudent financial management requires the Company to have access to sufficient short-term borrowing capacity to be able to secure working capital on an expedited basis to address abnormal weather conditions and other unexpected operating conditions so as to be able to meet the needs of its ratepayers; and

WHEREAS, it appears that the Company's purchase from Tennessee of the SSNE storage contract would preserve long term supply opportunities and provide an increased storage capability to meet the peak day needs of ENGI's ratepayers, and that an extension of the term and increase in the credit limit of the Company's fuel inventory trust are necessary to accomplish that purpose; and

WHEREAS, it appears that it is in the public good to approve ENGI's application; it is hereby

ORDERED, that EnergyNorth Natural Gas, Inc. is hereby authorized, pursuant to RSA 369:1, 2 and 7;

1. To maintain the amount of its authorized short- term debt level at $11,200,000, which appears to be adequate to meet its forecasted levels in the cash flow analysis that was submitted;

2. To extend the Applicant's Fuel Inventory Trust and related Revolving Credit Agreement from its current termination date of November, 1992 to November, 1997 and to increase the credit limit of such Revolving Credit Agreement from $5,500,000 to (A) $8,000,000 for the period July 1, 1992 through June 30, 1993, and (B) $7,000,000 after June 30, 1993; and it is

FURTHER ORDERED, that ENGI shall provide a copy to this Commission of the final note or credit agreements and related loan documents for any additional short-term borrowings actually secured; and it is

FURTHER ORDERED, that ENGI shall provide copies to this Commission of any and all amendments to the fuel inventory trust and related revolving credit line and other documents; and it is

FURTHER ORDERED, that ENGI is authorized to take all steps and deliver and execute all documents necessary or desirable to implement and carry out the terms of such shortterm borrowings and fuel inventory trust documents; and it is

FURTHER ORDERED, that ENGI shall on January first and July first of each year, file with this Commission a detailed statement, duly sworn to by its Treasurer, showing disposition of the proceeds of any such additional shortterm borrowings actually utilized until the whole of such

proceeds shall have been fully accounted for.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of July, 1992.

==========

NH.PUC*07/31/92*[72992]*77 NH PUC 393*PENNICHUCK WATER WORKS,INC

[Go to End of 72992]

PENNICHUCK WATER WORKS,INC

DR 91-055
ORDER NO. 20,553

77 NH PUC 393

New Hampshire Public Utilities Commission

July 31, 1992

Report Adopting Settlement of Permanent Rate Case Issues

Appearances: John B. Pendleton, Esq. of Gallagher, Callahan and Gartrell on behalf of Pennichuck Water Works, Inc.; Dom S. D'Ambruoso, Esq. of Ransmeier and Spellman for Anheuser-Busch, Inc.; Joseph Rogers, Esq. for the Office of Consumer Advocate; and James T. Rodier, Esq. for the Staff of the New Hampshire Public Utilities Commission.

REPORT

This report addresses the petition of Pennichuck Water Works, Inc. (Pennichuck or company) for permanent increase in its rates. Pennichuck supplies water for domestic, commercial, industrial and fire protection purposes, serving the City of Nashua, and portions of Milford, Merrimack, Hollis, East Derry, Bedford, and Plaistow.

I. PROCEDURAL HISTORY

On April 30, 1991, Pennichuck filed with the New Hampshire Public Utilities Commission (Commission) a notice of intent to file a rate increase in the amount of approximately $1.5 million on an annual basis. On June 28, 1991, the Company filed revised permanent tariff pages designed to increase its revenues by $1,162,466 (14.95%) on an annual basis. The proposed tariffs were to be effective on July 28, 1991.

On June 28, 1991, the company also filed a petition for temporary rates pursuant to New Hampshire RSA 378:27. The Commission suspended the proposed revisions to the Company's permanent rate tariffs, pursuant to RSA 378:6, pending investigation and decision thereon. (Order No. 20,193, July 25, 1991). A second order scheduled a hearing for September 6, 1991, to address procedural matters regarding the proposed temporary and permanent rate increases, and instructed the company to publish public notice of said hearing. Order of Notice (July 30, 1991).

A hearing was held in accordance with the foregoing Commission order on September 6,

1991. Anheuser- Busch timely filed a motion to intervene as a limited party. The parties agreed upon a procedural schedule, including, inter alia, a hearing on the company's petition for temporary rates scheduled for October 7, 1992. The procedural schedule was approved by the Commission. Report and Order No. 20,247 (September 17, 1991)

The Commission approved Anheuser-Busch's limited motion to intervene, limiting Anheuser-Busch's role pertaining to revenue allocations and rate structure matters. (October 15, 1991).

At its public meeting on November 26, 1991, and by Order No. 20,319 dated December 3, 1991, the Commission authorized Pennichuck to implement a temporary rate

increase in the amount of $572,115 (representing an increase of 7.36%), which authorization was confirmed by Report and Order No. 20,374 (January 24, 1992).

Commission Staff (Staff) conducted a field audit during the first quarter of 1992 and submitted an audit report April 3, 1992, to which Pennichuck submitted a written response. On January 10, February 18, March 5, and March 17, 1992, Staff filed data requests to which the Company duly responded. The Office of Consumer Advocate also propounded data requests during this period. On March 20, 1992, staff filed testimony and exhibits recommending an additional revenue requirement of $195,982. On April 3, 1992, Pennichuck filed data requests to which staff duly responded. On April 9, April 27, May 4, May 20, May 28, and June 12, 1992, Staff and the parties met to discuss and attempt to resolve all issues involved in the Company's filing for permanent rate relief.

As a result of the discovery process and the discussions at the six meetings noted supra, a settlement was reached with respect to all issues in this case, as evidenced by the Settlement Agreement presented as Exhibit 4 (appended hereto as Appendix A and made a part hereof) at a hearing held on July 15, 1992. The Company and Staff supported the Settlement Agreement with testimony and exhibits presented at the hearing.

II. RECOMMENDATIONS OF STAFF AND THE PARTIES

As noted supra, Staff and the parties entered into a Settlement Agreement in order to resolve all aspects of the permanent rate case under investigation in this proceeding. The issues which have been resolved fall into the following four categories: A) Revenue Deficiency; B) Rate Design; C) Effective Date and D) Recoupment of Rate Case Expenses.

A. Revenue Deficiency

Staff and the parties agreed that the company was experiencing a revenue deficiency based upon historical testperiod results with certain standard adjustments. Thus, Staff and the parties agreed that Pennichuck should be allowed a $579,524 increase in revenues, approximately the same amount as the Company's temporary rate increase discussed supra.

For the purpose of calculating the revenue deficiency in this proceeding Staff and the parties agreed to use the following components:

1. Rate of Return

An allowed return on equity of 10.71%, a cost of preferred equity of 10.44%, a cost of long-term debt of 8.66% and a cost of short-term debt of 6.5% shall be applied to Pennichuck's capital structure to produce an overall rate of return of 9.23%.

2. Rate Base

The parties stipulated to a pro forma rate base of $23,742,683.

3. Net Operating Income

The parties stipulated that the pro forma net operating income for the company would be $1,839,563.

B. Rate Design

The parties stipulated that Pennichuck's annual revenue requirement shall be collected by uniformly proportional increases to the Company's existing permanent base rates. The Company's rate structure will be reviewed in the Company's next rate case on the basis of an update of its January, 1985 cost of service study to be commissioned by the Pennichuck prior to that time. Staff and the parties further stipulated that Pennichuck will submit its proposed methodology for preparation of its cost of service study to Staff, with a copy to Anheuser-Busch and the Consumer Advocate, no later than six months following the effective date of the order in this proceeding. The proposed methodology will include an

estimated completion date for the study.

C. Effective Date of Permanent Rate Increase

Staff and the parties recommend that the permanent rates shall be effective with service rendered on and after the date of the order in this proceeding.

D. Recoupment of Rate Case Expense

Staff and the parties recommend that Pennichuck be allowed to recoup, by surcharge over a 12 month period, its rate case expense in the amount of $48,052. Because the temporary rate increase and the permanent rate increase are approximately the same, 7.36%, there is no temporary rate revenue deficient subject to recoupment.

Upon receipt of the Commission's order in this proceeding, Staff and the parties recommend that Pennichuck file a compliance tariff containing supplemental recoupment rates. The surcharge shall be designed to recoup the rate case expense over a 12 month period and the Company shall file an accounting with the Commission at the end of the 12 month period.

III. COMMISSION ANALYSIS

Upon review of the record in this proceeding, the Commission finds that the Settlement Agreement presented by Staff and the parties is supported by ample evidence put forth by both Staff and Pennichuck at the hearing and appropriately balances the interests of ratepayers and Pennichuck's investors under current economic circumstances. Therefore, we find that the Settlement Agreement, considered and taken in its entirety, properly and comprehensively resolves the issues associated with Pennichuck's petition for a permanent rate increase in this

proceeding.

The permanent increase as initially proposed by Pennichuck was, as noted supra, in the amount of 14.965% to be effective as of July 28, 1991. The increase recommended in the Settlement Agreement is less than half that amount. Consequently, we find it reasonable that the permanent rates in this proceeding be effective on July 27, 1992, one year after Pennichuck's initially proposed effective date.

The record indicates that rate case expenses will be less than $2.50 total per customer which will be paid over a 12month period. We find this to be reasonable. We will instruct the Company, therefore, to file an appropriate surcharge tariff on or before August 14, 1992, to become effective September 1, 1992.

Our order will issue accordingly.

Concurring: July 31, 1992

ORDER

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

ORDERED, that the proposed stipulation among the staff, the Office of Consumer Advocate, Anheuser- Busch, and Pennichuck Water Works, Inc., which is appended hereto as Appendix A, is hereby approved; and it is

FURTHER ORDERED, that the Company shall file a surcharge tariff on or before August 14, 1992, bearing an effective date of September 1, 1992.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of July, 1992.

==========

NH.PUC*07/31/92*[72993]*77 NH PUC 395*LOV WATER COMPANY

[Go to End of 72993]

LOV WATER COMPANY

DE 89-033
ORDER NO. 20,554

77 NH PUC 395

New Hampshire Public Utilities Commission

July 31, 1992

Report on the Establishment of Permanent Rates for LOV Water Company

---

Appearances: Ransmeier & Spellman by R. Stevenson Upton, Esquire for LOV Water Company; Eugene F. Sullivan III, Esquire, for the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On February 21, 1989, LOV Water Company Inc. (LOV or the Company) petitioned the Public Utilities Commission (commission) for authority to establish a water utility in a limited area in the Town of Freedom, New Hampshire pursuant to RSA 374:22, and implicitly to establish rates therefore pursuant to RSA chapter 378.

On March 23, 1989, the commission issued an Order of Notice establishing a prehearing conference to be held on April 25, 1989, at its offices in Concord to address requests to intervene and to establish a procedural schedule. At the public hearing held on April 25, 1989, no requests for intervention were made and the Staff of the Commission (Staff) and the Company stipulated to a procedural schedule.

On May 5, 1989, the commission issued Report and Order No. 19,402 adopting a procedural schedule which included a hearing on the franchise and permanent rates on August 16, 1989. However, due to the lack of financial data, an audit of the company funds needed to be performed and the procedural schedule was revised in order to fully investigate the merits of the case.

On January 18, 1990, Wynn E. Arnold, Executive Director of the commission, issued a revision to the procedural schedule as a result of the Company's inability to provide the Staff with certain information. During January and February of 1990, a number of documents were transmitted to and from the commission staff and David F. Sands, Treasurer of LOV Water Company, concerning a Staff audit.

On February 12, 1990, the procedural schedule was again revised in a letter from Wynn E. Arnold which established testimony for Staff on March 9, 1990, a settlement conference on May 8, 1990 and a hearing on the merits on May 22, 1990. Testimony was submitted by Staff on March 14, 1990. On May 21, 1990, in a letter from Mr. Arnold, the final hearing was again rescheduled to September 26, 1990. On September 24, 1990, Mr. Sands requested a continuance which was to be addressed at the hearing on September 26, 1990. A hearing was held at the Commission offices in Concord, New Hampshire on September 26, 1990. No representative from the Company attended the September 26, 1990 hearing and, therefore, the Commission adjourned.

On August 15, 1991, Dennis Sands, President of LOV Water Company, Inc., submitted information on electric and maintenance bills for 1989 and 1990 and requested immediate temporary relief to help defray expenses. A revised procedural schedule was submitted to the Commission by Staff on August 21, 1991, which would establish a hearing on the merits of permanent rates on January 4, 1992. A hearing on temporary rates was held on September 12, 1991, and in a letter to Mr. Arnold, dated November 26, 1991, the parties agreed to adjust the procedural schedule on the issue of permanent rates, establishing a hearing on the issue of permanent rates on March 25, 1992.

On December 4, 1991, Report and Order No. 20,326 was issued by the commission granting LOV a temporary rate level in the amount of $50.00 for each year, to be billed annually in

arrears.

On March 9, 1992, the commission received a motion from the Company requesting the modification of the procedural schedule. On March 10, 1992, in a letter from Wynn Arnold, the procedural schedule was revised in accordance with the motion to continue and as a result a settlement conference was scheduled for April 13, 1992, and a hearing on the merits of the permanent rate case was rescheduled to June 23, 24, and 25, 1992.

On June 15, 1992, the commission issued Order No. 20,505 authorizing LOV Water Company to obtain short-term debt up to the amount of $20,000.

On June 23, 1992, a hearing on the merits of the permanent rates was held before the commission at which Staff and the Company presented a stipulation which is attached hereto as Appendix A.

Page 396

II. STIPULATION

The stipulation presented to the commission consists of the following permanent rate components:

Rate Base $86,698.00

Debt $0.00

Return on Equity 10.03%

Operation and Maintenance

Expenses $19,147.00

Annual Revenue Requirement $25,929.01

Number of Customers 188

Annual Flat Rate Per Customer $137.92

The Stipulation further provides that billing shall be on an quarterly basis in arrears and that all customers shall pay the same flat (unmetered) rate. The temporary rate shortfall shall be recovered by the Company by means of a surcharge over two years pursuant to RSA 378:28. Rate case expenses shall also be recovered by means of a surcharge over a two year period.

The Stipulation also provides for a "step

adjustment" on the one year anniversary of this Report and Order to compensate the Company for the purchase of a portion of the distribution system retained by the previous owner.

III. COMMISSION ANALYSIS.

The commission finds the stipulated revenues to be just and reasonable and the further terms of the stipulation to be reasonable and consistent with the public good. However, we note that the stipulation does not address the issue of the metering of the system or a waiver from the requirement to meter each service. See, N.H. Admin. Rules, Puc 603.05(a). Thus, we will require the Company to file a plan for the eventual metering of the system within one year of the issuance of this Report and Order or a request for special commission approval to provide

unmetered service and justification for such action within six months of the date of this Report and Order.

Our order will issue accordingly.

Concurring: July 31, 1992

ORDER

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

ORDERED, that the Stipulation attached hereto as Appendix A is accepted; and it is

FURTHER ORDERED, that the Company comply with the requirements regarding the metering of the system contained in the foregoing Report.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of July, 1992.

Page 397

ATTACHMENT

1.0 This Settlement Agreement ("Agreement") is entered into this 23rd day of June, 1992, between LOV Water Company, Inc. (the, "Company"), and the Staff ("Staff") of the Public Utilities Commission (the "Commission") for the purposes and subject to the terms and conditions hereinafter stated.

2.0 Introduction. On February 21, 1989 the Company filed a petition to provide water service in a limited area in the town of Freedom, New Hampshire pursuant to RSA 374:22, and, implicitly to establish rates therefore pursuant to RSA 378. On March 23, 1989, the Commission issued an Order of Notice scheduling a prehearing conference for April 25, 1989 to establish a procedural schedule and to address matters of intervention. On May 5, 1989 the Commission issued its Report and Order No. 19,402 establishing a procedural schedule and scheduling a hearing on the merits of the franchise and permanent rates. On August 16, 1989 the Commission held a hearing on the franchise and permanent rate matters but deferred the permanent rate matter until after a staff audit could be accomplished. A further hearing held on September 26, 1990 on the matter of the franchise was inconclusive. Later on September 12, 1991 the Commission held another hearing on the matters of the franchise and temporary rates. On December 4,1 1991 the Commission issued its Report and Order No. 20, 326, granting the franchise and ordering temporary rates at the level of $ 50.00 chargeable annually, in arrears.

2.1 Throughout the pendency of this case staff has conducted a full audit of the Company's book and records and has engaged in extensive discovery including depositions of Robert Duchano, the Company's former president, and of Neil Dollarhide, the Company's accountant.

2.2 On March 9, 1992 the Company obtained legal counsel who filed a Motion For Modification of the Procedural Schedule. After counsel was retained, settlement conferences were held between Staff and the Company and its counsel on April 13, 1992 and June 10, 1992 in an effort to narrow issues and reach a settlement. This Agreement embodies the settlement of the parties and is presented to the Commission for approval .

3.0 Agreement an Integrated Whole; All Provisions as Conditions of Each Other Provision. Each of the parties understands and agrees that this Agreement constitutes an integrated and entire understanding and that each of the terms and provisions hereof is in consideration and support of every other provision and is an essential condition of each such other provision.

4.0 Stipulated Level of Test Year Operating Revenues, Expenses, Rate Base and Rate of Return and Rates. I.Test Year Operating Revenues and Expenses. Attachment 3 indicates that the overall adjusted test year utility operating income in this matter is $ 25,929.01. II.Rate Base. Attachment 2 indicates that the total rate base of the Company upon which the Company shall be allowed to earn a return is $ 86,698.40. III.Rate of Return. Attachment 1, Schedule 1 indicates the capital structure and cost of capital the parties have agreed that the Company shall be allowed to earn as a result of this proceeding. The agreed return on common equity is 10.03%. IV.Rates. The parties have agreed that the Company shall be entitled to charge each and every customer $ 137.92 annually ($34.48 per quarter) as base rates.

5.0 Stipulated Rate Structure. The parties agree that the increase approved by the Commission in this case shall be applied equally to all customers. Upon receipt of the Commission rate order in this docket approving this Agreement, the Company will file a compliance tariff providing for the rate increase stipulated herein.

Page 398

6.0 Recovery of Temporary Rate Surcharge. The parties agree that the difference between the revenues allowed under temporary rates and the revenues to be allowed under permanent base rates in this stipulation shall be recovered from customers by means of a surcharge on customers' bills for a period of 24 months or until fully collected. The parties agree that the surcharge per customer shall be $ 87.92 to be collected at the rate of $ 10.99 per quarter for eight quarters.

7.0 Recovery of Rate Case Expenses. The parties agree the rate case expense approved by the Commission in this proceeding shall be collected by means of a surcharge on customers' bills for a period of 24 months or until fully collected. At the conclusion of these proceedings, the Company shall submit a report of rate case expense for Commission review including the date and description of the service rendered, the name of the individual who performed the service, the hours and the rate charged. Upon approval of the Commission, the Company shall file a tariff supplement calculating the rate case expense surcharge and providing for its collection. The Company shall provide to the Commission and accounting at the end of each year and a final accounting when the surcharge has been collected.

8.0 One-Year Step Adjustment. The parties agree that on the one-year anniversary of the rate order in this docket, the Company shall be allowed a step adjustment for its acquisition of the seller-retained plant at the net book value at the time of the purchase.

9.0 Non-Waiver. By this Agreement, the Company has not waived its right to seek additional revenue by means of a full rate proceeding, or otherwise, and the Staff has not waived the right to seek a reduction in the Company's rates by means of a show cause proceeding or otherwise. The parties' agreement on the capital structure, for the purpose of resolving the present rate proceeding through stipulation, is without prejudice to the ability of the Company to take the position in any future proceedings before the Commission that any or all of the outstanding note

obligations, as of the date of this stipulation, are in fact debts of the Company.

10.0 General Conditions. This Agreement is subject to the following further conditions:

10.1 The Agreement shall be promptly presented to the Commission for acceptance and approval, such acceptance and approval shall be forthcoming without delay.

10.2 The making of this Agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in these proceedings, other than those specifically agreed to in the numbered paragraphs 1.0 through 10.6 herein, is true and valid.

10.3 The Commission's acceptance of this Agreement does not constitute approval of or precedent regarding any principle or issue in this proceeding.

10.4 The making of this Agreement establishes no principles or precedents and shall not be deemed to foreclose any party from making any contention in any proceeding or investigation, except that no contention shall be so made which is inconsistent with any express commitment or obligation hereunder.

210.5 The issuance of an order by the Commission implementing this Agreement, shall not in any respect constitute a determination by the Commission as to the merits of any allegations or contentions made in this rate proceeding.

10.6 This Agreement is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition, and if the Commission does not accept it in it entirety, without change or condition, the Agreement may be deemed to be withdrawn and shall not constitute any part of the record in this proceeding nor be used for any other purposes at the

call of any party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their respective names by their agents, each being fully authorized to do so on behalf of his principal.

LOV WATER COMPANY INC.

By Its Attorneys, RANSMEIER & SPELLMAN Professional Corporation

By: R. Stevenson Upton, Esquire

STAFF OF PUBLIC UTILITIES COMMISSION

By: Eugene F. Sullivan, III, Esquire

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

MJN 6/22/92 LOV WATER COMPANY, INC.
LOV3,REVREQ REVENUE REQUIREMENT

ATTACHMENT 1

RATE BASE (EX. 2) 86,698

RATE OF RETURN (EX. 1, SCH. 1) 10.03%

```
OPERATING INCOME REQUIREMENT 8,696

OPERATING INCOME (EX. 3) 1,358
-------
DEFICIENCY 7,338

TAX EFFECT (EX1, SCH3) 2,424
-------
REVENUE DEFICIENCY 9,762
==============
```

Page 400

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

```
MJN 6/22/92
LOV WATER COMPANY, INC.
LOV3,ROR
OVERALL RATE OF RETURN
ATTACHMENT 1
SCHEDULE1

COMPONENT WEIGHTED
COMPONENET COST AVERAGE
RATIO RATE COST RATE
AMOUNT (PERCENT) (PERCENT) (PERCENT)
-----------------------------------
COMMON STOCK 94,934 100.00% 10.03% 10.03%

LONG TERM DEBT 0 0.00% 0.00% 0.00%

SHORT TERM DEBT 0 0.00% 0.00% 0.00%
-----------------------------------
TOTAL 94,934 100.00% 10.03%
========================= ===========


MJN 6/22/92
LOV WATER COMPANY, INC.
LOV3,TAXFACTOR
EFFECTIVE TAX FACTOR

ATTACHMENT 1
SCHEDULE 2


TAXABLE INCOME 100.00%

LESS: B.P.T. 8.00%
------
FED TAXABLE INCOME 92.00%

F.I.T. RATE 15.00%
------
F.I.T. 13.80%

ADD: B.P.T. (SEE ABOVE) 8.00%
------
EFFECTIVE TAX RATE 21.80%
============
```

Page 401

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

```
MJN 6/22/92
```

LOV WATE COMPANY, INC.
LOV3,TAXADJ
REVENUE REQUIREMENT
INCOME TAX COMPUTATION

ATTACHMENT 1
SCHEDULE 3

TOTAL RATE BASE (EXHIBIT 2) 86,698.40

EQUITY COMPONENT OF CAPITAL COST (EX.1, SCH.1) 10.03%

NET INCOME REQUIRED 8,695.85

==========

TAX EFFECT (EX.1, SCH.2) 2,424.16

==========
MJN 6/22/92

Page 402

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

MJN 6/22/92
LOV3,ASSETS/DEPR LOV WATER COMPANY, INC.
FIXED ASSETS ATTACHMENT 2
(per deposition July 1989) SCHEDULE 1

PERCENT DEPR 1987 DEPR 1988 DEPR DEPR
1986 OF TOTAL RESERVE ADDITIONS 1987 RESERVE ADDITIONS 1988 RATE EXPENSE

Korder letter 11/7/89
1971 WELLS 1,960.00 666.40 1,960.00 705.60 1,960.00 2.00% 39.20
1971 WATER TANKS & LINES 12,575.91 26.71% 4,275.81 12,575.91 12,575.91 2.00% 251.52
1972 WELLS 13,377.17 24.58% 4,280.69 13,377.17 4548.24 13,377.17 2.00% 267.54
1978 WELLS & SYSTEM-SECT II 26,500.83 48.70% 5,300.17 26,500.83 5,830.18 26,500.83 2.00%
530.02

54,413.91 100.00% 14,523.07 0.00 54,413.91 11,084.02 0.00 54,413.91 1,088.28

WATER LINE & EQUIPMENT
(purchased from Freedom 1981) 11,000.00

FIXED ASSET ADJUSTMENT
1971,1972, AND 1978 PLANT 54,413.91
1980 DEPRECIATION RESERVE 5,816.84

NET ASSETS 48,597.07
LESS PURCHASE PRICE 11,000.00

FIXED ASSET ADJUSTMENT (37,597.07)
1971 REMAINING LIFE—41 YRS (10,043.53) (1,469.78) (10,043.53) (1,714.75) (10,043.53) 2.44%
(244.96)
1972 REMAINING LIFE—42 YRS (9,242.90) (1,320.41) (9,242.90) (1,570.48) (9,242.90) 2.38%
(220.07)
1978 REMAINING LIFE—48 YRS (18,310.64) (2,288.83) (18,310.64) (2,670.30) (18,310.64) 2.08%
(381.47)

(37,597.07) 5,079.03) (37,597.07) (5,925.53) 0.00 (37,597.07) (846.50)
ADDITIONS 81/82:
PUMP HOUSE 3,144.00 432.30 3,144.00 510.90 3,144.00 2.50% 78.60
PUMP HOUSE 290.00 39.88 290.00 47.13 290.00 2.50% 7.25

STORAGE TANKS 14,000.00 1,540.00 14,000.00 1,820.00 14,000.00 2.50% 280.00
---------- ---------- ---------- ---------- --------- ---------- --------
17,434.00 2,012.18 17,434.00 2,370.03 0.00 17,434.00 365.85

Page 403

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

MJN 6/22/92
LOV3,ASSETS/DEPR LOV WATER COMPANY, INC.
FIXED ASSETS ATTACHMENT 2
(per deposition July 1989) SCHEDULE 1

PERCENT DEPR 1987 DEPR 1988 DEPR DEPR
DEPR
1986 OF TOTAL RESERVE ADDITIONS 1987 RESERVE ADDITIONS 1988 RATE EXPENSE

RESERVE

ADDITIONS 82/83:
WATER LINES & EQUIPMENT 1,206.00 96.48 1,206.00 120.60 1,206.00 2.00% 24.12 144.72
WATER LINES & EQUIPMENT 3,642.00 211.36 2,642.00 264.20 2,642.00 2.00% 52.84 317.04
WATER LINES & EQUIPMENT 13,000.00 1,040.00 13,000.00 1,300.00 13,000.00 2.00% 260.00
1,560.00
WATER LINES & EQUIPMENT 9,725.00 778.00 9,725.00 372.50 9,725.00 2.00% 194.50 1,167.00
------------- ---------- ------------ --------- ------------ ----- ---------

----

26,573.00 2,125.84 26,573.00 2,657.30 26,573.00 531.46
3,188.76

DEDUCT FROM PLANT-THIS ALLOCATED
TO LOTS (WAS CALLED CIAC) (17,521.00) (1,752.00) (17,524.00) (2,102.88) (17,524.00) 2.00%
(350.48) (2,453.36)

ADDITIONS 85/86:
WATER SYSTEM (SEE NOTE 1) 69,954.67 699.55 69,954.67 2,098.64 69,954.67 2.00% 1,399.09
3,497.73
SELLER RETAINED-UTILITY PROPERTY (24,918.00) (249.18) (24,918.00) (747.54) (24,918.90)
2.00% (498.36) (1,245.90)
---------------- ---------- ------------ --------- ---------- ------------ -----
----

45,036.67 450.37 45,036.67 1,351.10 0.00 45,036.67 900.72
2,251.83

ADDITIONS 87 (R.Lessels testimony)
MAINS 984.00 984.00 9.84 984.00 2.00% 19.68 29.52
ADDITIONS 88 (R.Lessels testimony)
MAINS 2,320.00 2,320.00 2.00% 23.20 23.20
PUMP EQUIPMENT 1,408.00 1,408.00 10.00% 70.40 70.40
WELLS, COMPRESSOR 1,885.00 1,885.00 2.50% 23.56 23.56
---------------- ---------- ------- ------------ -------- -------- ------------ --------

----
TOTAL ASSETS - ORIGINAL COST 88,336.51 12,280.02 984.00 89,320.51 9,451.87 5,613.00
94,933.51 1,326.18 11,278.05
================ ========== ======= ============ ======== ======== ============ ========

NOTE 1: THIS ITEM CONSISTS OF PUMPHOUSE, WELL, AND RELATED CONSTRUCTION ($53,932 + $51,000 LESS ONE THIRD ALLOCATED TO LOTS)

Page 404

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

MJN 6/22/92
LOV3,INCST LOV WATER COMPANY, INC. ATTACHMENT 3
INCOME STATEMENT
(based on 1120 tax returns)

TEST YEAR TEST YEAR
1988 REF PROFORMA PROFORMA REF PROFORMA PROFORMA

REVENUES 9,559.00 ATT3,SCH1 6,608.00 16,167.00 ATT1 9,762.01 25,929.01
LESS: RETURNS & ALLOWANCES 3,702.00 ATT3,SCH1 (3,702.00) 0.00 0.00

NET SALES 5,857.00 10,310.00 16,167.00 9,762.01 25,929.01

EXPENSES:
REPAIRS 6,198.00 ATT3,SCHI 2,890.00 9,088.00 9,088.00
RENTS (See OFFICE EXPENSE) 249.00 ATT3,SCH1 (249.00) 0.00 0.00
INTEREST 24,830.00 ATT3,SCH1 (24,830.00) 0.00 0.00
GENERAL MISC. 278.00 ATT3,SCH1 188.00 466.00 466.00
OFFICE EXPENSE 327.00 ATT3,SCH1 3,928.00 4,255.00 4,255.00
LEGAL & ACCOUNTING 200.00 ATT3,SCHI 800.00 1,000.00 1,000.00
ELECTRIC POWER 9,545.00 ATT3,SCHI (9,545.00) 0.00 0.00
TOTAL OPERATING EXPENSES ---
41,627.00 (26,818.00) 14,809.00 0.00 14,809.00

TAXES,
PROPERTY 0 0.00 0.00
OTHER 0 0.00 ATT1,SCH3 2,424.16 2,424.16

DEPRECIATION/AMORTIZATION 4,953.00 ATT2,SCH1 (3,126.82) 1,826.18 1,826.18
AMORTIZATION (ORG. EXP.) 88.00 88.00 88.00

TOTAL EXPENSES 46,668.00 (29,944.82) 16,723.18 2,424.16 19147.34

NET INCOME (35,770.00) 37,128.00 1,358.00 7,337.85 6,781.67

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

MJN 6/22/92

LOV WATER COMPANY, INC. ATTACHMENT 3
LOV3,PROFADJ PROFORMA ADJUSTMENTS SCHEDULE 1

ALL COMPANY FIGURES TO BE PROFORMED ARE BASED ON
THE IRS FORM 1120 FILED FOR 1988 BY THE COMPANY.

REVENUES:
BASED ON THE AUDIT REPORT
989 REVENUES COLLECTED WERE— 16,167.00
COMPANY FIGURE 9,559.00

PROFORMA ADJUSTMENT OT REVENUES 6,608.00
==========
RETURNS AND ALLOWANCES:
COMPANY FIGURE (3,702.00)
REMOVE SALES RETURNS & ALLOWANCES 0.00

PROFORMA ADJUSTMENT TO RETURNS & ALLOWANCES (3,702.00)
==========
OPERATION AND MAINTENANCE EXPENSES:
REPAIRS-COMPANY FIGURE 6,198.00
PRODUCTION:


```
ELECTRIC POWER 5,219.00
WATER LABORATORY FEES 871.00
SUPERVISORY (MONITORING) 1,970.00
MAINTENANCE:
REPAIRS & MAINTENANCE 1,028.00
----------
2,890.00
==========
INTEREST
COMPANY FIGURE 24,830.00
NOT INCLUDED AS THIS IS "BELOW THE LINE" 0
-----------
PROFORMA ADJUSTMENT TO INTEREST (24,830.00)
=============
GENERAL MISCELLANEOUS
COMPANY FIGURE 278.00
PUC ASSESSMENT 50.00
MISCELLANEOUS 296.00
CORPORATE FEE 120.00
--------
PROFORMA ADJUSTMENT TO GENERAL MISC. 183.00
========
```

Page 406

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

MJN 6/22/92

LOV WATER COMPANY, INC. ATTACHMENT 3
LOV3,PROFADJ PROFORMA ADJUSTMENTS SCHEDULE 1


OFFICE EXPENSE
COMPANY FIGURE 327.00
OFFICE EXPENSE (NOTE 1) 2,137.00
SECRETARIAL FEES (NOTE 2) 2,118.00
----------
3,928.00
==========
LEGAL & ACCOUNTING:
COMPANY FIGURE 200.00
ACCOUNTING FEES 1,000.00
----------
PROFORMA ADJUSTMENT TO LEGAL & ACCOUNTING 800.00
========
ELECTRIC POWER
COMPANY FIGURE 9,545.00
RECLASSIFY AS PRODUCTION EXPENSE 0.00
----------
PROFORMA ADJUSTMENT TO ELECTRIC POWER (9,545.00)
============
RENTS:
COMPANY FIGURE 249.00
RECLASSIFY AND ADJUST IN OFFICE EXPENSE 0.00
--------
(249.00)
==========
NOTE 1: THIS FIGURE CONSISTS OF THE FOLLOWING:
STAMPS AT $273; ENVELOPES AT $30;
INVOICE FORMS AT $154; TELEPHONE AT $660;
RENT AT $1,020.

NOTE 2: THIS FIGURE IS DERIVED FROM SECRETARY LABOR OF $1,598
PLUS IN-OFFICE PAPERWORK LABOR OF DENNIS SANDS OF $520
```

Page 407

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

MJN 6/22/92
LOV3,CALCRATE LOV WATER COMPANY, INC.
RATE COMPUTATION
ATTACHMENT 4

TOTAL REVENUE REQUIRED (EX. 3) $25,929.01

NUMBER OF CUSTOMERS $188.00

RATE PER CUSTOMER - ANNUAL $137.92
===
TO BE BILLED ON A QUARTERLY BASIS $34.48
===

Page 408

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

LOV WATER COMPANY, INC.
LOV3,RB
RATE BASE

ATTACHMENT 2

PLANT IN SERVICE 174,972.58
LESS: PLANT RETAINED BY SELLER (24,918.00)
CONTRIBUTIONS IN AID
OF CONSTRUCTION
(17,524.00)
FIXED ASSET ADJUSTMENT
(37,597.07)

NET PLANT IN SERVICE 94,933.51
LESS: DEPRECIATION/AMORTIZATION RESERVE 11,278.05

NET PLANT IN SERVICE 83,655.46

ADD WORKING CAPITAL:
TOTAL O&M EXPENSES (EX 3) 14,809.00
(BASED ON QUARTERLY BILLING)
TIMES 20.55% (75 DAYS/375 DAYS) 20.55%

CASH WORKING CAPITAL 3,042.95

RATE BASE 86,598.40

NH.PUC*08/03/92*[72994]*77 NH PUC 410*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72994]

NEW ENGLAND TELEPHONE COMPANY

DR 91-167
ORDER NO. 20,555

77 NH PUC 410

New Hampshire Public Utilities Commission

August 3, 1992

Order Authorizing Approval of NET's INFOPATH" Packet Switching Tariff

---

WHEREAS, on October 11, 1991, New England Telephone (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce INFOPATH" Packet Switching Service for effect November 10, 1991; and

WHEREAS, on November 1, 1991, due to inadequate cost support for the initial filing, the proposed tariff pages were suspended by Order No. 20,288 to allow for further investigation; and

WHEREAS, the Commission staff has investigated this matter including the petition and responses to its three sets of data requests; and

WHEREAS, upon review of the petition, the Commission finds the proposed offering to be in the public good; it is therefore

ORDERED, that the following tariff pages of New England Telephone are approved:

NHPUC - No. 75

Part C - Section 4 - Original Table of Contents Page 1

- Original Pages 1 through 15;

and it is

FURTHER ORDERED, that the above tariff pages shall be effective as of the date of this order; and it is

FURTHER ORDERED, that the rates for this service be subject to review following the completion of the incremental cost study in April 1993; and it is

FURTHER ORDERED, that if review of the incremental cost study and subsequent discovery indicate that the rates are below their incremental costs, NET stockholders will absorb the deficiency between the rates charged and the incremental costs, for the period during which the rates for this service did not cover their costs; and it is

FURTHER ORDERED, that the above additions to NHPUC No.E75 Tariff be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this third day of August, 1992.

==========

NH.PUC*08/03/92*[72995]*77 NH PUC 410*LAKELAND MANAGEMENT COMPANY, INC.

[Go to End of 72995]

LAKELAND MANAGEMENT COMPANY, INC.

DR 91-058

ORDER NO. 20,556

77 NH PUC 410

New Hampshire Public Utilities Commission

August 3, 1992

Report and Order Approving Capital Improvement Plan and Rate Case Expense

---

Appearances: Lakeland Management Company, Inc. and the Staff of the New Hampshire Public Utilities Commission were present without counsel by agreement.

REPORT

I. PROCEDURAL HISTORY

Lakeland Management Company, Inc. (Lakeland) filed with the New Hampshire Public Utilities Commission (Commission) an incomplete petition for a permanent rate increase on May 3, 1991, supplemented by a further filing on January 8, 1992. The filings encompassed water service to 104 customers and sewer service to 102 customers in Belmont. The tariffs were suspended by Order No. 20,375 (January 28, 1992) pending review of the filings by Commission Staff (Staff). A prehearing conference was held on February 20, 1992, leading to adoption of a procedural schedule which culminated in a public hearing on June 11, 1992. Lakeland did not request temporary rates. There were no requests for full intervention.

Report and Order No. 20,525 was issued on June 30, 1992, setting permanent rates and requiring that Lakeland and Staff pursue

proposals for capital improvements to address pressure deficiencies in the Granite Ridge portion of Lakeland's water system. A duly noticed hearing held on July 16, 1992 considered the capital improvements issue, and rate case expenses were also addressed at that time.

II. BACKGROUND

A. Capital Improvements.

A proposal was submitted by Lakeland on June 26, 1992, in compliance with Order No. 20,525, for construction of a booster pump station to increase water pressure to the Granite Ridge development. Staff testified that the proposal is technically adequate and, after a detailed review of Lakeland's cost estimate, concurred with Lakeland's "not to exceed" cost figure of $14,230.00 as fair and reasonable. Lakeland estimated that construction would be complete by the end of October assuming no delays in obtaining required easements.

Staff recommended that the costs associated with the pump station be recovered in a step increase, as anticipated by Order No. 20,525. The resultant impact of the full $14,230.00 on the revenue requirement, taking into account rate of return, depreciation and tax effect, is an increase of $2,763.71, or an increase of 7.3 percent over the water revenues approved in Order No. 20,525. Project costs of lesser amounts would result in proportionately lower rates.

Staff further recommended that such costs be prorated among water users according to

customer class and according to the allocation to fixed and consumption charges within each class, in the same proportions as the permanent rates, resulting in an additional maximum 7.3 percent increase in each recently established water rate. Water rates set at this level would require a companion decrease in the sewer multiplier, from the current 1.18 to approximately 1.08 or 1.09, to prevent over-collection from sewer customers. Lakeland concurred with this method of recovery for the capital improvements issue.

Staff and Lakeland also agreed that any step increase would only occur after the pump station was complete and providing service to customers and that associated costs were approved by the Commission.

B. Rate Case Expenses

Lakeland submitted itemized rate case expenses on July 13, 1992, of $14,196.08. Staff objected to billings by the accounting firm of Nathan Wechsler & Co.; both to the billing rate of $130.00 per hour, and to the fact that tasks such as computer runs and faxing were not performed by a subordinate employee. Staff and Lakeland agreed to an overall reduction of $1,477.50 based on a reduction in the accountant's rate from $130.00 to $100.00 per hour. At the July 20, 1992 Commission meeting, Staff was directed to further review the numbers, e.g., for charges that could have been reduced by using a subordinate employee to perform the work. Staff filed a report with the Commission containing a recommendation for additional reductions and disallowances totalling $670.00 for revised recommended rate case expenses of $12,048.58.

Staff recommended that recoupment of rate case expenses be applied as a surcharge, half to be applied to water customers and half to sewer customers, to be spread evenly among the total number of customers in each division without regard to class and to be recovered over four years. The recommended $12,048.58 figure applied in this manner would result in a surcharge of $3.62 per customer per quarter for water customers and $3.69 per customer per quarter for sewer customers.

III. COMMISSION ANALYSIS

Based upon review of the record and testimony at the July 16, 1992 hearing on the merits, we accept Lakeland's capital improvement plan under the provision that costs of said improvements 1) be capped at $14,230.00, 2) not be applied to rate base until submitted and approved in a future order, 3) be allocated among water customers in the same manner and proportion as the recently

approved permanent rates, and 4) that the sewer multiplier be decreased by the amount necessary to prevent over- recovery from sewer customers. Upon review of Staff's revised analysis, rate case expenses of $12,048.58 are found to be reasonable. Recovery shall be through a surcharge as described in the above report. Said surcharge is to begin with Lakeland's next billing in October, 1992.

Our order will issue accordingly.

Concurring: August 3, 1992

ORDER

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

ORDERED, that Lakeland's capital improvement program is accepted as described in the preceding report, with final expenses to be subject to approval in a future order for inclusion in rate base as a step increase and with a consequent reduction in the sewer multiplier; and it is

FURTHER ORDERED, that rate case expenses of $12,048.58 are approved and shall be recovered as a four-year quarterly surcharge beginning with the October, 1992 billing; and it is

FURTHER ORDERED, that Lakeland shall file, within ten days of this order, new tariffs in compliance with this order.

By order of the Public Utilities Commission of New Hampshire this third day of August, 1992.

==========

NH.PUC*08/03/92*[72996]*77 NH PUC 412*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 72996]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-009
ORDER NO. 20,557

77 NH PUC 412

New Hampshire Public Utilities Commission

August 3, 1992

Order Granting Public Service Company of New Hampshire's Motion for a Protective Order

---

During the course of the hearings on Docket No. DR 92-009 regarding rate increases, debt reorganization and other approvals requested by New Hampshire Electric Cooperative, Inc. (NHEC), the New Hampshire Public Utilities Commission (Commission) made a record request for projections on the return on equity for Public Service Company of New Hampshire (PSNH); and

WHEREAS, PSNH in response stated that it would provide the information subject to a protective order agreed to by the parties; and

WHEREAS, on July 24, 1992, PSNH filed a Motion for Protective Order requesting that the projections concerning the return on equity for PSNH be exempt from public disclosure, pursuant to RSA 91-A:5, IV, as disclosure would cause substantial harm to PSNH and the holders of its securities; and

WHEREAS, the Commission recognizes that the return on equity projections are important to its review of some of the approvals requested by NHEC in this docket; it is hereby

ORDERED, that PSNH's Motion for a Protective Order be, and hereby is, granted; and it is

FURTHER ORDERED, that PSNH submit to the Commission, the Commission staff and all parties to Docket No. 92-009 who agree to the terms of this order, its report containing return on equity projections for PSNH; and it is

FURTHER ORDERED, that the report shall not be copied, reproduced or disseminated, nor shall the information contained within it be made known to any member of the public; and it is

FURTHER ORDERED, that unless otherwise ordered, all copies of the confidential report shall be destroyed or returned to PSNH within thirty days after delivery of the report; and it is

FURTHER ORDERED, that in the event that any member of the public seeks disclosure of the report, the Commission will notify the parties of such a request prior to disclosure and the Commission will provide an opportunity for a hearing. Upon finding of the Commission that there is a valid exemption claimed by PSNH for the report in question, the

Commission will apply a balancing test by weighing the benefits of disclosure to the public versus the benefits of nondisclosure to PSNH; and it is

FURTHER ORDERED, that this order is subject to the on- going rights of the Commission, on its own motion or on the request of any person, to reevaluate this order in light of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this third day of August, 1992.

==========

NH.PUC*08/03/92*[72997]*77 NH PUC 413*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 72997]

NEW ENGLAND TELEPHONE COMPANY

DR 89-010
ORDER NO. 20,558

77 NH PUC 413

New Hampshire Public Utilities Commission

August 3, 1992

Order Approving NET's Granite State Calling and Circle Calling Tariff

---

WHEREAS, on January 13, 1992, as part of its compliance with the Order No. 20,082 (March 11, 1991) in DR 89-010, New England Telephone and Telegraph Company (NET) filed tariffs with the New Hampshire Public Utilities Commission (Commission) which, inter alia, withdrew Granite State Calling and Circle Calling, two residential customer discount calling programs and replaced them with a new program, CallAround 603; and

WHEREAS, in ensuing months, the Commission received numerous letters and telephone calls from NET customers who did not find CallAround 603 an acceptable substitute for the withdrawn programs; and

WHEREAS, on June 24, 1992 the Commission held a public hearing on the issue of whether Granite State Calling and Circle Calling should be reinstated on a grandfathered basis, at which many customers spoke on behalf of such reinstatement; and

WHEREAS, upon review of the record of the public hearing and other public input, the Commission on July 17, 1992 requested that NET reinstate Granite State Calling and Circle Calling on a grandfathered basis to those residential customers who were subscribers as of March 20, 1992; and

WHEREAS, NET on July 29, 1992 delivered a letter and supporting tariff pages to the Commission in which NET stated it was willing to reinstate Granite State Calling and Circle Calling "on a grandfathered basis, available only to residence customers who has subscribed to these services as of March 20, 1992" at the same terms and conditions as were in effect as of the time of their withdrawal; and

WHEREAS, NET also requests that the tariff pages become effective in less than 30 days and further a waiver of N.H. Admin. Rules, Puc 1601.05 (j) regarding notification to customers, as NET will directly notify those customers affected by the reinstatement; it is hereby

ORDERED, that the following tariff pages of New England Telephone and Telegraph Company are approved:

NHPUC - No. 75

Part A - Section 9

Seventh Revision of Table of

Contents Page 2

Fifth Revision of Page 8

Sixth Revision of Page 14

Fifth Revision of Page 50

Tenth Revision of Page 51

Fourth Revision of Pages 52, 53, 54, 55 and 56

Third Revision of Page 57

Fourth Revision of Pages 58 and 59

Third Revision of Pages 60, 61, 62, 63, and 64

Fourth Revision of Page 65

Third Revision of Page 66

Fifth Revision of Page 67

Tenth Revision of Page 68

Second Revision of Page 72;

and it is

FURTHER ORDERED, that the above tariff pages shall be effective as of August 5, 1992; and it is

FURTHER ORDERED, that the notification requirements of N.H. Admin. Rules, Puc 1601.05 (j) be waived as NET will

Page 413

directly notify those customers affected by this reinstatement.

By order of the New Hampshire Public Utilities Commission this third day of August, 1992.

==========

NH.PUC*08/03/92*[72999]*77 NH PUC 414*MCI TELECOMMUNICATIONS CORPORATION

[Go to End of 72999]

MCI TELECOMMUNICATIONS CORPORATION

DR 92-136
ORDER NO. 20,561

77 NH PUC 414

New Hampshire Public Utilities Commission

August 3, 1992

Order NISI Approving MCI Prism Plus Product and Friends of the Firm Program

---

On July 8, 1992 MCI Telecommunications Corporation of New Hampshire (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce the Prism Plus Product, the Friends of the Firm Program, the Instant Savings Guarantee and some definitions.

WHEREAS, MCI proposed the filing

Page 414

become effective August 8, 1992; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire, thus, during the so called interim competition period, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than August 26, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, MCI cause an attested copy of this Order NISI to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than August 10, 1992, and is to be documented by affidavit filed with this office on or before August 21, 1992; and it is

FURTHER ORDERED NISI, that the following tariff pages of MCI tariff PUC No. 1, are approved:

Tenth Revised Page 1

Fifth Revised Page 2

Fifth Revised Page 3

Fifth Revised Page 3.1

Third Revised Page 4

First Revised Page 7

First Revised Page 8

First Revised Page 9

Original Page 25.3

First Revised Page 50

Original Page 50.1

Original Page 50.2

Original Page 50.3

and it is

FURTHER ORDERED, that this Order NISI will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fourth day of August, 1992.

==========

NH.PUC*08/04/92*[72998]*77 NH PUC 414*AT&T COMMUNICATIONS OF NEW HAMPSHIRE INC.

[Go to End of 72998]

AT&T COMMUNICATIONS OF NEW HAMPSHIRE INC.

DR 92-137

ORDER NO. 20,559

77 NH PUC 414

New Hampshire Public Utilities Commission

August 4, 1992

Order NISI Approving AT&T MEGACOM PLUS as an Option to MEGACOM WATS and Revisions to the Volume Discounts for OPTIMUM Service

---

On July 10, 1992 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce AT&T MEGACOM PLUS as an option to the existing AT&T MEGACOM WATS and to revise the volume discount schedule for AT&T OPTIMUM Service.

WHEREAS, AT&T proposed the filing become effective August 10, 1992; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire, thus, during the so called interim competition period, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than August 26, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order Nisi to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than August 10, 1992, and is to be documented by affidavit filed with this office on or before August 21, 1992; and it is

FURTHER ORDERED NISI, that the following tariff pages of AT&T tariff PUC No. 1 - CUSTOM NETWORK SERVICES, are approved:

Table of Contents: 4th Revised Page 5

Original Page 5.1

Section 1 5th Revised Page 7

Section 3 1st Revised Pages 1 through 5

Original Pages 6 through 11

Section 11 1st Revised Page 9;

and it is

FURTHER ORDERED, that this Order Nisi will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fourth day of August, 1992.

==========

NH.PUC*08/05/92*[73000]*77 NH PUC 415*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73000]

NEW ENGLAND TELEPHONE COMPANY

DR 91-105
ORDER NO. 20,562

77 NH PUC 415

New Hampshire Public Utilities Commission

August 5, 1992

Phonesmart Services Order Affirming New England Telephone & Telegraph's Compliance with Order No. 20,494

WHEREAS, the Commission, after hearing evidence in support of a proposed Stipulation, issued Order No. 20,494 modifying the terms of the proposed Stipulation; and

WHEREAS, New England Telephone & Telegraph Company, Inc. (NET) timely filed a Motion for Clarification or Rehearing; and

WHEREAS, the Commission issued Report and Order No. 20,522 granting New England Telephone & Telegraph Company, Inc.'s Motion for Clarification and Denied its Motion for Rehearing; and

WHEREAS, the Commission in said Report ordered any party wishing a full hearing on the merits to submit a request for a full hearing by July 29, 1992; and

WHEREAS, on July 29, 1992 no party had submitted a request for a full hearing and the petitioning party NET submitted a letter stating it would not ask for a hearing on the merits (see attached); and

WHEREAS, Order No. 20,522 waived compliance with Order No. 20,494 only until after the expiration of the thirty day period where no hearing on the merits was requested; it is hereby

ORDERED, that Order No. 20,494 be and hereby is, in full force and effect and NET's compliance is no longer waived.

By order of the Public Utilities Commission of New Hampshire this fifth day of August, 1992.

==========

NH.PUC*08/05/92*[73001]*77 NH PUC 416*LAKELAND MANAGEMENT COMPANY, INC.

[Go to End of 73001]

LAKELAND MANAGEMENT COMPANY, INC.

DR 87-111, DR 87-112
ORDER NO. 20,563

77 NH PUC 416

New Hampshire Public Utilities Commission

August 5, 1992

Extension of Time for Temporary Rate Recoupment

WHEREAS, Lakeland Management Company, Inc. requested an extension of time for collecting the recoupment of the temporary rate surcharge in regards to Commission Report and Order No. 19,223, and

WHEREAS, Report and Order No. 19,223 allowed for a four- year recoupment period based on figures provided in the Report which were calculated for a five-year period, therefore, causing an undercollection, and

WHEREAS, Lakeland Management Company, Inc. has one remaining billing period to recoup the temporary rate differential to complete the four-year period, and

WHEREAS, Lakeland Management Company, Inc. has filed an accounting of the recoupment of the temporary rate surcharge for both the water and sewer systems showing a collection of $10,144.50 of the $13,604.00 to be collected (under- collection of $3,459.50) for the water system and $10,513.80 of the $13,941.00 to be collected (under-collection of $3,427.20) for the sewer system as of the July 1, 1992 billings, and

WHEREAS, the Commission, in Docket DR 91-058, has ordered a surcharge for recoupment of approved rate case expenses over a four-year period commencing with the October 1992 billing, it is

ORDERED, that Lakeland Management Company, Inc. shall include the remaining temporary rate recoupment in this Docket with the rate case expense recoupment in Docket DR 91- 058 to be spread out evenly over the same four-year period, and it is

FURTHER ORDERED, that Lakeland Management Company, Inc. shall file an accounting of said recoupments at the end of each year, and it is

FURTHER ORDERED, that Lakeland Management Company, Inc. shall file, within ten days of this order, new tariffs in compliance with this order.

By order of the Public Utilities Commission of New Hampshire this fifth day of August, 1992.

==========

NH.PUC*08/05/92*[73002]*77 NH PUC 416*ENERGYNORTH NATURAL GAS, INC.

[Go to End of 73002]

ENERGYNORTH NATURAL GAS, INC.

DR 92-044
ORDER NO. 20,565

77 NH PUC 416

New Hampshire Public Utilities Commission

August 5, 1992

Order Denying EnergyNorth Natural Gas, Inc.'s Motion for Protective Order

---

Appearances: Orr and Reno, by Thomas C. Platt, Esq. for EnergyNorth Natural Gas, Inc.; Michael Holmes, Esq. for the Office of the Consumer Advocate for residential ratepayers; Susan Chamberlin for the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On July 2, 1992 EnergyNorth Natural Gas, Inc. (ENGI) filed with the New Hampshire Public Utilities Commission (Commission) a Motion for Protective Order (Motion) seeking to keep confidential ENGI's Preliminary Documentation of Gas Supply Planning dated June 30, 1992, which had been filed in this docket. On July 9, 1992 the Commission Staff (Staff) filed an objection to the Motion. At the Commission's July 13, 1992 public meeting, ENGI requested leave to file additional information in support of its Motion. The Commission granted ENGI's request and directed that the additional information be filed on or before July 17, 1992 and that Staff and other interested parties respond to the supplemental ENGI filing on or

before July 27, 1992.

On July 17, 1992 ENGI filed a Memorandum of Law in Support of its Motion for Protective Order. On July 27, 1992 Staff filed a Memorandum of Law in Support of Staff's Motion to Object to EnergyNorth Natural Gas, Inc.'s Motion for Protective Order.

II. BACKGROUND

This docket was opened pursuant to a Commission directive at its public meeting on November 18, 1991, when the Commission indicated its intent to investigate whether gas utilities should be required to file integrated resource plans and solicitied comments from interested parties. After reviewing the comments that were filed, the Commission opened this docket to determine how integrated resource planning should be utilized by ENGI. By Order No. 20,431, (April 2, 1992) the Commission established a procedural schedule that called for ENGI to file its current planning documents by June 1, 1992. At ENGI's request, the Commission approved an amended schedule that changed the filing date to June 30, 1992.

III. POSITIONS OF THE PARTIES

A. EnergyNorth Natural Gas, Inc.

ENGI argues that the preliminary plan is not a public record suject to disclosure under RSA 91-A, the New Hampshire Right-To-Know-Law. Even assuming that the preliminary plan is a public record, ENGI argues that it constitutes a trade secret and is therefore exempt from disclosure under the exeception for confidential, commercial and financial information and also that the harm of disclosure to ENGI outweighs any benefit obtained from exposure.

B. Commission Staff

Staff argues that the preliminary plan is a public record and that it is not exempt from disclosure because the information in the filing is not a trade secret or other type of confidential information, the release of which would competitively disadvantage ENGI.

C. Office of Consumer Advocate

The Office of Consumer Advocate took no position on ENGI's Motion.

IV. COMMISSION ANALYSIS

After reviewing the preliminary plan itself and the arguments of ENGI and Staff, we are not persuaded that the information contained in the plan should be protected. The Right-To-Know-Law clearly begins from the perspective that access to public records is to be encouraged and that documents on file with public agencies are public records unless one of the exemptions contained in RSA 91-A:5, IV applies. Although this Commission has issued protective orders in the past, those orders have only been issued when the Commission has been convinced that the information sought to be protected was clearly information that was of the nature of a trade secret or other commercial or financial information, the release of which would competitively disadvantage a company.

In this particular case, the preliminary plan contains a significant amount of general information that is already available to the public. This includes information about the Town of Derry that could obviously be obtained from a number of other sources. The plan also contains, in part, information which the Staff correctly points out is already on file with the Commission and has been considered public information in other contexts. In so far as the information on planning forecasts is concerned, the Commission believes the information is so general in nature that its disclosure would not competitively harm ENGI and that the disclosure would in fact benefit the regulatory process.

Finally, the Commission notes that similar filings by other utilities have not been given protective status and that there is no indication from those utilities that they have suffered any competitive harm. To the extent that ENGI

believes that any specific information that it files on this plan in future stages of this proceeding would, if made public, cause competitive harm, ENGI is free to seek a protective order at that point in time. Based on the breadth and generality of the information on file to date, however, and the inablity of ENGI to narrow its request, we see no basis for granting the

requested relief.

Our order will issue accordingly.

Concurring: August 5, 1992

ORDER

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

ORDERED, that the Commission finds that the information contained within the Preliminary Documentation of Gas Supply Planning, filed by EnergyNorth Natural Gas, Inc. (ENGI) does not fall within the exemptions from public disclosure enumerated in RSA 91-A; and it is

FURTHER ORDERED, that ENGI's Motion for Protective Order be, and hereby is, denied.

By order of the New Hampshire Public Utilities Commission this fifth day of August, 1992.

==========

NH.PUC*08/05/92*[73003]*77 NH PUC 418*GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

[Go to End of 73003]

GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

DE 90-002
ORDER NO. 20,566

77 NH PUC 418

New Hampshire Public Utilities Commission

August 5, 1992

Order Modifying Conditions of Interim Competition

The New Hampshire Public Utilities Commission (commission), in Order Nos. 20,039, 20,040, 20,041 20,042 (all dated January 21, 1991) granted LDN, AT&T, MCI and Sprint, respectively, interim authority to provide intraLATA services in New Hampshire; and

WHEREAS, the commission, in Order Nos. 20,372 (January 20, 1992), 20,544 and 20,545 (July 20, 1992) (all seven orders collectively referred to as "the Orders") granted Cable and Wireless, NOS and ACL, respectively, similar interim authority to provide intraLATA services in New Hampshire; and

WHEREAS, the Orders state that the authorized company:

... shall notify the commission of its rates by filing a schedule of

such rates pursuant to RSA 378:1 within one day after offering service

and shall subsequently file any change in rates to be charged the

public within one day after offering service at a rate other than the

rate on file with the commission\&... ;

and

WHEREAS, the Orders also state that they were:

... subject to modification concerning the above listed conditions

as a result of the commission's monitoring\&... ;

and

WHEREAS, the commission has received various requests for authority to provide new services or changes to those services authorized by the Orders; and

WHEREAS, the commission has before it 15 additional petitions for authority to do business as a telephone utility in the State of New Hampshire; and

WHEREAS, AT&T, Cable and Wireless, MCI, and Sprint have filed tariffs for new services with effective dates 30 days after the filing date; and

WHEREAS, as a result of monitoring new filings and our review process we find it more practical to review new filings or changes to authorized services before they become effective; and

WHEREAS, we do not find it necessary to review subsequent rate changes to approved competitive service offerings before said rate changes become effective; it is hereby

ORDERED, that telephone utilities operating under the authority of the Orders and those companies so authorized in the future,

Page 418

file tariffs for new services and changes in existing services (other than rate changes), with effective dates no less than 30 days after the date the tariffs are filed with this commission; and it is

FURTHER ORDERED, that authorized telephone utilities continue to file subsequent changes to rates within one day after offering service at the new rate, annotated with the Order No. that initially authorized the service.

By order of the New Hampshire Public Utilities Commission this fifth day of August, 1992.

==========

NH.PUC*08/06/92*[73004]*77 NH PUC 419*GRANITE STATE TELEPHONE, INC.

[Go to End of 73004]

GRANITE STATE TELEPHONE, INC.

DR 90-219
ORDER NO. 20,567

77 NH PUC 419

New Hampshire Public Utilities Commission

August 6, 1992

Report & Order Approving Rate Case Settlement

Appearances: Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. on behalf of Granite State Telephone, Inc., Eugene F. Sullivan, III, Esq. on behalf of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

By Order of Notice dated December 14, 1990, the New Hampshire Public Utilities Commission (Commission) opened docket DR 90-219 to investigate the earnings of Granite State Telephone, Inc. (GST or the Company) pursuant to RSA chapter 378 after the performance of a desk audit of GST's annual report by the Staff of the Commission (Staff) indicated the Company was earning a return in excess of its last found rate of return. New England Telephone and Telegraph Company (NET) and the Office of the Consumer Advocate (OCA) were granted intervenor status.

On May 27, 1991, the Commission issued Order No. 20,136 setting the existing rates of GST as temporary rates during the pendency of the proceeding pursuant to RSA 378:27.

On June 17, 1991 and January 31, 1992, GST filed written testimony in support of its analysis that no rate decrease was warranted. On October 11, 1991 and May 27, 1992, the Staff filed written testimony which concluded that GST was earning in excess of a reasonable rate of return and recommended annual revenue reductions of more than $600,000 calculated on a total-company basis or more than $400,000 calculated on an intrastate-only basis after separations.[1] The parties engaged in extensive discovery in anticipation of litigation of all rate case issues.

II. POSITIONS OF THE PARTIES AND STAFF

At a hearing held on June 24, 1992, Staff and GST presented to the Commission a Rate Case Stipulation Agreement with supporting schedules regarding rate case matters and a Stipulation and Agreement regarding rate design matters (collectively, settlement agreement which is attached hereto as Appendix A). ChristiAne G. Mason on behalf of Staff testified in support of the settlement agreement. The Agreement is the result of the testimony, exhibits, data requests and responses produced by the parties and Staff, a Staff audit report and settlement discussions between the Company and Staff.

Staff testified that the agreed upon settlement provided for an overall rate decrease of 22.8% and a revenue decrease of $253,115. Staff notes that the settlement agreement approximates the likely result of litigation, given certain adjustments to the Staff audit report and other adjustments made to revenue and expenses after GST's production of necessary documentation. Staff testified that the reductions in rates and the refund of temporary rates with interest applied, constituted significant benefits to GST's ratepayers and resulted in just and reasonable

rates.

Further, in Staff's view the stipulated cost of capital and adjustments for ratemaking purposes of certain expenses are consistent with the treatment of other telephone utilities recently adjudicated by the Commission. Staff noted that the stipulated revenue requirement reflects rate case expenses for GST in the amount of $60,000 to be amortized and recovered over two years. Staff asserted that this level was just and reasonable and within the range of similar cases before the Commission.

NET does not object to the settlement agreement, as modified after its original presentation to the Commission on June 24, 1992, based on its belief that the agreement in no way disturbs the terms of the toll settlements process between GST and NET. The agreement does not constitute a determination by the Commission of any issue regarding toll settlements.

The OCA was a signatory to the agreement; however, they did not appear at the June 24, 1992 hearing in support of the Agreement.

III. COMMISSION ANALYSIS

Having reviewed the settlement agreement and the testimony from the June 24, 1992 hearing, we are persuaded that the terms of the settlement result in just and reasonable rates and are an acceptable resolution of the matters raised in this docket.

The stipulated cost of capital of 6.55% and a return on equity of 10.07% are appropriate and consistent with other Commission rulings, as are the disallowances for ratemaking purposes of certain GST expenses. The Commission has expressed and communicated its concern over rate case expenses. We find Staff's testimony persuasive that the rate case expenses incorporated into the stipulated revenue requirement are of a reasonable level, and concur that these rate case expenses are within the range of Union Telephone Company in DR 90-220 and Wilton Telephone Company in DR 90 221, similar cases brought before the commission.

Finally, the commission directs that it be kept informed as to the results of the review of depreciation rates. We make note of GST's agreement to specify in its next general rate case, before the initial prehearing conference, of GST's intentions to submit a lead-lag study in the case.

Our order will issue accordingly.

Concurring: August 6, 1992

ORDER

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

ORDERED, that the Rate Case Stipulation Agreement, entered into between GST and Staff (and attached hereto as Appendix A) is accepted; and it is

FURTHER ORDERED, that all terms of the Rate Case Stipulation Agreement (including supporting schedules) are incorporated by reference and made a part of this order.

By order of the New Hampshire Public Utilities Commission this sixth day of August, 1992

FOOTNOTES

[1]Total-company earnings include those revenues earned by the Company allocated to the provision of interstate services by the Federal Communications Commission.

Page 420

Rate Case Stipulation Agreement

This Agreement is entered into this 9th day of July 1992, by and between Granite State Telephone, Inc. ("GST" or the "Company") and the Staff of the New Hampshire Public Utilities Commission (the "Staff") with the intent of resolving the issues discussed herein. Furthermore, it is the desire of the Company and Staff in executing this Agreement to expedite the Commission's consideration and resolution of the issues which are the subject of this Agreement.

ARTICLE I

Introduction

1.1 This proceeding is an outgrowth of the Commission's analysis of earnings by a number of independent telephone companies, including GST, and pursuant to its Order of Notice dated December 10, 1990, that the earnings of GST be further investigated.

1.2 New England Telephone and Telegraph Company ("NET") and the Office of the Consumer Advocate ("OCA") sought and were granted intervention in this case.

1.3 On May 27, 1991 the Commission issued its Order No. 20,136 making the existing rates of GST temporary rates pursuant to RSA 378:27.

1.4 On June 17, 1991 and January 31, 1992, GST filed written testimony in support of its analysis that no rate decrease was warranted. Staff, on October 11, 1991 and May 27, 1992, filed written testimony which concluded that GST was earning in excess of a reasonable rate of return and recommended annual revenue reductions of more than $600,000 calculated on a total-company basis of more than $400,000 calculated on an intrastate-only basis after separations. The parties engaged in extensive discovery in anticipation of litigation of all rate case issues.

1.5 On June 10 and 11, 1992, Staff and GST held settlement conferences in order to explore the possibility of reaching agreement on some or all of the issues in this case. This Agreement is the result of the testimony, exhibits, data requests and responses produced by the parties, a Staff audit report and the settlement discussions between the Company and Staff.

1.6 GST and Staff agree to enter into the record at the hearing relating to approval of this Agreement, the prefiled testimony and exhibits of the parties for the purpose of showing the original positions of the parties.

1.7 GST and Staff are prepared to present testimony to the Commission in support of this Agreement at the hearing scheduled for June 24, 1992.

ARTICLE II

Revenue Excess

2.1 After extensive negotiations with respect to all issues, and in recognition of the uncertainties of litigation, the Staff and GST have reached agreement on a revenue requirement providing for an annual decrease in GST's intrastate revenues in the amount of $253,115.

2.2 The agreed revenue requirement, based upon a test year ending December 31, 1990 and calculated on an intrastate- only basis reflects the components of the agreement as detailed below:

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

Rate Base (13 month average)
$5,712,650
Rate of Return    6.55%
Required Return   374,179
Test Year Operating Income   527.768
Excess     153,589
Net to Gross Multiplier   1.6480
Revenue Excess    253,115
```

The detailed calculation of the revenue requirement is set forth in Attachment A hereto.

Page 421

ARTICLE III

Components of Agreement

3.0 Cost of Capital: Staff and the Company agree on an overall cost of capital of 6.55% and a return on equity of 10.07%;

3.1 Rate Base: The Company and Staff agree to utilize the 13 point average rate base of GST's intrastate regulated operations;

3.2 FCC Part 36 Allocations: Staff and GST agree to utilize the unadjusted 1990 Part 36 Cost Separations Study in the determination of the intrastate operations, with the following exceptions: adjustment of 1990 jurisdictional separations factors to reflect the 1991 subscriber plant factor and use of the 1991 Universal Service Fund, both described within the Part 36 Rules and Regulations;

3.3 Depreciation: Staff and the Company agree to utilize the currently authorized depreciation rates in the determination of the revenue requirement. Staff and the Company agree to engage in discussions regarding GST's recently completed study and examine the appropriateness of establishing new depreciation rates. In addition, Staff and the Company concur that any resulting agreements be put into effect in January, 1992;

3.4 Cash Working Capital: Staff and the Company agree to utilize the 45-day methodology, one-eighth of the cash operating expenses in lieu of GST's lead-lag study. GST agrees to specify in its next general rate case, at or before the time of the initial prehearing conference, whether GST intends to submit a lead-lag study in the case;

3.5 Employee Telephone Reimbursements: Staff and the Company agree that for ratemaking purposes all telephone reimbursements will be removed from GST's regulated test year operating

expenses;

3.6 Salaries: Staff and the Company agree to assign $28,294.50 of test year expenses for management level salaries to nonregulated operations for ratemaking purposes;

3.7 Nonoperating Plant: GST agrees to remove from rate base $4,402 and to book the original purchase price of the recently purchased parcel of land abutting GST's headquarters to the appropriate nonoperating plant account;

3.8 Corporate Image Advertising: It is agreed that GST's corporate image advertising test year expenses of $9,062 (including advertising related to donations to non-profit organizations which Staff believes constitute charitable contributions) will be excluded for ratemaking purposes;

3.9 Lobbying Expenses: It is agreed that the lobbying expenses incurred by the Company during the test year will be removed for ratemaking purposes, and that these expenses will be booked to account 7370, Special Charges, on an ongoing basis;

3.10 Grounds Maintenance: GST agrees, for ratemaking purposes, to remove $13,353 of test year expenses associated with grounds maintenance;

3.11 Strategic Planning Expenses: GST agrees, for ratemaking purposes, to remove $13,392 of test year expenses associated with off-site management meeting expenses;

3.12 Company Christmas Parties: GST agrees, for ratemaking purposes, to remove $1,234 of test year expenses associated with Christmas party costs;

3.13 Public Relations: GST agrees, for ratemaking purposes, to remove $11,038 of test year expenses associated with public relations;

3.14 Customer Open Houses: GST agrees, for ratemaking purposes, to remove $2,183 of test year expenses associated with customer open house costs;

3.15 Generator Lease Cost: GST has provided confirmation that GST leases, and does not presently own, the generator at its Weare offices;

3.16 Employee Awards Programs: Staff and GST agree to include for ratemaking purposes test year expenses related to GST's employee awards programs.

Page 422

3.17 Rate Case Expenses: The stipulated revenue requirement reflects rate case expenses for GST in the amount of $60,000 to be amortized and recovered over two years. If GST desires to seek further rate case expense recovery, GST shall present such request to the Commission. Staff makes no agreement in this stipulation with respect to any further recovery.

ARTICLE IV

Further Agreements by GST

4.1 Upon termination, in February 1993, of the lease relating to the 100KW diesel generator and related equipment at GST's Weare Headquarters or Plant Operations Center (POC), GST will purchase the generator from Granite State Telephone Service Corporation for on dollar. GST will submit to the Commission, as Attachment B to the Agreement, a contract binding

Granite State Telephone Service Corporation to sell the generator to GST for one dollar in February 1993.

4.2 GST will submit for Staff review, a study which will include, but will not be limited to: planned facility growth such as the Chester garage, the Reed Road facility relief project, the Weare office expansion.

4.3 GST and Staff recognize that the term of the lease arrangement and the term of the depreciation schedule for the building at the Hawkwood Road Site in Sandown differ. GST agrees to remedy this difference, in keeping with the best interest of ratepayers, within 120 days following the approval of this Stipulation Agreement.

4.4 GST agrees to demonstrate that any leasing arrangement with Granite State Telephone Service Corporation or other affiliate transactions are just and reasonable.

4.5 GST agrees, as part of its continuing long range outside plant plan (LROPP) to re-evaluate the proposed deployment of a second remote switch in the Chester Exchange. GST further agrees to review with Staff its LROPP for GST's entire franchise area, including the consistency of the LROPP with the criteria of providing additional or replacement capacity in a manner that optimizes capital investment and reliability, while minimizing stranded capacity. GST agrees to integrate these measures throughout its network and in the development of the Intelligent Network. GST specifically agrees to review with Staff, within 90 days of this Agreement, its existing LROPP to promote understanding and communication.

ARTICLE V

Implementation

5.1 Tariff Pages: Staff and the Company agree that no later than ten days following the approval of this Agreement by the Commission, GST will file revised tariff pages reflecting the inclusion of pushbutton (Touch-tone) service into basic rates, and allocating the remaining revenue reduction across-the-board by applying a uniform percentage decrease to all services and rate groups with the exception of local coin rates, services provided under contract, and intrastate toll.

5.2 Refund: Staff and the Company agree that the difference in the amounts collected under temporary rates and the rates which the Commission finds should have been in effect during such period result in excess amounts collected which must be refunded. It is agreed that interest shall be applied using the rate for each applicable quarter as stated in the Rules and Regulations at PUC 403.04(b) (2) to the ongoing refund balance. Refunds plus interest shall be paid or credited for service in the first billing cycle, following the Commission order in this docket. The amount of the refund shall be the difference between the gross revenues authorized as temporary rates and the

gross revenues authorized as permanent rates. The refund plus interest shall be applied equally on a per access line basis over a six month period by means of a credit to customers.

ARTICLE VI

Conditions

6.1 The making of this Agreement shall not be deemed to any respect to constitute an admission by any party that any allegation or contention in these proceeding is true or valid.

6.2 The approval of this Agreement by the Commission shall not constitute a determination by the Commission of any issue regarding toll settlements.

6.3 This Agreement is expressly conditioned upon the Commission's acceptance of all of its provisions, without change or condition, and if the Commission does not accept it in its entirety, without change or condition, the Agreement shall, at the option of GST, NET, or the OCA, be deemed to be null and void and without effect and shall not constitute any part of the record in this proceeding or be used for any other purpose.

6.4 The Commission's acceptance of the Agreement does not constitute continuing approval of or precedent regarding any particular issue in this proceeding (except as to the agreements made by GST in Article IV), but such acceptance does constitute a determination that (as the parties believe) the rate, reduced in the manner specified in Article V, will be just and reasonable.

6.5 The discussions which have produced this Agreement have been conducted on the explicit understanding that all offers of settlement and discussions relating thereto are and shall be privileged, and shall be without prejudice to the position of any party or participant presenting any such offer or participating in any such discussion, and are not to be used in any manner in connection with this proceeding, any future proceeding or otherwise.

ARTICLE VII

NET AND OCA

7.1 By the execution of this Agreement, NET and OCA represent that they do not oppose the approval thereof by the Commission.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their respective names by their agents, each thereunto duly authorized.

==========

NH.PUC*08/18/92*[73006]*77 NH PUC 427*SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

[Go to End of 73006]

SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

DF 92-152
ORDER NO. 20,570

77 NH PUC 427

New Hampshire Public Utilities Commission

August 18, 1992

Order Approving Extension of Short Term Debt Limit

WHEREAS, Southern New Hampshire Water Company, Inc. is authorized to operate as a public utility with a principal place of business in Londonderry, Rockingham County, New Hampshire; and

WHEREAS, Southern New Hampshire Water Company, Inc., pursuant to RSA 369:7, filed with this Commission, on August 6, 1992, a Petition for Authority to Extend its Short-Term Debt Limit; and

WHEREAS, Southern New Hampshire Water Company, Inc. proposes that the Commission increase the Short Term borrowing limit of $6,550,000 authorized by Commission Order No. 20,476 in Docket DF 92-089 to $6,650,000 until December 31, 1992; and

WHEREAS, Southern New Hampshire Water Company, Inc. Short- Term Debt limit is extended at or near the $6,550,000, which limit expired June 30, 1992; and

WHEREAS, Southern New Hampshire Water Company, Inc. is in the process of seeking to issue additional long term debt before December 31, 1992 and expects to be filing a petition with the Commission within the next few weeks; and

WHEREAS, Southern New Hampshire Water Company, Inc. is presently extended at or near its current authorized limit for short-term borrowing of $6,550,000; and

WHEREAS, Southern New Hampshire Water Company, Inc. has arranged with its parent company, Consumers Water Company, to issue to Consumers a portion of its short term debt in an amount not to exceed $3,550,000, at an interest rate below the rates charged by its other available short term creditors; and

WHEREAS, delay in the sale of a portion of the company's Amherst franchise and assets to Pennichuck Water Works, Inc., the subject of Docket DR 91-107, has resulted in a lower cash flow than projected requiring additional short term debt until the long term debt is issued; it is hereby

ORDERED, that the New Hampshire Public Utilities Commission, pursuant to RSA 369:7, finds that the continuation of the Short-Term Debt limit as proposed in the petition is consistent with the public good; and it is

FURTHER ORDERED, that the petition of Southern New Hampshire Water Company, Inc. for authority to extend its Short-Term Debt limit until December 31, 1992 be, and hereby is, approved; and it is

FURTHER ORDERED, the Southern

New Hampshire Water Company, Inc. shall, on January first and July first of each year, file with this Commission a detailed statement, duly sworn by its Treasurer, showing the disposition of the proceeds of such notes; and it is

FURTHER ORDERED, that this Order shall be effective as of the date of this Order.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of

August, 1992.

==========

NH.PUC*08/18/92*[73007]*77 NH PUC 428*CHICHESTER TELEPHONE COMPANY

[Go to End of 73007]

CHICHESTER TELEPHONE COMPANY

DR 92-141
ORDER NO. 20,571

77 NH PUC 428

New Hampshire Public Utilities Commission

August 18, 1992

Order Authorizing Approval of Three New Custom Calling Features for Chichester Telephone Company

---

On July 20, 1992, Chichester Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce three new Custom Calling Features (Call Transfer, Home Intercom, and Ring Again) for effect August 21, 1992; and

WHEREAS, the proposed rates are the same as the rates for other Individual Custom Calling Features as authorized by Commission Order No. 19,650 in DE 89-204; it is hereby

ORDERED, that the following tariff pages of Chichester Telephone Company are approved:

NHPUC - No. 3

Section 3, First Revised Sheet 3B

Section 3, First Revised Sheet 3C

Section 3, First Revised Sheet 3D

Section 3, First Revised Sheet 3D.1

Section 3, Original Sheet 3D.2

Section 3, First Revised Sheet 3E

Section 3, First Revised Sheet 3F

and it is

FURTHER ORDERED, that the above tariff pages shall be effective as of the date of this order; and it is

FURTHER ORDERED, that the Company file incremental cost support for these services with the Incremental Cost Study they were directed to file in Order No. 20,379; and it is

FURTHER ORDERED, that upon finding that the tariffed rates are below their incremental

costs, the Company's stockholders will make up the deficiency between the rates charged and the incremental cost, for the period during which rates for this service did not recover their costs; and it is

FURTHER ORDERED, that the above additions to NHPUC No.E3 Tariff be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this eighteenth day of August, 1992.

==========

NH.PUC*08/18/92*[73008]*77 NH PUC 428*KEARSARGE TELEPHONE COMPANY

[Go to End of 73008]

KEARSARGE TELEPHONE COMPANY

DR 92-140
ORDER NO. 20,572

77 NH PUC 428

New Hampshire Public Utilities Commission

August 18, 1992

Order Suspending Tariffs for Centrex Service

On July 20, 1992 Kearsarge Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce Centrex service for effect August 21, 1992; and

WHEREAS, the proposed rates submitted by the Company require further investigation by Staff; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 7

Section 3, Original Sheet 26

Section 3, Original Sheet 27

Section 3, Original Sheet 28

Section 3, Original Sheet 29

Section 3, Original Sheet 30

be and hereby are suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this eighteenth day of August, 1992.

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DE 92-073
ORDER NO. 20,573

77 NH PUC 429

New Hampshire Public Utilities Commission

August 18, 1992

Order NISI Granting Authorization for Transfer of a Single Customer of New Hampshire Electric Cooperative, Inc. to Public Service Company of New Hampshire in the Town of Bristol.

WHEREAS, on April 14, 1992 the New Hampshire Electric Cooperative (petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking permission under RSA 374:22a & c to transfer a single customer in the Town of Bristol, New Hampshire to Public Service Company of New Hampshire (PSNH); and

WHEREAS, RSA 374:22a & c have been repealed and the petition falls instead under the scope of RSA 374:22; and

WHEREAS, the customer, Mrs. Grace Jenna, is located inside the service territory of PSNH but was allowed to remain a customer of the petitioner as indicated on the approved service territory map; and

WHEREAS, the line serving Mrs. Jenna formerly provided service to Danbury and Alexandria, both of which are now served from a wholesale delivery point recently established in Alexandria; and

WHEREAS, transfer of Mrs. Jenna to PSNH would allow the petitioner to remove the remaining 1.07 miles of old, off- road line which now solely serves Mrs. Jenna; and

WHEREAS, correspondence filed with this Commission on July 9, 1992 documents Mrs. Jenna's consent to the transfer under certain conditions, including a payment of $500.00 by NHEC to Mrs. Jenna, which are acceptable to the petitioner; and

WHEREAS, PSNH is willing to provide service to Mrs. Jenna from a nearby pole under its current tariff; and

WHEREAS, it appears from the Commission's investigation that the proposed transfer is in the public good as it affords a cost-effective retirement of NHEC plant, in this instance; and

WHEREAS, the public should be offered an opportunity to respond in support of or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may

submit their comments or file a written request for a hearing on this matter before the Commission no later than September 14, 1992; and it is

FURTHER ORDERED, that the petitioner effect said notification by: (1) Causing an attested copy of this order to be published no later than August 31, 1992, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Bristol area; (2) Providing, pursuant to RSA 541-A:22, a copy of this order to the Bristol Town Clerk, by First Class U.S. mail, postmarked on or before August 31, 1992; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before September 14, 1992; and it is

FURTHER ORDERED NISI, that authority be, and hereby is granted, pursuant to RSA 374:22, et seq., to the New Hampshire Electric Cooperative, RR #4, Box 2100, Tenney Mountain Highway, Plymouth, NH 03264-9420 to transfer a single customer in the Town of Bristol, Mrs. Grace Jenna, to Public Service Company of New Hampshire, effective September 16, 1992, unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that the petitioner and PSNH file revised Commission service territory maps by December 15, 1992 reflecting the above transfer of a single customer within existing PSNH service territory and specifying thereon that the maps are effective September 16, 1992 by authority of the above Commission order number.

Page 429

By order of the New Hampshire Public Utilities Commission this eighteenth day of August, 1992.

==========

NH.PUC*08/18/92*[73010]*77 NH PUC 430*CORPORATE TELEMANAGEMENT GROUP OF NEW HAMPSHIRE, INC.

[Go to End of 73010]

CORPORATE TELEMANAGEMENT GROUP OF NEW HAMPSHIRE, INC.

DE 92-061
ORDER NO. 20,574

77 NH PUC 430

New Hampshire Public Utilities Commission

August 18, 1992

Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On March 25, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Corporate Telemanagement Group, Inc., since incorporated as

Corporate Telemanagement Group of New Hampshire, Inc. (CTG), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, CTG proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that CTG demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than September 15, 1992; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than August 31, 1992. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before September 18, 1992; and it is

FURTHER ORDERED, NISI, that CTG hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis; that CTG shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis; that CTG shall notify the Commission of its rates by filing a schedule of such rates pursuant to RSA 378:1 within one day after offering service and shall subsequently file any change in rates to be charged the public within one day after offering service at a rate other than the rate on file with the Commission; that CTG shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and

specifically N.H. Admin. Rules, Puc Chapter 400; that CTG shall be subject to all reporting requirements contained in RSA 374:15-19; that CTG shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission; that all new service offerings are to be accompanied by a description of the service, rates and effective dates; that CTG shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, CTG shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis; that CTG shall report revenues associated with each service on a monthly basis; that CTG shall report the number of customers on a monthly basis; that CTG shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow CTG to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, CTG file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that such authority shall be effective 30 days from the date of this order, unless a hearing is requested as provided above or the Commission otherwise orders prior to the proposed effective date.

By order of the New Hampshire Public Utilities Commission this eighteenth day of August, 1992.

==========

NH.PUC*08/18/92*[73011]*77 NH PUC 431*ATC NEW HAMPSHIRE, INC

[Go to End of 73011]

ATC NEW HAMPSHIRE, INC

DE 92-133
ORDER NO. 20,575

77 NH PUC 431

New Hampshire Public Utilities Commission

August 18, 1992

Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On June 30, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from ATC New Hampshire, Inc., a subsidiary of Advanced Telecommunications Corporation (ATC), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, ATC proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that ATC demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than September 15, 1992; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than August 31, 1992. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before September 18, 1992; and it is

FURTHER ORDERED, NISI, that ATC hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time

the authority granted herein may be revoked or continued on the same or different basis;that

ATC shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;that ATC shall notify the Commission of its rates by filing a schedule of such rates pursuant to RSA 378:1 within one day after offering service and shall subsequently file any change in rates to be charged the public within one day after offering service at a rate other than the rate on file with the Commission; that ATC shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400; that ATC shall be subject to all reporting requirements contained in RSA 374:15-19; that ATC shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission; that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

that ATC shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, ATC shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis; that ATC shall report revenues associated with each service on a monthly basis; that ATC shall report the number of customers on a monthly basis; that ATC shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow ATC to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, ATC file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that such authority shall be effective 30 days from the date of this order, unless a hearing is requested as provided above or the Commission otherwise orders prior to the proposed effective date.

By order of the New Hampshire Public Utilities Commission this eighteenth day of August, 1992.

==========

NH.PUC*08/19/92*[73012]*77 NH PUC 433*MCI TELECOMMUNICATIONS CORPORATION OF NEW HAMPSHIRE

[Go to End of 73012]

MCI TELECOMMUNICATIONS CORPORATION OF NEW HAMPSHIRE

DE 92-146
ORDER NO. 20,576

77 NH PUC 433

New Hampshire Public Utilities Commission

August 19, 1992

Order NISI Approving Inbound 800 Service using Business Line, WATS Access Line or Dedicated Access Line Termination for MCI VISION.

On July 29, 1992 MCI Telecommunications Corporation of New Hampshire (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce Inbound 800 Service as an option to the existing MCI VISION product offering.

WHEREAS, MCI proposed the filing become effective August 29, 1992; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than September 15, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, MCI cause an attested copy of this Order NISI to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than August 31, 1992, and is to be documented by affidavit filed with this office on or before September 21, 1992; and it is

FURTHER ORDERED NISI, that the following tariff pages of MCI Tariff PUC No. 1 INTRASTATE TELECOMMUNICATIONS SERVICES, are approved:

Check Sheet:

11th Revised Page 1

6th Revised Page 3.1

Section C:

lst Revised Page 53

3rd Revised Page 54

5th Revised Page 55

lst Revised Page 55.1 and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order NISI will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this nineteenth day of August, 1992.

==========

NH.PUC*08/20/92*[73005]*77 NH PUC 425*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73005]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-125
ORDER NO. 20,568

77 NH PUC 425

New Hampshire Public Utilities Commission

August 20, 1992

Order Confirming Conditional Approval of Special Contracts with James River Corporation and Providing Additional Opportunity for Comment

---

REPORT

I. PROCEDURAL HISTORY

On June 22, 1992, Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) Special Contract - Electricity NHPUC71 with James River Paper Company, Inc., Berlin/Gorham Group, and Special Contract - Electricity NHPUC-72 with James River Paper Company, Inc., Groveton Division (hereinafter James River Special Contracts for both). PSNH filed supporting technical statements and exhibits both with the petition and subsequently following the Commission's issuance of Order No. 20,531 on June 25, 1992, and requested that the Commission accord the petition expeditious treatment.

On July 14, 1992 by Report and Order No. 20,540, the Commission conditionally approved the James River Special Contracts retroactively to July 1, 1992 as requested by the parties, and provided for comments by interested parties to be filed by July 29, 1992.

On August 3, 1992, PSNH filed its Written Comments and/or Motion for Rehearing (Comments/Motion). No other party filed comments.

II. POSITION OF NU/PSNH

In its Comments/Motion, PSNH requested that the Commission amend Order No. 20,540 to delete the following condition:

> ...[S]hould NU petition for rate relief because the floor of the ROE collar has been triggered, NU shall compute the ROE as if the discount to the Business Recovery demand contained in these Special Contracts with James River has been paid at the full tariffed rate. Order at 13.

PSNH argues that (1) the modification would require a change to the Rate Agreement contrary to its terms, contrary to RSA 362-C:6 and contrary to the Commission's approval of the Rate Agreement in Docket DR 89-244; and (2) the condition unnecessarily alters the balance of risks and benefits between ratepayers and investors. PSNH further requests, however, that the Commission take no action to alter the effectiveness of the James River Special Contracts as of July 1, 1992, in that review of PSNH's concerns as to the Rate Agreement has no immediate impact on rates and ought not to affect James River's reliance on the Special Contracts.

III. COMMISSION ANALYSIS

We will grant PSNH's request not to disturb our conditional approval of the James River Special Contracts. For reasons discussed in our Order, we find these contracts, appropriately conditioned, to be in the public interest. We construe PSNH's statement in its Comments/Motion that "review of PSNH's concerns as to the Rate Agreement...ought not to affect James River's reliance on the Special Contracts," (at 2) to mean that PSNH intends James River to be able to rely on the effectiveness of the contracts whether or not PSNH prevails on the Rate Agreement issue. If this construction is not in accord with PSNH's intent, we presume PSNH will so inform both James River and the Commission.

PSNH proffers two objections to the condition in our approval of the James River Special Contracts that the calculation of the Return on Equity (ROE) collar in any petition for rate relief should compute revenue from James River as if it were paid at the full tariffed rates. Neither is persuasive.

The substantive issue is the argument that the condition unnecessarily alters the balance of risks and benefits between stockholders and ratepayers that was approved in DR 89-244. As discussed in Order No. 20,540 at 12-13, there is no dispute that NU/PSNH took the risk that their sales forecast was overly optimistic to the extent that the floor of the collar is not triggered. PSNH cites Report and Order No. 19,889 at 87 regarding steps to retain "vulnerable" customers as Commission acknowledgement of the potential need for special contracts. To the contrary, this discussion refers to needed rate design changes, not special contracts. NU/PSNH testified in DR 89-244 that their studies (and those of the Business and Industry Association) indicated that rate increases of 5.5% would not prompt defections from the PSNH system. However, NU/PSNH argued that rate design should be modified to protect sales from "vulnerable" customers, although NU/PSNH still maintained that its sales forecast showed that the floor of the collar would not be triggered even without rate design changes. The Commission found that it was nevertheless important that rate design be investigated, opened Docket DR 91-001 to address these issues, and subsequently approved the recommended modifications in Report and

Order 20,504.

PSNH now argues that NU/PSNH erred, and that the level of industrial rates as escalated by the 5.5% increases, even with the requested and approved rate design changes, could result in loss of customers who can only be retained by special contracts containing discounted rates. PSNH further suggests that NU/PSNH could also have miscalculated when they testified that the floor of the collar would not be triggered by customer response to the rate increases even when modified by rate design. It then argues that while it is willing (and indeed must) bear the cost of the first error, customers, not PSNH, should bear the cost of the second. At the same time, PSNH has stated both in the testimony supporting the James River contracts and in its press release announcing its filing of the contracts with the Commission that "the temporary rate discount will have no effect on rates charged to any of our other customers." June 24, 1992 Press Release quoting PSNH President Frank Locke. Our order does not shift the risk from ratepayers to stockholders. It merely guarantees that the risk of customer loss remains with NU/PSNH where they have repeatedly assured us it currently lies.

PSNH has also raised an objection concerning the process implied by the condition. PSNH claims that the modification would require a change to the Rate Agreement contrary to its terms, which it alleges is contrary to RSA 362-C:6 and the Commission's approval of the Rate Agreement in Docket DR 89244. Based on the record before us, we are not persuaded. In our view, we are not ordering a change in the terms of the Rate Agreement. Rather the Commission has indicated the appropriate rate analysis in relation to the collar if PSNH wishes to enter into these Special Contracts. Within this framework of risk apportionment, PSNH now can choose either to reject or re-affirm the Special Contracts. Assuming PSNH has decided to re-affirm its Special Contracts with James River, but believes that the framework requires formal amendment of the Rate Agreement, its remedy is to negotiate the required amendment with the State and petition the Commission for approval, consistent with the terms of the Rate Agreement.

However, we will entertain the views of other parties (and particularly the State) on the issue of whether they believe Order No. 20,540 is contrary to the Rate Agreement. PSNH need not resubmit its August 3, 1992 filing in this regard, but is entitled to supplement the filing for further presentation of its concerns if it so chooses. If the analysis of both NU/PSNH and the State indicates that in their view Order 20,540 is not consistent with the Rate Agreement, NU and the State should also indicate whether they are willing to frame and present what they perceive to be the necessary modifications.

With the exception of final approval of the effective date of the James River Special Contracts, we consider this to be an interim order, not giving rise to appeal rights or

requests for rehearing until a final order is issued in response to comments filed by PSNH, the State, any other parties or the Staff regarding their interpretation of Order No. 20,540, in light of the Rate Agreement, RSA 362-C, and the rulings in DR 89-244.

Our order will issue accordingly.

Concurring: August 10, 1992

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that the conditional approval of Special Contract - Electricity NHPUC-71 with James River Paper Company, Inc., Berlin/Gorham Group, and Special Contract Electricity NHPUC-72 with James River Paper Company, Inc. Groveton Division, contained in Order No. 20,531 is reaffirmed; and it is

FURTHER ORDERED, that PSNH, the State, any other parties or the Staff file comments regarding their interpretation of Order No. 20,540 in light of the Rate Agreement, RSA 362-C and the rulings in DR 89-244 by August 20, 1992.

==========

NH.PUC*08/24/92*[73013]*77 NH PUC 433*EUA POWER CORPORATION

[Go to End of 73013]

EUA POWER CORPORATION

DF 92-156
ORDER NO. 20,578

77 NH PUC 433

New Hampshire Public Utilities Commission

August 24, 1992

Petition for Approval to Grant Lien to Secure Up to $22 Million of Advances from Certain Seabrook Joint Owners.

WHEREAS, EUA Power Corporation ("EUA Power") has filed a petition with respect to advances, including advances pursuant to a proposed extension and

amendment of a certain Stipulation and Consent Order dated August 26, 1991 (the "First Stipulation"), a certain Stipulation and Consent Order dated July 9, 1992 (the "Second Stipulation"), and a certain Procedural Order dated July 21, 1992 issued by the United State Bankruptcy Court for the District of New Hampshire ("Procedural Order"); and

WHEREAS, the First Stipulation, which was approved by this Commission's Order No. 20,235, effective September 9, 1991, is scheduled to terminate on or about August 26, 1992 in accordance with its terms; and

WHEREAS, under the terms of the First Stipulation as it is proposed to be amended and extended, the Second Stipulation and the Procedural Order, The United Illuminating Company ("UI") and The Connecticut Light and Power Company ("CL&P") have agreed to advance to EUA Power up to $22 million aggregate principal amount on a short-term basis for the purpose

of paying EUA Power's share of expenses related to Seabrook Power Plant ("Power Plant") and certain other expenses; and

WHEREAS, UI and CL&P and other Joint Owners of the Power Plant who participate in making such advances ("Participating Joint Owners") will receive a senior lien on all the assets of EUA Power until such time as any advances, with interest, are reimbursed; and

WHEREAS, under the terms of the Agreement for Joint Ownership, Construction and Operation of New Hampshire Nuclear Units, dated May 1, 1973 as amended ("JOA"), participating joint owners have a right to make advances on behalf of other joint owners such as EUA Power for Seabrook expenses upon certain terms and conditions; and

WHEREAS, the advances established under this Agreement will allow EUA Power to preserve the value of its interest in the Power Plant, as no other sources presently are willing to provide funds to the company; and

WHEREAS, under the terms of the Second Stipulation and the Procedural Order, the Official Committee of Bondholders representing Series B and Series C secured noteholders affected by the lien has consented to the placement of the senior lien on EUA Power's assets; and

WHEREAS, the amount of interest charged on the advances is based upon the contract rate specified in paragraph 25.1 of the JOA and the financing as proposed is generally consistent with the terms of the JOA; it is hereby

ORDERED, that pursuant to RSA Chapter 369, the Commission finds that the proposed transaction, upon the terms set forth in EUA Power's petition, is consistent with the public good; and it is

FURTHER ORDERED, that EUA Power be and hereby is granted the authority to receive advances of up to $22 million from UI and CL&P and other Participating Joint Owners and to take all actions necessary for the consummation of such advances, including but not limited to providing a senior lien on all of EUA Power's assets to UI, CL&P and other Participating Joint Owners; and it is

FURTHER ORDERED, that after executing all documents necessary to complete this transaction, EUA Power shall file copies of the same with the commission.

By order of the New Hampshire Public Utilities Commission this twenty-fourth day of August, 1992.

==========

NH.PUC*08/24/92*[73014]*77 NH PUC 434*GTE NEW HAMPSHIRE

[Go to End of 73014]

GTE NEW HAMPSHIRE

DE 92-097
ORDER NO. 20,579

77 NH PUC 434

New Hampshire Public Utilities Commission

August 24, 1992

Petition for Authority to Make an Administrative Correction to its Bennington Exchange Boundary Map

---

On May 6, 1992, GTE New Hampshire (GTE) filed a petition seeking authority to make an administrative correction to its Bennington Exchange Map.

WHEREAS, the correction is required to properly reflect GTE's Bennington Exchange Franchise Area; and

Page 434

WHEREAS, the boundary correction is administrative and not customer affecting; and

WHEREAS, GTE proposes to adjust the Bennington/Hancock telephone exchange point of demarcation in the southwest corner of the exchange for a distance 1000 feet easterly to agree with New England Telephones Hancock Exchange Map on file with the Commission; it is hereby

ORDERED, that GTE make the administrative boundary correction as described in their May 6, 1992 petition; and

FURTHER ORDERED, that GTE file with the Commission its revised Bennington Exchange Map effective August 24, 1992.

By order of the New Hampshire Public Utilities Commission this twenty-fourth day of August, 1992.

==========

NH.PUC*08/24/92*[73015]*77 NH PUC 435*MULHERN v. NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73015]

MULHERN v. NEW ENGLAND TELEPHONE COMPANY

DC 92-139
ORDER NO. 20,580

77 NH PUC 435

New Hampshire Public Utilities Commission

August 24, 1992

Order Approving Assignment of New Telephone Number

For many years, attorney J. Barry Mulhern, (Mulhern) shared office space and a telephone number (the prior number) with attorney Andrew Richelson (Richelson) in Londonderry, New

Hampshire; and

WHEREAS, in the spring of 1992, Mulhern and Richelson terminated their business relationship, at which time Richelson established a separate office with a new telephone number; and

WHEREAS, Mulhern sought to maintain the prior number, which Richelson found unacceptable; and

WHEREAS, NET proposed that the prior number be discontinued for both offices, and new numbers be established for each, which Mulhern found unacceptable; and

WHEREAS, on July 15, 1992, Mulhern filed a complaint with the New Hampshire Public Utilities Commission requesting that NET be prohibited from disconnecting the prior number and assigning new numbers without his consent; and

WHEREAS, Mulhern, Richelson and NET presented their views on this dispute at an evidentiary hearing on July 28, 1992; and

WHEREAS, by letter of August 11, 1992, Mulhern states he is willing to voluntarily relinquish the prior number and have a new number assigned to his office, without need for further litigation of the matter before the Commission, thereby rendering Mulhern's complaint against NET moot; it is hereby

ORDERED, that NET discontinue the use of the prior number, assign a new telephone number to Mulhern's law practice and develop whatever transfer program agreed to between Mulhern and Richelson for calls which are received on the prior number; and it is

FURTHER ORDERED, that the assignment and activation of Mulhern's new number be completed no later than September 8, 1992; and it is

FURTHER ORDERED, that this docket be closed as the issue is now moot.

By order of the New Hampshire Public Utilities Commission this twenty-fourth day of August, 1992.

==========

NH.PUC*08/24/92*[73016]*77 NH PUC 436*CUSTOMER OWNED COIN OPERATED TELEPHONE PROVIDERS/GENERIC

[Go to End of 73016]

CUSTOMER OWNED COIN OPERATED TELEPHONE PROVIDERS/GENERIC

DE 91-213
ORDER NO. 20,581

77 NH PUC 436

New Hampshire Public Utilities Commission

August 24, 1992

Report approving special contracts with five operators of customer owned coin operated telephones (COCOT)

REPORT

I. PROCEDURAL HISTORY

On November 18, 1992, the Commission received a letter of complaint from Steven W. Rega as president of Independent Telecommunications Services (ITS), a customer owned coin operated telephone (COCOT) provider in the State of New Hampshire, requesting an investigation of the rate being charged all COCOT providers to provide local calls to its customers under current Commission rules and the corresponding tariffs (rate schedules) of New England Telephone and Telegraph Company (NET). On December 12, 1991, the Commission issued an Order of Notice scheduling a prehearing conference for January 16, 1992.

At the January 16, 1992, hearing three other COCOT providers, Apollo Communications, Inc. (Apollo), Denco Electrical Service, Inc. (Denco) and IMR Capital Corporation (IMR), moved to intervene in the proceeding. Their requests were granted without objection. Subsequently, Payphones Plus became a participant in the proceedings.

The Commission concluded during the hearing that Mr. Rega's complaint was more accurately described as a petition to amend N.H. Admin. Rules, Puc section 408 pursuant to RSA 541-A:6, and notified Mr. Rega that his request would require a Commission decision within thirty days. In light of this fact, Mr. Rega withdrew his petition for a rulemaking and the Commission opened an investigation into Puc section 408 to address the heart of the COCOT providers' concerns, their inability to effectively compete with NET under current rules and regulations.

Pursuant to the Commission's investigation the parties and Staff entered into negotiations to modify Puc section 408. As part of the negotiations the Staff presented the parties with a modified version of Puc section 408, which the parties and Staff proceeded to discuss in technical sessions. On June 26, 1992, the parties and Staff submitted a status report to the Commissioners recommending rule changes.

Subsequently, on July 20, 1992, NET filed five special contracts, with identical terms and conditions for service, with ITS, Payphones Plus, Apollo, Denco, and IMR for Commission approval pursuant to RSA 378:18, purportedly negating the need for any further Commission action relative to the Staff and the Parties' proposed modifications to Puc section 408.

Pursuant to the special contracts the five COCOT providers will receive a 20% credit if the revenues derived from the service in a given month exceed eighty dollars ($80), and NET will modify its "public access line" (PAL) tariff to include free directory assistance in the general charge.

II. COMMISSION ANALYSIS

RSA 378:18 provides that a utility may enter into "a contract at rates other than those fixed by its schedules of general application, if special circumstances exist which render such departure from the general schedules just and reasonable and consistent with the public

interest...." In its petition, the special circumstance that justifies a departure from NET's tariffs of general application is apparently the unavailability of these terms and conditions in schedules of general application.

The failure to file a tariff of general application does not constitute "special circumstances" within the purview of RSA 378:18. However, the Commission notes that the purpose of this docket was to provide for a regulatory atmosphere where competition was allowed to flourish and the record is replete with the unrefuted representations of the

Page 436

COCOT providers that they are unable to effectively compete under the current scheme of regulation. We believe this fact constitutes "special circumstances" within the purview of RSA 378:18 allowing us to approve the special contracts as filed. We take this action merely to expedite the ability of the COCOT providers that brought this matter to the Commission's attention to efficiently and economically operate in the State of New Hampshire.

We note, however, that these five special contracts may create a barrier to true competition by granting an economic advantage to the five COCOT providers which have received special contracts relative to the other thirty-three (33) COCOT providers registered to conduct business in the State of New Hampshire which will not receive the benefits of the special contracts. Thus, as NET has not distinguished these five COCOT providers from the other registered COCOT providers in New Hampshire or potential providers that would offer the service if it were generally available, we will require NET to file a tariff of general application containing the same terms as the special contracts approved herein within fifteen days of the date of this order or show cause why it should not be required to file such a tariff.

Our order will issue accordingly.

Concurring: August 24, 1992

ORDER

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

ORDERED, that the five special contacts entered into between NET and Apollo Communications, Inc., Denco Electrical Service, Inc., IMR Capital Corporation, ITS Communications and Payphones Plus filed with this Commission on July 20, 1992 are approved; and it is

FURTHER ORDERED, that NET file a tariff of general application to all COCOT providers containing the 20% discount provision and any other benefits contained in the special contracts approved herein within fifteen (15) days of the date of this order in order to foster competition in the State of New Hampshire or, within fifteen days, show cause why such tariff should not be filed.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of August, 1992.

==========

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, INC./ NORTHEAST UTILITIES

IR 90-218
ORDER NO. 20,582

77 NH PUC 437

New Hampshire Public Utilities Commission

August 25, 1992

Order Approving PSNH/NU Monitoring Plan

The New Hampshire Public Utilities Commission (Commission) opened Docket IR 90-218 on December 7, 1990 for the development of a plan to monitor the operations of Public Service Company of New Hampshire, Inc. and Northeast Utilities (collectively PSNH/NU); and

WHEREAS, after extensive negotiation, PSNH/NU and the Commission staff (staff) reported that they had reached agreement on the majority of the provision of the monitoring plan; and

WHEREAS, on March 19, 1992 by order no. 20,417 the Commission reviewed the reports filed by the parties and the summary memorandum provided by staff, approved the sections upon which the parties had agreed, and directed PSNH/NU and staff to continue to negotiate to resolve the remaining sections of the plan and report to the Commission by June 17, 1992; and

WHEREAS, on August 17, 1992 following further negotiations and approved requests for extensions, PSNH with staff concurrence filed a final report entitled "NU/PSNH Informational Reporting", attached hereto as Exhibit A, under a cover letter stating that all the outstanding issues had been resolved; it is hereby

ORDERED, that the monitoring plan as delineated in the system of informational reporting described in the final report of the parties is approved and hereby adopted; and it is

FURTHER ORDERED, that all monitoring reports that have not been previously supplied commence immediately and, where appropriate, filed retroactively.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of August, 1992.

ATTACHMENT

Exhibit A

NU/PSNH INFORMATIONAL REPORTING I. ONGOING REPORTS

A. STAFF PROPOSAL MONTHLY INTERNAL REPORTS FOR PSNH

1) STATEMENT OF EARNINGS

2) COMPARATIVE BALANCE SHEET

3) STATEMENT OF CASH FLOWS

4) REVENUE STATISTICS

5) FINANCIAL STATISTICS

NU/PSNH RESPONSE

These reports are currently provided on a monthly basis.

(Attachment 1).

STAFF EVALUATION NU/PSNH response is acceptable.

B. STAFF PROPOSAL MONTHLY INTERNAL REPORTS FOR SEABROOK

NU/PSNH RESPONSE

This information is currently provided on a monthly basis and is entitled, "Seabrook Station Unit Nos. 1 and 2 Financial Report." Also provided monthly is the "Seabrook Station Operations Report". PSNH/NU agreed to provide the Staff with year-end audited financial statements, including a project Balance Sheet and Statement of Operating Costs and the Monthly Operations Report.

PSNH/NU will provide 1) year-end audited financial statements for the project, 2) the Seabrook Station Operations Report, 3) the Seabrook Station Unit Nos. 1 and 2 Financial Report and 4) monthly financial statements for North Atlantic Energy Corp. (NAEC), the latter of which will represent the value of the NH portion of Seabrook on which the Rate Plan is based. Assuming response also includes FERC Form 1.

STAFF EVALUATION

Finance is satisfied with the commitments made by NH Yankee, which are more detailed than offered in the NU/PSNH response.

C. STAFF PROPOSAL

FORM 10K'S and 10Q'S

NU/PSNH RESPONSE

NU's 1989 10K and three 1990 10Q's (in 1) PSNH addition to two 1990 8K's are attached. 2) NU (Attachments 3 a-f). PSNH's 10K and 10Q reports are currently provided on an annual and quarterly basis, respectively.

STAFF EVALUATION

NU/PSNH response is acceptable.

D. STAFF PROPOSAL ANNUAL REPORTS TO SHAREHOLDERS

NU/PSNH RESPONSE

The PSNH Annual Report is currently 1) PSNH provided but will be eliminated as a NU result of the merger. (Please note that PSNH did not publish an annual report in 1989). 2) NU's 1989 Annual Report is attached. (Attachment 4).

STAFF EVALUATION NU/PSNH response is acceptable.

E. STAFF PROPOSAL STATISTICAL SUPPLEMENT 1) PSNH 2) NU

NU/PSNH RESPONSE

PSNH/NU does not plan to issue the statistical supplement to the Annual Report by operating company in the future. However, NU/PSNH will continue

Page 438

to issue several documents in which most of the requested information will be available (post-merger). These documents include the "Northeast Utilities Forecast and Financial Review" and the "Northeast Utilities and Subsidiaries Financial Report", the latter of which will contain PSNH information.

STAFF EVALUATION

Acceptable assuming PSNH continues to provide Annual SEC filing, and assuming PSNH continues to produce and provide the "New Hampshire Economic Review."

F. STAFF PROPOSAL

DETAILED OPERATING BUDGET FOR PSNH WITH MONTHLY VARIANCE ANALYSIS

NU/PSNH RESPONSE

The report originally proposed in PSNH/NU's January 11, 1991 response provides month and 12 month year-to-date variance analysis which is based on actual data as compared to approved annual budget data.

STAFF EVALUATION

Staff agreed that this information should be adequate assuming variance reports are informative.

G. STAFF PROPOSAL

DETAILED OPERATING BUDGET FOR SEABROOK WITH MONTHLY VARIANCE ANALYSIS

NU/PSNH RESPONSE

Please refer to response to item I.F.

STAFF EVALUATION

Staff agreed that this information should be adequate assuming variance reports are informative.

H. STAFF PROPOSAL

DETAILED CONSTRUCTION BUDGET FOR PSNH WITH MONTHLY VARIANCE ANALYSIS

NU/PSNH RESPONSE

The report originally proposed in PSNH/NU's January 11, 1991 response provides month and year-to-date data for budgeted and actual expenditures. Construction variance analysis can currently be found on what was referred to as Attachment 5.

STAFF EVALUATION

Staff agreed that this information should be adequate assuming variance reports are informative.

I. STAFF PROPOSAL

DESCRIPTION AND REASONS FOR ALL CAPITAL EXPENDITURES OVER $20 MILLION OR ANNUAL EXPENSES OVER $2 MILLION FOR TAX LAW CHANGES, ENVIRONMENTAL ORDERS, ETC.

NU/PSNH RESPONSE

Capital expenditure information is provided on an annual basis in the form of the construction budget. Information regarding tax law changes, environmental orders, etc. will be provided as events occur.

STAFF EVALUATION

NU/PSNH response is acceptable.

J. STAFF PROPOSAL

REPORT OF ALL ITEMS IN "I" REGARDLESS OF COSTS.

NU/PSNH RESPONSE

Please refer to the construction budget as stated above.

Page 439

STAFF EVALUATION NU/PSNH response is acceptable.

K. STAFF PROPOSAL

DETAILED CONSTRUCTION BUDGET FOR SEABROOK WITH MONTHLY VARIANCE ANALYSIS

NU/PSNH RESPONSE

Budget information and variance analysis is currently provided in the monthly report entitled, "Seabrook Station Unit Nos. 1 and 2 Financial Report". (Attachment 2a). This information is available at the FERC account level and will be provided.

STAFF EVALUATION

Additional data may be required in the future. Whether the NU/PSNH response is sufficient depends on the detail and format offered in response I.G.

L. STAFF PROPOSAL

DETAIL OF INTERIM SEABROOK EXPENDITURES INCURRED BEFORE DECEMBER 31, 1991

NU/PSNH RESPONSE

This information is no longer applicable.

STAFF EVALUATION

Staff agrees that this information is no longer applicable.

M. STAFF PROPOSAL

DETAIL REPORT OF PERMANENT WORK ORDERS BY DIVISION

NU/PSNH RESPONSE

PSNH/NU will provide a report of permanent work orders by PSNH division on a quarterly basis.

STAFF EVALUATION

NU/PSNH response is acceptable.

N. STAFF PROPOSAL

DETAILED MAJOR MAINTENANCE BUDGET FOR PSNH WITH MONTHLY VARIANCE ANALYSIS

NU/PSNH RESPONSE

PSNH/NU will provide backup information on major maintenance projects on a quarterly basis.

STAFF EVALUATION

NU/PSNH response is acceptable.

O. STAFF PROPOSAL

PSNH'S REPORT TO EEI

NU/PSNH RESPONSE

PSNH's 1989 report to EEI, The "Uniform Statistical Report", is attached.

STAFF EVALUATION

NU/PSNH response is acceptable.

P. STAFF PROPOSAL

NU'S REPORT TO EEI

NU/PSNH RESPONSE

NU's 1989 report to EEI, the "Uniform Statistical Report", is attached. (Attachment 7).

STAFF EVALUATION

NU/PSNH response is acceptable.

Q. STAFF PROPOSAL

INCOME TAX ALLOCATION COMPUTATIONS

NU/PSNH RESPONSE NU/PSNH will provide when available.

Page 440

STAFF EVALUATION

NU/PSNH response is acceptable.

R. STAFF PROPOSAL

CONSOLIDATED TAX RETURN AND WORK PAPERS FOR CONSOLIDATION

NU/PSNH RESPONSE

Please refer to above response (item Q).

STAFF EVALUATION

Staff agrees that the information is not currently available. Staff requests that NU/PSNH provide an annual report when it is available.

S. STAFF PROPOSAL

MONTHLY REPORT OF ALL DISTRIBUTION OUTAGES OVER 5 MINUTES SHOWING DATE, LENGTH OF OUTAGE, AND CAUSE OF OUTAGE. THIS REPORT SHOULD BE COMPARED QUARTERLY FROM JANUARY 1989.

NU/PSNH RESPONSE

This matter is being pursued on a separate track with the Chief Engineer and General Counsel. A sample report has been developed and is attached. (Attachment 8).

STAFF EVALUATION

NU/PSNH and Staff have agreed that the necessary information will be provided in a Quarterly Reliability Report.

T. STAFF PROPOSAL

MONTHLY REPORT OF ALL TRANSMISSION AND GENERATION OUTAGES OF ANY LENGTH, SHOWING DATE, LENGTH OF OUTAGE, AND CAUSE OF OUTAGE FROM JAN 1989. THIS REPORT SHOULD BE COMPARED QUARTERLY.

NU/PSNH RESPONSE

The transmission date is being combined with the distribution data into the report. Please refer top response for item S for further explanation. The generation date is currently provided in the monthly ECRM, submittal in Exhibits 10-11. (Attachment 14).

STAFF EVALUATION

NU/PSNH and Staff have agreed that the necessary information will be provided in a Quarterly Reliability Report.

U. STAFF PROPOSAL

CALCULATION OF ROLLING AVERAGE TIME OF DISTRIBUTION OUTAGES OVER A THREE YEAR PERIOD COMPARED TO CURRENT MONTH'S AVERAGE OUTAGE TIME.

NU/PSNH RESPONSE

Please refer to response for item 8.

STAFF EVALUATION

NU/PSNH and Staff have agreed that the necessary information will be provided in a Quarterly Reliability Report.

V. STAFF PROPOSAL

ANNUAL REPORT OF DISTRIBUTION, GENERATION AND TRANSMISSION OUTAGES BY YEAR STARTING IN 1989.

NU/PSNH RESPONSE

Please refer to response for item S. The generation data will be provided in separate report, a sample of which is attached. (Attachment 9).

STAFF EVALUATION

NU/PSNH and Staff have agreed that the

Page 441

necessary information will be provided in a Quarterly Reliability Report.

W. STAFF PROPOSAL

QUARTERLY REPORT BY DIVISION OF THE NUMBER OF MILES LINES FOR WHICH TREE-TRIMMING WAS DONE AND THE COST OF SUCH TRIMMING FROM JANUARY 1989.

NU/PSNH RESPONSE

Quarterly and year-to-date data will be provided in a separate report, a sample of which is attached. (Attachment 10).

STAFF EVALUATION

NU/PSNH and Staff have agreed that the necessary information will be provided in a Quarterly Reliability Report.

II. TRACKING THE TRANSITION

1. STAFF PROPOSAL (Formerly 1-3) Staff withdraws these requests as moot with regard to Staff's concern that PSNH remain a viable stand-alone company prior to merger. Staff still requires a mechanism through which it can track on-going personnel re- organizations at PSNH as PSNH is integrated into the NU system, especially in areas affecting reliability, safety and operations/customer service. NU/PSNH currently provides a limited report on positions affected

by the 1992 early retirement arrangements (reference in II.1); Staff requests that this report be expanded to include personnel changes that could affect reliability, safety and operations/customer service. In addition, Staff accepts NU/PSNH's offer of less formal quarterly briefings, in which reorganization steps are discussed, in place of written reporting. Staff further reserves its right to request documentation to support the measures discussed at the quarterly briefings, and its right to renew its request for written filings should the less formal briefings prove insufficiently fruitful.

NU/PSNH RESPONSE

This Proposal is acceptable.

2. STAFF PROPOSAL (Formerly 4) MONTHLY REPORT ON STATUS AND DEVELOPMENTS IN FERC, SEC, AND NRC PROCEEDINGS AND COPIES OF FERC AND SEC FILINGS.

NU/PSNH RESPONSE

Attached is a sample of the status report (Attachment 12). The NHPUC will receive FERC and SEC NU/PSNH filings on an ongoing basis.

STAFF EVALUATION

NU/PSNH response is acceptable.

3. STAFF PROPOSAL (Formerly 5 and 6)

In order to facilitate Staff review of policy and practice, PSNH will assemble and maintain a central file at PSNH's offices in Manchester, NH for the periodic inspection and review by the Commission or its Staff which contains the information below:

- PSNH Engineering Bulletins

- PSNH EMergency Procedures Manual

- PSNH Division Standby Supervisors Manual

- PSNH Customer Service Bulletins

- PSNH Meter Reading Manual

- PSNH Diversion Manual

- PSNH Management Control System Manual 8

- History of significant changes to the above policies and procedures since January 1, 1989 (significant changes are defined as non- housekeeping changes)

- Internal Company letters/memos to employees implementing

significant changes in operating policies and practices

PSNH will orally brief the Commission or its Staff on significant changes in PSNH's operating practices and/or policies, as PSNH or the Commission deems necessary, or as requested by its Staff. Additionally, the process itself may be modified as necessary to insure an

effective review.

STAFF EVALUATION

This proposal is acceptable.

III. ACCOUNTING FOR THE REORGANIZATION

1. STAFF PROPOSAL

DETAIL OF CLOSING COSTS.

NU/PSNH RESPONSE

This information will be provided at both the First and Second Effective Dates.

STAFF EVALUATION

NU/PSNH response is acceptable. Staff notes that the information was provided on November 8, 1991. Finance is reviewing.

2. STAFF PROPOSAL

DETAIL OF CALCULATION OF THE ACQUISITION PREMIUM.

NU/PSNH RESPONSE

This information will be calculated at both the First and Second Effective Dates, at which times it will be filed.

STAFF EVALUATION

NU/PSNH response is acceptable. However, Staff notes that the information was not provided at the First Effective Date.

3. STAFF PROPOSAL

STATE AND FEDERAL INCOME TAX RULINGS FOR PSNH AND NORTH ATLANTIC.

NU/PSNH RESPONSE

This information was provided to the NHPUC by letter dated 8/16/90, from Eve H. Oyer to Wynn E. Arnold.

STAFF EVALUATION

NU/PSNH response is acceptable. The information has been supplied.

4. STAFF PROPOSAL

DETAILED MONTHLY CALCULATION OF ROE FLOOR AND CEILING SHOWING THE COMPARISON WITH EXPECTATIONS IN THE RATE PLAN, ATTRIBUTING VARIANCES TO THEIR PROBABLE CAUSES SUCH AS SALES FORECASTS, CAPITAL EXPENDITURES RESULTING FROM CHANGES IN FEDERAL AND STATE LAWS OR REGULATIONS RELATING TO TAXES, THE ENVIRONMENT, ETC.

NU/PSNH RESPONSE

This calculation will be reported monthly beginning 6 months after the First Effective Date.

A variance analysis, by major category, will be provided on an annual basis.

STAFF EVALUATION

NU/PSNH response is acceptable.

5. STAFF PROPOSAL

COMPARISON OF DETAILED CONSTRUCTION BUDGET FOR PSNH WITH THE EXPENDITURES ASSUMED IN THE RATE PLAN.

NU/PSNH RESPONSE

The Rate Plan was developed using

Page 443

aggregate levels of operation and maintenance expenses and construction program estimates for PSNH which were assumed to be representative of these costs for purposes of developing the Rate Plan. It was never contemplated that detailed project information which underlay the aggregate levels would serve as the basis for determining comparisons of detailed budget or work order information with actual costs. However, summary information can be provided annually, in the form of a variance analysis by major category.

STAFF EVALUATION

Staff notes that Commission Report and Order 19,889 (at 123) states that "the Commission will hold PSNH strictly accountable in subsequent rate proceedings to demonstrate that they have exercised their best efforts to achieve the projected levels of synergistic savings before any rate proposals are approved." Staff will expect to inquire further in future rate proceedings.

6. STAFF PROPOSAL

COMPARISON OF DETAILED REPORT OF PERMANENT WORK ORDERS BY DIVISION TO THE EXPENSES ASSUMED IN THE RATE PLAN.

NU/PSNH RESPONSE

See response to III.5

STAFF EVALUATION

See Evaluation III.5

7. STAFF PROPOSAL

COMPARISON OF THE DETAILED MAJOR MAINTENANCE BUDGET FOR PSNH TO THE EXPENSES ASSUMED IN THE RATE PLAN.

NU/PSNH RESPONSE

See response to III.5

STAFF EVALUATION

See Evaluation III.5

8. STAFF PROPOSAL

COMPARISON OF THE ACTUAL NON-FUEL OPERATING EXPENSES TO THE EXPENSES ASSUMED IN THE RATE PLAN.

NU/PSNH RESPONSE

Please refer to response #4 above.

STAFF EVALUATION

NU/PSNH response is acceptable assuming sufficient variance analysis is performed and submitted.

9. STAFF PROPOSAL

MONTHLY DETAILED ANALYSIS OF THE SERVICE CHARGES FROM NU TO PSNH.

NU/PSNH RESPONSE

Attached is an actual bill from NU to PSNH for services provided in October, 1990 under the Management Services Agreement. Supporting detail will be made available at PSNH's office in Manchester. (Attachment 13).

STAFF EVALUATION

Staff will modify its request to specify an annual report with the detail available at PSNH's office in Manchester. Finance will provide an example of the Commission's required annual reports on affiliate contracts.

IV. FPPAC RECONCILIATION

1. STAFF PROPOSAL

Note: NU/PSNH proposes that all the information which is currently provided

Page 444

through the ECRM filings, although not explicitly requested, continue to be provided. Accordingly, that information, in addition to the requested information, is attached (Attachment 14).

ACTUAL NET ENERGY COSTS

NU/PSNH RESPONSE

This will be provided in the monthly FPPAC data filing (ECRM Exhibit 1).

STAFF EVALUATION

NU/PSNH response is acceptable.

2. STAFF PROPOSAL

ACTUAL PRIME NET OUTPUT

NU/PSNH RESPONSE

This will be provided in the monthly FPPAC data filing (ECRM Exhibit 2).

STAFF EVALUATION

NU/PSNH response is acceptable.

3. STAFF PROPOSAL

ACTUAL $ PER MWH

NU/PSNH RESPONSE

This will be provided in the monthly FPPAC data filing (ECRM Exhibit 3).

STAFF EVALUATION

NU/PSNH response is acceptable.

4. STAFF PROPOSAL

PURCHASES FROM QUALIFYING FACILITIES

NU/PSNH RESPONSE

This will be provided in the monthly FPPAC data filing (ECRM Exhibit 4).

STAFF EVALUATION

NU/PSNH response is acceptable.

5. STAFF PROPOSAL

SYSTEM POWER PURCHASES AND SALES

NU/PSNH RESPONSE

This will be provided in the monthly FPPAC data filing (ECRM Exhibit 5).

STAFF EVALUATION

NU/PSNH response is acceptable.

6. STAFF PROPOSAL

SAVINGS DUE TO SHORT-TERM PURCHASES

NU/PSNH RESPONSE

This will be provided in the monthly FPPAC Data filing (ECRM Exhibit 6).

STAFF EVALUATION

NU/PSNH response is acceptable.

7. STAFF PROPOSAL

REVENUES DUE TO SHORT-TERM SALES

NU/PSNH RESPONSE

This will be provided in the monthly FPPAC Data filing (ECRM Exhibit 6).

STAFF EVALUATION

NU/PSNH response is acceptable.

8. STAFF PROPOSAL

SCHEDULE OF MAINTENANCE DAYS FOR GENERATING UNITS FPPAC

NU/PSNH RESPONSE

This will be provided in the monthly FPPAC Data filing (ECRM Exhibit 9).

Page 445

STAFF EVALUATION

NU/PSNH response is acceptable.

9. STAFF PROPOSAL

UNSCHEDULED OUTAGES AT ALL PLANTS AND ENTITLEMENT UNITS

NU/PSNH RESPONSE

This will be provided in the monthly FPPAC Data filing (ECRM ExhibitS 10 & 11).

STAFF EVALUATION

Staff and NU/PSNH have agreed that this information will also be provided in the Quarterly Reliability Report.

10. STAFF PROPOSAL

MONTHLY SYSTEM FOSSIL STOCK SUMMARY FOR PLANT AND PLANT SUMMARY OF FUEL PURCHASED, MONTHLY NUCLEAR FUEL STOCK SUMMARY FOR NORTH ATLANTIC

NU/PSNH RESPONSE

Please see revised Exhibit 14 for fossil fuel stock summary. For nuclear fuel stock summary, Exhibit 15 has been created.

STAFF EVALUATION

NU/PSNH response is acceptable.

11. STAFF PROPOSAL

MONTHLY SYSTEM FOSSIL FUEL PURCHASED SUMMARY. MONTHLY NUCLEAR FUEL

PURCHASE SUMMARY FOR NORTH ATLANTIC

NU/PSNH RESPONSE

Please refer to above response (#10)

STAFF EVALUATION

NU/PSNH response is acceptable.

12. STAFF PROPOSAL

MONTHLY SYSTEM FOSSIL FUEL PURCHASE SUMMARY BY MAJOR PLANT

AND FUEL TYPE

NU/PSNH RESPONSE

This will be provided within revised Exhibit 14.

STAFF EVALUATION

NU/PSNH response is acceptable.

13. STAFF PROPOSAL

MONTHLY AND SEMIANNUAL SCHEDULE OF ALL PURCHASES AND SALES OF ENERGY AND CAPACITY TRANSACTIONS WITH NU-AFFILIATED COMPANIES.

NU/PSNH RESPONSE

This information will be provided in the monthly and semiannual FPPAC data filings. (ECRM Exhibits 1-3).

STAFF EVALUATION

NU/PSNH response is acceptable.

14. STAFF PROPOSAL

MONTHLY AND SEMIANNUAL SCHEDULE OF ALL PURCHASES AND SALES OF ENERGY AND CAPACITY TRANSACTIONS WITH ALL COMPANIES.

NU/PSNH RESPONSE

This information will be provided in the monthly and semiannual FPPAC data filings. (ECRM Exhibits 1-3).

STAFF EVALUATION

NU/PSNH response is acceptable.

Page 446

15. STAFF PROPOSAL

MONTHLY AND SEMIANNUAL SCHEDULES OF ALL TRANSMISSION REVENUES AND EXPENSES

NU/PSNH RESPONSE

This information will be included in the monthly and semiannual FPPAC data filings. (Exhibit 1).

STAFF EVALUATION

NU/PSNH response is acceptable.

16. STAFF PROPOSAL

MONTHLY NEPOOL SAVINGS REPORTS AND COMPUTATION OF NU ALLOCATIONS.

NU/PSNH RESPONSE

This information will be provided in new Exhibit 16 but is not yet available.

STAFF EVALUATION

NU/PSNH response is acceptable.

17. STAFF PROPOSAL

MONTHLY AND SEMIANNUAL CALCULATION AND RECONCILIATION OF ALL DEFERRED FUEL AND PURCHASED POWER AMOUNTS

NU/PSNH RESPONSE

This information will be provided in the monthly and semiannual FPPAC data filing (ECRM Exhibit 8).

STAFF EVALUATION

NU/PSNH response is acceptable.

V. TRACKING OF SYNERGIES

1a. STAFF PROPOSAL

SEABROOK -

COMPARISON OF DETAILED OPERATING BUDGET FPPAC WITH EXPENSES ASSUMED IN THE RATE PLAN

NU/PSNH RESPONSE

This information will be reflected in the information provided in the semiannual FPPAC filing. NU/PSNH will also provide a narrative description of the factors that affected the FPPAC rate. NU/PSNH will provide variance reports using the so-called one-on-one analysis budget numbers as the basis for this comparison.

STAFF EVALUATION

NU/PSNH response is acceptable.

1b. STAFF PROPOSAL

COMPARISON OF DETAILED CONSTRUCTION BUDGET WITH EXPENSES ASSUMED IN THE RATE PLAN

NU/PSNH RESPONSE

Please refer to response to V.1a.

STAFF EVALUATION

NU/PSNH response is acceptable.

1c. STAFF PROPOSAL

MONTHLY DETAIL OF SEABROOK O&M EXPENSES

NU/PSNH RESPONSE

Please refer to response to V.1a.

STAFF EVALUATION

NU/PSNH response is acceptable.

1d. STAFF PROPOSAL MONTHLY DETAIL OF SEABROOK WRITE-OFFS AND DEFERRALS

Page 447

NU/PSNH RESPONSE

The information will be disclosed in NAEC's monthly financial statements which will be provided. (See Section I, item B).

STAFF EVALUATION

NU/PSNH response is acceptable.

1e. STAFF PROPOSAL

AMOUNT AND COST OF REPLACEMENT POWER FOR SEABROOK DURING SCHEDULED AND UNSCHEDULED OUTAGES

NU/PSNH RESPONSE

PSNH/NU and Staff have agreed that PSNH will provide estimates of replacement power costs for Seabrook outages, as outlined in PSNH's letter to the Commission dated November 14, 1991. Replacement cost estimates will be provided in PSNH's semiannual FPPAC filings.

STAFF EVALUATION

Staff and NU/PSNH have agreed that this information will be provided in the Quarterly Reliability Report.

2a. STAFF PROPOSAL

FOSSIL STEAM UNIT AVAILABILITY MONTHLY, YEAR-TO-DATE, 12-MONTH-TO-DATE AND PIP ROLLING- AVERAGE AVAILABILITY FACTORS FOR ALL BASE AND INTERMEDIATE UNITS OWNED

NU/PSNH RESPONSE

Please refer to response #1 above.

STAFF EVALUATION

NU/PSNH response is acceptable if the information is actually included in the FPPAC filing.

2b. STAFF PROPOSAL

COMPARISON OF AVAILABILITY FACTORS WITH THOSE ASSUMED IN THE RATE PLAN

NU/PSNH RESPONSE

Please refer to response #1 above.

STAFF EVALUATION

NU/PSNH response is acceptable if the information is actually included in the FPPAC filing.

3. STAFF PROPOSAL

ADMINISTRATIVE & GENERAL EXPENSES COMPARISON OF DETAILED OPERATING BUDGET FOR PSNH WITH THE EXPENSES ASSUMED IN THE RATE PLAN

NU/PSNH RESPONSE

To the extent that the Administrative and General synergies are sufficiently identifiable, a variance analysis by major category will be provided annually.

STAFF EVALUATION

Staff notes that detailed monthly reports on the PSNH operating budget are currently filed.

4. STAFF PROPOSAL

COAL PURCHASING COMPARISON OF COAL PURCHASING EXPENSES WITH THOSE ASSUMED IN THE RATE PLAN

NU/PSNH RESPONSE

PSNH/NU suggest that this matter be further discussed during the FPPAC hearings.

STAFF EVALUATION

Staff agrees that the detail can be provided

Page 448

in FPPAC. To calculate the promised synergy, however, Staff request that NU specify an objective standard, the discrepancy historically observed in PSNH's performance with regard to the standard, and a description of NU/PSNH's policy and practices that will assure that NU/PSNH will satisfy or exceed this objective standard. Cooperative efforts under the Management Services Agreement between the NU and PSNH Fuel Procurement departments have already resulted in improved coal purchasing activities.

5a. STAFF PROPOSAL

NEPOOL ENERGY EXPENSES AND PEAK LOAD DIVERSITY - COMPARISON OF ACTUAL ENERGY EXPENSES AND PEAK LOAD DIVERSITY SAVINGS WITH THOSE IN THE RATE PLAN

NU/PSNH RESPONSE

Please refer to response #1 above.

STAFF EVALUATION

Staff and NU/PSNH agree that NU/PSNH will submit a table with the FPPAC filing that compares the peakload diversity savings filed in IV.16 with the assumptions in the rate plan.

5b. STAFF PROPOSAL

REPORT OF CHANGES IN THE NEPOOL AGREEMENTS & PROCEDURES AS THEY

OCCUR

NU/PSNH RESPONSE

Staff is specifically interested in receiving 1) NEPOOL Operating Procedure changes, 2) Criteria Rules & Standard changes, and 3) NEPOOL Automated Billing System changes. This information will be provided.

STAFF EVALUATION

NU/PSNH response is acceptable.

VI. OTHER

1. STAFF PROPOSAL

STATUS REPORTS ON SPP NEGOTIATIONS

NU/PSNH RESPONSE

PSNH will provide a report in its FPPAC filing on the status of SPP negotiations.

STAFF EVALUATION

NU/PSNH response is acceptable.

2. STAFF PROPOSAL

ANALYSIS OF C&LM COSTS AND PROGRAMS BY ACCOUNT AND WHETHER COSTS ARE IN $1.167 MILLION, FPPAC COSTS OR ARE OTHER COSTS

NU/PSNH RESPONSE

An analysis of C&LM expenditures for 1989 and 1990 was provided in August, 1990. (Please see Attachment 15a). In addition, a new set of General Ledger accounts have been established and reviewed with Staff to enable the capture of C&LM costs. Two reports which were sent to the NHPUC on this matter have been attached. (Attachments 15 b & c).

STAFF EVALUATION

Staff and NU/PSNH have agreed on the accounting and format of the analysis. As noted in PSNH/NU's January 1991 response, PSNH/NU is prepared to report C&LM costs in the format and accounting included in the sample reports which were attached. However, the Commission and the parties have not yet determined which programs and costs are to be accomplished in the $1.167 million.

Page 449

3. STAFF PROPOSAL

RATE DESIGN

NU/PSNH RESPONSE

This information will be provided with the context of the PSNH rate design docket, DR 91-001.

STAFF EVALUATION

NU/PSNH response is acceptable. Staff notes that the rate design issues are being pursued separately from the general monitoring effort.

4. STAFF PROPOSAL

COMPLIANCE TARIFF UPDATES

NU/PSNH RESPONSE

This information will be provided at a future date but before the First Effective Date.

STAFF EVALUATION

NU/PSNH response is acceptable. The information has been supplied.

VII. NEW REQUEST

1. STAFF PROPOSAL

Report on emission by plant in whatever format and timing report to NH Department of Environmental Services.

NU/PSNH RESPONSE

PSNH currently reports both sulfur dioxide (SO2) and nitrogen oxide (NOx) emissions by united and month on a quarterly basis to the DES. Copies of these quarterly reports will be sent to the NHPUC.

STAFF EVALUATION

NU/PSNH response is acceptable.

==========

NH.PUC*08/25/92*[73018]*77 NH PUC 451*CONTINENTAL CABLEVISION, INC.

[Go to End of 73018]

CONTINENTAL CABLEVISION, INC.

DE 92-155
ORDER NO. 20,583

77 NH PUC 451

New Hampshire Public Utilities Commission

August 25, 1992

Order NISI Granting Authorization for a Crossing of Cable Television Aerial Plant Over the Contoocook River in the City of Concord, New Hampshire

---

On August 11, 1992 Continental Cablevision, Inc. of New England (petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to install and maintain an aerial cable-TV crossing over the Contoocook River in the City of Concord, New Hampshire; and

WHEREAS, an existing electric crossing at this site was approved by this Commission as crossing number 35 in Re Concord Electric Co., 37 NH PUC 211 (1955); and

WHEREAS, an existing telephone crossing at the same site was approved as crossing number 14 in Re New England Telephone and Telegraph Co., 37 NH PUC 227 (1955); and

WHEREAS, the existing and proposed crossings are from Concord Electric Co. pole 50 (also identified as NET pole 10/93) on River Road on the southeast side of the river, approximately one mile northeast of the Riverhill Bridge, to Concord Electric Co. pole 13X (NET pole 10U/1) on the northwest side of the river; and

WHEREAS, the cable-TV crossing is proposed to provide service to two customers on the northwest side of the river under the petitioner's franchise agreement with the City of Concord; and

WHEREAS, the proposed cable-TV line will be strung a minimum of 40 inches below the existing electric conductors and one foot above the existing telephone cable, the latter being approximately 22 feet above the river, therefore meeting National Electrical Safety Code standards; and

WHEREAS, the Commission finds the above installation and maintenance is necessary to enable the petitioner to provide service, without substantially affecting the public rights in or above said waters, and, thus, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than September 25, 1992; and it is

FURTHER ORDERED, that the petitioner effect said notification by: (1) Causing an attested copy of this order to be published no later than September 10, 1992, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Concord area; (2) Providing, pursuant to RSA 541-A:22, a copy of this order to the Concord City Clerk, by First Class U.S. mail, postmarked on or before September 10, 1992; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before September 25, 1992; and it is

FURTHER ORDERED NISI, that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Continental Cablevision, Inc., 8 Commercial Street, Concord, New Hampshire, 03301 to install and maintain the aforementioned crossing of an aerial cable-TV line over the Contoocook River in the City of Concord, New Hampshire, effective September 26, 1992 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the City of Concord.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of August, 1992.

==========

NH.PUC*08/26/92*[73019]*77 NH PUC 452*AT&T COMMUNICATIONS OF NEW HAMPSHIRE INC.

[Go to End of 73019]

AT&T COMMUNICATIONS OF NEW HAMPSHIRE INC.

DE 92-150
ORDER NO. 20,584

77 NH PUC 452

New Hampshire Public Utilities Commission

August 26, 1992

Order NISI Approving AT&T Real Time Rated Class of Service and Simplified Dial Station Rate Schedule

---

On August 5, 1992 AT&T Commun- ications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to add Real Time Rated class of service for Station and/or Person calls and to simplify the Dial Station Rate Schedule.

WHEREAS, AT&T proposed the filing become effective September 5, 1992; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than September 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order Nisi to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than September 8, 1992 and is to be documented by affidavit filed with this office on or before September 28, 1992; and it is

FURTHER ORDERED NISI, that the following tariff pages of AT&T Tariff PUC No. 4 - LONG DISTANCE SERVICE, are approved:

Table of Contents: 1st Revised Pages 4, 5 and 6

Tariff Information: 1st Revised Pages 2 and 3

Original Page 4

Section 1: 1st Revised Pages 30 and 32

Section 2: 1st Revised Pages 3, 5, 7, 8, 9, 10, 12, 16 and 20

and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order Nisi will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of August, 1992.

==========

NH.PUC*08/26/92*[73020]*77 NH PUC 452*SPRINT COMMUNICATIONS COMPANY OF NEW HAMPSHIRE, INC.

[Go to End of 73020]

SPRINT COMMUNICATIONS COMPANY OF NEW HAMPSHIRE, INC.

DE 92-157
ORDER NO. 20,585

77 NH PUC 452

New Hampshire Public Utilities Commission

August 26, 1992

Order NISI Approving SPRINT RESIDENTIAL 800 Service and Changes to Mechanized Calling Card Service and Sprint QuickConference

---

On August 18, 1992 SPRINT Communications Company of New Hampshire (SPRINT) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce SPRINT RESIDENTIAL 800 Service and make changes to the Mechanized Calling Card Service and Sprint QuickConference product offerings.

WHEREAS, SPRINT proposed the filing become effective September 24, 1992; and

Page 452

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to anaylze the effects of competition, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may

submit their comments or file a written request for a hearing on this matter before the Commission no later than September 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, SPRINT cause an attested copy of this Order Nisi to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than September 8, 1992 and is to be documented by affidavit filed with this office on or before September 28, 1992; and it is

FURTHER ORDERED NISI, that the following tariff pages of SPRINT's Tariff PUC No. 3 - Intercity Telecommunications Services are approved:

5th Revised Page 1

1st Revised Page 45

3rd Revised Page 48

1st Revised Page 53

and it is

FURTHER, that SPRINT file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order NISI will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of August, 1992.

==========

NH.PUC*09/01/92*[73021]*77 NH PUC 453*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73021]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 91-001
ORDER NO. 20,586

77 NH PUC 453

New Hampshire Public Utilities Commission

September 1, 1992

Report Denying Request for Finding of Eligibility for Compensation

---

REPORT

The Campaign for Ratepayers' Rights (CRR) filed on July 25, 1991, in docket DR 91-011, on July 26, 1991, in docket DR 91-001, and on August 31, 1991, in docket DR 91-119, requests for

findings of eligibility for PURPA compensation pursuant to the standards of the Public Utility Regulatory Policy Act of 1978 (PURPA) and the implementing regulations promulgated by the New Hampshire Public Utilities Commission (commission), N.H. Admin. Rules Puc 205.

Docket No. DR 91-011 concerned the Public Service Company of New Hampshire (PSNH) Fuel and Purchased Power Adjustment Clause (FPPAC), previously established by this commission in docket DR 89-244. Docket DR 91-119 was limited to the issue of the effect, if any, FERC Opinion No. 364, docket EC 90-10- 000, has on the rate agreement approved by the commission in DR 89-244.

CRR's requests for findings of eligibility for compensation in DR 91-011 and DR 91-119 were denied by the commission. Report and Order No. 20,254 (September 24, 1991).

On July 27, 1992, CRR filed a motion seeking a commission ruling on its earlier request for finding of eligibility for compensation in DR 91-001. In its earlier request for compensation, CRR asked the commission to approve compensation at a level sufficient for CRR "to retain counsel of comparable experience and expertise to that of counsel for the utility". CRR Request for Finding of Eligibility for Compensation in DR 91-001 at 7.

The commission issued its final order in DR 91-001 on June 8, 1992. Report and Order No. 20,504. In its decision, the commission

did not rule on CRR's request for finding of eligibility for compensation. The commission did, however, note that CRR, to the extent that it had participated in the proceeding, had been represented by Robert C. Cushing, Jr., who is not a member of the Bar and in violation of RSA 311:3. Report at 25, footnote 9.

There is no record to indicate that CRR incurred expenses for counsel. Consequently, we find that CRR's request for finding of eligibility in DR 91-011 is moot since as noted supra, said compensation was intended to reimburse CRR for attorney fees which the record in this proceeding reveals were never incurred. Since CRR's request is moot, it must be denied. Estate of Alfred Kelley v. Hillsborough County Personnel Committee, 120 N.H. 779 (1980) citing Marshall v. Thalasinos, 116 N.H. 671 (1976).

Our order will issue accordingly.

Concurring: September 1, 1992

ORDER

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

ORDERED, that the Campaign for Ratepayers' Rights' request for finding of eligibility for compensation is denied.

By order of the Public Utilities Commission of New Hampshire this first day of September, 1992.

==========

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICE COMPANY

DF 92-160
ORDER NO. 20,587

77 NH PUC 454

New Hampshire Public Utilities Commission

September 1, 1992

Order NISI Approving Substitution of New Letter of Credit Bank

---

WHEREAS, on August 13, 1992, Public Service Company of New Hampshire ("PSNH") and Northeast Utilities Service Company ("NUSCO") filed a petition with the New Hampshire Public Utilities Commission (the "Commission") seeking approval to substitute a new letter of credit and reimbursement relationship with Barclays Bank PLC, New York Branch ("Barclays") in place of the existing relationship with Citibank, N.A. ("Citibank") with respect to PSNH's outstanding Series D taxable pollution control revenue bonds (the "Series D PCRBs"); and

WHEREAS, the proposed substitution of Barclays as the letter of credit bank will occur pursuant to the terms of the financing agreements already approved and determined by the Commission to be consistent with the public good by the Commission in Order No. 19,888 in Docket No. 89-244 (July 20, 1990); and

WHEREAS, the proposed stipulation will not require the issuance of any new securities or the incurrence of any additional indebtedness by PSNH; and

WHEREAS, the proposed substitution will reduce the risks of increased financing costs in the future potentially raised by the existing Citibank letter of credit; and

WHEREAS, the proposed substitution will allow PSNH to obtain diversification with respect to its letter of credit providers; and

WHEREAS, the Commission finds that the proposed substitution is consistent with the public good; it is hereby

ORDERED, NISI, that the Commission

hereby approves and authorizes, pursuant to RSA 369:1 and RSA 369:4, the execution and delivery by PSNH of a new letter of credit and reimbursement agreement with Barclays with respect to the Series D PCRBs, substantially in the form submitted to the Commission in the PSNH/NUSCO petition; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rule Puc 203.01, the companies shall cause an attested copy of the Order NISI to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than September 4, 1992, and it to be documented by affidavit filed with this office on or before September 18, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than September 18, 1992; and it is

FURTHER ORDERED, that this Order NISI will be effective on September 21, 1992, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this first day of September, 1992.

==========

NH.PUC*09/01/92*[73024]*77 NH PUC 457*CARLETON WATER COMPANY TRUST

[Go to End of 73024]

CARLETON WATER COMPANY TRUST

DR 89-083
ORDER NO. 20,589

77 NH PUC 457

New Hampshire Public Utilities Commission

September 1, 1992

Order Granting in Part and Denying in Part Carleton's Motion for Necessary Findings and Determinations, Clarification, Amendment, Modification and/or Rehearing

---

Appearances: Harman and Clarke Law Offices by Mary Ellen Kiley, Esq. for Carleton Water Company Trust; Robert and Joyce Carroll and William DeProfio of the Sunrise Lake Association; Robert Manzelli of the Birch Hill Association; Office of Consumer Advocate by John Rohrbach for Residential Ratepayers; Eugene F. Sullivan, III Esq. on behalf of the New Hampshire Public Utilities Commission Staff.

REPORT

I. PROCEDURAL HISTORY

As a result of proceedings on a show cause order, see Report and Order No. 19,387 (May 2, 1989) in DR 89-032, Carleton Water Company Trust (the Trust) on May 8, 1989, filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide water services in North Conway, Middleton, Tuftonboro and Thornton, New Hampshire and for approval of temporary rates.

On October 17, the Commission Staff (Staff) and the Trust stipulated to temporary rates at

current levels. On April 27 and May 29, 1990, the Commission heard evidence on the franchise petition and permanent rate request for systems known as Birch Hill (East and West), 175 Estates, Sunrise and Hidden Valley.

On August 9, 1991, at Carleton's request, the Commission reopened the hearing for the purpose of taking new testimony on the sale of real property by the Trust to Mr. Carleton, his lease of the property back to the Trust, and the Trust's request to include long term debt in the ratemaking formula.

The Commission, on July 15, 1992 issued Report and Order No. 20,541 (Order No. 20,541) which, among other things, rejected Carleton's request for rate base valuation on the basis of replacement cost and other estimates of value where records were unavailable and found the sale/leaseback arrangement to be imprudent. For a full procedural history, see Order No. 20,541. This Report and Order addresses the issues raised in Carleton's Motion for Necessary Findings and Determinations, Clarification, Amendment, Modification and/or Rehearing of Commission Order No. 20,541 (Motion) timely filed by Carleton on August 4, 1992.

II. POSITIONS OF THE PARTIES AND STAFF

A. Carleton Water Company Trust

Carleton raises three primary issues in its Motion: 1) some calculations and schedules require clarification, allocation or correction and some issues not specifically addressed in Order No. 20,541 must be determined before Carleton can file the necessary tariffs to implement Order No. 20,541; 2) the Commission should not have found the sale and leaseback agreement between the Trust and Mr. Carleton to have been imprudent; and 3) the Commission is free to adopt a different methodology to establish rate base and should have done so in this case because the rates resulting from the Commission's rate base methodology are unjust, unreasonable, confiscatory and a violation of equal protection guarantees.

B. Sunrise Lake and Birch Hill Associations

The Sunrise Lake Association and the Birch Hill Association did not file a response to Carleton's Motion.

Page 457

C. Office of Consumer Advocate

The Office of Consumer Advocate did not file a response to Carleton's Motion.

D. Commission Staff

The Commission Staff did not file a response to Carleton's Motion.

III. COMMISSION ANALYSIS

In consideration of Carleton's Motion, the Motion should be granted in part and denied in part. We agree with Carleton that the following issues should be clarified:

A. Carleton states that the Commission has not established line item values for plant in service. The attached schedules incorporate such line item values for each system.

B. Carleton states that the Commission did not establish a methodology for computing

working capital. The attached schedules calculate the working capital for each stand alone system based on the billing arrangements for that system in accordance with standard Commission practice. See, Paragraph L. below.

C. Carleton has not yet submitted rate case expense amounts. We therefore made determinations on the substance of the rate case itself, with the understanding that Carleton, if it were to seek rate case expense recovery, would make the appropriate filing. We will entertain a request for rate case expense recovery if it is filed within a reasonable time, either as part of the necessary tariffs or in a separate filing made soon thereafter. Contained within that filing should be Carleton's recommendation as to whether expenses should be amortized or surcharged and over what period of time.

D. Carleton requests that a fixed asset adjustment account be approved. We will allow such treatment.

E. Carleton asserts that the depreciation methodology proposed by the Staff is insufficient to provide net depreciation to cover the principal of the approved long term debt. We are concerned that Carleton appears to consider depreciation as a method by which debt is financed, rather than a basis on which depreciated plant is replaced. Carleton should be financing its debt through its approved cost of capital. Carleton is authorized to depreciate on the basis of the book value of its investments, regardless of its long term debt.

Given Carleton's organization as a trust and its concerns regarding its ability to finance long term debt, it is especially important that a depreciation fund be established, as recommended by the Staff. Such an account should be separately created, beginning in 1992, and the amount of depreciation expense taken for 1992 and each year thereafter be placed in the account. If such account is interest bearing, earned interest should be applied to the depreciation account as well. Depreciation schedules are contained within the schedules attached hereto.

F. Carleton correctly notes that the Staff's schedules did not contain the management contract in Carleton's expenses. The management contract amount of $25,000, allocated among the systems, has been included in the attached schedules. These schedules also include approved operating and maintenance expenses (i.e. cost of power, professional fees. etc).

G. Carleton correctly notes that the return on equity stated in Order No. 20,541 incorrectly used a figure agreed to by Carleton and the Staff but which was later amended by agreement of Carleton and the Staff. The correct return on equity figure should be 12.33%.

H. Carleton asserts that the Commission failed to determine the cost or the approved amount of long term debt. We hereby approve $64,000 of accounts payable as long term debt, the amount presented at the final hearing in this case. Given the affiliated nature of the transaction, we will establish the cost of that

debt to be the prime rate of 6%.

Because the equity in the systems is so limited, the allocation of the long term debt results in a negative equity, which in turn reduces the overall rate of return for each system to the cost rate established above for the long term debt. Carleton's capital structure is found within the attached

schedules.

There have been no subsequent proceedings regarding accounts payable, though Carleton now states it has another $161,520 in accounts payable that it would like approved. We will not approve that debt at this time; Carleton should file a request for such approval, if it so chooses, including an explanation of how so significant an amount of debt could be developed in less than 12 months.

I. Carleton notes that Order No. 20,541 granted temporary rates effective July 21, 1989, but did not address the methodology by which those rates would be collected. It is Carleton's responsibility to recommend how it believes those temporary rates should be collected, a recommendation which should be included in its tariff filing. In the absence of any recommendation by Carleton or the Staff or any figure revealing the gross amount sought to be recovered at this time, it is not appropriate to set a temporary rate recovery mechanism. Rather, we will entertain Carleton's recommendation, in the form of a proposed tariff, as to recovery of temporary rates.

J. Carleton states that the Commission made no determination on rate structure. From the record we assume that all Carleton customers are residential customers and that there is no need for a rate structure designating classes of customers or types of service. Thus, Carleton shall apply one uniform rate throughout each system until the systems are metered.

K. Carleton notes that the Commission failed to rule on its request that it consolidate its Birch Hill and Birch Hill West rates. The rates for the two Birch Hill systems will be consolidated. With the exception of the now consolidated Birch Hill and Birch Hill West rates, the remaining systems should be treated as stand alone entities.

L. Carleton requests that it adopt quarterly billing in arrears. Since in the near future, the systems should be billed on the basis of metered use, we do not find it appropriate to change over billing systems now, given the possibility of another change in billing in the future. The billing mechanism for each system shall remain as is: for Birch Hill, quarterly in arrears; for 175 Estates, annual in arrears; for Sunrise and Hidden Valley, annual in advance. We instruct Carleton to file within the next three months a proposal for installation of meters or, in the alternative, why the systems should not be changed to metered use.

M. Carleton states that the income tax effect of cost of service has not been determined. The attached schedules include the tax effect of cost of service.

Carleton's second argument is that the Commission erred in finding the Trust's sale of property to Mr. Carleton and his subsequent lease of that property back to the Trust to have been imprudent. Carleton further argues that our determination resulted in an unconstitutional taking of property and, because other sale/leaseback agreements have been approved in unrelated cases, our determination violates Carleton's state and federal equal protection guarantees.

The sale/leaseback was explored at length during the course of the hearing. We found that the transaction between the Trust, which is controlled by Mr. Carleton, and Mr. Carleton himself, was not in the public interest and was imprudent resulting in unjust and unreasonable rates if included in the cost of service. We did not hold that sale leaseback arrangements are never prudent, and indeed the Commission has allowed sale/leaseback arrangements in certain cases. It is a case by case determination, however, based on the record developed; in this case we

did not find the arrangement to be a prudent one. Nothing in Carleton's Motion causes us to reconsider our finding of

imprudence; Carleton's requests for rehearing on the basis of our determination of prudence of the sale/leaseback arrangement, therefore, are denied.

Carleton's third argument is that we were not required to employ the rate base valuation methodology we did and, further, that the method we used results in rates which are unjust, unreasonable, confiscatory and in violation of state and federal constitutional protections. We reject these arguments, and find that they have been fully litigated in the course of the proceedings.

We customarily use the valuation methodology based on original cost minus depreciation, relying on books and records which document those costs. See, Missouri ex. rel. Southwestern Bell Telephone Company v. Missouri Public Service Commission, 262 U.S. 276 (1923), (Brandeis, J., dissenting). We do not find it appropriate as a matter of regulation or public policy to impose on ratepayers costs which a utility cannot document, due to its own failure to develop and maintain reliable records. Our refusal to apply a fair market value, replacement value or any other estimation of value for those costs which cannot be documented has not been imposed on Carleton alone; it is and has been our traditional and customary treatment of rate base valuation for the utilities which are subject to our jurisdiction and, as the Supreme Court has recently stated, is the methodology required by RSA Chapter 378. See Appeal of Richards, 134 N.H. 148 (1991).

Carleton's requests for rehearing regarding rate base valuation, therefore, are denied.

Our order will issue accordingly.

Concurring: September 1, 1992

ORDER

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

ORDERED, that Carleton Water Company Trust's Motion for Necessary Findings and Determinations, Clarification, Amendment, Modification and/or Rehearing (Motion) is hereby granted for the purposes of clarification as delineated in III A through M of the foregoing report; and it is

FURTHER ORDERED, that the Motion is denied as to the request for rehearing of our valuation of rate base and the prudency of the sale/leaseback.

By order of the Public Utilities Commission of New Hampshire this first day of September, 1992.

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175REVREQ REVENUE REQUIREMENT

EXHIBIT 1

RATE BASE (EX. 2) 3,957 RATE OF RETURN (EX. 1, SCH. 1) 6.00% --------- REVENUE REQUIREMENT 237 OPERATING INCOME (EX.3) 641 --------- DEFICIENCY (404) TAX EFFECT (EX.1, SCH.3) 0 PERCENT INCREASE REVENUE DECREASE REQUIRED (404) 6.12% ========= ======== MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175COSTCAP OVERALL RATE OF RETURN EXHIBIT 1 SCHEDULE 1

COMPONENT WEIGHTED COMPONENT COST AVERAGE RATIO RATE COST RATE AMOUNT (PERCENT) (PERCENT) (PERCENT) --------- ----------- ----------- ----------- EQUITY (38,456) 0.00% 12.33% 0.00% LONG TERM DEBT 64,000 100.00% 6.00% 6.00% SHORT TERM DEBT 0 0.00% 0.00% 0.00% --------- ----------- ----------- TOTAL 25,544 100.00% 6.00% ========= ========== ========== NOTE: Negative Equity participation should be given no weight in the capital structure and, therefore, there is no equity component in the capital structure.

Page 461

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175EFFTAX EFFECTIVE TAX FACTOR EXHIBIT 1 SCHEDULE 2

TAXABLE INCOME 100.00% LESS: B.P.T. 8.00% --------- FED TAXABLE INCOME 92.00% F.I.T. RATE 0.00% --------- F.I.T. 0.00% ADD: B.P.T. (SEE ABOVE) 8.00% --------- EFFECTIVE TAX RATE 8.00% ========= PERCENT OF INCOME AVAILABLE IF NO TAX 100.00% EFFECTIVE TAX RATE 8.00% --------- PERCENT USED AS A DIVISOR IN DETERMINING THE REVENUE REQUIREMENT 92.00% =========

Page 462

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175TAX INCOME TAX COMPUTATION EXHIBIT 1 SCHEDULE 3

TOTAL RATE BASE (EXHIBIT 2) 3,957 EQUITY COMPONENT OF CAPITAL COST (EX.1, SCH.1) 0.00% -------- NET INCOME REQUIRED 0 TAX EFFECT (EX.1, SCH.2) 0 ========

Page 463

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175RATBAS RATE BASE EXHIBIT 2

PLANT IN SERVICE (EX.2; SCH.4) 41,322 LESS: CONTRIBUTION IN AID (EX.2; SCH.4) 48,000 --------- TOTAL PLANT IN SERVICE (6,678) LESS: ACC. DEPRECIATION (EX.2; SCH.4) 10,730 ADD: CONTRIBUTION AMORT. RESERVE (EX.2; SCH.4) 12,284 --------- NET PLANT IN SERVICE (5,123) ========= STAFF: NET

PLANT IN SERVICE 0 ADD WORKING CAPITAL: TOTAL O&M EXPENSE (EX.3) 6,781 TIMES 58.36% (213 DAYS) 58.36% --------- CASH WORKING CAPITAL 3,957

ADD: MATERIALS & SUPPLIES (EST.) 0 UNAMORT. RATE CASE EXP.(EX.3; SCH.3) 0 --------- TOTAL WORKING CAPITAL 3,957 --------- RATE BASE 3,957 =========

Page 464

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175DEPSCH DEPRECIATION SCHEDULE EXHIBIT 2 SCHEDULE 1

DISCOUNTED 1987 DEPRECIATION DEPRECIATION 1988 DEPRECIATION 1988 REPLACEMENT 1987 1987 [1] PLANT DEPREC. RESERVE RESERVE PLANT RESERVE DEPRECIATION ASSET COST- 1972 ADDITIONS RETIREMENTS BALANCES RATE 1986 1987 BALANCES 1988 EXPENSE PUMPS 1,229 1,229 10.00% 1,229 1,229 1,229 1,229 0 BUILDING 9,586 9,586 3.33% 4,633 4,953 9,586 5,272 320 MAINS 21,984 21,984 2.00% 6,375 440 21,984 879 440 SERVICES 549 549 2.00% 159 170 549 181 11 STORAGE TANKS 4,692 4,692 3.33% 2,268 2,424 4,692 2,580 156 METERS 0 0 0 0 0 0 0 WELLS 3,282 3,282 2.00% 952 1,018 3,282 1,083 66

-------- --- --- -------- -------- -------- -------- -------- ------ TOTAL VALUE 41,322 0 0 41,322 15,617 10,233 41,322 11,226 992 ======== === === ======== ======== ======== ======== ======== ======== =====

[1] - EXHIBIT 2; SCHEDULE 3

Page 465

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175CONTR AMORTIZATION OF CONTRIBUTION EXHIBIT 2 SCHEDULE 2

1972 AMORTIZATION 1987 [1] 1987 AMORTIZATION AMORTIZATION 1988 CONTRIBUTION RESERVE CONTRIBUTION CONTRIBUTION RESERVE RESERVE AMORTIZATION ASSET WEIGHTED 1986 RETIREMENT WEIGHTED 1987 1988 EXPENSE PUMPS 1,428 1,428 0 1,428 1,249 1,249 0 BUILDING 11,135 5,382 11,135 5,753 6,124 371 MAINS 25,537 7,406 25,537 511 1,021 511 SERVICES 637 185 637 198 210 13 STORAGE TANKS 5,450 2,634 5,450 2,816 2,997 182 METERS 0 0 0 0 0 0 0 WELLS 3,813 1,106 3,813 1,182 1,258 76

-------- -------- --- -------- -------- -------- ------- TOTAL PLANT VALUE 48,000 18,140 0 48,000 11,708 12,861 1,153 ======== ======== === ======== ======== ======== ======= [1] - CONTRIBUTION RETIREMENT WEIGHTED % OF RETIRED PLANT; EX.2, SCH.1.

Page 466

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175RETIRE COMPUTATION OF RETIREMENTS EXHIBIT 2 SCHEDULE 3

REPLACEMENT DESCRIPTION ORIGINAL COST COST ---------- ---------- ---------- 1HP SUB PUMP 248 1,100

Page 467

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175BALANCE AVERAGE BALANCES EXHIBIT 2 SCHEDULE 4

PLANT IN ACCUMULATED CONTRIBUTION CONTRIBUTION YEAR SERVICE [1] DEPRECIATION IN-AID [2] AMORTIZATION ----- ---------- ---------- ---------- ---------- 1987 41,322 10,233 48,000 11,708 1988 41,322 11,226 48,000 12,861 ----- ---------- ---------- ---------- ---------- TOTAL 82,644 21,459 96,000 24,569 AVERAGE 41,322 10,730 48,000 12,284 ========== ========== ========== ========== [1] - EXHIBIT 2, SCHEDULE 1 [2] - EXHIBIT 2, SCHEDULE 2

Page 468

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175INC OPERATING INCOME STATEMENT EXHIBIT 3 YEAR ENDING 12/31/88

12 MONTHS PROFORMA TEST YEAR PROPOSED TEST YEAR ENDING 12/88 REFERENCE ADJUSTMENTS PROFORMA REFERENCE INCREASE PROFORMA OPERATING REVENUES ---------- REVENUES- FIRM 6,600 6,600 EX1 (404) 6,196 ------- ------- TOTAL REVENUES 6,600 6,600 (404) 6,196

OPERATING EXPENSES ---------- COST OF POWER 960 960 960 OTHER PRODUCTION 0 EX.3;SCH2 0 0 0 MAINT. EXPENSE 0 EX.3;SCH2 413 413 413 RENTS 0 0 0 ADM. & GEN. EXPENSES: MANAGEMENT FEE 0 EX.3;SCH2 3,454 3,454 3,454 REGULATORY 0 EX.3;SCH2 50 50 50 INSURANCE 0 EX.3;SCH2 422 422 422 PROFESSIONAL FEES 0 EX.3;SCH2 500 500 500 OFFICE SUPPLIES 0 EX.3;SCH2 983 983 983 MISC. 0 0 0 ----- ------- ------- ------- TOTAL O&M EXP. 960 5,821 6,781 6,781 TAXES: F.I.T. 0 0 EX1 (21) (21) PROPERTY 330 330 330 STATE 0 0 EX1 21 21 OTHER 0 0 0 DEPRECIATION 0 0 0 AMORTIZATION (1,153) EX.3;SCH4 0 (1,153) (1,153) --------- ------- --------- ------- TOTAL EXPENSE 137 5,821 5,959 5,959 OTHER OPERATING INC. 0 0 0 0 ------- ------- ----- ----- NET OPERATING INCOME 6,463 5,821 641 237 ======= ======= ===== =====

Page 469

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175ALLOC ALLOCATION FACTOR EXHIBIT 3 SCHEDULE 1

HIDDEN BIRCH HILL VALLEY SUNRISE 175 ESTATES TOTAL NUMBER CUSTOMERS 168 26 61 40 295 PERCENT 56.95% 8.81% 20.68% 13.56% 100.00% TOTAL PLANT COST $178,425 $21,374 $52,594 $41,322 $293,715 PERCENT 60.75% 7.28% 17.91% 14.07% 100.00%

-------- ------- -------- -------- --------- WEIGHTED AVERAGE 58.85% 8.05% 19.29% 13.81% 100.00% ======== ======= ======== ======== =========

Page 470

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175PROFEXP PROFORMA ADJUSTMENTS - EXPENSES EXHIBIT 3

ITEM # DESCRIPTION AMOUNT --------- ---------- -------- 1 PROFORMA ADJUSTMENT FOR PRODUCTION LABOR 0 WATER INDUSTRIES, INC. MAINTENANCE SERVICES,

Contract replaces this amount per Commission decision

2 PROFORMA ADJUSTMENT FOR MANAGEMENT FEES 3,454 AS PER AGREEMENT WITH STAFF. $25,000 ALLOCATED AMONG THE SYSTEMS.

Contract as approved by Commission decision

3 PROFORMA ADJUSTMENT TO PROFESSIONAL FEES. 500 ACCOUNTING COSTS $500 (ANNUAL REPORT); $500 FOR TAXES & $1000 FOR LEGAL FEES ALLOCATED AMONG THE SYSTEMS. Staff position-legal fees included in rate case expenses, should be no others; cost of annual report and taxes $500 total each systems.

4 PROFORMA ADJUSTMENT TO OFFICE SUPPLIES. 983 Total all systems amount for postage includes envelopes & invoices - $600. 83 Telephone Expenses-Each system-$300. 300 Office Rent-Each system-$600 600

5 PROFORMA ADJUSTMENT LAB FEES: 413 3YR. TEST PER WELL ($475*2 WELLS/3) 317 MONTHLY TEST PER SYSTEM ($8*12) 96 The 3 Year test is $475 not $450 and the monthly test is per system not per well.

6 PROFORMA ADJUSTMENT FOR P.U.C. ASSESSMENT FEE 50 The PUC Assessment minimum is $50.00 not $25.00.

7 PROFORMA ADJUSTMENT INSURANCE PREMIUM 422 ESTIMATE. $3000 ALLOCATED BY PLANT VALUE.

Page 471

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175RATCAS RATE CASE EXPENSE

EXHIBIT 3 SCHEDULE 3

AMOUNT 175 ESTATES ALLOCATION PREPARATION OF TESTIMONY AND EXHIBITS WITH LITIGATION 4,250 LEGAL FEES 12,000 MISCELLANOUS (COPIES; PHONE; TRAVEL; ECT.) 750 ACCOUNTANT FEE (RATE CASE AUDIT) 800 -------- TOTAL ESTIMATED EXPENSE 17,800 2,459 TWO YEAR AMORTIZATION 8,900 1,229 ======== ======= UNAMORTIZED RATE CASE EXPENSE 8,900 1,229 ======== ======= STAFF IS RECOMMENDING RECOUPMENT OF ACTUAL COMMISSION APPROVED RATE CASE EXPENSES OVER FIVE YEARS. 0 =======

Page 472

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175CALCRATE RATE CALCULATION EXHIBIT 4

TOTAL REVENUE REQUIREMENT 6,196 NUMBER OF CUSTOMERS 40 --------- ANNUAL WATER CHARGE PER CUSTOMER $154.90 QUARTERLY RATE $38.72 ========= STAFF IS RECOMMENDING THAT THE RATES REMAIN AS ANNUAL IN ARREARS.

Page 473

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHCONTENTS EXHIBITS & SCHEDULES TABLE OF CONTENTS

EXHIBIT SCHEDULE DESCRIPTION NO. NO. ------------------------- ---------- ---------- REVENUE REQUIREMENT 1 OVERALL RATE OF RETURN 1 1 EFFECTIVE TAX FACTOR 1 2 INCOME TAX COMPUTATION 1 3 RATE BASE 2 DEPRECIATION SCHEDULE - BIRCH 2 1 AMORTIZATION RESERVE - FIXED ASSET ADJ. 2 2 DEPRECIATION SCHEDULE - BIRCH WEST 2 3 AMORTIZATION RESERVE - FIXED ASSET ADJ. 2 4 CONTRIBUTION - MAIN (BIRCH WEST) 2 5 RETIREMENT SCHEDULE - BIRCH 2 6 RETIREMENT SCHEDULE - BIRCH WEST 2 7 AVERAGE BALANCES 2 8 OPERATING INCOME 3 SYSTEM ALLOCATION FACTOR 3 1 PROFORMA ADJUSTMENT - EXPENSE 3 2 RATE CASE EXPENSE 3 3 COMPUTATION OF RATE SCHEDULE 4

Page 474

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHREVREQ REVENUE REQUIREMENT EXHIBIT 1

RATE BASE (EX. 2) 22,442 RATE OF RETURN (EX. 1, SCH. 1) 6.00% -------- REVENUE REQUIREMENT 1,347 OPERATING INCOME (EX.3) 9,183 -------- DEFICIENCY (7,837) TAX EFFECT (EX.1, SCH.3) 0 PERCENT INCREASE REVENUE DECREASE REQUIRED (7,837) -21.20%

========== ==========

Page 475

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHCOSTCAP OVERALL RATE OF RETURN EXHIBIT 1 SCHEDULE 1

COMPONENT WEIGHTED COMPONENT COST AVERAGE RATIO RATE COST RATE AMOUNT (PERCENT) (PERCENT) (PERCENT) -------- ----------- ----------- ----------- EQUITY (38,456) 0.00% 12.33% 0.00% LONG TERM DEBT 64,000 100.00% 6.00% 6.00% SHORT TERM DEBT 0 0.00% 0.00% 0.00% -------- ----------- ---------- TOTAL 25,544 100.00% 6.00% ======== ========== ========== NOTE: Negative Equity participation should be given no weight in the capital structure and, therefore, there is no equity component in the capital structure.

Page 476

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHEFFTAX EFFECTIVE TAX FACTOR EXHIBIT 1 SCHEDULE 2

TAXABLE INCOME 100.00% LESS: B.P.T. 8.00% -------- FED TAXABLE INCOME 92.00% F.I.T. RATE 0.00% -------- F.I.T. 0.00% ADD: B.P.T. (SEE ABOVE) 8.00% -------- EFFECTIVE TAX RATE 8.00% ======== PERCENT OF INCOME AVAILABLE IF NO TAX 100.00% EFFECTIVE TAX RATE 8.00% -------- PERCENT USED AS A DIVISOR IN DETERMINING THE REVENUE REQUIREMENT 92.00% ========

Page 477

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHINCTAX INCOME TAX COMPUTATION EXHIBIT 1 SCHEDULE 3

TOTAL RATE BASE (EXHIBIT 2) 22,442 EQUITY COMPONENT OF CAPITAL COST (EX.1, SCH.1) 0.00% ------- NET INCOME REQUIRED 0 TAX EFFECT (EX.1, SCH.2) 0 =======

Page 478

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHRATBAS RATE BASE EXHIBIT 2

PLANT IN SERVICE (EX.2, SCH.8) (*) 178,425 LESS: FIXED ASSET ADJ. (EX.2; SCH.8) 116,277 CONTRIBUTION - MAIN ((EX.2; SCH.8) (*) 0 -------- TOTAL PLANT IN SERVICE 62,149 LESS: ACC. DEP./ AMORT. (EX.2; SCH.8) 63,275 ADD: FIXED ASSET ADJ. AMORT. (EX.2; SCH.8) 18,400 CONTRIBUTION RESERVE (EX.2; SCH.8)

(*) 0 (*) STAFF: ONLY BIRCH HILL IS INCLUDED. BIRCH HILL WEST IS ZERO. -------- NET PLANT IN SERVICE 17,291 ADD WORKING CAPITAL: TOTAL O&M EXPENSE (EX. 3) 25,070 TIMES 20.55% (75 DAYS) 20.55% -------- CASH WORKING CAPITAL 5,151

ADD: MATERIALS & SUPPLIES (EST.) 0 UNAMORT. RATE CASE EXP. 0 -------- TOTAL WORKING CAPITAL 5,151 -------- RATE BASE 22,442 ========

Page 479

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHDEPSCH DEPRECIATION SCHEDULE EXHIBIT 2 SCHEDULE 1

DISCOUNTED 1981 1981 1981 PLANT PLANT DEPRECIATION 1988 DEPRECIATION 1988 REPLACEMENT DEPREC. DEPRECIATION NET BOOK RETIREMENTS ADDITIONS BALANCE RESERVE PLANT RESERVE DEPRECIATION ASSET COST- 1969 RATE RESERVE VALUE 1981 1987 1987 BALANCES 1988 EXPENSE PUMPS 2,136 10.00% 2,136 0 2,136 2,136 2,136 2,350 214 BUILDING 40,712 3.33% 16,963 23,749 40,712 25,106 40,712 26,463 1,357 MAINS 42,326 2.00% 10,582 31,745 42,326 15,661 42,326 16,507 847 SERVICES 1,492 2.00% 373 1,119 1,492 552 1,492 582 30 STORAGE TANKS 14,230 3.33% 5,929 8,301 14,230 8,775 14,230 9,249 474 COMPRESSOR 1,504 10.00% 1,504 0 1,504 2,406 1,504 2,557 150 WELLS 18,645 2.00% 4,661 13,984 18,645 6,899 18,645 7,272 373 LAND 57,380 0 57,380 57,380 57,380 57,380 --------- -------- --------- --- --- --------- -------- --------- --------- ------- TOTAL VALUE 178,425 42,149 136,277 0 0 178,425 61,535 178,425 64,980 3,445 ========= ======== ========= === === ========= ======== ========= ========= =======

Page 480

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHFIXASS FIXED CAPITAL ADJUSTMENT EXHIBIT 2 SCHEDULE 2

1981 1981 FIXED 1981 1987 AMORTIZATION AMORTIZATION 1988 NET BOOK PURCHASE ASSET AMORTIZATION RETIREMENT ASSET RESERVE RESERVE AMORTIZATION ASSET VALUE PRICE ADJUSTMENT RATE [1] ADJUSTMENT 1987 1988 EXPENSE PUMPS 0 0 0 10.00% 0 0 0 0 0 BUILDING 23,749 3,485 20,263 5.71% 0 20,263 7,526 8,684 1,158 MAINS 31,745 4,659 27,086 2.67% 0 27,086 4,695 5,417 722 SERVICES 1,119 164 955 2.67% 0 955 166 191 25 STORAGE TANKS 8,301 1,218 7,082 5.71% 0 7,082 2,631 3,035 405 COMPRESSOR 0 0 0 10.00% 0 0 0 0 0 WELLS 13,984 2,052 11,931 2.67% 0 11,931 2,068 2,386 318 LAND 57,380 8,421 48,959 48,959 0 0 --------- -------- --------- --- --------- -------- -------- ------- TOTAL PLANT VALUE 136,277 20,000 116,277 0 116,277 17,086 19,714 2,629 ========= ======== ========= === ========= ======== ======== ======= [1] - BASED ON REMAINING LIFE.

Page 481

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL - WEST TESTIMONY BIRCH_WDEPSCH DEPRECIATION SCHEDULE EXHIBIT 2 SCHEDULE 3

DISCOUNTED 1984 1984 1984 PLANT PLANT DEPRECIATION 1988 DEPRECIATION 1988 REPLACEMENT DEPREC. DEPRECIATION NET BOOK RETIREMENTS ADDITIONS BALANCE RESERVE PLANT RESERVE DEPRECIATION ASSET COST- 1971 RATE RESERVE VALUE 1984 1987 1987 BALANCES 1988 EXPENSE PUMPS 866 10.00% 866 0 866 866 866 953 87 BUILDING 8,286 3.33% 3,452 4,833 8,286 829 8,286 1,105 276 MAINS 16,141 2.00% 4,035 12,106 16,141 5,004 16,141 5,327 323 SERVICES 429 2.00% 107 321 429 137 429 146 9 STORAGE TANKS 3,941 3.33% 1,642 2,299 3,941 2,102 3,941 2,233 131 COMPRESSOR 300 10.00% 300 0 300 391 300 421 30 WELLS 3,915 2.00% 979 2,936 3,915 1,214 3,915 1,292 78 LAND 0 0 0 0 0 -------- -------- -------- --- --- -------- -------- -------- -------- ----- TOTAL VALUE 33,878 11,382 22,496 0 0 33,878 10,542 33,878 11,476 934 ======== ======== ======== === === ======== ======== ======== ======== =====

Page 482

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL - WEST TESTIMONY BIRCH_WFIXASS FIXED CAPITAL ADJUSTMENT EXHIBIT 2 SCHEDULE 4

1984 1984 FIXED 1984 1987 AMORTIZATION AMORTIZATION 1988 NET BOOK PURCHASE ASSET AMORTIZATION RETIREMENT ASSET RESERVE RESERVE AMORTIZATION ASSET VALUE PRICE ADJUSTMENT RATE ADJUSTMENT 1987 1988 EXPENSE PUMPS 0 0 0 10.00% 0 0 0 0 0 BUILDING 4,833 0 4,833 6.06% 0 4,833 1,025 1,318 293 MAINS 12,106 0 12,106 2.74% 0 12,106 1,161 1,493 332 SERVICES 321 0 321 2.74% 0 321 31 40 9 STORAGE TANKS 2,299 0 2,299 6.06% 0 2,299 488 627 139 COMPRESSOR 0 0 0 10.00% 0 0 0 0 0 WELLS 2,936 0 2,936 2.74% 0 2,936 282 362 80 LAND 0 0 0 0 0 0 0 -------- --- -------- --- -------- -------- -------- ----- TOTAL PLANT VALUE 22,496 0 22,496 0 22,496 2,986 3,839 853 ======== === ======== === ======== ======= ======= =====

Page 483

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL - WEST TESTIMONY BIRCH_WCONTR CONTRIBUTION IN AID - MAINS EXHIBIT 2 SCHEDULE 5

AMOUNT CONTRIBUTED TOWARD MAINS - 1984 4000 AMORTIZATION RESERVE - 1987 280 AMORTIZATION RESERVE - 1988 360 ANNUAL AMORTIZATION 80

Page 484

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHRETIRE COMPUTATION OF RETIREMENTS EXHIBIT 2 SCHEDULE 6

DISCOUNTED REPLACEMENT DESCRIPTION ORIGINAL COST COST ---------- ---------- ---------- ELECTRIC ENTRANCES (3) 589 1,550 2HP SUMP PUMPS (3) 850 3,437 3HP SUMP PUMP 386 1,395 AIR COMPRESSOR (4) 532 1,760 ELECTRIC PANELS (6) 1,439 2,220 MAGNETIC STARTERS (12) 840 2,640 HEATERS (6) 149 1,080 McDONNELL MILLER CONTROLS(6) 707 2,370 SETS ELECTRIC CONTROLS (6) SEE ELECT. PANELS 3,720 PIPING (3) 38 630 VALVES (STRUCTURES) (3) 227 480 WIRING (6) SEE ELECT. PANELS 2,508 2" MAIN SHUT OFF VALVES (4) SEE VALVES 440

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL - WEST TESTIMONY BIRCH_WRETIRE COMPUTATION OF RETIREMENTS EXHIBIT 2 SCHEDULE 7

REPLACEMENT DESCRIPTION ORIGINAL COST COST ---------- ---------- ---------- PUMP HOUSE 5,683 14,015 ELECTRICAL ENTRANCE 235 675 AIR COMPRESSOR 159 440 McDONNELL MILLER CONTROL 141 395 PUMP 334 1,021 PITLESS ADAPTER AND CAP (1) 55 146 160# 1 1/4" PLASTIC PIPE 101 280 1" CONDUIT 22 90 NO. 10-3 CABLE 224 210 MAGNETIC STARTERS (2) 168 440 HEATER AND LIGHT 36 206 ALL PIPING AND VALVES (STRUCTURE) 329 1,100 ALL WIRING AND CONTROLS 528 800 REPAIR LEAKS 1,732 4,400

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHBAL AVERAGE BALANCES EXHIBIT 2 SCHEDULE 8

PLANT IN ACCUMULATED FIXED ASSET ASSET ADJUST. YEAR SERVICE DEPRECIATION ADJUSTMENT AMORTIZATION ---------- 1987 178,425 61,535 116,277 17,086 1988 178,425 64,980 116,277 19,714 ---------- TOTAL 356,851 126,514 232,554 36,800 ---------- AVERAGE 178,425 63,257 116,277 18,400 ==========

CONTRIBUTION CONTRIBUTION YEAR MAINS RESERVE ---------- 1987 4,000 280 1988 4,000 360 ---------- TOTAL 8,000 640 ----------

AVERAGE 4,000 320 ==========

Page 487

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHINC OPERATING INCOME STATEMENT EXHIBIT 3 YEAR ENDING 12/31/88

12 MONTHS PROFORMA TEST YEAR PROPOSED TEST YEAR ENDING 12/88 REFERENCE ADJUSTMENTS PROFORMA REFERENCE INCREASE PROFORMA OPERATING REVENUES ---------- REVENUES- FIRM 36,960 36,960 EX1 (7,837) 29,123 -------- --------- -------- --------- -------- TOTAL REVENUES 36,960 36,960 (7,837) 27,123

OPERATING EXPENSES ---------- COST OF POWER 5,592 5,592 5,592 OTHER PRODUCTION 0 EX.3,SCH.2 0 0 0 MAINT. EXPENSE 0 EX.3,SCH.2 1,140 1,140 1,140 RENTS 0 0 0 ADM. & GEN. EXPENSES: MANAGEMENT FEE 0 EX.3,SCH.2 14,712 14,712 14,712 REGULATORY 0 EX.3,SCH.2 50 50 50 INSURANCE 0 EX.3,SCH.2 1,822 1,822 1,822 PROFESSIONAL FEES 0 EX.3,SCH.2 500 500 500 OFFICE SUPPLIES 0 EX.3,SCH.2 1,253 1,253 1,253 MISC. 0 0 0 ------- -------- -------- --------- -------- TOTAL O&M EXP. 5,592 19,478 25,070 25,070 TAXES: F.I.T. 0 0 EX1 (117) (117) PROPERTY 1,890 1,890 1,890 OTHER 0 0 0 DEPRECIATION 4,379 4,379 4,379 AMORTIZATION (3,562) EX.3,SCH.3 0 (3,562) (3,562) --------- -------- --------- --------- TOTAL EXPENSE 8,299 19,478 27,777 (117) 27,660 OTHER OPERATING INC. 0 0 0 0 0 -------- ---------- ------- --------- ------- NET OPERATING INCOME 28,661 (19,478) 9,183 (7,719) 1,464 ======== ========== ======= ======== =======

Page 488

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHALLFAC ALLOCATION FACTOR EXHIBIT 3 SCHEDULE 1

HIDDEN BIRCH HILL VALLEY SUNRISE 175 ESTATES TOTAL NUMBER CUSTOMERS 168 26 61 40 295 PERCENT 56.95% 8.81% 20.68% 13.56% 100.00% TOTAL PLANT COST $178,425 $21,374 $52,594 $41,322 $293,715 PERCENT 60.75% 7.28% 17.91% 14.07% 100.00%

-------- ------- -------- -------- --------- WEIGHTED AVERAGE 58.85% 8.05% 19.29% 13.81% 100.00% ======== ======= ======== ======== ========= NOTE: STAFF DOES NOT USE BIRCH HILL WEST IN TOTAL PLANT COST.

Page 489

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHPROEXP PROFORMA ADJUSTMENTS - EXPENSES EXHIBIT 3 SCHEDULE 2

ITEM # DESCRIPTION AMOUNT --------- ---------- --------

1 PROFORMA ADJUSTMENT FOR PRODUCTION LABOR 0 WATER INDUSTRIES, INC.

Contract replaces this amount per Commission decision

2 PROFORMA ADJUSTMENT FOR MANAGEMENT FEES 14,712 AS PER AGREEMENT WITH STAFF. $25,000 ALLOCATED AMONG THE SYSTEMS.

Contract as approved by Commission decision

3 PROFORMA ADJUSTMENT TO PROFESSIONAL FEES. 500 ACCOUNTING COSTS $500 (ANNUAL REPORT); $500 FOR TAXES & $1000 FOR LEGAL FEES ALLOCATED AMONG THE SYSTEMS. Staff position-legal fees included in rate case expenses, should be no others; cost of annual report and taxes $500 total each systems.

4 PROFORMA ADJUSTMENT TO OFFICE SUPPLIES. 1,253 Total all systems amount for postage includes envelopes & invoices - $600. $353 Telephone Expenses-Each system-$300. $300 Office Rent-Each system-$600 $600

5 PROFORMA ADJUSTMENT LAB FEES: 1,140 3YR. TEST PER WELL ($475*7 WELLS/3) $1,108 QUARTERLY TEST PER SYSTEM $32 The 3 year test is $475 not $450 and the monthly test is quarterly per system not well.

6 PROFORMA ADJUSTMENT FOR P.U.C. ASSESSMENT FEE 50 The PUC Assessment minimum is $50.00 not $25.00.

7 PROFORMA ADJUSTMENT INSURANCE PREMIUM ESTIMATE. $3000 ALLOCATED BY PLANT VALUE. 1,822

Page 490

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHRATCAS RATE CASE EXPENSE EXHIBIT 3 SCHEDULE 3

AMOUNT BIRCH HILL ALLOCATION PREPARATION OF TESTIMONY AND EXHIBITS WITH LITIGATION 4,250 LEGAL FEES 12,000 MISCELLANOUS (COPIES; PHONE; TRAVEL; ECT.) 750 ACCOUNTANT FEE (RATE CASE AUDIT) 800 -------- TOTAL ESTIMATED EXPENSE 17,800 10,475 TWO YEAR AMORTIZATION 8,900 5,238 ======== ======= UNAMORTIZED RATE CASE EXPENSE 8,900 5,238 ======== ======= STAFF IS RECOMMENDING RECOUPMENT OF ACTUAL COMMISSION APPROVED RATE CASE EXPENESE OVER FIVE YEARS. 0 ======

Page 491

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 BIRCH HILL TESTIMONY BIRCHCALCRAT RATE CALCULATION EXHIBIT 4

TOTAL REVENUE REQUIREMENT 29,123 NUMBER OF CUSTOMERS 168 ---------

ANNUAL WATER CHARGE PER CUSTOMER $173.35 QUARTERLY RATE $43.34 ========= STAFF IS RECOMMENDING THAT THE BILLING METHOD REMAIN QUARTERLY IN ARREARS.

Page 492

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVCONTENTS EXHIBITS & SCHEDULES TABLE OF CONTENTS

EXHIBIT SCHEDULE DESCRIPTION NO. NO. ---------- --------- ---------- REVENUE REQUIREMENT 1 OVERALL RATE OF RETURN 1 1 EFFECTIVE TAX FACTOR 1 2 INCOME TAX COMPUTATION 1 3 RATE BASE 2 DEPRECIATION SCHEDULE 2 1 AMORTIZATION RESERVE - FIXED ASSET ADJ. 2 2 AVERAGE BALANCES 2 3 OPERATING INCOME 3 SYSTEM ALLOCATION FACTOR 3 1 PROFORMA ADJUSTMENT - EXPENSE 3 2 RATE CASE EXPENSE 3 3 COMPUTATION OF RATE SCHEDULE 4

Page 493

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVREVREQ REVENUE REQUIREMENT EXHIBIT 1

RATE BASE (EX. 2) 727 RATE OF RETURN (EX. 1, SCH. 1) 6.00% --------- REVENUE REQUIREMENT 44 OPERATING INCOME (EX.3) (749) --------- DEFICIENCY 793 TAX EFFECT (EX.1, SCH.3) 0 PERCENT --------- INCREASE REVENUE DEFICIENCY 793 19.06% ========= ==========

Page 494

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVCOSTCAP OVERALL RATE OF RETURN EXHIBIT 1 SCHEDULE 1

COMPONENT WEIGHTED COMPONENT COST AVERAGE RATIO RATE COST RATE AMOUNT (PERCENT) (PERCENT) (PERCENT) -------- ----------- ----------- ----------- EQUITY (38,456) 0.00% 12.33% 0.00% LONG TERM DEBT 64,000 100.00% 6.00% 6.00% SHORT TERM DEBT 0 0.00% 0.00% 0.00% -------- ----------- ----------- ----------- TOTAL 25,544 100.00% 6.00% ======== ========== ========== NOTE: Negative Equity participation should be given no weight in the capital structure and, therefore, there is no equity component in the capital structure.

Page 495

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVEFFTAX EFFECTIVE TAX FACTOR

EXHIBIT 1 SCHEDULE 2

TAXABLE INCOME 100.00% LESS: B.P.T. 8.00% --------- FED TAXABLE INCOME 92.00% F.I.T. RATE 0.00% --------- F.I.T. 0.00% ADD: B.P.T. (SEE ABOVE) 8.00% --------- EFFECTIVE TAX RATE 8.00% ========= PERCENT OF INCOME AVAILABLE IF NO TAX 100.00% EFFECTIVE TAX RATE 8.00% --------- PERCENT USED AS A DIVISOR IN DETERMINING THE REVENUE REQUIREMENT 92.00% =========

Page 496

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVINCTAX INCOME TAX COMPUTATION EXHIBIT 1 SCHEDULE 3

TOTAL RATE BASE (EXHIBIT 2) 727 EQUITY COMPONENT OF CAPITAL COST (EX.1, SCH.1) 0.00% ------- NET INCOME REQUIRED 0 TAX EFFECT (EX.1, SCH.2) 0 =======

Page 497

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVRATBAS RATE BASE EXHIBIT 2

PLANT IN SERVICE (EX.2, SCH.3) 21,374 LESS: FIXED ASSET ADJ. (EX.2, SCH.3) 11,242 -------- TOTAL PLANT IN SERVICE 10,132 LESS: ACC. DEP./ AMORT. (EX.2, SCH.3) 8,947 ADD: FIXED ASSET ADJ. AMORT. (EX.2, SCH.3) 2,201 -------- NET PLANT IN SERVICE 3,386

ADD WORKING CAPITAL: TOTAL O&M EXPENSE (EX. 3) 4,557 TIMES 58.36% (213 DAYS) 58.36% --------- CASH WORKING CAPITAL (2,659)

ADD: MATERIALS & SUPPLIES (EST.) 0 UNAMORT. RATE CASE EXP. 0 --------- TOTAL WORKING CAPITAL (2,659) --------- RATE BASE 727 =========

Page 498

MJN 08/06/92 CARLETON WATER COMPANY TRUST TESTIMONY DISK 5, CARLTON8 HIDDEN VALLEY EXHIBIT 2 HVDEPSCH DEPRECIATION SCHEDULE SCHEDULE 1

DISCOUNTED 1980 1980 1980 PLANT PLANT DEPRECIATION 1988 DEPRECIATION 1988 REPLACEMENT DEPREC. DEPRECIATION NET BOOK RETIREMENTS ADDITIONS BALANCE RESERVE PLANT RESERVE DEPRECIATION ASSET COST- 1965 RATE RESERVE VALUE 1980 1987 1987 BALANCES 1988 EXPENSE PUMPS 349 10.00% 349 0 349 349 349 384 35 BUILDING 4,868 3.33% 2,515 2,353 4,868 3,651 4,868 3,813 162 MAINS 7,626 2.00% 2,364 5,262 7,626 3,432 7,626 3,584 153 SERVICES 156 2.00% 48 107 156 70 156 73 3 STORAGE TANKS 936 3.33% 484 452 936 702 936 733 31 COMPRESSOR 0 10.00% 0 0 0 0 0 0 0 WELLS 1,199 2.00% 372 827 1,199 539 1,199 563 24 LAND 6,240 0 6,240 6,240

6,240 -------- ------- -------- --- --- -------- ------- -------- ------- ----- TOTAL VALUE 21,374 6,132 15,242 0 0 21,374 8,743 21,374 9,151 408 ======== ======= ======== === === ======== ======= ======== ======= =====

Page 499

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVFIXASS FIXED CAPITAL ADJUSTMENT EXHIBIT 2 SCHEDULE 2

1980 1980 FIXED 1980 1987 AMORTIZATION AMORTIZATION 1988 NET BOOK PURCHASE ASSET AMORTIZATION RETIREMENT ASSET RESERVE RESERVE AMORTIZATION ASSET VALUE PRICE ADJUSTMENT RATE [1] ADJUSTMENT 1987 1988 EXPENSE PUMPS 0 0 0 10.00% 0 0 0 0 BUILDING 2,353 617 1,735 6.90% 0 1,735 898 1,017 120 MAINS 5,262 1,381 3,881 2.90% 0 3,881 844 956 112 SERVICES 107 28 79 2.90% 79 17 19 2 STORAGE TANKS 452 119 334 6.90% 334 173 196 23 COMPRESSOR 0 0 0 10.00% 0 0 0 0 WELLS 827 217 610 2.90% 610 133 150 18 LAND 6,240 1,638 4,602 4,602 0 0 -------- ------- -------- --- -------- ------- ------- ----- TOTAL PLANT VALUE 15,242 4,000 11,242 0 11,242 2,064 2,339 275 ======== ======= ======== === ======== ======= ======= ===== [1] - BASED ON REMAINING LIFE.

Page 500

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVBALANCES AVERAGE BALANCES EXHIBIT 2 SCHEDULE 3

PLANT IN ACCUMULATED FIXED ASSET ASSET ADJUST. YEAR SERVICE DEPRECIATION ADJUSTMENT AMORTIZATION ----- ---------- -------------- ---------- ---------- 1987 21,374 8,743 11,242 2,064 1988 21,374 9,151 11,242 2,339 ----- ---------- ---------- ---------- ---------- TOTAL 42,747 17,895 22,483 4,403 AVERAGE 21,374 8,947 11,242 2,201 ========== ========== ========== ==========

Page 501

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVINC OPERATING INCOME STATEMENT EXHIBIT 3 YEAR ENDING 12/31/88

12 MONTHS PROFORMA TEST YEAR PROPOSED TEST YEAR ENDING 12/88 REFERENCE ADJUSTMENTS PROFORMA REFERENCE INCREASE PROFORMA OPERATING REVENUES ---------- REVENUES- FIRM 4,160 4,160 EX1 793 4,953 ---------- -------- --------- ----- ------- TOTAL REVENUES 4,160 4,160 793 4,953

OPERATING EXPENSES ---------- COST OF POWER 480 480 480 OTHER PRODUCTION 0 EX.3,SCH.2 0 0 0 MAINT. EXPENSE 0 EX.3,SCH.2 349 349 349 RENTS 0 0 0 ADM. & GEN. EXPENSES: MANAGEMENT FEE 0 EX.3,SCH.2 2,011

2,011 2,011 REGULATORY 0 EX.3,SCH.2 50 50 50 INSURANCE 0 EX.3,SCH.2 218 218 218 PROFESSIONAL FEES 0 EX.3,SCH.2 500 500 500 OFFICE SUPPLIES 0 EX.3,SCH.2 948 948 948 MISC. 0 0 0 ----- ------- ------- ------- ------- TOTAL O&M EXP. 480 4,077 4,557 4,557 TAXES: F.I.T. 0 0 EX1 (4) (4) PROPERTY 220 220 220 STATE 0 0 EX1 4 4 OTHER 0 0 0 DEPRECIATION 408 408 408 AMORTIZATION (275) EX.3,SCH.3 0 (275) (275) ------- ------- ------- ------- ------- TOTAL EXPENSE 833 4,077 4,909 4,909 OTHER OPERATING INC. 0 0 0 0 ------- --------- ------ ------- ------- NET OPERATING INCOME 3,327 (4,077) (749) 44 ======= ========= ======= ======= =======

Page 502

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVALLFAC ALLOCATION FACTOR EXHIBIT 3 SCHEDULE 1

HIDDEN BIRCH HILL VALLEY SUNRISE 175 ESTATES TOTAL NUMBER CUSTOMERS 168 26 61 40 295 PERCENT 56.95% 8.81% 20.68% 13.56% 100.00% TOTAL PLANT COST $178,425 $21,374 $52,594 $41,322 $293,715 PERCENT 60.75% 7.28% 17.91% 14.07% 100.00%

-------- ------- -------- -------- --------- WEIGHTED AVERAGE 58.85% 8.05% 19.29% 13.81% 100.00% ======== ======= ======== ======== =========

Page 503

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVPROEXP PROFORMA ADJUSTMENTS - EXPENSES EXHIBIT 3 SCHEDULE 2

ITEM # DESCRIPTION AMOUNT -------- ------------------- --------

1 PROFORMA ADJUSTMENT FOR PRODUCTION LABOR 0 WATER INDUSTRIES, INC.

Contract replaces this amount per Commission decision

2 PROFORMA ADJUSTMENT FOR MANAGEMENT FEES 2,011 AS PER AGREEMENT WITH STAFF. $25,000 ALLOCATED AMONG THE SYSTEMS.

Contract as approved by Commission decision

3 PROFORMA ADJUSTMENT TO PROFESSIONAL FEES. 500 ACCOUNTING COSTS $500 (ANNUAL REPORT); $500 FOR TAXES & $1000 FOR LEGAL FEES ALLOCATED AMONG THE SYSTEMS. Staff position-legal fees included in rate case expenses, should be no others; cost of annual report and taxes $500 total each systems.

4 PROFORMA ADJUSTMENT TO OFFICE SUPPLIES. 948 Total all systems amount for postage includes envelopes & invoices - $600. $48 Telephone Expenses-Each system-$300. $300 Office Rent-Each system-$600 600

5 PROFORMA ADJUSTMENT LAB FEES: 349 3YR. TEST PER WELL ($475*2 WELLS/3) $317 QUARTERLY TEST PER SYSTEM $32 The 3 year test is $475 not $450 and the monthly test is quarterly per system not well.

6 PROFORMA ADJUSTMENT FOR P.U.C. ASSESSMENT FEE 50

7 PROFORMA ADJUSTMENT INSURANCE PREMIUM 218 ESTIMATE. $3000 ALLOCATED BY PLANT VALUE.

Page 504

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVRATCAS RATE CASE EXPENSE EXHIBIT 3 SCHEDULE 3

AMOUNT HIDDEN VALLEY ALLOCATION PREPARATION OF TESTIMONY AND EXHIBITS WITH LITIGATION 4,250 LEGAL FEES 12,000 MISCELLANOUS (COPIES; PHONE; TRAVEL; ECT.) 750 ACCOUNTANT FEE (RATE CASE AUDIT) 800 -------- TOTAL ESTIMATED EXPENSE 17,800 1,432 TWO YEAR AMORTIZATION 8,900 716 ======== ======= UNAMORTIZED RATE CASE EXPENSE 8,900 716 ======== ======= STAFF IS RECOMMENDING RECOUPMENT OF ACTUAL COMMISSION APPROVED RATE CASE EXPENSES OVER FIVE YEARS. 0 =======

Page 505

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 HIDDEN VALLEY TESTIMONY HVCALCRAT RATE CALCULATION EXHIBIT 4

TOTAL REVENUE REQUIREMENT 4,953 NUMBER OF CUSTOMERS 26 --------- ANNUAL WATER CHARGE PER CUSTOMER $190.50 QUARTERLY RATE $47.62 ========= STAFF IS RECOMMENDING THAT THE BILLING METHOD REMAIN ANNUAL IN ADVANCE.

Page 506

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNCONTENTS EXHIBITS & SCHEDULES TABLE OF CONTENTS

EXHIBIT SCHEDULE DESCRIPTION NO. NO. ---------- ------- -------- REVENUE REQUIREMENT 1 OVERALL RATE OF RETURN 1 1 EFFECTIVE TAX FACTOR 1 2 INCOME TAX COMPUTATION 1 3 RATE BASE 2 DEPRECIATION SCHEDULE 2 1 AMORTIZATION RESERVE - FIXED ASSET ADJ. 2 2 RETIREMENTS 2 3 AVERAGE BALANCES 2 4 OPERATING INCOME 3 SYSTEM ALLOCATION FACTOR 3 1 PROFORMA ADJUSTMENT - EXPENSE 3 2 RATE CASE EXPENSE 3 3 COMPUTATION OF RATE SCHEDULE 4

Page 507

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNREVREQ REVENUE REQUIREMENT EXHIBIT 1

RATE BASE (EX. 2) (1,582) RATE OF RETURN (EX. 1, SCH. 1) 6.00% --------- REVENUE REQUIREMENT (95) OPERATING INCOME (EX.3) (1,312) --------- DEFICIENCY 1,217 TAX EFFECT (EX.1, SCH.3) 0 PERCENT -------- INCREASE REVENUE DECREASE REQUIRED 1,217 12.47% ======== =========

Page 508

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNCOSTCAP OVERALL RATE OF RETURN EXHIBIT 1 SCHEDULE 1

COMPONENT WEIGHTED COMPONENT COST AVERAGE RATIO RATE COST RATE AMOUNT (PERCENT) (PERCENT) (PERCENT) -------- ----------- ----------- ----------- EQUITY (38,456) 0.00% 12.33% 0.00% LONG TERM DEBT 64,000 100.00% 6.00% 6.00% SHORT TERM DEBT 0 0.00% 0.00% 0.00% ---------- --------- ------- TOTAL 25,544 100.00% 6.00% ========== ========= ======= NOTE: Negative Equity participation should be given no weight in the capital structure and, therefore, there is no equity component in the capital structure.

Page 509

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNEFFTAX EFFECTIVE TAX FACTOR EXHIBIT 1 SCHEDULE 2

TAXABLE INCOME 100.00% LESS: B.P.T. 8.00% --------- FED TAXABLE INCOME 92.00% F.I.T. RATE 0.00% --------- F.I.T. 0.00% ADD: B.P.T. (SEE ABOVE) 8.00% --------- EFFECTIVE TAX RATE 8.00% ========= PERCENT OF INCOME AVAILABLE IF NO TAX 100.00% EFFECTIVE TAX RATE 8.00% --------- PERCENT USED AS A DIVISOR IN DETERMINING THE REVENUE REQUIREMENT 92.00% =========

Page 510

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNINCTAX INCOME TAX COMPUTATION EXHIBIT 1 SCHEDULE 3

TOTAL RATE BASE (EXHIBIT 2) (1,582) EQUITY COMPONENT OF CAPITAL COST (EX.1, SCH.1) 0.00% --------- NET INCOME REQUIRED 0 TAX EFFECT (EX.1, SCH.2) 0 =========

Page 511

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNRATBAS RATE BASE EXHIBIT 2

PLANT IN SERVICE (EX.2, SCH.4) 52,594 LESS: FIXED ASSET ADJ. 31,903 --------- TOTAL PLANT IN SERVICE 20,691 LESS: ACC. DEP./ AMORT. (SCH.4) 23,094 ADD: FIXED ASSET ADJ. AMORT. 5,972 --------- NET PLANT IN SERVICE 3,569

ADD WORKING CAPITAL: TOTAL O&M EXPENSE (EX. 3) 8,827 TIMES 58.36% (213 DAYS) 58.36% --------- CASH WORKING CAPITAL (5,151)

ADD: MATERIALS & SUPPLIES (EST.) 0 UNAMORT. RATE CASE EXP. 0 --------- TOTAL WORKING CAPITAL (5,151) --------- RATE BASE (1,582) =========

Page 512

MJN 08/06/92 DISK 5, CARLTON7 CARLETON TRUST SUNDEPSCH SUNRISE EXHIBIT 2 DEPRECIATION SCHEDULE SCHEDULE 1

DISCOUNTED 1981 1981 1981 PLANT PLANT PLANT DEPRECIATION 1988 DEPRECIATION 1988 REPLACEMENT DEPREC. DEPRECIATION NET BOOK RETIREMENTS ADDITIONS ADDITIONS BALANCE RESERVE PLANT RESERVE DEPRECIATION ASSET COST- 1965 RATE RESERVE VALUE 1981 1985 1987 1987 BALANCES 1988 EXPENSE PUMPS 650 10.00% 650 0 650 650 650 715 65 BUILDING 8,298 3.33% 4,564 3,734 8,298 6,224 8,298 6,500 277 MAINS 21,769 2.00% 7,184 14,585 21,769 9,796 21,769 10,232 435 SERVICES 259 2.00% 86 174 259 117 259 122 5 STORAGE TANKS 5,893 3.33% 3,241 2,652 5,893 4,420 5,893 4,616 196 COMPRESSOR 199 10.00% 199 0 199 319 199 339 20 WELLS 2,326 2.00% 767 1,558 2,326 1,047 2,326 1,093 47 LAND 13,200 0 13,200 13,200 13,200 -------- -------- -------- --- --- --- -------- -------- -------- -------- ------- TOTAL VALUE 52,594 16,691 35,903 0 0 0 52,594 22,571 52,594 23,616 1,045 ======== ======== ======== === === === ======== ======== ======== ======== =======

Page 513

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNFIXASS FIXED CAPITAL ADJUSTMENT EXHIBIT 2 SCHEDULE 2

1981 1981 FIXED 1981 1987 AMORTIZATION AMORTIZATION 1988 NET BOOK PURCHASE ASSET AMORTIZATION RETIREMENT ASSET RESERVE RESERVE AMORTIZATION ASSET VALUE PRICE ADJUSTMENT RATE ADJUSTMENT 1987 1988 EXPENSE PUMPS 0 0 0 10.00% 0 0 0 0 0 BUILDING 3,734 416 3,318 7.41% 0 3,318 1,598 1,843 246 MAINS 14,585 1,625 12,960 2.99% 0 12,960 2,515 2,902 387 SERVICES 174 19 154 2.99% 0 154 30 35 5 STORAGE TANKS 2,652 295 2,356 7.41% 0 2,356 1,135 1,309 175 COMPRESSOR 0 0 0 10.00% 0 0 0 0 0 WELLS 1,558 174 1,385 2.99% 0 1,385 269 310 41 LAND 13,200 1,471 11,729 11,729 0 0 -------- ------- -------- --- -------- ------- ------- ----- TOTAL PLANT VALUE 35,903 4,000 31,903 0 31,903 5,546 6,399 853 ======== ======= ======== === ======== =======

======= =====

Page 514

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNRETIRE COMPUTATION OF RETIREMENTS EXHIBIT 2 SCHEDULE 3

ORIGINAL REPLACEMENT DESCRIPTION COST COST ---------- ---------- ---------- PITLESS ADAPTER WITH CAP 24 126 MAGNETIC STARTER 56 278 BREAKER BOX WITH BREAKER 73 420 MERCURY FLOAT BALLS (3) 45 147 1HP BOOSTER PUMP 104 432 FITTINGS 60 250 VALVES 100 350 WATER METER 28 380 2" SHUT-OFF VALVES (8) 242 2,080 ELECTRICAL ENTRANCE 156 560

Page 515

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNBALANCES AVERAGE BALANCES EXHIBIT 2 SCHEDULE 4

PLANT IN ACCUMULATED FIXED ASSET ASSET ADJUST YEAR SERVICE [1] DEPRECIATION ADJUST. [2] AMORTIZATION ---------- ---------- ---------- ---------- ---------- 1987 52,594 22,571 31,903 5,546 1988 52,594 23,616 31,903 6,399 ---------- ---------- ---------- ---------- ---------- TOTAL 105,189 46,188 63,806 11,944

AVERAGE 52,594 23,094 31,903 5,972 ========== ========== ========== ========== [1] - EXHIBIT 2, SCHEDULE 1 [2] - EXHIBIT 2, SCHEDULE 2

Page 516

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNINC OPERATING INCOME STATEMENT EXHIBIT 3 YEAR ENDING 12/31/88

12 MONTHS PROFORMA TEST YEAR PROPOSED TEST YEAR ENDING 12/88 REFERENCE ADJUSTMENTS PROFORMA REFERENCE INCREASE PROFORMA OPERATING REVENUES ---------- REVENUES- FIRM 9,760 9,760 EX1 1,217 10,977 ------- ------- ------- ------- -------- TOTAL REVENUES 9,760 9,760 1,217 10,977

OPERATING EXPENSES ---------- COST OF POWER 1,488 1,488 1,488 OTHER PRODUCTION 0 EX.3,SCH.2 0 0 0 MAINT. EXPENSE 0 EX.3,SCH.2 413 413 413 RENTS 0 0 0 ADM. & GEN. EXPENSES: MANAGEMENT FEE 0 EX.3,SCH.2 4,823 4,823 4,823 REGULATORY 0 EX.3,SCH.2 50 50 50 INSURANCE 0 EX.3,SCH.2 537 537 537 PROFESSIONAL FEES 0 EX.3,SCH.2 500 500 500 OFFICE SUPPLIES 0 EX.3,SCH.2 1,016 1,016 1,016 MISC. 0 0 0 ---------- TOTAL O&M EXP. 1,488 7,339 8,827 8,827 TAXES: F.I.T. 0 0 EX1 8 8 PROPERTY 2,053

2,053 2,053 STATE 0 0 EX1 (8) (8) OTHER 0 0 0 DEPRECIATION 1,045 1,045 1,045 AMORTIZATION (853) EX.3,SCH.3 0 (853) (853) ---------- ------- -------- TOTAL EXPENSE 3,733 7,339 11,072 0 11,072 OTHER OPERATING INC. 0 0 0 0 ---------- ------- --------- NET OPERATING INCOME 6,027 (7,339) (1,312) 1,217 (95) ========== ======= =========

Page 517

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNALLFAC ALLOCATION FACTOR EXHIBIT 3 SCHEDULE 1

HIDDEN BIRCH HILL VALLEY SUNRISE 175 ESTATES TOTAL NUMBER CUSTOMERS 168 26 61 40 295 PERCENT 56.95% 8.81% 20.68% 13.56% 100.00% TOTAL PLANT COST $178,425 $21,374 $52,594 $41,322 $293,715 PERCENT 60.75% 7.28% 17.91% 14.07% 100.00%

-------- ------- -------- -------- --------- WEIGHTED AVERAGE 58.85% 8.05% 19.29% 13.81% 100.00% ======== ======= ======== ======== =========

Page 518

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNPROEXP PROFORMA ADJUSTMENTS - EXPENSES EXHIBIT 3 SCHEDULE 2

ITEM # DESCRIPTION AMOUNT ------ ----------

1 PROFORMA ADJUSTMENT FOR PRODUCTION LABOR 0 WATER INDUSTRIES, INC. Contract replaces this amount per Commission decision

2 PROFORMA ADJUSTMENT FOR MANAGEMENT FEES 4,823 AS PER AGREEMENT WITH STAFF. $25,000 ALLOCATED AMONG THE SYSTEMS.

Contract as approved by Commission decision

3 PROFORMA ADJUSTMENT TO PROFESSIONAL FEES. 500 ACCOUNTING COSTS $500 (ANNUAL REPORT); $500 FOR TAXES & $1000 FOR LEGAL FEES ALLOCATED AMONG THE SYSTEMS. Staff position-legal fees included in rate case expenses, should be no others; cost of annual report and taxes $500 total each systems.

4 PROFORMA ADJUSTMENT TO OFFICE SUPPLIES. 1,016 Total all systems amount for postage includes envelopes & invoices - $600. $116 Telephone Expenses-Each system-$300. $300 Office Rent-Each system-$600 600

5 PROFORMA ADJUSTMENT LAB FEES: 413 3YR. TEST PER WELL ($475*2 WELLS/3) $317 MONTHLY TEST PER SYSTEM $96 The 3 year test is $475 not $450 and the monthly test is per system not per well.

6 PROFORMA ADJUSTMENT FOR P.U.C. ASSESSMENT FEE 50 The PUC Assessment minimum is $50.00 not $25.00.

7 PROFORMA ADJUSTMENT INSURANCE PREMIUM 537 ESTIMATE. $3000 ALLOCATED BY PLANT VALUE

Page 519

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNRATCAS RATE CASE EXPENSE EXHIBIT 3 SCHEDULE 3

AMOUNT SUNRISE ALLOCATION PREPARATION OF TESTIMONY AND EXHIBITS WITH LITIGATION 4,250 LEGAL FEES 12,000 MISCELLANOUS (COPIES; PHONE; TRAVEL; ECT.) 750 ACCOUNTANT FEE (RATE CASE AUDIT) 800 -------- TOTAL ESTIMATED EXPENSE 17,800 3,434 TWO YEAR AMORTIZATION 8,900 1,717 ======== ======= UNAMORTIZED RATE CASE EXPENSE 8,900 1,717 ======== ======= STAFF IS RECOMMENDING RECOUPMENT OF ACTUAL COMMISSION APPROVED RATE CASE EXPENSES OVER FIVE YEARS. 0 =======

Page 520

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNCALCRAT RATE CALCULATION EXHIBIT 4

TOTAL REVENUE REQUIREMENT 10,977 NUMBER OF CUSTOMERS 61 --------- ANNUAL WATER CHARGE PER CUSTOMER $179.95 QUARTERLY RATE $44.99 ========= STAFF IS RECOMMENDING THAT THE BILLING METHOD REMAIN ANNUAL IN ADVANCE.

Page 521

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 175 ESTATES TESTIMONY 175CONTENTS EXHIBITS & SCHEDULES TABLE OF CONTENTS

EXHIBIT SCHEDULE DESCRIPTION NO. NO. ---------- --------- ---------- REVENUE REQUIREMENT 1 OVERALL RATE OF RETURN 1 1 EFFECTIVE TAX FACTOR 1 2 INCOME TAX COMPUTATION 1 3 RATE BASE 2 DEPRECIATION SCHEDULE 2 1 AMORTIZATION RESERVE - CONTRIBUTION 2 2 RETIREMENTS 2 3 AVERAGE BALANCES 2 4 OPERATING INCOME 3 SYSTEM ALLOCATION FACTOR 3 1 PROFORMA ADJUSTMENT - EXPENSE 3 2 RATE CASE EXPENSE 3 3 COMPUTATION OF RATE SCHEDULE 4

Page 522

MJN 08/06/92 CARLETON WATER COMPANY TRUST SUPPLEMENTAL DISK 5, CARLTON8 SUNRISE TESTIMONY SUNPROEXP PROFORMA ADJUSTMENTS - EXPENSES EXHIBIT 3 SCHEDULE 2

ITEM # DESCRIPTION AMOUNT ------ ----------

1 PROFORMA ADJUSTMENT FOR PRODUCTION LABOR 0 WATER INDUSTRIES, INC. Contract replaces this amount per Commission decision

2 PROFORMA ADJUSTMENT FOR MANAGEMENT FEES 4,823 AS PER AGREEMENT WITH STAFF. $25,000 ALLOCATED AMONG THE SYSTEMS.

Contract as approved by Commission decision

3 PROFORMA ADJUSTMENT TO PROFESSIONAL FEES. 500 ACCOUNTING COSTS $500 (ANNUAL REPORT); $500 FOR TAXES & $1000 FOR LEGAL FEES ALLOCATED AMONG THE SYSTEMS. Staff position-legal fees included in rate case expenses, should be no others; cost of annual report and taxes $500 total each systems.

4 PROFORMA ADJUSTMENT TO OFFICE SUPPLIES. 1,016 Total all systems amount for postage includes envelopes & invoices - $600. $116 Telephone Expenses-Each system-$300. $300 Office Rent-Each system-$600 600

5 PROFORMA ADJUSTMENT LAB FEES: 413 3YR. TEST PER WELL ($475*2 WELLS/3) $317 MONTHLY TEST PER SYSTEM $96 The 3 year test is $475 not $450 and the monthly test is per system not per well.

6 PROFORMA ADJUSTMENT FOR P.U.C. ASSESSMENT FEE 50 The PUC Assessment minimum is $50.00 not $25.00.

7 PROFORMA ADJUSTMENT INSURANCE PREMIUM 537 ESTIMATE. $3000 ALLOCATED BY PLANT VALUE

==========

NH.PUC*09/01/92*[73026]*77 NH PUC 525*NEW ENGLAND POWER COMPANY

[Go to End of 73026]

NEW ENGLAND POWER COMPANY

DF 91-221
ORDER NO. 20,592

77 NH PUC 525

New Hampshire Public Utilities Commission

September 1, 1992

Order Authorizing the Issuance of $100 Million of Additional Taxable Bonds

---

WHEREAS, by Order No. 20,441, dated April 14, 1992 the Commission authorized and approved the issue and sale by New England Power ("the Company") of additional General and Refunding Mortgage Bonds not exceeding $477,000,000; and

WHEREAS, New England Power was authorized to issue up to $202,000,000 of Tax-exempt

Bonds to refund Pollution Control Revenue Bonds issued on the Company's behalf and up to $275,000,000 of Taxable Bonds to refund other outstanding General and Refunding Bonds and First Mortgage Bonds of the Company; and

WHEREAS, interest rates have continued to decline to levels where it may be economic to refinance another $100,000,000 of outstanding First Mortgage Bonds, $75,000,000 which are currently economic to finance; it is hereby

ORDERED, that up to an additional $100,000,000 of proceeds from the issue and sale of General and Refunding Mortgage Bonds in an aggregate principal amount not exceeding $477,000,000, as authorized in Order No. 20,441, shall be applied to the reimbursement of the treasury for, or to the payment of short term borrowings incurred for, retirement or refunding of $100,000,000 of other outstanding First Mortgage Bonds of the Company; and it is

FURTHER ORDERED, that this additional $100,000,000 of General and Refunding Mortgage Bonds authorized and approved by the Commission herein shall bear interest at a rate not in excess of the break-even rate at the time of refinancing of the particular Series of bond being refinanced, to be sold at a price not less than 95% nor more than 100% of the principal amount thereof, and on such terms as shall be determined by the directors of the Company or officers of the Company pursuant to delegated authority through competitive bidding, negotiation with underwriters, or negotiation directly with investors, or through agents; all of the other terms of the additional $100 million of General and Refunding Mortgage Bonds shall be as described in the Order No. 20,441.

By order of the New Hampshire Public Utilities Commission this ninth day of September, 1992.

==========

NH.PUC*09/02/92*[73023]*77 NH PUC 455*HAMPTON WATER WORKS COMPANY, INC.

[Go to End of 73023]

HAMPTON WATER WORKS COMPANY, INC.

DR 91-023
ORDER NO. 20,588

77 NH PUC 455

New Hampshire Public Utilities Commission

September 2, 1992

Petition for an Increase in Rates Report Approving a Partial Recovery of Rate Case Expenses

---

Appearances: Ransmeier & Spellman Professional Corporation by Dom D'Ambruoso, Esq. on behalf of Hampton Water Works Company Inc.; Office of Consumer Advocate by Michael

Holmes, Esq. for Residential Ratepayers; Richard Crowley, Selectman for the Town of North Hampton; Susan Chamberlin, Esq. for the New Hampshire Public Utilities Commission Staff.

REPORT

I. PROCEDURAL HISTORY

On April 16, 1991, Hampton Water Works Company ("Hampton" or "Company") filed with the New Hampshire Public Utilities Commission ("Commission") proposed rate schedules and supporting documents.

On May 24, 1991, the Commission issued Order No. 20,131 suspending the filing and setting a July 2, 1991 date for a prehearing conference and temporary rate hearing.

On June 20, 1991, the Commission issued an order of notice separating the dates for the prehearing conference and the temporary rate hearing. After being rescheduled several times, the Commission held the temporary rate hearing on August 27, 1991.

On October 4, 1991, the Commission issued Report and Order No. 20,262 denying Hampton's petition for temporary rates. On October 24, 1991, the Company filed a Motion for Rehearing of this order. The Commission issued Report and Order No. 20,311 on November 22, 1991, denying Hampton's Motion for Rehearing. The Company appealed this decision to the New Hampshire Supreme Court which, on March 23, 1992, affirmed the Commission ruling.

On February 25, 1992, the Commission held a hearing on Hampton's petition for a permanent rate increase.

On May 1, 1992 the Company filed its rate case expenses to date. The Commission Staff ("Staff") and the Company then engaged in the discovery process over the next several weeks.

On July 30, 1992, Staff filed a Motion to Recommend Partial Recovery of Rate Case Expenses ("Staff's Motion"). On August 10, 1992, Hampton filed a timely Response to Staff's Motion to Recommend Partial Recovery of Rate Case Expenses ("Hampton's Response").

II. POSITION OF STAFF AND THE PARTIES

A. Staff

Staff made the following recommendations: one half of the cost of the consulting firm, Guastella Associates, should be disallowed based on Staff's belief that Hampton could have obtained the same services for less from its parent company; $1,600 worth of bills from Ransmeier & Spellman should be disallowed as inappropriate for a rate case; $10,947.50 of costs for a public relations firm Jackson, Jackson and Wagner and $132.30 for meals for non-company individuals should be disallowed as unnecessary.

B. Hampton Water Works Company

Hampton argued that all of its rate case expenses were appropriate and recoverable under the standard articulated in State v. Hampton Water Works Company, 91 N.H. 278 (1941). In Hampton, The New Hampshire Supreme Court found that only costs which are unreasonably incurred, undue in amount, or chargeable to other accounts are not recoverable. Id. at 296.

Hampton states that all of its charges were prudently incurred.

C. Town of North Hampton

On August 17, 1992 the Selectmen of the Town of North Hampton wrote the Commission supporting the Staff's recommendation for a disallowance of the $10,947.50 cost of the public relations firm Jackson, Jackson & Wagner.

D. Office of the Consumer Advocate

The Office of the Consumer Advocate generally supports a recommendation for a disallowance in rate case expenses. Staff's Motion to Recommend Partial Recovery of Rate Case Expenses at 9, In Re Hampton Water Works Company, DR 91-023.

III. COMMISSION ANALYSIS

The Commission finds that the expenses for the public relations firm Jackson, Jackson & Wagner and the meals for personnel other than Hampton employees are expenses that were not incurred in furtherance of a prudent rate case petition but were incurred on behalf of the Company's shareholders. Therefore these costs should be borne by the shareholders instead of the ratepayers and will be disallowed. We authorize the remainder of the rate case expenses requested by the Company to be amortized over a period of two years. The Company shall file an accounting of the rate case expense at the end of each year.

The Commission is concerned with the increasing levels of rate case expenses being incurred and is initiating a review of methods used in other states.

Our order will issue accordingly.

Concurring: September 2, 1992

ORDER

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

ORDERED, that $10,947.50 of costs for the public relations firm Jackson, Jackson and Wagner and $132.30 for meals for non-company individuals are not recoverable as rate case expenses; and it is

FURTHER ORDERED, that the remainder of the rate case expenses requested by the Company are allowed and will be amortized over a period of two years; and it is

FURTHER ORDERED, that the Company will file with the Commission an accounting of the rate case expenses at the end of each year.

By order of the Public Utilities Commission of New Hampshire this second day of September, 1992.

==========

NH.PUC*09/03/92*[73025]*77 NH PUC 524*GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

[Go to End of 73025]

GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

DE 90-002
ORDER NO. 20,591

77 NH PUC 524

New Hampshire Public Utilities Commission

September 3, 1992

Order Addressing New England Telephone and Telegraph Company's Motion to Compel Responses to Data Requests from the Staff of the New Hampshire Public Utilities Commission

---

REPORT

I. PROCEDURAL HISTORY

This matter comes before the New Hampshire Public Utilities Commission (Commission) on the motion of New England Telephone and Telegraph Company (NET) to compel the Staff of the Commission (Staff) to respond to certain data requests propounded by NET relative to the testimony filed by other parties in this matter and to more fully respond to certain other data requests.

NET further requested that all Staff members that participated in responding to the data requests not be permitted to participate in the deliberations and resolution of the motion because this is an "adjudicative proceeding" in which Staff has demonstrated a commitment to a particular result.

II. POSITION OF THE PARTIES AND STAFF

A. NET[1(29)]

NET takes the position that Staff should be compelled to answer the questions it refused to answer and to expand upon certain other responses. NET bases its position on the general rules of discovery in the civil courts of New Hampshire and the federal courts which hold that the parameters of discovery are very broad. In fact, NET points out that both jurisdictions have held that the standard to be applied to the propriety of discovery request is not whether the answer is relevant in and of itself to be discoverable, but merely designed to lead to the discovery of relevant evidence.

B. Staff

The Staff takes the position that their role is to assist the Commissioners in their analysis of positions proposed by the parties, and if Staff felt it was important to develop issues raised by one of the parties in their testimony they would have done so in their recommendations to the Commissioners filed after the submission of testimony by the parties in this case. Staff further asserts that their role is an advisory one to the Commission and that if the Commissioners would like Staff to comment on the positions of one of the parties they are free to so inquire during the hearing process. III. COMMISSION ANALYSIS The Commission concurs with the positions relative to discovery taken by the civil courts of New Hampshire and the federal system. Discovery is to be given broad latitude in order to expedite the hearing process.

In the case at hand, while we agree with Staff that their role is an advisory one to the Commissioners, we also believe that in the interest of creating as complete a record as possible and of expediting the process they should respond to NET's requests to comment on the testimony of other parties to the extent they have formed opinions on this testimony and would offer those opinions during the hearing. We make this decision based on the fact that Staff's input is greatly valued by the Commissioners, given that they have no vested interest in the outcome of any particular proceeding. Moreover, Staff may very well be asked to comment on the testimony of other parties as a means of assisting the Commission in arriving at its decision.

NET's request to force Staff to expand upon its replies to certain other data requests is denied. We will assume that Staff answered the questions in good faith as completely as

Page 524

possible. To the extent NET or any other party seeks to explore these responses as made they are free to do so on cross examination.

Finally, we will note for the record that NET's request, presumably pursuant to N.H. Admin. Rules, Puc 203.15, to exclude those members of Staff that participated in responding to the NET data requests from participating in the Commission's decision relative to this motion has been honored by the Commission in the interest of the expeditious issuance of this decision. However, we believe it should be noted that the exclusion of these Staff members from the decisional process was unnecessary in this case.

In support of its position that certain members of Staff should be excluded from the decision making process NET cites Appeal of Atlantic Connections, Ltd., 135 N.H. 510 (1992). This reliance is misplaced. Atlantic Connections involved an adjudicatory show cause proceeding before the Commission in which fines and criminal penalties could have been imposed. Thus, the prohibitions on ex parte communications contained in RSA 541-A:21 were applicable. However, despite NET's assertion to the contrary, this proceeding is not adjudicatory in nature but legislative. The purpose of this proceeding in general is to examine whether intrastate toll competition is in the public interest and in this particular aspect of the case to set an intrastate access rate to be paid to NET by any potential competitors. As the Court stated in Appeal of the Office of Consumer Advocate, 134 N.H. 651 (1991) ratemaking is essentially a legislative function. Appeal of the Office of Consumer Advocate, 134 N.H. at 659. In so finding, the Court held that the requirements contained in RSA 541- A:18, relative to administrative notice, were inapplicable as they applied only to adjudicatory proceedings. The same analysis applies here. Thus, we hold that the prohibition against ex parte communications contained in RSA 541-A:21 is not generally applicable in ratemaking proceedings in that they are essentially legislative in nature.

Our order will issue accordingly.

Concurring: September 3, 1992

ORDER

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

ORDERED, that the commission staff respond to the data requests propounded by New England Telephone and Telegraph Company requesting the Staff to express their opinion relative to the testimony of other parties to this proceeding to the extent Staff has formulated an opinion.

By order of the Public Utilities Commission of New Hampshire this third day of September, 1992.

FOOTNOTE

[1]The Office of consumer Advocate, GTE New Hampshire, Union Telephone Company, Granite State Telephone Company, Wilton Telephone Company, Dunbarton Telephone Company, and Merrimack County Telephone Company concur in NET's position. AT&T takes no position.

==========

NH.PUC*09/09/92*[73027]*77 NH PUC 526*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73027]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-050
ORDER NO. 20,593

77 NH PUC 526

New Hampshire Public Utilities Commission

September 9, 1992

Fuel and Purchased Power Adjustment Clause

Supplemental Order Granting PSNH Motion to Amend Order No. 20,216 Relative to Production of Outage and Power Reduction Reports

---

Public Service Company of New Hampshire (PSNH) having filed a motion on August 21, 1992, to amend New Hampshire Public Utilities Commission (Commission) Order No. 20,216 relative to the requirement that North Atlantic Energy Services Corporation (NAESCO) provide Outage and Power Reduction Reports (OPRR's) for every outage or power reduction that occurs at Seabrook Station; and

WHEREAS, PSNH requests that the Commission adopt the recommendation of the Chief Engineer, Michael D. Cannata, Jr., and the Assistant Chief Engineer, Arthur C. Johnson, submitted through their joint testimony in Docket DR 92-050, that NAESCO only be required to prepare and submit OPRR's for forced outages or unplanned power reductions which result in 1,000 or more megawatt hours (MWH's) of lost generation; and

WHEREAS, Staff will continue to review all outages and power reductions, including those less than 1000 MWH of lost generation and require a filing if a record needs to be developed;

and

WHEREAS, PSNH estimates replacement power costs for an outage or reduction of 1,000 MWH is less than $8,000; and

WHEREAS, those costs would decrease correspondingly for shorter duration outages; and

WHEREAS, the Commission allows PSNH to forego filings for outages up to 2 days at the PSNH Merrimack generating facility and

Page 526

up to 4 days at the PSNH Schiller generating facility; and

WHEREAS, the preparation and filing of OPRR's addressing such small power reductions are not an efficient use of time for NAESCO; and

WHEREAS, NAESCO provides daily briefings to the Commission's resident engineer at Seabrook Station and provides weekly written reports describing all power reductions and generation losses or outages; it is hereby

ORDERED, that PSNH's motion to amend Order No. 20,216 to require NAESCO to prepare and file Outage and Power Reduction Reports only when there is a loss of generation at Seabrook Station equal to or exceeding 1,000 megawatt hours is hereby granted; and it is

FURTHER ORDERED, that NAESCO shall file during each Fuel and Purchased Power Adjustment Clause (FPPAC) hearing, a report summarizing all power reductions and outages involving less than 1000 MWH of lost generation occurring in the respective FPPAC period.

By order of the Public Utilities Commission of New Hampshire this ninth day of September, 1992.

==========

NH.PUC*09/09/92*[73028]*77 NH PUC 527*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73028]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 91-001
ORDER NO. 20,594

77 NH PUC 527

New Hampshire Public Utilities Commission

September 9, 1992

Retail Rate Redesign Report and Order Denying Hemphill and Whitefield's Motion for Rehearing of Order No. 20,504

Appearances: As previously noted.

REPORT

I. PROCEDURAL HISTORY

Public Service Company of New Hampshire (PSNH) in response to New Hampshire Public Utilities Commission (Commission) Report and Order No. 19,889 in Docket DR 89- 244, and after consultation with the Commission Staff (Staff) filed a retail rate redesign proposal on December 20, 1990. Requests for intervention were heard January 31, 1991.

Also at that time a procedural schedule was adopted for the duration of the docket. It was not until April 3, 1991 that Hemphill Power and Light Company (Hemphill) and Whitefield Power and Light Company (Whitefield) (collectively Hemphill and Whitefield) moved to intervene, after testimony had been filed. They were granted intervention, subject to the requirement that they not be the cause of any delay in the procedural schedule. See Report and Order No. 20,115 (April 17, 1991).

Hemphill and Whitefield, on October 23, 1991, filed a Motion for a two week extension of time in which to file testimony. The request was filed on the very date on which testimony was due, despite the fact that they had been granted intervenor status the previous April and had a full opportunity to prepare prefiled testimony in accordance with the procedural schedule. The Commission denied the Motion.

On December 3, 1991, the Commission heard evidence on the Stipulation reached between Public Service Company of New Hampshire (PSNH), Northeast Utilities Service Company, the Business and Industry Association, Shelley Nelkens, pro se, the Office of Consumer Advocate and the Staff regarding PSNH's rate design. CRR objected to the Stipulation, as did Hemphill and Whitefield.

On December 13, 1991, Hemphill and Whitefield filed 80 Proposed Findings of Fact and Rulings of Law (Proposed Findings). The Commission made no rulings on the Proposed Findings; on June 5, 1992, the Commission approved the Stipulation.

For a full procedural history and terms of the approved Stipulation, see Report and Order No. 20,504 (June 8, 1992) (Order No. 20,504). This Report and Order will address Hemphill and Whitefield's Motion for Rehearing of

Order No. 20,504, timely filed on June 29, 1992 (Motion) and separately objected to by PSNH and the Staff on July 2, 1992.

II. POSITIONS OF THE PARTIES AND STAFF

A. Hemphill and Whitefield

Hemphill and Whitefield in their Motion state that they are entitled to rehearing of a particular finding of Order No. 20,504, as the Commission failed to rule on their 80 Proposed Findings, thereby rendering the Order deficient. They argue that Hemphill and Whitefield should be exempt from PSNH's monthly Generation Demand Charge, as they are not members of NEPOOL and that Order No. 20,504 fails to provide a reasonable basis for concluding that the demand charge exemption does not apply.

B. PSNH and Northeast Utilities

PSNH and Northeast Utilities Service Company jointly objected to the Motion, arguing that while Hemphill and Whitefield are not members of NEPOOL, the utility owners of the units are members and as such bear certain costs and that the Commission's Order No. 20,504 adequately addressed this issue, as well as complied with the standards of RSA 541-A.

C. OCA, Nelkens, BIA, CRR

The OCA, Shelley Nelkens, the BIA and CRR did not file responses to the Motion.

D. Commission Staff

The Commission Staff objected to the Motion, arguing that the Commission adequately addressed Hemphill and Whitefield's NEPOOL status and the Generation Demand charge, the Commission was under no obligation to rule on the Proposed Findings, Order No. 20,504 was not deficient, Hemphill and Whitefield were attempting, by means of the Proposed Findings, to insert testimony which the Commission had already ruled would not be allowed, and that the substantive issue of Hemphill and Whitefield's NEPOOL status could have been more extensively argued in the course of the hearings if they felt it was appropriate.

III. COMMISSION ANALYSIS

After consideration of the Motion for Rehearing and the responses filed by PSNH and the Staff, we conclude that the Motion for Rehearing should be denied for the following reasons:

Although Hemphill and Whitefield state that we are required under RSA 541-A to rule on their Proposed Findings, we find no such requirement in the law. We agree with the arguments of the Staff that neither the statutes nor rules under which the Commission operates provide for findings of fact and rulings of law. The "requirement" of RSA 541-A:20, therefore, is inapplicable. Petition of Sprague, 132 N.H. 250, 264 (1989).

Further, RSA 541-A:20 requires findings of fact and rulings of law when orders are written in "statutory language." Statutory language was not used in this case; to the contrary, Order No. 20,504 is a detailed document, 30 pages long, in which we discuss the issues raised by the Stipulation, the positions of the parties and the analysis that led us to our conclusions. Order No. 20,504 specifically addresses Hemphill and Whitefield's status as it relates to the NEPOOL demand charge.

The Commission is bound by the terms of RSA 363:17-b which establishes more specific standards by which our orders will be judged for completeness and sufficiency, thereby superseding RSA 541-A. Order No. 20,504 meets those standards and is, therefore, legally sufficient.

Further, we believe that many of the requested findings are more in the nature of testimony from Hemphill and Whitefield than findings of fact or rulings of law. Because Hemphill and Whitefield were substantially out of time in seeking intervention and demonstrated no reason why they could not have intervened in time to participate in

accordance with the original schedule, we denied their attempts for late filing of testimony. The sheer volume of the Proposed Findings filed, as well as the policy nature of many of them, leads us to believe that they were designed to take the place of the testimony which Hemphill and Whitefield were not permitted to file.

Finally, we note that the issue of Hemphill and Whitefield's NEPOOL status was explored at the hearing on the Stipulation. Hemphill and Whitefield, though unable to file testimony, were granted intervenor status and participated in cross examination and argument concerning the terms of the Stipulation. They could have further developed the record on the issue of their NEPOOL status if they felt such was necessary. We do not find it appropriate, therefore, to reopen the record or allow new argument on this issue on rehearing. Appeal of Gas Service, 121 N.H. 797 (1981).

Our order will issue accordingly.

Concurring: September 9, 1992

ORDER

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

ORDERED, that Hemphill Power and Light Company and Whitefield Power and Light Company's Motion for Rehearing of Order No. 20,504 is denied.

By order of the Public Utilities Commission of New Hampshire this ninth day of September, 1992.

==========

NH.PUC*09/09/92*[73029]*77 NH PUC 529*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73029]

NEW ENGLAND TELEPHONE COMPANY

DR 92-091
ORDER NO. 20,595

77 NH PUC 529

New Hampshire Public Utilities Commission

September 9, 1992

Order Approving Centrex Special Contract with Concord Hospital

---

On May 19, 1992, New England Telephone and Telegraph Company (NET) petitioned the New Hampshire Public Utilities Commission (Commission) for approval of a special contract, pursuant to RSA 378:18 to provide Concord Hospital with Centrex Service; and

WHEREAS, the costs contained in this contract are based on the cost study methodology approved by the Commission in docket DR 88-172, Report and Order No. 19,260, dated December 12, 1988, in which the Commission found that NET had met its burden of proof that

the proposed rates covered the costs of providing service; and

WHEREAS, the Commission will reserve judgment on whether the methodology used in DR 88-172 is the most appropriate method for determining NET's costs of service until, as required in Report and Order No. 20,082, dated March 11, 1991, NET includes an analysis of the incremental costs of Centrex service when filing its updated Incremental Cost Study in 1993 (1993 ICS); and

WHEREAS, Concord Hospital has available competitive substitutes for Centrex service in the form of customer owned private branch exchanges; and

WHEREAS, it is likely that the service that is the subject of this special contract will fall under the heading of an emergingly competitive service which will receive more relaxed regulatory treatment and pricing flexibility; it is hereby

ORDERED, that NET's Special Centrex contract with Concord Hospital be and hereby is approved; and it is

FURTHER ORDERED, that the rates for this contract be subject to review following the completion of the updated NET Incremental

Page 529

Cost Study to be supplied in 1993; and it is

FURTHER ORDERED, that NET provide an analysis comparing the rates in this contract to the costs identified in the 1993 ICS, citing the location in the 1993 ICS of each component used to determine the incremental cost of Centrex service, no later than 30 days after submission of the 1993 ICS; and it is

FURTHER ORDERED, that the parties are hereby put on notice that the Commission will review NET's analysis of the costs identified in the 1993 ICS with the rates in this contract and, if after adequate opportunity to be heard, the Commission finds that the contract rates are below their incremental costs, the Commission will take appropriate action which may include modification or withdrawal of approval; and it is

FURTHER ORDERED, that upon finding that the contract rates are below their incremental costs, NET stockholders will make up the deficiency between the rates charged and the incremental cost, for the period during which rates for this service did not recover their costs.

By order of the New Hampshire Public Utilities Commission this ninth day of September, 1992.

==========

NH.PUC*09/09/92*[73030]*77 NH PUC 530*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73030]

NEW ENGLAND TELEPHONE COMPANY

DR 92-098

ORDER NO. 20,596

77 NH PUC 530

New Hampshire Public Utilities Commission

September 9, 1992

Order Approving Centrex Special Contract with New Hampshire Electric Cooperative, Inc.

On May 19, 1992, New England Telephone and Telegraph Company (NET) petitioned the New Hampshire Public Utilities Commission (Commission) for approval of a special contract, pursuant to RSA 378:18 to provide New Hampshire Electric Cooperative, Inc. with Centrex Service; and

WHEREAS, the costs contained in this contract are based on the cost study methodology approved by the Commission in docket DR 88-172, Report and Order No. 19,260, dated December 12, 1988, in which the Commission found that NET had met its burden of proof that the proposed rates covered the costs of providing service; and

WHEREAS, the Commission will reserve judgment on whether the methodology used in DR 88-172 is the most appropriate method for determining NET's costs of service until, as required in Report and Order No. 20,082, dated March 11, 1991, NET includes an analysis of the incremental costs of Centrex service when filing its updated Incremental Cost Study in 1993 (1993 ICS); and

WHEREAS, New Hampshire Electric Cooperative, Inc. has available competitive substitutes for Centrex service in the form of customer owned private branch exchanges; and

WHEREAS, it is likely that the service that is the subject of this special contract will fall under the heading of an emergingly competitive service which will receive more relaxed regulatory treatment and pricing flexibility; it is hereby

ORDERED, that NET's Special Centrex contract with New Hampshire Electric Cooperative, Inc. be and hereby is approved; and it is

FURTHER ORDERED, that the rates for this contract be subject to review following the completion of the updated NET Incremental Cost Study to be supplied in 1993; and it is

FURTHER ORDERED, that NET provide an analysis comparing the rates in this contract to the costs identified in the 1993 ICS, citing the location in the 1993 ICS of each component used to determine the incremental cost of Centrex service, no later than 30 days after submission of the 1993 ICS; and it is

FURTHER ORDERED, that the parties are hereby put on notice that the Commission will review NET's analysis of the costs identified in the 1993 ICS with the rates in this contract and, if after adequate opportunity to be heard, the Commission finds that the contract rates are below their incremental costs, the Commission will take appropriate action which may include modification or withdrawal of approval; and it is

FURTHER ORDERED, that upon finding that the contract rates are below their incremental costs, NET stockholders will make up the deficiency between the rates charged and the incremental cost, for the period during which rates for this service did not recover their costs.

By order of the New Hampshire Public Utilities Commission this ninth day of September, 1992.

==========

NH.PUC*09/10/92*[73031]*77 NH PUC 531*GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

[Go to End of 73031]

GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

DE 90-002
ORDER NO. 20,597

77 NH PUC 531

New Hampshire Public Utilities Commission

September 10, 1992

Order Supplementing Order Nos. 20,574 and 20,575 Clarifying Requirements for Rate Changes and Service Introductions & Changes for Advanced Telecommunications Corp. and Corporate Telemanagement Group

---

The New Hampshire Public Utilities Commission (Commission), in Order Nos. 20,574 and 20,575, (Orders) both dated August 18, 1992, granted Corporate Telemanagement Group of New Hampshire, Inc. (CTG), and Advanced Telecommunications Corporation (ATC), respectively, interim authority to provide intraLATA services in New Hampshire; and

WHEREAS, the Commission in Order No. 20,566 dated August 5, 1992 modified the terms of authority granted to LDN, AT&T, MCI, Sprint, Cable & Wireless, NOS Communications and ACL, for interim authority to provide intraLATA services in New Hampshire; and

WHEREAS, we find it in the public good that competition among the intraLATA competitors, during the interim period, be conducted under equitable regulatory conditions; and

WHEREAS, the Orders also state that they were: subject to modification concerning the above listed conditions as a result of the commission's monitoring. . . ; and

WHEREAS, as a result of monitoring new filings and our review process we find it more practical to review new filings or changes to authorized services before they become effective; and

WHEREAS, we do not find it necessary to review subsequent rate changes to approved competitive service offerings before said rate changes become effective; it is hereby

ORDERED, that the interim authority granted to CTG, in Order No. 20,574, dated August

18, 1992, and granted to ATC, in Order No. 20,575, dated August 18, 1992 be clarified to specifically comply with the terms of Order No. 20,566 dated August 5, 1992; and

FURTHER ORDERED, that CTG and ATC file tariffs for new services and changes in existing services (other than rate changes), with effective dates no less than 30 days after the date the tariffs are filed with this Commission; and it is

FURTHER ORDERED, that CTG and ATC continue to file subsequent changes to rates within one day after offering service at the new rate, annotated with the Order No. that initially authorized the service.

By order of the New Hampshire Public Utilities Commission this tenth day of September, 1992.

==========

NH.PUC*09/11/92*[73032]*77 NH PUC 531*HOLIDAY RIDGE SUPPLY COMPANY, INC.

[Go to End of 73032]

HOLIDAY RIDGE SUPPLY COMPANY, INC.

DR 92-143
ORDER NO. 20,600

77 NH PUC 531

New Hampshire Public Utilities Commission

September 11, 1992

Order on proposed changes to the tariff

On July 1, 1992, Holiday Ridge Supply Company, Inc. (Holiday Ridge or Company), a water company servicing a limited area in the Town of Intervale filed revisions to its existing tariff with the New Hampshire Public Utilities

Commission (Commission) for effect on July 30, 1992; and

WHEREAS, the changes concern the right to impose liens for unpaid balances, the inclusion of charges for interest on unpaid balances, the imposition of a charge for returned checks and the ability to request deposits in instances where service has been disconnected for non-payment; and

WHEREAS, the Company further requested that customers pay for the cost associated with clearing blockages of the shut off valves in those situations where the blockages were the result of customer actions; and

WHEREAS, on July 27, 1992 Commission order no. 20,550 suspended first revised page 4 and 4a of NHPUC tariff No. 1; and

WHEREAS, on August 26, 1992, Holiday Ridge submitted a request which withdrew from further consideration

the request to impose liens on unpaid balances and submitted second revised page 4a; and

WHEREAS, after investigation it was determined that the remaining proposed changes were consistent with PUC regulations as well as similar water tariffs on file with the Commission and that the changes are in the public good; it is therefore

ORDERED, that the suspension on NHPUC No. 1 Water, second revised page 4, be lifted and allowed to be placed in effect the date of this order; and

FURTHER ORDERED, that second revised page 4a be approved effective on the date of this order.

By order of the New Hampshire Public Utilities Commission this eleventh day of September, 1992.

==========

NH.PUC*09/11/92*[73033]*77 NH PUC 532*PAC OF NEW HAMPSHIRE, INC.

[Go to End of 73033]

PAC OF NEW HAMPSHIRE, INC.

DE 92-122
ORDER NO. 20,601

77 NH PUC 532

New Hampshire Public Utilities Commission

September 11, 1992

Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On June 17, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from PAC of New Hampshire, Inc. (PAC—NH), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, PAC—NH proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be

competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that PACNH demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 9, 1992; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than September 24, 1992. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before October 14, 1992; and it is

FURTHER ORDERED, NISI, that PACNH hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so- called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;

that PAC—NH shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;

that PAC—NH shall file tariffs for new services and changes in existing services (other than rate changes), with effective dates no less than 30 days after the date the tariffs are filed with this commission

that PAC—NH shall notify the Commission of a change in rates to be charged the public within one day after offering service at a rate other than the rate on file with the Commission;

that PAC—NH shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400;

that PAC—NH shall be subject to all reporting requirements contained in RSA 374:15-19;

that PAC—NH shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;

that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

that PAC—NH shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, PAC—NH shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;

that PAC—NH shall report revenues associated with each service on a monthly basis;

that PAC—NH shall report the number of customers on a monthly basis;

that PAC—NH shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow PAC—NH to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, PAC—NH file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that such authority shall be effective 30 days from the date of this order, unless a hearing is requested as provided above or the Commission otherwise orders prior to the proposed effective date.

Page 533

By order of the New Hampshire Public Utilities Commission this eleventh day of September, 1992.

==========

NH.PUC*09/14/92*[73034]*77 NH PUC 534*INDIAN MOUND WATER CORPORATION

[Go to End of 73034]

INDIAN MOUND WATER CORPORATION

DE 90-104
ORDER NO. 20,602

77 NH PUC 534

New Hampshire Public Utilities Commission

September 14, 1992

Report Addressing Settlement Agreement and Rate Design

Appearances: Robert Zimmerman, Esq. on behalf of Indian Mound Water Corporation; Brown, Olson & Wilson by Paul Savage, Esq. on behalf of the Indian Mound Property Owners Association and James T. Rodier, Esq. on behalf of the New Hampshire Public Utilities Commission

REPORT

I. PROCEDURAL HISTORY

On June 4, 1990, Indian Mound Water Corporation ("Company") filed a petition to establish a franchise to provide water to the Indian Mound Development and implicitly to establish rates therefore pursuant to RSA 378:1 et seq. On August 2, 1990, the Commission issued an order of notice scheduling a prehearing conference for September 24, 1990, at 10 A.M. On September 20, 1990, the Indian Mound Property Association ("Association") filed a timely motion to intervene. At the scheduled prehearing conference the motion to intervene was granted, there being no objection.

On November 19, 1990, the Commission issued Report and Order No. 19, 985 establishing a procedural schedule and officially granting the motion to intervene filed by the Association.

On April 2, 1991, the Commission issued Report and Order No. 20,096 granting a franchise to the Company. It further granted the Company temporary rates in the amount of $25.03 per quarter effective the date of the order.

At a hearing held on July 26, 1991, the parties and Staff submitted a settlement agreement to the Commission on the issue of revenues. However, the parties disagreed on the issue of rate design.

II. SETTLEMENT AGREEMENT

The parties and Staff stipulated to the following rate components: (See Attachment A)

Operation and Maintenance Expense $8,569

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

Rate Base $7,114

Rate of Return 12.33%

Revenue Requirement $9,690

The settlement agreement further provided that the Company would be allowed to collect $4,696.20 in rate case expenses over a two-year period as a surcharge and would be allowed to recover the difference between permanent and temporary rate levels as a surcharge in its next quarterly billing cycle.

As was stated above, the settlement left open the issue of rate design.

III. RATE DESIGN

A. Positions of the Parties and Staff.

The Company and the Association take the position that based on a "Declaration of Easements, Covenants, Restrictions, Agreements and Charges Effecting Real Property Known as Indian Mound, a subdivision in Center Ossipee" ("Declaration"), individual property owners possessing undeveloped lots must pay an availability fee of $48 per year.

Page 534

B. Background

The Company and its predecessors in interest have been providing water to the residents of the subdivision, known as Indian Mound, since the late 1960's. The water system was initially built by Indian Mound Corporation as an integral part of the subdivision.

In 1967 the developer filed the Declaration with the Carroll County Registry of Deeds. A copy of said Declaration is appended hereto as Attachment B. In the Declaration, Indian Mound Corporation, a predecessor in title to the Company, stated that it was the owner of certain real estate and intended to develop and subdivide the property subject to certain covenants and restrictions. The Declaration also indicated that all of the future lot owners would be subject to the conditions and restrictions contained in the Declaration.

One of the covenants contained in the Declaration states "if a water system is installed in the subdivision, each person shall sign a water services agreement and such purchaser shall pay to Indian Mound Corporation, its successors and assigns, a minimum monthly charge of $4 payable annually on the first day of April commencing upon the availability of water services whether or not connection is made to the main." Paragraph 10 of the Declaration.

In 1969 Knox Mountain Corporation ("Knox") became the successor in interest to Indian Mound Corporation. In December, 1969 the Indian Mound Water Service and Connection Agreement ("Agreement"), appended hereto as Attachment C, was drafted and purportedly modified the Declaration, to wit, it required a $48 annual availability fee on undeveloped lots payable quarterly. In addition, the connection agreement stated that it is an appurtenant part of the land and binding on the successors and assigns of

Knox property owners in the subdivision. Knox's interests in the water system and in the subdivision was subsequently transferred to DMD Golf Associates, Inc. ("DMD"). Until February, 1990 DMD charged all property owners in the subdivision $48 per year for water service whether or not DMD provided water service to the property owner.

In February, 1990 the Commission ordered DMD to stop charging for water services because DMD was not an authorized public utility. Recently, DMD transferred all of the assets of the water system to the Company in an attempt to segregate the water utility operations from DMD's other businesses. Both DMD and the Company are owned by the same individuals. Presently the Company provides water to 81 customers. In addition, 33 property owners in the subdivisions do not receive water from the Company but have access to the water system.

IV. COMMISSION ANALYSIS

The issue in this case is whether the Declaration controls rate design in this case or the Commission in its sound discretion, based on policy goals, has the statutory right pursuant to

RSA Chapter 378 to determine a just and reasonable rate design.

The controlling case, given the facts of this case, is Richter v. Mountain Spring Water Company, Inc., 122 N.H. 850 (1982). In Richter, the plaintiff, landowners, brought suit in Superior Court contesting the payment of a $60 availability fee set by the Commission pursuant to RSA Chapter 378. The plaintiffs were in two distinct groups, those landowners that purchased lots with no covenants relative to stand-by fees and those landowners that subsequently purchased lots subject to a later covenant requiring the payment of a $25 per year stand-by fee.

The Court held that both groups of purchasers purchased their lots with covenants that were an express basis of the bargain to purchase real estate. Richter, 122 N.H. at 852. The Court went on to hold that there was actual and constructive notice on the part of the purchasers and that there was privity between the "utility" and the purchasers. Id. The Court held, therefore, that the Commission did not have the authority to alter rate design, i.e., increase the $25 availability fee or set any availability fee.

The case at hand is essentially the same as Richter. The members of the Association purchased lots subject to a covenant in the

Declaration containing a stand- by fee of $48 per year payable on the first day of April each year. The Declaration was on file at the Registry of Deeds creating actual and/or constructive notice, and, thus, was a basis of the bargain for the purchase of real estate.

We do not believe that in all cases in which utility rates are stated in a deed, the Commission is deprived of jurisdiction. Given these facts, however, we find the Richter case applicable as it applies to the availability fee only. Therefore, we will base rate design on a $48 per year stand-by fee, payable by all landowners of undeveloped lots with access to the water system in the subdivision as delineated in the Declaration.

1(30) We direct the staff to work with Indian Mound to develop an appropriate fee for water consumption.

In conclusion, the Commission finds the overall revenue requirement set forth in the stipulation, attached hereto as Appendix A, just and reasonable on the property used and useful in the public service. In regard to rate design the Commission need make no findings as to whether the availability fee is "just and reasonable" given the Richter decision. The parties and Staff should develop rate schedules to reflect our decision on rate design.

Our order will issue accordingly.

Concurring: September 14, 1992

Indian Mound Water Corporation

Indian Moun Property Association

Staff of the Public Utilities Commission

ORDER

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

ORDERED, that the stipulation set forth as Appendix A to this Report and Order is adopted; and it is

FURTHER ORDERED, that an availability fee of $48 per year, payable on the 1st of April each year, be charged to all owners of undeveloped lots with access to the water system in the subdivision; and it is

FURTHER ORDERED, that Staff and the parties develop schedules to reflect our rate design decision; and it is

FURTHER ORDERED, that Indian Mound Water Corporation file tariff pages to reflect this decision.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of September, 1992.

FOOTNOTES

[1]Although there is a subsequent "Water Service and Connection Agreement" that purportedly modifies the Declaration and calls for quarterly payments of the $48 fee, there is no evidence it was filed at the Registry of Deeds or signed by the lot owners, and, therefore, it cannot be said that quarterly fees were a basis of any bargain for real estate; the Declaration, therefore, will control.

APPENDIX A

STIPULATION AGREEMENT ESTABLISHMENT OF FRANCHISE, TARIFF AND RATES

1.0 This Agreement is entered into this 26th day of July, 1991 between Indian Mound Water Corporation (Petitioner), Indian Mound Property Owners Association (Intervenor) and the Staff of the Public Utilities Commission (Commission) for the purposes and subject to the terms and conditions hereinafter stated.

2.0 Introduction: Pursuant to RSA 374:22, on June 7, 1990, Indian Mound Water Corporation filed a Petition to provide water service to a limited area in the Town of Ossipee, New Hampshire, in a development know as Indian Mound.

Pursuant to RSA 541:A:16 and Puc Rule 203.05, a prehearing conference was held at the Commission on 8 Old Suncook Road, Concord, New Hampshire on September 24, 1990, to establish a procedural schedule and to address matters of intervention. At the scheduled prehearing conference, the motion to intervene filed by Indian Mound Property Association was granted.

On November 19, 1990, the Commission issued Order number 19,985 which adopted the schedule agreed to by the parties for the purpose of establishing a hearing on the franchise and

permanent rates. The Petitioner submitted testimony and supporting documentation concerning the revenue level for Indian Mound Water Corporation on December 4, 1990. Staff stipulated, based upon a review of the documentation submitted, that the Petitioner has the financial, managerial and technical ability to provide water service in the proposed service area. The Petitioner estimated total annual operation and maintenance costs for the Indian Mound Water Corporation System at $10,532.00 or $164.56 per customer.

Staff estimated annual operation and maintenance costs at $9,411.46 or an annual water rate of $100.12 per customer for temporary rate purposes.

At the December 4th meeting and subsequent discussions with the Petitioner it was agreed that the staff level of operating and maintenance expenses of $9,411.46 was just and reasonable for temporary rate purposes.

The Commission issued Order number 20,096 on April 2, 1991 granting a franchise and approving the temporary rates.

Following the procedural schedule the parties requested and received additional documents and testimony on final rates.

At a settlement conference on June 21, 1991, the parties resolved the issue of operation and maintenance expenses of $8,170 with the total expenses of $8,569. The issue of whether or not subdivision covenants requiring the payment of $48.00 annual by thirty-three (33) potential customers were still enforceable in the face of Commission jurisdiction remained open. The issue of certain expenses of Petitioner experienced during the suspension of payments for service by Intervenor and their application to the permanent rate were also left open.

3.0 Operating and Maintenance Expenses: It is agreed that the Petitioner has total operating expenses of$8,569 as reflected on Attachment 3, attached hereto.

4.0 Customers: It is agreed that there are eighty-one (81) customers of the water system of which seventy-six (76) are members of Intervenor, four (4) are related to the golf course clubhouse operation and one (1) is the Intervenor's swimming pool.

5.0 Potential Customers: It is agreed that there are thirty-three (33) potential customers who are owners of lots in Indian Mound Subdivision and members of Intervenor but do not yet receive water service.

6.0 Temporary Rate Recoupment: It is agreed that Petitioner shall be allowed to recover the difference between the permanent and temporary rate level as a surcharge in its next quarterly billing cycle.

7.0 Rate Case Expenses: It is agreed that the Petitioner's rate case expenses of $4,696.20 are as reflected in Attachment 5 attached hereto shall be surcharged over a two (2) year period.

8.0 Rate Base: It is agreed the rate base shall be $7,114 as set forth on Attachment 2, attached hereto.

9.0 Rate of Return: It is agreed that the return on equity and the overall rate of return allowed to petitioner shall be 12.33% based on the last Commission approved rates of return for small water companies.

10.0 Total Allowed Revenue: It is agreed that the total allowed revenue shall be $9,690, as

shown on Attachment 1, attached hereto.

11.0 Quarterly Rates: It is agreed that the quarterly rate to customers shall be as set forth on Attachment 4 attached hereto.

12.0 Issue as to Covenants: It is agreed that the quarterly rates shall be reduced appropriately in the event that Intervenor prevails on its legal position of whether or not the thirty-three (33) potential customers are bound by the subdivision covenants to pay $48.00 per year without receiving water service. Intervenor will submit a brief before July 12, 1991 for the consideration of the hearing officer. It is further agreed that Petitioner will submit a brief on or before July 12, 1991 on the issue of whether or not the covenants require the payment by the lot owners

Page 537

within the Indian Mound Subdivision of the $48.00 fee provided in the covenants for the period of time from April 1, 1989 to April 2, 1991 when a temporary rate was fixed by the Commission.

13.0 Metering: The Petitioner agreed to submit a plan to establish metering within one (1) year following the date of the issuance of an order in this permanent rate proceeding.

14.0 Acknowledgement of Parties: It is agreed that the rates established in this proceeding are just and reasonable and have been calculated in accordance with the ordinary and customary procedures employed by the Commission.

15.0 General Conditions: This Agreement is subject to the following further conditions:

15.1 The making of this Agreement shall not be deemed in any respect to constitute an admission by any party that any allegation in these proceedings other than those specifically agreed to herein is true and valid.

15.2 The making of this Agreement establishes no principles or precedents in any other proceeding or investigation.

15.3 Commission's approval of this Agreement shall not in any respect constitute a termination as to the merits of any allegations made in this rate proceeding.

15.4 This Agreement is expressly conditioned upon the Commission's acceptance of all of its provisions without change or conditions and if the Commission does not so approve, the Agreement may be withdrawn by either Staff, Intervenor or Petitioner and shall not constitute any part of the record in this proceeding or be used for any other purpose at the call of the parties.

15.5 This Agreement constitutes an integrated writing and each of the provisions is in consideration and support of every other provision and is an essential condition of every other provision.

15.6 The discussions which have produced this Agreement have been conducted on the explicit understanding that all offers of settlement and discussions relating thereto shall remain confidential and privileged, and without prejudice to the position of any participant presenting any such offer or participating in any discussion, and are not to be used in any manner in connection with this proceeding or otherwise.

IN WITNESS whereof, the parties' fully authorized agents have executed this agreement this 26th day of July 1991.

Page 538

INDIAN MOUND WATER CORPORATION DE 90-104 REVENUE REQUIREMENT

MJN 07/01/91 STIPULATION DISK1, INDMND2 ATTACHMENT 1 REVREQ1

RATE BASE 7,114 RATE OF RETURN 12.33% REVENUE REQUIREMENT 877 OPERATING INCOME (8,569) REVENUE DEFICIENCY 9,446 TAX EFFECT 245 REVENUE DEFICIENCY 9,690

Page 539

INDIAN MOUND WATER CORPORATION DE 90-104 INCOME TAX COMPUTATION MJN 07/01/91 STIPULATION DISK1, INDMND2 ATTACHMENT 1 INCTAX1 SCHEDULE 2

RATE BASE (ATT 1) 7,114 RATE OF RETURN 12.33% -------- NET INCOME REQUIRED 877 ======== OVERALL TAX EFFECT (ATT 1, SCH 1) 245 ======== TAX EFFECT - BUS. PROFITS TAX (ATT 1, SCH 1) 76 ======== TAX EFFECT - FEDERAL INCOME TAX (ATT 1, SCH 1) 168 ========

Page 540

INDIAN MOUND WATER CORPORATION DE 90-104 EFFECTIVE TAX FACTOR MJN 07/01/91 STIPULATION DISK1, INDMND2 ATTACHMENT 1 TAXFCTR SCHEDULE 1

TAXABLE INCOME 100.00% LESS: BUSINESS PROFITS TAX 8.00% --------- FEDERAL TAXABLE INCOME 92.00% F.I.T. RATE 15.00% --------- F.I.T. 13.80% ADD: BUS. PROFITS TAX 8.00% --------- EFFECTIVE TAX RATE 21.80% ========= PERCENT OF INCOME AVAILABLE IF NO TAX 100.00% EFFECTIVE TAX RATE 21.80% --------- PERCENT USED AS A DIVISOR IN DETERMINING 78.20% THE REVENUE REQUIREMENT =========

Page 541

INDIAN MOUND WATER CORPORATION DE 90-104 RATE BASE MJN 07/01/91 STIPULATION DISK1, INDMND2 ATTACHMENT 2 RB

5,716 PLANT IN SERVICE 186 LESS: ACCUMULATED DEPRECIATION 94 AMORTIZATION RESERVE ------- 5,435 ADD: CASH WORKING CAPITAL TOTAL O & M EXPENSE 8,170 TIMES 20.55% (75/365 DAYS) 20.55% -------- CASH WORKING CAPITAL 1,679 ADD: MATERIALS & SUPPLIES 0 -------- TOTAL WORKING CAPITAL 1,679 -------- RATE BASE 7,114 ========

Page 542

INDIAN MOUND WATER CORPORATION DE 90-104 DEPRECIATION/AMORTIZATION SCHEDULE MJN 07/01/91 STIPULATION DISK1, INDMND2 ATTACHMENT 2 DEPR SCHEDULE 1

ORIGINAL COST DEPR ACCUM DEPR DEPRECIATION SCHEDULE 1990 RATE DEPR EXPENSE .... PUMP HOUSE INSTALLED IN 1990 4,960 25.00% 186 124 ======== =======

ORIGINAL COST AMORT AMORT AMORT AMORTIZATION SCHEDULE 1989 RATE RESERVE EXPENSE .... ORGANIZATION EXPENSE 756 5.00% 94 38 -------- ====== ====== TOTAL PLANT IN SERVICE 5,716 =========

INDIAN MOUND WATER CORPORATION DE 90-104 OPERATING INCOME STATEMENT YEAR ENDING MARCH 31, 1990 MJN 07/01/91 STIPULATION DISK1, INDMND2 ATTACHMENT 3 INCSTAT

12 MTHS PROFORMA TEST YEAR PROPOSED TEST YEAR ENDED 12/90 REF ADJUSTMENT PROFORMA REF INCOME PROFORMA OPERATING REVENUES ---------- REVENUES 0 0 0 ATT1 9,690 9,690 OTHER OPERATING INCOME 0 0 0 0 --- --- --- ------- ------- TOTAL REVENUES 0 0 0 9,690 9,690

OPERATING EXPENSES ---------- PRODUCTION EXPENSES 2,178 ATT2-1 2,452 4,630 0 4,630 TRANSMISSION & DISTRIBUTION 0 0 0 0 CUSTOMER ACCOUNTING 0 ATT2-1 1,200 1,200 0 1,200 ADM & GEN'L EXPENSES: OFFICE SALARIES 0 0 0 OFFICE SUPPLIES & EXPENSE 0 0 0 0 SUPERVISION FEES & SPECIAL SERVCIES 0 ATT2-1 2,300 2,300 2,300 INSURANCE 0 0 0 0 MISC. GENERAL EXPENSES 0 ATT2-1 40 40 40 MANAGEMENT FEES 0 0 ------- ------- ------- --- ------- TOTAL O & M EXPENSES 2,178 5,992 8,170 0 8,170 TAXES: F.I.T 0 0 ATT1-2 168 168 PROPERTY 0 ATT2-1 0 0 STATE 0 0 ATT1-2 76 76 OTHER (Franchise Tax) 275 ATT2-1 275 2,175 DEPRECIATION 124 124 124 AMORTIZATION 38 38 38 ------- ------- ------- ------- ------- TOTAL EXPENSE 2,577 5,992 8,569 245 8,813 ------- ------- ------- ------- ------- NET OPERATING INCOME (2,577) 5,992 (8,569) 9,446 877 ========= ======= ========= ======= =======

INDIAN MOUND WATER CORPORATION DE 90-104 ESTIMATED O & M EXPENSES MJN 07/01/91 STIPULATION DISK1,INDMND2 ATTACHMENT 3 TO&M SCHEDULE 1

COST OF POWER $1,587.00 OTHER PRODUCTION EXPENSES: SUPERINTENDENCE $1,040.00 DES PERMIT FEE 590.00 WATER TESTING: WELLS ($475 X 2 / 3) 316.67 ($475 per well every three years. The Company has two wells.) BACTERIA TEST ($8 X 12) 96.00 ($8 per system per month. The Company has one system.) MAINTENANCE 1,000.00 OTHER PRODUCTION EXPENSES 3,042.67 ---------- TOTAL PRODUCTION EXPENSES 4,629.67

CUSTOMER ACCOUNTING 1,200.00 (Bill heads, postage, telephone, rent) ADMINISTRATIVE & GENERAL: PROFESSIONAL FEES 2,300.00 (PUC Annual report, IRS returns, and ongoing accounting services) PUC ASSESSMENT 40.00 FRANCHISE TAX (Secretary of State) 275.00 PROPERTY TAXES 0.00 ---------- TOTAL ESTIMATED OPERATION & MAINTENANCE EXPENSES 8,444.67 DEPRECIATION EXPENSE 124.00 AMORTIZATION EXPENSE 37.80 ---------- $8,606.46 ==========

Page 545

INDIAN MOUND WATER CORPORATION DE 90-104 RATE PER CUSTOMER STIPULATION MJN 07/01/91 ATTACHMENT 4 DISK1, INDMND2 RATE

REVENUE REQUIREMENT $9,690

DIVIDED BY THE NUMBER OF CUSTOMERS 81 ----------

ANNUAL RATE PER CUSTOMER $120 ==========

QUARTERLY RATE PER CUSTOMER $30 ==========

Page 546

INDIAN MOUND WATER CORPORATION DE 90-104 OPERATING INCOME STATEMENT YEAR ENDING MARCH 31, 1990 MJN 07/01/91 STIPULATION DISK1, INDMND2 ATTACHMENT 3 INCSTAT

12 MTHS PROFORMA TEST YEAR PROPOSED TEST YEAR ENDED 12/90 REF ADJUSTMENT PROFORMA REF INCOME PROFORMA OPERATING REVENUES ---------- REVENUES 0 0 0 ATT1 9,690 9,690 OTHER OPERATING INCOME 0 0 0 0 --- --- --- ------- ------- TOTAL REVENUES 0 0 0 9,690 9,690

OPERATING EXPENSES ---------- PRODUCTION EXPENSES 2,178 ATT2-1 2,452 4,630 0 4,630 TRANSMISSION & DISTRIBUTION 0 0 0 0 CUSTOMER ACCOUNTING 0 ATT2-1 1,200 1,200 0 1,200 ADM & GEN'L EXPENSES: OFFICE SALARIES 0 0 0 OFFICE SUPPLIES & EXPENSE 0 0 0 0 SUPERVISION FEES & SPECIAL SERVCIES 0 ATT2-1 2,300 2,300 2,300 INSURANCE 0 0 0 0 MISC. GENERAL EXPENSES 0 ATT2-1 40 40 40 MANAGEMENT FEES 0 0 ------- ------- ------- --- ------- TOTAL O & M EXPENSES 2,178 5,992 8,170 0 8,170 TAXES: F.I.T 0 0 ATT1-2 168 168 PROPERTY 0 ATT2-1 0 0 STATE 0 0 ATT1-2 76 76 OTHER (Franchise Tax) 275 ATT2-1 275 2,175 DEPRECIATION 124 124 124 AMORTIZATION 38 38 38 ------- ------- ------- ------- ------- TOTAL EXPENSE 2,577 5,992 8,569 245 8,813 ------- ------- ------- ------- ------- NET OPERATING INCOME (2,577) 5,992 (8,569) 9,446 877 ========= ======= ========= ======= =======

Page 547

INDIAN MOUND WATER CORPORATION DE 90-104 ESTIMATED O & M EXPENSES MJN 07/01/91 STIPULATION DISK1, INDMND2 ATTACHMENT 3 TO&M SCHEDULE 1

COST OF POWER $1,587.00 OTHER PRODUCTION EXPENSES: SUPERINTENDENCE $1,040.00 DES PERMIT FEE 590.00 WATER TESTING: WELLS ($475 X 2 / 3) 316.67 ($475 per well every three years. The Company has two wells.) BACTERIA TEST ($8 X 12) 96.00 ($8 per system per month. The Company has one system.) MAINTENANCE 1,000.00 OTHER PRODUCTION EXPENSES 3,042.67 ---------- TOTAL PRODUCTION EXPENSES 4,629.67 CUSTOMER ACCOUNTING 1,200.00 (Bill heads, postage, telephone, rent) ADMINISTRATIVE & GENERAL: 2,300.00 PROFESSIONAL FEES (PUC Annual report, IRS returns, and ongoing accounting services) PUC ASSESSMENT 40.00 FRANCHISE TAX (Secretary of State) 275.00 PROPERTY TAXES 0.00 --------- TOTAL ESTIMATED OPERATION & MAINTENANCE EXPENSES 8,444.67 DEPRECIATION EXPENSE 124.00 AMORTIZATION EXPENSE 37.80 ---------- $8,606.46

==========

NH.PUC*09/14/92*[73035]*77 NH PUC 549*GRANITE STATE ELECTRIC COMPANY

[Go to End of 73035]

GRANITE STATE ELECTRIC COMPANY

DR 92-084
ORDER NO. 20,603

77 NH PUC 549

New Hampshire Public Utilities Commission

September 14, 1992

Report and Order Granting Temporary Rates

I. PROCEDURAL HISTORY

On June 1, 1992, Granite State Electric Company (Granite State or the Company) filed proposed permanent rate schedules and testimony requesting a revenue increase of approximately $2.73 million or a 4.5% increase in revenues. On that same date the Company requested temporary rates in the amount of $1.44 million or a 2.3% rate increase pursuant to RSA 378:27. On June 30, 1992, the Commission issued an Order suspending the proposed rate increase and set a prehearing conference for July 31, 1992, to address motions to intervene, a schedule to investigate the proposed permanent rate request and temporary rates.

II. POSITIONS OF THE PARTIES AND STAFF

The company took the position that it was currently earning an overall rate of return of 6%, well below its last allowed rate of return of 12.3%. Furthermore, in response to questions from the bench, the Company indicated that although it did not intend to seek financing this year it did require financing in the following year and that without temporary rates it would have insufficient cash flow to meet the interest coverage required in its current indentures, thereby, preventing it from obtaining financing. The Company further indicated that bonded rates

pursuant to RSA 378:6,III would appear on its books as a debt and would in fact further hinder its attempts to obtain financing. Staff took the position that temporary rates should be granted at the level requested by the Company. Staff based this position on its analysis of the Company's annual reports on file at the Commission which indicated the Company's return on equity in the calendar year 1991 was 9.38% well below its last approved return on equity of 12.3%. An analysis of Staff's testimony and the Company's annual report further reveals that the Company's overall rate of return was 7.72% as compared to an overall cost of capital of 11.12% using current debt costs and the last found rate of return on equity. Staff and the Company stipulated to the following procedural schedule:

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

Company Filing June 1, 1992
Order Suspending Tariff June 30, 1992
Temporary Rate Hearing
and Procedural Schedule July 31, 1992

Staff/Intervenor Data
Requests to Company September 11, 1992

Company Responses to
Staff/Intervenor Requests September 25, 1992

Second Set Staff/Intervenor
Data Requests October 23, 1992

Company Responses to
Staff/Intervenor Requests November 6, 1992

Staff/Intervenor Testimony January 8, 1993

Company Data Requests to
Staff/Intervenor January 22, 1993

Staff/Intervenor Responses
to Company February 12, 1993

Company Rebuttal Testimony February 26, 1993

Settlement Conferences March 8, 1993 -
March 12, 1993

Staff Surrebuttal Testimony March 15, 1993

Hearing on the Merits March 22, 1993 -
March 30, 1993

III. COMMISSION ANALYSIS

Pursuant to RSA 378:27 the Commission may grant temporary rates if, in its opinion, the public interest so requires and the records of the company on file with the Commission indicate it is not earning a reasonable return on its property used and useful in the public service. In applying this standard the commission has held that the company should demonstrate that its underearnings in some way threaten the company's financial stability or somehow disadvantage the company or its ratepayers in a manner that can not be resolved through bonded rates. In this case the Company has demonstrated that it is currently underearning, based on the reports of the utility on file with the Commission, and that this underearning would disadvantage both the Company and its ratepayers because the Company would be unable to obtain financing, contemplated in the near future. Given current interest rates the Commission finds that providing temporary rates would be in the public interest. Based upon staff testimony the inclusion of the

requested temporary rates would allow the company's earnings level to increase to a level at which additional debt can be issued, thereby taking advantage of the current low interest rates. Additionally, it appears that a level of rate continuity will be accomplished by allowing the company to set temporary rates at a level lower than the requested permanent rates, but higher that the current rates. Therefore, we will allow an increase of 2.3%, approximately half of the requested permanent rates, to become effective for service rendered after the date of this order.
Finally the Commission finds the stipulated procedural schedule to be in the public good.
Our order will issue accordingly.
Concurring: September 14, 1992

ORDER

In consideration of the foregoing report which is made a part hereof; it is hereby
ORDERED, that Granite state Electric Company is granted a temporary rate increase of $1.44 million effective for service rendered after the date of this order; and it is
FURTHER ORDERED, that Granite State Electric Company file compliance tariff pages in conformance with Puc Rule 1601.05; and it is
FURTHER ORDERED, that the procedural schedule set forth in the forgoing report is approved.
By order of the Public Utilities Commission of New Hampshire this fourteenth day of September, 1992.

NH.PUC*09/16/92*[73036]*77 NH PUC 550*DAVID WOOD V. GRANITE STATE TELEPHONE COMPANY

[Go to End of 73036]

DAVID WOOD V. GRANITE STATE TELEPHONE COMPANY

DC 92-144
ORDER NO. 20,607

77 NH PUC 550

New Hampshire Public Utilities Commission

September 16, 1992

Order Converting David Wood's Telephone Service to Selective Calling Service

---

Appearances: David Wood, pro se; Devine, Millimet and Branch by Frederick Coolbroth, Esq. for Granite State Telephone; Office of the Consumer Advocate by Joseph Rogers, Esq.

REPORT

I. PROCEDURAL HISTORY

On July 22, 1992 David Wood filed a complaint against Granite State Telephone ("GST") with the New Hampshire Public Utilities Commission ("Commission"). On September 3, 1992 the Commission held a hearing on the complaint.

II. BACKGROUND

Mr. Wood became a residential customer of GST in September of 1987 at his private residence in Weare, New Hampshire. At that point in time he was employed by the Associated Builders and Contractors, NH/VT Chapter ("ABC"). In January of 1990 Mr. Wood left his position with ABC and became a free-lance writer, which involved making telephone calls from his home for his new business. Between January of 1990 and February of 1992, Mr. Wood contacted GST at least two or three times to discuss various aspects of his service.

In February of 1990 Mr. Wood began receiving Granite State Service (GSS), a service available to residential customers only, which provides reduced rates for long distance intrastate toll calls made during certain hours of the day.

In March of 1992, as a result of a Commission decision in a New England Telephone (NET) rate case, GSS was eliminated and another similar reduced rate service available to both business and residential customers, Selective Calling Service (SCS), was grandfathered to existing customers. Optional toll calling plans such as GSS and SCS are NET toll rates in which GST concurs. NET establishes the terms and conditions of toll rates including GSS and SCS for its customers, which subsequently apply to GST customers due to GST's concurrence in the NET toll tariff.

As a result of a number of complaints received from customers, the Commission, on June 24, 1992, held a public hearing on its decision to eliminate GSS. After the hearing, at the request of the Commission, NET reinstated GSS on a grandfathered basis, to those customers who had GSS as of January 20, 1992 if they so desired. SCS had been previously grandfathered to customers who subscribed as of January 20, 1992, so no further action was taken regarding SCS.

Mr. Wood's telephone bills rose significantly as a result of his loss of GSS. In February, March and April of 1992 Mr. Wood called GST and visited its office complaining about the increase in his bills and asking about other services available to him.

On June 1, 1992 the Weare Selectmen had a meeting with GST officials and the public to discuss the elimination of GSS. On June 25, 1992, one day after the public hearing at the Commission, GST sent Mr. Wood a letter telling him that it had come to its attention that his residential service was being used as a business service and therefore they were upgrading his service to a business line. Subsequently, Mr. Wood spoke with and wrote to GST representatives indicating that he believed he should have SCS because his service should have been converted to a business service in the past, when he told GST customer service representatives that he was a free-lance writer using his home telephone for business purposes. He argued that if GST had properly converted his service to a business service in the past he would have had SCS on January 20, 1992 and would have been eligible to be grandfathered for SCS. GST refused to convert Mr. Wood to this service indicating that to do so would be contrary to the terms and conditions of their agreement with NET.

III. POSITIONS OF THE PARTIES

A. Granite State Telephone Company

GST argues that it acted properly in refusing to provide SCS to Mr. Wood and denies that Mr. Wood ever indicated to it his change in status from a residential customer to a business

customer. Since Mr. Wood was not receiving SCS on January 20, 1992, GST argues it has no authority to provide that service to him. Moreover, GST says that Mr. Wood benefitted improperly from receiving GSS while he was in fact operating as a business; consequently, he received lower rates for approximately two years when he should have been paying the higher business rates. GST also strongly denies Mr. Wood's charge that the upgrade of his service to a business customer was done in retaliation for Mr. Wood's publicizing of his dissatisfaction with the elimination of GSS and SCS.

B. Mr. David Wood

Mr. Wood argues that he told customer service representatives on a number of occasions that he was using his telephone for his free-lance writing business and that the company never told him that he was not eligible for GSS. Since he should have been on SCS, but was not because GST failed to tell him this, Mr. Wood argues that he should be placed on this service now as if he had been receiving it as of January 1992.

Mr. Wood further argues that he should receive a refund for calls that he made after he lost GSS. This refund should reflect the difference between what he paid for his calls and what he would have paid for those calls under SCS.

Mr. Wood also argues that GST should be punished for retaliating against him for publicizing his problems with GST and his unhappiness over the elimination of these services. He believes that the Commission should punish GST for the way it has handled his case and that it should compensate him for the time he has spent on this case.

C. Office of the Consumer Advocate

The Office of the Consumer Advocate (OCA) argues that Mr. Wood should be given SCS and also argues that the Commission should look at the method used by GST and other companies for determining whether a customer is a business or residential customer. The OCA believes GST's policy is too vague and leaves too much discretion to GST. The OCA further argues that GST did not give proper notice to Mr. Wood before changing his service to a business service in June of 1992. The OCA believes that the notice should have conformed to the provisions of N.H. Admin. Rules, Puc 403.06 and should be treated as a disconnection.

IV. COMMISSION ANALYSIS

Based on the testimony offered by Mr. Wood and the three witnesses for GST, the Commission has no reason to believe that GST's actions were motivated by anything other than its desire to follow its agreement with NET and its understanding of Commission policy. There is no evidence that the transfer of Mr. Wood's service to a business service had anything to do with Mr. Wood's efforts to publicize the issue. Rather, GST acted in response to a public admission by Mr. Wood that he was in fact using his line for business purposes. Although GST would have been justified in changing the service in April of 1992 (and in fact much earlier), we find no fault with the company's reasons for not taking action at that time.

We find persuasive, however, Mr. Wood's testimony that he told customer service representatives on at least two occasions that he was using his telephone line for his free- lance

writing business and that GST never suggested that what he was doing was wrong. The flyer which GST typically mailed to GSS customers and which Mr. Wood neither denies nor admits receiving does not state as clearly as it should that the service is only available to residential customers and that business customers are not eligible. While, as the OCA suggests, GST's policy on how to determine whether a customer is residential or business is vague and open to much discretion, we can not find fault with the company for doing its best to handle what can be a very delicate matter. We believe, nonetheless, that Mr. Wood should be given SCS on the basis that he was an eligible business customer prior to January 20, 1992, and the record indicates that if he had been aware of his eligibility prior to that time, he would have availed himself of SCSthe only optional calling plan available to him. Moreover, we find that he made a good faith effort to tell GST about how he was using the telephone and that GST had a number of opportunities to find out about Mr. Wood's use and to advise him of his ineligibility to receive GSS. Since he did in effect obtain a greater discount than he should have while he was receiving GSS, however, we see no need to order a refund to him; he should receive SCS from the date of this order forward.

In light of the fact that we find no malice or retaliation in GST's actions, and in fact find

a desire to follow appropriate procedures, we find no basis for pursuing sanctions against GST or ordering it to compensate Mr. Wood for his time spent on this matter.

Finally, we do not believe that GST violated the notice provisions of N.H. Admin. Rules, Puc 403.06, because Mr. Wood's service was changed from residential to business; it was not disconnected.

Our order will issue accordingly.

Concurring: September 16, 1992

ORDER

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

ORDERED, that David Wood's telephone service be converted to Selective Calling Service from the date of this order forward.

By order of the New Hampshire Public Utilities Commission this sixteenth day of September, 1992.

1985-1992 PUC Reports & Orders 20,607 - David Wood v. Granite State Telephone This information is in the public domain.

DAVID WOOD V. GRANITE STATE TELEPHONE COMPANY

DC 92-144

ORDER NO. 20,607

Order Converting David Wood's Telephone Service to Selective

Calling Service

Appearances: David Wood, pro se; Devine, Millimet and Branch by Frederick Coolbroth, Esq. for Granite State Telephone; Office of the Consumer Advocate by Joseph Rogers, Esq.

REPORT

I. PROCEDURAL HISTORY

On July 22, 1992 David Wood filed a complaint against Granite State Telephone ("GST") with the New Hampshire Public Utilities Commission ("Commission"). On September 3, 1992 the Commission held a hearing on the complaint.

II. BACKGROUND

Mr. Wood became a residential customer of GST in September of 1987 at his private residence in Weare, New Hampshire. At that point in time he was employed by the Associated Builders and Contractors, NH/VT Chapter ("ABC"). In January of 1990 Mr. Wood left his position with ABC and became a free-lance writer, which involved making telephone calls from his home for his new business. Between January of 1990 and February of 1992, Mr. Wood contacted GST at least two or three times to discuss various aspects of his service.

In February of 1990 Mr. Wood began receiving Granite State Service (GSS), a service available to residential customers only, which provides reduced rates for long distance intrastate toll calls made during certain hours of the day.

In March of 1992, as a result of a Commission decision in a New England Telephone (NET) rate case, GSS was eliminated and another similar reduced rate service available to both business and residential customers, Selective Calling Service (SCS), was grandfathered to existing customers. Optional toll calling plans such as GSS and SCS are NET toll rates in which GST concurs. NET establishes the terms and conditions of toll rates including GSS and SCS for its customers, which subsequently apply to GST customers due to GST's concurrence in the NET toll tariff.

As a result of a number of complaints received from customers, the Commission, on June 24, 1992, held a public hearing on its decision to eliminate GSS. After the hearing, at the request of the Commission, NET reinstated GSS on a grandfathered basis, to those customers who had GSS as of January 20, 1992 if they so desired. SCS had been previously grandfathered to customers who subscribed as of January 20, 1992, so no further action was taken regarding SCS.

Mr. Wood's telephone bills rose significantly as a result of his loss of GSS. In February, March and April of 1992 Mr. Wood called GST and visited its office complaining about the increase in his bills and asking about other services available to him.

On June 1, 1992 the Weare Selectmen had a meeting with GST officials and the public to discuss the elimination of GSS. On June 25, 1992, one day after the public hearing at the Commission, GST sent Mr. Wood a letter telling him that it had come to its attention that his residential service was being used as a business service and therefore they were upgrading his service to a business line. Subsequently, Mr. Wood spoke with and wrote to GST representatives indicating that he believed he should have SCS because his service should have been converted to a business service in the past, when he told GST customer service representatives that he was a free-lance writer using his home telephone for business purposes. He argued that if GST had properly converted his service to a business service in the past he would have had SCS on January 20, 1992 and would have been eligible to be grandfathered for SCS. GST refused to convert Mr. Wood to this service indicating that to do so would be contrary to the terms and conditions of their agreement with NET.

III. POSITIONS OF THE PARTIES

A. Granite State Telephone Company

GST argues that it acted properly in refusing to provide SCS to Mr. Wood and denies that Mr. Wood ever indicated to it his change in status from a residential customer to a business customer. Since Mr. Wood was not receiving SCS on January 20, 1992, GST argues it has no authority to provide that service to him. Moreover, GST says that Mr. Wood benefitted improperly from receiving GSS while he was in fact operating as a business; consequently, he received lower rates for approximately two years when he should have been paying the higher business rates. GST also strongly denies Mr. Wood's charge that the upgrade of his service to a business customer was done in retaliation for Mr. Wood's publicizing of his dissatisfaction with the elimination of GSS and SCS.

B. Mr. David Wood

Mr. Wood argues that he told customer service representatives on a number of occasions that he was using his telephone for his free-lance writing business and that the company never told him that he was not eligible for GSS. Since he should have been on SCS, but was not because GST failed to tell him this, Mr. Wood argues that he should be placed on this service now as if he had been receiving it as of January 1992.

Mr. Wood further argues that he should receive a refund for calls that he made after he lost GSS. This refund should reflect the difference between what he paid for his calls and what he would have paid for those calls under SCS.

Mr. Wood also argues that GST should be punished for retaliating against him for publicizing his problems with GST and his unhappiness over the elimination of these services. He believes that the Commission should punish GST for the way it has handled his case and that it should compensate him for the time he has spent on this case.

C. Office of the Consumer Advocate

The Office of the Consumer Advocate (OCA) argues that Mr. Wood should be given SCS and also argues that the Commission should look at the method used by GST and other companies for determining whether a customer is a business or residential customer. The OCA believes GST's policy is too vague and leaves too much discretion to GST. The OCA further argues that GST did not give proper notice to Mr. Wood before changing his service to a business service in June of 1992. The OCA believes that the notice should have conformed to the provisions of N.H. Admin. Rules, Puc 403.06 and should be treated as a disconnection.

IV. COMMISSION ANALYSIS

Based on the testimony offered by Mr. Wood and the three witnesses for GST, the Commission has no reason to believe that GST's actions were motivated by anything other than its desire to follow its agreement with NET and its understanding of Commission policy. There is no evidence that the transfer of Mr. Wood's service to a business service had anything to do with Mr. Wood's efforts to publicize the issue. Rather, GST acted in response to a public admission by Mr. Wood that he was in fact using his line for business purposes. Although GST would have been justified in changing the service in April of 1992 (and in fact much earlier), we

find no fault with the company's reasons for not taking action at that time.

We find persuasive, however, Mr. Wood's testimony that he told customer service representatives on at least two occasions that he was using his telephone line for his free- lance writing business and that GST never suggested that what he was doing was wrong. The flyer which GST typically mailed to GSS customers and which Mr. Wood neither denies nor admits receiving does not state as clearly as it should that the service is only available to residential customers and that business customers are not eligible. While, as the OCA suggests, GST's policy on how to determine whether a customer is residential or business is vague and open to much discretion, we can not find fault with the company for doing its best to handle what can be a very delicate matter. We believe, nonetheless, that Mr. Wood should be given SCS on the basis that he was an eligible business customer prior to January 20, 1992, and the record indicates that if he had been aware of his eligibility prior to that time, he would have availed himself of SCSthe only optional calling plan available to him. Moreover, we find that he made a good faith effort to tell GST about how he was using the telephone and that GST had a number of opportunities to find out about Mr. Wood's use and to advise him of his ineligibility to receive GSS. Since he did in effect obtain a greater discount than he should have while he was receiving GSS, however, we see no need to order a refund to him; he should receive SCS from the date of this order forward.

In light of the fact that we find no malice or retaliation in GST's actions, and in fact find

a desire to follow appropriate procedures, we find no basis for pursuing sanctions against GST or ordering it to compensate Mr. Wood for his time spent on this matter.

Finally, we do not believe that GST violated the notice provisions of N.H. Admin. Rules, Puc 403.06, because Mr. Wood's service was changed from residential to business; it was not disconnected.

Our order will issue accordingly.

Concurring: September 16, 1992

ORDER

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

ORDERED, that David Wood's telephone service be converted to Selective Calling Service from the date of this order forward.

By order of the New Hampshire Public Utilities Commission this sixteenth day of September, 1992.

==========

NH.PUC*09/21/92*[73037]*77 NH PUC 553*GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

[Go to End of 73037]

GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

DE 90-002
ORDER NO. 20,608
77 NH PUC 553
New Hampshire Public Utilities Commission
September 21, 1992

Order Granting Certain Parties' Request to Designate Commission Staff Advocates and Decision Employees

---

REPORT

I. PROCEDURAL HISTORY

This docket commenced with the filing of a petition by AT&T in which it requested to provide certain discreet intralata toll services in the State of New Hampshire.

1(31) On January 21, 1991, the Commission issued Orders Nos. 20,039, 20,040, 20,041 and 20,042 allowing Long Distance North, AT&T, MCI and Sprint, respectively, to provide intralata toll services on an "interim" basis at an interim access rate. Since that time 6 other telecommunications utilities have sought and gained Commission approval to provide interim intralata toll services at the interim access rate, and 12 other petitions to provide intralata toll services are currently pending before the Commission.

The purpose of this phase of the docket is to investigate and set an access fee to replace the interim fee currently in place.

On August 19, 1992, New England Telephone and Telegraph Company (NET) filed a motion with the Commission requesting it to compel the Commission Staff (Staff) to respond to certain data requests. An ancillary aspect of this motion was NET's further request that any member of Staff that had participated in responding to the data requests be prohibited from participating in any deliberations by the Commissioners relative to the motion.

On September 3, 1992, the Commission issued Report and Order No. 20,591 granting in part and denying in part NET's motion to compel. In order to expedite the issuance of an order given the time constraints of rapidly approaching hearing dates the Commission honored NET's request that certain Staff members be prohibited from communicating with the Commissioners during its deliberations. The Commission explained, however, that although it had honored NET's request to exclude certain Staff members from communicating with the Commissioners to expedite the issuance of an order, NET's reliance on RSA 541-A:21, prohibiting ex parte communications in "adjudicatory" proceedings, was misplaced. The Commission relying on the New Hampshire Supreme Court's holding in Appeal of the Office of Consumer Advocate, 133 N.H. 651 (1991), found that this phase of the docket involved ratemaking, essentially a legislative function, negating the need to follow the procedural requirements of RSA 541-A:16-21.

On September 8, 1992, the Office of the Consumer Advocate, NET, Chichester Telephone

Maine, Granite State Telephone, Inc., Kearsarge Telephone Company, Merriden Telephone Company, Inc., Merrimack County Telephone Company, Union Telephone Company and Wilton Telephone Company (hereinafter the "Movants") filed a motion requesting the Commission to designate as Staff Advocates, Kathryn M. Bailey, Mary H. Coleman, ChristiAne G. Mason, Stephen L. Merrill and Amy L. Ignatius pursuant to N.H. Admin. R., Puc 203.15. The movants further requested that the Commission's Department Heads be designated as either advocate or decisional employees pursuant to Puc 203.15 and that all decisional employees be identified prior to the commencement of hearings.

On September 11, 1992, the Movants requested and were granted an opportunity to orally address the Commission concerning Report and Order No. 20,591 and its potential ramifications on the procedure to be followed in the course of the pre-established hearings.

II. POSITIONS OF THE PARTIES

A. Movants

The legal basis for the movants request to bifurcate the Staff into advocate and decisional employees is multipronged, but can be categorized into three basic arguments. The first two are, essentially, the due process requirements of the State and Federal Constitutions, and the third is the statutory requirements of RSA chapter 541-A and Puc 203.15.

B. Long Distance North, AT&T, MCI, Sprint

Long Distance North, MCI, AT&T and Sprint took no position on the motion. However, AT&T and Long Distance North did request that the motion be granted to avoid an extended proceeding caused by any perceived procedural infirmity which might result in the reversal of the Commission's decision on appeal.

III. COMMISSION ANALYSIS

A. Introduction

The issues before the Commission, then, are the constitutional and the statutory requirements relative to communications between the Commissioners and Staff members who have given their advice to the Commissioners relative to pending proceedings in the form of testimonial expert opinions.

Although the State of New Hampshire, through the Department of Justice, has expressed its opinions relative to these issues in briefs amici curiae before the New Hampshire Supreme Court in recent appeals of Commission Orders

[2(32)] , this Commission has never fully expounded upon its views of the role of Staff, the Commissioners and the agency as a whole. Nor has it addressed these issues, in detail, in any of its Reports and Orders issued subsequent to the Court's rulings in Appeal of Atlantic Connections, Ltd. and the Appeal of the Office of the Consumer Advocate. Given the parties' confusion over the procedures to be followed in ratemaking proceedings, as expressed orally

before the Commission on September 11, 1992, after the issuance of Report and Order No. 20,591, we believe it is important to fully express our opinion on these issues.

B. General Overview

RSA 363:1 creates a public utilities commission composed of three Commissioners. Pursuant to RSA 363:17-a it is the responsibility of the Commission to be the arbiter between the rights of consumers and regulated utilities. In order to aid it in the performance of this duty the Commission was authorized by the General Court pursuant to RSA 363:27 to employ "such regular staff, including experts, as it shall deem necessary." Thus, the Staff of the Commission is employed to assist the Commissioners in the performance of its duties and, as it applies to ratemaking proceedings, to give advice in the form of "expert" opinions to the Commissioners on

Page 554

matters within the realm of their expertise.

Generally, the Staff has no vested interest in any proceeding before the Commission, other than to serve the public good. Staff's sole function is to advise the Commission on questions of policy, theory, or methodology, thereby assisting it in the often complex task of ratemaking. We believe a fundamental misconception concerning the role of our Staff in Commission proceedings has developed as a result of the manner employed by the Commission, pursuant to its rules, in taking Staff advice. In 1982 the Commission promulgated N.H. Admin. R., Puc 201.1 and 201.2. Puc 201.1 generally states that practice and procedure before the Commission shall be governed by its rules. Pursuant to Puc 201.02 procedures before the Commission "may be conducted in the form of adversary proceedings" although they are investigative in nature.

3(33) It has been, and continues to be, our practice to have Staff present its advice in the form of expert testimony in an "adversarial" setting, thereby allowing any party which may disagree with such advice to test its accuracy and its theoretical basis via cross-examination and rebuttal testimony. It is useful, in fact, for Staff to occasionally provide testimony which is contrary to a petitioner's position, even when it is not its own recommended position, because it provides a better balanced record from which the Commission can make a decision. This practice of conducting adversarial proceedings in all but rulemaking proceedings, however, should not be construed by parties that appear before us as the conversion of a legislative function into an adjudicative function. We employ adversarial style hearings in both legislative and adjudicative proceedings for the benefits set forth above.

C. Legislative versus Adjudicative Proceedings

As we noted above, in Report and Order No. 20,591 we held that this phase of the docket was legislative, and, therefore, not subject to the procedural requirements for adjudicative hearings contained in RSA 541-A:16-21. We based this decision on the New Hampshire Supreme Courts ruling in Appeal of the Office of Consumer Advocate, 134 N.H. 651 (1991).

In that case, the Office of the Consumer Advocate (OCA) appealed, inter alia, the Commission's decision to take administrative notice of the annual reports of Southern New Hampshire Water Company, Inc. during temporary rate proceedings because annual reports are

not the type of documents which can be administratively noticed pursuant to RSA 541-A:18. The Court held that it need not decide whether it was a violation 541-A:18 to take such notice as "no adjudicative proceeding was ever commenced...." Appeal of the Office of the Consumer Advocate, 134 N.H. at 659. The Court rendered this decision even though the temporary rate proceeding was conducted as an adversarial hearing with witnesses providing testimony under oath subject to cross examination. In support of this decision the Court cited Appeal of Pennichuck Water Works, 120 N.H. 562, 565-566 (1980) and stated, parenthetically, that "(in setting rates the PUC is performing an essentially legislative function)." Id. The Movants have argued that their "legal rights" are at stake in this proceeding and that the proceeding is, therefore, adjudicative and not legislative. If the Commission were to accept this reasoning, then it would follow that all ratemaking proceedings are adjudicative as they all involve the legal rights of utilities and their ratepayers as the Movants define the term. We cannot reach this conclusion as it contradicts the Court's holding in Appeal of the Office of the Consumer Advocate.

Furthermore, adjudicative proceedings are defined as those proceedings to be followed in a "contested cases". A review of the New Hampshire law reveals a legislative intent not to presumptively treat all rate proceedings as contested cases.

RSA 541-A:1 III, which defines contested cases under New Hampshire law, reads as follows;

"contested case" means a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing; RSA 541-A:1 III (Supp. 1991) RSA 541-A:1 III is modeled after 1 (2) of the Uniform Law Commissioners' Model State Administrative Procedures Act of 1961. Appeal of Atlantic Connections, Ltd., 135 N.H.150 (1992) Section 1 (2) of the Model Act reads as follows; "contested case" means a proceeding, including but not restricted to ratemaking, [price fixing], and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing; (emphasis added).

Model State Administrative Procedures Act 1, 15 U.L.A. 148 (1990).

Thus, as is apparent from the quotations set forth above, the New Hampshire General Court consciously chose to remove ratemaking from the definition of a contested case. This action expresses a legislative intent to treat ratemaking as something other than a contested case. The Movants' assertions that this case be treated as an adjucative hearing, therefore, must be rejected.

The test we have applied and will apply in the future in determining whether a proceeding is adjudicative, and, therefore, subject to the procedural requirements of RSA 541- A:16-21, is whether the Commission will be deciding "who did what, where, when, how, why, with what motive or intent..." K. Davis, Administrative Law Treatise, 12:3 (2d Ed. 1979).

In certain circumstances then, such as a prudency review, portions of a rate proceeding may be considered adjudicative and subject to the provisions of RSA 541-A:16-21. General rate proceedings, however, will be treated as legislative or "nonadjudicative" even though they are conducted procedurally as an "adversarial" hearing pursuant to our rules.

Based on the standards set forth above we find this phase of the generic competition docket to be legislative, although we will conduct the hearings pursuant to Puc 201.02 in an adversarial setting.

D. Due Process

The movants further assert that the failure to bifurcate Staff into decisional and advocate employees in this case violates the due process guarantees of both the State and Federal Constitutions. In Withrow v. Larkin, 421 U.S. 35 (1975) the Court held that the combination of adjudicative, advocacy and investigative functions was not a violation of the due process clause of the Fifteenth Amendment of the United States Constitution. It further held that "[w]ithout a showing to the contrary, state administrators are assumed to be men [sic] of conscience and intellectual discipline, capable of judging a particular controversy on the basis of its own circumstances." Withrow v. Larkin, 421 U.S. at 55, quoting United States v. Morgan, 313 U.S. 409, 421 (1941).

The New Hampshire Supreme Court has adopted this standard under the State Constitution and gone on to hold that "within an administrative agency...a party claiming a due process violation must show actual bias." Appeal of the Office of the Consumer Advocate, 134 N.H. 651, 660 (1991).

In the instant case, the Movants assert that Staff's pre- filed testimony demonstrates a bias that would violate the standard set forth above. As set forth above, Staff's testimony is advice that is presented to the Commissioners in an adversarial setting so that all parties are given the opportunity to challenge its validity and theoretical basis.[4(34)] We do not concede that the mere fact that Staff's advice to the Commissioners may be critical of a position taken by a party or be inapposite to a party's position constitutes a bias on the part of Staff, but that is not the standard to be applied.

Even if Staff's declaration of a position did constitute bias that is of no consequence when considering this issue. The bias referred

Page 556

to by the Court is that of the Commissioners, not its Staff. Id. at 660 ("administrative officials...are assumed Oto be of conscience and capable of reaching a just and fair result'"); Appeal of Public Service Company of New Hampshire, 122 N.H. 1062, 1077 (1982) ("The PUC staff may continue to comment upon and make recommendations regarding demand, cost, and other matters affecting public utilities, see RSA 363:27 (Supp. 1981), so long as such activities do not impinge upon the impartiality of the PUC commissioners." (emphasis added)).

In the case at hand, we find that both the Parties and Staff have taken strong positions on an issue of great importance not only to the Commission and the Parties, but to the entire State of New Hampshire. Therefore, we find it quite possible that certain Staff members have so committed themselves to a particular result that it might bias our decision. Further, we find it likely that if these same Staff members also serve as advisors to the Commissioners, their commitment to a particular result could bias our decision. For these reasons we grant the Movants request to bifurcate Staff pursuant to Puc 203.15.

Finally, the movants claim that the due process provisions of the Federal and State Constitutions and RSA 541-A:21 would be violated by communications between Staff members that have submitted pre-filed testimony and the Commissioners outside the hearing room in an adjudicative proceeding. We need not address this claim because we have found this to be a legislative proceeding. We note, however, contrary to the Movants' assertions, the Court's decision in Appeal of Atlantic Connections, Ltd. never addressed this issue as it found that Staff communications with the Commissioners in an adjudicative proceeding occurred after the Commissioners had reached their decision. Thus, we will consider this issue if and when the facts warrant such a review.

E. Conclusion

In conclusion, Staff members Bailey, Coleman, Mason, Merrill and Ignatius are advocate employees during the phase of this proceeding dealing with the setting of access rates to be charged by the Local Exchange Carriers subject to the regulations of Puc 203.15. Department Heads Cannata, Sullivan and Voll along with Staff members Sullivan and Nurse will be decisional employees during the same phase of this proceeding subject to the regulations of Puc 203.15.

We also note that the Commission, largely as a result of the action taken in this order, has decided to hire the law firm of Blumenfeld and Cohen to assist it in reviewing and analyzing testimony and preparing an order.

Our Order will issue accordingly.

Concurring: September 21, 1992

ORDER

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

ORDERED, that the Movants' request to bifurcate Staff into decisional and advocate employees is granted as set forth in the foregoing Report.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of September, 1992.

1985-1992 PUC Reports & Orders 20,608 - Generic Investigation Intralata Toll This information is in the public domain.

GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

DE 90-002
ORDER NO. 20,608

Order Granting Certain Parties' Request to Designate
Commission Staff Advocates and Decision Employees

REPORT

I. PROCEDURAL HISTORY

This docket commenced with the filing of a petition by AT&T in which it requested to provide certain discreet intralata toll services in the State of New Hampshire.1 On January 21,

1991, the Commission issued Orders Nos. 20,039, 20,040, 20,041 and 20,042 allowing Long Distance North, AT&T, MCI and Sprint, respectively, to provide intralata toll services on an "interim" basis at an interim access rate. Since that time 6 other telecommunications utilities have sought and gained Commission approval to provide interim intralata toll services at the interim access rate, and 12 other petitions to provide intralata toll services are currently pending before the Commission.

The purpose of this phase of the docket is to investigate and set an access fee to replace the interim fee currently in place.

On August 19, 1992, New England Telephone and Telegraph Company (NET) filed a motion with the Commission requesting it to compel the Commission Staff (Staff) to respond to certain data requests. An ancillary aspect of this motion was NET's further request that any member of Staff that had participated in responding to the data requests be prohibited from participating in any deliberations by the Commissioners relative to the motion.

On September 3, 1992, the Commission issued Report and Order No. 20,591 granting in part and denying in part NET's motion to compel. In order to expedite the issuance of an order given the time constraints of rapidly approaching hearing dates the Commission honored NET's request that certain Staff members be prohibited from communicating with the Commissioners during its deliberations. The Commission explained, however, that although it had honored NET's request to exclude certain Staff members from communicating with the Commissioners to expedite the issuance of an order, NET's reliance on RSA 541-A:21, prohibiting ex parte communications in "adjudicatory" proceedings, was misplaced. The Commission relying on the New Hampshire Supreme Court's holding in Appeal of the Office of Consumer Advocate, 133 N.H. 651 (1991), found that this phase of the docket involved ratemaking, essentially a legislative function, negating the need to follow the procedural requirements of RSA 541-A:16-21.

On September 8, 1992, the Office of the Consumer Advocate, NET, Chichester Telephone Company, Dunbarton Telephone Company, Inc., GTE of New Hampshire, GTE

Maine, Granite State Telephone, Inc., Kearsarge Telephone Company, Merriden Telephone Company, Inc., Merrimack County Telephone Company, Union Telephone Company and Wilton Telephone Company (hereinafter the "Movants") filed a motion requesting the Commission to designate as Staff Advocates, Kathryn M. Bailey, Mary H. Coleman, ChristiAne G. Mason, Stephen L. Merrill and Amy L. Ignatius pursuant to N.H. Admin. R., Puc 203.15. The movants further requested that the Commission's Department Heads be designated as either advocate or decisional employees pursuant to Puc 203.15 and that all decisional employees be identified prior to the commencement of hearings.

On September 11, 1992, the Movants requested and were granted an opportunity to orally address the Commission concerning Report and Order No. 20,591 and its potential ramifications on the procedure to be followed in the course of the pre-established hearings.

II. POSITIONS OF THE PARTIES

A. Movants

The legal basis for the movants request to bifurcate the Staff into advocate and decisional employees is multipronged, but can be categorized into three basic arguments. The first two are,

essentially, the due process requirements of the State and Federal Constitutions, and the third is the statutory requirements of RSA chapter 541-A and Puc 203.15.

B. Long Distance North, AT&T, MCI, Sprint

Long Distance North, MCI, AT&T and Sprint took no position on the motion. However, AT&T and Long Distance North did request that the motion be granted to avoid an extended proceeding caused by any perceived procedural infirmity which might result in the reversal of the Commission's decision on appeal.

III. COMMISSION ANALYSIS

A. Introduction

The issues before the Commission, then, are the constitutional and the statutory requirements relative to communications between the Commissioners and Staff members who have given their advice to the Commissioners relative to pending proceedings in the form of testimonial expert opinions.

Although the State of New Hampshire, through the Department of Justice, has expressed its opinions relative to these issues in briefs amici curiae before the New Hampshire Supreme Court in recent appeals of Commission Orders2, this Commission has never fully expounded upon its views of the role of Staff, the Commissioners and the agency as a whole. Nor has it addressed these issues, in detail, in any of its Reports and Orders issued subsequent to the Court's rulings in Appeal of Atlantic Connections, Ltd. and the Appeal of the Office of the Consumer Advocate. Given the parties' confusion over the procedures to be followed in ratemaking proceedings, as expressed orally before the Commission on September 11, 1992, after the issuance of Report and Order No.20,591, we believe it is important to fully express our opinion on these issues.

B. General Overview

RSA 363:1 creates a public utilities commission composed of three Commissioners. Pursuant to RSA 363:17-a it is the responsibility of the Commission to be the arbiter between the rights of consumers and regulated utilities. In order to aid it in the performance of this duty the Commission was authorized by the General Court pursuant to RSA 363:27 to employ "such regular staff, including experts, as it shall deem necessary." Thus, the Staff of the Commission is employed to assist the Commissioners in the performance of its duties and, as it applies to ratemaking proceedings, to give advice in the form of "expert" opinions to the Commissioners on

matters within the realm of their expertise.

Generally, the Staff has no vested interest in any proceeding before the Commission, other than to serve the public good. Staff's sole function is to advise the Commission on questions of policy, theory, or methodology, thereby assisting it in the often complex task of ratemaking. We believe a fundamental misconception concerning the role of our Staff in Commission proceedings has developed as a result of the manner employed by the Commission, pursuant to its rules, in taking Staff advice. In 1982 the Commission promulgated N.H. Admin. R., Puc 201.1 and 201.2. Puc 201.1 generally states that practice and procedure before the Commission shall be governed by its rules. Pursuant to Puc 201.02 procedures before the Commission "may be conducted in the form of adversary proceedings" although they are investigative in nature.3 It has been, and continues to be, our practice to have Staff present its advice in the form of expert

testimony in an "adversarial" setting, thereby allowing any party which may disagree with such advice to test its accuracy and its theoretical basis via cross-examination and rebuttal testimony. It is useful, in fact, for Staff to occasionally provide testimony which is contrary to a petitioner's position, even when it is not its own recommended position, because it provides a better balanced record from which the Commission can make a decision. This practice of conducting adversarial proceedings in all but rulemaking proceedings, however, should not be construed by parties that appear before us as the conversion of a legislative function into an adjudicative function. We employ adversarial style hearings in both legislative and adjudicative proceedings for the benefits set forth above.

C. Legislative versus Adjudicative Proceedings

As we noted above, in Report and Order No. 20,591 we held that this phase of the docket was legislative, and, therefore, not subject to the procedural requirements for adjudicative hearings contained in RSA 541-A:16-21. We based this decision on the New Hampshire Supreme Courts ruling in Appeal of the Office of Consumer Advocate, 134 N.H. 651 (1991).

In that case, the Office of the Consumer Advocate (OCA) appealed, inter alia, the Commission's decision to take administrative notice of the annual reports of Southern New Hampshire Water Company, Inc. during temporary rate proceedings because annual reports are not the type of documents which can be administratively noticed pursuant to RSA 541-A:18. The Court held that it need not decide whether it was a violation 541-A:18 to take such notice as "no adjudicative proceeding was ever commenced...." Appeal of the Office of the Consumer Advocate, 134 N.H. at 659. The Court rendered this decision even though the temporary rate proceeding was conducted as an adversarial hearing with witnesses providing testimony under oath subject to cross examination. In support of this decision the Court cited Appeal of Pennichuck Water Works, 120 N.H. 562, 565-566 (1980) and stated, parenthetically, that "(in setting rates the PUC is performing an essentially legislative function)." Id. The Movants have argued that their "legal rights" are at stake in this proceeding and that the proceeding is, therefore, adjudicative and not legislative. If the Commission were to accept this reasoning, then it would follow that all ratemaking proceedings are adjudicative as they all involve the legal rights of utilities and their ratepayers as the Movants define the term. We cannot reach this conclusion as it contradicts the Court's holding in Appeal of the Office of the Consumer Advocate.

Furthermore, adjudicative proceedings are defined as those proceedings to be followed in a "contested cases". A review of the New Hampshire law reveals a legislative intent not to presumptively treat all rate proceedings as contested cases.

RSA 541-A:1 III, which defines contested cases under New Hampshire law, reads as follows;

> "contested case" means a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing; RSA 541-A:1 III (Supp. 1991) RSA 541-A:1 III is modeled after 1 (2) of the Uniform Law Commissioners' Model State Administrative Procedures Act of 1961. Appeal of Atlantic Connections, Ltd., 135 N.H.150 (1992) Section 1 (2) of the Model Act reads as follows; "contested case" means a proceeding, including but not restricted to ratemaking, [price fixing], and licensing, in which the legal rights, duties, or privileges of a party are

required by law to be determined by an agency after an opportunity for hearing;
(emphasis added). Model State Administrative Procedures Act 1, 15 U.L.A. 148 (1990).

Thus, as is apparent from the quotations set forth above, the New Hampshire General Court consciously chose to remove ratemaking from the definition of a contested case. This action expresses a legislative intent to treat ratemaking as something other than a contested case. The Movants' assertions that this case be treated as an adjucative hearing, therefore, must be rejected.

The test we have applied and will apply in the future in determining whether a proceeding is adjudicative, and, therefore, subject to the procedural requirements of RSA 541- A:16-21, is whether the Commission will be deciding "who did what, where, when, how, why, with what motive or intent..." K. Davis, Administrative Law Treatise, 12:3 (2d Ed. 1979).

In certain circumstances then, such as a prudency review, portions of a rate proceeding may be considered adjudicative and subject to the provisions of RSA 541-A:16-21. General rate proceedings, however, will be treated as legislative or "nonadjudicative" even though they are conducted procedurally as an "adversarial" hearing pursuant to our rules.

Based on the standards set forth above we find this phase of the generic competition docket to be legislative, although we will conduct the hearings pursuant to Puc 201.02 in an adversarial setting.

D. Due Process

The movants further assert that the failure to bifurcate Staff into decisional and advocate employees in this case violates the due process guarantees of both the State and Federal Constitutions. In Withrow v. Larkin, 421 U.S. 35 (1975) the Court held that the combination of adjudicative, advocacy and investigative functions was not a violation of the due process clause of the Fifteenth Amendment of the United States Constitution. It further held that "[w]ithout a showing to the contrary, state administrators are assumed to be men [sic] of conscience and intellectual discipline, capable of judging a particular controversy on the basis of its own circumstances." Withrow v. Larkin, 421 U.S. at 55, quoting United States v. Morgan, 313 U.S. 409, 421 (1941).

The New Hampshire Supreme Court has adopted this standard under the State Constitution and gone on to hold that "within an administrative agency...a party claiming a due process violation must show actual bias." Appeal of the Office of the Consumer Advocate, 134 N.H. 651, 660 (1991).

In the instant case, the Movants assert that Staff's pre- filed testimony demonstrates a bias that would violate the standard set forth above. As set forth above, Staff's testimony is advice that is presented to the Commissioners in an adversarial setting so that all parties are given the opportunity to challenge its validity and theoretical basis.4 We do not concede that the mere fact that Staff's advice to the Commissioners may be critical of a position taken by a party or be inapposite to a party's position constitutes a bias on the part of Staff, but that is not the standard to be applied.

Even if Staff's declaration of a position did constitute bias that is of no consequence when considering this issue. The bias referred

to by the Court is that of the Commissioners, not its Staff. Id. at 660 ("administrative

officials...are assumed Oto be of conscience and capable of reaching a just and fair result'"); Appeal of Public Service Company of New Hampshire, 122 N.H. 1062, 1077 (1982) ("The PUC staff may continue to comment upon and make recommendations regarding demand, cost, and other matters affecting public utilities, see RSA 363:27 (Supp. 1981), so long as such activities do not impinge upon the impartiality of the PUC commissioners." (emphasis added)).

In the case at hand, we find that both the Parties and Staff have taken strong positions on an issue of great importance not only to the Commission and the Parties, but to the entire State of New Hampshire. Therefore, we find it quite possible that certain Staff members have so committed themselves to a particular result that it might bias our decision. Further, we find it likely that if these same Staff members also serve as advisors to the Commissioners, their commitment to a particular result could bias our decision. For these reasons we grant the Movants request to bifurcate Staff pursuant to Puc 203.15.

Finally, the movants claim that the due process provisions of the Federal and State Constitutions and RSA 541-A:21 would be violated by communications between Staff members that have submitted pre-filed testimony and the Commissioners outside the hearing room in an adjudicative proceeding. We need not address this claim because we have found this to be a legislative proceeding. We note, however, contrary to the Movants' assertions, the Court's decision in Appeal of Atlantic Connections, Ltd. never addressed this issue as it found that Staff communications with the Commissioners in an adjudicative proceeding occurred after the Commissioners had reached their decision. Thus, we will consider this issue if and when the facts warrant such a review.

E. Conclusion

In conclusion, Staff members Bailey, Coleman, Mason, Merrill and Ignatius are advocate employees during the phase of this proceeding dealing with the setting of access rates to be charged by the Local Exchange Carriers subject to the regulations of Puc 203.15. Department Heads Cannata, Sullivan and Voll along with Staff members Sullivan and Nurse will be decisional employees during the same phase of this proceeding subject to the regulations of Puc 203.15.

We also note that the Commission, largely as a result of the action taken in this order, has decided to hire the law firm of Blumenfeld and Cohen to assist it in reviewing and analyzing testimony and preparing an order.

Our Order will issue accordingly.

Concurring: September 21, 1992

ORDER

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

ORDERED, that the Movants' request to bifurcate Staff into decisional and advocate employees is granted as set forth in the foregoing Report.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of September, 1992.

FOOTNOTES

[1]Although this generic docket, which consists of an investigation by the Commission into whether intralata toll competition is in the public good, commenced with the filing of AT&T's petition, the substantive issue was actually brought before the Commission by Long Distance North with its petition to provide intralata toll competition in New Hampshire in 1988.

[2]See amicus brief of the State of New Hampshire in Appeal of Atlantic Connections Limited, 135 N.H. 510 (1992), and Appeal of the Office of Consumer Advocate, 134 N.H. 651 (1991)

[3]As the rule was initially promulgated in 1982 it preceded the adoption of the portions of the Administrative Procedures Act at issue in this Report. Thus, the nomenclature of the rule varies from the nomenclature of the Administrative Procedures Act.

[4]Alternatively, the Commission could adopt the practice of declaring all of its employees "decisional" and allow its experts to present their advice to the Commissioners outside of the hearing room after the parties have presented their case.

==========

NH.PUC*09/22/92*[73038]*77 NH PUC 558*SPRINGWOOD HILLS WATER COMPANY, INC.

[Go to End of 73038]

SPRINGWOOD HILLS WATER COMPANY, INC.

DE 90-051
ORDER NO. 20,609

77 NH PUC 558

New Hampshire Public Utilities Commission

September 22, 1992

Order NISI Granting Authority to Recover Unbilled Amounts.

WHEREAS, on August 31, 1992 Springwood Hills Water Company, Inc. (Springwood or Company), operating in the Town of Londonderry, New Hampshire, requested authority to recover certain unbilled amounts from customers; and

WHEREAS, Springwood was authorized by order no. 19,982 on November 9, 1990 to collect temporary rates of $40 per quarter; and

WHEREAS, Springwood was authorized by order no. 20,134 on May 17, 1991 to collect permanent rates of $52 per month effective April 30, 1991; and

WHEREAS, order no. 20,134 also authorized collection of a temporary rate recoupment, to consist of $13 per month for 18 months; and

WHEREAS, Springwood failed to bill either the temporary rate, permanent rate or temporary rate recoupment until it contracted with Southern NH Water Company to begin doing Springwood's billing, the first bill having been sent in January, 1992; and

WHEREAS, the initial bill was in arrears for the permanent rate for the months of November and December, 1991; and

WHEREAS, monthly billing by Southern for Springwood has continued to the present for the permanent rate only; and

WHEREAS, Springwood's justification for failure to bill was that it was awaiting the outcome of several consecutive attempts to sell the Company, each of which in turn fell through; and

WHEREAS, the total unbilled amount per customer for each of the approximately 67 customers consisted of the following as of August, 1992:

a. Temporary rate, 11/9/90 to 4/30/91

172 days at $160/yr. $ 75.40

b. Permanent rate, 5/91 to 10/91

6 months at $52 312.00

c. Temporary rate recoupment, 6/91 to 7/92

14 months at $13/mo. 182.00;

and

WHEREAS, the total unbilled amount per customer, when the additional remaining temporary rate recoupment for 8/92 through 11/92 of $52 (4 months at $13) is also included, is $621.40; and

WHEREAS, in spite of the fact that the Company did not implement its authorized increases, it appears that the conditions that existed at issuance of the Commission's orders persist such that the unbilled amounts continue to be necessary to maintain the financial viability of the Company; and

WHEREAS, Springwood's failure to bill, while understandable in part, nevertheless violated the Company's tariff, the provisions of the above Commission orders and RSA 378:14, which forbids provision of free service; and

WHEREAS, the Commission finds that allowing Springwood to recover the full amount, but spread over a five year period without recovery of any interest that might otherwise be charged, is just and reasonable in that it (1) grants the Company income necessary to continue operating; (2) minimizes the rate impact on customers; and (3) acts in lieu of a fine for violation of its tariff, Commission orders and statute by requiring an extended recovery period and preventing recovery of interest; and

WHEREAS, recovery of the unbilled total of $621.40 per customer over five years would add a surcharge of $10.36 to each customer's monthly permanent rate billing of $52 per month; and

WHEREAS, the public should be offered an opportunity to respond in support of or in opposition to Springwood's request; it is hereby

ORDERED, that all persons interested in responding to this request be notified that they may

submit their comments or file a written request for a hearing on this matter before the

Commission no later than October 19, 1992; and it is

FURTHER ORDERED, that Springwood effect said notification by:

(1) Causing an attested copy of this order to be published no later than October 5, 1992, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Londonderry area; (2) Providing, pursuant to RSA 541- A:22, a copy of this order to the Londonderry Town Clerk, by First Class U.S. mail, postmarked on or before October 5, 1992; (3) Providing a copy of this order by First Class U.S. mail to each customer of the system, postmarked on or before October 5, 1992; and (4) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before October 19, 1992; and it is

FURTHER ORDERED NISI, that authority be, and hereby is granted to Springwood Hills Water Company, Inc., 23 Rockingham Road, Derry, NH 03053 to begin adding a $10.36 monthly surcharge per customer to the billing of the permanent rate, said surcharge to begin with the December, 1992 billing and to continue for a total of 60 consecutive monthly billings ending with the November, 1997 billing; said authority to be effective October 21, 1992 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that the above surcharge will be reduced proportionately for those who became customers of the system after November 9, 1990, to reflect the actual unbilled amount from the time each became a customer; and it is

FURTHER ORDERED, that a customer leaving the system will not be responsible for any remaining portion of the unbilled amount beyond the current surcharge due at the time he leaves, nor will any new customer, at either a new or existing connection, be responsible for any of the unbilled amount or resulting surcharge addressed in this order; and it is

FURTHER ORDERED, that Springwood file revised tariff pages within 10 days of the effective date of this order, reflecting the above surcharge and related restrictions; and it is

FURTHER ORDERED, that Springwood file an accounting of the unbilled surcharge with this Commission at the end of each calendar year.

By order of the New Hampshire Public Utilities Commission this twenty-second day of September, 1992.

==========

NH.PUC*09/22/92*[73039]*77 NH PUC 559*PENNICHUCK WATER WORKS, INC.

[Go to End of 73039]

PENNICHUCK WATER WORKS, INC.

DE 91-026, DE 91-083

ORDER NO. 20,610

77 NH PUC 559

New Hampshire Public Utilities Commission

September 22, 1992

Report Granting Franchises and Approving Permanent Rates

Appearances: John B. Pendleton, Esq. of Gallagher, Callahan and Gartrell on behalf of Pennichuck Water Works, Inc.; Dom S. D'Ambruoso, Esq. of Ransmeier and Spellman for Anheuser-Busch, Inc.; Michael W. Holmes, Esq. and Joseph Rogers, Esq. for the Office of Consumer Advocate; and James T. Rodier, Esq. for the Staff of the New Hampshire Public Utilities Commission.

REPORT

This report addresses the petitions of Pennichuck Water Works, Inc. for approvals for franchises and permanent rates for providing service to customers in Great Brook Condominium in Milford, New Hampshire (DE 91-026) and in Redfield Estates in Derry, New Hampshire (DE 91-083).

I. PROCEDURAL HISTORY

A. Great Brook Condominium (DE 91- 026)

On March 15, 1991, Pennichuck Water Works, Inc. (Pennichuck) submitted a petition for permission to serve a limited area of the Town of Milford, New Hampshire at a development known as Great Brook Condominium, pursuant to RSA 374:22, and to establish rates pursuant to RSA 378. Letters were attached to the petition as Exhibit C evidencing the endorsement of the Milford Board of Selectmen and as Exhibit D from the Water Supply & Pollution Control Division and the Water Resources Division (Water Supply), pursuant to RSA 374:22, of the Department of Environmental Services evidencing their approvals. On May 8, 1991, the New Hampshire Public Utilities Commission (Commission) issued an Order of Notice setting a procedural hearing for June 26, 1991 at which time the parties agreed to a procedural schedule. Pursuant to the procedural schedule, Pennichuck filed testimony on July 26, 1991, and the New Hampshire Public Utilities Commission Staff (Staff) filed data requests on August 26, 1991, to which Pennichuck responded on September 6, 1991.

B. Glen Woodlands (DR 91-068)

On May 20, 1991, Pennichuck submitted a petition to serve a limited area of the Town of Epping, New Hampshire at a development known as Glen Woodlands and for approval of permanent rates.

Letters were attached to the petition as Exhibit C evidencing that the Town of Epping had "no objection" to the granting of the requested franchise and as Exhibit D from Water Supply evidencing its approval. On August 1, 1991, the Commission issued an Order of Notice setting a

procedural hearing for September 11, 1991, on which date such duly noticed hearing was held and at which time the parties agreed to a procedural schedule. Pursuant to the procedural schedule, Pennichuck filed testimony on September 20, 1991. Staff filed data requests on October 21, 1991, to which Pennichuck responded pursuant to the procedural schedule on October 30, 1991.

C. Redfield Estates (DE 91-083)

On June 12, 1991, Pennichuck submitted a petition for permission to serve a limited area of the Town of Derry, New Hampshire, at a development known as Redfield Estates and for approval of permanent rates. Letters were attached to the petition as Exhibit C evidencing that the Town of Derry "will not object" to the granting of the franchise and as Exhibit D from Water Supply evidencing its approval. On June 26, 1991, the Commission issued an Order of Notice setting a procedural hearing for July 18, 1991, at which time the parties agreed to a procedural schedule. Pursuant to the procedural schedule, Pennichuck filed testimony on August 14, 1991 and Staff filed data requests on August 30, 1991, to which Pennichuck responded on September 13, 1991. On September 13, 1991, Pennichuck also filed a Motion to Amend the Petition to enlarge the proposed franchise area to enable Pennichuck to serve customers located adjacent to the proposed interconnecting lines between Redfield Estates and Pennichuck's existing franchise systems. A settlement conference took place on October 7, 1991.

D. Maple Haven (DE 91-220)

Lastly, on December 23, 1991, Pennichuck filed its petition for permission to serve a limited area of the Town of Derry, New Hampshire, at a development known as Maple Haven, and to establish permanent rates. Letters were attached to the petition as Exhibit C a letter from the Town of Derry endorsing Pennichuck's application for the franchise and as Exhibit D from Water Supply approving the proposed system. On January 8, 1992 Pennichuck filed a letter of approval from the Division of Water Resources pursuant to RSA 374:22.

Page 560

E. Consolidation of Proceedings and Preliminary Deliberation

At its public meeting on January 20, 1992, the Commission consolidated these dockets and ordered the scheduling of a hearing for January 30, 1992, to address certain threshold policy issues, which hearing was subsequently rescheduled for February 3, 1992. At the hearing the parties were afforded an opportunity to present a summary of their positions. There was a dispute as to whether the Commission should schedule evidentiary hearings. The Commission asked the parties to provide specification of any facts that may be disputed in order to ascertain whether an adjudicatory hearing was necessary. The Staff and the Company filed pleadings that indicated that there were no undisputed facts. The Consumer Advocate filed a pleading which did not dispute that there were no undisputed facts, but reiterated its procedural objections. In connection with the hearing, Staff filed three position papers addressing difficult views held by Commission Staff members. Pennichuck also filed a position paper.

At its public meeting on February 25, 1992, the Commission conducted certain deliberations relating to the determination of rate base by the Commission in the context of the acquisition of a water system by an established water company. At its public meeting on March 18, 1992, the

Commission adopted a procedural schedule for the above- entitled dockets.

Representatives of Staff and Pennichuck met on four subsequent occasions in an effort to resolve the issues presented by the above dockets and at a hearing held on June 30, 1992, presented settlement agreements to the Commission in all four of the foregoing dockets (Exhibits 1 through 4, respectively) and testified in support of the agreements.

F. Pennichuck's Request for a Separate Order for Great Brook Condominium and Redfield Estates

On September 3, 1992, Pennichuck submitted a letter to the Commission which indicated that its proposed acquisitions of Maple Haven(DE 91-220) and Glen Woodlands (91-068) may be adversely affected by a recent private letter ruling by the Internal Revenue Service (in a matter not directly related to Pennichuck) pertaining to taxable Contribution in Aid of Construction when one water system acquires the assets of another water system. Consequently, Pennichuck, in its letter, requested the Commission to issue a separate report and order pertaining to Redfield Estates and Great Brook Condominium pending Pennichuck's review and evaluation of its agreements to acquire Maple Haven and Glen Woodlands in light of the IRS letter ruling.

Accordingly, this report and accompanying order will address the acquisition, franchise and rates for Great Brook Condominium (DE 91-026) and Redfield Estates (DE 91-083). The settlement agreements to these two proceedings, which are Exhibits 1 and 3, respectively, are appended hereto and made a part hereof.

II. STIPULATION AND AGREEMENT

The parties and Staff have stipulated to granting Pennichuck the proposed Great Brook Condominium and Redfield Estates franchise areas as described in its petitions. Each of the proposed franchise areas has been shown on maps submitted with the associated petitions.

The parties and Staff have further stipulated that Pennichuck has satisfied the requirements of the Commission with respect to the need for service within these franchise areas and has demonstrated its ability to serve the customers therein. The parties and Staff also stipulated that the awarding of the franchises to Pennichuck will benefit the customers within the proposed franchise areas, based upon Pennichuck's managerial, administrative, technical and financial expertise and resources, and Pennichuck's experience in providing water service in Southern New Hampshire for many years and its reputation for reliable and efficient service to the public. In the case of Redfield Estates, Pennichuck has committed itself to connecting

---

the Redfield Estates franchise area with its existing, larger so-called "Drew and All" franchise area, within one year from the issuance of the Commission's order. The parties and Staff stipulated that the proposed interconnection will (i) assure a more reliable supply of water to both the Redfield Estates customers and the customers of the interconnected "Drew and All" systems and (ii) provide the benefit of certain economies of scale to the customers of both the "Drew and All" and Redfield systems.

The parties and Staff have stipulated to an annual revenue requirement and resulting

permanent rate level of $207 per year per customer for Great Brook Condominium based upon a rate base of $52,426 and a overall return of $10,505.

The parties and Staff have stipulated to a permanent rate level for customers in Redfield Estates estimated at $321.72 per year per customer. The actual rates charged will be based on the rates for metered service currently in effect in Pennichuck's "Drew and All" system in Derry, New Hampshire. The agreement of the parties and Staff to consolidate the rate for Redfield Estates with the "Drew and All" rate is based on Pennichuck's commitment to interconnect these two systems within one year. In this proceeding, Pennichuck submitted testimony that Redfield customers, on a stand-alone basis, would be charged rates estimated at $320 per year per customer.

The parties and Staff stipulated that Pennichuck has sustained its burden of proof with respect to all of the above items including documentation of the acquisition costs with respect to which Pennichuck submitted various records in each of the above dockets which were carefully examined by Staff. Staff and Pennichuck have agreed that in each case this valuation is consistent with the benefits for the customers of the core system and acquired system, and therefore, is prudent.

In addition, Staff and Pennichuck have noted that the granting of the franchises will not harm, and is likely to benefit, the core system ratepayers by adding customers who will share in certain of Pennichuck's fixed costs. For example, recognizing that Pennichuck has certain fixed costs for insurance, equipment and office space, to the extent that each franchise adds to the number of customers sharing these overhead costs, a lower, or at least more stable, unit cost to the core system ratepayer would result. In addition, the parties have agreed that the core system rate payer may benefit from the availability of additional earnings from Pennichuck's operations in these franchise areas which could be applied toward the acquisition of additional core system assets.

Finally, the parties and Staff have stipulated that the rate case expenses which are set forth in an attachment to the stipulations in each of the above dockets are reasonable, and that Pennichuck shall be entitled to recoup such expenses by a surcharge applied proportionally to its permanent base rates. The surcharge shall recover the amount of the rate case expenses over a 12 month period beginning on the effective date of the Commission's order in these dockets.

III. COMMISSION ANALYSIS

We find that the petitions in these dockets are supported by the evidence and should be granted. As noted supra, at its public meeting on February 25, 1992, the Commission conducted certain deliberations relating to the determination of rate base by the Commission in the context of the acquisition of a water system by an established water company. At that time, we indicated that we must judge what the value of the proposed acquisition is to both core system and acquired ratepayers. It is the burden of the acquiring water system to present evidence supporting a finding that the proposed acquisition will benefit both existing core system ratepayers and the new, acquired ratepayers.

Moreover, under RSA 374:26, permission under RSA 374:22 to commence business as a public utility shall be granted only if it would be "for the public good and not otherwise." We have previously stated our criteria for determining the public good as: 1) the need for service,

and 2) the ability of the petitioner to

provide such service. Re New Hampshire Yankee Electric Corporation, 70 N.H.P.U.C. 563, 566 (1985).

The record obviously demonstrates a need for water service because water service is currently being provided in the service area, albeit not of the quality we expect Pennichuck to be able to provide in the future after the acquisition. The record amply demonstrates that Pennichuck is financially, managerially, and technically able to provide the requested service.

The rates for utility service must be just and reasonable. RSA 378:28. We find that the proposed revenue requirement and resulting rates for Great Brook Condominium and Redfield Estates are just and reasonable. Under RSA 378:28, permanent rates should be sufficient to yield a reasonable return on the cost of property less accrued depreciation. In each case, Pennichuck and Staff have calculated to our satisfaction the rate base, an appropriate rate of return, and operating expenses. The information provided is adequate to make this determination in light of the fact that costs are based upon historic records accumulated by Pennichuck in connection with its other community water system operations. The Commission will carefully review Pennichuck's operating costs in connection with any future rate cases for the acquired systems.

We find it appropriate for Pennichuck to consolidate the Redfield Estates service area with the "Drew and All" service area in light of the system planning benefits to be derived.

Finally, we find that Pennichuck shall be allowed to recover its rate case expenses evidenced by the exhibit attached to the stipulation in each of the above dockets, by means of a surcharge applied to Pennichuck's base rates in each of these dockets over a 12 month period, beginning on the effective date of the order in these dockets.

Our Order will issue accordingly.

Concurring: September 22, 1992

Pennichuck Water Works, Inc.

Staff of Public Utilities Commission

ORDER

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

ORDERED, that the Settlement Agreements submitted in these dockets as Exhibits 1 and 3, be, and hereby are, approved; and it is

FURTHER ORDERED, that Pennichuck Water Works, Inc. shall be granted the franchises to provide service to Great Brook Condominium and Redfield Estates; and it is

FURTHER ORDERED, that Pennichuck shall consolidate the Redfield Estates service area with its "Drew and All" service area, and charge the rates currently in effect for the "Drew and All" service area to the Redfield Estates customers; and it is

FURTHER ORDERED, that Pennichuck shall recover its rate case expenses reflected in each of the Settlement Agreements by means of a surcharge applied to Pennichuck's base rates in each

of the above dockets over a 12 month period; and it is

FURTHER ORDERED, that within 10 days from the date of this order, Pennichuck shall file tariff pages reflecting the above revenue requirements, and said surcharge, effective on the date of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of September, 1992.

Page 563

PETITION FOR PERMISSION FOR FRANCHISE AND PERMANENT RATES (GREAT BROOK CONDOMINIUM, MILFORD, NEW HAMPSHIRE)

SETTLEMENT AGREEMENT

This Agreement is entered into this 20th day of June, 1992, by and among Pennichuck Water Works, Inc. ("Company") and the Staff ("Staff") of the Public Utilities Commission ("Commission") with the intent of resolving all of the issues that were raised or could have been raised with respect to the Company's petition in the above-captioned proceedings. In consideration of the mutual agreements set forth herein the parties hereto agree as follows:

I. INTRODUCTION

On March 15, 1991, the Company filed the above-referenced petition ("Petition") for a franchise and permanent rates for providing service to customers in Great Brook Condominium, Milford, New Hampshire.

On May 8, 1991, the Commission issued an Order of Notice setting a procedural hearing for June 26, 1991 on which date such duly noticed hearing was held and at which time the parties agreed to a procedural schedule. Pursuant to the procedural schedule the Company filed Testimony on July 26, 1991 and the Staff filed Data Requests on August 26, 1991, to which the Company responded on September 6, 1991. At its public meeting on January 20, 1992, the Commission ordered the scheduling of a hearing for January 30, 1992 in connection with the Company's petition in this docket, as well as its petitions in three other dockets posing similar issues (DE 91-083, DR 91-068 and DE 91-220), which hearing was subsequently rescheduled for February 3, 1992, on which date it took place. In connection with the hearing, Staff filed three somewhat divergent position papers, the Company filed a position paper and the Office of the Consumer Advocate, which has not formerly intervened in these proceedings, filed a position paper. At its public meeting on February 25, 1992, the Commission adopted certain deliberations articulated by Chairman Smuckler. At its public meeting on March 18, 1992, the Commission adopted a procedural schedule. Representatives of Staff and the Company have since met on four occasions (April 3, May 12, May 28 and June 19, 1992) in an effort to resolve the issues presented by the Petition.

II. FRANCHISE

The parties stipulate to awarding the Company the proposed franchise area as described in the Company's Petition. In their view, the Company has satisfied the requirements of the Commission with respect to the need for service and demonstrated its ability to serve the Great

Brook Condominium customers.

The Company has testified that it has the managerial and administrative expertise, the technical resources and the financial backing to provide quality water service to existing customers and to expand service to new customers, should they desire service from the Company; that the Company has provided water service for many years in the State of New Hampshire, and has established a reputation for reliable and efficient service to the public; that the Company presently operates a number of community water systems successfully; and provides wholesale water service to the Town of Milford. Based upon its experience with the Company over a period of years, Staff is willing to accept the Company's testimony in this regard and to stipulate that the awarding of the franchise to the Company will benefit the Great Brook customers. The parties further stipulate that the Company's engaging in its business in the proposed franchise area would be for the public good.

III. RATES AND REVENUE REQUIREMENT

A. Rates. The parties have stipulated to a permanent rate level for customers in Great Brook Condominium estimated at $207 per year per customer. The rates charged will be

Page 564

based on Great Brook as a stand-alone system. The Company agrees to provide cost estimates of the installation of individual meters prior to the next permanent rate adjustment.

B. Revenue Requirement. The proposed rates are supported by the Company's testimony and exhibits and supporting schedules, which are attached and identified as Exhibit A (Schedules 1-4), Exhibit B and Exhibit C. Staff and Company have agreed to the rate base, depreciation and operating expenses, as set forth in Exhibit A (Schedules 1-4), the rates set forth in Exhibit B and the rate case expenses reflected on Exhibit C, all of which are discussed below.

Exhibit A, Schedule 1 summarizes the computation of the Company's stipulated revenue requirement of $19,888, on the basis of the actual rate base of $52,426 (reflected in Schedule 3), pro forma operating expense of $12,154 (Schedule 2), depreciation of $1,161 (Schedules 2 and 4) taxes of $1,068 (Schedules 2 and 2A), and a rate of return of 10.50%. The Company has sustained its burden of proof with respect to all of these items including the valuation of the acquisition cost with respect to which the Company submitted various

records which were carefully examined by Staff. Staff and the Company are of the opinion that this valuation is representative of the benefits for the customers of the system and therefore is prudent.

In addition, Staff and the Company note that the granting of this franchise will not harm, and is likely to benefit, the core system rate payers by sharing in certain of the Company's fixed costs. For example, recognizing that the Company has certain fixed costs for insurance, equipment and office space to the extent that Great Brook adds to the number of customers sharing these overhead costs, a lower, or at least more stable, unit cost to the core system rate payer would result. In addition, the core system rate payer may benefit from the availability of additional earnings from the Company's Great Brook operations which could be applied toward the acquisition of additional core system assets.

IV. EFFECTIVE DATE AND RECOUPMENT OF RATE CASE EXPENSE

The franchise and rates shall be effective within thirty (30) days of the Commission's Order approving this Settlement Agreement, with recoupment of rate case expense commencing on such effective date. More specifically with respect to rate case recoupment, the Company shall be entitled to recoup its rate case expense shown on Exhibit C. The rate case expense will be recovered by a surcharge applied proportionally to the Company's permanent base rates. The surcharge shall recoup the amount over a 12 month period beginning on said effective date. Upon receipt of the Commission rate order, the Company shall file a compliance tariff supplement setting forth the approved recoupment rates.

V. CONDITIONS

The making of this Agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in these proceedings is true or valid.

This Agreement is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition, and if the Commission does not accept it in its entirety, without change or condition, the Agreement may be deemed to be null and void and without effect should Staff or the Company object to any Commission modification within seven days after the date of the Order. Further, if either Staff or the Company makes such an objection this Agreement shall not constitute any part of the record in this proceeding nor be used for any other purpose.

The Agreements of the parties reflected herein, and the Commission's acceptance of this Agreement, do not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding, but such acceptances does constitute a determination that (as the parties believe) the adjustments and provisions set forth herein are just and reasonable and that rates established to yield the revenues contemplated by this

Agreement will be just and reasonable.

The discussions which have produced this Agreement have been conducted on the explicit understanding that all offers of settlement and discussions relating thereto are and shall be privileged, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in any manner in connection with any future proceeding or otherwise.

Staff and the Company further agree that any concessions made herein by the Staff or the Company may not be used in any manner by any party whatsoever for any purpose whatsoever.

VI.NON-WAIVER.

By this Stipulation, the Company has not waived its right to seek additional revenue at a future time by means of a full rate proceeding, or otherwise, and the Staff has not waived the right to seek a reduction in the Company's rates at a future time by means of a show cause proceeding or otherwise.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in

their respective names by their agents, each being fully authorized to do so on behalf of his or her principal.

Page 566

EXHIBIT A Schedule 1

PENNICHUCK WATER WORKS, INC. GREAT BROOK DR91-026 ESTIMATED REVENUE REQUIREMENT

Revenue Requirement ---------- Operating Expense $12,154 Depreciation 1,161 Taxes 1,068 RATE OF RETURN ($52,426 x 10.50%) 5,505 --------- Annual Revenue Requirement $19,888 ========= Estimated Revenue per Customers $207

Page 567

EXHIBIT A Schedule 2

PENNICHUCK WATER WORKS, INC. GREAT BROOK DR91-026 ESTIMATED OPERATING REVENUE DEDUCTIONS SCHEDULE

OPERATING EXPENSES Production Costs Power $7,920 Laboratory Fees 600 Transmission & Distribution Maintenance 1000 Customer Accounting & Collection Meter Reading 180 Administrative & General Management Fee Monitoring 908 Community System Manager 274 Truck 295 Billing & Accounting 486 --------- Subtotal $1,963 25% Overhead 491 ----- 2,454

Total Operating Expenses $12,154 DEPRECIATION 1,161 TAXES Property 0 Income 1,068 TOTAL $14,383 ==========

Page 568

EXHIBIT A Schedule 2A

PENNICHUCK WATER WORKS, INC. GREAT BROOK DR91-026 TAX SCHEDULE Rate Base $52,426 Equity Portion @30% 15,728 Rate of Return 10.50% Income Required $1,651 Tax Effect 60.72% Pre Tax Income $2,720 Tax $1,068

EXHIBIT A Schedule 3

PENNICHUCK WATER WORKS, INC. GREAT BROOK DR 91-026 ESTIMATED RATE BASE CALCULATION AND RATE OF RETURN

I. Rate Base A. Property, Plant and Equipment 1. Cost of acquisition of supply and distribution system. $50,000 2. Estimated cost of inspection and legal fees. 0 3. Metering equipment 428 Total Property, Plant and Equipment $50,428 B. Inventory (repair fittings, spare parts) 500 C. Working Capital Allowance (based on 45 days/monthly billing) 1,498 Total Rate Base $52,426 ========= II. Rate of Return 10.50%

Page 569

EXHIBIT A Schedule 4

PENNICHUCK WATER WORKS, INC. Great Brook DR91-026 DEPRECIATION SCHEDULE NOTES ITEM ESTIMATED PERCENT DISTRIBUTED DEPRECIATION DEPRECIATION COST OF ACTUALPWW RATE EXPENSE TOTAL COST A (2) Wells/40' each $6,000 4.50% 2,250 2% $45 B (1) Well Pump/2hp 1,400 1.04% 520 10% $52 C (2) Concrete Structure/10'x10'ea 10,000 7.41% 3,705 2.50% $93 D (2) Tanks/22,500 gal. each 30,000 22.24% 11,120 2% $222 E (3,400") Main/4"PVC 44,676 33.12% 16,560 2% $331 F (96) Service/3/4"PVC 42,816 31.74% 15,870 2.50% $397

SUB TOTAL $134,892 100.00% 50,000 $1,140 J (1) Meter - 2" 428 428 5% $21 TOTAL $135,320 $50,428 $1,161

NOTES: A. Calculated per R. Skillings at $3,000 per foot B. Calculated per R.E. Prescott Co. C. Calculated at replacement cost. D. Calculated at PWW installation cost of $13.14/ft for 4"PVC E. Calculated at PWW installation cost of $446 each. F. Calculated at PWW installation cost of 2" meter $428 each.

EXHIBIT B

NHPUC NO. 4 WATER Original Page 34

PENNICHUCK WATER WORKS, INC.

GENERAL SERVICE - GREAT BROOK Availability:

This rate is available for metered water service in the franchised area subject to the terms and conditions of this tariff. Character of Service:

Water is ground water from wells at the Great Brook site. Water quality meets or exceeds all federal and state standards for drinking water. Outdoor use of water may be restricted during dry summer periods. Rates:

Standard monthly customer charge based on master meter. $96.75

In addition to the standard customer charge, the volumetric charge based on usage per 100 cubic feet of consumption. $ 2.39 Terms of Payment:

Bills under this rate are net and will be rendered monthly and are due payable at the Company office upon presentation. Issued: July 26, 1991 Issued by: Bonalyn J. Hartley Effective: July 26, 1991 Title: Vice President-Controller In Compliance with NHPUC Order No. in Case No. DR 91- 026, Dated , 1991.

EXHIBIT C

PENNICHUCK WATER WORKS, INC. GREAT BROOK DR 91-026 RATE CASE EXPENSE DEC 31, 1991 THRU JUN 30, 1992

Gallagher Callahan Gartrell $4,508.97 The Cabinet Press 62.40 Steven E. Patnaude, CSR

299.53 ---------- Total Expense $4,870.90 ==========

RATE CASE EXPENSE SURCHARGE CALCULATION

TOTAL EXPENSE $4,870.90

TOTAL CUSTOMERS 96

SURCHARGE PER CUSTOMER $50.74

SURCHARGE PER MONTH $4.23

NOTE: The above figures include actual rate case expense through June 22 and estimated expense through June 30 (including stenograpic expense in connectin with the June 30 hearing) and attorney's fees for closing the acuisition of the Great Brook system will be added when incurred.

Page 572

PENNICHUCK WATER WORKS, INC. DE 91-083 PETITION FOR PERMISSION FOR FRANCHISE AND PERMANENT RATES (REDFIELD ESTATES, DERRY, NEW HAMPSHIRE)

SETTLEMENT AGREEMENT

This Agreement is entered into this 30th day of June, 1992, by and among Pennichuck Water Works, Inc. ("Company") and the Staff ("Staff") of the Public Utilities Commission ("Commission") with the intent of resolving all of the issues that were raised or could have been raised with respect to the Company's petition in the above-captioned proceedings. In consideration of the mutual agreements set forth herein the parties hereto agree as follows:

I. INTRODUCTION

On June 12, 1991, the Company filed the above-referenced petition ("Petition") for a franchise and permanent rates for providing service to customers in Redfield Estates, Derry, New Hampshire.

On June 26, 1991, the Commission issued an Order of Notice setting a procedural hearing for July 18, 1991 on which date such duly noticed hearing was held and at which time the parties agreed to a procedural schedule. Pursuant to the procedural schedule the Company filed Testimony on August 14, 1991 and the Staff filed Data Requests on August 30, 1991, to which the Company responded on September 13, 1991. On September 13, 1991 the Company also filed its Motion to Amend the Petition to enlarge the proposed franchise area to enable the Company to serve customers located adjacent to the proposed interconnecting lines between Redfield Estates and the Company's existing franchised systems. A Settlement Conference took place on Monday, October 7, 1991, to address issues raised by the Company's Petition.

At its public meeting on January 20, 1992, the Commission ordered the scheduling of a hearing for January 30, 1992 in connection with the Company's petition in this docket, as well as its petitions in three other dockets posing similar issues (DE 91-026, DR 91-068 and DE 91-220), which hearing was subsequently rescheduled for February 3, 1992, on which date it took place. In connection with the hearing, Staff filed three somewhat divergent position papers,

the Company filed a position paper and the Office of the Consumer Advocate, which has not formerly intervened in these proceedings, filed a position paper. At its public meeting on February 25, 1992, the Commission adopted certain deliberations articulated by Chairman Smuckler. At its public meeting on March 18, 1992, the Commission adopted a procedural schedule. Representatives of Staff and the Company have since met on four occasions (April 3, May 12, May 28 and June 19, 1992) in an effort to resolve the issues presented by the Petition.

II. FRANCHISE

The parties stipulate to awarding the Company the proposed franchise area as described in the Company's amended Petition. In their view, the Company has satisfied the requirements of the Commission with respect to the need for service and demonstrated its ability to serve the Redfield Estates customers.

The Company has testified that it has the managerial and administrative expertise, the technical resources and the financial backing to provide quality water service to existing customers and to expand service to new customers, should they desire service from the Company; that the Company has provided water service for many years in the State of New Hampshire, and has established a reputation for reliable and efficient service to the public; that the Company presently operates a number of community water systems successfully, some of which systems are contiguous to the proposedfranchise area; and that the Redfield system will be interconnected with those contiguous systems within one year from the Commission's Order awarding the franchise to the Company. Based upon its experience with the Company over a period of years, Staff is willing to accept the Company's

Page 573

testimony in this regard and to stipulate that the awarding of the franchise to the Company will benefit the Redfield customers. The projected interconnection will assure a more reliable supply of water to both the Redfield customers and to the customers of the interconnected Drew and All systems, as well as provide the benefit of certain economies of scale to the customers of both systems. For the above reasons, the parties further stipulate that the Company's engaging in its business in the proposed franchise area would be for the public good.

III. RATES AND REVENUE REQUIREMENT

A. Rates. The parties have stipulated to a permanent rate level for customers in Redfield Estates estimated at $321.72 per year per customer. The rates charged will be based on the rates for metered service currently in effect in the Company's "Drew and All" system in Derry, New Hampshire. See Exhibit D attached hereto and Commission Order No. 20,093 in DR 89-120. The agreement of the parties to consolidate the rate for Redfield Estates with the "Drew and All" rate is based on the Company's testimony that it intends to interconnect these two systems within one year. In this proceeding, the Company submitted testimony that Redfield customers, on a stand-alone basis, would be charged rates estimated at $320 per year per customer. Therefore, there is no material subsidization issue in these proceedings.

B. Revenue Requirement. The proposed rates are supported by the Company's testimony and exhibits and supporting schedules, which are attached and identified as Exhibit A, Exhibit B, Exhibit C and Exhibit D. Staff and Company have agreed to the rate base, depreciation and

operating expenses, the rates set forth in Exhibit D and the rate case expenses reflected on Exhibit A, all of which are discussed below.

Because Staff and the Company are of the opinion that the Drew and All rate represents a reasonable and fair basis for water rates to Redfield customers, and will benefit the customers of both systems, no stand-alone exhibits are presented with this Agreement. However, in order to memorialize certain agreements between Staff and the Company which led to the above opinion, the parties stipulate that the valuation of rate base presented by the Company in its testimony is representative of the benefits for the customers of the Redfield system and therefore is prudent; that the franchises and consents, and the amortization period of 20 years, reflected in the Exhibit B attached hereto are acceptable; and that the amortization schedule for the interconnection and distribution studies reflected in Exhibit C is acceptable.

In addition, Staff and the Company note that the granting of this franchise will not harm, and is likely to benefit, the core system rate payers by sharing in certain of the Company's fixed costs. For example, recognizing that the Company has certain fixed costs for insurance, equipment and office space, to the extent that Redfield Estates adds to the number of customers sharing these overhead costs, a lower, or at least more stable, unit cost to the core system rate payer would result. In addition, the core system rate payer may benefit from the availability of additional earnings from the Company's Redfield operations which could be applied toward the acquisition of additional core system assets.

IV. EFFECTIVE DATE AND RECOUPMENT OF RATE CASE EXPENSE

The franchise and rates shall be effective within thirty (30) days of the Commission's Order approving this Settlement Agreement, with recoupment of rate case expense commencing on such effective date. More specifically with respect to rate case recoupment, the Company shall be entitled to recoup its rate case expense shown on Exhibit A. The rate case expense will be recovered by a surcharge applied proportionally to the Company's permanent base rates. The surcharge shall recoup the amount over a 12 month period beginning on said effective date. Upon receipt of the Commission rate order, the Company shall file a compliance tariff supplement setting forth the approved recoupment rates.

V. CONDITIONS

The making of this Agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in these proceedings is true or valid.

This Agreement is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition, and if the Commission does not accept it in its entirety, without change or condition, the Agreement may be deemed to be null and void and without effect should Staff or the Company object to any Commission modification within seven days after the date of the Order. Further, if either Staff or the Company makes such an objection this Agreement shall not constitute any part of the record in this proceeding nor be used for any other purpose.

The Agreements of the parties reflected herein, and the Commission's acceptance of this

Agreement, do not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding, but such acceptances does constitute a determination that (as the parties believe) the adjustments and provisions set forth herein are just and reasonable and that rates established to yield the revenues contemplated by this Agreement will be just and reasonable.

The discussions which have produced this Agreement have been conducted on the explicit understanding that all offers of settlement and discussions relating thereto are and shall be privileged, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in any manner in connection with any future proceeding or otherwise.

Staff and the Company further agree that any concessions made herein by the Staff or the Company may not be used in any manner by any party whatsoever for any purpose whatsoever.

VI. NON-WAIVER.

By this Stipulation, the Company has not waived its right to seek additional revenue at a future time by means of a full rate proceeding, or otherwise, and the Staff has not waived the right to seek a reduction in the Company's rates at a future time by means of a show cause proceeding or otherwise.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their respective names by their agents, each being fully authorized to do so on behalf of his or her principal.

Page 575

EXHIBIT A

PENNICHUCK WATER WORKS, INC. REDFIELD ESTATES DR91-083 RATE CASE EXPENSE DEC 31, 1991 THRU JUN 30, 1992 Gallagher Callahan Gartrell $7,280.13 Derry News 97.00 Samuel S Gray, CSR 231.00 Steven E. Patnude, CSR 142.81 ---------- Total Expense $7,750.94 ==========

RATE CASE EXPENSE SURCHARGE CALCULATION

TOTAL EXPENSE $7,750.94

TOTAL CUSTOMERS 98

SURCHARGE PER CUSTOMER $79.09

SURCHARGE PER MONTH $6.59

Page 576

EXHIBIT B

PENNICHUCK WATER WORKS, INC. REDFIELD ESTATES DR91-083 FRANCHISES & CONSENTS DEC 31, 1991 THRU JUN 30, 1992

Gallagher Callahan Gartrell $7,470.76 Sullivan & Gregg Prof. Assoc. 343.20

---------- Total Franchise Fees & Consents $7,813.96 ==========

AMORTIZATION OF FRANCHISES & CONSENTS

Total Deferred Expense $7,813.96 PER YEAR

Total Amort. Period 20 YEARS

Amortization Expense $390.70 PER YEAR

Page 577

EXHIBIT C

PENNICHUCK WATER WORKS, INC. REDFIELD ESTATES DR 91-083 INTERCONNECTION & DISTRIBUTION STUDIES DEC 31, 1991 THRU JUN 30, 1992

AMORTIZATION SCHEDULE/DERRY INTERCONNECTION Derry Interconnection Study $830.00 5 years Unamortized Balance 332.00 5 years Amortization Expense 166.00 5 years AMORTIZATION SCHEDULE/LEWIS DISTRIBUTION STUDY Lewis Distribution Study $1,200.00 5 years Unamortized Balance 960.00 5 years Amortization Expense $240.00 5 years NOTE: The above figures include actual rate case expense through June 22 and estimated expense through June 30, 1992. The actual expense through June 30 (including stenographic expense in connection with the June 30 hearing) and attorney's fees for closing the acquisition of the Redfield Estates system will be added when incurred.

Page 578

EXHIBIT D

NHPUC NO. 4 WATER Fourth Revised Page 30

PENNICHUCK WATER WORKS, INC. In Lieu of Original Page 33

GENERAL SERVICE - DREW AND ALL Availability: This rate is available for metered water service in the franchised area subject to the terms and conditions of this tariff. Character of Service: Water is ground water from a well at the Drew Woods site. Water quality meets or exceeds all federal and state standards for drinking water. Outdoor use of water may be restricted during dry summer periods. Rates:

Standard monthly customer charge based on master meter. $ 2.81

In addition to the standard customer charge, the volumetric charge based on usage per 100 cubic feet of consumption. $ 2.99 Terms of Payment:

Bills under this rate are net and will be rendered monthly and are due payable at the Company office upon presentation.

==========

NEW ENGLAND TELEPHONE COMPANY

DR 92-151
ORDER NO. 20,611

77 NH PUC 580

New Hampshire Public Utilities Commission

September 22, 1992

Order Granting Approval of Revised MTS Rates

On August 4, 1992, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission) a petition for revised Message Toll Service (MTS) rates, which the Commission suspended by Order No. 20,569 (August 17, 1992), pending Commission determination on access charges in DE 90-002, the Generic Telephone Competition Docket; and

WHEREAS, on September 4, 1992, NET filed a second request, along with a Motion for Reconsideration of the suspension order, in which NET offered, if reconsideration were denied, to modify its August 4, 1992 filing and substitute for it the modified September 4, 1992 proposal; and

WHEREAS, the Commission Staff has argued that any effective rate which falls below $.10 per minute would be improper under Order No. 19,505 (August 15, 1989); and

WHEREAS, NET disagrees with the Staff's interpretation of Order No. 19,505's provisions regarding imputation of access charges but is willing to accept the condition that the effective rate of its MTS tariff not fall below $.10 pending the outcome of DE 90-002, the Generic Telephone Competition Docket, during which the imputation of access charges will be addressed; and

WHEREAS, NET has agreed that with the approval of the modified MTS tariff discussed herein it will withdraw its Motion for Reconsideration; it is hereby

ORDERED, that NET's proposed MTS rates be approved, as modified in discussions with Commission Staff, provided that the effective rate for any customer class or usage band not fall below $.10 per minute; and it is

FURTHER ORDERED, that NET file no later than five business days a tariff in compliance with this order.

By order of the New Hampshire Public Utilities Commission this twenty-second day of September, 1992.

==========

NH.PUC*09/28/92*[73041]*77 NH PUC 580*LOV WATER COMPANY, INC.

[Go to End of 73041]

LOV WATER COMPANY, INC.

DE 89-033
ORDER NO. 20,612

77 NH PUC 580

New Hampshire Public Utilities Commission

September 28, 1992

Order on Rate Case Expenses

WHEREAS, LOV Water Company Inc. filed a Summary of Rate Case Expenses on August 19, 1992 in the amount of $22,338.79, and

WHEREAS, one part of the rate case expenses, Ransmeier & Spellman, Professional Corporation, $19,689.11, is considered to be duplicative in that there were two lawyers involved in the proceedings; and

WHEREAS, except for a level of familiarity with this docket, there was no evidence that the record lawyer brought specific legal expertise to this case that was not already brought by the first lawyer; and

WHEREAS, the Commission has indicated in the past its concern with respect to the amounts requested for rate case expenses because of the significant impact those costs have on customers; it is

ORDERED, that the rate case expenses for LOV Water Company, Inc. be reduced by an amount of $5,763.50 so that the total rate case expenses to be collected from the customers is $16,575.29; and it is

FURTHER ORDERED, that the allowed rate case expenses be recovered by means of a surcharge over a two year period according to the Stipulated Agreement dated June 23, 1992 and Commission Order No. 20,554 issued July 31, 1992, and it is

FURTHER ORDERED, that an accounting of the rate case expenses at the end of each calendar year be filed with this Commission.

By order of the Public Utilities

Commission of New Hampshire this twenty-eighth day of September, 1992.

==========

NH.PUC*09/28/92*[73042]*77 NH PUC 581*GENERIC INVESTIGATION INTO INTRLATA TOLL COMPETITION

[Go to End of 73042]

GENERIC INVESTIGATION INTO INTRLATA TOLL COMPETITION

DE 90-002
ORDER NO. 20,613

77 NH PUC 581

New Hampshire Public Utilities Commission

September 28, 1992

Order NISI Approving AT&T MultiQuestsm

On January 4, 1990, AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce MultiQuestsm as a Custom Network Service which permits interactive communications via a 900 number; and

WHEREAS, said service is an intrastate add-on to AT&T's interstate MultiQuestsm Service provided in AT&T's Tariff FCC No. 1; and

WHEREAS AT&T proposed the filing become effective February 5, 1990; and

WHEREAS, the Commission in its Order No. 20,040, dated January 21, 1991, determined that it would not be in the public good to authorize AT&T MultiQuestsm until it completed its blocking rules for interstate and intrastate pay-per-call services; and

WHEREAS on October 23, 1991, the Federal Communications Commission (FCC) issued an order pre-empting state regulation of pay-per-call services, unless the pertinent pay-per-call services are only accessible in the state in which they originate; and

WHEREAS, the pay-per-call rules and regulations adopted by the Commission prior to the issuance of the FCC's decision (N.H. Admin. R., Puc 410) were and are only intended to apply to pay-per-call services originating and terminating in the State of New Hampshire; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED NISI, that the following tariff pages of AT&T Tariff PUC No. 1 - CUSTOM NETWORK SERVICES, are approved:

Section 6: Original Page 1

Original Page 2

Original Page 3

Original Page 4

Original Page 5

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 27, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order Nisi to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than October 12, 1992 and is to be documented by affidavit filed with this office on or before October 29, 1992; and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order NISI will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of September, 1992.

==========

NH.PUC*09/29/92*[73043]*77 NH PUC 582*TAMWORTH WATER WORKS, INC.

[Go to End of 73043]

TAMWORTH WATER WORKS, INC.

DR 92-074
ORDER NO. 20.614

77 NH PUC 582

New Hampshire Public Utilities Commission

September 29, 1992

Report Approving Permanent Rate Increase and Other Matters

Appearances: Beverly LaCourse and Randy Lyman on behalf of Tamworth Water Works, Inc.; Eugene F. Sullivan, III, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

Tamworth Water Works, Inc. (Tamworth or the Company) filed for a permanent rate increase on May 8, 1992, and proposed to make changes to its tariff for providing water service to its customers in Tamworth, New Hampshire. The Company also filed for an emergency rate increase pursuant to RSA 378:9. In addition, the Company requested waivers from certain filing requirements as contained in N.H. Admin. R., Puc 1603.03 (b). The waivers were granted and

the tariffs were suspended by Order No. 20,486 (May 20, 1992) pending investigation of the merits of the requests, and a prehearing conference was scheduled for June 18, 1992. Three Tamworth customers appeared at the prehearing conference. Mr. Ken McDavitt requested and was granted full intervenor status. Mr. Nick Orgettas and Mr. Robert Ames were granted limited intervenor status. The Commission granted Tamworth an emergency rate increase of $12,800 on an annualized basis, but authorized the Company to bill only one quarter of that amount, or $3,200, on July 1, 1992 in order to allow it to continue in operation during the pendency of the permanent rate case proceeding. The Commission directed that the emergency rate authorized was to be reconciled to permanent rates once such rates were finally established. The Commission granted the parties and Staff one week in which to propose an allocation of the emergency rates and to propose a procedural schedule, including a public hearing during the month of July, if possible. On June 25, 1992 the Staff filed a Motion for Allocation of Emergency Rate Increase and Adoption of Procedural Schedule with the concurrence of all parties. On July 6, 1992 the Commission issued Order No. 20,529 approving the recommended procedural schedule and the method of allocating the emergency rate increase.

On July 20, 1992 a duly noticed public hearing was held at the Tamworth Town House in Tamworth.

On August 28, 1992, the Staff filed written testimony of Mark A. Naylor regarding revenue requirement, rate base calculation, and other financial matters; Scott W. Harrold regarding cost of capital; James L. Lenihan regarding rate design; and Douglas W. Brogan regarding engineering issues and system improvements. Intervenor McDavitt did not submit testimony.

On September 3, 1992 Staff and the Company met to explore the possibility of reaching agreement on some or all of the issues in the case. Intervenor McDavitt did not attend these discussions.

On the day of the scheduled hearing on the merits, Tamworth and the Staff presented a Rate Case Stipulation Agreement, attached hereto as Exhibit 1.

II. POSITIONS OF THE PARTIES AND STAFF

A. Tamworth Water Works, Inc.

Tamworth initially requested a revenue increase of $15,916 annually, or 481%, from its test year revenue level of $3,309. The Company also requested a rate redesign whereby the current method of a fixed charge plus a per fixture charge would be replaced by a flat rate per household or living unit. Commercial customers would be equated to an assigned number of equivalent residential units on an estimated usage basis. A total of 104

equivalent residential units was proposed by the Company in order to determine the flat rate. Tamworth requested a cost of capital of 10.03%.

B. Commission Staff

The Staff recommended a revenue increase of $14,390, or 335%. Staff agreed with conversion of the rate design to an "equivalent customer" basis. Staff recommended a number of

system improvements and/or proposals regarding supply, storage, distribution and customer metering. Staff recommended a cost of capital, based on 100% debt, of 10.00%.

C. Intervenor Ken McDavitt

Mr. McDavitt did not submit testimony, and did not attend the settlement conference.

D. Stipulation Agreement

The Stipulation Agreement between Tamworth and the Staff provided for the following resolution of all issues:

1. Cost of Capital. Tamworth and the Staff stipulate to a cost of capital of 10.00%, based on a capital structure of 100% debt.

2. Revenue Requirement and Rate Base. Tamworth and the Staff stipulate to a revenue requirement of $17,812, and a rate base of $30,454. The overall revenue increase stipulated to is $14,503 or 438% over test year revenue.

3. Rate Design. Tamworth and the Staff stipulate to a rate design which utilizes a flat rate per residential living unit, and assignment of a number of equivalent residential users for all commercial customers. The total number of equivalent customers stipulated to for purposes of determining an annual flat rate is 114. The stipulated flat rate per equivalent user is $156.24 annually, or $39.06 quarterly, to be billed quarterly in advance.

4. Metering. Tamworth and Staff agree that metering will be accomplished throughout the system once supply and storage improvements have been completed. A detailed metering plan will be submitted by Tamworth no later than June, 1993.

5. Capital Improvements. Tamworth and Staff stipulate to a schedule concerning capital improvements within the system, including: a system map; development of additional supply; installation of storage; distribution system upgrades; corrosion control; and a pump station. Staff and the Company further stipulate to an allowance for no more than three step adjustments over a four year period in order to provide the Company with an opportunity to recover completed capital improvements without the necessity of a full rate case.

6. Rate Case Expenses. Tamworth and Staff stipulate to recovery of rate case expenses in a surcharge to customers in an amount and over a period of time to be determined by the Commission.

7. Emergency Rate Reconciliation. Tamworth and Staff stipulate to a recoupment in the October 1, 1992 billing of the difference between the emergency rate authorized by the Commission and the permanent rate as outlined in this agreement. Further, the Company and Staff agree that the Company will reconcile each customer's July 1 billing, which was based on the old tariff, with the new fixed quarterly charge outlined in this agreement.

8. Franchise Area. Tamworth and Staff agree that Tamworth's franchise area will be bounded by the furthest building currently receiving service along each road in the present service area. Once supply and storage improvements anticipated by this agreement are in service to customers, the Company may petition to expand its franchise area.

9. Tariff Provisions. Tamworth and Staff agree that certain revisions to its tariff will be incorporated, as stated in the attached

Stipulation Agreement, including a statement defining the division between customer and Company-owned pipe in cases where mains cross private property.

10. Customer Notice. Tamworth and Staff stipulate to the Company providing notice to all customers within seven business days of the issuance of a final order in this docket regarding: rate impact; future anticipated system improvements and current rate case expenses that will impact customers; and notification that questions and concerns of customers can be addressed to the Company or to this Commission.

III. COMMISSION ANALYSIS

The Commission finds the proposed rate increase to be just and reasonable in accordance with the standards set forth in RSA 378:28.

We note that Tamworth has not requested rate relief since 1975 and that its rate structure has remained relatively unchanged since being first established in 1938. This has resulted in a critical need for emergency and permanent rate relief of a magnitude rarely seen by this Commission.

The Commission further finds that the proposed rate design modification is a more equitable means of distributing the revenue requirement among the customer base. Given the public input in this case we would have hoped that the Company would have moved immediately to a metered rate, however, in light of the limited financial resources of the Company and the testimony of the Engineering Department that other system improvements should take priority over the installation of meters to ensure safe and adequate service we will approve the proposed rate design methodology. We expect, however, that metering will be accomplished in an expeditious manner following the necessary improvements to the system as this is the most equitable means of rate design and sends the proper price signals relative to usage.

We note that the stipulation clarifies the boundaries of the Company's franchise area and that the Town's Selectmen have acquiesced in the stipulation's definition of the Company's franchise area by letter dated September 23, 1992.

The stipulation of the Staff and the Company, appended hereto as exhibit #1, is therefore accepted and incorporated into this Report and Order.

Finally, we would hope that the Company would request rate relief when necessary in the future to avoid the need for emergency rates and to ensure an adequate depreciation account from which necessary investments in the system can be financed.

Our Order will issue accordingly.

Concurring: September 29, 1992

ORDER

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

ORDERED, that the stipulation appended hereto as exhibit #1 is accepted; and it is

FURTHER ORDERED, that the Company file revised tariff pages to reflect this Order.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of September 1992.

==========

NH.PUC*09/30/92*[73044]*77 NH PUC 584*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73044]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-153
ORDER NO. 20,615

77 NH PUC 584

New Hampshire Public Utilities Commission

September 30, 1992

Order NISI Approving Special Contract No. NHPUC-74

On August 11, 1992, Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-74 with Brox Industries Inc., a Massachusetts Corporation with facilities located in Hudson, New Hampshire; and

WHEREAS, Brox Industries has historically had a low monthly load factor that

would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Brox Industries currently takes electric service under Rate LG of PSNH's Retail Tariff; and

WHEREAS, PSNH indicates that Brox Industries' average hours' use of maximum demand over the preceding twelve months has been less than 250 hours and that Brox Industries' billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Brox Industries has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-74 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-74 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED NISI, that Special Contract No. NHPUC-74 between PSNH and Brox Industries

is approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than January 1, 1994, on the number, nature and time of interruptions called by PSNH as well as Brox Industries' response to such calls, and what if any actions Brox Industries has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a paper having general circulation in that part of the State in which operation are proposed to be conducted, such publication to be no later than October 12, 1992, said publication to be documented by affidavit filed with this office on or before October 30, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order NISI will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this thirtieth day of September, 1992.

==========

NH.PUC*09/30/92*[73045]*77 NH PUC 584*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73045]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-172
ORDER NO. 20,616

77 NH PUC 584

New Hampshire Public Utilities Commission

September 30, 1992

Order NISI Approving Special Contract No. NHPUC-75

On September 17, 1992, Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-75 with Metal Casting Technology, Inc., a New Hampshire Corporation with facilities located in Milford, New Hampshire; and

WHEREAS, Metal Casting Technology has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Metal Casting Technology currently takes electric service under Rate LG of

PSNH's Retail Tariff; and

WHEREAS, PSNH indicates that Metal Casting's average hours' use of maximum demand over the preceding twelve months has been less than 250 hours and that Metal Casting Technology's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Metal Casting Technology has the necessary metering installed to

Page 585

implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-75 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-75 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED NISI, that Special Contract No. NHPUC-75 between PSNH and Metal Casting Technology is approved; and it is FURTHER ORDERED, that PSNH provide a report no later than January 1, 1994, on the number, nature and time of interruptions called by PSNH as well as Metal Casting Technology's response to such calls, and what if any actions Metal Casting Technology has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a paper having general circulation in that part of the State in which operation are proposed to be conducted, such publication to be no later than October 12, 1992, said publication to be documented by affidavit filed with this office on or before October 30, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order NISI will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this thirtieth day of September, 1992.

==========

NH.PUC*10/05/92*[73046]*77 NH PUC 586*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 73046]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-009
ORDER NO. 20,618

77 NH PUC 586

New Hampshire Public Utilities Commission

October 5, 1992

Rate Case, Reorganization and Debt Approvals Report and Order Approving Permanent Rates, Rate Design, Debt Reorganization and other Components of Reorganization Plan

---

Appearances: Merrill and Broderick by Mark W. Dean, Esq. for the New Hampshire Electric Cooperative, Inc., Senior Assistant Attorney General Harold T. Judd and Devine, Millimet and Branch by Frederick C. Coolbroth, Esq. for the State of New Hampshire; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Rath, Young, Pignatelli and Oyer by Eve H. Oyer, Esq. and Day, Berry and Howard by Robert P. Knickerbocker, Esq. for Northeast Utilities Service Company; Representative Mary C. Chambers (limited intervenor); Campaign for Ratepayers Rights (limited intervenor) by Robert C. Cushing, Jr.; Business and Industry Association (limited intervenor) by Kenneth Colburn; McLane, Graf, Raulerson & Middleton by Joseph A. Foster, Esq. for National Rural Utilities Cooperative Finance Corporation (limited intervenor); Michael W. Holmes, Esq. of the Office of the Consumer Advocate on behalf of residential ratepayers; Amy L. Ignatius, Esq. on behalf of the Commission Staff

REPORT

I. PROCEDURAL HISTORY

During January and February 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed with the New Hampshire Public Utilities Commission (Commission) petitions for temporary and permanent rate increases and approval of certain debt financing. These filings are a part of NHEC's Joint Plan of Reorganization (Reorganization Plan), which was approved by the United States Bankruptcy

Court on March 20, 1992. See In re: New Hampshire Electric Cooperative, Inc., Memorandum Opinion (March 20, 1992).

By Order of Notice dated March 20, 1992, the Commission scheduled a prehearing conference for April 9, 1992. In addition to agreeing upon a procedural schedule for the duration of the docket, the Commission heard arguments regarding limited and full interventions.

After hearing on April 9, 1992, the Commission granted full intervenor status to the State of New Hampshire (State), Public Service Company of New Hampshire (PSNH), Northeast Utilities Service Company (NUSCO), the Office of Consumer Advocate and, if represented by counsel, the Campaign for Ratepayers Rights (CRR) and the Business and Industry Association (BIA). If not represented by counsel, CRR and BIA were to be limited intervenors, as were the Honorable Mary C. Chambers and the National Rural Utilities Cooperative Finance Corporation (CFC). The Bankruptcy Court Official Member Committee (Member Committee) was denied

intervention. See Report and Order No. 20,437 (April 10, 1992). CRR timely filed a Motion for Rehearing of this order, which was denied on May 13, 1992 in Report and Order No. 20,479.

On April 14, 1992, the Commission heard evidence on NHEC's request for temporary rates in the amount of approximately $6.5 million. Temporary rates were granted, effective on a bills rendered basis as of May 1, 1992 by Order No. 20,472 (April 29, 1992).

The Commission, during five hearing days between July 13 and July 22, 1992, heard evidence on NHEC's request for permanent rate increases, rate redesign, debt restructuring and other approvals negotiated as a part of the Reorganization Plan.

II. POSITIONS OF THE PARTIES AND STAFF

A. New Hampshire Electric Cooperative

1. Debt Restructuring

NHEC asserts that the restructure of its existing debt and revision of the terms of its existing mortgage obligations as specified in its Reorganization Plan are consistent with the public good and should be approved by the Commission. The Reorganization Plan reduces NHEC's total secured debt by approximately $42.5 million: the Rural Electrification Administration (REA) has accepted a contingent note for $41.6 million which is payable under limited conditions that NHEC does not believe are likely to occur; CFC has agreed, in effect, to write off approximately $962,000 through credits for future earnings. Both have agreed to revised debt payment schedules designed to match NHEC's projected cash flow requirements and allow a more gradual increase in retail rates. NHEC has also retained all of its prior 2% and 5% interest rate indebtedness (approximately $71.3 million). NHEC states that, its financial forecasting model, even under conservative modeling assumptions, indicates that the Reorganization Plan's capital structure establishes debt levels and payment terms that will result in just and reasonable retail rates through the year 2005.

NHEC argues that the terms and conditions of the Restated Mortgage and Security Agreement with the REA and CFC are substantially more favorable to NHEC than those in the existing mortgage. It provides future financing priority over existing debt, eliminates minimum Times Interest Earned Ratio (TIER) and Debt Service Coverage ratios as default triggers, grants NHEC flexibility to prepay any note without penalty, and subjects REA responses to NHEC's requests for approvals to limited time frames and a standard of reasonableness.

NHEC contends that its arrangements with CFC are in the public interest. The Secured Revolving Credit Agreement establishes a short-term line of credit of $10

million available for ten years at a current interest rate of 5.65%. This credit line will enable NHEC to manage its cash flow, especially in the early post-bankruptcy years and over seasonal revenue fluctuations, and achieve lower blended interest rates for its longer term construction financing. CFC has also committed to make long-term financing available to NHEC subject to a Work Plan Loan Agreement that establishes documentary and procedural preconditions to the advancement of loan funds similar to those required of any other qualified borrower. Therefore, NHEC contends that the Commission should find that the purposes, amounts, terms and

conditions of the short-term line of credit and the associated promissory note to CFC, and the Work Plan Loan Agreement associated with long term financing by CFC, are in the public interest. Each proposed long term loan will be submitted to the Commission pursuant to RSA Chapter 369.

NHEC's restructured debt also recognizes and complements the Revised Sellback Agreement between NHEC and PSNH and together they represent a comprehensive settlement of all disputes between the two companies. PSNH will pay a $20 million REA note in its entirety, and through June 30, 2000, all debt service obligations under the $101 million REA Seabrook related debt. NHEC will issue a $5.5 million unsecured promissory note to PSNH, which is a fraction of the total claims asserted by PSNH. NHEC states that the 7.5% interest rate on the promissory note is below prevailing market rates, its debt service is scheduled between January 31, 2002 and October 31, 2006 and the principal and interest may be reduced by means of a $0.01 kwh credit on wholesale purchases over forecasted levels, and asserts that these features enhance the reasonableness of the note.

2. Revised Sellback Agreement

The Reorganization Plan includes a Seabrook Nuclear Power Plant Unit No. 1 Unit Contract (Revised Sellback Agreement) in which NHEC and PSNH have modified and documented their agreement for PSNH to purchase NHEC's Seabrook capacity retroactive to the start of commercial operation and continuing through June 30, 2000. NHEC asserts that the Revised Sellback Agreement conforms to the Commission's findings in DR 90-078. PSNH will pay the full monthly cost of service of NHEC's Seabrook share based on an initial value of NHEC's ownership share of $126 million regardless of Seabrook's operating status, and will pay all termination costs during the term of the contract if Seabrook is prematurely cancelled. The Revised Sellback Agreement includes a phase-in mechanism for the investment costs through a Deferred Capital Expense which is repaid with interest by PSNH during the final three years of the agreement. NHEC argues that the Revised Sellback Agreement contributes to a reasonable and desirable resolution of NHEC's bankruptcy, fulfills the promise of the original Sellback Agreement to NHEC members in excluding from retail rates all costs associated with its direct ownership share in Seabrook, and charges just and reasonable rates to PSNH.

3. Amended Partial Requirements Agreement (APRA)

Under the APRA NHEC will purchase power from PSNH commencing on the Effective Date and extending until at least November 1, 2006. The APRA wholesale rates are similar in structure and amount to those charged by PSNH to its municipal wholesale customers under a settlement approved by the Federal Energy Regulatory Commission (FERC), and also to the rates charged by PSNH at retail under its Commission-approved rate plan. It features substantially fixed and specified demand, energy and delivery point charges, a variable Fuel and Purchased Power Adjustment Clause (FPPAC) and a Return on Equity (ROE) Collar. The rates represent a significant reduction from those approved by the FERC that PSNH is currently charging NHEC. NHEC contends that the financial and risk avoidance benefits of the APRA, especially when evaluated in conjunction with the Revised Sellback Agreement, substantially

outweigh the potential benefits of all other power supply offers presented to NHEC.

4. Permanent Rates

As a precondition to the Effective Date of NHEC's Plan of Reorganization, NHEC must request, and the Commission approve, retail rate increases that will permit NHEC, under traditional ratemaking principles, to generate revenues projected to be sufficient to satisfy NHEC's obligations through April 30, 1993. NHEC argues that the application of traditional ratemaking principles justifies retail rate increases substantially greater than those necessary to generate the minimum revenue necessary to emerge from bankruptcy. Its analysis of its revenue requirements, determined by selecting a test year, developing a pro forma statement of operations and incorporating adjustments to reflect known and measurable changes from actual historical financial data, supported an immediate increase of approximately 30.4%. NHEC's restructured obligations, however, could be satisfied by an increase of 20.2% implemented in two steps, and therefore NHEC has chosen to limit its request to that lesser level. Step 1 is an increase of 16.6% proposed to be effective May 1, 1992; Step 2 involves a further 3.6% increase, effective January 1, 1993. Step 1 rates produce a TIER of 0.89 and a rate of return of 5.9185%; Step 2 rates produce a TIER of 1.18 and a rate of return that is less than 7.956%. NHEC contends that based on traditional ratemaking and measured by the resulting TIERs and rates of return, the proposed rate increases are reasonable and in the public interest.

NHEC states that its proposal to fold the existing purchased power cost adjustment (PPCA) base into its base rates is revenue and total rate neutral and in accordance with past Commission practice. It argues that the proposal is reasonable as it does not affect customers and simplifies NHEC's administration of its billing and accounting.

NHEC is not proposing to modify its current PPCA or fuel cost adjustment (FCA) clauses in the instant docket. However, the existing rate mechanisms will have to be changed once NHEC begins to receive wholesale power pursuant to the APRA, scheduled for January 1, 1993. NHEC has agreed to petition for such changes within 30 days of the Commission order in this docket, and contends that this treatment of its current PPCA and FCA clauses and their subsequent modification in a future docket is reasonable.

Finally, NHEC requests a temporary 12-month across-the- board surcharge in the amount of $0.00586 per kwh to become effective with the Step 1 increase, designed to provide revenues necessary to satisfy the $3 million payment to PSNH on the Effective Date. NHEC argues that both the $3 million payment and the mode of recovery are reasonable. While NHEC and PSNH did not attempt to isolate and quantify each asserted claim between them, NHEC has accounted for the payment as satisfaction of the deferred portion of the wholesale charges claimed by PSNH under the wholesale rate that has been in effect from May 1, 1992. The net present value obligations claimed by PSNH under the deferred portion of the "May 1 Rates" through the ten-year escalation period exceed $190 million. Upon payment of the $3 million on the Effective Date and receipt of wholesale power pursuant to the APRA, NHEC's obligations to make any payment to PSNH under the deferred portion of the "May 1 Rates" will be extinguished.

5. Rate Design

NHEC conducted an embedded cost of service study and, while it has committed to the use of a marginal cost of service study in its next permanent rate case, contends (and Staff

concurred) that the results of the two types of studies would not deviate significantly. NHEC's rate design proposal applied the principle of gradualism to temper the results of its cost of service study. The original proposal incorporated a standard that no customer class would receive a rate increase less than 50% of the total average increase. This proposal was modified by the July 16, 1992 Stipulation among NHEC, the OCA and the State

Page 589

(Stipulation) in which no class would receive a rate increase less than 75% of the highest increase experienced by any class.

NHEC argues that the Stipulated rate design is a reasonable compromise and workable approach to the competing needs of NHEC's different rate classes and the sometimes conflicting goals of rate design principles. Under the Stipulation, the rates of all of NHEC's customer classes are at least more cost reflective than are NHEC's present rates. Further, the Stipulation is a compromise that minimizes litigation risk to all NHEC's members.

6. Other Approvals

NHEC's requested Step 1 permanent rates are in excess of the temporary rates granted by the Commission on April 29, 1992 by Report and Order 20,472. While NHEC had hoped that it would be able to waive recoupment, its most current cash flow projections require that it assert its statutory right under RSA 378:29 to recoup the revenue it would have recovered if the permanent rates had taken effect on May 1, 1992. NHEC states that there is no connection between its current and projected severance benefit obligations and its decision to assert its right to recoupment, as its cash flow projections eliminated the severance obligations from the forecast and still result in a cash balance deficiency substantially larger than the revenues it is entitled to recoup.

NHEC proposes that the recoupment be surcharged beginning on the effective date of the Step 1 increases and continuing through December 31, 1993.

B. State of New Hampshire

The State is a joint proponent of the Reorganization Plan and as such supports all components of the requested approvals. It argues that the Reorganization Plan is the product of difficult negotiations by knowledgeable adversaries. Failure to grant the requested approvals could result in lengthy, complex and expensive litigation before the Commission, the New Hampshire Supreme Court, the FERC and the United States Court of Appeals for the District of Columbia with a resulting exposure to NHEC members of millions of dollars and an extension of the reorganization process by at least two years. Contrasted to the continued bankruptcy of NHEC and the attendant litigation, the requested approvals are just and reasonable, in the public interest and should be approved.

1. Debt Restructuring

The State asserts that the proposed financings are consistent with the public good. In order to protect ratepayers from exorbitant rate increases, the plan proponents extracted from the REA a number of concessions, including making $41.6 million of REA indebtedness contingent, the preservation of low interest rates on the distribution debt and an interest rate of 9.3% on the

remaining debt (much of which is serviced by PSNH during the term of the Revised Sellback Agreement), a structure of debt amortization that matches cash flow that mitigates rate increases in early years, deletion of restrictive covenants, payment priority for new financings, and the right to prepay the restructured indebtedness without penalty. Further, the CFC has provided a secured line of credit of $10 million and has agreed to provide NHEC with future construction financing. In sum, the State argues that the restructured indebtedness provides a reduced debt burden to NHEC, more favorable covenants and the availability of future financing as needed.

The State further argues that the Commission can find the financing to be in the public good without conducting a prudence investigation with respect to NHEC's participation in Seabrook. Approval of a financing requires that the Commission determine whether the resulting capitalization can be supported by just and reasonable rates, including whether established ratemaking principles could cause a portion of the resulting rate base to be disallowed either for imprudence or because the plant is not used and useful. However, in the instant case, NHEC's retail ratepayers are not being asked

Page 590

to support NHEC's Seabrook investment. The initial ten years of NHEC's share of Seabrook's commercial operation is supported by the Revised Sellback Agreement and it is not known at this time whether NHEC will request rate base inclusion of its Seabrook share at the end of the Revised Sellback Agreement. The State points to evidence in this proceeding that indicates that if rate base treatment were sought after ten years, the effect on rates would be an insignificant 3% increase. However, while the Commission does not need to conduct a prudence investigation prior to approval of NHEC's financing, the State concurs with Staff's proposal that such an investigation be completed in the near future in order to assure that the necessary evidence concerning NHEC's conduct is available.

2. Revised Sellback Agreement

The State avers that the Revised Sellback Agreement reflects the basic terms already approved by this Commission in DR 90-078, and is a significant improvement over the original agreement in that it constitutes a detailed contract of fully negotiated terms in place of the previous ambiguous exchange of letters. The Agreement also improves the protection of NHEC's ratepayers by expressly providing that PSNH continues payment during the life of the Agreement even if Seabrook Unit I is permanently shut down.

3. APRA

The State notes that the APRA provides a source of power supply for fifteen years, with NHEC having the exclusive right to extend that term for an additional five years. Many of the power costs have been fixed for the entire term of the contract in a manner similar to the PSNH retail rate agreement approved by the Commission in DR 89-244 and the APRA mirrors the contractual provisions approved by the FERC for PSNH's other wholesale requirements customers. The State contends that, based on the testimony of State witness Alan Kessler, when measured on the basis of common assumptions and taking into account the sensitivity analyses, the power supply arrangement with PSNH offers the most stable and secure power supply at the most reasonable cost.

4. Permanent Rates

NHEC has proposed rates based on New Hampshire's generally applicable ratemaking statutes. Its proffered revenue requirement utilized a pro forma test year of the 12 months ending October 31, 1991, adjusted for known and measurable changes and excluding NHEC's Seabrook investment from rate base and Seabrook-related debt from the capital structure. There are no longer disputes regarding the rate base and expense calculations, and while the upper limit of the appropriate TIER is the subject of dispute, there is no dispute that the TIER rates produced by NHEC's Step 1 and Step 2 rate requests are not excessive. Therefore, the State argues that the rate levels requested by NHEC are just and reasonable and should be approved.

5. Rate Design

The State argues that normally, in the absence of cost of service and rate design evidence, rate increases are applied as equal percentage increase to most or all services. Through its witness Dennis R. Eicher, NHEC presented an embedded cost study, together with a rate design proposal that moved rates closer to the costs shown in the study but modified in accordance with the principle of gradualism. The OCA argued that in the absence of a marginal cost study, the proposed NHEC rate increases should be applied on an equal percentage basis. In an effort to resolve differences on the rate design, the State reached a Stipulation with NHEC and the OCA, which it argues is a reasonable compromise for all classes of NHEC's customers. While Staff recommended that the Commission reject the Stipulation primarily on the basis that the resulting commercial and industrial rates could trigger certain negative customer responses, the State argues that there is insufficient record

Page 591

evidence to justify rejection of the Stipulation. The State also notes that the commercial and industrial Temporary Rates exceed the Stipulated permanent rates and there is no evidence of negative reaction by these customers in response.

The State argues that the rate design Stipulation will resolve another area of controversy, and if circumstances warrant, the Commission can conduct a rate design investigation in a subsequent proceeding.

C. PSNH and NUSCO

PSNH and NUSCO are joint proponents of the Reorganization Plan and as such support all components of the requested approvals.

1. Debt Restructuring

PSNH/NUSCO argue that the $5.5 million note to PSNH that is part of NHEC's debt restructuring is to satisfy in part obligations for wholesale power services PSNH rendered to NHEC. Further, its structure gives NHEC greater financial flexibility upon its emergence from bankruptcy.

2. Revised Sellback Agreement

PSNH/NUSCO request the Commission to find the Revised Sellback Agreement to be reasonable and in the public interest. They note that NHEC's share of Seabrook under the

Agreement will be valued at $101 million, which is based on the $126 million value the Commission found reasonable in DR 90-078, minus approximately $8 million in accrued depreciation and $17 million of payments made by NHEC to the REA. Referring to the testimony of their witness John Noyes, PSNH/NUSCO argue that the $101 million is within the range of values that could be expected from litigation and results in approximately the same per kilowatt hour cost that PSNH ratepayers will pay for PSNH's share of Seabrook when valued at $1.5 billion.

3. APRA

PSNH/NUSCO state that the APRA is intended to resolve all of the disputes between PSNH and NHEC before the FERC and the District of Columbia Circuit Court of Appeals. They argue that it offers NHEC a reliable source of power at reasonable rates that are far below a strict cost of service rate that would reflect full recovery of PSNH's Seabrook investment. The APRA contains a specific schedule of rates subject to provisions that allow for rate changes in response to mandates by regulatory, legislative or governmental authorities, or changes in circumstances during its 15 year term through the use of an FPPAC and a return on equity collar. PSNH/NUSCO contend that the APRA was the best offer available to NHEC prior to and during its bankruptcy. They cite Alan Kessler's testimony that the APRA was the only offer available for 15 years and was less volatile and less sensitive to changes in economic factors than the offers from New England Power Company (NEP). Further, in order to obtain the advantages of the NEP offer, NHEC would have had to assume all of the litigation risks.

4. Other Approvals

PSNH/NUSCO have conditioned their settlement with NHEC upon approval of the resolution of three issues that are embodied in a stipulation with the State (State Stipulation), and argue that this State Stipulation implements the intended allocation of the costs and benefits of retaining NHEC as a customer of PSNH and resolves other issues affecting PSNH.

First, the State Stipulation provides that the amount that PSNH has paid NHEC pursuant to the terms of the Revised Sellback Agreement from July 1, 1990 through May 15, 1991 (the Effective Date of the PSNH Rate Agreement) will be deferred and amortized for recovery after the fixed rate period.

Second, the Rate Agreement BA is modified to synchronize the treatment of PSNH's Seabrook phase-in with the effective date of PSNH's plan of reorganization and

assure that the costs on PSNH's books for the phase-in and the costs in the new BA are on the same basis. The effect of this change is to reduce the BA and thus increase the FPPAC charges by approximately $7 million a year for the next four years. PSNH/NUSCO argue that this increase is far outweighed by the costs to ratepayers had PSNH lost NHEC as a wholesale customer. PSNH/NUSCO also argue that the change is reasonable because most of the cost of delay in PSNH's first effective date were suffered by PSNH rather than its ratepayers and, therefore, it would be inequitable for PSNH to continue to bear the secondary cost of delay related to the timing difference between the BA changes and phase-in of Seabrook on its books.

Third, the entire cost of the early retirement program offered to certain PSNH employees ($8 million) was deferred in December 1991 and will be amortized over a five-year period beginning June 1, 1992. These costs, assuming the floor of the ROE Collar is not triggered, will be borne by PSNH shareholders. In the absence of the State Stipulation, the $8 million would have been expensed in 1991, which would have reduced the net book value of PSNH prior to the merger and thereby increased the acquisition premium. The portion unamortized at the end of the fixed rate period would have become a cost of service item for ratepayers. PSNH/NUSCO also argue that the stipulated treatment lessens the probability of triggering the ROE Collar by not expensing the $8 million in 1991 when the expense would have had greater impact on the cumulative net present value calculation of the ROE Collar.

D. Office of Consumer Advocate (OCA)

1. Permanent Rates

The OCA agrees with the testimony presented by witnesses of NHEC, the State and the Staff that the rate increases requested by NHEC in Step 1 and Step 2 are just and reasonable.

2. Rate Design

During the course of litigation, OCA entered into a Stipulation with NHEC, the State, and PSNH/NUSCO, which modified NHEC's originally proposed rate increase to residential customers, while increasing the impact on commercial and industrial customers. The OCA continues to support this settlement. However, should the Commission reject the Stipulation, the OCA argues that any increases granted should be allocated "across the board" to all rate classes, as OCA witness Kenneth Traum originally testified, for the following reasons.

The OCA notes that the long term rate path envisioned by NHEC will place them in roughly the same position relative to PSNH (slightly lower rates) as prior to bankruptcy. It argues that while the overall 45% increase in rates is consistent with the original legislatively approved rate plan, variations from equal percentage increases across classes is not. The OCA cites the testimony of NHEC witness Frederick Anderson as suggesting that residential customers were less supportive of Seabrook's construction than were business customers and that therefore residential customers should bear even less than equal proportion of the rate increases.

The OCA argues that the observation by Staff witness Thomas Frantz that the benefit received by each residential customer of shifting from NHEC's original proposal is more than offset by the increases imposed upon commercial customers does not take into account the Federal income tax effect, under which utility bills are tax deductible for business customers. It argues that the fact that NHEC's residential rates were among the lowest in the area while commercial rates were in the middle is irrelevant absent evidence, not here present, of migration of customers to a lower cost franchise area. OCA agrees with Staff witness Eugene Sullivan that rate design should be based on cost of service. The only elasticity study available was presented in the Bankruptcy Court and is not in evidence in the instant proceeding. The OCA contends that the significance of the findings of the Bankruptcy

Court is that the elasticities discussed in that proceeding present no problem to the range of

rate increases by class contemplated in this proceeding. Therefore, there is no reason for the Commission to implement lower rate increases to the commercial classes at the expense of residential customers based on fear of a detrimental elastic response.

The OCA contends that in DR 88-141, NHEC's last base rate case, the Commission found that the rates based on an embedded cost study that adhered to the same methodology as the current study were just and reasonable. It argues that nothing has changed since then except for the inclusion of Seabrook, yet the current study exhibits an unexplained major shift of the revenue requirement to the residential classes. Noting the criticisms provided by witnesses Kenneth Traum and Thomas Frantz, especially regarding load data research, the OCA argues that the Commission cannot rely on the results of this embedded study. Further, as no marginal cost study was filed in this docket, and even the OCA believes that a marginal study provides valuable input into the rate setting process, the Commission should not now restructure the class proportionate revenue responsibility that such a study would indicate.

The OCA further argues that there is an important distinction between economically efficient rates and the legal requirement that rates be just and reasonable. OCA asserts that a just and reasonable rate involves the legal concept of fairness which states that regardless of the economics, customers cannot necessarily be charged for all costs, especially if they are imprudent, not useful or would generate excessive profits. In particular, public utility regulation was designed to prevent the monopolist from maximizing profits by altering prices for the same product or service according to the ability or willingness of a particular customer to pay, which results in discrimination towards inelastic customers. The OCA asserts that the goal of regulation is fairness, not economic efficiency, and it is simply not fair to charge residential ratepayers more than commercial and industrial classes for Seabrook. If the Commission believes that it would be more beneficial to residential ratepayers to charge businesses less because of potential load loss, it should consider whether the public interest requires residential customers to purchase capacity built for other classes, and the long term ramifications of allowing one class to demand that services be provided for which they will later avoid paying.

Finally, the OCA argues that there was inadequate notice in that ratepayers did not learn until June 1992 that the residential increase could be 25% while other increases could be half that percentage.

E. Limited Intervenors

CFC, CRR, and Representative Chambers took no position during the course of the July 1992 hearings.

F. BIA

Limited intervenor BIA did not object to the terms of the Reorganization Plan but strongly criticized the rate design Stipulation as being unduly burdensome on commercial and industrial customers, raising the possibility of defection of large customers from NHEC's system, either through shutdown of operations or shift to cogeneration.

G. Commission Staff

With one exception, Staff does not oppose NHEC's requests. It did, however, raise several additional concerns in brief.

1. Revised Sellback Agreement

Staff believes that it is necessary to establish a value for NHEC's share of Seabrook for the purposes of depreciation in the Revised Sellback Agreement. It agrees that the value of $109 million, which deducts $17 million of payments made to the REA by the Effective Date from the $126 million found reasonable by the Commission in DR 90-078 and includes approximately $9 million in accumulated depreciation, is appropriate.

Page 594

2. Rate Design

Staff opposes the Stipulation among NHEC, the OCA and the State, arguing that rates should be as close to cost as the Commission finds just and reasonable, and that the Stipulation formula moved NHEC's original proposal, already a deviation from cost-based rates, even further in the wrong direction. While the percentage increases may appear to burden the residential class, those percentages are calculated on unusually low rates for the residential class compared to average rates for the industrial and commercial classes. Staff contends that the residential rates now appear to be significantly out of line with the costs to serve those users, and in fairness, residential customers should be working towards their actual cost of service and not rely on the subsidies of other classes to keep their rates artificially low. Further, Staff argues that while it has not conducted elasticity studies, the study performed by R.W. Beck, NHEC's experts in the Bankruptcy Court proceeding, indicated that the Stipulation's rates for business customers could trigger their defection from the system. Thus, Staff argues that the Stipulation is inequitable, sends the wrong pricing signals, and risks a devastating effect on NHEC's revenues.

3. Other Approvals

Staff raised several concerns that NHEC addressed through commitments during the proceeding. NHEC has committed to produce a marginal cost of service study as part of its next rate case. Staff agrees that it is not necessary to establish a value for NHEC's Seabrook share for retail ratemaking in this proceeding as the current proceeding does not entail retail rates based on NHEC's Seabrook investment. However, Staff believes that it is important to commence an investigation before too many years have elapsed since NHEC's decision to invest in Seabrook, and is pleased that NHEC has committed to commence a docket to pursue what, if any, determinations the Commission should make regarding the valuation of Seabrook as it relates to NHEC's retail rates. Similarly, Staff looks forward to developing with NHEC a reliable accounting mechanism for fuel and purchased power costs that will simplify these adjustments and provide proper matching of revenues and expenses in any month. Finally, Staff believes NHEC should develop more detailed customer billing information in accordance with N. H. Admin. Rules, Puc 303.05 (c) and is willing to work with NHEC towards that end.

Staff believes that the record evidence on the issue of the severance benefits to Jon Bellgowan, Steven Kaminski and Frederick Anderson is inconclusive and it is not clear how NHEC intends to fund those payments. Staff is generally opposed to the use of ratepayer money for payment of severance benefits to the outgoing management team, and to the extent such payments are included in the $600,000 NHEC finds it will need as of the effective date of the Reorganization Plan, believes that they should be eliminated. Staff contends that when the final

benefit "package" is known, it should be filed with the Commission together with a statement as to whether, and if so, how, NHEC seeks to recover any or all of these amounts from its ratepayers.

III. COMMISSION ANALYSIS

After review of the evidence, we find the Reorganization Plan for NHEC, viewed as a balanced negotiated settlement among numerous parties with varying and often conflicting concerns and interests, to be a reasonable resolution to the NHEC bankruptcy that offers a credible expectation of reliable electric service at fair and equitable rates. We will, therefore, approve the Reorganization Plan, including the debt restructuring, the Revised Sellback Agreement, the APRA and the Step 1 and Step 2 Permanent Rates. We will adopt the rate design as originally proposed by NHEC rather than the Stipulation offered by NHEC, the State and the OCA.

Page 595

1. Debt Restructuring

The Reorganization Plan has restructured NHEC's existing debt and revised the terms of its existing mortgage obligations. It has provided NHEC with access to funds to finance future capital improvements to its system on reasonable terms, including an attractive interest rate. Finally, it resolves all outstanding financial disputes between NHEC and PSNH. All parties agree that the restructuring, and particularly the acceptance by the REA and CFC of contingent notes for approximately $42.5 million of NHEC's debt obligations coupled with the continuance of the 2% and 5% interest rates on NHEC's distribution and transmission debt, has significantly reduced NHEC's debt burden. This new level of debt and the flexible payment terms that accompany it enable NHEC to forecast with credibility that the rates needed to support the resulting capitalization will be just and reasonable.

We concur with the State that we can find that the debt restructuring is in the public good without conducting a prudence investigation into NHEC's participation in the Seabrook project. The Commission is not being asked to approve retail rates for NHEC based on NHEC's Seabrook debt as under the Revised Sellback Agreement that debt service is assumed by PSNH. We will address the issue of whether the terms of the Revised Sellback Agreement result in reasonable retail rates for customers of PSNH in a separate order. At the end of the ten year Revised Sellback Agreement, NHEC may or may not request rate base treatment and the concomitant retail rates and we could leave exploration of the prudence issue to the proceeding that will take place at that time. However, we agree with the Staff, the State and NHEC that the Commission's ability to conduct a meaningful investigation of NHEC's participation in Seabrook may diminish with the passage of time. Therefore, we accept NHEC's commitment to file a petition requesting an examination of the prudence of its Seabrook investment within 60 days of this order.

2. Revised Sellback Agreement

The Revised Sellback Agreement replaces the exchange of letters between NHEC and PSNH that previously represented their agreement that PSNH, at the annual option of NHEC, would purchase NHEC's Seabrook capacity and energy for the first ten years of Seabrook's commercial operation. Thus, it is retroactive to the start of commercial operation and continues through June

30, 2000. It modifies the original agreement in that it phases in NHEC's Seabrook investment costs in a fashion similar to the phase-in of PSNH's own Seabrook investment costs by creating a Deferred Capital Expense which is repaid with interest by PSNH during the final three years of the Agreement. This arrangement reduces the likelihood that PSNH's own Rate Plan of 5.5% rate increases will be affected by larger than anticipated revenue requirements flowing through its Fuel and Purchased Power Adjustment Clause (FPPAC) during the fixed rate period. The Agreement provides improved protection for the NHEC ratepayers by specifying that PSNH will pay all termination costs during the life of the Agreement if Seabrook is prematurely shut down.

Under the Agreement, PSNH will pay NHEC's full monthly cost of service based on an initial value of NHEC's Seabrook share of $126 million, which is reduced to $101 million, reflecting $8 million in accrued depreciation and $17 million in principal payments made by NHEC to the REA. We note that the issue raised by Staff regarding depreciation was resolved during the hearings and that Staff agrees that the calculations embodied in the Revised Sellback Agreement are correct and appropriate.

The Commission finds that from the perspective of the NHEC ratepayers the Revised Sellback Agreement is in the public good. The Agreement complies with our Order in DR 90-078 as it is based on the value for NHEC's Seabrook investment of $126 million that we found reasonable for purposes of the wholesale buyback/sellback agreement. It also fulfills the legitimate expectations of NHEC ratepayers who had conditioned their

participation in the construction of Seabrook on the promise that, if they chose, PSNH would purchase their Seabrook energy and capacity in the first ten years of commercial operation, and therefore on the guarantee that during those years they would not be disadvantaged by their investment. The modification to the original agreement that provides additional protection to NHEC ratepayers in case of the premature closure of Seabrook, further enhances the Agreement for the NHEC ratepayer.

3. APRA

Under the APRA, NHEC will purchase virtually all of its power from PSNH for 15 years beginning on the Effective Date, with NHEC having the exclusive right to extend that term for an additional five years. Many of the power costs have been fixed for the entire period of the contract on terms similar to those already approved by this Commission for PSNH in DR 89-244. The rates are substantially below rates based on a strict cost of service reflecting full recovery for PSNH's Seabrook investment that might well have been approved by FERC. Nothing in the APRA limits NHEC from purchasing from qualifying small power producers or cogenerators that might develop in its franchise territory, or from investing in cost-effective conservation. We will expect to see consideration of these resources reflected in NHEC's least cost integrated resource plan filings.

The only other realistic power supply offer was proffered by NEP. While NEP's offer was less costly in the short term, it was available on fixed terms for only five years. We accept the conclusion of the State that based on common assumptions and considering the sensitivity analyses, PSNH's proposal offered the most stable and secure power supply at the most

reasonable cost. It is particularly the better alternative when evaluated in conjunction with the Revised Sellback Agreement which, as found by this Commission in DR 90-078, was not available to NHEC unless NHEC was a wholesale customer of PSNH.

Based on the above considerations, we find that the APRA is in the public interest and will approve it.

4. Permanent Rates - Step 1 and Step 2

As part of its Reorganization Plan, NHEC was required to request retail rate increases that will support, under traditional ratemaking principles, its obligations through April 30, 1993. It has therefore filed a rate case based on a pro forma test year of the 12 months ending October 31, 1991, adjusted for known and measurable changes, for a Step 1 increase of 16.56% effective May 1, 1992 and a Step 2 increase of a further 3.15% effective January 1, 1993. The filing excluded both Seabrook from the rate base and Seabrook related debt from the capital structure. The proposed rates produce a rate of return in the first Step of only 5.92% and in the second Step of 7.96%. Since NHEC is being reorganized as a member-owned cooperative, the measure of the reasonableness of the rate level that was the focus in the hearings was the TIER coverage, which shows the extent to which operating income before debt service covers interest charges. A TIER of 1.0 produces income sufficient to cover interest charges with no additional return. Step 1 of the proposed permanent rates produces a TIER in the range of 0.89 to 0.93, which is insufficient to cover all interest charges; the Step 2 increase produces a TIER of approximately 1.18, which covers interest charges with a modest margin. Having found that the restructured capitalization of NHEC is in the public good, we here find that the rates required to service that debt with only a modest additional return are just and reasonable. We note that NHEC and Staff disagree on the reasonableness of rates based on a 2.0 TIER, but that no party argues that the TIER coverages actually requested are excessive. Should NHEC in the future petition for rates incorporating a 2.0 TIER, we will address the issue at that time.

We will approve NHEC's proposal to fold the existing PPCA base into its base rates as has been our practice in the past at the time of NHEC's base rate cases. During the course of

the hearings it became clear that NHEC has been improperly accounting for the matching of purchased power costs and revenues. Any variance between the costs and revenues in any given month should be deferred in order that they are matched. If this matching is not done properly, the variance between revenues and costs will flow to net operating income and the result will misrepresent the company's income. NHEC is directed to book the actual purchased power costs in the month the costs are incurred and to book the variance in an unbilled revenue account. That method will result in the income statements reflecting actual circumstances, with any over- or under-collection of purchased power costs appearing as a deferred item on the balance sheet. NHEC is directed to meet with the Staff to design tariff pages that identify the amount of purchased power built into the base rates. In that way the Commission will be able to track the operating results through the financial statements and to reconcile the fuel and purchased power costs. NHEC will also be required to file a monthly reconciliation of its purchased power costs in the same manner as it files a monthly reconciliation of its fuel costs.

We note that the January 1, 1993 implementation of the APRA will require changes to NHEC's current PPCA and FAC clauses. We will direct NHEC to consult with Staff on the development of a reliable accounting mechanism for its fuel and purchased power costs, both to simplify the adjustments and provide the proper matching of monthly revenues and expenses, and also on the format and filing requirements of the new Fuel and Purchased Power Adjustment Clause itself. To assure proper review, NHEC should file the clauses effective January 1, 1993 no later than November 15, 1992.

5. Rate Design

While the parties agreed that the overall rate level was reasonable, a dispute arose over the application of the rate increase to the customer classes. The following chart reflects three of the four class allocation proposals that have been presented to the Commission in the instant docket. Column (A) reflects the allocation of the 20.2% rate increase based on the results of NHEC's embedded cost of service study. Column (B) displays the initial proposal of NHEC that supported a more gradual move to cost based rates and adopted a methodology that no class would receive less than a 50% increase of the overall average. Column (C) reflects the allocation presented in the Stipulation in which no class would receive less than 75% of the greatest class increase. A fourth alternative is the application of the overall increase of 20.2% to each of the customer classes.

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

(A) (B) (C)

Class % Change in Rates over Current Rates
Residential 25.70% 25.22% 22.31%
General Service 12.60 12.40 16.73
Controlled Water Heater 12.70 12.48 16.73
Primary General 5.70 10.10 16.73
Outdoor Lighting 0.80 10.10 16.73

After reviewing all of the evidence and arguments, we are persuaded to accept NHEC's original submission. There is general agreement that the residential rates appear to be significantly out of line with the costs of serving the residential users. Although there is a need for additional and improved cost of service studies, the studies presented to date indicate an imbalance between cost of service and rates that is sufficiently marked as to be inequitable across the classes. Thus, we find we are presented here with an opportunity for rate realignment that we should not miss.

The Commission last set base rates for NHEC in Re New Hampshire Electric Cooperative, 74 NH PUC 226 (1989), by adopting a settlement that accepted the rate design proposal of NHEC with the exception of time-of-use rates (which were then extensively litigated). NHEC's proposed rate design was based on an embedded cost of service study that is similar to the study submitted in the instant case. However, also like the case before us, NHEC deviated from the results of the cost study in the belief that the principal of

gradualism should be used to temper its results. Therefore, it should come as no surprise that rates that were not in line with costs three years ago have moved further out of alignment during

the ensuing period. Had the results of the embedded cost study been more strictly applied or had NHEC performed and implemented a marginal cost study, we might not now be confronting the current imbalance.

Despite our adherence to the principle of cost based rates, we will not simply adopt for ratemaking purposes the results of the embedded cost study. We find, as noted by both the OCA and Staff, that it is flawed by inadequate load research. Further, again like the OCA and Staff, we are concerned by the absence of a marginal cost study and the information it would provide on the probable direction of costs in the future. We will therefore order NHEC, in consultation with Staff and the OCA, to develop a marginal cost of service study, and design and perform NHEC-specific load research. Both of these improvements to NHEC's cost analysis should be available and submitted to the Commission as part of NHEC's next rate case filing.

Our decision to adopt NHEC's original proposal rather than the Stipulation is also supported by the effect further deviations from costs have on the levels of rate increases for the various classes. While the original submission provided for a 25.22% increase for the residential customers, the Stipulation would reduce that to 22.31%. As reflected in the late submitted Exhibit 81, this represents at Step 2 a difference between $63.13 per month and $61.80 a month on a 500 kwh bill. The effect on the two primary commercial classes (General Service and Primary General) is to increase their rate increases from 12.40% to 16.73% and 10.10% to 16.73%, respectively. Thus, for a fairly small reduction in residential rates, the commercial customers would see a significant increase. While we do not have an elasticity study to provide a more exact indication, rate increases of this magnitude and representing this degree of deviation from cost certainly raise the potential for defections from NHEC's system by members of the commercial classes, who can either leave the service territory or self- generate.

The OCA argues that the goal of regulation is the establishment of rates that are fair, not necessarily ones that are economically efficient, and that it is not fair to charge residential ratepayers more for Seabrook than commercial ratepayers, especially since residential ratepayers were less supportive of Seabrook's construction than were the commercial customers. However, the record does not factually support the contention that residential ratepayers were less committed to NHEC's participation in the Seabrook project than were their commercial counterparts. Opponents to NHEC participation who appeared before this Commission did not claim to represent only residential customers. Indeed, the responsibilities of the OCA itself were narrowed to residential ratepayers in a statutory change that occurred only after the completion of the Seabrook litigation.

Further, we believe that the OCA is applying the dichotomy between "fair" and "economically efficient" to the wrong aspect of ratemaking. First, we will note that the fairness characteristic in ratemaking is generally applied to the balance between stockholders and ratepayers (i.e., a fair rate of return) rather than to rate design and the balance among classes. The virtue that should characterize rate design is more commonly "equity", which carries the connotation that the rate structure is equal in regard to the rights of individuals, and in particular is untainted by undue discrimination among customers or customer classes. Generally, the best standard for an equitable or non- discriminatory rate design is that it reflects the cost of providing service to each customer class, that is, cost of service rather than value of service or political or personal influence. The OCA may legitimately argue that certain applications of the

economist's preference on grounds of economic efficiency for marginal cost studies over embedded cost studies can lead to inequitable rates. However, that argument does not sustain a conclusion that rates founded on cost are less likely to be equitable than rates based on some other standard.

6. Severance Benefits

We will accept NHEC's assurance that there is no connection between its current and projected severance benefit obligations and either its rate request or its decision to assert its right to recoupment. Thus, we are not being asked to fund those obligations in the instant docket. Should NHEC wish to include such amounts in a future rate request, we will expect a detailed explanation of nature and cost of these benefits and will rule at that time on whether it is appropriate for ratepayers to fund them.

7. PSNH/NUSCO - State Stipulation

PSNH/NUSCO have conditioned their settlement with NHEC on approval of the resolution to three outstanding issues which they embodied in the State Stipulation. Only one of the issues, the deferral and amortization of sums paid NHEC under the Revised Sellback Agreement from July 1, 1990 through May 15, 1991, is directly related to the relationship between PSNH/NUSCO and NHEC. The other two, the modification of the BA to synchronize PSNH's Seabrook phase-in with the effective date of PSNH's reorganization plan and the deferral and amortization of PSNH's early retirement program, are issues between the NU stockholders and the PSNH ratepayers. The record is not extensive with regard to the State Stipulation, and it is not obvious that the resolution of the two latter issues was required within the context of the NHEC Reorganization Plan. We can, and will, only assume that in the process of the negotiations the State and PSNH/NUSCO incorporated these issues as a way of expanding the value of the final package of agreements and plans. Thus, we will not judge the reasonableness of these agreements in isolation but view them as components of a complex multi-faceted settlement. From the perspective of the PSNH ratepayers, we find that the net financial impact of the State Stipulation is outweighed by the benefits gained from retaining NHEC as a customer and resolving the litigation between the two companies. Therefore, we will approve the State Stipulation.

8. $3 Million Surcharge

NHEC, NUSCO/PSNH and the State have agreed that a payment of $3 million by NHEC to PSNH on the Effective Date of the Reorganization Plan represents a reasonable final settlement of all of the claims between the two companies. NHEC requests recovery in the form of a temporary 12-month surcharge in the amount of $0.005087 per kwh, effective with the Step 1 increase. We will not attempt to recalculate the arithmetic, including a probabilistic assessment of the likelihood of success on each and every claim, that resulted in the adoption of $3 million as a realistic settlement. Rather, we will accept the assurances of the parties that the figure is the reasonable result of months of negotiation and litigation among knowledgeable and well represented opposing interests. We also find NHEC's proposed mode of recovery to be reasonable.

9. Surcharge Temporary Rates With Recoupment Through December 3 1,993

NHEC has requested that it recoup the approximate $600,000 difference between the temporary rates granted by this Commission on April 29, 1992 by Report and Order 20,472 and the Step 1 permanent rates as a surcharge beginning on the Step 1 Effective Date and continuing through December 31, 1993. NHEC has assured us that there is no connection between the need to request recoupment and its severance benefit obligations. We find that NHEC is entitled to recoupment under RSA 378:29 and that the period and the surcharge method of recovery as requested by NHEC are appropriate.

10. Tariffs

We will direct NHEC to file tariffs within ten days of the date of this Order in accordance with our Report and Order and the rules of the Commission. If NHEC has any questions regarding the format of its tariff, we encourage it to seek guidance from the Staff of the Commission prior to its filing.

Our order will issue accordingly.

Page 600

ORDER

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

ORDERED, that New Hampshire Electric Cooperative's (NHEC) renegotiated debt with the Rural Electrification Administration (REA) and the National Rural Utilities Cooperative Finance Corporation (CFC) is consistent with the public good, pursuant to RSA 369:2 and, therefore, is hereby approved; and it is

FURTHER ORDERED, that NHEC's issuance of notes to Public Service Company of New Hampshire (PSNH), REA and CFC are consistent with the public good, pursuant to RSA 369:1-4 and, therefore, is hereby approved; and it is

FURTHER ORDERED, that the Seabrook Unit Power Contract, also known as the Sellback Agreement is reasonable and in the public interest, pursuant to RSA 374:57; and it is

FURTHER ORDERED, that NHEC shall value its share of Seabrook Station for depreciation purposes at $109 million with a resulting value as of the Effective Date of approximately $101 million; and it is

FURTHER ORDERED, that the Amended Partial Requirements Resale Contract is reasonable and in the public interest, pursuant to RSA 374:57; and it is

FURTHER ORDERED, that the permanent rate increase of 16.56% (Step 1) requested by (NHEC) is just and reasonable and in the public interest, pursuant to RSA 378:7 and, therefore, is hereby granted, to be effective on a bills rendered basis as of the date of this Order; and it is

FURTHER ORDERED, that the permanent rate increase of a further 3.15% (Step 2) requested by NHEC is just and reasonable and in the public interest, pursuant to RSA 378:7 and, therefore, is hereby granted, to be effective on a bills rendered basis as of January 1, 1993 or upon the effective date of the Bankruptcy Court Reorganization Plan, which ever is earlier; and it

is

FURTHER ORDERED, that the rate design stipulation entered into between NHEC, the State of New Hampshire (State) and the Office of Consumer Advocate (OCA) is rejected and the rate design as originally proposed by NHEC is hereby adopted; and it is

FURTHER ORDERED, that in consultation with Staff and the OCA, NHEC shall develop a marginal cost of service study and design and implement supporting NHEC-specific load research, for submission as part of its next rate case filing; and it is

FURTHER ORDERED, that NHEC shall, no later than December 4, 1992, initiate a docket with the Commission to determine what review is necessary regarding the prudence of its Seabrook Station investment; and it is

FURTHER ORDERED, that the Stipulation between the State and PSNH/Northeast Utilities Service Company on three outstanding issues is in the public good as part of the overall NHEC Reorganization Plan and is hereby approved; and it is

FURTHER ORDERED, that a surcharge to recoup the difference between temporary rates and permanent rates is approved, to commence with the date of this Order and continue until December 31, 1993; and it is

FURTHER ORDERED, that a 12 month surcharge in the amount of $0.005087 per kwh to recoup a total of $3 million owed to PSNH is approved, to commence with the date of this order and continue until October 5, 1993; and it is

FURTHER ORDERED,, that NHEC shall file monthly reports that track the recoupments of its surcharges; and it is

FURTHER ORDERED, that NHEC shall implement the accounting changes for its current fuel and purchased power costs and revenues as discussed in this Report; and it is

FURTHER ORDERED, that NHEC shall file appropriate tariffs implementing the Step 1 rate increase and surcharges, including the tariff pages specified in the foregoing Report for its present PPCA and FAC clauses, within ten days of this order, for effect on a bills rendered basis on or after the date of this order, and shall file appropriate tariffs for the Step 2 increase by November 15, 1992.

By order of the Public Utilities Commission of New Hampshire this fifth day of October, 1992.

==========

NH.PUC*10/08/92*[73047]*77 NH PUC 602*HAMPTON WATER WORKS COMPANY, INC.

[Go to End of 73047]

HAMPTON WATER WORKS COMPANY, INC.

DR 91-023
ORDER NO. 20,619

77 NH PUC 602

New Hampshire Public Utilities Commission

October 8, 1992

Order Clarifying Order No. 20,588 Approving a Partial Recovery of Rate Case Expenses

---

On September 2, 1992 the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,588 approving a partial recovery of rate case expenses requested by Hampton Water Works Company (Company); and

WHEREAS, Order No. 20,588 disallowed $10,947.50 of costs for the public relations firm Jackson, Jackson and Wagner and $132.30 for meals for non-company individuals as rate case expenses; and

WHEREAS, Order No. 20,588 allowed the remainder of the rate case expenses requested by the Company to be amortized over a period of two years; and

WHEREAS, on September 11, 1992 the Company filed compliance tariffs which called into question the exact amount of rate case expenses allowed by the Commission in their Order No. 20,588; and

WHEREAS, the Commission allowed into deliberation an August 18, 1992 filing by the Company in which the Company made corrections to its rate case expenses and those corrections were different from those contained in Order No. 20,588; it is hereby

WHEREAS,that the rate case expense is $126,720.53 as contained in the Company's August 18th modifications, less the expenses for Jackson, Jackson & Wagner in the amount of $8,359.28 as per the August 18th revisions, less the meals expense for non-Company individuals of $132.30, for a total rate case expense of $118,228.95 to be amortized over a period of two years.

By order of the New Hampshire Public Utilities Commission this eighth day of October, 1992.

==========

NH.PUC*10/08/92*[73048]*77 NH PUC 602*CABLE & WIRELESS COMMUNICATIONS, INC.

[Go to End of 73048]

CABLE & WIRELESS COMMUNICATIONS, INC.

DE 91-092
ORDER NO. 20,620

77 NH PUC 602

New Hampshire Public Utilities Commission

October 8, 1992

Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

Order Granting Protective Treatment

On September 11, 1992, Cable & Wireless Communications, Inc. (CWC) filed with the New Hampshire Public Utilities Commission (commission) its monthly report of CWC's New Hampshire operations for August 1992 as required in commission Order No. 20,372; and

WHEREAS, the report also includes CWC's intraLATA minutes of use by service type which was reported to its appropriate local exchange company; and

WHEREAS, CWC considers the information contained in this report to be proprietary; and

WHEREAS, CWC requests that the report receive confidential treatment; and

WHEREAS, confidentiality of documents filed with public agencies is governed by RSA Chapter 91-A; and

WHEREAS, RSA 91-A:5 IV exempts from public disclosure, inter alia, "...confidential, commercial, or financial information..."; and

WHEREAS, AT&T Communications of New Hampshire, MCI Telecommunications Corporation and U.S. Sprint Communications Company of New Hampshire received similar protective treatment in commission Order No. 20,016; it is hereby

ORDERED, that CWC's request for confidential treatment be, and hereby is, granted to allow staff review of the monthly reports of CWC's New Hampshire operations; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the commission, on its own motion or on the motion of commission staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this eighth day of October, 1992.

==========

NH.PUC*10/08/92*[73049]*77 NH PUC 603*CONCORD STEAM CORPORATION

[Go to End of 73049]

CONCORD STEAM CORPORATION

DF 92-154
ORDER NO. 20,621

77 NH PUC 603

New Hampshire Public Utilities Commission

October 8, 1992

NISI Order Approving Expedited Financing

WHEREAS, Concord Steam Corporation, (the "company"), a New Hampshire corporation with its principal place of business in Concord, New Hampshire, filed with the Commission, on

August 11, 1992, a petition for expedited approval of financing for the issuance by the company of long term debt and short term debt and the mortgaging of its property as security; and

WHEREAS, the company is a public utility engaged in providing steam service primarily to commercial and institutional customers in the City of Concord, New Hampshire; and

WHEREAS, the proposed long term debt will be a term loan from First NH Bank (the "Bank") with an initial principal amount of $450,000 and an amortization period of seven years, with interest payable at a variable annual rate equal to the Wall Street Journal Base plus 1 1/2%; and

WHEREAS, the proposed short term debt will be in a line of credit from the Bank with a maximum outstanding amount of $250,000, payable on demand, with interest payable at a variable annual rate equal to the Wall Street Journal Base plus 1%; and

WHEREAS, the long and short term debt will be secured and cross-collateralized by the grant by the company of a lien to the Bank on all business assets of the company, including equipment, fixtures, accounts receivable, inventory and collateral from either the trust or from Mr. Peter Bloomfield at a level required by the Bank; and

WHEREAS, the purpose of the long term loan will be to fund certain capital expenditures of the company; and

WHEREAS, certain of these expenditures are properly allocated to the company's non-utility cogeneration division or otherwise not related to utility plant acquisition; and

WHEREAS, the purpose of the line of credit is to fund seasonal working capital needs of the company's utility operations; and

WHEREAS, because the company presently has only equity capital, the proposed debt financing will reduce the utility's overall cost of capital; and

WHEREAS, the company anticipates that various fees and expenses associated with obtaining this financing will approximate $22,550; and

WHEREAS, the proposed loans are in the public interest in that they will permit the company (a) to make certain required expenditures to meet its environmental obligations, (b) to fund its working capital requirements which vary substantially from season to season, and (c) to reduce its overall cost of utility capital; it is hereby

ORDERED, NISI, that, a long term note between Concord Steam Corporation and First NH Bank is consistent with the public good and is hereby approved, pursuant to RSA 369:1; and it is

FURTHER ORDERED, NISI, that a short term line of credit note in the maximum principal amount of $250,000 in accordance with terms and conditions generally set forth herein and to be finalized between the Concord Steam Corporation and First NH Bank and is hereby approved, pursuant to RSA 369:7; and it is

FURTHER ORDERED, NISI, that Concord Steam Corporation be, and hereby is, granted authorization, pursuant to RSA 369:2, to grant to the Bank a lien on substantially all of the assets of the company, including but not limited to collateral from either the TRUST u/w of Roger Bloomfield - PART B or from Mr. Peter Bloomfield at a level required and at other specific terms to be finalized between the company and the Bank; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments to the commission or submit a written request for a hearing not later than fourteen (14) days from the date of publication of this order; and it is

Page 603

FURTHER ORDERED, that the company have a satisfactory site assessment performed as required in the Bank proposal condition number 7 of the terms and conditions; and it is

FURTHER ORDERED, that no later that October 14, 1992 Concord Steam Corporation shall effect the notification by a single publication of an attested copy of this order in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted; and it is

FURTHER ORDERED, that the publication shall be documented by affidavit to be made on a copy of this order and filed with this commission on or before October 28, 1992; and it is

FURTHER ORDERED, that such authority shall be in effect on October 28, 1992 unless a request for a hearing is filed with this commission within fourteen (14) days of the date of the publication of this order.

By order of the New Hampshire Public Utilities Commission this eighth day of October, 1992.

==========

NH.PUC*10/08/92*[73050]*77 NH PUC 604*SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

[Go to End of 73050]

SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

DR 92-164
ORDER NO. 20,622

77 NH PUC 604

New Hampshire Public Utilities Commission

October 8, 1992

Order Approving a Special Contract for a Developer Water Main Extension

---

WHEREAS, Southern New Hampshire Water Company, Inc. (Southern) filed a petition on September 3, 1992 seeking approval of a special contract with Greeley Acres, Inc. (developer) for a water main extension on Greeley Street, Old Derry Road and Springwood Circle in Hudson, NH intended to serve a proposed development of 22 single family homes known as Greeley Acres; and

WHEREAS, the contract contains a provision for customer refunds to the developer from customers outside the proposed development who connect to the main; and

WHEREAS, the provision for refunds is a departure from the tariff and requires a special contract pursuant to RSA 378:18; and

WHEREAS, circumstances listed by Southern as justification for a special contract include both extension of the main past substantial undeveloped property and the gaining of certain strategic advantages for future development of Southern's system in that vicinity; and

WHEREAS, Southern filed an amendment to the contract on October 5, 1992 which addressed concerns raised by Staff; and

WHEREAS, upon investigation of the revised contract it appears that the special circumstances requiring a departure from the tariff render such departure just and consistent with the public interest; it is hereby

ORDERED, that the special contract between Southern New Hampshire Water Company, Inc. and Greeley Acres, Inc., for a water main extension to serve the proposed Greeley Acres development, is approved.

By order of the Public Utilities Commission of New Hampshire this eighth day of October, 1992.

==========

NH.PUC*10/09/92*[73051]*77 NH PUC 604*SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

[Go to End of 73051]

SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

DE 92-189
ORDER NO. 20,623

77 NH PUC 604

New Hampshire Public Utilities Commission

October 9, 1992

Request for Waiver of 30 Day Filing Requirement for Form E-22

Southern New Hampshire Water Company, Inc. (Southern) filed Form E-22 with the New Hampshire Public Utilities Commission (Commission) on October 2, 1992, pursuant to N.H. Admin. Rule Puc 609.07, for approximately 400 feet of 6-inch

main and 1100 feet of connected 8-inch main on Waterview Circle and Naticook Ave., respectively, said extensions being located in Southern's Sawmill system in the town of Litchfield, New Hampshire; and

WHEREAS, Southern, pursuant to N.H. Admin. Rule Puc 201.05, requests a waiver of the thirty day notification provision to meet the construction schedule of the developer; and

WHEREAS, although Southern proposes delaying installation of hydrants on the proposed mains pending resolution of fire protection issues in the town of Litchfield in current docket DR 92-005, the mains are nonetheless sized to provide fire protection; and

WHEREAS, the order in Re Hudson Water Company, 66 NH PUC 315 (1981) (now Southern) requires that "any future plant addition or investment planned . . . in the town of Litchfield that is chargeable in any way to fire protection capability must have prior approval from Litchfield and this commission;" and

WHEREAS, Southern has indicated that plans for installation of mains in the subject development were approved by the town of Litchfield; and

WHEREAS, the Commission does not wish to hold up the relatively small amount of work in this particular case that is both necessary to the developer's schedule and to be constructed as a developer main extension at the developer's expense in accordance with the tariff; and

WHEREAS, Southern is required under New Hampshire law to ensure that the work performed is consistent with its approved tariffs and that any resultant expenditures are undertaken at Southern's own risk, subject to possible Commission review in subsequent rate proceedings; it is hereby

ORDERED, that Southern's request for waiver of N.H. Admin. Rules, Puc 609.07 is granted pursuant to N.H. Admin. Rule Puc 201.05, without prejudice to Commission review of the prudence of installing plant for fire protection in Litchfield.

By order of the New Hampshire Public Utilities Commission this ninth day of October, 1992.

==========

NH.PUC*10/09/92*[73052]*77 NH PUC 605*AMERICAN AUTOMATED TELECOM, INC.

[Go to End of 73052]

AMERICAN AUTOMATED TELECOM, INC.

DE 92-064
ORDER NO. 20,624

77 NH PUC 605

New Hampshire Public Utilities Commission

October 9, 1992

Denial of Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On April 2, 1992 the New Hampshire Public Utilities Commission (Commission) received a petition from American Automated Telecom, Inc. (AAT), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, AAT petitioned to do business as a reseller of interLATA, long-distance telephone service, and AAT represents "no intraLATA calls will be resold or completed"; and

WHEREAS, all interLATA service in the state of New Hampshire is interstate service, outside of the jurisdiction of the Commission; and

WHEREAS, AAT has not responded to Staff data requests of July 2, 1992 or to Staff requests of September 1, 1992; and

WHEREAS, AAT is not organized under the laws of New Hampshire, as required by RSA 374:22; it is hereby

ORDERED, that AAT hereby is denied authority to offer intrastate, long-distance telephone service in the state of New Hampshire without prejudice.

By order of the New Hampshire Public Utilities Commission this ninth day of October, 1992.

==========

NH.PUC*10/09/92*[73053]*77 NH PUC 606*GTE NEW HAMPSHIRE, INC.

[Go to End of 73053]

GTE NEW HAMPSHIRE, INC.

DR 92-069
ORDER NO. 20,625

77 NH PUC 606

New Hampshire Public Utilities Commission

October 9, 1992

Order Approving 900 Blocking Service Charges

On March 27, 1992 GTE New Hampshire, Inc. (Company) filed a petition with the New Hampshire Public Utilities Commission (commission) for effect April 26, 1992 seeking to introduce 900 Blocking Service for its residential and single line business customers served by suitably equipped offices; and

WHEREAS, Order No. 20,467 approved the provisions regarding blocking free of charge for a period of 60 days for new customers and 90 days for existing customers after blocking service becomes available in the customer's specific exchange, contained within the following tariff pages:

NHPUC No. 11

Contents and General Subject Index,

Eleventh Revised Sheet 1

Section 6, Eighth Revised Sheet 1

Section 6, Sixth Revised Sheet 2,

were approved; and

WHEREAS, the provisions regarding the service order charge and non-recurring $2.50 charge contained within the following tariff pages:

NHPUC No. 11:

Contents and General Subject Index,

Eleventh Revised Sheet 1

Section 6, Eighth Revised Sheet 1

Section 6, Sixth Revised Sheet 2,

were suspended by Order No. 20,467; and

WHEREAS, on August 28, 1992 the Company submitted revised tariff pages for effect September 28, 1992, addressing the concerns identified in Order 20,467 regarding the appropriate costs to provide 900 Blocking service; and

WHEREAS, the Company proposes to offer initial blocking to residential and single line business customers at no charge, with subsequent changes subject to applicable service charges as set forth in Section 12 of the Company's tariff; and WHEREAS, the documentation submitted by the company in support of its petition contained contained extremely limited cost support, a deficiency which should be remedied in order to facilitate review of future filings; it is hereby ORDERED, that the proposed revisions to NHPUC No. 11

Contents and General Subject Index,

Eleventh Revised Sheet 1

Section 6, Eighth Revised Sheet 1

Section 6, Seventh Revised Sheet 2,

Issued in Lieu of Sixth Revised Sheet 2 are approved; and it is

FURTHER ORDERED, that the above revisions shall be effective as of the date of this order; and it is

FURTHER ORDERED, that the Company shall submit an incremental cost study by September 30, 1993; and it is

FURTHER ORDERED, that the above revisions to Contel of New Hampshire, Inc., d/b/a GTE New Hampshire, General Exchange Tariff, P.U.C. No.E11 be resubmitted as required by N.H. Admin. Rules Puc 1601.05(k).

By order of the New Hampshire Public Utilities Commission this ninth day of October, 1992.

==========

NH.PUC*10/09/92*[73054]*77 NH PUC 607*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73054]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DE 92-028
ORDER NO. 20,626

77 NH PUC 607

New Hampshire Public Utilities Commission

October 9, 1992

Conservation and Load Management Phase II

Report and Order Approving Settlement Agreement

Appearances: Thomas B. Getz, Esq. for Public Service Company of New Hampshire; Michael W. Holmes, Esq. for the Office of Consumer Advocate; Scott Maltzie for the Governor's Office of Energy and Community Services; Kenneth Colburn for the Business and Industry Association; Jeanne Sol, Esq. for the Conservation Law Foundation; George E. Sansoucy, pro se; and James T. Rodier, Esq. for the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

During 1991, a number of parties representing various interests affected by Public Service Company of New Hampshire (PSNH) resource planning, engaged in an informal collaborative review of potential conservation and load management (C&LM) strategies. Members of the so-called collaborative process included representatives from PSNH, Northeast Utilities Service Company (NUSCO), the Commission Staff (Staff), the Office of Consumer Advocate (OCA), the Business and Industry Association (BIA), Conservation Law Foundation (CLF), the New Hampshire Legislature, the Governor's Office of Energy and Community Services (ECS), the Attorney General's Office, and the New Hampshire Municipal Association.

The collaborative process was divided into two phases. The first phase examined how C&LM expenditures and associated cost recovery could affect PSNH's electric rates under the Rate Agreement. The parties to the Phase I process made a number of recommendations in their report to the Commission (Exh. Staff-1), filed November 14, 1991, which included: (i) implementing programs in a manner and at funding levels that do not result in PSNH rate increases beyond the basic 5.5% rate increase path provided for by the Rate Agreement; (ii) moving into the program design phase (Phase II) and attempting to reach consensus on program elements; and (iii) re-examining PSNH's C&LM programs and spending levels beyond 1992 in the context of the review of PSNH's least cost integrated resource plan filed in April, 1992.1

The Commission's order of notice issued February 11, 1992 opening the instant proceeding, DE 92-028, formalized the second phase of the collaborative consideration of program designs. A prehearing conference was held February 25, 1992, at which time a procedural schedule was proposed and motions for intervention were heard.

On March 2, 1992, the Commission issued order no. 2O,4O5 establishing the scope of the

proceeding and approving a procedural schedule. In accord with the Commission's order, PSNH filed on April 15, 1992 (and supplemented on May 7, 1992) its proposal for C&LM Programs.

Subsequently, the Staff and parties of record as well as "interested parties," such as Mr. Maurice Lamy, participated in a series of technical sessions which culminated in a status report that was filed with the Commission on July 28, 1992. The status report informed the Commission that the Staff and parties believed a settlement was achievable, and requested time for further discussions. A Settlement Agreement, which is appended hereto and is identified as Exh. PSNH-4, was filed on August 21, 1992 and represents the results of those discussions.

Page 607

II. STIPULATION AND AGREEMENT

1. Proposed C&LM Programs

The Staff and parties recommend that PSNH at this time should pursue, and the Commission should approve, three C&LM programs: the Residential Low Income Conservation Program, the Energy Service Program for Large Commercial and Industrial (C&I) customers, and the State Facility Demonstration Project, all as described further, infra. The parties further recommend that the costs of these programs, including lost fixed costs, be applied against the expenditure levels for C&LM provided for in the Rate Agreement.

A. Residential Low Income Conservation Program

The Residential Low Income Conservation Program will encourage cost-effective, electric energy efficiency improvements in the low income, residential sector for customers with electric heat. Low income customers with electrically heated homes who meet the then effective New Hampshire criteria for federal fuel assistance will be eligible for the program. The Community Action Programs will be utilized when it is cost-effective for outreach and installation of measures. Through December 1993, PSNH anticipates serving about 45O customers throughout its service territory.

Under this program, low income dwelling units will be analyzed by a contractor under the supervision of PSNH C&LM staff to identify energy conservation opportunities for electric space and water heating, lighting and other efficiency measures. PSNH will pay the full installed cost of the cost-effective measures recommended for installation. Conservation education will also be provided for building residents and managers in an effort to sustain or enhance program savings. Outside contractors will implement the program. This program is adapted from a similar program which NUSCO is successfully implementing for its affiliate in western Massachusetts.

B. The Energy Service Program

The Energy Service Program (ESP) for Large C&I customers is designed to overcome some of the traditional market barriers that have inhibited third-party investment in energy conservation. Customers sometimes doubt that third- party developers will be in business over the long term or that the promised energy savings will materialize. In addition, third-party developers can experience significant upfront marketing costs as they usually have to approach a number of utility customers with fairly detailed proposals before obtaining a firm commitment.

Through the ESP program, PSNH will facilitate customer involvement with the third-party developers or, in the nomenclature of this program, Conservation Project Developers (CPDs). PSNH will provide customers with guidance and administrative oversight by utilizing clear economic criteria for efficiency investments and by establishing an independent quality assurance review process. Further, by prescreening customers for the program and by paying for a thorough engineering survey of the customer's premises, PSNH will reduce the marketing costs for CPDs. At the recommended funding levels, PSNH anticipates serving about 13 C&I customers through December 1993.

Under the program, the CPDs will be prequalified by PSNH, based on a Request for Qualifications, for such specialties as commercial office buildings, industrial facilities, and public institutions. The CPDs will be matched with the needs of individual customers through a Request for Proposal (RFP) process that PSNH will facilitate. A Quality Assurance Contractor, to be selected by PSNH, will review CPDs' proposals to assure technical accuracy and verify effective implementation. PSNH will attempt to reduce a portion of the risk (to customers and CPDs) by guaranteeing a minimum savings threshold (number of kwh) that the customer could expect to realize. PSNH will not guarantee the actual financing of energy efficiency projects.

Page 608

PSNH will select large C&I customers as candidates for participation in ESP according to the following criteria:

1. Customers must have been served under Rates GV and/or LG for a period of one year.

2. It must be PSNH's judgment that the facility will continue to be operated as a PSNH customer for at least five years after the installation of efficiency measures. Customers must agree to repay PSNH 1OO% of the program cost for their energy analysis if the facility ceases to operate substantially on the PSNH system before the end of the five year period.

3. Customers must indicate that they will not install additional self-generation, purchase non-PSNH generated electricity, or fuel switch for a period of five years.

4. Customers' projects must not involve substantial facility or process expansion because of the difficulty in obtaining and determining appropriate energy savings and financial information.

5. Customers must express an intent to accept the terms of various agreements and proceed to implementation of cost-effective measures. Customers must agree to pay 1OO% of the program cost if they do not implement a substantial portion of the cost- effective measures that are identified.

6. An individual customer's share of PSNH's funds for the program must not exceed 2O% of the program's annual budget for variable costs (i.e., preparing studies and recovery of lost fixed cost revenues).

C. State Facility Demonstration Project

The State Facility Demonstration Project was developed by the parties to demonstrate to the State of New Hampshire that cost-effective conservation opportunities exist in State-owned buildings that, when captured, can reduce the cost of energy to the State and its citizens. The

project also serves as a model facility where energy efficiency measures can be demonstrated to any interested party.

The New Hampshire Technical College (NHTC) at Manchester was selected as the initial site for the Demonstration Project because it was accessible, convenient, and possessed a substantial number of qualifying energy efficiency opportunities. The NHTC is undergoing major renovations in approximately 9,OOO square feet of the facility and rapid installation of the approved measures is anticipated. The NHTC coordinated the efforts of various State agencies, as well as the general and the electrical contractors at the project site, to facilitate the project so that the building deadlines could be met. As a result, PSNH and the State signed a contract for the project on July 2, 1992 and the Governor and Council unanimously approved it on July 22, 1992.

Under the terms of the agreement, PSNH, the State, and the NHTC agreed that PSNH will pay an estimated $86,278 for energy efficient measures to be installed at the facility. (Actual PSNH payments will depend on the number of qualifying measures ultimately installed.) Given the timing of this project, the scope of the energy efficient measures was limited to the changing out of ballasts and lamp fixtures to more efficient T-8 systems, rather than contemplating a redesign of the lighting layouts. In addition to upgrading the lamps that were to be installed, all light fixtures in the facility are to be upgraded to ensure safe maintenance practices. Also, one electric motor in the new HVAC system was scheduled to be replaced by a more efficient motor.

Through 1993, $2OO,OOO (including lost fixed cost revenue recovery) is budgeted for the Demonstration Project, but only about half of these funds are estimated to be committed at the Manchester facility. PSNH will work with

Page 609

the ECS to evaluate new sites and possible opportunities for combining PSNH funds with other State or Federal funds. If an additional State-owned demonstration site cannot be found, any PSNH funds which are not committed by July 1, 1993 will be returned to the Residential Low Income Conservation Program and the Large C&I Energy Service Program.

2. Benefit/Cost Analyses

Benefit/cost analyses were conducted for each of the programs utilizing both a total resource cost test and a utility revenue requirements test. The benefit/cost ratios for the programs are as follows:

Net Revenue

Total Resource Requirements

Res'l Low Income 1.O5 1.O5 Energy Service 1.O6 7.O6 State Facility 1.38 1.38

The costs assume one year's level of program activity; the benefits were calculated using NU/PSNH combined system avoided costs over a 2O year planning horizon.

The benefit/cost ratios appear relatively low due to the current low level of estimated system avoided costs and the initial startup costs of the programs. Individual participating customers will see substantially higher benefit/cost ratios because electric retail rates are substantially

greater than NU/PSNH combined system avoided costs.

3. Accumulated C&LM Funding Under the Rate Agreement

The base level of funding for all C&LM program costs included in the Rate Agreement is $1.167 million in 1989 dollars, escalating by 5.5% annually for the remainder of the fixed rate period. Consistent with the scope of this proceeding, PSNH has developed a program proposal, in consultation with the parties and Staff, that stays within the levels of expenditures in the Rate Agreement.

As shown in PSNH's initial filing of April 15, 1992, the annual funding level from May 1991 to June 1992 was calculated to be $1.299 million. The parties and Staff propose that this annual funding level be converted to a monthly funding level and agree that monthly interest need not be applied to this account because of the procedure used to arrive at the monthly values. The result is that the Accumulated C&LM Funding through June 1992, the 1992 level and previously unspent amounts, total of $1,469,O37.

4. Proposed C&LM Programs - Preapproval Request

The parties agree that the Commission's preapproval of PSNH's C&LM program expenditures should cover the period from July 1, 1992 through December 31, 1993.

The budget allocation to the three proposed C&LM programs outlined supra was negotiated and based, in part, on the division of sales (kwh) between residential and large C&I customers. Residential programs would be allocated 38% of total costs (direct and recovery of lost fixed cost revenues) and the large C&I program would receive 62%. Each customer group will then contribute equally to the initial estimated cost of the State Facilities Demonstration Project (estimated at 11% of the budget). Any funds not spent on the Demonstration Project will return to the residential and large C&I programs based on the foregoing percentages.

5. PSNH Activities Post First Effective Date

The parties and Staff agree that PSNH's Accumulated C&LM Funding should be debited for certain costs of PSNH C&LM activities which were incurred after the First Effective Date. While PSNH incurred costs of $5O2,O94 through June 1992 for what it considers C&LM, the parties and Staff recommend that the Commission approve for recovery only costs of $424,206 associated with Energy Analysis, Lighting, and the Federal/State Grant Program (which supports the federal Institutional Conservation

Program).

In addition to these specific PSNH program activities, two other categories of costs are recommended for cost recovery. First, during the course of Phase I in the collaborative process, PSNH agreed to pay for consulting services to the parties and Staff. It was agreed that PSNH would absorb one-half of this cost and that the remaining one-half, $21,683, would be charged against the Commission approved C&LM funding. Second, costs of $58,100 for NUSCO management services for C&LM, including payroll costs for performing analyses for the collaborative discussions, attending meetings, and preparing reports, would be recoverable as

part of the C&LM funding levels incorporated in base.

The accumulated C&LM funding through June 1992 was calculated to be $1,469,O37. Debiting the account for activities recommended for cost recovery through June 1992 of $424,2O6 leaves a Net Accumulated C&LM Funding of $1,O44,831 to be carried forward to future periods. Attachment 4 to Exh. PSNH-4 shows the calculation of the Net Accumulated C&LM Funding.

6. Reporting Process

PSNH's C&LM program is planned to be based on a calendar year cycle with preapproval filings submitted by August 15 of each year. Reports containing information for the appropriate period would be filed as soon as data are available. PSNH will attempt to do this in 45 days as do other utilities under the jurisdiction of this Commission, but it is recognized that, during the transition of accounting systems at NUSCO and PSNH, this goal may not be attainable.

Monthly variance reports will be provided identifying cost variances and providing brief explanations. Quarterly reports will contain the monthly information and information on program activity and progress. Revisions to the Implementation Manuals, related technical documents, and other progress on implementation activities will be reported in the quarterly reports. Semiannual filings will include the quarterly report information and detailed information on activity counts and estimates of savings. The annual filing will contain such information plus information on program benefits and costs, identifying planned avoided costs, and actual energy savings and program costs.

PSNH's first quarterly report is intended to be filed by November 15 for the period July 1 through September 3O. Monthly reports will begin after this initial quarterly report.

Attachment 9 to Exhibit PSNH-4 contains a schedule of key milestones in program implementation and regulatory reporting activities. The residential and large C&I program implementation manuals will be submitted to the Commission when they are in final form. A plan for preparing a process evaluation for the Energy Service Program will be submitted in PSNH's May 1993 quarterly report. The reports presented in the proceeding and planned to be submitted in the future are also intended to satisfy some of the reporting requirements of docket no. IR 90-218.

7. C&LM Accounts and Eligible Cost Recovery

All C&LM costs directly related to approved C&LM activities are recommended for cost recovery. For C&LM activities after July 1, 1992, only four accounts will be tracked for cost recovery. Modifications have been made to PSNH's current C&LM cost tracking system to include accounts for the proposed Residential Low-Income Conservation Program, the State Facility Demonstration Project, the Large C&I Energy Service Program, and Other NHPUC Approved C&LM Activity. The account for Other NHPUC Approved C&LM Activity has been added to track costs of general administration directly related to approved C&LM activities but not related to a specific program, i.e., clerical support, NUSCO C&LM Management Services, and program planning. The actual activity numbers and subaccounts may change in the future as PSNH and NUSCO accounting systems are merged.

The C&LM cost tracking system will

track each program's direct costs by subaccount activity for program development/planning,program implementation, and program monitoring and evaluation. Program development/planning includes all approved activities and costs that are related to the development of C&LM programs approved or considered by the Commission. Program implementation activities include all activities and costs that are related to customer and trade ally contact with respect to approved C&LM program promotion, delivery of service to individual customers, and implementation of measures. The ongoing monitoring of C&LM programs includes the tracking of all approved C&LM program costs as well as analysis of results in order to determine overall program effectiveness. The evaluation of C&LM programs covers both process and impact methodologies, including the measurement of program costs, energy savings, customer satisfaction, and internal procedures affecting program design and operation.

8. Recovery of Lost Fixed Cost Revenues

Consistent with the Commission's findings in order no. 19,9O5, issued August 7, 199O, in Docket No. DE 89-187, the parties and Staff agree that PSNH is entitled to recover lost fixed cost revenues. The parties and Staff recommend that recovery of lost fixed cost revenues, as defined in PSNH's filings in this proceeding, is appropriate for all energy conserved in accordance with the approved programs for this filing.

For the purposes of this proceeding, the Staff accepts the calculation of recovery of lost fixed cost revenues for the current programs, although the Staff notes that it may raise issues in this regard in future proceedings. The parties and Staff agree to meet in early 1993 to attempt to resolve any remaining issues regarding future calculations of lost revenue.

The parties and Staff presume that the C&LM programs will be marketed and targeted in a fair and equitable manner and not specifically aimed at "customers who would otherwise leave the system". No customers have been selected for participation in the programs at this time, other than for the State Facility Demonstration Project.

The parties and Staff explicitly recognize that the Commission in its Order No. 20,340, issued July 14, 1992 in Docket No. DR 92-125, cautioned James River Corporation that approval of its special contract with PSNH would not determine its eligibility for C&LM programs approved in DE 92-028 nor would approval of the special contract prohibit or entitle PSNH to recover lost revenues associated with C&LM programs in which James River Corporation may participate. The parties and Staff agree that James River Corporation will be treated on the same basis as all other customers regarding eligibility for C&LM programs and cost recovery of those activities would be treated as described in this report.

III. COMMISSION ANALYSIS

As we noted at the outset of this Report, Phase I of the so-called collaborative process examined how C&LM expenditures and associated cost recovery could affect PSNH's electric rates under the Rate Agreement. The parties to the Phase I process made a number of recommendations in their Report to the Commission, filed November 14, 1991 (Exh. Staff-1).

Accordingly, this proceeding addresses the design and implementation of specific conservation and load management programs for PSNH's customers within the context of the reorganization of PSNH, its merger with Northeast Utilities, and our approval of the Rate Agreement for PSNH. Re Northeast Utilities/Public Service Co. of New Hampshire, 114 PUR 4th 385 (1990).

1. Background and Legal Standards

Our analysis starts with a review of Staff's position regarding the provisions of the Rate Agreement pertaining to C&LM:

Page 612

Staff recommended that NU undertake threshold C&LM activities consistent with least cost integrated resource planning principles within the 5.5% rate projections. According to Staff C&LM has an important role to play in prudent utility management....

Id. at 421.

We further note that when the Rate Agreement was initially formulated and proposed to the Commission there was no specific dollar amount identified and reserved in base rates for C&LM expenditures. During the course of the hearings on the Rate Agreement it was determined that historical PSNH levels of expenditures on C&LM were about $400,000 annually. As a result of the Commission's review, the set aside for conservation programs was effectively increased from $400,000 to $1.1 million. See 114 PUR 4th at 421. Beyond this, the Commission further required that the base line expenditure increase by 5.5% per year. Id.

In setting policy with respect to C&LM activities the Commission is also guided by the legislature's articulation of State energy policy:

[I]t shall be the energy policy of this state to meet
the energy needs and businesses of the state at the
lowest reasonable cost while providing for the
reliability and diversity of energy sources; the
protection of the safety and health of the citizens,
the physical environment of the state, and the future
supplies of nonrenewable resources; and consideration
of the financial stability of the state's utilities.

RSA 378:37.

In carrying out State energy policy and in evaluating utility resource plans, the legislature directed the Commission to give priority to demand-side management options where "the options have equivalent financial costs, equivalent reliability, and equivalent environmental and health-related impacts."

RSA 378:39.

2. CLF Concerns

At the hearing, CLF introduced into the record a letter (Exh. CLF-1) stating its reservations regarding the proposed Settlement Agreement. CLF believes that the currently proposed level of investment is insufficient in light of the opportunities for conservation that presently exist.

Staff Witness Besser responded to CLF's concern in her direct testimony, referring back to the recommendation in the report of the collaborative parties filed with the Commission in November 1991 (Staff Exh-1):

Therefore while I think staff agrees with CLF that there are benefits from additional C&LM spending for PSNH and those benefits would eventually flow to ratepayers at the time we agreed with the other parties in the collaborative [process] that that could be looked at in the O92 least cost planning docket. And that, for now, that, in order to get programs off the ground and to get something out there for customers, we would talk about program design for spending within the Rate Agreement.

Tr. at 58.

The Commission agrees with Ms. Besser's analysis; however, we also note that the record indicates that PSNH's proposed expenditure level for C&LM is comparable to that of Granite State Electric Company, a company that is approximately one-tenth the size of PSNH. The Commission will consider increases to C&LM spending over the Rate Agreement baseline amount in the currently pending PSNH proceeding, DE 92-080, regarding its 1992 least cost integrated resource plan filing. In that proceeding, the Commission will have the opportunity to review all of PSNH's resource planning activities and decisions that it is making about future demand-side and supply-side resources.

Page 613

3. Program Issues

a. ESP Program

With regard to PSNH's proposed ESP program for large C&I customers, we note that PSNH's role will primarily be that of facilitator between its customers and third-party energy service companies with the objective of spurring customer and third-party investment in C&LM. This is a different approach to retrofit C&LM programs than has been taken by other electric utilities in New Hampshire. However, it appears to be an appropriate and desirable way for PSNH to leverage its limited funds available for C&LM. Moreover, we note that some of the third-party entrepreneurs have been unhappy with the degree that other New Hampshire electric utilities have gotten directly involved in the past in conservation efforts on customer premises may be pleased with the more limited role taken by PSNH in the proposed ESP program and the expanded role and opportunity that may result for them.

The Commission will be watching to evaluate the success of PSNH's approach. We recognize that this experiment in leveraging limited utility funds may serve as a useful model for future C&LM programs. If successful, it could provide valuable energy and demand savings for utility customers at a much reduced cost. We look forward to the results of PSNH's ESP process

evaluation due in June 1993.

b. Program Benefits and Costs

The benefit/cost ratios appearing on page 10 of the Exh. PSNH-4 are low compared to what the Commission has observed for other utilities' conservation programs that it has approved. The Commission has generally looked for benefit/cost ratios that are in the neighborhood of 1.2 for residential programs and 1.5 for commercial and industrial programs in order to provide some assurance of the benefits of these programs for customers even if initial assumptions regarding savings and costs are not borne out. Ms. Besser, however, explained that PSNH's current estimates of its long- run avoided cost appear to be very conservative, low estimates, tending to understate the benefits of the programs. Given this understanding and the need to get some conservation programs off the ground for PSNH, the Commission concurs with Staff and supports the programs proposed in the Settlement Agreement even though the initial estimates of the benefit/cost ratios for the residential as well as the large C&I are just over one.

4. Cost Recovery

Commission policy is to allow for the recovery of incremental direct costs of C&LM programs. We recognize that PSNH's situation differs slightly from the other utilities that have proposed C&LM programs because the funds to be expended are not incremental but have been carved out of PSNH's base rates and designated for C&LM. Nevertheless, it is our expectation that PSNH will only charge labor costs for personnel directly involved in the planning and delivery of the approved C&LM programs. Other indirect and overhead costs should not be charged against the available funds.

5. Lost Revenues

Total program spending for the next 18 months is estimated and budgeted to be approximately $1.8 million. Of this amount, $476,000 or 26% is for lost fixed cost recovery. The remainder, about $1,324,000 will actually be spent on the delivery and implementation of conservation programs. In addition to the direct cost recovery allowed, the Commission approves the recovery of the lost fixed costs that PSNH will incur in delivering its C&LM programs. As Ms. Besser explained

[t]he Commission recognized that, when a utility begins to provide conservation programs, they're actually taking action to sell less electricity. The way rates are set, the price associated with each kilowatt

Page 614

hour or kilowatt of electricity sold includes a component to recover fixed costs or costs that have already been incurred, as well as a component to recover variable costs.

And the Commission recognized that utility, if it asked a utility to encourage reduced sales of electricity, the utility would have a disincentive to do that, because every time it didn't sell a kilowatt hour it would lose some of its fixed cost recovery and it would end up behind all the time.

Tr. at 68.

The Commission notes that in the Settlement Agreement, Staff has some concerns regarding the calculation of lost fixed cost for PSNH and has agreed to work with PSNH during 1993 to resolve those concerns. If those concerns are not satisfactorily resolved, Staff has the right to raise them in future PSNH C&LM proceedings. Thus, there could ultimately be an issue concerning proper calculation of lost fixed cost recovery, but it does not appear to be an issue in this proceeding at this time.

6. Incentives

During the course of the proceeding, it became apparent that the parties and Staff were not proposing that any of the $1.8 million in conservation funds to be spent over the next 18 months would be used to provide an incentive payment to PSNH. Ms. Besser explained why no incentive payment to PSNH was appropriate under present circumstances:

> At this point in time, given the agreement to remain within the rate plan rate increase path, the staff does not feel that PSNH has presented a program that does provide extraordinary benefits for ratepayers. Certainly, PSNH has done a lot of work to develop a program that we hope will deliver savings to customers in a cost effective manner and stay within the rate increases provided for in the Rate Agreement, and that the Company's done that, you know, for a number of good reasons, first, the upward pressure on rates is of great concern to customers in New Hampshire right now, and that the Company is just getting conservation and load management activities off the ground here.
>
> Staff views it, this, as a first step and one that is a good first step for PSNH, but, in our view, does not cross the threshold necessary for the Company to be awarded incentives on its conservation and load management activities. As we move into the least cost planning proceedings, if in that proceeding it becomes clear and the Commission determines that more money should be spent on conservation and load management, even dollars over and above the dollars provided for in the rate plan, and that spending this money is justified because of the benefits that will be provided for ratepayers, staff thinks that, at that point in time, certainly the incentive question could be looked at again.
>
> Tr. at 80-81.

The Commission notes that PSNH has not requested a financial incentive at this time and concurs with Staff's view regarding its appropriateness.

7. Conclusion

In view of the foregoing analysis and based upon all of the evidence in the record, the

Commission will approve the Settlement Agreement. The Agreement represents a good effort on PSNH's part to design a program that is going to provide services to the residential sectors, a program for large commercial and industrial customers, and, through the State Facilities Demonstration Project, a program that can provide savings to all of the citizens of New Hampshire by reducing the State's cost of

Page 615

operating its facilities and perhaps also demonstrate to this State the benefits of investing in energy efficiency in its facilities.

The Settlement Agreement also shows a commitment on PSNH's part to begin to move forward with conservation and load management as a resource for its customers. We are also encouraged by Mr. Brown's testimony on behalf of PSNH that:

[I]t's not a matter of PSNH, from the ground up, planning, developing and bringing to actual implementation these programs. We're taking full advantage of the experience and the resources that NUSCO now brings to the C&LM activity.

Tr. at 53.

Our order will issue accordingly. Concurring: October 9, 1992

Public Service Company of New Hampshire

New Hampshire Public Utilities Commission Staff

Office of Consumer Advocate

George E. Sansoucy, P.E.

Business & Industry Association

Governor's Office of Energy and Community Services

ORDER

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

ORDERED, that the Settlement Agreement appended hereto as Exh. PSNH-4 is approved.

By order of the Public Utilities Commission of New Hampshire this ninth day of October, 1992.

FOOTNOTES

[1]CLF did not agree with the majority recommendation to limit C&LM funding levels. CLF believed that the benefits of C&LM for ratepayers provided compelling justification for increases in rates above the 5.5% rate path.

Page 616

ATTACHMENT

RE: Docket No. DE 92-028 Public Service Company of New Hampshire Conservation and Load Management Phase II

Dear Mr. Arnold:

Enclosed find, consistent with the Status Report filed July 28, 1992, and the Commission's approval of that Report at its July 31, 1992, public meeting, an original and eight copies of the parties' Settlement Agreement, which is designed to conclude the above-captioned proceeding. The parties intend to support the Settlement Agreement at the hearing scheduled for August 26, 1992. There are no issues unresolved that would require additional testimony or hearings.

Copies of this filing have been forwarded this date by first- class mail, postage prepaid, or have been hand-delivered to the parties noted on the attached service list.

Very truly yours,

Thomas B. Getz

Corporate Counsel

Public Service Company of New Hampshire

TBG:stt

Enclosures

cc: Attached Service List

SERVICE LIST

Docket No. DE 92-028

Wynn E. Arnold, Esquire

Executive Director and Secretary

State of New Hampshire

Public Utilities Commission

Eight Old Suncook Road, Bldg. One

Concord, NH 03301-5185

Michael W. Holmes, Esquire

State of New Hampshire

Office of Consumer Advocate

Eight Old Suncook Road, Bldg. One

Concord, NH 03301-5185

Kenneth A. Colburn

Vice President

Business & Industry Association

122 North Main Street

Concord, NH 03301
George Sansoucy
260 Ten Rod Road
Rochester, NH 03867
Maurice Lamy
RPL Enterprises, Inc.
96 Elgin Avenue
Manchester, NH 03104
Jonathan S. Osgood
Governor's Office of
Energy and Community Services
57 Regional Drive
Concord, NH 03301
Deborah Smith, Esquire
Conservation Law Foundation
3 Joy Street
Boston, MA 02108-1497
Thomas B. Getz, Esquire
Public Service Co. of NH
1000 Elm St.
PO Box 330
Manchester, NH 03105-0330
Curt Whittaker
Rath, Young, Pignatelli and Oyer
2 Capital Plaza
PO Box 854
Concord, NH 03302-0854

Page 617

SETTLEMENT AGREEMENT

INTRODUCTION

The parties to the above-captioned proceeding, namely, Public Service Company of New Hampshire (PSNH), the New Hampshire Public Utilities Commission Staff (Staff), the Office of

Consumer Advocate (OCA), the Governor's Office of Energy and Community Services (the ECS), the Business and Industry Association (BIA), and Mr. George E. Sansoucy, have reached certain understandings concerning Conservation and Load Management (C&LM) program design, implementation and accounting. The understandings of the parties are set forth below.

BACKGROUND

During 1991, parties representing various interests affected by PSNH resource planning engaged in an informal collaborative review of potential C&LM strategies. Members of the collaborative process included representatives from PSNH, Northeast Utilities Service Company (NUSCO), Staff, the OCA, the BIA, the Conservation Law Foundation (CLF), the New Hampshire Legislature, the Governor's Office, the Attorney General's Office, and the New Hampshire Municipal Association.

The collaborative process was divided into two phases. Phase I examined how C&LM expenditures and associated cost recovery could affect PSNH's electric rates under the Rate Agreement. The parties to the Phase I process made a number of recommendations in their Report to the Commission, filed November 14, 1991, which included: implementing programs in a manner and at funding levels that do not result in PSNH rate increases beyond the Rate Agreement; re-examining PSNH's C&LM programs and spending levels beyond 1992 in the context of the review of PSNH's next least cost integrated resource plan filed in April, 1992; and, moving into the program design phase (Phase II) and attempting to reach consensus on program elements.

Phase II, focusing on program design, was initiated by the Commission's Order of Notice issued February 11, 1992, which opened Docket No. DE 92-028. A prehearing conference was held February 25, 1992, at which time a procedural schedule was proposed and motions for intervention were made. On March 2, 1992, the Commission issued Order No. 20,405 establishing the scope of the proceeding and approving a procedural schedule. In accord with the Commission's Order, PSNH filed on April 15, 1992 (and supplemented on May 7, 1992) its Proposal for C&LM Programs. Subsequently, the parties of record as well as "interested parties," viz., CLF and Mr. Maurice Lamy, participated in a series of technical sessions which culminated in a Status Report that was filed with the Commission on July 28, 1992. The Status Report informed the Commission that the parties believed a settlement was achievable, and requested time for further discussions in preparation for a hearing on the anticipated Settlement Agreement. This Settlement Agreement represents the results of those discussions.

TERMS

1. Proposed C&LM Programs

The parties agree that PSNH at this time should pursue, and the Commission should approve, three C&LM programs: the Residential Low Income Conservation Program, the Energy Service Program for Large Commercial and Industrial (LC&I) customers, and the State Facility Demonstration Project.

A. Residential Low Income Conservation Program

The Residential Low Income Conservation Program will encourage cost-effective, electric, energy efficiency improvements in the low income, residential sector for customers with electric

heat. Low Income customers with electrically heated dwellings and who meet the then effective New Hampshire criteria for Fuel Assistance will be

eligible for the program. Through December 1993, PSNH anticipates serving about 450 customers throughout its service territory.

Each dwelling unit will be analyzed by a contractor under the supervision of PSNH C&LM Staff to identify energy conservation opportunities for electric space and water heating, where applicable, and lighting and other efficiency measures. Conservation education will be provided for building residents and managers in an effort to sustain or enhance program savings. Where appropriate, PSNH will pay the full installed cost of the cost-effective measures recommended for installation. Contract coordinators (CC) will implement the program. PSNH will issue Requests for Proposals (RFPs) to select appropriate CCs for this purpose and to select a quality control contractor to inspect the completed work. This program is adapted from a similar program which NUSCO is successfully implementing in Western Massachusetts.

Because Rate D-TL (the targeted lifeline rate) is being phased out, the program will initially target those approximately twenty electric space heat customers on Rate D- TL for expedited service. Rate D-TL customers who receive such PSNH conservation assistance will be removed from Rate D-TL.

PSNH will also work with the Community Action Program agencies (CAPs) and attempt to expedite non-electric, Rate D- TL customers into the Weatherization Assistance Program (WAP). PSNH will explore paying the incremental cost for water heating and lighting measures which are cost effective and can be provided at the time of other WAP services. Rate D-TL customers who receive such PSNH conservation assistance will be removed from Rate D-TL.

CAPs will be utilized when cost-effective for outreach and installation. The CAPs may be able to use their rosters of clients eligible for fuel assistance as the basis for eligibility certification for customers.

B. The Energy Service Program

The Energy Service Program (ESP) is designed to overcome some of the traditional market barriers that have inhibited third party investment in energy conservation. For instance, there is typically a lack of confidence on the part of customers that third party developers, sometimes referred to as energy service companies or ESCOs, will be in business in the long term or that the promised energy savings will materialize. In addition, ESCOs normally experience significant upfront marketing costs. Moreover, an ESCO will usually have to approach a number of customers with fairly detailed proposals before obtaining a firm commitment. Through the ESP program, PSNH will facilitate customer involvement with the ESCOs or, in the nomenclature of this program, Conservation Project Developers (CPDs). PSNH will provide customers with administrative oversight by utilizing clear economic criteria for efficiency investments and by establishing an independent quality assurance review process. Further, by prescreening customers for the program and by paying for a thorough engineering survey of the customer's premises, PSNH will reduce the marketing costs for CPDs. At the recommended funding levels, PSNH anticipates serving about 13 customers through December 1993.

PSNH will select contractors to implement much of the program. CPDs will be prequalified, based on a Request for Qualification (RFQ), for specialties in commercial office buildings, industrial facilities, public institutions, etc. The CPDs will be matched with the needs of individual customers through an RFP process which PSNH will facilitate. A Quality Assurance Contractor (QAC), to be selected by PSNH, will review CPDs' proposals to assure technical accuracy and verify effective implementation. PSNH will attempt to reduce a portion of the risk (to customers and CPDs) by guaranteeing a minimum savings threshold (number of kwh) that the customer could expect to realize. PSNH will not guarantee the actual financial loans.

PSNH will select, subject to the criteria set forth below, large commercial and

Page 619

industrial customers as candidates for participation.

These criteria include the following: 1. Customers must have been served under Rates GV and/or LG for a period

of one year. 2. It must be PSNH's judgment that the facility will continue to be

operated as a PSNH customer for at least five yeas after the

installation of efficiency measures. Customers must agree to repay

PSNH 100% of the program cost for their energy analysis if the

facility ceases to operate substantially on the PSNH system before the

end of the five year period. 3. Customers must indicate that they will not install additional

self-generation, purchase non-PSNH generated electricity, or fuel

switch for a period of five years. 4. Customers' projects must not involve substantial facility or process

expansion because of the difficulty in obtaining and determining

appropriate energy savings and financial information. 5. Customers must express an intent to accept the terms of various

agreements and proceed to implementation of cost effective measures.

Customers must agree to pay 100% of the program cost if they do not

implement a substantial portion of the cost effective measures which

are identified. 6. An individual customer's share of PSNH's funds must not exceed 20% of

the program's annual budget for variable costs (i.e., preparing

studies and recovery of lost fixed cost revenues).

The following are key steps for qualifying customers in the Energy Service Program.

1. Qualifying prescreened customers will then be ranked and selected to

participate in the program. 2. A Preliminary Facility Evaluation (PFE) will be developed by PSNH for

the customer. 3. PSNH will assist the customer in selecting a CPD through an RFP process. 4. The CPD will do an Energy Analysis Survey (EAS), which is a more in depth assessment of the opportunities for electric efficiency improvements, to identify more detailed costs and savings. PSNH and the customer will each pay one half of the cost of the EAS. (If the customer goes forward with installation of measures equal to or greater than at least 80% of the cost effective energy savings identified in the EAS and 50% of the non-lighting EAS savings, PSNH will reimburse the customer for its share of the cost of the assessment.) 5. The EAS proposals will be reviewed to assure the technical accuracy for savings and costs. 6. Once the contract is acceptable to PSNH, the customer and the CPD, it will be signed and the CPD will prepare an implementation plan and the efficiency measures will be installed.

C. State Facility Demonstration Project

The State Facility Demonstration Project was developed to demonstrate to the State that cost effective conservation opportunities exist which, when captured, can reduce the cost of energy to the State and its citizens. The project also serves as a model facility where energy efficiency measures can be demonstrated to interested parties. The New Hampshire Technical College at Manchester was selected as the initial site for the Demonstration Project because it met many critical concerns and goals of the collaborative parties. It was accessible, convenient, and possessed a substantial amount of qualifying options.

The New Hampshire Technical College at Manchester is currently undergoing major renovations in approximately 9000 square feet of the facility and rapid installation of the approved measures is anticipated. Due to the fact that the renovation was on a deadline, the parties involved in this proceeding understood that time was of the essence. To facilitate the project so that the current building deadlines

Page 620

could be met, the cooperation of many parties was critical. The ECS coordinated the efforts of the various State agencies as well as the general contractor and the electrical contractor at the project site. As a result of such cooperation, PSNH and the State signed a contract for the project on July 2, 1992. The Governor and Council on July 22, 1992 unanimously approved the contract between PSNH and the State.

Under the terms of the agreement, PSNH, the State, and the New Hampshire Technical College agreed that PSNH will pay an estimated $86,278 for energy efficient measures to be

installed at the facility. Actual PSNH payments will depend on the number of qualifying measures actually installed. Given the timing of this project, the scope of the energy efficient measures was limited to the changing out of ballasts and lamp fixtures in the facility to the more efficient T-8 system rather than contemplating a redesign of the lighting layouts. In addition to upgrading the lamps that were to be installed, it was determined that all light fixtures in the facility would be upgraded to the more efficient T-8 system to insure safe maintenance practices. In addition to lamp replacement, one electric motor in the new HVAC system was scheduled to be replaced by a more efficient motor.

The parties in this proceeding also agree to accommodate an additional facility, if another suitable facility can be found in PSNH's service territory. Through 1993, $200,000 (including lost fixed cost revenue recovery) is budgeted for the Demonstration Project, but only about half of these funds are estimated to be committed at the Manchester facility. PSNH will work with the ECS to evaluate new sites and possible opportunities for combining PSNH funds with other State or Federal funds. If an additional site cannot be found, any PSNH funds which are not committed by July 1, 1993 will return to the Residential Low Income Conservation Program and the LC&I Energy Service Program in accordance with the 38/62 ratio discussed in Term 4 below.

2. Benefit/Cost Analyses

Benefit/cost analyses were conducted for each of the programs utilizing both a total resource cost test and a utility revenue requirements test. The costs assume one year's level of program activity. The benefits were calculated using NU/PSNH combined system avoided costs over a 20 year planning horizon.

The benefit/cost ratios for the programs are as follows:

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

Net Revenue
Total Resource Requirements

Low Income 1.05 1.05

Energy Savings 1.06 7.06

State Facility 1.38 1.38

NU system wide planning assumptions were used for the benefit/cost analyses as described in the May 7, 1992 filing. The values are relatively low due to the current low level of system avoided costs and some initial startup costs of the programs. It should also be noted that participating customers will see greater benefits in their electric bills because electric retail rates are greater than avoided costs.

Attachment 1 summarizes program benefits and costs for the total resource test. Attachment 2 shows the detailed program costs and energy savings assumptions used to perform the benefit/cost analysis. Attachment 3 presents a detailed benefit/cost analysis for each program based on one year of program activity.

3. Accumulated C&LM Funding Under the Rate Agreement

The base level of funding for all C&LM program costs included in the Rate Agreement is $1.167 million in 1989 dollars. In accordance with the Rate Agreement, the base level will be escalated by 5.5% annually for the remainder of the fixed rate period. Consistent with the scope of the proceeding, PSNH has developed a program proposal that stays within the levels for approved C&LM expenditures in the Rate Agreement. The table below shows the calculation of the annual and monthly levels of C&LM funding through the remainder of the fixed rate period.

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

C&LM Funding Level

Period Beginning Date	Period Ending Date	Annual C&LM Funding ($000)	Monthly C&LM Funding ($)
1/1/89	12/31/90	1,167*	
1/1/90	5/15/91	1,231	
5/16/91	** 5/31/92	1,299	108,250
6/1/92	*** 5/31/93	1,370	114,167
6/1/93	5/31/94	1,446	120,446
6/1/94	5/31/95	1,525	127,071
6/1/95	5/31/96	1,609	134,060
6/1/96	5/31/97	1,698	141,433

* Base level of funding in annual 1989 dollars for the fixed rate period escalated at 5.5% as approved in DR 89- 244.

** First Effective Date of Rate Agreement. (PSNH stand alone as provided for in the Bankruptcy Plan of Reorganization.)

*** Stipulation to synchronize annual base rate increase at 5.5% under the Rate Agreement with June 1 FPPAC in DR 91- 011.

As shown in PSNH's initial filing of April 15, 1992, the annual funding level from May 1991 to June 1992 was calculated to be $1.299 million. The parties agree that this annual funding level can be converted to a monthly funding level. The parties agree that monthly interest need not be applied to this account because of the procedure used to arrive at the monthly values. The Accumulated C&LM Funding through June 1992, the 1992 level and previously unspent amounts, are calculated to be a total of $1,469,037. This total is based on $55,870 for May 1991 (covering 16 days after the First Effective Date of May 15, 1991) monthly levels for June 1991 through May 1992 of $108,250, and a monthly level of $114,167 for June 1992. (See Attachment 4 for post effective date through June 1992 and Attachment 5 for future periods.)

4. Proposed C&LM Programs - Preapproval Request

Attachment 6 shows the target and projected allocation of funds to the programs for annual and eighteen month periods of full activity. The parties agree that the Commission's preapproval of PSNH's C&LM program expenditures should cover the period from July 1, 1992 through December 31, 1993. The eighteen month budget, covering PSNH's entire preapproval request, is

shown in Attachment 7. The eighteen month budget amounts will be spread equally to all months, as shown in Attachment 5, for purposes of preparing the Monthly Variance Reports. As of July 1, 1992, only costs associated with the three C&LM programs recommended for implementation will be accorded cost recovery.

The parties agree to the allocation of the C&LM budget to the programs. The budget allocation to programs was negotiated and based, in part, on the division of sales (kwh) between Residential and LC&I customer groups. It is agreed that Residential programs would be allocated 38% of total costs (direct and recovery of lost fixed cost revenues) and similarly the LC&I would receive 62%. Each customer group will then contribute equally to the initial estimated cost of the State Facilities Demonstration Project (estimated at 11% of budget). Any funds not spent on the project will return to the residential and LC&I programs based on the foregoing percentages.

5. PSNH Activities Post First Effective Date

The parties agree that PSNH's Accumulated C&LM Funding should be debited for certain costs of PSNH Activities which were incurred after the First Effective Date. Relative to the activities PSNH originally proposed for recovery, PSNH incurred $502,094 of costs through June 1992. The parties agree to approve only those activities associated with Energy Analysis, Lighting, and the Federal/State Grant Program (which supports the federal Institutional Conservation Program) which total $424,206 as of June 1992. Attachment 8 displays the detail, by program, of PSNH's original request and of the amount recommended for approval by the parties. Additional descriptive information on the programs can be found in PSNH's filings in this proceeding.

In addition, to the specific PSNH program activities, two other categories of costs are recommended for cost recovery. First, during the course of Phase I in the collaborative process, PSNH agreed to pay for the costs of Putnam, Hayes and Bartlett who provided consulting services to the parties. It was agreed that PSNH would absorb one-half of this cost and that the remaining one-half would be charged against the Commission approved C&LM funding process. PSNH requests that $21,683 be approved for recovery. Second, NUSCO management services include payroll costs for performing analyses for the collaborative discussion, attending meetings, and preparing reports. From the First Effective Date through June 1992, these costs for NUSCO Management Services are $58,100.

Attachment 4 shows the calculation of the Net Accumulated C&LM Funding. The accumulated C&LM funding through June 1992 was calculated to be $1,469,037. Debiting the account for activities recommended for cost recovery through June

1992 of $424,206 leaves a Net Accumulated C&LM Funding of $1,044,831 to be carried forward to future periods.

6. Reporting Process

PSNH's C&LM program is planned to be based on a calendar year cycle with preapproval filings submitted by August 15 of each year Reports containing information for the appropriate

period would be filed as soon as data are available. PSNH will attempt to do this in 45 days as do other utilities, but it is recognized that, during the transition of accounting systems at NUSCO and PSNH, this goal may not be attainable. Monthly variance reports in the format of Attachment 5 will be provided identifying cost variance and providing brief explanations. Quarterly Reports will contain the monthly information and information on program activity and progress. Revisions to the Implementation Manuals, related technical documents, and other progress on implementation activities will be reported in the Quarterly Reports. Semiannual filings will include the Quarterly Report information and detailed information on activity counts and estimates of savings. The Annual Filing will contain such information plus information on program benefits and costs, identifying planned avoided costs, as used in Attachment 1, and actual energy savings and program costs. PSNH's first Quarterly Report is intended to be filed by November 15 for the period July 1 through September 30. Monthly reports will begin after this initial quarterly report.

Attachment 9 presents a schedule of key milestones in program implementation and regulatory reporting activities. Due to start up activities, selection of customers, and initial conservation studies, actual installation of measures and resulting energy savings are not anticipated to occur at full levels until 1993. Monthly increases in the Net Accumulated C&LM Funding are therefore anticipated for the remainder of 1992.

The Residential and LC&I Implementation manuals, will be submitted to the Commission when they are in final form as indicated in Attachment 9. It is recognized that the Manuals are preliminary and will be subject to further refinement over the next several months and will continue to be modified and supplemented by PSNH as further specific details of program implementation are refined. A plan for preparing a process evaluation for the Energy Service Program will be submitted in PSNH's May 1993 Quarterly Report.

The Reports presented in this proceeding and planned to be submitted in the future Reporting Process are designed to satisfy the requirements of the Informational Reporting Proceeding (IR 90-218).

7. C&LM Accounts and Definitions

All C&LM costs directly related to approved C&LM activities are recommended for cost recovery. For C&LM activities after July 1, 1992, only four accounts will be tracked for cost recovery. Modifications have been made to PSNH's current C&LM cost tracking system to include accounts for the proposed Residential Low-Income Conservation Program, the State Facility Demonstration Project, the Large C&I Energy Service Program, and Other NHPUC Approved C&LM Activity. The account for Other NHPUC Approved C&LM Activity has been added to track costs of general administration directly related to approved C&LM activities but not related to a specific program, i.e., clerical support, NUSCO C&LM Management Services, and program planning. The actual activity numbers and subaccounts may change in the future as PSNH and NUSCO accounting systems are merged.

The C&LM cost tracking system will track each program's direct costs by subaccount activity for program development/planning, program implementation, and program monitoring and evaluation. Program development/ planning includes all approved activities ad costs that are related to the development of C&LM programs approved or considered by the NHPUC. These

costs include approved support staff activities,

consultation and market research. Program implementation activities include all activities and costs that are related to customer and trade ally contact with respect to approved C&LM program promotion, delivery of service to individual customers, and implementation of measures. The ongoing monitoring of C&LM programs includes the tracking of all approved C&LM program costs as well as analysis of results in order to determine overall program effectiveness. The evaluation of C&LM programs covers both process and impact methodologies, including the measurement of program costs, energy savings, customer satisfaction, and internal procedures affecting program design and operation.

8. Recovery of Lost Fixed Cost Revenues

Consistent with the Commission's findings in Order No. 19,905, issued August 7, 1990, in Docket No. DE 89-187, the parties agree that PSNH is entitled to recover lost fixed cost revenues. The Commission's order states that in determining lost revenues several issues need to be considered. The parties have discussed these issues and believe that recovery of lost fixed cost revenues, as defined in PSNH's filings in this proceeding, is appropriate for all energy conserved in accordance with the approved programs for this filing.

For the purposes of this proceeding, the NHPUC Staff accepts the PSNH proposed calculation of recovery of lost fixed cost revenues for the current programs. Staff notes that given PSNH's particular circumstances under the Rate Agreement, it will accept the use of FPPAC BA in the lost fixed cost recovery calculation, in part, because the difference at this time is not significant. Staff is concerned that, over time, the use of FPPAC BA more generally will not reflect fully the costs that may be appropriate to include in the calculation. Staff indicates that it may raise certain issues, as described in Order No. 19,905, concerning the calculation of recovery of lost fixed cost revenues in subsequent preapproval submissions. The parties agree to meet in early 1993 to attempt to resolve any remaining issues regarding future calculations of lost fixed cost revenue.

The agreement presumes that the programs will be marketed and targeted in a fair and equitable manner and not specifically targeted to "customers who would otherwise leave the system". No customers have been selected for participation in the programs at this time, other than for the State Facility Demonstration Project. Recently, the Commission in its Order No. 20,450, issued July 14, 1992 in Docket No. Dr 92-125, also cautioned James River that approval of its special contract with PSNH would not determine its eligibility for C&LM programs approved in DE 92-028 nor would approval of the special contract prohibit or entitle PSNH to recover lost revenues associated with C&LM programs in which James River may participate. The parties agree that James River will be treated on the same basis as all other customers regarding eligibility for C&LM programs and cost recovery of those activities would be treated as described in this report.

CONDITIONS

A. This Settlement Agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in this proceeding is true and valid.

B. The discussions which have produced this Settlement Agreement have been conducted on the explicit understanding that all offers of settlement and discussions relating thereto are and shall be privileged, shall be without prejudice to the position of any party or participant presenting such offer or participating in any such discussions and are not to be used in any manner in connection with these or any other proceedings.

C. This Settlement Agreement is expressly conditioned upon the Commission's acceptance of all provisions hereof, without change or condition, and in the event the Commission does not by order accept it in its entirety, it shall be deemed withdrawn and shall not constitute any part of the record in this proceeding or be used for any other

Page 625

purpose, and each of its provisions shall be deemed to be null and void.

D. This Settlement Agreement shall be binding upon all parties and customers who are either signatories to this Agreement or have not entered an objection to it. E. Any number of counterparts of this Settlement Agreement may be executed, and each shall have the sa e force and effect as an original instrument, and as if all the parties to a the counterparts had signed the same instrument.

EXECUTION

Accordingly, each of the undersigned attests that the foregoing is an accurate statement of its respective position and that each of the undersigned agrees to and supports this Settlement Agreement.

Page 626

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

Attachment 2
Page 1 of 2

Annualized Program Assumptions Detail

Low Income Conservation Services

First Year Program Costs:
Fixed Costs
PSNH Payroll $65,000
Other Costs $15,000
Total Fixed Costs $80,000

Variable Costs per customer
Variable Cost/Unit $166
Unit Incentive Costs
Heating $466
Lighting $200
Other $16
Total per unit Variable Cost $848

Unit Savings
Heating 1,082
Lighting 654
Other 625
Total per unit savings 2,361
```

Energy Service Program

First Year Program Costs
Fixed Costs
Payroll $145,000
Other $10,000
Total Fixed Costs $155,000

Variable Costs per customer
QAC Assistance $2,000
QAC Inspection $3,500
CPD EAS $26,800
Total per unit Variable Cost $32,300

Unit Savings per customer
Heating 27,648
Cooling 115,008
Lighting 308,352
Other 131,136
TOTAL 582,144

Attachment 1

C&LM PROGRAM BENEFITS SUMMARY

Total Resource Cost Test

First Year First Year NPV NPV
Benefit/ Lifetime Capability Program Program
Cost kWh Respons. Costs Benefits
PROGRAM Ratio Conserved KW ($000)
($000)

Residential Program
Low Income Conservation 1.05 8,616,000 846 302 318

Commercial & Industrial Programs
Energy Service Program 1.06 77,872,000 1,320 2,540
2,683
State Facility Project 1.38 50,060,000 58 107 147
==========
TOTAL 91,548,000 1,624 2,949 3,148

Low Income 1 Yr (PSNH)

PROGRAM COST-BENEFIT ANALYSIS SUMMARY

ANNUAL Cum. Present Value
PROGRAM COSTS PROGRAM
BENEFITS TOT. NET BENEFITS TOT. NET BENEFITS

Savings Capacity
Year (Sales) Equivalent Utility Direct Net Part. Tot Resource
Production Capacity Tot Resource Rev Req Tot Resource Rev Req Tot
Resource YEAR
(MWh) (MW) ($000's) ($000's) ($000) ($000's)
($000's) ($000) ($000's) ($000's) ($000) ($000)

1992 718 0.2 $338 $0 $338 $7
$0 $7 ($330) ($330) ($296) ($296) 1992
1993 718 0.2 0 0 0 29
0 29 29 29 (272) (272) 1993
1994 718 0.2 0 0 0 28
0 28 28 28 (252) 252 1994
1995 718 0.2 0 0 0 30
0 30 30 30 (233) (233) 1995
1996 718 0.2 0 0 0 71
0 71 71 71 (193) (193) 1996

1997 718 0.2 0 0 0 36
0 36 36 36 (174) (174) 1997
1998 718 0.2 0 0 0 43
0 43 43 43 (154) (154) 1998
1999 718 0.2 0 0 0 46
0 46 46 46 (136) (136) 1999
2000 329 0.2 0 0 0 23
0 23 23 23 (127) (127) 2000
2001 329 0.2 0 0 0 9
32 41 41 41 (114) (114) 2001
2002 329 0.2 0 0 0 9
58 67 67 67 (94) (94) 2002
2003 329 0.2 0 0 0 14
60 74 74 74 (75) (75) 2003
2004 329 0.2 0 0 0 14
58 71 71 71 (58) (58) 2004
2005 329 0.2 0 0 0 18
56 74 74 74 (43) (43) 2005
2006 329 0.2 0 0 0 18
54 72 72 72 (29) (29) 2006
2007 329 0.2 0 0 0 23
52 75 75 75 (17) (17) 2007
2008 329 0.2 0 0 0 23
51 74 74 74 (5) (5) 2008
2009 329 0.2 0 0 0 31
49 80 80 80 5 5 2009
2010 0 0 0 0 0 0
48 48 48 48 11 11 2010
2011 0 0 0 0 0 0
46 46 46 46 16 16 2011
NPV 4,358 1.6 $302 $0 $302 206
$112 $318 $16 $16 $16 $16 NPV

1.05 1.05

(ben./cost ratio)

Attachment 3
Page 2 of 3
ESP - 1 YEAR (PSNH)
PROGRAM COST-BENEFIT ANALYSIS SUMMARY

ANNUAL Cum. Present Value
PROGRAM COSTS
PROGRAM BENEFITS TOT. NET BENEFITS TOT. NET BENEFITS
Savings Capacity
Year (Sales) Equivalent Utility Direct Net Part. Tot Resource Production
Capacity Tot Resource Rev Req Tot Resource Rev Req Tot Resource YEAR
(MWh) (MW) ($000's) ($000's) ($000) ($000's)
($000's) ($000) ($000's) ($000's) ($000) ($000)

1992 4867 1.3 $425 $2,415 $2,840 $156
$5 $181 ($264) ($2,679) ($236) ($2,396) 1992
1993 4867 1.3 0 0 0 167
0 167 167 167 (102) (2,262) 1993
1994 4867 1.3 0 0 0 193
0 193 193 193 36 (2,124) 1994
1995 4867 1.3 0 0 0 198
0 196 196 196 161 (1,999) 1995
1996 4867 1.3 0 0 0 250
0 250 250 250 304 (1,856) 1996
1997 4867 1.3 0 0 0 250
0 250 250 250 432 (1,728) 1997
1998 4867 1.3 0 0 0 285
0 285 285 285 563 (1,597) 1998
1999 4867 1.3 0 0 0 309
0 309 309 309 689 (1,470) 1999
2000 4867 1.3 0 0 0 345
0 345 345 345 816 (1,344) 2000

2001 4867 1.3 0 0 0 215
270 484 484 484 975 (1,185) 2001
2002 4867 1.3 0 0 0 236
481 717 717 717 1,185 (975) 2002
2003 4867 1.3 0 0 0 284
496 779 779 779 1,389 (771) 2003
2004 4867 1.3 0 0 0 302
480 781 781 781 1,572 (588) 2004
2005 4867 1.3 0 0 0 331
464 795 795 795 1,739 (421) 2005
2006 3539 1.1 0 0 0 268
450 718 718 718 1,874 (286) 2006
2007 3539 1.1 0 0 0 302
436 738 738 738 1,998 (162) 2007
2008 2578 0.6 0 0 0 239
423 662 662 662 2,097 (63) 2008
2009 2578 0.6 0 0 0 261
409 670 670 670 2,187 27 2009
2010 2578 0.6 0 0 0 224
395 619 619 619 2,262 102 2010
2011 0 0.0 0 0 0 0
380 380 380 380 2,302 143 2011
NPV 34,891 9.5 $380 $2,160 $2,540 $1,744
$938 $2,683 $2,302 $143 $2,302 $143 NPV

7.06 1.06

(ben./cost ratio)

Attachment 3
Page 3 of 3
State Building (PSNH)
PROGRAM COST-BENEFIT ANALYSIS SUMMARY

ANNUAL Cum. Present Value
PROGRAM COSTS
PROGRAM BENEFITS TOT. NET BENEFITS TOT. NET BENEFITS
Savings Capacity
Year (Sales) Equivalent Utility Direct Net Part. Tot Resource Production
Capacity Tot Resource Rev Req Tot Resource Rev Req Tot Resource YEAR
(MWh) (MW) ($000's) ($000's) ($000) ($000's)
($000's) ($000) ($000's) ($000's) ($000) ($000)

1992 253 0.1 $119 $0 $119 $7
$0 $7 ($112) ($112) ($100) ($100) 1992
1993 253 0.1 0 0 0 8
0 8 8 8 (94) (94) 1993
1994 253 0.1 0 0 0 9
0 9 9 9 (87) (87) 1994
1995 253 0.1 0 0 0 9
0 9 9 9 (81) (81) 1995
1996 253 0.1 0 0 0 11
0 11 11 11 (75) (75) 1996
1997 253 0.1 0 0 0 12
0 12 12 12 (69) (69) 1997
1998 253 0.1 0 0 0 14
0 14 14 14 (62) (62) 1998
1999 253 0.1 0 0 0 15
0 15 15 15 (56) (56) 1999
2000 253 0.1 0 0 0 16
0 16 16 16 (50) (50) 2000
2001 253 0.1 0 0 0 18
12 30 30 30 (41) (41) 2001
2002 253 0.1 0 0 0 19
21 41 41 41 (29) (29) 2002
2003 253 0.1 0 0 0 19
22 41 41 41 (18) (18) 2003
2004 253 0.1 0 0 0 22

21 43 43 43 (8) (8) 2004
2005 253 0.1 0 0 0 21
20 42 42 42 1 1 2005
2006 253 0.1 0 0 0 25
20 44 44 44 9 9 2006
2007 253 0.1 0 0 0 26
19 45 45 45 17 17 2007
2008 253 0.1 0 0 0 27
19 46 46 46 24 24 2008
2009 253 0.1 0 0 0 27
18 45 45 45 30 30 2009
2010 253 0.1 0 0 0 31
17 48 48 48 35 35 2010
2011 253 0.1 0 0 0 30
17 47 47 47 40 40 2011
NPV 1,911 0.4 $107 $0 $107 $106
$41 $147 $40 $40 $40 $40 NPV

1.38 1.38

(ben./cost ratio)

Attachment 4
19-Aug-92

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE NET ACCUMULATED C&LM FUNDING
ACTUAL COST TRACKING FORMAY 1991 - JUNE
1992_____
_____
ACTUAL ACTUAL ACTUAL ACTUAL
ACTUAL ACTUAL
MAY JUN JULY AUG
SEPT OCT
1991 1991 1991 1991
1991 1991

(1) C&LM MONTHLY FUNDING $55,870 $108,250 $108,250 $108,250
$108,250 $108,250
(2) TOTAL DIRECT PROGRAM COSTS $18,996 $39,429 $28,342 $24,253
$21,047 $48,363
(3) LOST FIXED COST RECOVERY $0 $0 $0 $0
$0 $0
(4) MONTHLY NET CHANGE $36,874 $68,821 $79,908 $83,997
$87,204 $59,887
(5) START OF PERIOD BALANCE $0 $36,874 $105,696 $185,603
$269,600 $356,804
(6) END OF PERIOD BALANCE $36,874 $105,696 $185,603 $269,600
$356,804 $416,691
ACTUAL ACTUAL ACTUAL ACTUAL
ACTUAL ACTUAL
NOV DEC JAN FEB MAR
APR
1991 1991 1992 1992 1992
1992

(7) C&LM MONTHLY FUNDING $108,250 $108,250 $108,250 $108,250
$108,250 $108,250
(8) TOTAL DIRECT PROGRAM COSTS $21,048 $62,876 $15,040 $22,563
$35,672 $30,931
(9) LOST FIXED COST RECOVERY $0 $0 $0 $0
$0 $0
(10) MONTHLY NET CHANGE $87,203 $45,374 $93,210 $85,687
$72,578 $77,319
(11) START OF PERIOD BALANCE $416,691 $503,894 $549,268 $642,478
$728,165 $800,743
(12) END OF PERIOD BALANCE $503,894 $549,268 $642,478 $728,165
$800,743 $878,062
ACTUAL ACTUAL TOTAL
MAY JUN AS OF

1992 1992 JUNE 1992

(13) C&LM MONTHLY FUNDING $108,250 $114,167 $1,469,037
(14) TOTAL DIRECT PROGRAM COSTS $30,412 $25,236 $424,206
(15) LOST FIXED COST RECOVERY $0 $0 $0
(16) MONTHLY NET CHANGE $77,838 $88,931
(17) START OF PERIOD BALANCE $878,062 $1,044,831 $1,044,831
(18) END OF PERIOD BALANCE $955,900 $1,044,831 $1,044,831

Attachment 5

19-Aug-92

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
NET ACCUMULATED C&LM FUNDING
ESTIMATED COST TRACKING FOR
JULY 1992 - DECEMBER 1993

EST. EST. EST.
EST. EST. EST.
JULY AUG SEPT
OCT NOV DEC
1992 1992 1992
1992 1992 1992

(1) C&LM MONTHLY FUNDING $114,167 $114,167 $114,167
$114,167 $114,167 $114,167
(2) TOTAL DIRECT PROGRAM COSTS $91,500 $91,500 $91,500
$91,500 $91,500 $91,500
(3) LOST FIXED COST RECOVERY $26,492 $26,492 $26,492
$26,492 $26,492 $26,492
(4) MONTHLY NET CHANGE ($3,825) ($3,825) ($3,825)
($3,825) ($3,825) ($3,825)
(5) START OF PERIOD BALANCE $1,044,831 $1,041,006 $1,037,180
$1,033,355 $1,029,529 $1,025,704
(6) END OF PERIOD BALANCE $1,041,006 $1,037,180 $1,033,355
$1,029,529 $1,025,704 $1,021,879
EST. EST. EST.
EST. EST. EST.
JAN FEB MAR
APR MAY JUN
1993 1993 1993
1993 1993 1993

(7) C&LM MONTHLY FUNDING $114,167 $114,167 $114,167
$114,167 $114,167 $114,167
(8) TOTAL DIRECT PROGRAM COSTS $91,500 $91,500 $91,500
$91,500 $91,500 $91,500
(9) LOST FIXED COST RECOVERY $26,492 $26,492 $26,492
$26,492 $26,492 $26,492
(10) MONTHLY NET CHANGE ($3,825) ($3,825) ($3,825)
($3,825) ($3,825) ($3,825)
(11) START OF PERIOD BALANCE $1,021,879 $1,018,053 $1,014,228
$1,010,403 $1,006,577 $1,002,752
(12) END OF PERIOD BALANCE $1,018,053 $1,014,228 $1,010,403
$1,006,577 $1,002,752 $1,005,206

EST. EST. EST.
EST. EST. EST.
JULY AUG SEPT
OCT NOV DEC
1993 1993 1993
1993 1993 1993

(13) C&LM MONTHLY FUNDING $120,446 $120,446 $120,446
$120,446 $120,446 $120,446
(14) TOTAL DIRECT PROGRAM COSTS $91,500 $91,500 $91,500
$91,500 $91,500 $91,500

(15) LOST FIXED COST RECOVERY $26,492 $26,492 $26,492
$26,492 $26,492 $26,492
(16) MONTHLY NET CHANGE $2,454 $2,454 $2,454
$2,454 $2,454 $2,454
(17) START OF PERIOD BALANCE $1,005,206 $1,007,659 $1,010,113
$1,012,567 $1,015,021 $1,017,475
(18) END OF PERIOD BALANCE $1,007,659 $1,010,113 $1,012,567
$1,015,021 $1,017,475 $1,019,928
TOTAL
ESTIMATED
7/92-12/93

(19) 7/92-12/93 C&LM FUNDING $2,098,960
(20) TOTAL DIRECT PROGRAM COSTS $1,647,000
(21) LOST FIXED COST RECOVERY $476,863
(22)
(23) START OF PERIOD BALANCE $1,044,831
(24) END OF PERIOD BALANCE $1,019,928

Attachment 6
Final Allocation of Total Costs
ANNUALIZED

TARGET COSTS 38% Res Sales
$$$ Total Cost 62% C&I Sales
Res Low Income 360,000 Target Allocation
ESP 648,000 30% Residential
State Build 192,000 54% Large C&I
TOTAL 1,200,000 16% State Build

PROJECTED COSTS AND SAVINGS Percent of
Prog. Cost LFCR Total Cost Total Cost MWH
Res Low Income $337,792 $51,390 $389,182 32% 718
ESP $425,028 $252,520 $677,548 56% 4,867
State Building $119,311 $13,982 $133,292 11% 253
TOTAL $882,131 $317,892 $1,200,023 5,837

Final Allocation of Total Costs
18 MONTH

TARGET COSTS 38% Res Sales
$$$ Total Cost 62% C&I Sales
Res Low Income 540,000 Target Allocation
ESP 972,000 30% Residential
State Build 288,000 54% Large C&I
TOTAL 1,800,000 16% State Build

PROJECTED COSTS AND SAVINGS Percent of
Prog. Cost LFCR Total Cost Total Cost MWH
Res Low Income $506,688 $77,086 $583,774 32% 1,077
ESP $637,542 $378,780 $1,016,322 56% 7,300
State Building $178,966 $20,973 $199,938 11% 379
TOTAL $882,131 $317,892 $1,800,034 8,756

Attachment 7

18 MONTH
PSNH DETAILED BUDGET BREAKDOWN
($000)
Cost Category ESP Res. L.I. SFDP General Admin. (2) Total
PSNH Cost of Labor (1)
C&LM Staff 178 79 6 79 343
Other (3) 40 18 3 0 60
Subtotal 218 97 9 79 403
NUSCO Costs of Labor (1)
Planning 0 0 0 119 119
Implementation (4) 0 0 0 50 50

Monitoring 0 0 0 75 75
Subtotal 0 0 0 244 244
Contractors
QAC-Asst 25 25
QAC-Insp 44 44
CPD 336 336
Coord 387 387
SFDP 170 170
Subtotal 405 387 170 0 962
Other Fixed Costs 15 23
Direct Program Costs 638 507 179 323 1,647
LFCR 379 77 21 477
Total 1,017 584 200 323 2,124

(1) Payroll grossed up for FICA etc.
(2) PSNH General Administration includes future planning, clerical, and general administrative time on approved activities not specifically related to individual programs.
(3) Other PSNH labor includes only time for technical assistance. No costs of attending customer meeting are included for non-C&LM staff.
(4) NU Implementation Staff

Attachment 8
Page 1 of 2

PSNH C&LM Cost Tracking

Post-First Effective Date Charges
(May 16, 1991 through June 30, 1992)

PSNH Original Qualifies for
Request C&LM Funding
Residential

Energy Analysis Program $71,349 $71,349

Space Heating Conserv/Load Mgt 26,785 -0-

Water Heating Conserv/Load Mgt 12,839 -0-

Efficient Interior Lighting 21,572 21,572

Efficient Appliances 647 -0-

Subtotal $133,192 $92,921

Small Commercial

Energy Analysis $59,529 $59,529

Space Heating Conserv/Load Mgt 10,654 -0-

Water Heating Conserv/Load Mgt 5,487 -0-

Efficient Interior Lighting 5,349 5,349

Energy Efficient Equipment 3,473 -0-

Subtotal $84,492 $64,878

Attachment 8
Page 2 of 2

PSNH C&LM Cost Tracking

Post-First Effective Date Charges
(May 16, 1991 through June 30, 1992)

PSNH Original Qualifies for
Request C&LM Funding
Large Commercial & Industrial

Large C&I Energy Analysis $150,231 $150,231

Efficient Lighting 16,212 16,212

Energy Efficient Motors 10,621 -0-

Heat Recovry Analysis 597 -0-

Federal/State Grant Analysis 20,183 20,183

Energy Management Systems 195 -0-

New Construction Consulting 2,092 -0-

Boiler Performance Analysis 1,755 -0-

Shared Savings Equip. Financing 209 -0-

Energy Information Programs 3,932 -0-

Subtotal $206,027 $186,626

Other Activity

NUSCO Management Services 58,100 58,100

Collaborative Consultans 21,683 21,683

Grand Total $502,094 $424,206

(Graph intentionally omitted; see printed book, page 639)

Low Income 1 Yr (PSNH) Attachment 3
PROGRAM COST-BENEFIT ANALYSIS SUMMARY Page 1 of 3

ANNUAL Cum. Present Value
Year Savings Capacity PROGRAM COSTS
PROGRAM BENEFITS TOT.NET BENEFITS TOT. NET BENEFITS
(Sales) Equivalent Utility Direct Net Part. Tot Resource
Production Capacity Tot Resouce Rev Req Tot Resource Rev Req Tot Resource
YEAR
(MWh) (MW) ($000's) ($000's) ($000's)
($000's) ($000's) ($000's) ($000's) ($000's) ($000's) ($000's)
1992 718 0.2 $338 $0 $338 $7
$0 $7 ($330) ($330) ($296) ($296) 1992
1993 718 0.2 0 0 0 29
0 29 29 29 (272) (272) 1993
1994 718 0.2 0 0 0 28
0 28 28 28 (252) (25) 1994
1995 718 0.2 0 0 0 30
0 30 30 30 (233) (233) 1995
1996 718 0.2 0 0 0 71
0 71 71 71 (193) (193) 1996
1997 718 0.2 0 0 0 36
0 36 36 36 (174) (174) 1997
1998 718 0.2 0 0 0 43
0 43 43 43 (154) (154) 1998
1999 718 0.2 0 0 0 46
0 46 46 46 (136) (136) 1999
2000 329 0.2 0 0 0 23
0 23 23 23 (127) (127) 2000
2001 329 0.2 0 0 0 9
32 41 41 41 (114) (114) 2001
2002 329 0.2 0 0 0 9

58 67 67 67 (94) (94) 2002
2003 329 0.2 0 0 0 14
60 74 74 74 (75) (75) 2003
2004 329 0.2 0 0 0 14
58 71 71 71 (58) (58) 2004
2005 329 0.2 0 0 0 18
56 74 74 74 (43) (43) 2005
2006 329 0.2 0 0 0 18
54 72 72 72 (29) (29) 2006
2007 329 0.2 0 0 0 23
52 75 75 75 (17) (17) 2007
2008 329 0.2 0 0 0 23
51 74 74 74 (5) (5) 2008
2009 329 0.2 0 0 0 31
49 80 80 80 5 5 2009
2010 0 0.0 0 0 0 0
48 48 48 48 11 11 2010
2011 0 0.0 0 0 0 0
46 46 46 46 16 16 2011
NPV 4,358 1.6 $302 $0 $302 $206
$112 $318 $16 $16 $16 $16 NPV

1.05 1.05

(ben./cost ratio)

Attachment 3
ESP - I YEAR (PSNH) Page 2 of 3
PROGRAM COST-BENEFIT ANALYSIS SUMMARY

ANNUAL Cum. Present Value
Savings Capacity PROGRAM COSTS
PROGRAM BENEFITS TOT.NET BENEFITS TOT.NET BENEFIT'S
Year (Sales) Equivalent Utility Direct Net Part. Tot Resource Production
Capacity Tot Resouce Rev Req Tot Resource Rev Req Tot Resource YEAR
(MWh) (MW) ($000's) ($000's) ($000's) ($000's)
($000's) ($000's) ($000's) ($000's) ($000's) ($000's)
1992 4867 1.3 $425 $2,415 $2,840 $158
$5 $161 ($264) ($2,679) ($236) ($2,396) 1992
1993 4867 1.3 0 0 0 167
0 167 167 167 (102) (2,262) 1993
1994 4867 1.3 0 0 0 193
0 193 193 193 36 (2,124) 1994
1995 4867 1.3 0 0 0 196
0 193 196 196 161 (1,999) 1995
1996 4867 1.3 0 0 0 250
0 250 250 250 304 (1,856) 1996
1997 4867 1.3 0 0 0 250
0 250 250 250 432 (1,728) 1997
1998 4867 1.3 0 0 0 285
0 285 285 285 563 (1,597) 1998
1999 4867 1.3 0 0 0 309
0 309 309 309 689 (1,470) 1999
2000 4867 1.3 0 0 0 345
0 345 345 345 816 (1,344) 2000
2001 4867 1.3 0 0 0 215
270 484 484 484 975 (1,185) 2001
2002 4867 1.3 0 0 0 236
481 717 717 717 1,185 (975) 2002
2003 4867 1.3 0 0 0 284
496 779 779 779 1,389 (7) 2003
2004 4867 1.3 0 0 0 302
480 781 781 781 1,572 (5) 2004
2005 4867 1.3 0 0 0 331
464 795 795 795 1,739 (4) 2005
2006 3539 1.1 0 0 0 268
450 718 718 718 1,874 (2) 2006
2007 3539 1.1 0 0 0 302
436 738 738 738 1,998 (1) 2007

2008 2578 0.6 0 0 0 239
423 662 662 662 2,097 (63) 2008
2009 2578 0.6 0 0 0 261
409 670 670 670 2,187 27 2009
2010 2578 0.6 0 0 0 224
395 619 619 619 2,262 102 2010
2011 0 0.0 0 0 0
380 380 380 380 2,302 143 2011
NPV 4,358 9.5 $380 $2,160 $2,540 $1,744
$938 $2,683 $2,302 $143 2,302 $143 NPV

7.06 1.06

(ben./cost ratio)

Attachment 3
State Building (PSNH) Page 3 of 3
PROGRAM COST-BENEFIT ANALYSIS SUMMARY

ANNUAL Cum. Present Value
Savings Capacity PROGRAM COSTS
PROGRAM BENEFITS TOT.NET BENEFITS TOT.NET BENEFITS
Year (Sales) Equivalent Utility Direct Net Part. Tot Resource Production
Capacity Tot Resouce Rev Req Tot Resource Rev Req Tot Resource YEAR
(MWh) (MW) ($000's) ($000's) ($000's) ($000's)
($000's) ($000's) ($000's) ($000's) ($000's) ($000's)
1992 253 0.1 $119 $0 $119 $7
$0 $7 ($112) ($112) ($100) ($100) 1992
1993 253 0.1 0 0 0 8
0 8 8 8 (94) (94) 1993
1994 253 0.1 0 0 0 9
0 9 9 9 (87) (87) 1994
1995 253 0.1 0 0 0 9
0 9 9 9 (81) (81) 1995
1996 253 0.1 0 0 0 11
0 11 11 11 (75) (75) 1996
1997 253 0.1 0 0 0 12
0 12 12 12 (69) (69) 1997
1998 253 0.1 0 0 0 14
0 14 14 14 (62) (62) 1998
1999 253 0.1 0 0 0 15
0 15 15 15 (56) (56) 1999
2000 253 0.1 0 0 0 16
0 16 16 16 (50) (50) 2000
2001 253 0.1 0 0 0 18
12 30 30 30 (41) (41) 2001
2002 253 0.1 0 0 0 19
21 41 41 41 (29) (29) 2002
2003 253 0.1 0 0 0 19
22 41 41 41 (18) (18) 2003
2004 253 0.1 0 0 0 22
21 43 43 43 (8) (8) 2004
2005 253 0.1 0 0 0 21
20 42 42 42 1 1 2005
2006 253 0.1 0 0 0 25
20 44 44 44 9 9 2006
2007 253 0.1 0 0 0 26
19 45 45 45 17 17 2007
2008 253 0.1 0 0 0 27
19 46 46 46 24 24 2008
2009 253 0.1 0 0 0 27
18 45 45 45 30 30 2009
2010 253 0.1 0 0 0 31
17 48 48 48 35 35 2010
2011 253 0.1 0 0 0 30
17 47 47 47 40 40 2011
NPV 1,911 0.4 $107 $0 $107 $106
$41 $147 $40 $40 $40 $40 NPV

1.38 1.38

(ben./cost ratio)

NH.PUC*10/12/92*[73055]*77 NH PUC 643*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73055]

NEW ENGLAND TELEPHONE COMPANY

DE 92-171
ORDER NO. 20,627

77 NH PUC 643

New Hampshire Public Utilities Commission

October 12, 1992

Order Approving Reclassification of Certain Exchanges and Localities to Higher Rate Groups, Including Portions Serving Some Municipalities.

On September 15, 1992, New England Telephone (NET) or the (Company) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to reclassify the Colebrook, Belmont and Milford exchanges and localities that have exceeded their rate group limits, and to reclassify portions of exchanges and localities serving some municipalities; and

WHEREAS the Commission finds that pursuant to the company's tariff, NHPUC - No. 75, Part A, Paragraph 5.1.3, NET has sworn that the Company's records evidence that the total weighted main telephone exchange lines in the local service area of the respective exchange, locality, and/or municipality have exceeded the upper limit of the respective rate group for two consecutive annual study periods and are eligible for reclassification; and

WHEREAS the estimated increase in revenue for the first year as a result of this reclassification is $66,700; it is hereby

ORDERED, NET is authorized to implement the rate group reclassification submitted in the Company's filing of September 15, 1992; and it is

FURTHER ORDERED, NHPUC PUC Tariff No. 75, Part A - Section 5: Page 8, Nineteenth Revision

Page 22, Twelfth Revision

Page 23, Fourteenth Revision

Page 24, Eleventh Revision

Page 25, Eleventh Revision

Page 26, Twelfth Revision

Page 27, Tenth Revision

is approved; and it is

FURTHER ORDERED, NET will send an individualized notice by first-class mail to each customer directly affected by the rate group reclassification, on or before October 20, 1992, indicating the amount of the rate change for that customer; and it is

FURTHER ORDERED, this Order will be effective as of October 15, 1992.

By order of the New Hampshire Public Utilities Commission this twelfth day of October, 1992.

==========

NH.PUC*10/12/92*[73056]*77 NH PUC 643*BIRCHVIEW BY THE SACO, INC.

[Go to End of 73056]

BIRCHVIEW BY THE SACO, INC.

DR 89-207
ORDER NO. 20,628

77 NH PUC 643

New Hampshire Public Utilities Commission

October 12, 1992

Approval of $30,000 Rate Case Expense Recoupment

WHEREAS, Birchview by the Saco, Inc. filed a Summary of Rate Case Expenses on May 10, 1991 in the amount of $36,960.13, and

WHEREAS, the Commission noted, in its February 3, 1992 public meeting, that the rate case expenses were exceptionally high; and

WHEREAS, in Order No. 20,466, the Commission reopened this docket for the purpose of further investigation and review of whether or not it was prudent to accumulate all the charges in view of the responsibility of Birchview by the Saco, Inc. to maintain its appropriate accounting records and the review was performed; and

WHEREAS, Birchview by the Saco, Inc. filed on May 28, 1992 an Amended Petition for Approval of Rate Case Expenses which included, among other items, an updating of the rate case expenses through April 30, 1992 arriving at a total amount of rate case expenses incurred of $41,391.33; and

WHEREAS, on July 27, 1992, both the Commission Staff and Birchview by the Saco, Inc. filed a Joint Petition for Motion for Acceptance of Rate Case Expenses in the

amount of $30,000, as agreed to between Staff and Birchview by the Saco, Inc., and

WHEREAS, the Commission has indicated in the past its concern with respect to the amounts requested for rate case expenses because of the significant impact those costs have on customers; it is hereby

ORDERED, that the rate case expenses for Birchview by the Saco, Inc. be reduced to the jointly agreed amount of $30,000.00 to be collected from the customers; and it is

FURTHER ORDERED, that the allowed rate case expenses be recovered by means of a surcharge over a four-year period, and it is

FURTHER ORDERED, that an accounting of the rate case expense recovery at the end of each calendar year be filed with this Commission.

By order of the Public Utilities Commission of New Hampshire this twelfth day of October, 1992.

==========

NH.PUC*10/12/92*[73057]*77 NH PUC 644*NORTHEAST UTILITIES SERVICE COMPANY

[Go to End of 73057]

NORTHEAST UTILITIES SERVICE COMPANY

DR 92-068
ORDER NO. 20,629

77 NH PUC 644

New Hampshire Public Utilities Commission

October 12, 1992

Joint Petition for Approvals Necessary to Implement Terms of an Agreement with New Hampshire Electric Cooperative

Report and Order Approving Seabrook Valuation for Purposes of the Retail Rates of Public Service Company of New Hampshire

---

Appearances: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Rath, Young, Pignatelli and Oyer by William Ardinger, Esq. and Day, Berry and Howard by Robert P. Knickerbocker, Esq. for Northeast Utilities Service Company; Merrill and Broderick by Mark W. Dean, Esq. for the New Hampshire Electric Cooperative, Inc.; Senior Assistant Attorney General Harold T. Judd and Devine, Millimet and Branch by Frederick C. Coolbroth, Esq. for the State of New Hampshire; Business and Industry Association (limited intervenor) by Kenneth Colburn; McLane, Graf, Raulerson & Middleton by Steven Camerino, Esq. for National Rural Utilities Cooperative Finance Corporation; U.S. Department of Justice by J. Christopher Kohn for the Rural Electrification Administration; Orr and Reno by Peter Burger, Esq. for Granite State Hydro Power Association; Michael W. Holmes, Esq. of the Office of the Consumer Advocate on behalf of residential ratepayers; Amy L. Ignatius, Esq. on behalf of the Commission Staff

REPORT

I. PROCEDURAL HISTORY

On April 8, 1992 Public Service Company of New Hampshire (PSNH) and Northeast Utilities Service Company (NUSCO) filed a Joint Petition for Approvals Necessary to Implement Terms of an Agreement with New Hampshire Electric Cooperative (NHEC). The Agreement between NUSCO/PSNH and NHEC was an integral part of NHEC's Joint Plan of Reorganization, which was approved by the United State Bankruptcy Court on March 20, 1992 and by the New Hampshire Public Utilities Commission (Commission) in Re New Hampshire Electric Cooperative, DR 92-009, by Report and Order 20,618 (October 5, 1992).

On May 26, 1992, by Order No. 20,489, the Commission directed PSNH/NUSCO to file supplemental testimony to address the issue of the reasonableness for purposes of PSNH's retail rates of the valuation of $101 million for NHEC's Seabrook interest, which is embodied in the Revised Sellback Agreement (RSA). On July 1, 1992 the Commission corrected an error of lack of notice by issuing an Order of Notice that provided for intervention and established a date for hearing as on or after July 13, 1992. The hearing on the merits was held on July 17,

1992. Briefs were filed in the joint DR 92-009/DR 92-068 proceedings on August 10, 1992. Only PSNH/NUSCO addressed the DR 92-068 issue of the reasonableness of the $101 million valuation for NHEC's Seabrook share.

II. POSITIONS OF THE PARTIES

PSNH/NUSCO testified that there are grounds for the Commission to find a value for NHEC's Seabrook interest between $72.5 million and $126 million and that the $101 million contained in the RSA is within the range of values that could be expected from a fully litigated proceeding. The $101 million value results in PSNH's retail ratepayers paying approximately the same per kilowatt hour for NHEC's entitlement of Seabrook as they pay for PSNH's share valued at $1.5 billion, which the Commission found reasonable in Re Northeast Utilities/Public Service Company of New Hampshire, 114 PUR4th 385 (1990) (DR 89-244). PSNH/NUSCO argues that the value of PSNH's interest is the appropriate standard for the reasonableness of the value of NHEC's share within the RSA because, but for the Sellback Agreement, NHEC would not have purchased its 25 MW share of Seabrook and PSNH's own holding would be greater by that amount.

PSNH/NUSCO contends that the settlement with NHEC does not result in higher rates to PSNH's ratepayers than was intended at the time its Rate Agreement was developed. At that time, no value had been established for NHEC's share. The avoided cost calculation was used in the calculation of the annual base rate level of fuel and purchased power charges (BA), but Section 12 of the Rate Agreement provided that the Agreement could be re-negotiated to recognize changes in the Sellback Agreement. Further, Exhibit C, Paragraph B.K specified the mechanism by which amounts in excess of avoided cost could be deferred and amortized during the fixed rate period if necessary to maintain the 5.5 percent rate increase assumptions.

PSNH/NUSCO testified that the difference between the total cost to PSNH under the

Seabrook Contract and the avoided cost assumed in the BA is approximately $6.7 million per year during the fixed rate period. However, it argues that this level of total cost embodied in the RSA is $16 million less than the costs reflected in the Sellback Agreement approved by the Commission in Re New Hampshire Cooperative,Inc., 124 PUR4th 135 (1991). Under the original Sellback Agreement, the depreciated value of NHEC's interest would have been $118 million, while the RSA has reduced the valuation by $17 million of payments by NHEC to the Rural Electrification Administration (REA), which the REA has agreed to treat as a principal payment.

Finally, PSNH/NUSCO argue that PSNH ratepayers benefit from the Settlement with NHEC because it allows PSNH to retain NHEC as a wholesale customer and resolves all of the disputes between the two companies.

During the hearing on the merits, Staff explored how the valuation of NHEC's Seabrook interest flows through to PSNH's retail rates, NUSCO/PSNH's calculation of the total cost of service for NHEC's interest and its comparison to the avoided cost assumed in the BA of PSNH's Rate Agreement, the comparison between the cost per kilowatt hour of PSNH's share and NHEC's share, and the value of the overall settlement to PSNH ratepayers. Staff, however, did not take a position on the reasonableness of the valuation of NHEC's Seabrook interest within the RSA for purposes of PSNH's retail rates.

No other party inquired or stated a position regarding the issue of the valuation of NHEC's Seabrook interest.

III. COMMISSION ANALYSIS

In Re New Hampshire Electric Cooperative, DR 92-009, Report and Order 20,618 (October 5, 1992), the Commission found that, from the perspective of the NHEC ratepayers, the Revised Sellback Agreement is in the public good. We noted that the Agreement complied with our Order 20,122 in DR 90- 078 in that it incorporates the $126 million value for NHEC's Seabrook investment

Page 645

found reasonable there for purposes of the wholesale buyback/sellback agreement. We deferred consideration of whether the terms of the RSA resulted in reasonable retail rates for customers of PSNH to this separate Order. As noted in Order 20,122, while we found the valuation of $126 million reasonable for purposes of the wholesale agreement, we did not approve recovery of all of PSNH's sellback costs from retail ratepayers. The Commission, and the parties to the PSNH Rate Agreement, contemplated a future proceeding to resolve this final issue. We can now make that determination based on the record before us.

The valuation for NHEC's interest in the RSA is derived by reducing the value that the Commission found reasonable for wholesale purposes ($126 million) by $17 million of payments made by NHEC to the REA, which during the negotiations the REA agreed to treat as principal rather than interest payments. Depreciation is based on the resulting figure of $109 million; by the First Effective Date, the valuation for NHEC's Seabrook share has been reduced by $8 million of accumulated depreciation to $101 million. Thus, the cost of service on which the RSA is predicated includes a return at NHEC's Seabrook cost of capital on an investment of

$101 million at the First Effective Date.

NUSCO/PSNH advances several arguments to support its contention that the cost of service in the RSA is reasonable and should be approved in its entirety for retail ratemaking. We are not persuaded that the calculation that the cost of service is less than the costs reflected in the Sellback Agreement approved in DR 90-078, by itself, supports a conclusion that the costs of the RSA are reasonable. The basis for our findings in DR 90-078 are fully explained in Order No. 20,122 and we will not repeat them here. As noted by NUSCO/PSNH our finding that a valuation that is reasonable for a wholesale transaction is not necessarily appropriate for the resulting retail rates is one of the grounds for NUSCO/PSNH's pending appeal of Docket DR 90-078.

Similarly, we are not persuaded that this particular issue must be resolved in PSNH's favor because it is part of a global resolution to the outstanding issues being litigated between PSNH and NHEC. While it is true that PSNH benefits from the combination of the retention of NHEC as a customer and the Revised Sellback Agreement, the risks of both the costs in the Sellback Agreement and of reduced load growth were intended to be borne by PSNH's stockholders, not the ratepayers.

Fortunately, we are not faced with the choice of foregoing the overall benefits of the global settlement only by approving a Revised Sellback Agreement that would be considered unreasonable in isolation. NUSCO/PSNH has demonstrated that the costs of the Sellback on a per kilowatt basis are approximately the same as the cost of PSNH's own Seabrook interest. The higher per kilowatt cost for the 25 MW ($101 versus $91 million approved in DR 89- 244) are off-set by NHEC's lower cost of capital (9.3% versus approximately 11.26%).

In Order No.20,618 we found that the Revised Sellback Agreement is in the public good from the perspective of the NHEC ratepayers in part because it

> fulfills the legitimate expectations of NHEC ratepayers who had conditioned their participation in the construction of Seabrook on the promise that, if they chose, PSNH would purchase their Seabrook energy and capacity in the first ten years of commercial operation, and therefore on the guarantee that during those years they would not be disadvantaged by their investment.
>
> At 28.

Equally, we can find here that it is in the public good from the perspective of PSNH ratepayers because they, too, are not disadvantaged by NHEC's participation in Seabrook and the concomitant Sellback Agreement. Had NHEC not participated in the project, the 25 MW would have remained in the possession of PSNH. Given the similarity of the costs of service, PSNH ratepayers will bear the same costs under the current arrangement as they would have faced absent

the entire transaction. Therefore, we will approve the costs of service embodied in the Revised Sellback Agreement in their entirety for the purposes of PSNH's retail rates.

Our Order will issue accordingly.

Concurring: October 12, 1992

ORDER

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

ORDERED, that the Seabrook valuation embodied in the Revised Sellback Agreement between Northeast Utilities Service Corporation/Public Service Company of New Hampshire (PSNH) and the New Hampshire Electric Cooperative, Inc. be, and hereby is, approved for the purposes of the retail rates of PSNH.

By order of the New Hampshire Public Utilities Commission this twelfth day of October, 1992.

==========

NH.PUC*10/13/92*[73058]*77 NH PUC 647*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73058]

NEW ENGLAND TELEPHONE COMPANY

DF 92-191
ORDER NO.20,630

77 NH PUC 647

New Hampshire Public Utilities Commission

October 13, 1992

Order Authorizing Increase in Shelf Authority

WHEREAS, New England Telephone & Telegraph Company (New England Telephone or the company) filed an application on October 2, 1992 with the commission requesting the authority to issue and sell debt securities under a shelf registration arrangement and approval for amortization of the call premiums associated with the refinanced issues over the life of the replacement issues; and

WHEREAS, the total amount of debt securities to be issued under this application will not exceed $500 million; and

WHEREAS, the company has requested this authority be under the terms and conditions specified in NHPUC Order No. 20,139; and

WHEREAS, the proceeds from these debts securities will be applied to refinancing higher

coupon debt; and

WHEREAS, the company has requested expeditious approval of the proposal; and

WHEREAS, Order No. 20,139 referenced New England Telephone's belief that over the next few years capital markets might provide financially advantageous opportunities to exercise possible refinancing of existing debenture issues, with newly issued debt securities to be offered at a lower rate of interest; and

WHEREAS, New England Telephone's embedded cost of debt and its overall cost of capital would thus be reduced; and

WHEREAS, this commission finds that the issue and sale of the debt obligations upon the proposed terms will be consistent with the public good; and

ORDERED, that the company, be and hereby is, authorized to issue and sell debt securities not to exceed $500 million and amortize the call premiums associated with the refinanced issues over the life of the replacement issues; and it is

FURTHER ORDERED, that the company forward a report to the commission on any debt issuances or equity infusions within thirty days of receipt of the proceeds, the notice will provide the type of securities, precise maturity date, purchase price, rate of interest and cost to the company per annum.

FURTHER ORDERED, that New England Telephone be and hereby is authorized under RSA 369:1 to borrow up to $500 million, evidenced by notes or other evidences of indebtedness, and to enter into agreements reflecting such indebtedness; and it is

FURTHER ORDERED, that on or about January first and July first in each year, New England Telephone shall file with this commission a detailed statement, duly sworn by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of such financing, until the expenditure of the whole of said proceeds shall have been fully accounted for.

Page 647

By order of the New Hampshire Public Utilities Commission this thirteenth day of October, 1992.

==========

NH.PUC*10/13/92*[73059]*77 NH PUC 648*ATC NEW HAMPSHIRE, INC.

[Go to End of 73059]

ATC NEW HAMPSHIRE, INC.

DE 92-190
ORDER NO.20,631

77 NH PUC 648

New Hampshire Public Utilities Commission

October 13, 1992

Order NISI Approving Real Time ANI Service and Association Saver/FundRaiser Programs, Revising 800 Call Reference/Referral Service and Revising Various Rates.

On October 5, 1992 ATC New Hampshire, Inc. (ATC) or the (Company) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to: add Association Saver and FundRaiser programs, add a new rate schedule for OnLine Card Service, add features to Acclaim 800 service, add the 800 service Real Time Automatic Number Identification (ANI), revise rates and services for 800 Reference and Referral service, and make minor text changes; and

WHEREAS ATC, proposed the filing become effective November 1, 1992; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED NISI, ATC is authorized to implement the services and rates submitted in the Company's filing of October 5, 1992; and it is

FURTHER ORDERED, ATC New Hampshire's NHPUC PUC Tariff No. 1,

1st Revised Page No. 1.1

1st Revised Page No. 3

1st Revised Page No. 29

Original Page No. 29.1

Original Page No. 29.2

1st Revised Page No. 37

Original Page No. 37.1

Original Page No. 37.2

Original Page No. 37.3

1st Revised Page No. 39

Original Page No. 39.1

is approved; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, ATC cause an attested copy of this Order Nisi to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be documented no later than October 23, 1992, and is to be documented by affidavit filed with this office on or before November 10, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than November 7, 1992; and it is

FURTHER ORDERED, that ATC file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order Nisi will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirteenth day of October, 1992.

==========

NH.PUC*10/13/92*[73060]*77 NH PUC 649*WILTEL OF NEW HAMPSHIRE, INC.

[Go to End of 73060]

WILTEL OF NEW HAMPSHIRE, INC.

DE 91-165
ORDER NO. 20,632

77 NH PUC 649

New Hampshire Public Utilities Commission

October 13, 1992

Order Granting Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire, and Granting Waiver of Certain Rules

---

On October 9, 1991, the New Hampshire Public Utilities Commission (Commission) received a petition from WilTel, Inc., since incorporated as WilTel of New Hampshire, Inc. (WilTel), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, WilTel proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so- called competition docket; and

WHEREAS, the Commission finds that WilTel demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, WilTel filed a timely and proper "Motion for Waiver of Accounting Rules," specifically NH Admin Rules Puc 406.03 - Accounting Rules, 409 - Uniform System of Accounts (USOA), and 407.02 - 407.13 - Forms Required for All Telephone Utilities; and

WHEREAS, the Commission has previously found that granting similar waivers of certain rules is in the public interest, and granted a similar waiver to U.S. Sprint in Order No. 19,764, dated March 19, 1990; and

WHEREAS, Wiltel represents that it uses Generally Accepted Accounting Practices (GAAP); and WHEREAS, the Commission finds that granting WilTel the limited waiver of rules is in the public interest; and WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 7, 1992; and it is FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than October 23, 1992. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before November 10, 1992; and it is FURTHER ORDERED, NISI, that WilTel's Motion for Waiver of Accounting Rules, received by the Commission on September 17, 1992, described above, and limited to the specifically referenced rules, hereby is granted; and it is FURTHER ORDERED, NISI, that WilTel hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions: that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis; that WilTel shall notify each of its customers requesting this service that the

Page 649

service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;

that WilTel shall notify the Commission of its rates by filing a schedule of such rates pursuant to RSA 378:1 within one day after offering service and shall subsequently file any change in rates to be charged the public within one day after offering service at a rate other than the rate on file with the Commission;

that WilTel shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400, except those specifically waived above;

that WilTel shall be subject to all reporting requirements contained in RSA 374:15-19;

that WilTel shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its

relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;

that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

that WilTel shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, WilTel shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;

that WilTel shall report revenues associated with each service on a monthly basis;

that WilTel shall report the number of customers on a monthly basis;

that WilTel shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow WilTel to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, WilTel file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that such authority shall be effective 30 days from the date of this order, unless a hearing is requested as provided above or the Commission otherwise orders prior to the proposed effective date.

By order of the New Hampshire Public Utilities Commission this thirteenth day of October, 1992.

==========

NH.PUC*10/13/92*[73061]*77 NH PUC 650*GENERIC DISCOUNTED RATES DOCKET

[Go to End of 73061]

GENERIC DISCOUNTED RATES DOCKET

DR 91-172
ORDER NO. 20,633

77 NH PUC 650

New Hampshire Public Utilities Commission

October 13, 1992

Report and Order Regarding Discounted Rates and Special Contracts

---

Appearances: Thomas B. Getz, Esq. for Public Service Company of New Hampshire, Inc,; Rath, Young, Pignatelli and Oyer by Eve H. Oyer, Esq. for Northeast Utilities Service Company, Inc.; LeBoeuf, Lamb, Leiby and MacRae by Scott J. Mueller, Esq. for Northern Utilities, Inc.; LeBoeuf, Lamb, Leiby and MacRae by Paul B. Dexter, Esq. for Concord Electric Company and Exeter and Hampton Electric Company; David J. Saggau, Esq. for Granite State Electric Company; Jacqueline

Page 650

Lake Killgore, Esq. for EnergyNorth Natural Gas, Inc.; Ransmeier and Spellman by Dom D'Ambruoso, Esq. and Scott Alexander, Esq. for Anheuser-Busch Companies, Inc.; Shelley A. Nelkens, pro se; Kenneth A. Colburn for Business and Industry Association of New Hampshire; Rudolph Cartier, Jr. for Energy Services Group, Inc.; Office of Consumer Advocate by Michael W. Holmes,Esq. for Residential Ratepayers; James T. Rodier, Esq. for the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

By Order of Notice dated October 21, 1991, the New Hampshire Public Utilities Commission (Commission) opened docket DR 91-172 to commence a generic investigation into the policy considerations and procedural questions raised by discounted utility rates for certain customers. The matter came to Commission concern as a result of testimony filed by Staff of the Commission (Staff) in DR 90-187, in connection with a special contract proposed between EnergyNorth Natural Gas, Inc. (ENGI) and Hadco Corporation (Hadco) as part of ENGI's rate case.

During the course of DR 90-187, it was agreed that the issues raised by the Hadco contract should be addressed as part of a generic proceeding, with notice to all utilities and other potential intervenors. The parties and Staff agreed to an expedited procedural schedule, calling for discovery, testimony and hearings in February, 1992. Parties to DR 90-187 were automatically made parties to the generic discounted rates docket, without the need to file new motions to intervene; others seeking intervention were given an opportunity to enter the case. At the prehearing conference on November 14, 1992 the Commission granted intervention to the Business and Industry Association of New Hampshire (BIA), Concord Electric Company and Exeter and Hampton Electric Company (Exeter), Granite State Electric Company (Granite State), and Shelley A. Nelkens.

II. SCOPE OF THE PROCEEDING

Parties and those seeking intervention filed written memoranda on scope of the docket, types of utilities to be made parties to the investigation, circumstances in which discounted rates should be granted, whether both firm and interruptible service rates should be included in the investigation and, in the case of Northern Utilities, whether such an investigation was even appropriate. By Order No. 20,329, the Commission determined that all utilities were to be included within this proceeding, with the exception of telecommunications utilities, in that the

telecommunications utilities were already extensively involved in DE 90-002 (the Generic Competition Docket) and DR 91-084 (the Collaborative Docket), both of which deal with issues of rates, incentives and policy questions in telecommunications regulation. In addition, the scope of the proceeding was limited to firm contracts for services.

During the pendency of the generic docket, special contracts filed pursuant to RSA 378:18 were not to be held in abeyance or accorded expedited treatment and in fact the Commission considered and acted upon special contracts submitted while the docket was being considered. The Commission asked the parties and Staff to address whether standards, if adopted, should distinguish between new and existing customers.

III. POSITIONS OF THE PARTIES AND STAFF

A. Anheuser-Busch Companies, Inc.

Although a party, Anheuser-Busch did not present testimony or file a brief in this case.

B. Business and Industry Association

The BIA argues that discounted rates should be available to both existing and new customers, and should not be limited to those cases in which the discount would result in new

Page 651

jobs. The Commission should establish a voluntary discount program, with general standards rather than a contract by contract approval process. Before any customer could receive a discount, it would have to participate in all available conservation and load management programs. Risks of revenue loss should be shared between shareholders and ratepayers, in cases involving discounts to retain existing load.

C. Concord Electric/Exeter and Hampton

Although parties, Concord Electric and Exeter and Hampton did not testify or file briefs in this case.

D. Dept of Resource and Economic Development

DRED argues that its existing program on economic development should be tapped as a resource for any company seeking assistance in expansion, or at risk of loss of jobs due to energy costs. DRED encourages greater coordination between the Commission, utilities and utility customers.

E. EnergyNorth Natural Gas, Inc.

Although a party, ENGI did not testify or file a brief in this case.

F. Energy Services Group, Inc.

Although a party, Energy Services Group, Inc. did not testify or file a brief in this case.

G. Granite State Electric Company

Granite State argues that the Commission should develop standards for new load growth (whether by attracting new customers or encouraging existing customers to expand their load) but should not allow discounts designed to either retain existing customers who consider leaving

the area due to energy costs, keep customers from changing to co- generation or prevent customers from closing down their businesses entirely due to financial distress. Although it considers retention of these customers a sound goal, Granite State believes discounts for these reasons are too difficult to determine and give rise to a risk of "free riders" to the disadvantage of other customers and ratepayers. For these customers, the utility should offer alternative forms of relief, such as encouraging participation in conservation and load management programs, offering credits if the customer agrees to take interruptible load at peak usage times and other incentives to use off-peak energy.

Discounts should be limited to those companies which demonstrate the discount will benefit other customers and the state, specifically by commitment of a 5% increase in employees. All participants should be required to engage in available conservation and load management programs. Discounts should be between marginal cost and average cost, but in no event more than 20% of the tariffed rate, and should be embodied in contracts of no greater than two years duration.

H. Shelley Nelkens

Although a party, Ms. Nelkens did not testify or file a brief in this case.

I. Northern Utilities, Inc.

Northern argues that standards need not be set, and the Commission should continue to review special contracts as it has in the past. If standards are to be set, however, Northern suggests discounts be allowed for both existing and new load and should be granted only when the utility can establish there is no net harm to the public. In considering the costs and benefits of the program, societal costs in general should be considered, (such as creation of jobs or other "externalities") and not merely the benefits to a utility or a particular customer.

Discounts should fall between marginal cost and embedded cost and the Commission should not distinguish between electric and gas services. An expedited review process should be available for contracts which follow standard, pre- approved terms (excluding rate and term of years).

Page 652

J. PSNH/NUSCO

PSNH/NUSCO argue that PSNH has long had a program known as the Developmental Incentive Rate Contracts program, by which lower rates may be approved for new and expanded load over 300 kilowatts, so long as the rate is above marginal cost plus contribution towards fixed costs and does not result in harm to other customers. The degree of detail required by a customer to qualify for the special rate is so extensive, according to PSNH, that there is little risk of "free riders" unfairly qualifying for the program. PSNH suggests adoption of a streamlined special contract process for review of such rates. PSNH seeks approval, however, for promotional or retention rates, also referred to as competitive rates, in order to protect existing customers from having to share stranded costs among a smaller base if certain customers were to leave the system. The Commission should not set a limit on the amount of a discount, but should be free in a subsequent rate case to disallow it, if the amount is excessive. PSNH is not

encouraging the Commission to develop a program for economic development rates.

A utility should be able to elect one of two approval mechanisms for a contract: a traditional review or an expedited review. Risks of lost revenue should be shared between ratepayers and shareholders, in accordance with the process selected; shareholders should undertake more risk if the utility elected the expedited process. The standard for approval of a discounted rate should be by a preponderance of the evidence and should be on the basis of special (but not "unique" or "one-of-a-kind") circumstances.

While attracting or retaining business in the state is important, that should not be the sole criteria for approval of a special rate. Only if a utility seeks recovery of lost revenue should the Commission consider whether the contract was a substantial basis for the company's decision to come to or remain in the state. K. Office of Consumer Advocate

The OCA is opposed in most cases to discounted rates, and believes a generic approach to such issues is unwise. If, however, the Commission were to develop a set of standards for discounted rates, they should include a requirement that rates only be allowed for new load created because of the discount, when jobs within the utility's franchise area will be created as a result of the discounted rate and when excess capacity is present. If excess capacity is no longer available, the discount may be revoked. Discounts should not go below marginal cost plus a reasonable margin, and should be limited to a one or two year term. Shareholders should be put at risk for any loss in revenue, which will ensure that no "free riders" are improperly obtaining the discount.

Any customer seeking a reduced rate should work first with DRED and take advantage of all conservation and load management programs available. The Commission should not establish an economic development program, as such social ratemaking is inappropriate without clear legislative mandate.

L. Commission Staff

Staff distinguished between two types of discounted rates, those designed to promote economic development (primarily jobs creation) and those to respond to competitive pressures (such as to assist a distressed company, or to keep a customer which might otherwise undertake co-generation). Staff argued that economic development rates should be the result of legislation, and are not properly within the purview of the Commission. If economic development rates were to be pursued, however, Staff argued that they should not be instituted at the risk of shareholders for any loss in revenue. Such rates should be available for new and incremental load, but not for existing load.

If competitive rates were to be adopted, shareholders should be at risk for lost revenue. Rates should be available to new or

incremental load but not to existing load.

Regardless of the type of discounted rates, they should apply equally to gas and electric utilities, should be on the basis of clear and convincing evidence and all terms should be subject to public notice and comment. Discounts should be pursuant to a set percentage off the tariffed

rate, rather than being a term open to negotiation between each customer and the utility. The percentage discount, however, should never fall below marginal cost of service.

IV. COMMISSION ANALYSIS

We have considered the evidence introduced at the hearings and the thoughtful and provocative briefs filed by the parties and Staff. After thorough review, we have reached the following conclusions:

The record and briefs have provided us with valuable information on which to evaluate special contracts as they are filed in the future, and we trust have helped to crystallize for all parties and the Staff the competing interests to be served when considering a discounted rate. We do not find it necessary or appropriate at this time, however, to create a mechanism outside the authority granted us in RSA 378:18 for review of special contracts.

Though we do not see a need to create a new mechanism for review of special contracts, it is perhaps useful to identify for all utilities and the public the types of issues we will seriously consider when reviewing special contracts.

A. We find the testimony of Dr. Voll extremely helpful in differentiating between rates designed for economic development and those designed to retain competitive market share. We find both types of discounted rates to be in the public interest. We agree with the testimony of the BIA, PSNH and others, that retention of existing customers and existing load is critical and, therefore, will not limit special contracts to those situations involving new customers or new load for existing customers. Creation of new jobs is one factor to be considered; retention of existing jobs, if shown by the utility and its customer, will also be given consideration. These are important factors because both the retention and addition of customers obviously have an impact on other customers and the rates which they pay. Further, we will not limit our consideration to those situations in which excess capacity is present, as urged by some parties.

B. We believe special contracts should be finite in term but believe the length of that term should depend upon the circumstances involved and the evidence presented. Customers should never consider a discount a "right" to which they are entitled in the future, and any request for renewal of a special contract must be accompanied by supporting data indicating why there continues to be a need for a discount.

C. While we do not intend to set limits on the amount of a discount, we will not approve any rate which falls below long run marginal cost.

D. Because of the potential for "free riders" we expect any request for a special contract to have been thoroughly scrutinized and reviewed critically by a utility before its submission. We will not approve special contracts simply on the representation that "special circumstances exist" or that a discount is necessary "to maintain competitive advantage" without further support. We do not feel it is appropriate for special contracts to be a means by which a utility regularly offers something other than its tariffed rate, and if we become aware of an abuse of the special contract process, we will undertake an investigation to determine whether the "discount" should really be a specially tariffed rate for a certain class of customers.

E. We find no reason to establish separate criteria for the gas and electric industries, as some have suggested. We note, however, that we do not believe it appropriate for the special contract

process to be a means by which a utility seeks to gain unfair advantage over a competitor. If we become aware of an abuse of

the special contract process, we will undertake an investigation to determine whether the "discount" is really a form of predatory pricing or other method of unfair competition.

F. We believe that the element of risk of revenue loss is critical in any special contract request. We do not believe it is appropriate to establish a risk sharing formula at this time, but may consider development of such a formula through the rulemaking or legislative process in the future. Under no circumstances, however, will we approve any special contract which puts the State as a whole or other ratepayers at substantial risk. We may, on a case by case basis, approve special contracts subject to the risk of revenue loss being shared between ratepayers and shareholders, or borne by shareholders in their entirety. Further, we shall consider disallowance of any lost revenue in future rate cases if we find that evidence shows that a utility's representations regarding the need for a discount were inaccurate or that the utility otherwise acted imprudently in seeking approval for such a discount.

G. We believe that it is important to show that the customer on whose behalf the special contract is sought has made every effort to decrease its utility bill and that the special contract is a last resort. For this reason it is important that there be a showing that the customer has taken advantage of available conservation and load management programs or is committed to participating in such programs that become available during the term of the contract.

H. We acknowledge the testimony of many parties that the existing special contracts review process is time-consuming, as well as the Staff's concern that the process is administratively difficult and at times presents impossible determinations of a customer's true motivations when, for example, it states it will not remain in New Hampshire unless it obtains a discount. We will make every effort to streamline our process so that utilities know in advance what information must be submitted with a special contract request. We appreciate PSNH's suggestions along these lines, and encourage the Staff to develop a "checklist" of necessary information for all special contract requests, which can be followed by a utility in preparing a filing with the Commission.

I. In so far as the burden of proof in the special contract review process is concerned, we see no reason to change the prevailing "preponderance of the evidence" standard which is used by this Commission and most administrative agencies.

J. Finally, we do not believe the Commission is the appropriate agency to develop an economic development program, particularly as there is already such a program in place within DRED. We encourage every utility and customer to take advantage of DRED's assistance, which the agency offered in the course of the hearings, and if a more expanded program is necessary, to seek such expansion through the executive branch, the legislature, and the rulemaking process. The Commission, of course, stands ready to coordinate with DRED to the extent it is able and remains interested in learning ways in which it can further contribute to economic development in the State.

Our order will issue accordingly.

Concurring: October 19, 1992

ORDER

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

ORDERED, that any and all requests for special economic development and retention rates are denied; and it is

FURTHER ORDERED, that special contracts submitted shall be reviewed in accordance with RSA 378:18 and the foregoing report.

By the order of the Public Utilities Commission of New Hampshire this nineteenth day of October, 1992.

==========

NH.PUC*10/20/92*[73062]*77 NH PUC 656*FRYEBURG WATER COMPANY

[Go to End of 73062]

FRYEBURG WATER COMPANY

DR 92-175
ORDER NO. 20,634

77 NH PUC 656

New Hampshire Public Utilities Commission

October 20, 1992

Order Suspending Proposed Increase in Rates

On September 21, 1992, Fryeburg Water Company, a public utility engaged in the business of supplying water service in the State of Maine, as well as a limited area in the State of New Hampshire, filed with the New Hampshire Public Utilities Commission revisions to its effective tariff which would include customers served in the Town of East Conway, New Hampshire; and

WHEREAS, the proposed effective date is October 20, 1992; and

WHEREAS, the proposed increase for those customers served by Fryeburg Water Company in East Conway, would result in an annual increase of 10.1%; and

WHEREAS, a thorough investigation is necessary prior to rendering a decision on the proposed increase; it is hereby

ORDERED, that NHPUC No. 7, Fryeburg Water Company, Seventh Revised Page Two, First Revised Page 3 and Fifth Revised Page 4, be and hereby are suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this twentieth day of October, 1992.

==========

NH.PUC*10/20/92*[73063]*77 NH PUC 656*NORTHERN UTILITIES

[Go to End of 73063]

NORTHERN UTILITIES

DR 92-174
ORDER NO. 20,635

77 NH PUC 656

New Hampshire Public Utilities Commission

October 20, 1992

Order Approving Interruptible Sales Contract for SEA-3, Inc.

WHEREAS, Northern Utilities filed on September 23, 1992 for approval of an interruptible gas sales contract between Northern and SEA-3, Inc., a propane import company located in Newington, New Hampshire; and

WHEREAS, on October 16, 1992 Northern filed a revision to page 3 of that contract amending the pricing formula which governs the price paid by SEA-3 for natural gas; and

WHEREAS, the proposed contract would allow SEA-3 to utilize natural gas instead of propane in its terminal operations; and

WHEREAS, the displaced propane could be sold to SEA-3 customers above the purchased price, thus generating additional profits for SEA-3; and

WHEREAS, to obtain gas burning capability Northern would have to install a gas service and meter set at an estimated cost of $23,000; and

WHEREAS, the proposed contract requires an up-front capital contribution from SEA-3 to cover Northern's investment cost; and

WHEREAS, the proposed contract allows SEA-3 to recover the contribution over time through the retention of 75% of the margin between Northern's gas cost (the floor price) and the posted price of propane; and

WHEREAS, the remaining 25% of margin would go to reduce gas costs to ratepayers; and

WHEREAS, after SEA-3 had recovered its capital contribution, the price of natural gas would equal the posted price of propane, and all of the margin between that price and Northern's floor price would go to reduce ratepayer gas costs; it is hereby

ORDERED, that the proposed revised interruptible sales contract between Northern and SEA-3 is reasonable, and in the public interest, and is therefore approved; and it is

FURTHER ORDERED, that Northern file with the commission a monthly report detailing the volumes sold to SEA-3, the sales price(s), Northern's floor price(s), the margins earned, and

the unrecovered capital contribution.

By order of the Public Utilities Commission of New Hampshire this twentieth day of October, 1992.

==========

NH.PUC*10/21/92*[73064]*77 NH PUC 657*GRANITE STATE TELEPHONE, INC.

[Go to End of 73064]

GRANITE STATE TELEPHONE, INC.

DE 92-193
ORDER NO. 20,636

77 NH PUC 657

New Hampshire Public Utilities Commission

October 21, 1992

Order Approving Public Access Line (PAL) Tariff and Granting Petition of Wilson's Triangle, Inc. for COCOT Service

---

On October 9, 1992, Wilson's Triangle, Inc. (Wilson) requested a tariff for Public Access Line (PAL) service (petition) in the service area of Granite State Telephone, Inc. (GST) for the provision of Customer-Owned Coin-Operated Telephone (COCOT) service; and

WHEREAS, Wilson is an authorized utility in the state for the limited purposes of providing COCOT service; and

WHEREAS, by Order No. 20,306 (November 19, 1991) in DE 91-187, the Commission ordered Bretton Woods Telephone Company to provide PAL service to allow COCOTs to operate in its franchised service territory; and

WHEREAS, by Order 20,438, (April 13, 1992) in DE 92-006, the Commission approved Merrimack County Telephone Company tariff to provide PAL service to allow COCOTs to operate in its franchised service territory; and

WHEREAS, GST has filed tariff pages, which make PAL service available to COCOTs in its franchised service territory; and

WHEREAS, the tariff pages proposed by GST will enable COCOT service to be provided in GST's franchised service territory which the Commission finds is consistent with the public good; and

WHEREAS, GST's tariff pages mirror the current PAL tariff pages offered to COCOTs by New England Telephone; and

WHEREAS, Wilson represents it has a bona fide customer for a pay phone and Wilson represents its COCOT service is competitive in nature; it is hereby

ORDERED, that the tariff pages NHPUC No. 6, Section 2, Original Sheet 5, Original Sheet 6

and Original Sheet 7, filed by GST on October 14, 1992, and filed for effect November 13, 1992 be and hereby are approved; and it is

FURTHER ORDERED, that the effective date of the above tariff pages shall be effective as of the date of this order; and

FURTHER ORDERED, that GST shall expedite installation of the service, as requested by the Wilson petition; and it is

FURTHER ORDERED, that GST file a compliance tariff of this order in accordance with New Hampshire Admin. Code Puc PART 1600, within 30 days of this order.

By order of the New Hampshire Public Utilities Commission this twenty-first day of October, 1992.

==========

NH.PUC*10/21/92*[73065]*77 NH PUC 657*GRANITE STATE TELEPHONE, INC.

[Go to End of 73065]

GRANITE STATE TELEPHONE, INC.

DR 92-166
ORDER NO. 20,637

77 NH PUC 657

New Hampshire Public Utilities Commission

October 21, 1992

Order Approving Special Contract No. 2 Between Granite State Telephone Company and The Town of Hillsborough, New Hampshire For the Provision of Basic 911

On September 4, 1992, Granite State Telephone Inc. filed with the New Hampshire Public Utilities Commission Special Contract No. 2 between itself and the Town of Hillsborough, New Hampshire for effect September 21, 1992; and

WHEREAS, this special contract provides basic 911 service charges for the Town of Hillsborough; and

WHEREAS, the Hillsborough dispatch center is located in a different telephone exchange franchised to GTE New Hampshire; and

WHEREAS, the residents of Hillsborough Upper Village are served by Granite State Telephone and the dispatch center is served by

GTE New Hampshire which are both located in the municipality of Hillsborough, New Hampshire; and

WHEREAS, this service will be used in the provision of communications for the protection of life and property; and

WHEREAS, the Commission finds the rates proposed for such service just and reasonable; and

WHEREAS, the Commission finds this special contract to be in the public good; it is hereby

ORDERED, that Special Contract No. 2 between Granite State Telephone Inc. and the Town of Hillsborough, New Hampshire, be and hereby is approved effective the date of this order.

By Order of the New Hampshire Public Utilities Commission this twenty-first day of October, 1992.

==========

NH.PUC*10/21/92*[73066]*77 NH PUC 658*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73066]

NEW ENGLAND TELEPHONE COMPANY

ORDER NO. 20,638
DR 91-170

77 NH PUC 658

New Hampshire Public Utilities Commission

October 21, 1992

Order Authorizing Approval of NET's Simplified Message Desk Interface

---

WHEREAS, on October 16, 1991, New England Telephone (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce Simplified Message Desk Interface (SMDI) for effect November 15, 1991; and

WHEREAS, on November 7, 1991 the proposed tariff pages were suspended by Order No. 20,293 to allow for further investigation; and

WHEREAS, the Commission staff has investigated this matter including the petition and responses to staff data requests; and

WHEREAS, upon review of the petition, the Commission finds the proposed offering to be in the public good; and

WHEREAS, the petition and its accompanying tariff filing support package included demand and associated revenue forecasts; it is therefore

ORDERED, that the following tariff pages of New England Telephone are approved:

NHPUC - No. 75

Part A - Section 6 - Page 17, Original;

- Page 18, Original;

and it is

FURTHER ORDERED, that the above tariff pages shall be effective as of the date of this order; and it is

FURTHER ORDERED, that the rates for this service be subject to review following the completion of the incremental cost study in April 1993; and it is

FURTHER ORDERED, that if review of the incremental cost study and subsequent discovery indicate that the rates are below their incremental costs, NET stockholders will make up the deficiency between the rates charged and the incremental costs, for the period during which the rates for this service did not cover their costs; and it is

FURTHER ORDERED, that NET shall report the number of customers served by analog and the number served by digital switches who subscribe to SMDI along with the associated revenues, for the first three years of the offering, on an annual basis, beginning one year following the effective date of the tariff; and it is

FURTHER ORDERED, that the above additions to NHPUC No.E75 Tariff be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twenty-first day of October, 1992.

==========

NH.PUC*10/21/92*[73067]*77 NH PUC 659*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73067]

NEW ENGLAND TELEPHONE COMPANY

DR 91-171
ORDER NO. 20,639

77 NH PUC 659

New Hampshire Public Utilities Commission

October 21, 1992

Order Authorizing Approval of NET's Call Forwarding II Tariff

---

WHEREAS, on October 16, 1991, New England Telephone (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce Call Forwarding II Service for effect November 15, 1991; and

WHEREAS, on November 7, 1991 the proposed tariff pages were suspended by Order No. 20,292 to allow for further investigation; and

WHEREAS, the Commission staff has investigated this matter including the petition and

responses to staff data requests; and

WHEREAS, upon review of the petition, the Commission finds the proposed offering to be in the public good; and

WHEREAS, the petition and its accompanying tariff filing support package included demand and associated revenue forecasts; it is therefore

ORDERED, that the following tariff pages of New England Telephone are approved:

NHPUC - No. 75

Part A -

Section 1 - Page 3, Fifth -Revision;

Section 6 - Page 1, Fifth Revision;

- Page 2, Eighth Revision;

- Page 2.1, Original;

and it is

FURTHER ORDERED, that the above tariff pages shall be effective as of the date of this order; and it is

FURTHER ORDERED, that the rates for this service be subject to review following the completion of the incremental cost study in April 1993; and it is

FURTHER ORDERED, that if review of the incremental cost study and subsequent discovery indicate that the rates are below their incremental costs, NET stockholders will make up the deficiency between the rates charged and the incremental costs, for the period during which the rates for this service did not cover their costs; and it is

FURTHER ORDERED, that NET shall report the number of business and residence customers who subscribe to Call Forwarding II and the associated revenues, for the first three years of the offering, on an annual basis, beginning one year following the effective date of the tariff;

FURTHER ORDERED, that the above additions to NHPUC No.E75 Tariff be resubmitted as required by Puc 1601.05 (k). By order of the New Hampshire Public Utilities Commission this twenty-first day of October, 1992.

==========

NH.PUC*10/21/92*[73068]*77 NH PUC 659*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73068]

NEW ENGLAND TELEPHONE COMPANY

DR 89-010/DR 85-182
ORDER NO. 20,640

77 NH PUC 659

New Hampshire Public Utilities Commission

October 21, 1992

Order Authorizing Administrative Filing Change

WHEREAS, on September 28, 1992, New England Telephone (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to make an administrative filing change to the Rate Group 6, 1-Party Unlimited Business Service rate; and

WHEREAS, the Commission staff has investigated this matter and confirmed that the tariff pages issued January 13, 1992 for effect January 20, 1992 in compliance with Order No.E20,082 in Docket No. DR 89-010/ DR 85-182 contained a typographical error; it is therefore

ORDERED, that the following revised tariff page of New England Telephone is approved:

Page 659

NHPUC - No. 75

Part A -

Section 5 - Page 9, Fifteenth Revision; and it is

FURTHER ORDERED, that the above tariff page shall be effective as of the date of this order; and it is

FURTHER ORDERED, that the above corrections to NHPUC No.E75 Tariff be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twenty-first day of October, 1992.

==========

NH.PUC*10/21/92*[73069]*77 NH PUC 660*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE AND NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73069]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE AND NEW ENGLAND TELEPHONE COMPANY

DE 92-088
SUPPLEMENTAL ORDER NO. 20,641

77 NH PUC 660

New Hampshire Public Utilities Commission

October 21, 1992

Order NISI Amending Order No. 20,492 to Authorize Two Electric and Telephone Submarine

Crossings of Bow Lake in the Town of Strafford, New Hampshire in Lieu of Originally Petitioned Aerial Crossings

---

On October 8, 1992 Public Service Company of New Hampshire and New England Telephone and Telegraph Company (petitioners) jointly filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to construct and maintain submarine electric and telephone crossings of Bow Lake in the Town of Strafford, New Hampshire; and

WHEREAS, the crossings are proposed to provide service to George DeCamp, owner of York Island and to Paul Longueil, owner of Middle Island, said islands being at the eastern end of Bow Lake; and

WHEREAS, the submarine crossings will require the placement of aerial facilities terminating at a new riser pole, identified as Public Service of New Hampshire (PSNH) pole 820/124A1 and New England Telephone and Telegraph Company (NET) pole 23/13-2L. Said aerial facilities will be located off Province Road on the northeast shore of Bow Lake, on the property of Mr. and Mrs. David W. Edsall, the location of which is covered by deeded easement on file at the Strafford County Registry of Deeds; and

WHEREAS, the crossings will consist of two segments: the first, a 120/240 volt secondary (350 MCM URD) with a single, five-pair submarine communications cable, starting at PSNH pole 820/124A1 and traveling underwater to an enclosure box at the DeCamp house on York Island, a distance of approximately 423 feet, and the second segment, a 120/240 volt secondary (3/0 URD) with a five-pair submarine communications cable, continuing from the enclosure on York Island, traveling underwater for a distance of approximately 303 feet to Middle Island, terminating at the Longueil house; and

WHEREAS, service was originally planned to be provided via aerial crossings approved by Commission Order 20,492 effective on June 24, 1992; and

WHEREAS, the plans have now been amended to incorporate underwater crossings versus aerial as a result of reconsideration by the parties; and

WHEREAS, plans and profiles of the proposed crossings are on file with this Commission; and

WHEREAS, included with the petition are copies of easements required for the crossings; and

WHEREAS, Mr. DeCamp, Mr. Longueil and Mr. and Mrs. Edsall have acquired the necessary permits from the State of New Hampshire Wetlands Board for the installation of conduit at the shoreline and copies of which are on file with the Commission; and

WHEREAS, the petitioners represent that the crossings will be constructed in accordance with all clearances and other requirements of the National Electrical Safety Code; and

WHEREAS, the Commission finds the above construction and maintenance is

necessary to enable the petitioners to provide service, without substantially affecting the public rights in the public waters of Bow Lake, and, thus, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 16, 1992; and it is

FURTHER ORDERED, that the petitioners jointly effect said notification by: (1) Causing an attested copy of this order to be published no later than October 30, 1992, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Strafford area; (2) Providing, pursuant to RSA 541-A:22, a copy of this order to the Strafford Town Clerk, by First Class U.S. mail, postmarked on or before October 30, 1992; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before November 19, 1992; and it is

FURTHER ORDERED NISI, that license be, and hereby is granted, pursuant to RSA 371:17, et seq., to Public Service Co. of NH, P.O. Box 330, Manchester, NH 03105 and to New England Telephone and Telegraph Co., 24 Prescott Road, Laconia, NH 03246, to construct and maintain the aforementioned crossings of submarine electric and telephone lines under Bow Lake in the Town of Strafford, New Hampshire, effective 30 days from the date of this order, unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the Town of Strafford; and it is

FURTHER ORDERED, NISI, that Commission Order No. 20,492 is rescinded.

By order of the New Hampshire Public Utilities Commission this twenty-first day of October, 1992.

==========

NH.PUC*10/21/92*[73070]*77 NH PUC 661*NORSTAN NETWORK SERVICES OF NEW HAMPSHIRE, INC.

[Go to End of 73070]

NORSTAN NETWORK SERVICES OF NEW HAMPSHIRE, INC.

DE 92-029
ORDER NO. 20,642

77 NH PUC 661

New Hampshire Public Utilities Commission

October 21, 1992

Order NISI Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On February 10, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Norstan Network Services, Inc., since incorporated as Norstan Network Service of New Hampshire, Inc. (NNS-NH), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, NNS-NH proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that NNS-NH demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they

may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 16, 1992; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than October 30, 1992. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before November 19, 1992; and it is

FURTHER ORDERED, NISI, that NNS-NH hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-

called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;

that NNS-NH shall notify each of its customers requesting this service that the service is

approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;

that NNS-NH shall file tariffs for new services and changes in existing services (other than rate changes), with effective dates no less than 30 days after the date the tariffs are filed with this commission

that NNS-NH shall notify the Commission of a change in rates to be charged the public within one day after offering service at a rate other than the rate on file with the Commission;

that NNS-NH shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400;

that NNS-NH shall be subject to all reporting requirements contained in RSA 374:15-19;

that NNS-NH shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;

that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

that NNS-NH shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, NNS-NH shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;

that NNS-NH shall report revenues associated with each service on a monthly basis;

that NNS-NH shall report the number of customers on a monthly basis;

that NNS-NH shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow NNS-NH to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, NNS-NH file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that such authority shall be effective 30 days from the

date of this order, unless a hearing is requested as provided above or the Commission otherwise orders prior to the proposed effective date.

By order of the New Hampshire Public Utilities Commission this twenty-first day of October, 1992.

==========

[Go to End of 73071]

TEL-SAVE, INC.

DE 92-067
ORDER NO. 20,643

77 NH PUC 663

New Hampshire Public Utilities Commission

October 22, 1992

Denial of Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On April 6, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Tel-Save, Inc. (TSI), a Pennsylvania corporation, for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, TSI proposes to do business as a reseller of "interexchange telecommunications service" statewide; and

WHEREAS, TSI has not demonstrated the "financial, managerial and technical ability" to offer service as a public utility, cited in Order No. 20,372, dated January 20, 1992; and

WHEREAS, TSI is not organized under the laws of New Hampshire, as required by RSA 374:22; and

WHEREAS, TSI has not responded to Staff's data requests of July 8, 1992 or Staff's data request of September 8, 1992; it is hereby

ORDERED, that TSI hereby is denied authority to offer intrastate long-distance telephone service in the state of New Hampshire without prejudice.

By order of the New Hampshire Public Utilities Commission this twenty-second day of October, 1992.

==========

[Go to End of 73072]

AT&T COMMUNICATIONS OF NEW HAMPSHIRE INC.

DE 92-169
ORDER NO. 20,644

77 NH PUC 663

New Hampshire Public Utilities Commission

October 22, 1992

Order NISI Approving AT&T Plan D Service

On September 15, 1992 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce AT&T Plan D Service, a switched telecommunications service which permits customers to designate either a single or multiple locations to be included under one main billed telephone number.

WHEREAS, AT&T proposed the filing become effective October 15, 1992; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 16, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order Nisi to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than November 2, 1992 and is to be documented by affidavit filed with this office on or before November 19, 1992; and it is

FURTHER ORDERED NISI, that the following tariff pages of AT&T Tariff PUC No. 1 CUSTOM NETWORK SERVICES, are approved:

Table of Contents:

7th Revised Page 1 Original Page 16

Section 14: Original Pages 1 through 8; and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order Nisi will be effective 30 days from the date of this

order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-second day of October, 1992.

==========

NH.PUC*10/26/92*[73073]*77 NH PUC 664*SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

[Go to End of 73073]

SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

DF 92-162
ORDER NO. 20,645

77 NH PUC 664

New Hampshire Public Utilities Commission

October 26, 1992

Report Approving Petition for Authority to Issue and Sell $6 million of its First Mortgage Bonds, Series "J", 8% due December 1, 2004 and Petition for Short-Term Debt Limit of $3 million.

APPEARANCES: Larry S. Eckhaus, Esq. for Southern New Hampshire Water Company, Inc., and Mary Jean Newell, Assistant Finance Director on behalf of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

By petition filed August 27, 1992, Southern New Hampshire Water Company, Inc. (Southern or the Company), a corporation duly organized and existing under the laws of the State of New Hampshire and operating therein as a water utility under the jurisdiction of the Public Utilities Commission (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 "J", 8% due December 1, 2004, in the aggregate principal amount of $6 million, and, pursuant to RSA 369:7 and Puc 609.18 to issue short-term notes not in excess of $3 million.

On October 1, 1992, the Commission issued an Order of Notice setting a hearing for October 20, 1992.

II. POSITION OF THE COMPANY

The Company presented the testimony of Robert W. Phelps, President, and Donna E. White, Vice-President and Treasurer.

According to their testimony, the bonds will carry an annual interest rate of 8% with a final

maturity of December 1, 2004. Interest is payable semiannually and the financing is secured by a mortgage lien on substantially all of the Company's utility property. The Company's witnesses also testified that the 8% interest rate was favorable when the financing was negotiated and is favorable today given current market conditions. Furthermore, the Company's overall cost of long term debt would be reduced from 10.44% to 9.25%.

The Company has arranged for a closing of its Series "J" financing on November 30, 1992. The proceeds of this bond closing are required to continue the Company's business plan of improving and expanding service to its customers, to reduce its short term debts, to refinance $1.2 million of Series "F" Bonds due December 1, 1992, to comply with Commission Order No. 20.340 (DF 91-182) and Order No. 20,476 (DF 92-089) and replenish working capital.

The Company is also seeking Commission approval to issue short-term debt not in excess of $3 million in order to provide necessary operating funds to meet capital requirements

Page 664

and for general corporate purposes in accordance with RSA 369:7 and Puc Rule 609.17.

III. COMMISSION ANALYSIS

Based upon our review of the record, we find the proposed financing to be in the public good. RSA 369:1, Appeal of Easton, 125 N.H. 205 (1984). The issuance of the bonds will allow the Company to replace a portion of its relatively volatile short-term debt with long-term debt having a fixed rate that we find reasonable in light of existing market conditions. Therefore, we will authorize the issuance of the $6 million First Mortgage Bonds, Series "J", due December 1, 2004.

The Commission also finds that it is unnecessary to address the issue of the short term debt level as the Company will not be exceeding the 10% of the utility's net assets less depreciation. The pro forma short-term debt would be $1,860,000, a reduction of $4,690,000 from the June 30, 1992 balance. Short-term debt would remain at a level of 7.6% of the capital structure, and 9.5% of utility plant net of depreciation.

In the past, the Commission had been concerned that the Company used short-term debt as a means of permanent financing. Short-term debt should be used as an interim step until permanent financing is accomplished. The amount of short-term debt in the present capital structure is extremely high. The Commission, in Order No. 20,476 (DF 92- 089), and Order No. 20,340 (DF 91-182) ordered Southern to pursue long term debt financing as quickly as possible while long term interest rates were low.

We find that Southern has now accomplished the long term financing and also a reduction of the short term debt component of capital structure. We find, based on the Company's testimony, that issuance expenses have been minimized through the use of in-house counsel, and other Company personnel to prepare the private placement memorandum, to draft the exhibits for this proceeding and to generally interface with the Company's independent counsel, special counsel and bond purchaser. Those costs as well as the external costs (Exhibit 3) are legitimate costs incurred in connection with the issuance and sale of said bonds and should be amortized over the life of the bonds.

Therefore, we will grant the Company's petition.

Our order will issue accordingly.

Concurring: October 26, 1992

ORDER

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

ORDERED, that the applicant, Southern New Hampshire Water Company, Inc., be and hereby is, authorized to issue and sell at private sale, for cash equal to the aggregate principal amount thereof, its First Mortgage Bonds, Series "J", 8%, due December 1, 2004, in the aggregate principal amount of $6 million; and it is

FURTHER ORDERED, that the proceeds of the issuance and sale of said long-term bonds, shall be applied to Southern New Hampshire Water Company, Inc.'s unsecured short-term debt, to the refinancing of $1.2 million of Series "F" Bonds due December 1, 1992, and for other corporate purposes; and it is

FURTHER ORDERED, that Southern New Hampshire Water Company, Inc. may grant a mortgage lien on substantially all of its utility property to secure payment of such bonds; and it is

FURTHER ORDERED, that all of the expenses reasonably incurred in connection with the issuance and sale of said bonds, shall be amortized by Southern New Hampshire Water Company, Inc. over the life of the bonds, in accordance with generally accepted accounting principles; and it is

FURTHER ORDERED, that finalized copies of the bond purchase agreement (Exhibit 9), the bond, the Tenth Supplemental Indenture (Exhibit 10), and a detailed accounting of the final actual issuance costs be filed with the Commission; and it is

FURTHER ORDERED, that on January 1st and July 1st of each year Southern New

Hampshire Water Company, Inc. shall file with this Commission, a detailed statement, duly sworn to be its Treasurer, showing the disposition of proceeds of said bonds until fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of October, 1992.

==========

NH.PUC*10/26/92*[73074]*77 NH PUC 666*NORTHERN UTILITIES, INC.

[Go to End of 73074]

NORTHERN UTILITIES, INC.

DC 92-086
ORDER NO. 20,646

77 NH PUC 666

New Hampshire Public Utilities Commission

October 26, 1992

AMENDMENT TO TARIFF

WHEREAS, on October 13, 1992 Northern Utilities, Inc. (company) submitted a revision to its tariff as recommended for consideration in Commission Order No. 20,474 dated May 8, 1992; and

WHEREAS, the company filed First Revised Page 6 Section 2, which requires application for service to a multi-unit dwelling that is supplied through a single meter to be made by the building owner who will be the customer of record, as the requested tariff change; and

WHEREAS, following review the commission believes this change to be in the public good; it is hereby

ORDERED, that First Revised Page 6 Section 2 of Tariff N.H.P.U.C. No. 8 - Gas NORTHERN UTILITIES, INC. is accepted as submitted.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of October, 1992.

==========

NH.PUC*10/26/92*[73075]*77 NH PUC 666*KEENE GAS CORPORATION

[Go to End of 73075]

KEENE GAS CORPORATION

DR 92-181
ORDER NO. 20,647

77 NH PUC 666

New Hampshire Public Utilities Commission

October 26, 1992

1992-1993 Winter Cost of Gas Adjustment

Appearances: For Keene Gas Corporation: John F. DiBernardo, Assistant General Manager and Mr. Harry B. Sheldon, Company President. For Staff: Richard B. Deres, PUC Examiner, Finance Department; with Mr. Richard G. Marini, Gas Safety Engineer; and Mr. Robert F. Egan, Utility Analyst; both of the PUC Engineering Department.

REPORT

On October 1, 1992, Keene Gas Corporation, (Keene or the Company), a public utility engaged in the business of distributing gas within the State of New Hampshire, filed with this

commission certain revisions to its tariff which provided for a winter period 1992-1993 Cost of Gas Adjustment (CGA), effective November 1, 1992. The filing requests a CGA rate of $0.1669 per therm, excluding the NH State Franchise Tax, which is an increase from the CGA rate of $(0.0411) per therm allowed by the commission for the prior winter period. The proposed CGA of $0.5883 per therm is an increase from the base rate of $0.4214 per therm excluding the NH Franchise Tax.

A duly noticed public hearing was held at the commission's office in Concord, NH on October 19, 1992.

Areas covered by direct testimony and cross examination of Company witness Mr. DiBernardo included: an explanation of the filing, the proposed impact of the new rates on the average customer, and the source of the interest rate used to calculate the CGA refund on prior balances.

Members of the Engineering Department asked questions in the area of transportation of product, sources of supply in this part of the country, as well as several questions on unaccounted for gas. Another area of inquiry

Page 666

was into recent improvements made to the production facilities. It was learned that the Company has replaced a second major regulator, and has refurbished 5 of the 6 jets used in the mixing process which resulted in an increase of approximately 15% to the production capabilities of the system.

In response to questions from the staff and the hearing examiner, Company President, Mr. Sheldon, explained what he believes may come to pass in the gas business in the relatively near future. From the possible early return to production of the drilling rigs in the gulf coast waters after the effects of Hurricane Andrew, to the possibilities of Iraq being allowed and Kuwait being able to once again sell their products in the world markets, and the combined effect of these things to price and gas supply later this winter period.

In the past, Keene has had between 1,000,000 to 3,000,000 gallons under contract during a winter's period. However, this year Mr. Sheldon has contracted for only 1,000,000 gallons as this winter period starts. He feels that based on the aforementioned events that the price may well come down and he would prefer not to be locked into higher priced contracts if there exists a reasonable good possibility that prices will move downward before the end of this winter period.

The projected sales, costs and adjustments to the 1992- 1993 winter CGA filing are consistent with those approved by the commission in past CGA's. The commission finds that Keene Gas Corporation's CGA rate of $0.1669 per therm is just and reasonable and therefore accepts it as filed.

Our order will issue accordingly.

Concurring: October 26, 1992

ORDER

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

ORDERED, that the 15th Revised Page 26, Superseding the 14th Revised Page 26 of Keene Gas Corporation Tariff, NHPUC No. 1 - Gas, providing for a Cost of Gas Adjustment of $0.1669 per therm for the period November 1, 1992 through April 30, 1993 be, and hereby is, approved; and it is

FURTHER ORDERED, that the revised tariff page approved by this order become effective with all billings issued on or after November 1, 1992; and it is

FURTHER ORDERED, that public notice of this Cost of Gas Adjustment be given by a one time publication in newspapers having a general circulation in the territories served; and it is

FURTHER ORDERED, the above rate is to be adjusted by a factor of approximately 1% according to the utilities classification in the Franchise Tax Docket DR 83-205, order no. 16,524.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of October, 1992.

==========

NH.PUC*10/27/92*[73076]*77 NH PUC 667*CLAREMONT GAS CORPORATION

[Go to End of 73076]

CLAREMONT GAS CORPORATION

DR 92-182
ORDER NO. 20,648

77 NH PUC 667

New Hampshire Public Utilities Commission

October 27, 1992

1992/1993 Winter Cost of Gas Adjustment

Appearances: Dom S. D'Ambruoso, Esquire of Ransmeier and Spellman on behalf of Claremont Gas Company; Stuart Hodgdon and Robert Egan, for staff.

REPORT

I. PROCEDURAL HISTORY

On October 2, 1992, Claremont Gas Corporation, (Claremont or the company), a public utility engaged in the business of supplying gas in the State of New Hampshire, filed with this commission 137th Revised, Page 12-2 Tariff, N.H.P.U.C. No. 9 -Gas. Said tariff was withdrawn prior to the CGA hearing. On October 19, 1992, Claremont filed with this commission 138th Revised, Page 12-2 Tariff, N.H.P.U.C. No.9 - Gas. (Exhibit #1). Said tariff provided for a 1992/93 Winter Cost

of Gas Adjustment (CGA) for effect November 1, 1992 of ($0.1325) per therm, before franchise tax. This is a decrease of ($0.1325) over the current effective rate of $0.0000 per therm before franchise tax.

An Order of Notice was issued setting hearings for October 19, 1992. It was further ordered that a copy of the Order of Notice be published in a local newspaper.

II. ISSUES

During the hearing the following issues were addressed: a.) competitive bids; b.) gas purchasing; c.) computation errors.

a. COMPETITIVE BIDS

Formal written letters of solicitation seeking bids for propane were mailed by Synergy to suppliers. Three letters refusing to bid were presented to the commission and are shown as Exhibit 3. The Company witness, Mr. Joseph Broomell was asked by staff if Exhibit 3 included responses to all bids sought. Mr. Broomell responded that Exhibit 3 only included letters of rejection and that all Companies contacted had refused to bid.

b. GAS PURCHASING

Claremont is an affiliate of Synergy Corporation, a non- regulated propane retailer. All propane purchased for Claremont is obtained from Synergy who in turn obtains the product from the Texas Eastern terminal at Selkirk, New York at spot market average pricing. Synergy then bills Claremont at the average posted price. (See Exhibit 5). Mr. Broomell stated that Synergy buys from many suppliers. He stated that other customers buy from Synergy in a similar manner. As an example he used the Synergy office in Florida which would obtain their propane from the major supply point of Hattiesburg. He did admit however that there are many pricing methods that can be used. Staff then asked the Company to provide copies of the Synergy paid invoices to suppliers that relate to Exhibit 5. Mr Broomell stated that he would provide these invoices under Exhibit 6.

During the commission meeting of April 20, 1992 it was requested that staff arrange to have an appropriate witness from Synergy who is responsible for fuel purchases present and prepared to testify at this fall's hearing regarding the winter cost of gas adjustment. A letter To The Parties was sent by PUC Director & Secretary, Wynn E. Arnold on 5/19/92. In addition the Order of Notice for this hearing asked for this witness. The Company responded with witness, Mr. Anthony Pascal, Area Manager for N.H. and V.T., who stated that he had general knowledge of purchasing. Upon further questioning by staff however it was found that he does not directly purchase gas. Mr. Pascal stated that his main function is to insure that the branch offices have adequate supplies and therefore has input to purchases but does not do the actual purchasing. Staff Analyst, Bob Egan, was then instructed to provide a written letter of gas purchasing questions to Synergy to be responded to within a weeks time.

c. FIXED PRICE CONTRACT

Mr. Broomell was questioned by staff as to whether Synergy had offered Claremont a fixed price fixed volume contract. Mr. Broomell stated that Synergy did not make this offer. He stated that on two previous occasions Synergy did have a contract with Claremont and that on one of

these contracts Synergy lost money. The loss was due to rising gas prices during the Gulf war. Therefore the officers of Synergy do not want to offer future contracts to Claremont.

d. COMPUTATION ERRORS

Several errors to the filing was detected by the commission's Finance Department. Schedule C. of the filing showed an incorrect interest rate of 6.5% used for the months of October through April of 1993 when the correct rate is 6.0%. The cover page showed the prior period overcollection figure to be the ending balance at September instead of October. The final error detected was the

Page 668

rental rate of .021 used on Schedule F instead of the correct rate per Finance of .026.

Staff, stated that DR 89-185, Order # 19,837 was the proper report and order to be used for the rental calculation. In the report for Docket DR 89-185, page 3, item # 3, it states, "The through-put rate shall be reduced to 2.1 cents per gallon if, and only if, Claremont can establish to the satisfaction of the staff and the commission that the propane it receives from Synergy is at least 0.75 cents per gallon less in price than the price Claremont could obtain on the open market." The Company's

legal council argues that the proper report and order is DR 90-044, Order # 19,810 and that the Company only needs to submit bids. Staff disagrees and notes that even page 3, of this report states, "the Company shall charge Synergy 2.1 cents per through-put gallon if, and only if, it can establish to the satisfaction of the staff and the commission that the liquified petroleum gas it receives from its parent company, Synergy, at cost is .75 cents or more less in price than the cost to Claremont to obtain said liquified petroleum gas on the open market on its own." It is staff's position that the inclusion of only bids without demonstrating a reduced cost to the ratepayers of Claremont does not meet the intent of the Agreement regarding compensation for propane storage service provided to Synergy Gas Corporation.

III. COMMISSION ANALYSIS

Claremont is to provide the commission with two exhibits. Exhibit 4 was reserved for a bidders list of all companies contacted. Exhibit 6 was reserved for Synergy paid invoices to suppliers for purchased gas. The commission notes that a letter from Wynn Arnold, Executive Director & Secretary of the PUC, and the Order of Notice, stated quite clearly that a person responsible for fuel purchases be present. The commission feels this requirement was not met by the Company. Responses to questions from Robert Egan, rate analyst, will therefore be provided promptly.

The commission finds that the appropriate report and order for the rental agreement is DR 89-185, Order # 19,837. The Claremont winter CGA filing should reflect a rental rate of 2.6 cents based on the fact that the Company is unable to show that the propane it will receive from Synergy is at least 0.75 cents per gallon less in price than the price Claremont could obtain on the open market.

Finally, based on Claremont's projected costs, we find that a revised CGA rate of $(0.1454), before the franchise tax, to be reasonable.

ORDER

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

ORDERED, that Claremont Gas Corporation, 138th Revision, Page 12-2, NHPUC No. 9 - Gas, issued September 30, 1992 for effect November 1, 1992 through April 30, 1992 be revised to provide for a Winter Cost of Gas Adjustment of $(0.1454) per therm, before the franchise tax; and it is

FURTHER ORDERED, that Claremont must submit a list of bidders contacted which will be filed as Exhibit 4; and it is

FURTHER ORDERED, that invoices paid by Synergy to suppliers for Claremont be filed as Exhibit 6; and it is

FURTHER ORDERED, that Claremont respond within 5 working days to written questions on purchasing to be sent by Staff Analyst Robert Egan.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of October, 1992.

==========

NH.PUC*10/27/92*[73077]*77 NH PUC 670*ACT OF NEW HAMPSHIRE, INC.

[Go to End of 73077]

ACT OF NEW HAMPSHIRE, INC.

DE 92-116
ORDER NO. 20,649

77 NH PUC 670

New Hampshire Public Utilities Commission

October 27, 1992

Order NISI Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On June 8, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Alternate Communications Technology, Inc., since incorporated as ACT of New of New Hampshire, Inc. (ACT-NH), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, ACT-NH proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the

telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long-distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that ACT-NH demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 24, 1992; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than November 9, 1992. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before November 27, 1992; and it is

FURTHER ORDERED, NISI, that ACT-NH hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;

that ACT-NH shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;

that ACT-NH shall file tariffs for new services and changes in existing services (other than rate changes), with effective dates no less than 30 days after the date the tariffs are filed with this commission

that ACT-NH shall notify the Commission of a change in rates to be charged the public within one day after offering service at a rate other than the rate on file with the Commission;

that ACT-NH shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400;

that ACT-NH shall be subject to all reporting requirements contained in RSA 374:15-19;

that ACT-NH shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;

that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

that ACT-NH shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, ACT-NH shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;

that ACT-NH shall report revenues associated with each service on a monthly basis;

that ACT-NH shall report the number of customers on a monthly basis;

that ACT-NH shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow ACT-NH to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, ACT-NH file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that such authority shall be effective 30 days from the date of this order, unless a hearing is requested as provided above or the Commission otherwise orders prior to the proposed effective date.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of October, 1992.

==========

NH.PUC*10/28/92*[73078]*77 NH PUC 671*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73078]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-196
ORDER NO. 20,650

77 NH PUC 671

New Hampshire Public Utilities Commission

October 28, 1992

Order NISI Approving Special Contract No. NHPUC-76

On October 15, 1992, Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-76 with Nashua Foundries, Inc., (Nashua Foundries or the Company) a New Hampshire Corporation with facilities located in Nashua, New Hampshire; and

WHEREAS, Nashua Foundries, has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Nashua Foundries, currently takes electric service under Rate LG of PSNH's Retail Tariff; and

WHEREAS, PSNH indicates that Nashua Foundries' average hours' use of maximum demand over the preceding twelve months has been less than 250 hours and that Nashua Foundries' billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Nashua Foundries has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-76 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with

other rate design changes in DR 91-001 (Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-76 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED NISI, that Special Contract No. NHPUC-76 between PSNH and Nashua Foundries is approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than January 1, 1994, on the number, nature and time of interruptions called by PSNH as well as Nashua Foundries' response to such calls, and what if any actions Nashua Foundries has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a paper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than November 9, 1992, said publication to be documented by affidavit filed with this office on or before November 25, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this

Order; and it is

FURTHER ORDERED, that this Order Nisi will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of October, 1992.

==========

NH.PUC*10/28/92*[73079]*77 NH PUC 672*MCI TELECOMMUNICATIONS CORPORATION

[Go to End of 73079]

MCI TELECOMMUNICATIONS CORPORATION

DE 92-201
ORDER NO. 20,651

77 NH PUC 672

New Hampshire Public Utilities Commission

October 28, 1992

Order NISI Approving MCI Revisions to Execunet and Prism Plus Service Offerings

---

On October 7, 1992 MCI Telecommunications Corporation (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to discontinue the Instant Savings Guarantee option offered to Execunet and Prism Plus customers.

WHEREAS, MCI proposed the filing become effective November 17, 1992; and

WHEREAS, the Instant Savings Guarantee allowed new Friends & Family and Friends of the Firm subscribers to apply their 20% discount on calls made to Calling Circle members, whether they were MCI customers or not, for a period of ninety (90) days from the first day of service; and

WHEREAS, the proposed tariffs encourage competition by allowing marketing flexibility thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, MCI cause an attested copy of this Order Nisi to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such

publication to be no later than November

9, 1992 and is to be documented by affidavit filed with this office on or before November 25, 1992; and it is

FURTHER ORDERED NISI, that the following tariff pages of MCI Tariff PUC No. 1 INTRASTATE TELECOMMUNICATIONS SERVICES, are approved:

12th Revised Page 1

Sixth Revised Page 2

Seventh Revised Page 3.1

First Revised Page 25.3

First Revised Page 50.3 and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order NISI will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of October, 1992.

==========

NH.PUC*10/29/92*[73080]*77 NH PUC 673*CLAREMONT GAS CORPORATION

[Go to End of 73080]

CLAREMONT GAS CORPORATION

DR 92-020
ORDER NO. 20,652

77 NH PUC 673

New Hampshire Public Utilities Commission

October 29, 1992

Suspension Of Tariffs

On October 23, 1992, Claremont Gas Corporation (Claremont), filed with the New Hampshire Public Utilities Commission, (Commission), a request for emergency rates revising tariff NHPUC No. 11 Gas; and

WHEREAS, the commission must deliberate before rendering a decision thereon; it is hereby

ORDERED, that proposed tariff pages;

Original Page 1 - 30,

Tariff Supplement A, Original Page 1

are suspended pending further investigation and decision.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of October, 1992.

==========

NH.PUC*10/30/92*[73081]*77 NH PUC 673*ENERGYNORTH NATURAL GAS, INC.

[Go to End of 73081]

ENERGYNORTH NATURAL GAS, INC.

DR 92-180
ORDER NO. 20,653

77 NH PUC 673

New Hampshire Public Utilities Commission

October 30, 1992

Approval of Winter 1992/93 Cost of Gas Adjustment

REPORT

Appearances: Jacqueline Lake Killgore, Esquire for EnergyNorth Natural Gas, Inc.; James T. Rodier, Esquire, Staff Attorney.

I. PROCEDURAL HISTORY

On October 1, 1992 EnergyNorth Natural Gas, Inc., (ENGI or Company), a public utility engaged in the business of supplying gas in the State of New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission), Eleventh Revised Page 1, superseding 10th Revised page 1, N.H.P.U.C., providing for a Winter 1991-1992 Cost of Gas Adjustment (CGA) effective November 1, 1992. The proposed CGA represented an increase of $0.0.0210 per therm, exclusive of the N.H. State Franchise Tax, over the base unit cost of gas of $0.4075 per therm.

On October 1, 1992 the Commission issued an Order of Notice establishing a hearing date of October 16, 1992 and ordering the petitioner to publish the Order of Notice, by October 6, 1992, in a local newspaper having general circulation in that portion of the State

in which operations are conducted.

On October 6, 1992, at a technical conference, Staff and the Company reviewed the filing and Staff requested additional information pertinent to least cost purchasing and dispatching. On October 14, 1992, the Company responded to those issues, and outlined a revised filing to be submitted on the day of the hearing. A public hearing on the merits was held on October 16, 1992. At the hearing, the Company submitted a revised filing proposing a CGA of $0.0358 per therm, exclusive of the franchise tax. On October 20, 1992, in response to evidence presented at the hearing, the Company submitted a second revised tariff page proposing a Winter Cost of Gas Adjustment of $0.0315 exclusive of the franchise tax.

II. POSITION OF THE PARTIES

The Company presented two witnesses in support of its filing: Carolyn J. Huber, Manager of Regulatory Affairs and Budgets; and Christopher P. Fleming, Vice-President of Gas Supply and Corporate Development. Mrs. Huber summarized the proposed tariff page, and explained several corrections and revisions to the original filing. Mrs. Huber testified that the following factors contributed to the projected increase over base gas costs:

1. In accordance with the resolution of DR 90-183, the winter period consists of five months instead of six, and additional demand charges have been shifted from the summer to winter period.

2. The Company experienced an undercollection for the previous winter period resulting from a delay in implementation of the "Cosmic Settlement" proceeding with Tennessee Gas Pipeline.

Mr. Fleming's testimony outlined the various supply resources available to the Company for the coming winter. Although the Company has not increased its overall peak day deliverability, it has utilized its options to convert a portion of Tennessee CD-6 Sales Service to contract storage, firm transportation, and Canadian assignment supply. The witness also identified the supplemental supplies under contract for the winter period. Finally, Mr Fleming discussed the change in the pricing of sales gas from Tennessee Gas Pipeline (TGP), noting that it is now indexed to spot prices reported in Inside FERC's Gas Market Report. As a result of that change, Mr. Fleming noted that gas prices will be more susceptible to unpredictable factors such as weather and natural disasters. This was supported by Staff Exhibit G, which shows that natural gas futures prices for November, 1992 contracts have been extremely volatile. Mr. Fleming testified that the futures prices for the coming winter that existed at the end of September were employed by the Company in developing its estimated winter cost of gas.

During cross-examination, staff questioned Mr. Fleming extensively on the methods and practices the Company employs to purchase its spot gas supplies, and noted significant price variations between spot suppliers for supplies delivered within the same month. By describing the process that occurs during "Bid Week", the week preceding the month in which supplies are utilized, and how spot prices change during a month, particularly during a winter month, Mr Fleming was able to account for those differences. Nonetheless, Mr Fleming was unable to supply Staff with the Company's "bid list", which shows for each month the suppliers that made bids and the bid prices.

Mr. McCluskey, Utility Analyst, testified on behalf of Staff. The witness explained that it was not productive to compare gas utility purchasing practices on the basis of average gas costs.

Differences in rate design, access to low cost supplies, over/under collections, and interruptible sales margins can all contribute to different average gas costs. With respect to the issue of least cost purchasing and dispatching practices, Mr. McCluskey noted that while he was confident the Company does dispatch its available supplies on a least cost basis, Attachment B of the Company's filing appeared to suggest otherwise. Attachment B appears to show that the Company is utilizing high cost supplemental supplies in certain

Page 674

months prior to fully utilizing low cost sales gas from TGP. Mr. McCluskey recommended that Staff work with the Company to create a format for Attachment B that would present the supply and demand balance in a manner suitable for review. Until that format was developed, Staff could not recommend approval of the proposed first revised CGA.

After consultation with staff, the Company submitted on October 20, 1992 a second revised tariff page and a first revised Attachment B that presented the supply/demand balance on a calendar month basis as opposed to a billing month basis. This revision, with which staff concurs, produced an increase in the quantity of gas that is projected to be sold during the period and a lower unit gas cost.

Mr. McCluskey noted that the Company's decision to convert some of its TGP sales service contract to storage service had resulted in a large increase in inventory trust fees. In light of that increase, the witness stated that the Company had agreed to examine whether there are less costly means of financing gas held in storage, and to report its findings to the commission. Mr. McCluskey also noted that the technical sessions conducted in this proceeding contributed to the speedy and thorough review of the filing and acknowledged the cooperation of the Company in that process.

III. COMMISSION ANALYSIS

With respect to the proposed cost of gas adjustment, the commission finds the revisions to the original filing to be appropriate and that a CGA of $0.0315 per therm is just and reasonable. We will therefore approve Eleventh Revised Page 1 for effect November 1, 1992.

We do however, have some concerns about the Company's documentation of its gas purchases. Much of staff's cross examination of Company witnesses was devoted to the issue of whether spot market gas is purchased at least cost, and not simply below that which could be purchased from TGP. This is appropriate because: (A) a large component of the Company's supplies are obtained from spot suppliers; and (B) those supplies provide significant opportunities for cost savings, at least in the short term. While the record indicates that the Company took appropriate actions to maximize those savings, we are concerned that the documentation detailing the various third party bidders, and their associated bids, was not made available to the staff audit team assigned to this case. We will therefore direct the Company to respond within 60 days to the same bench request issued to Northern Utilities in its winter 1992/93 CGA proceeding, namely that it describe in writing: (a) the methods and procedures that it uses to solicit bids from third party suppliers; (b) the methods and procedures used to document the bidders and their bids; (c) the selection process, including the criteria used to choose the successful bidders; and (d) whether the documentation is accessible to staff auditors.

We will also require the Company to investigate whether its methods and procedures can be improved by, e.g., purchasing an appropriate business software package. Our order will issue accordingly.

Concurring: October 30, 1992

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that EnergyNorth Natural Gas respond in writing within 60 days to our request for information on its procedures for obtaining and reviewing bids from third party gas suppliers; and it is

FURTHER ORDERED, that the Company investigate whether its methods and procedures can be improved by purchasing an appropriate business software package; and it is

FURTHER ORDERED, that the proposed CGA of $0.0315 per therm is just and reasonable, and therefore approved for effect November 1, 1992.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of October, 1992.

==========

NH.PUC*10/30/92*[73082]*77 NH PUC 676*NORTHERN UTILITIES, INC.

[Go to End of 73082]

NORTHERN UTILITIES, INC.

DR 91-081
ORDER NO. 20,654

77 NH PUC 676

New Hampshire Public Utilities Commission

October 30, 1992

Report and Order Approving the Settlement Agreement for the 1992 Step Adjustment

---

Appearances: LeBoeuf, Lamb, Leiby & MacRae by Paul K. Connolly, Jr., Esq. and Scott J. Mueller, Esq. on behalf of Northern Utilities, Inc.; and for the Public Utilities Commission, Eugene F. Sullivan, III, Esq.

REPORT

I. PROCEDURAL HISTORY

On July 21, 1992, the commission issued its Order No. 20,546 approving the Settlement Agreement on permanent rates for Northern. Article III of that Settlement Agreement provided for the implementation of step adjustments in base rates to be effective for meter readings on or after November 1, 1992, and annually thereafter until the agreed bare steel replacement program

is completed. Based on a review by the PUC Gas Safety Engineer, there definitely was a serious safety problem on the Company's bare steel distribution system. The Safety Engineer suggested to the Company that a two-phase program be implemented: the first phase would schedule replacement of areas that required immediate repair, the second phase would schedule replacement of areas that did not pose any immediate risk to safety. On September 21, 1992, Northern filed revised tariff pages and a petition with the commission seeking authorization for the initial step adjustment in the amount of $624,907. The staff conducted an audit at the company's headquarters in Westborough, Massachusetts between September 8, 1992 and September 25, 1992 with respect to Northern's proposed step adjustment including a field visit to Northern's offices in Portsmouth, NH. On October 12, 1992 staff returned to Westborough, Massachusetts to complete its review, specifically its review of actual charges for the month of September, 1992. Following extensive discussions the staff and Northern reached agreement on the issues in this proceeding. On October 14, 1992, a hearing was held regarding the company's proposed Step adjustment. At the hearing, the company submitted testimony of Richard P. Cencini, Director of Regulatory Affairs, addressing the Settlement Agreement entered into by the staff and the company.

II. OVERALL SETTLEMENT AGREEMENT

The company's original petition and exhibits proposed a Step Adjustment in the amount of $624,907. Based on a review of the Company's books and records and extensive discussions on the issues involved, the parties agreed to a Step Adjustment in the amount of $501,450. Both staff and the Company agree that this amount is just and reasonable.

III. COMPONENTS OF THE SETTLEMENT AGREEMENT RETURN AND RELATED INCOME TAXES ON NON-REVENUE PRODUCING INVESTMENTS

The return and related income taxes on Northern's investment for the period April 1, 1991 through September 30, 1992 is shown on Attachment A, Exhibit 1, as revised on October 12, 1992 ($681,278). The amount of the step adjustment has been calculated using the actual capital expenditures for the above stated period adjusted as a result of the staff audit and the pre-tax rate of return of 13.19 percent and reflecting cost of service principles including the treatment of the deferred tax reserve. Staff believes that this amount is appropriate.

Annualized Depreciation Expense

Annualized depreciation expense for investments other than services is based on Northern's actual plant additions mentioned above and the depreciation rates included in the Settlement Agreement on permanent rates.

Page 676

Annualized depreciation expense for replacement services is based on actual plant additions mentioned above and the depreciation rate of 3.14 percent included in the Settlement Agreement on the Step Adjustment (see below). The parties agree that the expense which results from the use of the 3.14 percent depreciation rate is fair and reasonable. These expenses are summarized on Attachment A, Exhibit 1 as revised on October 12, 1992 ($183,875).

Proformed Test Year Expense For Depreciation

The amount of proformed test year depreciation expense for services is based on the depreciable plant account 380 as of 3/31/91 and a depreciation rate of 3.14 percent and is summarized on Attachment A, Exhibit 1 as revised on October 12, 1992 and Attachment A, Exhibit 1, Schedule B as revised on October 12, 1992 ($109,156).

The parties agree that this amount is fair and reasonable.

Return and Related Income Taxes on Investment to Serve Domtar Gypsum Inc.

The amount for the return and related income taxes on investment to serve Domtar Gypsum Inc. is based on the pre- tax rate of return of 13.19 percent which was agreed upon as part of the settlement agreement on permanent rates and is as summarized on Attachment A, Exhibit 1, Schedule C ($35,513). Staff believes that this amount is fair and reasonable.

Adjustment for Domtar Net Revenues

The Step Adjustment has been reduced in accordance with a formula agreed upon as part of the settlement on permanent rates and reflects an amount equal to pro forma net revenues from Domtar calculated in accordance with Attachment A, Exhibit 1, Schedule D as revised on October 8, 1992 ($508,372). The parties agree that this amount is fair and reasonable.

IV. ISSUES INVOLVED IN THE SETTLEMENT AGREEMENT

Non-Revenue Producing Expenditures

With regard to the proposed investment in non-revenue producing capital expenditures, the parties agreed to make the following reductions and that these reductions were both just and reasonable:

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

Joint Sealing/Cathodic Protection $ 60,710
Replacement Meters/Installs $ 31,486
Projects/Equipment/Other $ 18,696
Total Reductions $ 110,892
```

These adjustments are summarized in column three of Attachment A, Exhibit 1, Schedule A, as revised on October 12, 1992.

Depreciation

In addition to the above reductions, the parties agreed to reduce depreciation expenses related to Replacement Services. In the permanent rate proceeding, the Company reflected a negative 125 percent salvage value in its depreciation study for services (i.e. depreciation rate of 4.78 percent). At that time, the staff took exception to this percentage and indicated that it would need time to review the basis of the Company's calculations. As a result, zero percent salvage was reflected in the settlement agreement on permanent rates (i.e. depreciation rate of 1.62 percent) with the provision that any difference between the pro formed test year depreciation expense for services proposed by Northern and the depreciation expense for services recommended by staff, subject to audit and review by the Commission, would be included in the Step Adjustment.

In this proposed Step Adjustment proceeding, the Company is again proposing that a negative .25 percent salvage value be reflected in its depreciation rate of 4.78 percent.

Based upon audit and review of the books and records of the Company, staff determined

that salvage value of negative 60 percent is appropriate. The impact of this change is to reduce the Company's depreciation rate from 4.78 percent to 3.14 percent. Since the settlement agreement on permanent rates allowed a depreciation rate of only 1.62 percent, the rate adjustment that staff calculates be included in this Step Adjustment is the difference between the 3.14 percent and 1.62 percent. Based on the above and on extensive discussions with the Company, both parties agree that the amount of $109,156 is just and reasonable for annualized depreciation expense to be included in this Step Adjustment . Exhibit A, Schedule B as revised on October 12, 1992 summarizes this adjustment.

V. COMMISSION ANALYSIS

As part of the settlement on the Company's permanent rates, the staff did not include in rate base the amount of estimated additions during the period subsequent to the test year (i.e., April 1991 through September 1992). The Commission normally does not allow plant added after the end of the test year (i.e., March 31, 1991) unless it is an extraordinary event. However, in view of the comments by the PUC Gas Safety Engineer (see below), staff recommended at the time of the permanent rate settlement that the Commission provide for a rate adjustment in the future to include such additions in a step adjustment. Staff indicated that at a set time interval after the permanent rate adjustment, the Commission could look at the plant additions. Article III of the Settlement Agreement on permanent rates summarized the criteria to be used in the calculation of Step Adjustments.

Based on a review by the PUC Gas Safety Engineer, Northern Utilities has undertaken a major capital project to ensure safe service to its customers. This capital project was undertaken because of a serious problem regarding leaks, the majority of which occurred on the bare steel system. Regarding the bare steel system, the PUC Gas Safety Engineer suggested that the Company approach the problem of corrosion and leaks in two phases. The first phase would schedule replacement of areas that required "immediate repair" and the second phase would address replacement of areas that did not pose "immediate" risk to safety. The Company agreed with the PUC Engineering staff to accelerate its program to replace bare steel mains. The Company and the PUC staff agreed that these replacements are required and both parties recognize that this results in significant dollars being expended on this category of capital expenditures.

Subsequently, it was agreed that the first phase should be implemented over a three year period and that the second phase would be implemented over a ten year period. The three year program considered three factors: first, number of sections to be replaced; second, ability to undertake the project; third, risk to safety; fourth, available capital. In 1990, over 26,000 feet of bare steel was replaced due to corrosion problems. In 1991, over 24,000 feet of bare steel was replaced and the estimate for 1992 is for 15,000 feet to be replaced.

Regarding the ten year program, the Company estimates that there will be between 28,000 feet and 35,000 feet of bare steel replaced per year. This is due to the corrosion program, bare steel replacement due to municipal projects and bare steel replacement due to system

improvement.

In addition, it should be understood that the majority of customer services connected to the bare steel mains are also bare steel. It is the Company policy to replace these services with plastic where possible.

With regard to State or Federal safety regulations on corrosion of bare steel systems, the PUC Gas Safety Engineer points out that when there is an area of active corrosion, the Company is required to replace the pipe as soon as practicable. The Office of Pipeline Safety in Washington, DC agreed with the combination of three and ten year programs indicating that the programs satisfied their commitment to safety, and recognized that to require the Company to undertake a program of this magnitude, within one year, would be totally uneconomical and therefore not practicable. With regard to the impact on the

Page 678

customer, Northern estimates that based on the rate design proposed by the Company, which is currently under review by the staff, the estimated impact of the Step Adjustment amount of $501,450 over all customer classes is roughly 1.9 percent. The estimated impact on the Residential Heating Customer is roughly 1.8 percent. The estimated impact on the Residential Non Heating Customer is roughly 2.2 percent. The estimated impact on the Commercial and Industrial Customer is roughly 2.1 percent.

Overall, the above described program is a sound and positive approach to correct the overall corrosion problem and provide the required safety to customers. Based on the above and based on the audit and review of the Company's books and records, the Commission believes that the Step Adjustment amount of $501,450 is just and reasonable.

Our order will issue accordingly.

Concurring: October 30, 1992

ORDER

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

ORDERED, that the settlement agreement by and hereby is, approved.

By order of the New Hampshire Public Utilities Commission this thirtieth day of October, 1992.

Page 679

EXH. 1 -

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Stipulation on Proposed Step Adjustment

This Stipulation is entered into this 14th day of October, 1992, by and among Northern

Utilities, Inc. ("Northern" or "the Company") and the Staff of the New Hampshire Public Utilities Commission (the "Staff" and the "Commission" respectively) with the intent of resolving the issues discussed herein. Further, it is the desire of the Company and Staff in executing this Agreement to expedite the Commission's consideration and resolution of the issues which are the subject of this Agreement.

ARTICLE I

Introduction

On July 21, 1992 the Commission approved a Settlement Agreement between the Staff and Northern regarding the issues relating to Northern's request for a permanent rate increase. As part of that Settlement Agreement, the parties agreed that it is reasonable to authorize the Company to implement step adjustments in base rates on or about November 1, 1992 and annually thereafter. Settlement Agreement, Article III, p. 4.

On September 21, 1992, Northern filed a petition with the Commission seeking authorization for the initial step adjustment in the amount of $624,907. The Staff conducted a field audit between September 8, and September 25, 1992 and again on October 12, 1992 with respect to Northern's proposed step adjustment including a field visit to Northern's offices in Portsmouth, NH, and issued over 115 audit requests to which the Company responded. Following extensive discussions the Staff and Northern reached agreement on the issues in this proceeding as set forth in Articles II and III.

ARTICLE II

The parties agree that it is reasonable to authorize Northern to increase its base rates effective with the first November 1992 billing cycle to reflect recovery of the following as summarized on revised Exhibit I:

1. A return and related income taxes on Northern's investment in certain non-revenue producing capital expenditures for the period April 1, 1991 through September 30, 1992, as shown on revised Schedule A. The amount of the step adjustment has been calculated using the actual plant additions for the period April 1, 1992 through August 31, 1992 adjusted as a result of the Staff audit and the Stipulation positions of the parties and a pre-tax rate of return of 13.19% and reflecting cost of service principles including the treatment of the deferred income tax reserve. The amount of the step adjustment reflecting Replacement Mains for the period September 1, through September 30, 1992 shall be subject to adjustment in accordance with a staff audit to be completed by October 23, 1992,a nd in no event shall be greater than the amounts reflected on revised Schedule A.

2. Annualized depreciation expense on the actual plant additions referenced in paragraph 1 above based on the depreciation rates in the Settlement Agreement for investments other than services and on the depreciation rate for services of 3.14% determined by the Staff to be fair and reasonable as shown on revised Schedule A.

3. The difference between the pro formed test year depreciation expense for services in the Settlement Agreement and the depreciation expense for services recommended by Staff as fair and reasonable and as shown on revised Schedule B.

4. The return and related income taxes of $269,242 in rate base reflecting capital investments used to service Domtar

Page 680

Gypsum, Inc. ("Domtar"), as shown on revised Schedule C.

The step adjustment has been reduced by an amount equal to pro forma net revenues from Domtar calculated as follows:

(Actual historical firm volumes for the twelve-month period ending September 30, 1992) times (the non-gas portion of the rates to serve Domtar as approved in the Company's recent rate case less ($41,393 test year net transportation revenues for Domtar built into base rates).

ARTICLE III

Conditions

The making of this Stipulation shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in these proceedings is true or valid. This Agreement is expressly conditioned upon the Commission's acceptance of all of its provisions, without change or condition, and if the Commission does not accept it in its entirety, without change or condition, the Agreement shall be deemed to be null and void and without effect, and shall not constitute any part of the record in this proceeding nor be used for any other purpose.

The Commission's acceptance of this Agreement does not constitute continuing approval of or precedent regarding any particular issue in this proceeding, but such acceptance does constitute a determination that (as parties believe) the base rates increased to yield the revenue contemplated by this Agreement will be just and reasonable.

The discussions which have produced this Agreement have been conducted on the explicit understanding that all offers of settlement and discussions relating thereto shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in any manner in connection with this proceeding, any future proceeding or otherwise.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their respective names by their agents, each being fully authorized to do so on behalf of their principal.

Northern Utilities, Inc.

Staff of the Public Utilities Commission

Page 681

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

Exhibit 1
Revised 10/12/92

Northern Utilities, Inc.
New Hampshire Division
Summary of Proposed Step Adjustment Revenues

(1) (2) (3)
1 Non-Revenue Producing Investments:
2 Return and Related Income Taxes Schedule A $681,278
3 Annualized Depreciation Expense Schedule A 183,875
4
5 Proformed Test Year Depreciation
6 Expense for Services Schedule B 109,156
7
8 Return and Related Income Taxes on
9 Investment to Serve Domtar Gypsum Inc. Schedule C 35,513
10
11 Firm Net Revenues for Domtar Gypsum Inc. Schedule D (508,372)
12
13 Proposed Step Adjustment Revenues $501,450

Page 682

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

Schedule A
Revised 10/12/92
Northern Utilities, Inc
New Hampshire Division

Proposed Step Adjustment Related to Non-Revenue Additions to Plant in Service

Annualized
April 1991 - Actual Less (1)
Revised Depreciation Depreciation
August 1992 September 1992 Adjustments
Total Rates Expense

Replacement Mains $2,984,652 $473,942
$3,458,594
Gosling Road 403,402
403,402
Joint Scaling/Protection 117,102 40,806 (60,710) (A)
67,198

Sub-Total $3,505,156 $484,748 ($60,710)
$3,929,194 3.05% $119,840
Replacement Services 536,564 62,840
599,404 3.14% (D) 18,821
Replacement Meters/Installs 246,378 27,877 (31,486) (B)
242,769 3.36% 8,157
Regulator Station Equipment 92,433 507
92,940 5.05% 4,693
Projects/Equipment/Other 303,219 56,133 (18,696) (C)
340,656 9.50% 32,362

$4,683,750 $632,105 ($110,892)
$5,204,963 $183,873

Total Non-Revenue Producing (April 1991 through September 1992) $5,204,963

Less: Deferred Income Taxes on Closes to Plant 39,852

Sub-Total Rate Base $5,165,111
Return & Related Income Taxes at Pre-Tax Rate of Return of 13.19% $681,278

Revenue Requirements for Step Adjustment ot be Effective November 1, 1992:
Return on Plant Investment $681,278

Annual Depreciation Expense $183,875

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

Notes to Schedule A

Northern Utilites, Inc.
New Hampshire Division
Audit Findings Adjustments Agreed to by the NHPUC Staff and Company On October 6, 1992
A: Joint Sealing/Cathodic Protection (Audit Find #5)
Note: Agreement to split costs after adjustment for Meter Protection on 50/50 basis

Actual Closes to Plant (4/91-9/92) $117,102
Closes to Plant (9/92) 10,806

Schedule A - JointSealing/Proector Total Filed with NHPUC on 9/21/92 $127,908
Total Closes to Plant 127,908
Less: NHPUC accepted Meter Protection costs (6,448)

Basis for Settlement per Audit Find #5 121,420

Settlement percentage of 50% after adjustment -
Agreed Rate Base Reduction (60,710)

Adjusted Closes to Plant $67,198

B: Replacement Meters/Installs (Audit Find #4 + Attached Page 2 of 2)

Note: Agreement to split costs after adjustments for Replacement Meters to 29% of total costs on 50/50 bases

Total Meter Costs (Data Response #95 Attachment B)
Per company (DR - #95 Attachment D) 61%
Per compnay (DR - #95 Attachment C) 29% 32%

Basis for Settlement per Audit Find #4 62,972

Settlement percentage of 50% after adjustment -
Agreed Rate Base Reduction ($31,486)

C: Projects/Equipment/Other (Audit Finds #1, 2 and 3)
Note: Reduction for Audit Findings #2 & #3 and 50/50 basis on the PC Hardware of $11,400)

Actual Closes to Plant (4/91 - 8/92) $303,219
Clsoes to Plant - 9/92 (excludes Software) 56,133

Schedule A - Projects/Equipment/Other $359,352

Less: Removal of Software Costs (Audit Find #1):
Development Software CBT (2,414)
Sales Rep Tool Kits Software Costs (7,482)
PC Equipment/Hardware Costs ($11,400*50%) (5,700)
Distribution Work Order Management (400)
Deferred Debit - Demand Side Management (2,115) (18,111)
Less: Massachusetts Sales Tax Adjustment (Audit Find #2) (230)
Less: Communication Equipment mischarged to NH (Audit Find #3) (355)

Settlement - Agreed Rate Base Reduction (18,696)

Adjusted Closes to Plant $340,656

D: Depreciation Study Results dated October 6, 1992 (Attachment#1)
Note: Rate of 3.14% for Replacement Servcies with Estimated Future Net Salvage of Negative 60%.

Page 684

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

Northern Utilities Inc.
New Hampshire Division
Summary of Proposed Step Adjustment Revenues

(1) (2) (3)

1 Non-Revenue Producing Investments:
2 Return and Related Income Taxes Schedule A $681,278
3 Annualized Depreciation Expense Schedule A 183,875
4
5 Proformed Test Year Depreciation
6 Expense for Services Schedule B 109,156
7
8 Return and Related Income Taxes on
9 Investment to Serve Domtar Gypsum Inc. Schedule C 35,513
10
11 Firm Net Revenues for Domtar Gypsum Inc. Schedule D (508,372)
12
13 Proposed Step Adjustment Revenues $501,450

Page 685

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

Schedule B
Revised 10/12/92

Northern Utilities Inc.
New Hampshire Division
Proposed Step Adjustment for Proformed Test Year
Depreciation Expense for Services

(1) (2) (3) (4)

Per
DR91-081 Per
Settlement Agreement Staff(A) Difference
---

1 Depreciable Plant Account 380,
2 As of, 3/31/92 $7,181,291 $7,181,291
3
4 Depreciation Rate 1.62% 3.14%
5 ---
6 Depreciation Expense Adjustment $116,337 $225,493 $109,156
7 ========== ========== =========
8
9
10(A) NHPUC Staff and Company settled on a Depreciation Rate of
3.14% on October 8, 1992.
11 This agreement was based on Staff's Draft Audit report
prepared by Stephen Frink, PUC
12 Examiner dated October 6, 1992.

Page 686

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

Schedule C

```
(1)   (2)

1 Domtar Investment (Schedule NU-3-4-2)  $269,242
2
3 Pre Tax Rate of Return   13.19%
4    -----
5 Domtar Return and Related Income Tax Adjustment $35,513
6    =========

Revised 10/8/92
Schedule D

DOMTAR NET REVENUES
October 1991 - September 1992
Based on Rates Effective August 1992

Net Revenue Net
Therms Rate Revenues
October 1991  660,561 0.0410 $27,140
November  438,976 0.1321 $58,046
December  401,512 0.1321 $53,097
January 1992  476,661 0.1321 $63,024
February  573,329 0.1321 $75,794
March  568,960 0.1321 $75,217
April  517,632 0.1321 $68,436
May  638,471 0.0410 $26,234
June  532,248 0.0410 $21,879
July  556,802 0.0410 $22,886
August  759,182 0.0410 $31,184
September  652,945 0.0410 $26,828
Total New Revenues   $549,766
Less Transportation Revenues   (41,393)
Domtar Revenue Adjustment   $508,372
```

NH.PUC*10/30/92*[73083]*77 NH PUC 688*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 73083]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-186
ORDER NO. 20,655

77 NH PUC 688

New Hampshire Public Utilities Commission

October 30, 1992

Fuel Adjustment Clause Order Suspending Tariff Changes and Setting Hearing

---

On October 1, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed testimony and exhibits supporting an increase to its Fuel Adjustment Clause of $0.01649 per kWh effective November 1, 1992;

WHEREAS, the increase is based on the expected fuel charges NHEC will be billed through the end of December 1992 from Public Service Company of New Hampshire (PSNH), NHEC's primary power supplier, and an estimate of the wholesale fuel and purchased power adjustment

clause (FPPAC) costs NHEC anticipates PSNH will bill it commencing January 1, 1992; and

WHEREAS, a thorough investigation is necessary prior to a commission decision based on the merits; it is hereby

ORDERED, that the proposed tariff pages: 2nd Revised Page 18A, 10th Revised Pages 19, 20, 23, 28, 29, 30, 31, 33, and 36, 11th Revised Pages 25 and 25A, and 7th Revised Page 32 of N.H.P.U.C. No. 14 Electricity, are suspended pending further review and decision and NHEC file new tariff pages in accordance with Puc 1601.05 that include the change to rates approved by the commission effective October 5, 1992 in docket DR 92-009; and it is

FURTHER ORDERED, that a hearing on the merits be held at 11:00 in the forenoon on November 20, 1992; and it is

FURTHER ORDERED, that pursuant to Puc 203.01, NHEC notify all persons desiring to be heard in this proceeding, that they should appear at said hearing, when and where they may have the opportunity to be heard on the above matters, by publishing an attested copy of this notice no later than November 6, 1992 in a newspaper having general circulation in those parts of the State in which NHEC's operations are conducted, such publication to be documented by affidavit filed with this office on or before the 20th day of November, 1992; and it is

FURTHER ORDERED, that pursuant to RSA 541-A:17 and Puc 203.02, any party seeking to intervene in this proceeding must submit a motion for intervention, with a copy for the petitioner, at least three (3) days prior to the hearing.

By order of the New Hampshire Public Utilities Commission this thirtieth day of October, 1992.

==========

NH.PUC*11/02/92*[73084]*77 NH PUC 688*NORTHERN UTILITIES

[Go to End of 73084]

NORTHERN UTILITIES

DR 92-197
ORDER NO. 20,656

77 NH PUC 688

New Hampshire Public Utilities Commission

November 2, 1992

Order Approving Interruptible Sales Contract with Kane Gonic Brick

---

WHEREAS, Northern Utilities (Northern) filed on October 16, 1992 for approval of an interruptible gas sales contract between Northern and Kane Gonic Brick (Kane Gonic); and

WHEREAS, the proposed contract would allow Kane Gonicto utilize natural gas instead of propane in its New Hampshire facility; and

WHEREAS, the distribution system to deliver natural gas to Kane Gonic is already in place and requires no direct capital expenditure; and

WHEREAS, the price of natural gas would equal the posted priceofpropane at Mont Belvieu, Texas, plusthe transportation cost from Mont Belvieu to the customer's plant, less any discount; and

WHEREAS, all margins earned on the sale of natural gas to Kane Gonic will flow to firm ratepayers through the CGA; it is hereby

ORDERED, that the proposed interruptible sales contract between Northern and Kane Gonic Brick is reasonable, and in the public interest, and is therefore approved.

Page 688

By order of the Public Utilities Commission of New Hampshire this second day of November, 1992

==========

NH.PUC*11/02/92*[73085]*77 NH PUC 689*COMMUNICATIONS GATEWAY NETWORK, INC.

[Go to End of 73085]

COMMUNICATIONS GATEWAY NETWORK, INC.

DE 92-145
ORDER NO. 20,657

77 NH PUC 689

New Hampshire Public Utilities Commission

November 2, 1992

Denial of Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On July 23, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Communications Gateway Network, Inc. (CGN), a Delaware corporation, for authority to do business as a telecommunications utility in the State of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, Staff identified and communicated to CGN, in its correspondence of August 3, 1992, several areas requiring resolution, including: the statutory requirement of RSA 374:24 to incorporate in New Hampshire; absence of evidence indicating financial competence, especially "Note C" to the financial statements; and the issue of managerial competence, especially concerning prior application by the principals made before this Commission; and

WHEREAS, CGN, in its reply of August 13, 1992, did not reasonably address the areas identified in Staff's correspondence of August 3, 1992, specifically: in response to a request for

proforma financial statements (requested because CGN was only incorporated 13 days prior to their application), CGN replied "CGN has only been incorporated as of May 18, 1992 (in Delaware) therefore there is no prior financial information" [emphasis added]; in explanation of Note C, CGN's response simply paraphrased the text of Note C adding only that the warrant holder was a NASDAQ traded company; and CGN did not answer the specific question:

"Have the principal(s) of the organization made similar applications before this Commission, other PUC/PSC's or the Federal Communications Commission (FCC)?" ;

and

WHEREAS, Staff again identified and communicated to CGN, in its correspondence of August 26, 1992, several areas still requiring resolution, including that:

"NH RSA 374:24 requires your client to incorporate in New Hampshire. Registration as a Foreign Corporation and Certificates of Good Standing have not been accepted."

Staff indicated that applicant's reply to Staff's request for proforma financial statements was non-responsive and that applicant's reply in addressing the structure, purpose or rationale of the Note C was non-responsive; and Staff indicated that applicant's reply under managerial competence was non-responsive, specifically regarding prior applications by principals of the firm;, and Staff stated that:

"From the record developed to date, the applicant has not satisfactorily demonstrated financial, technical, and managerial competence. In the absence of responsive and demonstrative evidence, Staff would make its recommendation to the Commission accordingly."

and

WHEREAS, in the CGN initiated telephone conversation on September 3, 1992, CGN indicated they may not be able to communicate in writing the explanation they proffered verbally, due to Securities and Exchange Commission (SEC) regulations, and Staff advised CGN that it would make its recommendation on the evidence in the record, and Staff would consider that material which the applicant submits for the record; and

Page 689

WHEREAS, CGN did not, in its reply of September 10, 1992, reasonably address the areas identified by Staff in its correspondence of August 3, 1992, and August 26, 1992; and

WHEREAS, CGN was afforded the additional opportunity of reviewing the above correspondence and its preliminary responses in a telephone conference with Staff on September 3, 1992 prior to submitting its written reply of September 10, 1992; and

WHEREAS, CGN did not incorporate in New Hampshire as specified by RSA 374:24, but instead filed for a "Certificate of Good Standing" notwithstanding that Staff had specifically informed CGN, both in its correspondence of August 3, 1992 and again in its correspondence of August 26, 1992, that:

"NH RSA 374:24 requires your client to incorporate in New Hampshire. [and that] Registration as a Foreign Corporation and Certificates of Good Standing have not been accepted." [second emphasis added];

and

WHEREAS, CGN's explanation of Note C, the option-to- purchase warrant, indicates that its exercise could render the company largely valueless; and CGN appears to be undercapitalized, with a debt-to-equity ratio of 99:1; and that CGN in its attachment to its September 10, 1992 response, identified as "Communications Gateway Network, Inc. Docket Number; DE 92-145 MANAGERIAL COMPETENCE" indicated:

"Attached are brief resumes of key personnel in Communications Gateway Network, Inc."

and that:

"None of the principals of this company have made similar application before the Public Utilities Commission for the State of New Hampshire prior to this filing."

and

WHEREAS, a Nelson J. Thibodeaux filed an application before this Commission, dated March 27, 1992, date stamped April 2, 1992 in DE 92-064, as President of American Automated Telecom, Inc. with offices in Irving, TX, and indicating as legal counsel W. Steven Walker of Irving, TX, with offices at 1425 Greenway, Suite 440; and

WHEREAS, a Nelson Thibodeaux filed an application before this Commission, dated July 23, 1992, date stamped July 27, 1992, in the instant docket, as President of Communications Gateway Network, Inc. with offices in Irving, TX, and indicating as legal counsel W. Steven Walker of Irving, TX, with offices at 1425 Greenway, Suite 440; and

WHEREAS, CGN's September 10, 1992 data responses were submitted under cover of a Robert Saint, CFO; and CGN's data response attachment, marked as "COMMUNICATIONS GATEWAY NETWORK INC. CORPORATE OFFICERS PROFILE," indicate that from 1990 to 1992 a Robert Saint was CFO and a Nelson Thibodeaux was President of American Automated Telecom, Inc (NASC), Dallas, TX, and from 1992 to present [September 10, 1992], the same Robert Saint was CFO & Secretary-Treasurer and the same Nelson Thibodeaux was President of Communications Gateway Network, Inc., Irving, TX; and

WHEREAS, Staff's data request of August 26, 1992 stated:

"Managerial Competence Staff has not made a recommendation at this time. The applicant's reply [of August 13, 1992] is non-responsive.

Staff specifically asked in our request of August 3, 1992:

`Have the principal(s) of the organization made similar applications before this Commission,...?'"

and CGN replied in its response of September 10, 1992:

"None of the principals of this company have made similar

applications before the Public Utilities Commission for the State of New Hampshire prior to this application."

WHEREAS, CGN proposes to do business as a reseller of intrastate, long-distance telephone services; and

WHEREAS, CGN has not demonstrated that they are organized under the laws of the State of New Hampshire, as required by RSA 374:24; and

WHEREAS, the public good would not be served by approving the petition before us; it is hereby

ORDERED, that CGN hereby is denied authority to offer intrastate, long-distance telephone service in the State of New Hampshire, without prejudice.

By order of the New Hampshire Public Utilities Commission this second day of November, 1992.

==========

NH.PUC*11/02/92*[73086]*77 NH PUC 691*CONCORD STEAM CORPORATION

[Go to End of 73086]

CONCORD STEAM CORPORATION

DR 92-130
ORDER NO. 20,658

77 NH PUC 691

New Hampshire Public Utilities Commission

November 2, 1992

Order approving Temporary Rates and establishing a Procedural Schedule

---

Appearances: David W. Marshall, Esq. on behalf of Concord Steam Corporation; and James T. Rodier, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On August 21, 1992, Concord Steam Corporation (Concord Steam or the Company) filed, pursuant to RSA 378:3, revised tariff pages designed to produce a permanent rate increase in annual revenues of $310,429. On the same day, the Company filed a petition for a temporary increase in annual revenues equal to the permanent increase, to commence October 1, 1992.

On October 8, 1992, the Commission issued an order of notice setting a hearing for October 21, 1992 to address the level of temporary rates and to develop a procedural schedule for permanent rates. The Company duly noticed the hearing in accordance with the Commission's order of notice.

II. POSITIONS OF THE PARTIES

On the issue of temporary rates, Concord Steam requested that: 1) the temporary rate level be

set at the proposed permanent rate level; 2) the proposed new rate structure for permanent rates be used to design temporary rates; and 3) temporary rates apply to all consumption on or after October 1, 1992.

Concord Steam witness Bloomfield testified that the test year cost of service indicated a rate increase of over $500,000 would be justified but that the Company had chosen to request only $310,429. Staff witness Deres testified that based on his review of the Company's latest annual report, a rate increase of over $530,000 would be justified. He therefore recommended that the requested temporary rate increase be approved.

However, staff witness McCluskey advised against implementing the proposed new rate design during the temporary rate phase of this case. He testified that no analysis had been performed by staff to determine the rate impacts on different sized customers, and whether the proposed rates will actually bring in the requested revenue. Mr. McCluskey also noted that implementing rate re-design changes at the temporary rate stage could induce some customers to incur costs on the unfounded expectation that those changes will also be incorporated in permanent rates.

With respect to the effective date for temporary rates, Mr. McCluskey noted that it is the Commission's standard practice to require temporary rates to be made effective as of the date of its order on a service rendered basis. The Company argued that customers had received adequate notice that usage on or after

Page 691

October 1, 1992 would be billed at higher rate levels.

III. COMMISSION ANALYSIS

Company witnesses testified that Concord Steam's earnings over the last few years have been consistently below its allowed rate of return. This was supported by staff witness Deres. Despite these results, the Company is requesting an increase in temporary and permanent revenues substantially below the test year revenue deficiency. For this reason we will approve the requested temporary revenue increase. We will also approve the Company's request to charge temporary rates for bills rendered on or after the date of this order. We have determined that adequate notice was given to customers of the requested increase. However, we will deny the Company's request to implement at this time its proposed new rate design.

IV. PROCEDURAL SCHEDULE

The parties proposed the following procedural schedule:

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

August 21, 1992 Company prefiled
testimony
November 13, 1992 Data requests to
petitioner
December 4, 1992 Data responses
from petitioner
December 18, 1992 Second set of data
requests
December 31, 1992 Second set of data
responses
January 22, 1993 Staff testimony due


```
February 5, 1993 Data requests to
staff
February 19, 1993 Data responses
from staff
March 4 & 5, 1993 Settlement
Conference
March 10 & 11, 1993 Hearing date(s)
```

The procedural schedule appears to be in the public interest. Therefore, this agreement is approved and shall govern this proceeding, unless otherwise ordered.

Our order will issue accordingly.

Concurring: November 2, 1992

ORDER

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

ORDERED, that the proposed temporary revenue increase is just and reasonable, and is therefore approved; and it is

FURTHER ORDERED, that the temporary revenue increase be recovered by increasing each component of the existing rates by a uniform percentage; and it is

FURTHER ORDERED, that the revised rates be applied to all bills rendered on or after the date of this order; and it is

FURTHER ORDERED, that the procedural schedule set forth in the foregoing report is approved.

By order of the Public Utilities Commission of New Hampshire this second day of November, 1992.

==========

NH.PUC*11/04/92*[73087]*77 NH PUC 692*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73087]

NEW ENGLAND TELEPHONE COMPANY

DR 92-151
ORDER NO. 20,659

77 NH PUC 692

New Hampshire Public Utilities Commission

November 4, 1992

Revised MTS Rates Order Denying Long Distance North's Motion for Rehearing of Order No. 20,611

On August 4, 1992, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission) a petition for revised Message Toll

Service (MTS) rates, which the Commission suspended by Order No. 20,569 (August 17, 1992), pending Commission determination on access charges in DE 90-002, the Generic Telephone Competition Docket; and

WHEREAS, on September 4, 1992, NET filed a second request, along with a Motion for Reconsideration of the suspension order, in

which NET offered, if reconsideration were denied, to modify its August 4, 1992 filing and substitute for it the modified September 4, 1992 proposal; and

WHEREAS, Order No. 20,611, dated September 22, 1992, approved NET's proposed MTS rates filed on September 4, 1992, as modified in discussions with Commission Staff, provided that the effective rate for any customer class or usage band not fall below $.10 per minute; and

WHEREAS, NET agreed to withdraw its Motion for Reconsideration with the approval of the modified MTS tariff discussed herein; and

WHEREAS, Long Distance North (LDN) filed a Motion for Rehearing, requesting, inter alia, that the Commission vacate its order No. 20,611, and reject NET's September 24, 1992 compliance tariff filing, because LDN asserts the filing does not meet the imputation standard specified in Order 20,082, dated March 11, 1991; and

WHEREAS, Order No. 20,110, dated April 11, 1991, clarified Order No. 20,082 by stating that: ...the commission's decision (in Order 20,082) relative to access charges does not prevent NET and other parties from addressing the issues of the appropriate level and structure of access charges in the generic competition docket, DE 90-002, et al... and

WHEREAS, the Stipulation and Agreement Between the Parties in docket DE 90-002, dated January 17, 1992, specifically identifies as an issue to be litigated in DE 90- 002, the question of whether Local Exchange Carriers (e.g. NET) should be required to impute access on their intraLATA toll service, and if so, whether it should be aggregate imputation or disaggregate; and

WHEREAS, the issue of imputation is currently before us in hearings in DE 90-002 and will be decided upon as a result of those hearings; and

WHEREAS, LDN did not seek concurrence from the parties in docket DR 92-151 in filing its motion; and

WHEREAS, LDN claims to be a party to DR 92-151, without having filed a Motion to Intervene or being granted intervenor status; it is hereby

ORDERED, that Long Distance North's Motion for Rehearing of Order No. 20,611 is denied; and it is

FURTHER ORDERED, that the issue of imputation, being litigated in DE 90-002, will be decided upon as a result of hearings in docket DE 90-002.

By order of the New Hampshire Public Utilities Commission this fourth day of November, 1992.

==========

NH.PUC*11/04/92*[73088]*77 NH PUC 693*LOV WATER COMPANY, INC.

[Go to End of 73088]

LOV WATER COMPANY, INC.

DE 89-033
ORDER NO. 20,660

77 NH PUC 693

New Hampshire Public Utilities Commission

November 4, 1992

Order on Motion TO Reconsider Disallowance of Attorney's Fees And/Or For Affirmative Relief

---

On October 13, 1992, LOV Water Company Inc. filed a Motion TO Reconsider Disallowance of Attorney's Fees AND/OR For Affirmative Relief, and

WHEREAS, LOV Water Company, Inc., in its motion, requested to present evidence and be allowed to have a rehearing so that it could have the opportunity to determine on what basis and on what specific facts the Commission relied; and

WHEREAS, the Motion To Reconsider Disallowance of Attorney's Fees And/Or For Affirmative Relief raises no new issues that the Commission has not already considered nor has it alleged any facts that have not already been submitted to the Commission and considered; it is hereby

ORDERED, that the Motion To Reconsider Disallowance of Attorney's Fees And/Or For Affirmative Relief is denied. By order of the Public Utilities Commission of New Hampshire this fourth day of November, 1992.

==========

NH.PUC*11/04/92*[73089]*77 NH PUC 694*AT&T COMMUNICATIONS OF NEW HAMPSHIRE INC.

[Go to End of 73089]

AT&T COMMUNICATIONS OF NEW HAMPSHIRE INC.

DE 92-202
ORDER NO. 20,661

77 NH PUC 694

New Hampshire Public Utilities Commission

November 4, 1992

Order NISI Approving AT&T DIRECTory LINK

On October 16, 1992 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce AT&T DIRECTory LINK Service Promotion.

WHEREAS, AT&T proposed to introduce a market trial of intrastate AT&T DIRECTory LINK from November 1992 to May 1993; and

WHEREAS, the DIRECTory LINK service will allow the customer to complete a call to the telephone number requested from directory assistance without originating a second intrastate call; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than December 1, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T

cause an attested copy of this Order NISI to be published in a newspaper

having general circulation in that portion of the State of New Hampshire

in which operations are proposed to be conducted, such publication to be

no later than November 16, 1992 and is to be documented by affidavit

filed with this office on or before December 4, 1992; and it is

FURTHER ORDERED NISI, that the following tariff pages of AT&T Tariff PUC No. 4 - LONG DISTANCE SERVICE, are approved:

Section 1 - Original Page 28.1 and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order NISI will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fourth day of November, 1992.

==========

NH.PUC*11/09/92*[73090]*77 NH PUC 694*BACHELOR MOUNTAIN ESTATES, INC.

[Go to End of 73090]

BACHELOR MOUNTAIN ESTATES, INC.

DE 91-194
ORDER NO. 20,662

77 NH PUC 694

New Hampshire Public Utilities Commission

November 9, 1992

Order Granting A Franchise and Temporary Rate

Appearances: Scotch and Zalinsky, by RoseAnn Gentes, Esq. on behalf of Bachelor Mountain Estates, Inc.; Lawrence Alting, pro se; and Eugene F. Sullivan III, Esq. for the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On November 20, 1991 Bachelor Mountain Estates, Inc. ("Bachelor Mountain" or the "Company") filed a petition to provide water service and implicitly to establish rates in a limited area of the Towns of Alton and Gilford, New Hampshire. On January 28, 1992

the Commission issued an Order of Notice scheduling a prehearing conference for March 6, 1992.

At the prehearing conference Mr. Lawrence Alting, a customer of the Company, requested and was granted full intervenor status in this proceeding. The parties and staff also stipulated to a procedural schedule.

On March 30, 1992 the Commission's Executive Director and Secretary advised the parties by letter that a conflict existed with the July 9 date agreed to by the parties for the franchise hearing, and that the date of July 22 was being substituted.

On April 21, 1992 the Commission issued Order No. 20,449 approving the procedural schedule submitted by the parties, as amended.

On June 2, 1992 the intervenor Mr. Alting requested a two week suspension of the procedural schedule in order to have adequate time to respond to the Company's data responses.

On June 5, 1992 the Staff filed written testimony of Mark A. Naylor regarding a temporary rate recommendation.

On June 8, 1992 the Company filed an Objection to Lawrence Alting's Motion to Suspend Procedural Schedule. By letter of the Executive Director and Secretary of June 15, 1992 the Commission advised the parties that it had granted in part and denied in part Mr. Alting's motion. The Commission amended the procedural schedule for certain dates for discovery, but denied

Mr. Alting's motion to suspend the procedural schedule.

On July 22, 1992 a hearing was held on the issues of franchise and a temporary rate for Bachelor Mountain.

II. POSITIONS OF THE PARTIES

A. Bachelor Mountain Estates, Inc.

Bachelor Mountain submitted various documents in support of its request for a water utility franchise, including letters from the Town of Alton Building Inspector and from the Commissioner of the Department of Environmental Services regarding the withdrawal of a Notice of Proposed Fine regarding certain water system violations. Subsequent to the hearing, on August 19, 1992, and at the request of the Hearing Examiner, the Company submitted a copy of the water system map delineating the requested franchise area; a May 21, 1992 letter from Rene Pelletier of the Water Supply Engineering Bureau indicating that the Bureau has no objection to the franchise request of the Company and feels that the Company intends to comply with current and future statutory requirements of the Safe Drinking Water Act; and a June 2, 1992 letter from Delbert Downing of the Department of Environmental Services Water Resources Division indicating that Division's approval of the system under RSA 374:22, III. The Company did not specifically request a temporary rate level, indicating that the Company would accept that temporary rate recommended by the Commission Staff.

B. Intervenor Lawrence Alting

Mr. Alting, although participating in the July 22 hearing, did not file testimony relative to the Company's request for a franchise and temporary rate.

C. Commission Staff

Commission Staff filed testimony of Mark A. Naylor regarding a temporary rate level for Bachelor Mountain. The Staff recommended a temporary rate of $234 annually, based solely on projected operation and maintenance expenses. Staff did not include any return on rate base, or depreciation expense, in the temporary rate because it feels that a review of the Company's books and records is necessary to determine accurately the actual investment of the Company. The total operation and maintenance expenses recommended for the temporary rate is $5,148, to be collected from 22 customers. At the hearing, Staff recommended minor adjustments to the expense level, resulting in $5,089 in expenses and an annual rate of $231.34, or $57.83 quarterly.

Page 695

III. COMMISSION ANALYSIS

The Commission finds that the Company has the financial, managerial and technical expertise to operate a water utility franchise. From a review of the transcript of the July 22 hearing, the Commission is concerned that the customers of Bachelor Mountain have clear instructions on who to contact in the event of an emergency. The Commission will order, therefore, that the Company provide a notice to all its customers of the exact procedure to follow with respect to contacting the Company.

In addition, the Commission finds that the temporary rate of $57.83 per quarter is just and

reasonable based on the operation and maintenance expenses of the Company.

Our order will issue accordingly.

Concurring: November 9, 1992

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that Bachelor Mountain Estates, Inc. is granted a franchise to operate a water utility franchise in the limited areas of the Towns of Alton and Gilford as identified on a map submitted to the Commission under letter of August 19, 1992; and it is

FURTHER ORDERED, that the Company within fourteen days of the date of this Order provide written notice to each of its customers the notification procedure for reporting problems with the water system; and it is

FURTHER ORDERED, that the Company is authorized as of the date of this Order to charge a temporary rate of $57.83 to each of its 22 current customers taking service.

By order of the New Hampshire Public Utilities Commission this ninth day of November, 1992.

==========

NH.PUC*11/10/92*[73091]*77 NH PUC 696*NORTHERN UTILITIES, INC. SALEM DIVISION

[Go to End of 73091]

NORTHERN UTILITIES, INC. SALEM DIVISION

DR 92-179
ORDER NO. 20,663

77 NH PUC 696

New Hampshire Public Utilities Commission

November 10, 1992

Order approving proposed Winter 1992/93 CGA

WHEREAS, the Salem Division of Northern Utilities filed on September 24, 1992 1st Revised Page 33, superseding Original Page 33, providing for a winter 1992/93 cost of gas adjustment (CGA) of $0.0689 per therm effective November 1, 1992; and

WHEREAS, the Commission issued an order of notice on October 1, 1992 setting a hearing on the merits for October 15, 1992; and

WHEREAS, the Commission finds the proposed CGA just and reasonable and in the public good; it is hereby

ORDERED, that the proposed CGA of $0.0689 per therm, exclusive of franchise tax, be approved for effect November 1, 1992.

By order of the Public Utilities Commission of New Hampshire this tenth day of November, 1992.

==========

NH.PUC*11/10/92*[73092]*77 NH PUC 696*NORTHERN UTILITIES, INC. NEW HAMPSHIRE DIVISION

[Go to End of 73092]

NORTHERN UTILITIES, INC. NEW HAMPSHIRE DIVISION

DR 92-178
ORDER NO. 20,664

77 NH PUC 696

New Hampshire Public Utilities Commission

November 10, 1992

Approval of Winter 1992/93 Cost of Gas Adjustment

REPORT

Appearances: Scott J. Mueller, Esquire for Northern Utilities, Inc.; James T. Rodier, Esquire, Staff Attorney.

I. PROCEDURAL HISTORY

On September 24, 1992 Northern Utilities, Inc., (Northern or Company), a public utility engaged in the business of supplying gas in the State of New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission), First Revised Page 32, superseding Original Page 32, N.H.P.U.C. No. 7-Gas, providing for a Winter 1991-1992 Cost of Gas Adjustment (CGA) effective November 1, 1992. The proposed CGA represented a decrease of $(0.0353) per therm, exclusive of the N.H. State Franchise Tax, over the base unit cost of gas of $0.3846 per therm.

In Report and Order No. 20,464 in DR 92-060, 1992 Summer Cost of Gas Adjustment, the Commission directed the Company to respond to two concerns regarding: (a) the level of unaccounted-for-gas reflected in Northern's gas cost estimates; and (b) the margins generated by certain interruptible sales customers. The Company's response to those concerns was received September 30, 1992.

On October 1, 1992 the Commission issued an order of notice establishing a hearing date of October 15, 1992 and ordering the petitioner to publish the order of notice, by October 6, 1992, in a local newspaper having general circulation in that portion of the State in which operations are conducted.

On October 9, 1992, at a technical conference, staff and the Company reviewed the filing and

staff requested additional information relating to several of the rates and charges included in the exhibits sponsored by Mr. Ferro. A considerable part of staff's review focused on the methods and practices employed by Northern's affiliate and sole pipeline supplier, Granite State Gas Transmission, in purchasing third party gas supplies. Staff was particularly concerned about the documentation of bids from third party suppliers and access to that documentation by staff auditors.

On October 14, 1992, the Company submitted Second Revised Page 32, which revised the proposed CGA to $(0.0377) per therm. Second Revised Page 32 reflected the following changes:

(1) The correction of an error in the gas cost projections for the winter period, which reduced gas costs by $120,547;

(2) An update to the projected spot gas prices, which reduced gas costs by $1,494;

(3) A change in the mix of gas supplies used to meet Northern demands;

(4) An update of all demand costs to reflect latest Granite State Gas Transmission charges;

(5) Revisions to Tennessee Gas Pipeline and Canadian gas prices to reflect updated futures prices; and

(6) The expected receipt of an amount to cover part of the debt owed by Gold Bond, an interruptible customer of Northern. On October 23, 1992, the Company responded to two questions from the bench concerning: (a) the effect of the proposed CGA on ratepayers by level of usage, and (b) notifications to customers of changes in the level and structure of rates resulting from the Company's permanent and step adjustment rate cases.

II. POSITION OF THE PARTIES

The Company presented two witnesses in support of its filing: Joseph A. Ferro, Manager, Gas Costing and Rate Analysis; and Thomas A. Sacco, Vice President of Gas Supply. Mr. Ferro summarized the proposed tariff page and identified the major cost factors that explain the $0.0188 per therm increase in gas costs for the 1992/93 winter period compared with the 1991/92 winter period. He also testified that the Company's projections of spot gas prices for the coming winter period were based on the natural gas futures prices reported in the Wall Street Journal for September 29, 1992. Both Mr. Ferro and staff witness McCluskey defended this practice on the grounds that the natural gas futures market is an efficient, mature market and that the resulting prices reflect all relevant available information at that

time. Nonetheless, Mr. Ferro agreed to provide the effect on the Revised CGA of using October 14, 1992 futures prices instead of September 29, 1992. His response, which was submitted October 17, 1992, showed a reduction of only $(0.0018) per therm. Staff recommended that the change in estimated gas costs was too small to warrant a revision to the filing at this time.

With respect to the Company's response concerning unaccounted-for-gas levels and interruptible sales margins, Mr. McCluskey testified that the staff had only just received the filing and thus needed more time before it could respond intelligently.

Mr Sacco's testimony compared the gas supply resources available to Northern in the winter of 1991/92 with the upcoming winter of 1992/93. He noted that while Northern had received an additional 4550 MMBtu per day of pipeline capacity from Granite State as part of its share of Iroquois supply, it also chose to convert 2653 MMBtu of pipeline capacity to storage service. Mr. Sacco expects that both the new storage service and the increase in pipeline volumes will be available for November 1, 1992.

During cross-examination, staff questioned Mr. Sacco extensively on the methods and practices Granite State and Northern employ to purchase spot gas supplies, and noted significant price variations between spot suppliers for supplies delivered within the same month. Mr Sacco explained that while the exhibit appeared to show that a quantity of gas had been purchased from a single supplier at a single price, the quantity and price data actually reflect the sum and average respectively of smaller quantities, each purchased at different prices. Further, the purchase price typically reflected the market conditions on the day of the month the purchase was made. In short, Mr. Sacco testified that the aggregation of daily quantities and prices prevented meaningful comparison between third party suppliers.

III. COMMISSION ANALYSIS

With respect to the proposed cost of gas adjustment, the Commission finds the revisions to the original filing are appropriate and that a CGA of $(0.0377) per therm is just and reasonable. We will therefore approve Second Revised Page 32 for effect November 1, 1992.

We do however, have concerns about the documentation, or lack thereof, of third party gas purchases. Much of staff's cross examination of Mr Sacco was devoted to the issue of whether spot market gas is actually purchased by Granite State Gas Transmission and/or Northern at least cost, and not simply below that which could be purchased from the sales service provider. This is appropriate because: (A) a large component of the Company's supplies are in some way dependent on spot purchases; and (B) those purchases provide significant opportunities for cost savings. While the record indicates that Mr. Sacco's staff took appropriate actions to maximize those savings, we are concerned that the documentation detailing the various third party bidders, and their associated bids, was not made available to the staff audit team assigned to this case. We will therefore direct the Company to respond within 60 days, describing in writing: (a) the methods and procedures that it employs to solicit bids from third party suppliers; (b) the methods and procedures used to document the bidders and their bids; (c) the selection process, including the criteria used to choose the successful bidders; and (d) whether the documentation is accessible to staff auditors. We will also require the Company to investigate whether its methods and procedures can be improved by, e.g., purchasing an appropriate business software package.

Our order will issue accordingly.

Concurring: November 10, 1992

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that Northern Utilities respond in writing within 60 days to our

request for information on its procedures for obtaining, documenting and reviewing bids from third party gas suppliers; and it is

FURTHER ORDERED, that the Company investigate whether its methods and procedures can be improved by purchasing an appropriate business software package; and it is

FURTHER ORDERED, that the proposed CGA of $(0.0377) per therm is just and reasonable, and therefore approved for effect November 1, 1992.

By order of the New Hampshire Public Utilities Commission this tenth day of November, 1992.

==========

NH.PUC*11/12/92*[73093]*77 NH PUC 699*ENERGYNORTH NATURAL GAS, INC.

[Go to End of 73093]

ENERGYNORTH NATURAL GAS, INC.

DR 91-077
ORDER NO. 20,665

77 NH PUC 699

New Hampshire Public Utilities Commission

November 12, 1992

Order Approving Interruptible Sales Contract with Concord Steam Corporation

---

WHEREAS, EnergyNorth Natural Gas, Inc. (ENGI or Company) filed on June 3, 1991 for approval of an interruptible gas sales contact between ENGI and Concord Steam Corporation (Concord Steam); and

WHEREAS, the proposed contract would allow Concord Steam to utilize natural gas instead of its alternative fuel, which for the purpose of determining the price of gas is No. 6-2% sulfur fuel oil; and

WHEREAS, the distribution system to deliver natural gas to Concord Steam is already in place and requires no direct capital expenditure; and

WHEREAS, the proposed contract automatically went into effect after a specified period as per approved stipulation; it is hereby

ORDERED, that the proposed interruptible sales contract between ENGI and Concord Steam is reasonable and in the public interest and therefore approved.

By order of the New Hampshire Public Utilities Commission this twelfth day of November, 1992.

==========

NH.PUC*11/16/92*[73094]*77 NH PUC 699*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 73094]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-009
ORDER NO. 20,667

77 NH PUC 699

New Hampshire Public Utilities Commission

November 16, 1992

Report and Order Addressing Motion For Recusal of Commissioner Bruce B. Ellsworth and Commissioner Linda G. Stevens

---

REPORT

I. PROCEDURAL HISTORY

On October 5, 1992, the New Hampshire Public Utilities Commission (Commission) issued Report and Order No. 20,618 approving a plan of bankruptcy reorganization of the New Hampshire Electric Cooperative (NHEC).

On October 26, 1992, the Campaign for Ratepayers Rights, Representative Peter Burling, Roger Easton, and Gary McCool (Movants) filed a motion for recusal (disqualification) of Commissioner Bruce B. Ellsworth and Commissioner Linda G. Stevens from participation in this docket, including rehearing of Report and Order No. 20,618 pursuant to RSA 541:3.

Following receipt of the Movants' motion for recusal of the Commissioners, the Commission, on November 2, 1992, received a similar motion from the Office of the Consumer Advocate (OCA). The NHEC filed an objection to the motion.

The Commission has received motions for rehearing of Report and Order No. 20,618 from the Movants and the OCA.

On October 28, 1992, the Commissioners requested the opinion of the Office of the Attorney General (Department of Justice) relative to the Movants' motion for recusal. See, Appendix A. On November 2, 1992, Deputy Attorney General, George Dana Bisbee, Esquire, concluded that based on the recitation of facts in the Commissioners' October 28, 1992, letter, which "are not

inconsistent with the findings from our investigation last year...", there was "no basis for the pending Motion to Disqualify...." See, Appendix B.

II. POSITIONS OF THE PARTIES

A. Movants

The Movants take the position, based on the transcript of the March 9, 1991, hearing in docket DR 90-078 (Transcript), that the Commissioners participated in conversations with Jon Bellgowan, then General Manager of NHEC in 1987 and 1988, in which he informed the Commissioners, and then Commission Chairman, now Judge Vincent Iacopino, that the NHEC planned to exceed its debt limitations without Commission approval in contravention of RSA 369:1-4. The Movants state that the NHEC was actually counseled by the Commissioners and Judge Iacopino not to petition the Commission for authorization to increase its debt limit even though they already exceeded the limit without Commission approval in violation of New Hampshire law, that the Commissioners knew the NHEC had taken their advice not to seek authority and was illegally incurring debts, and then, that the Commissioners participated in "covering up" the criminal activity of NHEC. The Movants then state that the Commissioners through Report and Order No. 20,618, approving a bankruptcy reorganization plan for the NHEC under new management, granted a "series of approvals designed... to compensate for the prior failure of NHEC management to obey and the Commission to enforce the law and PUC orders...." Motion at 4.

The Movants base their assertions on selected quotations from the Transcript and certain paraphrased sections of the Transcript.

Based on these assertions, the Movants submit that the Commissioners should disqualify themselves from this docket pursuant to RSA 363:19 and 363:12.

B. Office of the Consumer Advocate

The (OCA), accepting the allegations and assertions made by the Movants, takes the position that the Commissioners should disqualify themselves due to the "appearance of impropriety" pursuant to RSA 363:12, or otherwise remove the appearance of impropriety.

C. NHEC

The NHEC takes the position that no ex parte communications took place in 1987-1988 as there were no pending dockets before the Commission, and, furthermore that there is no evidence that either Commissioner knew of then Chairman Iacopino's alleged advice not to file a financing petition. The NHEC further states that the Movants' assertions are based on "misstatements of fact and a misreading of the law." NHEC Objection at 1.

III. COMMISSION ANALYSIS

The issues before the Commission are: (1) whether any or all of the commissioners participated in any off-the-record communications with Mr. Bellgowan; (2) whether, to the extent that Commissioners Ellsworth and Stevens participated in off-the-record communications with Mr. Bellgowan, those communications constituted "ex parte" communications; (3) whether Commissioners Ellsworth and Stevens participated in off-the-record communications which revealed that the NHEC had incurred unauthorized debt; (4) whether the Commission acted improperly or illegally upon learning of the unauthorized borrowing.

We find the allegations of the Movants and the OCA to be without any basis in fact or law. We, therefore, deny the motion based upon the following analysis.

We will address each of the Movants' and the OCA's allegations seriatim.

The first allegation is that Commissioners Ellsworth and Stevens were present at "secret meetings" with Mr. Bellgowan in which they advised him not to seek authorization to

increase the NHEC's debt limit pursuant to RSA 361:1-4, but to incur the debts without authorization. This allegation is baseless.

Neither Commissioner Stevens nor Commissioner Ellsworth has any recollection of any meetings with Mr. Bellgowan relative to that issue, and we find support for this position in Mr. Bellgowan's recollection as set forth in the Transcript.

Mr. Bellgowan states at pages 86-87 of the Transcript that he was told by the Commission not to bring forward a "piece-meal" financing proposal. When asked by then Chairman Smukler, Who told him this, he responded, "Mr. Iacopino". There is no mention relative to Commissioner Ellsworth or Commissioner Stevens in the Transcript. In fact, the following colloquy took place between Mr. Bellgowan and the OCA:

Q But you're having — let me understand this—were having meetings with the Commissioners where you discussed the Coop's financial problems and kept them apprised of what was going on?

A That's correct.

Q And it was at this meeting that you were told not to come back and request Commission authority for advances that REA was making?

A I probably ought to frame it differently than "told". I probably ought to say that it was recommended that we not do it, that was probably the way, not to do it on a piece-meal basis. That might be a more appropriate term of what was said.

Q And Chairman Iacopino made this recommendation?

A That's correct. At least that was my interpretations (sic) of what the discussions were.

Q And was (sic) there any other commissioners present at these meetings?

A There was (sic) in different meetings, but I'm not sure in that particular meeting. I don't recall.

Transcript at pp. 108-109.

Mr. Bellgowan goes on to state that it was possible that Commissioners Ellsworth and Stevens were present at one meeting, but there is no indication that the "piece-meal" financing proposal was discussed at any such meeting. Transcript at p. 109.

Commissioners Ellsworth and Stevens have no recollection of attending any meeting at which financing above approved debt limits was discussed. Rather, they remember a single meeting at which the general subject of bankruptcy was discussed, which meeting was referenced in Docket DE 88-067. Mr. Bellgowan confirms that fact in the Transcript:

Q What commissioners were attending these meetings?

A The commissioner meeting, I think Mr. Ellsworth attended one of the meetings and I'm not

sure, Linda, I think you were in at least one of the meetings, if I recall.

Transcript at p. 109.

There is no basis, therefore, to the Movants' and the OCA's allegations that these Commissioners either advised the NHEC not to seek financing approval or knew about or acquiesced in its failure to obtain approval.

In regard to the allegation that there were "secret meetings" which Commissioners Ellsworth and Stevens attended, we find this accusation perplexing. Commissioners Ellsworth and Stevens have confirmed that they attended a single "urgent meeting" at the request of the NHEC to discuss the possibility of bankruptcy. See Letter to Attorney General, October 28, 1992, from Ellsworth and Stevens

Page 701

(Appendix A). The meeting was held in the offices of the Commission. There were no open or expected dockets before the Commission on the bankruptcy issue at the time the meeting was held. The meeting was agreed to by the Commissioners in accordance with their responsibilities pursuant to RSA 374:4 Duty to Keep Informed which states that:

[t]he commission shall have power, and it shall be its duty, to keep informed as to all public utilities in the state...not only with respect to the safety, adequacy and accommodation offered by their service, but also with respect to their compliance with all provisions of law, orders of the commission and charter requirements.

RSA 374:4

As a result of that meeting, DE 88-067 was opened by the Commission for the purpose of using its emergency powers, pursuant to RSA 378:9, to preserve customers' opportunities to regain their deposits and prepayments in the event that NHEC did declare bankruptcy.

The fact that an off-the-record meeting was responsible for that Commission action was not a secret. To the contrary, the Commission's opening statement in the Report and Order No. 19,094 stated:

[s]ince December, 1987 the commission has, on an informal basis, monitored financial problems of the New Hampshire Electric Cooperative, Inc. (NHEC or Coop) pursuant to its duty to keep informed under RSA 374:4 and its power to investigate under RSA 374:3 and 365:5.

The record reveals that Mr. McCool, one of the Movants herein, appeared in that docket and made a rather lengthy public statement relative to the financial condition of the NHEC. Immediately following Mr. McCool's statement, Mayland Morse, Esq., then NHEC General Counsel, publicly stated, generally, that the NHEC had, on a continuing basis, been informing the Commission of its financial condition and its position with the REA. See, Transcript, DE 88-067, pp. 11- 16. The OCA must also have been aware that the Commission was in contact with the NHEC because, subsequent to the issuance of Report and Order No. 19,067, the OCA filed a notice of intervention in that docket. The hearing record reflects a notation by the then presiding officer, Chairman Iacopino, that the OCA did not appear at the hearing. See, Transcript, DE 88-067, p.11.

Thus, there is no basis to the allegation that the Commissioners attempted to keep "secret" the fact that they were fulfilling their statutory duty to remain informed relative to the utilities under their jurisdiction. See, RSA 374:4.

The allegation that the Commissioners "covered up" the NHEC's illegal actions is also baseless. There is no factual basis in the Transcript or anywhere else that Commissioners Ellsworth and Stevens even had any knowledge relative to the illegal financings obtained by the NHEC prior to its disclosure at public hearings on March 7, 1991. Neither Commissioner remembers attending any meeting at which that subject was discussed. See, letter to Attorney General, October 28, 1992 (Appendix A). In fact, upon learning of the financings at the public hearing, both Commissioners Ellsworth and Stevens were signatories to Report and Order No. 20,122 in docket DE 90-078 which ordered, inter alia, the Attorney General to "commence an investigation of the Cooperatives (sic) willful violation of statutory financing requirements to determine whether criminal or other judicial proceedings should be instituted pursuant to RSA 365:41, RSA 365:42 and RSA 374:41." Re New Hampshire Electric Cooperative, Inc., Order No. 20,122 at 2. The Commissioners would not have ordered the Attorney General to "commence a criminal investigation" if they were attempting to "cover up" their alleged malfeasance of office.

The Movants allege that the failure of the Commissioners to disqualify themselves from this case would violate RSA 363:19. RSA

363:19 states:

[n]o commissioner shall sit upon the hearing of any question which the commissioner is to decide in a judicial capacity who would be disqualified from any cause, except exemption from service and knowledge of the facts gained in the performance of his official duties, to act as a juror upon the trial of the same matter in an action of law. (emphasis added).

RSA 363:19

The only basis for application of this statute to disqualify Commissioners Ellsworth and Stevens is "knowledge of facts gained in the performance of official duties," which is specifically allowed by the statute. Based on the analysis set forth above, we find no basis for disqualification under RSA 363:19.

The OCA and the Movants have also requested the disqualification of Commissioners Ellsworth and Stevens based on RSA 363:12. The New Hampshire Supreme Court has held that commissioners should disqualify themselves pursuant to RSA 363:12 when "objective appearances provide a factual basis to doubt impartiality, even though the judge himself (sic) may subjectively be confident of his ability to be evenhanded." Appeal of Seacoast Anti-Pollution League, 125 N.H. 465, 470 (1984); quoting Home Placement Service Inc. v. Providence Journal Co., 739 F.2d 671, 674 (1st Cir. 1984). Based on the analysis set forth above of the Transcript there is no "factual basis to doubt" the Commissioners' impartiality and, therefore, no basis for their disqualification.

Furthermore, on November 2, 1992, the Department of Justice, State of New Hampshire,

responded to the letter of Commissioners Ellsworth and Stevens dated October 28, 1992. The response indicates that "These recitations of fact are not inconsistent with the findings from our investigation last year...", and concludes there is "...no reason to disagree with your assessment" that "there is no basis for the pending Motion to Disqualify." The referenced investigation is the one requested by the Commission in docket DR 90-078.

Accordingly, the Movants' and the OCA's request that Commissioners Ellsworth and Stevens disqualify themselves pursuant to RSA 363:12, VII, is denied.

There remains an additional issue in that the Movants and the OCA allege that the Commission did not institute civil and administrative procedures to sanction NHEC management. That issue is separate and distinct from the issue of the recusal of Commissioners Ellsworth and Stevens, and will be addressed herein.

The public hearing at which the unauthorized borrowing was admitted by Mr. Bellgowan took place on March 7, 1991. The Commission's Report and Order No. 20,122, in which the Attorney General's opinion was requested, was issued on May 3, 1991. On May 6, 1991, NHEC filed for bankruptcy.

The Attorney General's opinion was forwarded to the Commission on December 6, 1991. The opinion found that no criminal prosecution was warranted. Given that the NHEC was well into the bankruptcy process by that date, and that the management of the company was being replaced, the Commission concluded that further proceedings on the issue of the unauthorized borrowings were untimely and that the focusing of Commission efforts toward that end would provide no benefit to the public.

Within forty days of the receipt of the Attorney General's letter, the NHEC petitioned the Commission for rate relief to bring itself out of bankruptcy. By that time, new management was in place and a new financing structure was under consideration. It would have been untimely and counterproductive to focus further efforts on an issue which had been superseded by events. Rather, the Commission focused its efforts on the lengthy process which resulted in approval of new rates by Report and Order No. 20,618, issued on October 5, 1992, which will, most likely, lead to the NHEC's emergence from the jurisdiction of the Federal Bankruptcy Court.

The Movants' and the OCA's allegation

Page 703

---

that the Commissioners did not institute civil and administrative procedures to sanction NHEC management because of its duplicity with the NHEC illegal financing is without merit.

Finally, the Movants have requested remuneration for the costs they incurred in the filing of this motion. Because there is neither a statutory nor a regulatory basis for reimbursement for legal fees in the filing of a motion for rehearing pursuant to RSA 541:3, the request is denied.

Our order will issue accordingly.

Concurring: November 16, 1992

ORDER

Upon consideration of the foregoing Report, which is incorporated herein; it is hereby

ORDERED, that the Campaign for Ratepayers Rights', Representative Peter Burling's, Roger Easton's, Gary McCool's, and the Office of the Consumer Advocate's motions to recuse (disqualify) Commissioner Bruce B. Ellsworth and Commissioner Linda G. Stevens are denied for the reasons set forth in the foregoing report; and it is

FURTHER ORDERED, that the Campaign for Ratepayers Rights', Representative Peter Burling's, Roger Easton's, and Gary McCool's request for financial reimbursement for the cost of their motion is denied.

By order of the New Hampshire Public Utilities Commission this sixteenth day of November, 1992.

Appendix A

28 October 1992

John Arnold, Esquire Attorney General State of New Hampshire State House Annex Concord, New Hampshire 03301

Subject: Motion to Disqualify

Commissioners Bruce B. Ellsworth and Linda G. Stevens, both of the New Hampshire Public Utilities Commission, request review by your office of the facts and circumstances surrounding the allegations of the Campaign for Ratepayers Rights that said Commissioners should disqualify themselves from future proceedings in docket DR 92-009, the New Hampshire Electric Cooperative, Inc.'s petition for temporary and permanent rates, debt reorganization and amendments to its Power Supply Contract and Sell-back Contract.

On 26 October 1992 a Motion to Disqualify Commissioner Bruce Ellsworth and Commissioner Linda Stevens and to Request Appointment of Special Commissioners was submitted to the Public Utilities Commission by the Campaign for Ratepayers Rights (CRR), Gary McCool, Roger Easton, and Representative Peter Hoe Burling (the "moving parties") by Robert A. Backus, Esq., 116 Lowell Street, Manchester, N.H. A copy of the Motion is attached.

The petitioners specifically move that:

1) Commissioner Bruce Ellsworth and Linda Stevens disqualify themselves from sitting on this case.

2) Pursuant to RSA 363:20, the Commission make application to the governor for appointment of special commissioners to act on the Motion For Rehearing that is being filed with this motion and to act on all future proceedings in this docket.

3) The Commission grant reasonable fees and expenses to the Campaign For Ratepayers Rights, to be paid by NHEC upon review and approval by the commission of a request by CRR that provides a detailed accounting of fees and expenses.

John Arnold, Esquire 28 October 1992 Page 2

This memorandum will address the first of the requested actions and will outline the reasons why Commissioners Ellsworth and Stevens, subject to your review and advice,

find it unnecessary to recuse themselves from this docket. Action on the second issue will be contingent upon your review of the first issue. The third issue is presently before the New Hampshire Supreme Court as a result of a previous Commission finding that such fees and expenses are unauthorized.

ISSUE #1

Moving Parties allege that "...(d)uring a March 7, 1991 PUC hearing on DR 90-078, NHEC General Manager Jon Bellgowan revealed that in 1987-88 there had been a number of `private meetings between the Commissioners' and top management of the New Hampshire Electric Cooperative" (Motion to Disqualify, p.1). Moving Parties allege that these were "secret meetings" Moving Parties refer to Mr. Bellgowan's (NHEC General Manager) testimony that he informed the commissioners that the NHEC was exceeding the limits of a Commission order on authorization to incur debt under RSA 369:1 and RSA 369:4. Mr. Bellgowan testified that he was informed by (then) Chairman Iacopino "don't come in an(d) request authority for those advances".

Moving Parties allege that Mr. Bellgowan "...engaged in ex parte communications with the commissioners" (Motion to Disqualify, p. 2). They conclude that "it would follow that...Commissioners Bruce Ellsworth and Linda Stevens, had knowledge that the NHEC was in violation of an existing order on financing, yet took no steps to ensure compliance with the PUC order..." (Motion to Disqualify, p. 2.)

FACTS

The NHEC management requested an urgent meeting with the commissioners. The three commissioners (Iacopino, Ellsworth, Bisson (Stevens)) held the meeting at the offices of the PUC. Management informed the Commissioners that the NHEC was in severe financial hardship and was considering bankruptcy. Neither Commissioner recalls any discussion of excess borrowings No guidance was offered by the commissioners. No ex parte discussions were held in view of the fact that there were no open or expected dockets before the Commission on the bankruptcy issue.

Subsequent to the meeting, the commissioners discussed the possible ramifications of bankruptcy upon NHEC's customers. The

John Arnold, Esquire 28 October 1992 Page 3

commissioners were specifically concerned that, if NHEC declared bankruptcy, customers' prepayments and deposits might be in jeopardy, as had been the Commission's experience in the then recent PSNH bankruptcy. Accordingly, on May 9, 1988 the Commission opened docket DE 88-067 "establishing emergency requirements for deposits and prepayments held by an electric cooperative", citing the fact that they had been informally monitoring the NHEC's financial situation and that the docket was opened as a result of that informal monitoring.

On 13 May 1988, the Commission issued its report and order No. 19,094 directing certain actions by the NHEC. The Commission began its attached Report as follows:

Since December, 1987 the commission has, on an informal basis, monitored financial problems of the New Hampshire Electric Cooperative, Inc. (NHEC or Coop) pursuant to its duty

to keep informed under RSA 374:4 and its power to investigate under RSA 374:3 and 365:5...

By its report and order, made available at the time to the public and subsequently published in volume 73 (1988) New Hampshire Public Utilities Commission Reports, the Commission clearly disclosed the fact that the informal meeting had taken place. It is inaccurate to consider it a "secret meeting".

Page 705

On July 19, 1988, the Commission held a public hearing on the NHEC's actions which were taken pursuant to Order No. 19,094. Mr. McCool, a "moving party", attended and participated in that proceeding. A further Report and Order No. 19,160 was issued on August 13, 1988.

FACT

If more than one meeting with the NHEC was held, Commissioners Ellsworth and Stevens are not aware of them. Neither commissioner remembers attending another meeting with the NHEC. Mr. Bellgowan appears to conflrm that fact when he refers (Transcript P. 109):

"The commissioner meeting, I think Mr. Ellsworth attended one of the meetings and I'm not sure Linda, I think you were in at least one of the meetings, if I recall."

John Arnold, Esquire 28 October 1992 Page 4

FACT

The issue of unauthorized borrowings by the NHEC was revealed to Commissioners Ellsworth and Stevens at the hearing in DR 90-078 on 7 March l991. Neither remembers attending a meeting at which that subject was discussed. Neither remembers attending any meetings with the NHEC except for the one explained above.

In response to that disclosure on the record, the Commission said in its Report (page 35)(3 May 1991):

"The public policy ot requiring prior Commission approval compels us to disallow as a cost recoverable under the sellback Seabrook debt in excess of the $126 million authorized by the Commission. We will...request the Attorney General to conduct an investigation to determine whethel should institute criminal proceedings.

The Commission acted promptly and responsively to the revelation.

ISSUE #2

Moving Parties allege that the commissioners' actions were not proper and violated RSA 363:12 Ethical Conduct Required. Moving Parties allege that Commissioners Ellsworth and Stevens do not meet the high standard for individuals who sit in a judicial capacity.

FACT

Commissioners Ellsworth and Stevens did not violate RSA 363:12 in any respect. In agreeing to meet informally with representatives of the NHEC at their request, they were fulfilling their statutory commitment under RSA 374:4 Duty to Keep Informed:

The commission shall have power, and it shall be its duty, to keep informed as to all public

utilities in the state...not only with respect to the safety, adequacy and accommodation offered by their service, but also with respect to their compliance with all provisions of law, orders of the commission and charter requirements.

John Arnold, Esquire

28 October 1992

Page 5

The issues regarding a potential bankruptcy were very sensitive. It was the NHEC's duty to inform the commissioners of actions as serious and far-reaching as a potential bankruptcy It would have been inappropriate to announce such premature information in a public forum, but it was the commissioners' responsibility to become informed of such a potentially serious issue.

Page 706

REQUEST OF THE ATTORNEY GENERAL

It is imperative that this issue be resolved promptly, openly, and publicly. The public deserves to know that its public servants are fulfilling their responsibilities knowledgeably, honestly, and ethically. The parties to this proceeding are entitled to know that they were treated fairly and impartially. The public record must reflect that the decisions in the instant proceeding were conducted objectively.

Moving Parties have challenged Commissioner Ellsworth's and Steven's fitness to continue to sit on DR 92-009.

It is the request of the undersigned, Commissioner Bruce B. Ellsworth and Commissioner Linda G. Stevens, that the office of Attorney General review the Motion to Disqualify, the referenced dockets and statutes, and any other pertinent information which may assist in bringing this issue to conclusion, and render an opinion as to whether Commissioners Ellsworth and Stevens should recuse themselves from further participation in DR 90-009.

Appendix B

November 2, 1992

Douglas L. Patch, Chairman Bruce B. Ellsworth, Commissioner Linda Bisson Stevens, Commissioner Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

Dear Chairman Patch and Commissioners Ellsworth and Stevens:

This is in response to Commissioners Ellsworth and Stevens' letter of October 28, 1992 to the Attorney General concerning the Motion to Disqualify filed in DR-92-009, in the matter of New Hampshire Electric Cooperative. It follows a brief telephone conversation I had with Chairman Patch on Friday, October 30, 1992, and my meeting with all three of you on Monday, November 2, 1992.

In your letter to the Attorney General, you explained at length your participation in one informal meeting with representatives of the New Hampshire Electric Cooperative ("NHEC") in 1988, relating to no open or expected docket, when the NHEC informed you of the NHEC's

consideration of a bankruptcy filling Commissioners Stevens and Ellsworth both assert that they recall no other informal meetings with NHEC representatives, and neither recalls any discussion about excess borrowings in violation of financing limitations imposed by Commission order. (These recitations of fact are not inconsistent with the findings from our investigation last year, as reported in my letter to Amy Ignatius, PUC General Counsel, last December.)

In view of these facts, you have determined that there is no basis for the pending Motion to Disqualify. Having reviewed your letter and the Motion to Disqualify, and having discussed the issue with you, I see no reason to disagree with your assessment.

Please let me know if you have any additional questions or concerns in this matter.

Yours truly,

George Dana Bisbee Deputy Attorney General GDB/p

==========

NH.PUC*11/16/92*[73095]*77 NH PUC 708*PENNICHUCK WATER WORKS, INC. SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

[Go to End of 73095]

PENNICHUCK WATER WORKS, INC. SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

DR 91-107; DR 91-110
ORDER NO. 20,668

77 NH PUC 708

New Hampshire Public Utilities Commission

November 16, 1992

Report and Order addressing the Petition of Pennichuck Water Works, Inc. (Pennichuck) for authority to engage in business as a public utility in a limited area of the Town of Amherst, and the Petition of Southern New Hampshire Water Company, Inc. (Southern) to transfer to Pennichuck certain assets in said area and to discontinue service to such area. Both Petitions also seek Commission approval of a Special Water Supply Contract (Water Contract) between the two companies.

Appearances: Gallagher, Callahan and Gartrell by John B. Pendleton, Esq. on behalf of Pennichuck Water Works, Inc.; Ransmeier and Spellman by Dom S. D'Ambruoso, Esq. on behalf of Southern New Hampshire Water Company, Inc.; Office of Consumer Advocate by Joseph Rogers, Esq. on behalf of residential ratepayers; Sulloway and Hollis by Margaret H. Nelson, Esq. on behalf of the Town of Amherst, and Eugene F. Sullivan, III, Esq. for the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On July 25, 1991, Pennichuck Water Works, Inc (Pennichuck) filed with the New Hampshire Public Utilities Commission ("Commission") a Petition requesting authority, under RSA 374:22, to engage in business as a public utility in a limited area of the Town of Amherst. Pennichuck supplies water for domestic, commercial, industrial, and fire protection purposes, serving the City of Nashua, and portions of Milford, Merrimack, Hollis, East Derry, Bedford, and Plaistow.

Pennichuck's Petition requested authority to render water service in such area pursuant to the tariff then in effect for its core system customers in Nashua and a portion of the Town of Merrimack, New Hampshire, adjusted to reflect plant located in said limited area and revenues and expenses incidental to that plant. The Pennichuck Petition also requested Commission approval, pursuant to RSA 378:18 and NHPUC Rule

Page 708

1601.04 (e)(2), of a Water Contract between Southern and Pennichuck.

On August 23, 1991, Southern New Hampshire Water Company, Inc. (Southern) petitioned the Commission requesting approval, pursuant to RSA 374:30, to transfer to Pennichuck certain utility assets and franchise rights in all that portion of its franchise area in the Town of Amherst located southerly of the Souhegan River and all that portion located northerly of the Souhegan River except a small section in and around an area known as the "Souhegan Club". This area, which is clearly shown on Appendix A to said Petition, has been agreed to by the petitioners as the franchise area to be transferred from Southern to Pennichuck (Adjusted Franchise Area).

Southern's Petition also sought commission permission and approval, pursuant to RSA 374:28, to discontinue permanently its service to the Adjusted Franchise Area. Southern also requested, pursuant to RSA 378:18 and NHPUC Rule 1601.04 (e)(2), approval of a Water Contract between Southern and Pennichuck to take effect.

Both Petitions refer to a Purchase & Sale Agreement Involving Water Service In the Town of Amherst (Purchase & Sale Agreement) by and between Southern and Pennichuck and dated

May 16, 1991, which contains terms and conditions for the execution and implementation of the transfer of the franchise and related utility assets.

The Purchase & Sale Agreement provides for the submission of the Water Contract by Southern and Pennichuck for Commission approval under RSA 378:18 and NHPUC Rule

1601.04 (e)(2). Among other things, the Water Contract provides that, subject to certain reasonable notice provisions, Pennichuck shall provide to Southern certain water capacity rights entitling Southern to take up to 3 million gallons of water a day for an initial contract term of 50 years under the terms and conditions and at a price set forth in the Water Contract. The Water Contract provides that Pennichuck will make certain interconnections and improvements to permit Southern to obtain the needed volumes of water.

By Order NISI, No. 20,228, dated August 30, 1991, issued in these combined dockets, the Commission granted Pennichuck a temporary franchise to serve the Souhegan High School and the residential site of Ms. Marlene Pelletier (DR 91-110).

On August 3, 1991, the Commission issued an Order of Notice establishing a prehearing

conference on September 20, 1991. At the prehearing conference, the Town of Amherst (Amherst) and the Office of Consumer Advocate (OCA) moved to intervene. At the prehearing conference the parties stipulated to a procedural schedule to govern the Commission's investigation into both petitions.

Pursuant to the procedural schedule Southern, Pennichuck, and the Staff engaged in discovery, held technical conferences and presented pre-filed direct testimony setting forth their positions.

As a result of settlement conferences, Pennichuck, Southern, and Amherst entered into a comprehensive Settlement Agreement (Settlement Agreement, Exhibit P-4) which was presented through testimony at duly noticed public hearings on August 19 and 20, 1992, and on September 25, 1992. Amherst further supported the approval and implementation of the Purchase & Sale Agreement through correspondence with the Commission and by reaching agreements with Southern and Pennichuck on a variety of issues.

On September 8, 1992, after two full days of hearings had been completed, the Commission issued another Order of Notice to satisfy concerns raised by the OCA that the Amherst acquisition may result in the subsidization of Amherst rates by Nashua customers. The Order of Notice was duly published and established September 25, 1992, as an additional hearing day in this matter for any concerned member of the public which was not aware of the possibility of subsidization. At the conclusion of the September 25, 1992 hearing, counsel summarized their positions orally thereby submitting this matter to the Commission for its determination.

II. POSITIONS OF THE PARTIES

Southern

Southern asserts in its prefiled testimony and in its oral presentation that it was motivated to enter into the Purchase and Sale Agreement with Pennichuck by the numerous benefits available as a result of the transaction. Southern maintains that the sale of the Amherst franchise to Pennichuck represents a logical and major step toward regionalization and interconnection of water utility systems in southern New Hampshire, with attendant benefits of adequacy and reliability.

Southern states that the Purchase & Sale Agreement will, because of its incorporation of the Water Contract, permit it to immediately obtain a water supply to correct its current safe yield deficiency, provide a long term supply to meet future growth, create a diversity of supply necessary for the security and reliability of its water sources, provide hydraulic improvement in South Hudson, improve fire protection in highly industrialized areas and permit the development of underdeveloped areas in its franchise. Southern stated that the supply to be obtained under the Water Contract was the least cost way to meet the existing deficiency when compared to alternative supply arrangements such as a water treatment facility, the installation of stand alone wells or another wholesale water agreement with Manchester Water Works.

Southern stated that in operating the Amherst franchise it incurs a loss of approximately $5,600 per month. The sale of

the franchise would, among other things, end this costly monthly loss, decrease rate base, reduce expenses, and improve its earnings and rate of return slightly without any rate increase to its remaining customers. These positive changes also carry the potential to enhance Southern's ability to obtain financing on favorable terms. The impact of not concluding this transaction on the proposed terms would negate all the aforementioned benefits.

Southern stressed the importance of approval of the entire transaction since all of its parts were negotiated and are totally interdependent upon one another, and that it had negotiated the sale price of $2,085,000 based upon the then book value of the Amherst assets in return for a promissory note in the amount of $1,330,000 and the Water Contract in the amount of $755,000. Southern also stressed the importance of recognizing the full value of the water rights in the Water Contract in rate base because it is a valuable and useful asset.

Pennichuck

Pennichuck testified that it has the managerial and administrative expertise, the technical resources, and the financial backing to provide quality service to existing customers and to expand service to new customers, should they desire service from Pennichuck, in the Adjusted Franchise Area. Pennichuck stressed its experience and reputation for reliable and efficient service to the public and that it is willing to commit to interconnect the water supply and distribution system in the Adjusted Franchise Area with its own core system supply and distribution system within one year after the Commission's favorable order in these proceedings.

Pennichuck stated it intends to render water service to customers in the Adjusted Franchise Area in accordance with the terms and conditions of its tariff in effect from time to time for its core system customers in Nashua and portions of the Towns of Merrimack and Hollis, New Hampshire, adjusted to reflect plant located in the Adjusted Franchise Area and the revenue and expenses incidental to that plant. Under the terms of the proposed transaction, Pennichuck will issue to Southern its promissory note in the principal amount of $1,330,000 with interest, payable quarterly, on the unpaid principal indebtedness at the prime rate. The note also calls for six equal payments of principal in the amount of $50,000 each, annually, commencing four years from the date of the note, and for payment of the entire balance of the note ten years from the date of the note.

Pennichuck pointed out that instead of adding to its rate base the entire $2,085,000 which is booked by Southern as its rate base in the Adjusted Franchise Area (as of 12/31/89), Pennichuck intends to book as rate base only $1,330,000 which is equal to the difference between Southern's booked rate base acquired by Pennichuck and the value of the Water Contract. However, Pennichuck stressed that it must be assured that it will be able to earn on the entire $1,330,000, even if the proposed transfer from Southern to Pennichuck occurs during or after a test year for Pennichuck's next core system revenue proceeding, so that the entire amount of the $1,330,000 will be treated as though it had been invested throughout the entire test year. Pennichuck pointed out that all of Southern's utility plant, property and equipment in the Adjusted Franchise Area is used and useful in providing service to its core customers, is properly sized and represents a prudent investment.

Pennichuck also states, that in addition to the benefits to Southern's ratepayers and to the ratepayers in the Adjusted Franchise Area which are enumerated elsewhere in this Report, its

core system customers will benefit by Pennichuck's acquisition of an additional supply of approximately one million gallons per day and a one million gallon storage facility in Amherst, and the availability of such additional supply for use in the event of emergency; by potential for expansion within the Adjusted Franchise Area of Pennichuck's customer base with resulting economies of scale and reduction in per customer expenses throughout Pennichuck's core system; for a reduction in the production costs to customers at the extremities of the northwest segment of

Page 710

Pennichuck's system, thereby reducing the average production costs for all of its core system customers; and by the interconnections with Southern afforded by the Water Contract with the resulting potential sale of up to 3 million gallons per day and, since the interconnecting pipelines all have two way flow capacity, the potential for additional water availability from Southern in the event of an emergency.

Finally, Pennichuck argues that the transaction represents a major step toward regionalization and the interconnection of water utility systems throughout Southern New Hampshire, with the attendant benefits of greater adequacy and reliability.

Amherst

Amherst states that approval of the Purchase & Sale Agreement will resolve the uncertainty about Amherst's future water supply, achieve an end to lengthy and expensive litigation (involving fire protection charges, tax abatements, and condemnation), provide Amherst customers with stable and relatively predictable water rates significantly lower than the current Southern rates, and allow Amherst water needs to be met within the context of a regional network.

Several individuals from Amherst attended the Commission hearings and made statements in favor of the Purchase and Sale Agreement.

Staff

Staff did not take a uniform position but presented varying positions and concerns about various aspects of the transaction.

Staff witness Cannata analyzed Southern's need for additional supply, examined the nature of the Water Contract, compared the Water Contract with the wholesale contract with Manchester Water Works, and concluded that "over the life of the proposal it is in the best interests of all stakeholders".

Staff witness Lenihan acknowledged that the proposal "could very well have a benefit to the Nashua core customers" but raised a concern that in the short run and possibly the long run, depending on interconnection cost in Amherst ad Nashua, these customers may be subsidizing the Amherst customers.

Staff witness Newell analyzed the accounting and ratemaking treatment of the Water Supply Contract, or the right to purchase obtained by Southern pursuant to the contract, and proposed to allow into Southern's rate base only that portion of the $755,000 value of the water rights which

is related to the elimination of Southern's current safe yield deficiency. Mrs. Newell also suggested expensing the right to purchase over the life of the contract or the complete write-off of the $755,000 which Pennichuck devalued the Amherst assets. However, she agreed that there were benefits to Southern's remaining customers, Amherst, and the Adjusted Franchise Area customers.

Office Of Consumer Advocate

The OCA was an active participant in the case generally supporting the transfer of Southern's franchise and assets in Amherst to Pennichuck. However, it did not believe it to be proper to place any value on the water supply contract. Relying upon cross-examination and argument to set forth its concerns, the OCA raised two central issues: that the rates to be paid by Pennichuck's core customers would subsidize the Amherst ratepayers and that the Water Supply Contract should have no value.

III. COMMISSION ANALYSIS

After hearing three full days of testimony from seven witnesses, the cross examination of those witnesses, and based upon a careful review of the entire record including the exhibits and transcripts, the Commission concludes that the proposed transaction, from the perspective of all the parties and the citizens of the State, is in the public good and is approved. We base this decision on the following analysis.

Southern's petition requests approvals pursuant to RSA 378:30 for the transfer of the Amherst assets, pursuant to RSA 378:28 for

discontinuance of its Amherst franchise, and pursuant to RSA 378:18 for approval of the Water Contract.

Pennichuck's petition requests approvals pursuant RSA 374:22 (and by reference RSA 374:26), permission to operate the Amherst franchise, and under RSA 378:18 approval of the Water Contract.

The legal standard to be applied by the Commission under each of these sections is whether the proposed transactions are in the "public good". This standard is analogous to the "public interest" standard as that standard has been applied and interpreted by the Commission and the New Hampshire Supreme Court. See, Waste Control Systems, Inc. v. State 114 N.H. 21 at 22-23.

In analyzing the evidence in this proceeding involving the acquisition of one utility's assets and franchise by another utility the Commission has applied the "no [net] harm" test previously applied in Re Eastern Utility Associates,Inc., Report and Order No. 20,094 (April 1, 1991), hereafter referred to as the "UNITIL" decision.

In that decision the Commission reviewed the development of the "public interest" and "public good" standard from its seminal case (Grafton County Electric Light Co. v. State, 77 N.H. 539) and determined that the appropriate standard for acquisition cases was the "no [net] harm" test, not the "net benefits" test it had previously applied. In the UNITIL decision the Commission explained the choice of the "no [net] harm" test as follows:

"This proceeding is governed by RSA 374:33 (Supp. 1990). The public interest standard set forth in the statute is no different than the analogous public good standard found in other sections of the public utility code. See e.g., RSA 369:1.

The issue in this proceeding is whether the public interest standard requires the commission to apply the "no harm" test or the "net benefit" test to the evidence. If we apply the "no harm" test, the commission would grant the petition so long as we conclude that the acquisition does not adversely affect the public's interests. The "net benefit" test imposes a greater burden on the petitioner to demonstrate that the acquisition benefits the public. EUA argues that the "no harm" test is required, while UNITIL contends that the "net benefit" test is the appropriate legal standard. All parties agree that the leading case on the public good standard is Grafton County Electric Light and Power co. v. State, 77 N.H. 539 (1915). See, UNITIL Brief at 11-12. There, the Court stated at 540:

The measure by which the matter is to be determined is described by the legislature as "the public good." Laws 1011, c. 164 s. 1, as amended by Laws 1913, c. 145, s. 13. This is equivalent to a declaration that the proposed action must be one not forbidden by law, and that it must be a thing reasonably to be permitted under all the circumstances of the case. If it is reasonable that a person or a corporation have liberty to take a certain course with his or its property, it is also for the public good. It is the essence of free government that liberty be not restricted save for sound reason. Stated conversely: it is not for the public good that public utilities be unreasonably restrained of liberty of action, or unreasonably denied the rights as corporations which are given to corporations not engaged in the public service.

The above language, which speaks in terms of the liberty of public utilities to act as other corporations if the action is not forbidden by law and warranted under the circumstances, supports a "no harm" test. Corporate liberty should not be restrained if the public good is not harmed by the proposed transaction."

Page 712

The evidence in the record supports a finding that the proposed transaction is "one not forbidden by law" and one that is "reasonably to be permitted under all the circumstances of the case" and therefore is in the public good. This includes

a finding that based upon the totality of the circumstances there is no net harm to the public as the result of the transaction.

In fact, the transaction has numerous positive benefits (as set forth in the positions of Southern, Pennichuck and Amherst recited above) which we believe outweigh any short-term negative aspects of the transaction (as set forth in the positions of Mr. Lenihan and Mrs. Newell above). The evidence in this proceeding therefore not only meets the "no [net] harm" test (recently determined by the Commission to be appropriate for proceedings of this kind), but also meets the "net benefits" test which had been previously applied before the UNITIL case.

By their negotiation of this transaction, Southern and Pennichuck have provided the

Commission with a proposal which resolves many outstanding problems in the Town of Amherst and Southern's water supply deficiency, advances the orderly and economic development of southern New Hampshire's water resources and water delivery systems, and benefits all of the constituencies affected by the transaction.

As noted above, the Staff testimony supported approval of this transaction in testimony. Staff did, however, raise three issues which prevented them from signing on to any Settlement Agreement. Staff concerns are 1) a possible rate subsidy by Pennichuck's core customers to the Amherst customers, 2) that the full value of the Water Contract should not be included in Southern's rate base, and 3) that the Water Supply Agreement might terminate after 50 years upon the unilateral action of Pennichuck. We will discuss each of these concerns in turn.[1(35)]

The Rate Subsidy Issue

Staff witness Lenihan, representing the Economics Department, raised the issue in his testimony that the transaction would result in the subsidization of Amherst rate payers by Nashua (core) ratepayers in the short-run, and possibly in the long run given the interconnection costs contemplated in the proposed transaction in Amherst and Nashua. While we agree that there may be de minimis subsidization in the short-run we do not believe that this will remain so in the long run. Furthermore, applying the "public good" standard as set forth above to the discreet parties examined in Mr. Lenihan's testimony we believe that the benefits to the Nashua rate payers in the form of an alternate supply of water outweighs this short term subsidy. In the long run, as Pennichuck pointed out, there is no reliable means to measure which way any subsidies will run.

The Water Supply Contract

While Staff acknowledged that there were significant benefits flowing from the Water Contract, Staff questioned the accounting treatment to be given to the Water Contract by Southern. In order to determine the appropriate accounting treatment we must examine the value of the contract, the prudency of the investment, and the nature of the rights it conveys to Southern.

Under the proposed transaction, Southern is making a $755,000 investment (by contractually conveying to Pennichuck $755,000 of Southern's Amherst assets) to obtain from Pennichuck its obligation to provide water capacity rights entitling Southern to take up to 3 million gallons of water a day (MGD) for an initial contract period of 50 years. The arrangement also obligates Pennichuck to make certain interconnections and improvements to permit Southern to obtain needed volumes of water. The evidence demonstrates that the $ 755,000 investment for the right to receive 3 MGD of water is less expensive than obtaining like amounts of water through new wells ($

Page 713

825,846 for a 1 million gallon well: see Exhibit S-4), through a water treatment plant ($ 6,368,000 for a 2.5 MGD water treatment facility: see Exhibit S-6, I-33, p.5), or through a wholesale water agreement with Manchester Water Works. In addition to being

the least cost alternative for obtaining this supply, the water is available immediately via the existing Taylor Falls Bridge pipeline on an emergency basis and one year after the closing upon Pennichuck's interconnection. Subsequently, the Water Contract provides for the availability of additional water quantities at various future points in time and the right to continue the contract beyond the initial fifty year period. Southern has, therefore, made a sensible and prudent investment in this future supply of water.

In analyzing the Water Contract, we make a distinction between the value of the actual water service to be derived under the Contract and the value of the existence of the Contract itself with its significant obligations upon Pennichuck to provide water to Southern on demand. The existence of the Contract creates for Southern an availability of water up to 3 MGD. This availability has value in that it is an assured supply of water as distinguished from the actual service to be taken. The availability of water to Southern under the Contract is essentially a capacity right as distinguished from the right to actually receive service. This commitment to supply water is far greater, more permanent, and longer lasting, and distinguishes the Water Contract from the water service expected thereunder.

Such capacity rights are valuable to the recipient because they give Southern an assured water supply for 50 years, or more, permitting Southern to avoid more costly alternatives, providing reliability to the present supply mix, and providing the benefit of a long term source to a potentially scarce resource. Thus, we find the full value of the Water Contract was prudently made, that it is used and useful in service to the public and that it should be included in Southern's rate base.

Testimony by the Staff indicated that there was a possibility that the Internal Revenue Service (IRS) would treat the $755,000 write-down of the Amherst assets by Pennichuck as a capital loss to Southern. That is, the water supply contract would be treated as a "regulatory asset". Under cross-examination, Southern indicated that if in fact the IRS did treat the $755,000 write-down as a tax loss, the total benefit of that loss would be used to reduce the book value of the water contract. In regard to Pennichuck's request that we determine that all investments made by Southern in Amherst are used and useful, prudent, and fully includeable in ratebase the request is granted to the extent we have so found in docket DR 89-224. However, this does not preclude any future disallowances of ratebase in Amherst based upon evidence which this Commission never had the opportunity to review.[2](36)

The Contract Term

Finally, Staff raised a concern about the notice of termination provision in paragraph 1 of the Water Contract. Staff was interested in assuring that minimal impediments exist to Southern's ability to renew the Water Contract. Staff's goal was to insure to the greatest extent possible the availability of the Pennichuck supply to Southern as long as Southern requires it. At hearing, Southern and Pennichuck prepared a side letter to the Contract and presented it to the Commission (Exhibit P-5) which states that Pennichuck would not unreasonably exercise its right to terminate the Water Contract. The Commission is satisfied that this letter provides Staff with the assurance they were seeking.[3](37)

Our order will issue accordingly.

Concurring: November 16, 1992

ORDER

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

ORDERED, that Southern is authorized to transfer its water utility assets in the Adjusted Franchise Area in the Town of Amherst to Pennichuck pursuant to the provisions of RSA 374:30 and to discontinue its water utility

franchise in the Adjusted Franchise Area in the Town of Amherst pursuant to the provisions of RSA 374:28; and it is

FURTHER ORDERED, that Pennichuck is authorized to engage in the business of a public water utility in the Adjusted Franchise Area of the Town of Amherst pursuant to the provisions of RSA 374:22 and RSA 374:26 and to file tariffs for that area consistent with the forgoing report; and it is

FURTHER ORDERED, that the Special Water Supply Contract between Southern and Pennichuck is hereby approved pursuant to the provisions of RSA 378:18 and NHPUC Rule 1601.04 (e)(2) and that Southern may capitalize the $755,000 cost of the Contract for the reasons set forth in the forgoing report; and it is

FURTHER ORDERED, that any tax benefits that accrue to the benefit of Consumers Water Company, Southern's parent corporation, shall be applied in total to reduce the value of the Contract; and it is

FURTHER ORDERED, that the transfer of the Amherst assets and adjusted franchise from Southern to Pennichuck, the discontinuance of Southern's franchise in Amherst, the operation of the Amherst franchise by Pennichuck and the Special Water Supply Agreement are for the public good and in the public interest. By order of the New Hampshire Public Utilities Commission this sixteenth day of November, 1992.

FOOTNOTES

[1]We believe it is worth noting, that the Commission respects and expects a diversity of opinions from its Staff. The presentation of diverse opinions provides us with the type of record necessary to address the issues which come before us. We believe that this type of testimony is especially productive when the Commission is faced with an analysis pursuant to the "public good" or "public interest" standard.

[2]We note, however, that Pennichuck has already devalued these assets by $755,000. Thus, any disallowances that were to be made to these assets in the future would be based on Southern's cost of installation (Southern's book value prior to this transaction).

This note is not intended to suggest that we foresee any disallowances in the Amherst

assets it merely reflects our views on the transaction and our inability to totally foreclose ratebase disallowances in Amherst, or, for that matter in any utility investments under our jurisdiction.

[3] We note that the provision not to "unreasonably" exercise the right to terminate the contract by Pennichuck contained in Exhibit P-5 will be strictly construed by this Commission. Our decision to allow Southern to capitalize the Water Supply Contract is based in large part on the long term rights it provides Southern in water from the Merrimack River. Thus, we assume that Pennichuck will be bound to renew this contract unless some unforeseen circumstance makes it unreasonable to do so. We note that the possible scarcity of water rights fifty years from the date of the contract is foreseeable.

==========

NH.PUC*11/16/92*[73096]*77 NH PUC 715*SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

[Go to End of 73096]

SOUTHERN NEW HAMPSHIRE WATER COMPANY, INC.

INVESTIGATION into metering options for Green Hills Satellite

DE 92-100
ORDER NO. 20,669

77 NH PUC 715

New Hampshire Public Utilities Commission

November 16, 1992

Report and Order Requiring Southern New Hampshire Water Company, Inc. to Install Meters in Green Hills

---

APPEARANCES: Larry Eckhaus, Esq. on behalf of Southern New Hampshire Water Company, Inc.; Representative John Barnes; Office of the Consumer Advocate by Joseph Rogers, Esq. on behalf of the residential ratepayers; Richard Lewis, pro se; and Eugene F. Sullivan III, Esq. on behalf of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On July 29, 1991, the Commission issued Report and Order No. 20,196 in docket DR 89-224 stating, inter alia, that it would reserve the

rights of the parties to petition for the installation of meters at the Green Hills Manufactured Housing Community (Green Hills). The Commission decision was based on testimony that the metering of Green Hills would require each customer to pay approximately $350 for the installation of meter pits pursuant to Southern New Hampshire Water Company, Inc.'s (Southern or the Company) tariff.

Subsequent to the Commission's issuance of Report and Order No. 20,196, customers in Green Hills expressed their desire for metered water rates in letters to the Commission and at a public meeting held in Londonderry, New Hampshire in March of 1992. On May 26, 1992, the Commission issued Order No. 20,490 requiring Southern to conduct an investigation to determine the possibility of installing meters in the manufactured homes that comprise Green Hills. On August 3, 1992, Southern submitted the findings of its investigation to the Commission. On August 24, 1992 the Commission issued an order of notice scheduling a hearing for October 8, 1992, to determine what action should be taken as a result of Southern's investigation.

II. POSITIONS OF THE PARTIES AND STAFF

Southern took the position that meters should be installed in Green Hills. Through its investigation the company determined that approximately 54% of the 213 homes being serviced at Green hills would require meter pits at a cost of approximately $350 per home. Southern requested that the Commission allow it one year to install all of the meters, that it be allowed to collect the cost of meter pits from those customers requiring pits over one year and that a lien be placed on the property to ensure payment.

Richard Lewis took the position that the company had miscalculated the number of customers at Green Hills and therefore its study was faulty. He requested that meters be installed, that the company collect the cost of the meters over a three year period, and that no liens be placed on the customers homes.

The Consumer Advocate took the position that meters be installed at Green Hills but that the company bear the cost of any meter pits or in the alternative if the Commission decided to require the customers to pay for the meter pit that no liens be allowed to be placed on the customers' homes.

Representative Barnes took the position that Southern be required to install meters at Green Hills, but that the Company be required to determine the actual number of customers being served off of the Green Hills distribution system, and that the customers share in a reduction of rates to reflect the addition of any previously unbilled customers. He further requested that the Commission deny the company's request to place liens on the customers homes.

Staff took the position that the Commission require the metering of Green Hills and that the cost of meter pits be recovered over a three year period.

III. COMMISSION ANALYSIS

As was stated above Green Hills is a manufactured housing community located in Raymond, New Hampshire. The water system was installed as part of the Policy Systems which were acquired by Southern in 1986. The water distribution system was not designed or installed to utility standards and has required substantial investments in improvements by Southern since its acquisition.

One major point of contention between the customers of Green Hills and Southern over the past four years has been Southern's need to purchase water from the Town of Raymond, at substantial cost, to supplement the supply of water in the Green Hills system. The Company, at times, has claimed that the residents are running water to keep their pipes from freezing or using

water in a wasteful manner. The customers claim that the system is poorly designed and maintained and that the need to purchase water is a result of leaking pipes in the distribution system.

The installation of individual meters

would contribute to the settlement of this ongoing dispute,and would further indicate the true source of the cost of the purchased water. Furthermore, N.H. Admin. R., Puc 603.05 states that "[a]ll water sold by a utility shall be billed pursuant upon [sic] the basis of metered volume sales..." unless the utility obtains specific commission approval to bill upon some other basis. In the case at hand, the commission must balance the requirement to meter and its inherent costs against continuing Southern's exemption from Commission rules that require metering and the policy concerns reflected in that requirement (See eg., Re Policy Water Systems, Inc., 68 NH PUC 687 (1983)), and the ongoing dispute between the customers and Southern over water usage.

We believe that the scales weigh heavily in favor of metering Green Hills and we will attempt to ease the customers' financial burden by requiring Southern to conduct a more thorough survey of the metering options available to its Green Hills customers, providing for a long term payment plan for those customers that do require meter pits and providing for a reduction in rates to reflect the actual number of customers being served in the Green Hills Community.

A. Metering Options

The testimony revealed that Southern had not thoroughly analyzed the metering options that could be made available to its Green Hills customers nor had it explored the least cost alternatives in assessing the feasibility of the placement of meters.

Specifically, Southern had not provided the customers the option of placing the meter at some "visible" point within their homes, that is, the study and the testimony of Mr. Gingrow indicated that meter options inside of homes were only found feasible where a meter could be placed in a "closet" or under a "sink".

Furthermore, the Company concluded that meter pits were required due to plumbing conditions without considering the cost differential to customers of replumbing versus the installation of a meter pit.

Finally, Southern had not explored the marketplace to determine if there were an alternative type of meter available that could possibly alleviate the need for a meter pit.

Therefore, Southern shall immediately analyze all meters available in the marketplace (that are compatible with its electronic meter readers or can be made so) which might be used in Green Hills at a comparable cost to its current meters or which would result in a lower cost than the $350 projected as the average cost for meter pits. Southern shall meet with each customer in the Green Hills community and present all available options for the placement of a meter within their home or the possibility of plumbing changes that would allow the placement of a meter in their home after notifying each customer by mail and explaining the need to make such a visit.

The notice shall also include a copy of this Report and Order.

B. Payment Plan

Given the current rates in place in Green Hills along with rate surcharges we do not believe it is just or reasonable to require those customers that do require meter pits to pay the $350 in one year.[1](38) Therefore, the customers shall be given the option of excavating the area for the meter pit to the Company's specifications at their own expense by their own contractor, or they may have Southern install the meter pit at actual cost to be paid over a three year period at an interest rate of 6.5% (APR).[2](39) In the alternative, customers may choose to withhold payment of the $350 until all rate surcharges resulting from docket DR 89- 224 have been paid, with interest accruing at 6.5% (APR) during this period of time and then begin payment at the conclusion of the rate surcharges over three years. In no event shall customers be penalized for prepayment. The same payment options shall be available to any customers that choose to excavate the pit on their own for the payment for the meter vault. In no event shall the Company be allowed to place liens on the customer's homes.

Page 717

C. Number of Customers Being Served

Finally, in regard to the dispute over the number of customers being served in Green Hills, the Commission believes this issue should be finally resolved. Southern has failed to satisfy this Commission that it is actually billing all the customers taking service in the Green Hills community. Therefore, Southern shall immediately determine the actual number of customers being served in Green Hills and it shall reduce the rates of its other Green Hills ratepayers to reflect the added revenues it will receive from any additional customers. Furthermore, we would request that the customers of Green Hills attempt to assist in the resolution of this issue by comparing the list of customers currently being billed by Southern, which Southern shall supply to each of its customers along with a copy of this Report and Order, against those members of the community they believe are receiving water service via the Green Hills system. Again, any revenues derived by the Company as a result of the addition of ratepayers to its customer base in Green Hills shall be passed on to its Green Hills customers.[3](40)

Our Order will issue accordingly.

Concurring: November 16, 1992

ORDER

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

ORDERED, that Southern New Hampshire Water Company, Inc. examine all metering options available for Manufactured Housing and report the result of that examination to the Commission Staff through Attorney Sullivan by November 25, 1992; and it is

FURTHER ORDERED, that Southern New Hampshire Water Company, Inc. provide meters to its customers in the Green Hills Community in accordance with the terms and conditions set forth in the forgoing report; and it is

FURTHER ORDERED, that Southern new hampshire Water Company, Inc. comply with all

other aspects of the forgoing report.

By order of the New Hampshire Public Utilities Commission this sixteenth day of November, 1992.

FOOTNOTES

[1] The position of the Consumer Advocate that the Company bear the cost of meter pits is rejected because the Commission's existing rules specifically require the customer to provide a safe and protected area for the placement of a meter. Puc 605.02.

[2] To ensure that it obtains the lowest cost for installing the meter pits, Southern shall be required to put the contract for installation of meter pits that are to be done by Southern out to bid in an attempt to lower even further the estimated $350 charge for installation of the pit.

[3] Any revenues derived by the Company from services it has provided in the past shall be retained by the Company. It is our intent that the flat rate currently being charged in Green Hills be reduced on a forward looking basis to reflect additional customers.

NH.PUC*11/16/92*[73097]*77 NH PUC 718*PENNICHUCK WATER WORKS, INC.

[Go to End of 73097]

PENNICHUCK WATER WORKS, INC.

DR 92-177
ORDER NO. 20,670

77 NH PUC 718

New Hampshire Public Utilities Commission

November 16, 1992

NISI Order approving the petition to provide water service to the Amherst Village District

---

On September 23, 1992, Pennichuck Water Works, Inc. (Pennichuck) filed a petition to engage in the business of providing water service in a portion of the Town of Amherst, New Hampshire known as Amherst Village District (AVD or the Company) and to establish rates therein; and

WHEREAS, Pennichuck and Amherst Village District have entered into an agreement whereby Pennichuck would acquire and the Amherst Village District would convey utility assets to Pennichuck; and

WHEREAS, on October 22, 1992, Pennichuck, in view of the Commission's recent decision in DR 91-107/DR 91-110

reflected in the minutes of its October 8, 1992 meeting, requested that its petition to engage in business as a public utility in a limited area in the Town of Amherst and for approval of rate schedules, be amended in order to treat the petition in this docket on an order NISI basis in an effort to allow the petitioner to render water service to the Amherst Village District pursuant to the petitioner's tariff presently in effect for its Nashua core customers; and

WHEREAS, the Commission finds that approving the petitioner's franchise request as well as its request to place into effect for those customers in the Amherst Village District, Pennichuck's Nashua core customer rates is in the public good; and

WHEREAS, the public should be afforded an opportunity to respond in support of, or in opposition to Pennichuck's request; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing before the Commission by December 14, 1992; and it is

FURTHER ORDERED, that Pennichuck effect said notification by (1) causing an attested copy of this order to be published no later than November 30, 1992, once in a newspaper having statewide circulation and once in a newspaper having general circulation in the Amherst area; (2) providing, pursuant to RSA 541-A:22, a copy of this order to the Amherst Town Clerk by first class US mail, postmarked on or before November 30, 1992; (3) providing a copy of this order by first class US mail to each customer of the Amherst Village District System, postmarked on or before November 30, 1992; and (4) documenting compliance with these notice provisions by affidavit(s), to be filed with the Commission on or before December 16, 1992; and it is

FURTHER ORDERED NISI, that authority be, and hereby is granted to Pennichuck Water Works, Inc., to engage as a public utility in the area known as the Amherst Village District and to place into effect Pennichuck's Nashua core customer rates presently in affect; and it is

FURTHER ORDERED, that Pennichuck Water Works file revised tariff pages reflecting the above franchise area and rates; and it is

FURTHER ORDERED, approval of the franchise request to provide service to the Amherst Village District does not constitute approval of any capital costs associated with plant and equipment to be used to furnish water service to the AVD area; and it is

FURTHER ORDERED, that Pennichuck Water Works supply detailed records listing the value of all the AVD water supply assets and associated depreciation reserves or an alternative accounting method of valuation to establish appropriate books and records for accounting purposes for Commission approval no later than sixty days from the effective date of this order; and it is

FURTHER ORDERED, that this Order NISI will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date. By order of the New Hampshire Public Utilities Commission this sixteenth day of November, 1992.

==========

[Go to End of 73098]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-009
ORDER NO. 20,671

77 NH PUC 719

New Hampshire Public Utilities Commission

November 19, 1992

Report and Order Denying Motions for Rehearing and Clarifying Certain Findings of Fact and Conclusions of Law

---

Appearances: as previously noted.

REPORT

I. PROCEDURAL HISTORY

On October 5, 1992, the New Hampshire Public Utilities Commission (Commission) issued Report and Order No. 20,618 (Order No.

20,618) approving the various components of the bankruptcy reorganization plan of New Hampshire Electric Cooperative, Inc. (NHEC). On October 26, 1992, Campaign for Ratepayers Rights, Representative Peter Burling, and NHEC members Gary McCool and Roger Easton (collectively CRR) and the Office of Consumer Advocate filed Motions for Rehearing of Order No. 20,618. NHEC, Public Service Company of New Hampshire (PSNH) and Northern Utilities Service Company (NUSCO) and the Commission Staff (Staff) objected to the Motions.

Also on October 26, 1992, CRR filed a Motion to Disqualify Commissioners Ellsworth and Stevens, in which OCA concurred on November 2, 1992. The Commission, on November 16, 1992, denied the Motion to Disqualify. See Report and Order No. 20,667. In addition, NHEC on November 2, 1992 reiterated its October 1, 1992 Request for Findings of Fact and Conclusions of Law relative to the reorganization plan. This Report and Order will address the two Motions for Rehearing and Objections filed thereto and the Request for Findings of Fact and Conclusions of Law.

II. POSITIONS OF THE PARTIES AND STAFF

A. Campaign for Ratepayers Rights et al.

CRR argues that the rate increase, debt restructuring and negotiated settlements with PSNH and the State of New Hampshire, approved in Order No. 20,618 are not just and reasonable, and that the Commission should have conducted a prudence review of NHEC's investment in

Seabrook as part of this proceeding.

B. Office of Consumer Advocate

OCA asserts that public notice was insufficient to adequately inform members and the public of the proposed changes and that the rate design approved by the Commission was unfair to residential ratepayers. OCA also argues that it should have an opportunity to cross examine Staff advisor Sarah Voll, in light of an article on energy in which she was quoted.

C. New Hampshire Electric Cooperative, Inc.

NHEC objects to CRR's Motion for Rehearing, arguing that the Motion alleged evidence had been excluded from the record without identification of any instance in which such evidence was proffered and rejected, that CRR falsely asserts a denial of an opportunity for meaningful participation, noting that the Business and Industry Association (BIA) operated under identical limitations and yet engaged in active and constructive participation, and that the record supports the findings of Order No. 20,618. Further NHEC argues that Seabrook was appropriately considered in the context of NHEC's debt restructuring and that there is no need for a prudence review unless and until NHEC's Seabrook investment is considered for ratemaking purposes. NHEC also reiterated its Request for Findings of Fact and Conclusions of Law previously submitted.

NHEC objects to OCA's Motion for Rehearing, arguing that OCA's arguments regarding adequacy of notice are without merit, as notice was complete and detailed. Further, NHEC notes that draft copies of the notice form were provided to OCA for comment prior to publication. NHEC also asserts that OCA's arguments regarding rate design were fully litigated and that the Commission's findings are supported by the evidence

D. PSNH/NUSCO

PSNH and NUSCO jointly object to CRR's Motion for Rehearing, arguing that the Commission's Order No. 20,618 is supported by the evidence, that the Motion raises allegations without substantiation and presents arguments which either were presented as part of the hearings or could have been presented if CRR chose to participate.

Page 720

E. Commission Staff

Staff objects to CRR's Motion for Rehearing, arguing that the rates, debt restructuring and negotiated agreements with PSNH and the State of New Hampshire are just and reasonable and supported by the evidence, and there is no need for a prudence review unless and until NHEC's Seabrook investment is considered for ratemaking purposes.

Staff objects to OCA's Motion for Rehearing, arguing that OCA's arguments regarding adequacy of notice and rate design were already fully presented to the Commission as part of the hearings in this matter and that OCA has made no showing why Dr. Voll should be cross-examined in this case.

III. COMMISSION ANALYSIS

After consideration of the Motions for Rehearing and the responses filed by NHEC, PSNH

and Staff, we conclude that the Motions for Rehearing should be denied. We find no grounds asserted by either CRR or OCA that have not already been fully litigated. Appeal of Gas Service, Inc., 121 N.H. 797 (1981).

In its Post-Hearing Brief filed on October 1, 1992, and subsequently in its November 2, 1992 Objection to the Motion for Rehearing Filed by the CRR, et al., NHEC requested the following Findings of Fact and Conclusions of Law:

FINANCING

1. REA Notes

The Commission finds pursuant to RSA 369:1-4 that NHEC's issuance to the REA of promissory notes of the types, in the amounts and upon the terms set forth in NHEC's bankruptcy reorganization plan for the purpose of restructuring NHEC's outstanding indebtedness to REA is consistent with the public good and is hereby approved.

2. CFC Notes

The Commission finds pursuant to RSA 369:1-4 that NHEC's issuance to the CFC of promissory notes of the types, in the amounts and upon the terms set forth in NHEC's bankruptcy reorganization plan for the purpose of restructuring NHEC's outstanding indebtedness to CFC is consistent with the public good and is hereby approved.

3. PSNH Note

NHEC's issuance of a promissory note in the principal amount of $5,500,000.00 to PSNH in accordance with the provisions of the proposed Note Agreement between NHEC and PSNH (NHEC Ex. 9(13)) and the Amended and Restate Settlement Stipulation between PSNH and NHEC dated as of January 14, 1992 (NHEC Ex. 9), and for the purposes set forth therein is consistent with the public good and is hereby approved.

3. PSNH Note - Accounting Treatment

Pursuant to RSA 374:8, the Commission hereby approves NHEC's proposed accounting for the note from NHEC to PSNH.

4. Capitalization

The Commission finds that the capitalization which results from the issuance to the REA, CFC and PSNH of promissory notes of the types and in the amounts proposed by NHEC, produces a projection of future rates which are within a range of just and reasonable rates.

5. Mortgage

The execution and delivery by NHEC of the Restated Mortgage and Security Agreement (NHEC Ex. 17) and the mortgaging by NHEC thereunder of its present and future property, tangible and intangible, including franchises, to secure the payment of its notes issued to the REA and the CFC is consistent with the public good and pursuant to RSA 369:2 is hereby approved.

Page 721

7. CFC Revolving Credit Line

The issuance by NHEC of a promissory note to CFC in the maximum principal amount of $10,000,000.00 pursuant to the Secured Revolving Credit Agreement (NHEC Ex. 34) is consistent with the provisions of RSA 369:7 and NH Adm. Rule Puc 312.01 promulgated thereunder and is hereby approved.

8. Work Plan Loan Agreement

The Work Plan Loan Agreement is approved subject to the submission of each proposed loan thereunder for approval pursuant to RSA Chapter 369.

POWER SUPPLY

9. Partial Requirements Agreement

Pursuant to RSA 374:57, the Commission finds the execution and delivery by NHEC of the "Agreement Amending Partial Requirements Resale Service Agreement" (NHEC Ex.9(2)), the execution by NHEC of the document entitled "Public Service Company of New Hampshire Amended and Restated Agreement with New Hampshire Electric Cooperative, Inc. for Partial Requirements Resale Service" (NHEC Ex. 9(3)) and the performance by NHEC of the terms and provisions thereof to be reasonable and in the public interest.

10. Sellback

The execution and delivery by NHEC of the Unit Contract between NHEC and PSNH (NHEC Ex. 9(11)(12)) and the performance by NHEC of the terms and provisions thereof is consistent with the public good and is hereby approved pursuant to RSA 378:20 and approved for filing as a rate schedule pursuant to RSA 378:1.

PERMANENT RATES

11. Test Year

For purposes of fixing the permanent rates of NHEC, the Commission finds that the appropriate test year is the twelve months ended October 31. 1991.

12. Test Year Expense Adjustment

The Commission finds that the adjusted Test Year Expenses proposed by NHEC, as amended to reflect Staff's recommendations, are reasonable.

13. Rate Base

The Commission finds that, for the purposes of evaluating the reasonableness of NHEC's permanent rate requests, the just and reasonable rate base for reorganized NHEC is $96,227,381 as of the end of the test year and $96,601,171 as of December 31, 1992, as calculated below:

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

RATE BASE AS OF OCTOBER, 1991

ELECTRIC PLANT IN SERVICE 273,220,752

LESS: SEABROOK (152,241,950)

LESS: ACCUMULATED DEPRECIATION (33,038,512)

LESS: ACCUMULATED DEPRECIATION SEA 3,356,816

PLANT HELD FOR FUTURE USE (25,645)

NET PLANT IN SERVICE 91,271,461

OPERATING EXPENSES 10,595,688
X 12.5% 12.50%

CASH WORKING CAPITAL 1,324,461

ADD: MATERIALS & SUPPLIES 1,824,699

PREPAYMENTS 738,834

INVESTMENT IN ASSOC COMPANIES 1,902,283

LESS: CUSTOMER DEPOSITS (461,599)

CUSTOMER ADV FOR CONST (372,758)

RATE BASE 96,227,381

RATE BASE AS OF DECEMBER 31, 1992

ELECTRIC PLANT IN SERVICE 126,369,645

LESS: SEABROOK

LESS: ACCUMULATED DEPRECIATION (34,688,000)

LESS: ACCUMULATED DEPRECIATION SEA
PLANT HELD FOR FUTURE USE (25,645)

NET PLANT IN SERVICE 91,656,000

OPERATING EXPENSES 10,595,538

X 12.5% 12,50%

CASH WORKING CAPITAL 1,324,442

ADD: MATERIALS & SUPPLIES 1,884,000

PREPAYMENTS 596,469
INVESTMENT IN ASSOC COMPANIES 1,902,417

LESS:CUSTOMER DEPOSITS (426,570)

CUSTOMER ADV FOR CONST (335,587)

RATE BASE 96,601,171

14. Capital Structure

The Commission determines upon a capital structure for retail ratemaking purposes as follows:

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

REA NOTE 2 $12,262,000.00 2.00% Restructure
Distribution Debt

REA NOTE 3 $59,053,000.00 5.00% Restructure
Distribution Debt

REA NOTE 4 $29,221,175.98 9.30% Restructure
Distribution Debt

CFC NOTE 1 $339,085.29 7.00% Restructure


```
Distribution Debt

CFC NOTE 2 $2,108,848.50  9.50%* Restructure
\&............Distribution Debt

CFC NOTE 3 $4,916,344.83  9.75%* Restructure
Distribution Debt

CFC NOTE 4 $1,046,211.30  8.75%* Restructure
\&............Distribution Debt
```

*Subject to interest rate repricing.

15. TIER - Previously Allowed

The Commission has on previous occasions approved a rate of return for NHEC equal to 2.0 times NHEC's interest expenses (Times Interest Earned Ratio or TIER) on non- Seabrook debt. The Commission finds that application of a 2.0 TIER in this case would result in rate increases exceeding those requested by NHEC.

16. TIER - Resulting from Proposed Increases

The permanent rates requested by NHEC, reflecting the adjustments adopted above, produce a TIER of 0.89 for the Step 1 rates and 1.18 for the Step 2 rates.

17. TIER - Results Just and Reasonable

The TIER ratios which result from the Step 1 and Step 2 increases are not excessive, and rates based upon such returns are just and reasonable.

18. Rate of Return - Just and Reasonable

The Step 1 rate increase produces an overall rate of return on rate base of less than 5.9185%.

The Step 2 rate increase produces an overall rate of return on rate base of less than 7.956%.

Page 723

The rates of return produced by the proposed rate increases are not above the zone of reasonableness, and rates based thereon are just and reasonable.

19. PPCA

The adjustment to NHEC's purchased power adjustment clause proposed by Witness Eicher (to "zero out" the PPCA as of the effective date of the Step 1 rate increase) is approved.

20. PPCA/FCA - FPPAC

The Commission finds that NHEC's request to continue the use of separate purchased power cost and fuel cost adjustment clauses until the new PSNH wholesale rate becomes effective is reasonable. The Commission further finds that NHEC has stipulated on the record in this docket that it will file with the Commission a petition concerning the establishment of the appropriate mechanism for future adjustments to NHEC fuel and purchased power costs within 30 days after the Commission's order in this docket.

21. Temporary Surcharge

The Commission finds that NHEC's request to collect a temporary 12-month

across-the-board surcharge in the amount of $.00587 per KWH to recover revenues sufficient to match the $3 million payment to PSNH which NHEC has accounted for as satisfying NHEC's obligations to PSNH for the "deferred" portion of wholesale purchases made under the "May 1 rate" is in the public good, and, therefore, approved.

22. Recoupment

The Commission finds that the permanent rates approved for Step 1 in this docket are in excess of the temporary rates established by the Commission in Report and Order No. 20,472. NHEC's request pursuant to RSA 378:29 to amortize and recover, by means of a temporary surcharge over and above the rates finally determined in this docket, the difference between the gross income obtained from the rates prescribed by the temporary rate order and the gross income which would have been obtained under the Step 1 rates is hereby granted.

23. Rate Design - Purposes

The Commission finds that rate design objectives proposed by NHEC in this case, namely, (i), satisfying revenue requirements, (ii) reflecting costs of service, (iii) simplicity, (iv) continuity, (v) promotion of efficient usage, (vi) member acceptance, and (vii) gradualism are reasonable rate design objectives for NHEC in the circumstances of this case.

24. Rate Design - Cost of Service Study

The Commission finds that NHEC's use of an embedded cost of service study is reasonable under the particular facts and circumstances of this case and that the embedded cost of service study utilized by NHEC is based upon sound and reasonable methodology. The Commission also finds that NHEC stipulated on the record that it will submit a marginal cost of service study in connection with its rate design proposals in its next permanent rate case.

25. Rate Design - Approval

Based upon the application of the foregoing factors, the Commission approves the rate design proposed by Witness Eicher, as revised to reflect the amendment to Mr. Eicher's gradualism formula (NHEC-80), consistent with the Stipulation Regarding Rate Design (NHEC Ex.79).

26. Rate Design - Nondiscriminatory

The Commission finds that the proposed Step 1 and Step 2 rates of NHEC, fixed and

determined pursuant to the revenue requirements analysis and rate design approved above, are just and reasonable and non- discriminatory.

SEABROOK

27. Valuation

Nothing in the Commission's final order in this docket, including the approval of NHEC's retail rate request, the approval of the wholesale rates charged by NHEC to PSNH under the Revised Sellback Agreement, and the approval of NHEC's restructured debt, is intended to approve or otherwise determine the value of NHEC's ownership share in the Seabrook Nuclear

Power Station for purposes of establishing NHEC's retail rates. NHEC has stipulated that it will file a petition with the Commission within 60 days after the Effective Date of its bankruptcy reorganization which will permit the Commission to open a docket to explore issues of Seabrook valuation and Seabrook accounting as they may relate to future retail ratemaking for NHEC.

All of the issues listed in NHEC's Request for Findings of Fact and Conclusions of Law were addressed in our Order and we are not required to rule specifically on findings requested by the parties. Should clarification be necessary, however, we hereby find that Requests Nos. 1-14, 16-24 and 26 are consistent with Order No. 20,618 and are approved. We will neither approve nor reject Request No. 15. The relevance of the Commission's approval of a 2.0 Times Interest Earned Ratio (TIER) coverage for NHEC in previous cases was contested by Staff, and the Commission will address the issue of the reasonableness of rates incorporating a 2.0 TIER in the current circumstances should NHEC so petition at a future date. We hereby reject Request No. 25 for the reasons stated in Order No. 20,618.

Our order will issue accordingly.

Concurring: November 19, 1992

ORDER

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

ORDERED, that Campaign for Ratepayers Rights, Representative Peter Burling and New Hampshire Electric Cooperative, Inc. members Gary McCool and Roger Easton's Motion for Rehearing of Report and Order No. 20,618 is hereby denied; and it is

FURTHER ORDERED, that the Office of Consumer Advocate's Motion for Rehearing is hereby denied; and it is

FURTHER ORDERED, that the Findings of Fact and Conclusions of Law requested by NHEC are granted in part and denied in part, in accordance with the terms of the preceding report.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of November, 1992.

==========

NH.PUC*11/19/92*[73099]*77 NH PUC 725*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICE COMPANY

[Go to End of 73099]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE/ NORTHEAST UTILITIES SERVICE COMPANY

DR 92-068
ORDER NO. 20,672

77 NH PUC 725

New Hampshire Public Utilities Commission

November 19, 1992

Joint Petition for Approvals Necessary to Implement Terms of an Agreement with New Hampshire Electric Cooperative Report and Order Denying Motion for Rehearing

---

Appearances: As previously noted

REPORT

I. PROCEDURAL HISTORY

On October 12, 1992, the New Hampshire Public Utilities Commission (Commission) issued Report and Order No. 20,629 (Order No.

20,629) which approved for purposes of the retail rates of Public Service Company of New Hampshire (PSNH) the $101 million valuation for the New Hampshire Electric Cooperative, Inc.'s (NHEC) 25 megawatt share of Seabrook Station, which is embodied in the Revised Sellback Agreement between PSNH and NHEC. On November 2, 1992, the Campaign for Ratepayers Rights (CRR) filed a Motion for Rehearing of Order No. 20,629 and by reference also adopted the pleadings of its Motion to Disqualify and Motion for Rehearing of Order No. 20,618 in DR 92-009. On November 5, 1992 PSNH and Northeast Utilities Service Company (NUSCO) filed an objection to CRR's Motion. On November 6, 1992 the Commission Staff (Staff) also filed an objection to CRR's Motion for Rehearing.

The Commission, on November 16, 1992, denied CRR's Motion to Disqualify. See Report and Order No. 20,667. On November 19, 1992, by Report and Order 20,671, the Commission, inter alia, also denied CRR's Motion for Rehearing of Order No. 20,618 in DR 92-009. This Report and Order will address CRR's Motion for Rehearing of Order No. 20,629 in DR 92-068 and the Objections thereto.

II. POSITIONS OF THE PARTIES AND STAFF

A. Campaign for Ratepayers Rights

CRR argues that it sought intervention and meaningful participation in Docket DR 92-009 and has appealed to the New Hampshire Supreme Court (Court) the Commission's denial of its request for compensation. Similarly, the Commission's Order No. 20,122 that valued the NHEC Seabrook share at $126 million for purposes of the NHEC/PSNH Sellback Agreement is also under appeal. CRR argues that the Commission erred in going forward with the instant docket until these two cases have been resolved by the Court.

CRR argues that the record in DR 92-009 is not sufficient to determine the value for Seabrook for ratemaking purposes, and that even if the value was appropriate for purposes of the Sellback, it is an error to approve those costs of service in their entirety for the purposes of PSNH retail rates. CRR claims that the Commission must first engage in a prudence review, and that in addition, NHEC's 25 megawatt share is excess capacity to PSNH and therefore not used and useful. CRR states that the Commission erred in finding that had NHEC not participated in Seabrook its share would have remained in the possession of PSNH. Rather, CRR contends that

but for NHEC's participation, Seabrook would have been cancelled.

CRR requests that the Commission a) vacate Order No. 20,629; b) exclude the Sellback costs from PSNH retail rates or conduct a prudence review in DR 92-009 and subsequently determine the amount to be included in PSNH retail rates; and c) pursuant to the powers of the Commission under RSA 365:29 and its equitable powers to direct payment from a Common Fund, order NHEC to reimburse CRR for its reasonable fees and expenses incurred in the preparation of its Motion for Rehearing and for CRR's previous and subsequent actions in this docket.

B. Public Service Company of New Hampshire and Northeast Utilities Service Company

PSNH/NUSCO notes that although CRR's intervention in DR 92-009 automatically made it a party in DR 92-068 and the Commission put parties on notice that the issue of the valuation of NHEC's ownership share in Seabrook for purposes of PSNH's retail rates would be decided in 92-068, CRR failed to appear at the hearings or otherwise participate. PSNH/NUSCO therefore argues that because CRR chose not to raise these issues during the proceeding, its Motion for Rehearing should be denied. PSNH/NUSCO states that while the Commission's orders in DR 92-009 and DR 90-078 have been appealed to the Supreme Court, CRR made no request to stay either of these orders. Therefore, the Commission properly relied on Orders No. 20,437 and 20,122 notwithstanding the appeals.

Page 726

PSNH/NUSCO argues that the Commission has consistently recognized the existence of an enforceable contractual obligation between PSNH and NHEC, both in DR 90-078 and subsequently in the Fuel and Purchased Power Clause dockets that approve the costs of the obligation for the purposes of PSNH retail rates. The Commission approved as reasonable the level of those Seabrook related costs in its findings regarding the PSNH Seabrook share in DR 89-244, findings that were upheld by the Court in Appeal of Richards, 133 N.H. 148 (1991). It contends that CRR's assertion that Seabrook would have been cancelled had NHEC not agreed to participate "is based on CRR's totally unsupported (in the record or elsewhere) speculation", an assertion again that CRR failed to make at hearings.

PSNH/NUSCO, assuming that CRR mistakenly named NHEC rather than PSNH in its request for reimbursement for costs incurred in DR 92-068, argues that reparation under RSA 365:29 is for rates and charges paid, not fees and expenses. Further, as its powers are not in equity but are defined by statute, the Commission lacks the statutory power to order payment of fees and expenses.

C. Commission Staff

Staff objected to the Motion for Rehearing, stating that the Commission did not err either in going forward in the proceedings in DR 92-009 and 92-068 rather than wait for the conclusion of appeals involving CRR to work their way through the Court, or in setting a value of Seabrook for purposes of the Sellback Agreement without first conducting a prudence review. It recommended that the Motion for Rehearing be denied as it did not allege any relevant facts or arguments which were not or could not have been raised in the course of the litigation. Staff also opined that there is no justification for the Commission to order payment by NHEC, as requested, for CRR's efforts in either the instant Motion or other actions in Docket DR 92-068.

III. COMMISSION ANALYSIS

After consideration of CRR's Motion for Rehearing and the objections thereto filed by PSNH/NUSCO and Staff, we conclude that the Motion for Rehearing should be denied.

CRR was granted intervention in Docket DR 92-068 by virtue of its standing as a party in DR 92-009. See, Order of Notice, DR 92-068, July 1, 1992. It was further put on notice by Order No. 20,489 that the issue of the valuation of NHEC's ownership share in Seabrook for the purposes of PSNH's retail rates would be decided in this docket. While CRR now argues that the Commission should have suspended this docket pending resolution of the appeals involving CRR now before the New Hampshire Supreme Court, it did not ask the Court to stay either of the Commission orders at issue. Indeed, the parties to DR 90-078 who appealed Order No. 20,122, which found a value for the NHEC Seabrook interest for purposes of the Sellback Agreement, have requested the Court to stay its proceedings pending the outcome of the two dockets currently before the Commission, DR 92-009 and DR 92- 068. CRR suggests that its limited intervenor status precluded its meaningful participation in the instant docket. However, unlike the Business and Industry Association which was granted similar status, CRR did not appear at the hearings or otherwise attempt to substantiate the claims it now makes in its Motion for Rehearing. Having failed to raise its issues during the hearings, CRR cannot now raise them in its Motion for Rehearing or on appeal.

In this docket, the Commission found that the valuation of NHEC's 25 MW Seabrook interest contained in the Revised Sellback Agreement was reasonable for purposes of PSNH's retail rates. The Commission reached this conclusion based on the testimony offered in the hearings as scrutinized by itself, the parties and Staff. The reasonableness of the resulting rates was confirmed by comparing them to the cost per kilowatt hour of PSNH's own 409 MW share as found in DR 89-244, whose findings were upheld by the Court in

Appeal of Richards, 133 N.H. 148 (1991). There is no foundation for CRR's hypothesis, offered in its Motion for Rehearing for the first time, that PSNH would have cancelled the Seabrook project had NHEC not participated; certainly, the failure of other New Hampshire and New England utilities to participate did not result in a decision by PSNH to cancel the project.

We find no grounds to grant reparation by either NHEC or PSNH to CRR for its fees and expenses incurred in connection with DR 92-068, either pursuant to RSA 365:29 or otherwise. Our Order will issue accordingly. Concurring: November 19, 1992

ORDER

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

ORDERED, that the Campaign for Ratepayers Rights' Motion for Rehearing of Order No. 20,629 is hereby denied.

By order of the New Hampshire Public Utilities Commission this nineteenth day of November, 1992.

==========

NH.PUC*11/23/92*[73100]*77 NH PUC 728*QUIN-LET TRUST

[Go to End of 73100]

QUIN-LET TRUST

DE 90-126
ORDER NO. 20,673

77 NH PUC 728

New Hampshire Public Utilities Commission

November 23, 1992

Order Granting a Refund by Credit on Customer Bills

On October 21, 1992, Wildwood Water Company, Inc. wrote to the Commission requesting reconsideration in the manner which it refunds the $200 collected from customers prior to having the authority for a franchise; and

WHEREAS, Wildwood Water Company, Inc. claims that it has severe financial constraints; and

WHEREAS, the Commission requested Staff to audit the books of Wildwood Water Company, Inc. in order to establish the veracity of the Company's claim regarding its severe financial constraints, and

WHEREAS, Staff performed the limited audit on November 2, 1992 and reported that Wildwood Water Company, Inc. does indeed appear to have a serious cash flow problem inhibiting their ability to refund the $4,135 ordered by the Commission; and

WHEREAS, Wildwood Water Company, Inc. is requesting that it refund the amount by crediting the amount collected on bills being rendered; it is hereby

ORDERED, that Wildwood Water Company, Inc. shall refund the $200 collected from customers in the form of a credit on its quarterly bills, to be refunded during a period not to exceed the next two billing cycles; and it is

FURTHER ORDERED, that Wildwood Water Company, Inc. shall report to this Commission with an accounting upon completion of the refunding process.

By order of the New Hampshire Public Utilities Commission this twenty-third day of November, 1992.

==========

NH.PUC*11/23/92*[73101]*77 NH PUC 728*CLAREMONT GAS CORPORATION

[Go to End of 73101]

CLAREMONT GAS CORPORATION

DR 92-020
ORDER NO. 20,674

77 NH PUC 728

New Hampshire Public Utilities Commission

November 23, 1992

Petition for Emergency Increase in Rates

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esquire, for Claremont Gas Corporation, Kenneth Traum for the Office of the Consumer Advocate, Susan Chamberlin, Esquire, for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On October 23, 1992, Claremont Gas Corporation (Claremont or Company) petitioned the Commission for emergency rate

relief pursuant to RSA 378:9. The Company's petition incorporated the following: a request for a 20% increase in rates recoverable through the first rate block, numerous citations of public law and decisions supporting the Commission's statutory authority to grant emergency rates, a description of the financial status of the utility, and a request for recovery of rate case expenses through a per customer surcharge over a six month period.

On October 26, 1992, the Commission Staff (Staff) submitted a letter which outlined Staff's position regarding the petition. On October 27, 1992, the Office of the Consumer Advocate submitted a letter, which in essence, supported Staff's position.

On November 4, 1992, a public hearing was held at the Commission offices located at 8 Old Suncook Rd., Concord, New Hampshire.

II. POSITION OF THE PARTIES

A. Southwestern Community Services

At the hearing, Staff Attorney Susan Chamberlin submitted as an exhibit, a letter from Claire Pinard, Community Services Director, Southwestern Community Services, Claremont, N.H.. The letter expressed serious concerns over the impact of the requested increase on low income customers, landlords, and small business owners. Additional areas of concern were: the intentions of the Company with respect to continued service, the brief notice to the public of the hearing, utility rates as compared to retail propane and oil rates, and community safety issues in the event the facilities are abandoned.

B. Claremont Gas Corporation

Mr. Joseph Broomell, testified on behalf of the Company. Mr. Broomell explained the operating losses that the Company claims it has consistently experienced and further stated that

the Company would not be able to meet its debt obligations to the parent company without the requested increase.

Mr. Broomell stated that the Company was committed to continuing the utility operation and noted that the Company stood to lose the substantial investments it had recently made in the event of abandonment. He further explained that the Company had analyzed recommendations made by Staff in the permanent rate proceeding, as well as internal studies, and was of the opinion that with a 20% increase in rates, and the implementation of various measures relating to cost control, marketing, and accounting, the Company could be profitable. In response to Commissioner Ellsworth, the witness emphasized that the reductions to operating expenses would not adversely affect the safety of the system or the community.

In support of the Company's request to recover the increase through the first rate block, Mr. Broomell explained that this methodology would have the least impact on customers the Company felt were most susceptible to competition. He noted that the loss of Sugar River Mills, the Company's largest customer, would have a major effect on the revenues and future rates of the Company. Under cross- examination, the witness agreed that the rate design proposed by the Company would result in disproportionate increases between rate classes with the Residential Domestic class experiencing a 95.5% increase.

C. Staff

Mr. Edwin P. LeBel, and Mr. Robert F. Egan presented testimony on behalf of the Commission Staff. Mr. LeBel stated that the books and records that Staff has examined in the permanent rate proceeding indicated that the Company is entitled to rate relief. In addition Mr. LeBel made a recommendation on the recovery of prudently incurred rate case expenses. He explained that based on previous cases, the recovery period should be between one and two years in duration, and that the surcharge be applied on a per therm basis as opposed to the Company's proposed method of recovery over a six month period by a per customer charge.

Mr. Egan addressed issues related to customer charges, competition, rate design, and safety. Mr. Egan stated that the Company's

Page 729

petition requested recovery through the first rate block, which for all intents and purposes is identical to a customer charge. By examining Exhibit 7, a list of current gas utility customer charges, he revealed that the Company's proposal would result in customer charges of between $10.00 to $12.00 and would be significantly higher than the other companies. He noted that even though two cost of service studies in recent rate proceedings justified high customer charges, the parties and the Commission recognized the rate impact on the customers and instituted charges well below what the studies recommended.

Mr. Egan testified that the current rate design of the Company was confusing and needed examination. He explained that Staff was unable to obtain the billing determinants from the Company but was in the process of developing the necessary information. He indicated that the analysis was necessary due to the competition Claremont faced from retail propane, particularly in the commercial class. Retail propane customers traditionally pay lower prices for high volume use. Referring to Exhibit E-6, a comparison of utility versus non-utility sample bills, he noted

that under the current rate design with the increase included, the utility would still be competitive in the three residential categories but would be at a disadvantage in the commercial class.

Commissioner Stevens inquired whether the Company's actions have contributed to the need for relief. The witness stated that his pre-filed testimony in the permanent case indicated that the parent company had not applied the necessary resources it had represented to the Commission during the franchise transfer docket that it would make available to Claremont.

Chairman Patch expressed concern that cost saving measures the Company intended to take might impair safety. Mr. Egan explained that Mr. Richard G. Marini, Gas Safety Engineer, would examine the measures and monitor the Company as part of his normal course of duties.

III. COMMISSION ANALYSIS

The Commission derives its authority to establish emergency rates from RSA 378:9 which states: "Whenever the Commission shall be of the opinion that an emergency exists, it may authorize any public utility temporarily to alter, amend or suspend any existing rate, fare, charge, price, classification or rule or regulation relating thereto." RSA 378:9.

In Re New Hampshire Electric Cooperative, Inc., Docket DR 90-227, Order No. 20,049 (January 28, 1991) the Commission used a three part analysis to determine whether emergency relief was warranted. The Commission must determine:

1) Is there an emergency as a matter of fact?

2) Is the emergency of sufficient severity to warrant

emergency relief?

3) Will the requested relief remedy the emergency?

In determining whether an emergency exists, the relevant inquiry is "...whether reasonable persons may find the affairs of this company are at such a crisis that immediate and substantial disaster threatens unless prompt relief is given." Petition of Public Service Company of New Hampshire, 97 NH 549, 551 (1951). See, Petition of Public Service Company of New Hampshire, 130 NH 265, 283 (1988).

The Commission finds based on the testimony of Company witness Joseph Broomell and Staff witness Edwin P. LeBel that an emergency exists and is sufficiently severe to require immediate temporary rate relief. Mr. Broomell testified that the Company is currently allowed a 10.24% rate of return and received a negative 67.34% rate of return in the test year. Mr. LeBel testified that in his professional opinion, based on his review of the company's financial records which show a steady erosion in its return, a financial emergency exists which warrants rate relief.

The Commission also is aware that we are entering into this year's heating season and that most customers would not be able to invest in alternative sources of fuel at this late date. It is therefore important that the Company maintain its immediate ability to serve while long term solutions to its financial problems are found.

The Commission must now answer the question of whether the requested relief will remedy the situation. The Commission is concerned with Staff's testimony stating that the Company's actions contributed to the need for relief. In Robert Egan's prefiled testimony in the permanent case, which was incorporated into this hearing by way of administrative notice, he indicated that the parent company had not applied the necessary resources it had represented to the Commission that it had during the franchise transfer docket. (Egan Testimony p.8). We will closely monitor the Company's progress to ensure that the representations made by Mr. Broomell that the Company was committed to continuing the utility operation are carried out. Based on all of the testimony presented, particularly Mr. Broomell's representations that with an increase in rates, and the implementation of various measures relating to cost control, marketing, and accounting, the Company could be profitable, we find that emergency rate relief will remedy the emergency situation.

Concerning the issue of the amount of emergency revenue necessary to keep the Company whole, the Commission, based on evidence provided at the hearing and filed in the permanent proceeding, finds that a 20% increase is justified. However, said increase should be applied to each rate component, in each class, on an equal basis. The evidence is not persuasive that the Company will be adversely affected by an across the board increase, nor does it justify the need for rate re-design in the context of an Emergency Rate proceeding.

With respect to the recovery of rate case expenses, we accept the amount recommended by Staff of $37,726 and agree that the correct methodology for recovery is on a per therm basis over a two year period, as opposed to a per customer surcharge over a six month period as requested by the Company. In addition, a six month recovery period would place an undue burden on customers, and would also exacerbate the competitive pricing disadvantage of which the Company witness expressed concern.

The Commission is encouraged that the Company has examined its operations and concluded that it can initiate measures recommended by Staff, and of its own, that will allow the community continued utility service at a reasonable price. We are however mindful of the previous performance of the Company based on numerous cases of record, and caution the Company to implement the marketing and cost control measures outlined by the Company witness in a safe and expeditious manner. To satisfy our concerns, we will direct Staff to monitor the actions of the Company and report to the Commission on or before April 15, 1993 on the status of the company, rate design issues, and an appropriate mechanism for making the emergency rate permanent.

We also state that this emergency rate is subject to recoupment and refund should the Company on its own or by order of this Commission discontinue service within a year from the issuance of this order. In that way we are providing the Company with the revenue to provide service but we are also protecting the customer should the Company fail to provide such service.

Our order will issue accordingly.

Concurring:November 23, 1992

ORDER

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

ORDERED, that Claremont Gas Corporation shall file revised tariff pages setting forth rates therein designed to produce on an emergency basis, an annual increase in rates of $61,428; and it is

FURTHER ORDERED, that said increases will apply equally to all existing rate classes, and it is

FURTHER ORDERED, that the revised tariff pages reflect a per therm surcharge designed to recover $37,726 of rate case

Page 731

expenses over a twenty-four month period; and it is

FURTHER ORDERED, that said tariff pages be filed to become effective on all bills for service rendered on or after November 1, 1992; and it is

FURTHER ORDERED, that the Commission Staff monitor the actions and financial standing of the Company and report to the Commission on or before April 15, 1993.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1992.

==========

NH.PUC*11/23/92*[73102]*77 NH PUC 732*SPRINGWOOD HILLS WATER COMPANY

[Go to End of 73102]

SPRINGWOOD HILLS WATER COMPANY

DE 90-051
ORDER NO. 20,675

77 NH PUC 732

New Hampshire Public Utilities Commission

November 23, 1992

Order Rescinding Surcharge

On September 22, 1992 the Commission issued Order No. 20,609 NISI granting authority to recover unbilled revenues from customers in Springwood Hills Water Company in Londonderry, New Hampshire; and

WHEREAS, the recovery of the unbilled revenues totalled $621.40 per customer; and

WHEREAS, the unbilled amount would have been recovered by means of a surcharge of $10.36 on each customer's monthly permanent rate effective beginning with the December 1992 billing and continue for a total of sixty consecutive months; and

WHEREAS, based on information presented to the Commission at a public hearing in

Londonderry, New Hampshire on November 9, 1992, it is evident that the surcharge calculation requires further review and modification before implementation can be considered; it is hereby

ORDERED, that imposition of the surcharge of the $10.36 which was to take effect on billings commencing in December 1992 is hereby rescinded; and it is

FURTHER ORDERED, that based on information provided to the Commission at the November 9, 1992 hearing relative to the stipulation entered into by the parties in the permanent rate proceeding in DE 90-051 concerning the granting of a franchise and establishment of permanent rates in Order No. 20,134, that

parties meet in an attempt to revise the settlement agreement governing the establishment of the permanent rate level now in effect, as well as to recalculate unbilled revenue levels should the Commission at a later date authorize a revised surcharge amount to the Springwood Hills customers' bills, and to explore options for the sale/purchase of the water system by the customers or another water company.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1992.

==========

NH.PUC*11/23/92*[73103]*77 NH PUC 732*NORTH COUNTRY WATER SUPPLY, INC.

[Go to End of 73103]

NORTH COUNTRY WATER SUPPLY, INC.

DE 92-076
ORDER NO. 20,677

77 NH PUC 732

New Hampshire Public Utilities Commission

November 23, 1992

Order Granting A Franchise and Temporary Rate

Appearances: Stanley H. Oliver on behalf of North Country Water Supply, Inc.; and Susan Chamberlin, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On April 16, 1992, North Country Water Supply, Inc. (the "Company" or "North Country") filed for authorization to establish a water utility franchise in a limited area of the Town of Strafford, New Hampshire, and to set rates for the provision of its water service. The

Company's proposed franchise area includes 31 residential customers in a development

known as Bow Lake Estates located on Big Kooaukee Island on Bow Lake. On June 4, 1992 the Company filed a revised petition more accurately defining the requested franchise area. (See, Appendix A). The Commission issued an order of notice on May 18, 1992 scheduling a prehearing conference for 10:00 a.m. on June 9, 1992. Although there were no motions to intervene, three customers appeared to offer comments regarding the Company's petition. At the prehearing conference the Staff and North Country agreed to a procedural schedule, which was approved by the Commission in Order No. 20,512 (June 17, 1992).

By memorandum dated July 23, 1992, Staff informed the Commission that the Company had failed to appear for a scheduled settlement conference and asked that the procedural schedule be suspended. The Commission granted this request, and thereafter the parties agreed to a revised procedural schedule. On August 24, 1992 the Executive Director advised the parties that the Commission had granted the Staff's request to amend the procedural schedule, with a hearing on the franchise and temporary rates to be held October 1, 1992.

On August 26, 1992 the Company filed financial documents regarding its request for a temporary rate. On September 11, 1992 Staff and North Country met in a settlement conference to discuss the issues regarding its proposed franchise and temporary rate. On the day of the scheduled hearing on the merits, North Country and the Staff presented to the Commission a Franchise and Temporary Rate Stipulation Agreement, attached hereto as Appendix B.

II. FINDINGS OF FACT

North Country and the Staff stipulated to the following:

1) That North Country has the financial, managerial, and technical ability to operate a franchised public utility in the State of New Hampshire;

2) That North Country be granted conditional authorization of a franchise to provide water service in a limited area of Strafford, New Hampshire, subject to the following:

a) providing evidence that it has met the requirements of RSA 374:22 III;

b) providing evidence by October 1, 1992, of the Town's approval of construction of the new well and pumphouse;

c) establishing by December 1, 1992, a means satisfactory to the Commission whereby customers can contact the Company and obtain prompt response in emergencies on a 24-hour basis; and

d) installing a source meter on each well by January 20, 1993.

3) A temporary rate of $307 annually, or $25.55 monthly, to be billed in arrears to the 31 existing customers, for service rendered on or after the date of this order.

III. COMMISSION ANALYSIS

Based on a review of the transcript of the October 1, 1992, hearing, the Commission is satisfied that North Country has the financial, managerial, and technical ability to operate a public utility in the State of New Hampshire. The Stipulation of the Staff and the Company, attached hereto as Appendix B, is, therefore, accepted. The Commission agrees with the need for the customers to be able to contact the Company in event of emergencies, and will direct Staff to follow up with North Country to ensure the implementation of a satisfactory method of

communication and report within 30 days of the issuance of this order. The Commission also believes that the stipulated temporary rate of $25.55 per month, to be billed in arrears, is just and reasonable in light

of the estimates of operation and maintenance expenses presented in the Stipulation Agreement.

The Commission takes note of the testimony of Mr. Stanley Oliver, Company owner, that:

" North Country also owns a water system serving a condominium development in Freedom, New Hampshire, and has owned it for several years". Tr. at 24-25.

The Commission finds that there are no records with the Commission indicating franchise authorization for any other water systems owned by North Country Water Supply, Inc. The Commission will direct Staff to commence an investigation of this water system to determine whether or not it should be under the regulatory review of this Commission. Our Order will issue accordingly. Concurring: November 23, 1992

ORDER

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

ORDERED, that the Stipulation attached hereto as Appendix B is accepted and incorporated herein; and it is

FURTHER ORDERED, that the Company is granted a franchise to operate a water utility at Bow Lake Estates on Big Kooaukee Island on Bow Lake in the Town of Strafford (See, Appendix A); and it is

FURTHER ORDERED, that the Company ensure an adequate means of 24-hour communication is established between the Company and its customers; and it is

FURTHER ORDERED, that the Company is authorized to charge a temporary rate of $25.55 per month, billed in arrears, to its existing 31 customers for service rendered on or after the date of this order; and it is

FURTHER ORDERED, that the Staff commence an investigation into the water system in Freedom, New Hampshire owned by North Country to determine its status relative to regulation by this Commission.

By order of the New Hampshire Public Utilities Commission this twenty-third day of November, 1992.

APPENDIX A

The requested franchise area for North Country Water Supply, Inc. in DE 92-076 is as follows:

The franchise area is defined as containing all lots located in the development known as Box

Lake Estates on Big Kooaukee Island, Bow Lake, Town of Strafford, New Hampshire.

Page 735

APPENDIX B Exhibit 1

STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION DE 92-076 NORTH COUNTRY WATER SUPPLY, INC. FRANCHISE AND TEMPORARY RATE STIPULATION AGREEMENT

This Agreement is entered into this first day of October, 1992, by and between North Country Water Supply, Inc. ("North Country" or the "Company") and the Staff ("Staff") of the New Hampshire Public Utilities Commission ("Commission"), with the intent of resolving all of the issues that were raised or could have been raised by North Country and Staff concerning the issuance of a franchise and the authorization of a temporary rate in the above-captioned case.

I. INTRODUCTION

On April 16, 1992 North Country filed for authorization to establish a water utility franchise in a limited area of the Town of Strafford, New Hampshire, and for establishment of a temporary rate. The Company proposes to provide water service to 31 customers in a development known as Bow Lake Estates located on Big Kooaukee Island on Bow Lake. After consultation with Staff, North Country filed a revised petition on June 4, 1992 defining the requested franchise area.

The Commission issued an order of notice on May 18, 1992 scheduling a prehearing conference for 10:00 a.m. on June 9, 1992. At the prehearing conference there were no motions to intervene, although three customers appeared to speak regarding the Company's petition. One customer was designated to receive copies of all filings so that concerned customers could be kept informed of the progress of the docket. At the prehearing conference the Staff and

Page 736

North Country agreed to a procedural schedule, which was approved by the Commission in Order No. 20,512 (June 17, 1992).

On July 23, 1992 Staff informed the Commission that the Company had failed to appear for a scheduled settlement conference and asked that the procedural schedule be suspended. The Commission granted this request, and thereafter the parties agreed to a revised procedural schedule. On August 24, 1992 the Executive Director advised the parties that the Commission had granted the Staff's request to amend the procedural schedule, with a hearing on the franchise and a temporary rate to be held on October 1, 1992.

On August 26, 1992 the Company filed documents regarding tis request for a temporary rate. On September 11, 1992 Staff and North Country met in a settlement conference to discuss the issues regarding its proposed franchise and temporary rate. This Agreement is the result of that settlement conference. North Country and Staff are prepared to present testimony to the Commission in support of this Stipulation at the hearing scheduled for October 1, 1992.

II. COMPONENTS OF AGREEMENT

A. Franchise Authorization

North Country and Staff stipulate to the conditional authorization of a franchise to provide water service to Bow Lake Estates on Big Kooaukee Island on Bow Lake in the Town of Strafford. The parties agree that North Contry has the financial, managerial, and technical ability to operate a franchised public utility in the State of New Hampshire. North Country hereby agrees

Page 737

to comply with all rules and regulations of the Commission with respect to the operation of the utility. The parties agree, however, that granting of the franchise is conditional on performance of the following by North Country:

1. Providing evidence that it has met the "requirements of the division of water supply and pollution control and the division of water resources concerning the suitability and availability of water," as required by law (RSA 374:22 III).

2. Providing by October 1, 1992 a copy of a building permit or other document from the Town of Strafford indicating the Town's approval of construction of the new well and pumping facilities.

3. Establishing by December 1, 1992 a means satisfactory to the Commission whereby customers can contact the company and obtain prompt response in emergencies.

4. Installing a source meter on each well by January 20, 1993. The parties concur that collection of temporary rates can begin with the signing of an order as stated below and need not wait for fulfillment of the above conditions. The parties also acknowledge that the Town of Strafford, in written correspondence on file with the Commission, offered no objection to granting of the franchise to North Country.

B. Temporary Rate

North Country and Staff stipulate to a temporary rate of $307 annually, or $25.55 monthly, as shown on Attachment 1 hereto. This temporary rate is to be billed to the existing 31 customers of the Company, to be effective upon the issuance of an order by the

Page 738

Commission authorizing said rate.

III. CONDITIONS

A. The making of this Stipulation shall not be deemed in any respect to constitute an admission by any party but instead is entered into for the purpose of resolving matters efficiently and without resorting to litigation.

B. This Stipulation is expressly conditioned upon the Commission's acceptance of all of its provisions, without change or condition. If the Commission does not accept it in its entirely, this Stipulation shall be deemed to be null and void and without effect, and shall not constitute any part of the record in the proceeding and shall not be used for any other purpose.

IN WITNESS WHEREOF, North Country Water Supply, Inc. and the Public Utilities Commission Staff have cause this Stipulation to be duly executed in their respective names by their agents, each being fully authorized to do so.

NORTH COUNTRY WATER SUPPLY, INC. Dated: 10/1/92 By: Stanley H. Oliver /s/

N.H. PUBLIC UTILITIES COMMISSION STAFF Dated: 10/1/92 By: Susan Chamberlin /s/

Page 739

NORTH COUNTRY WATER SUPPLY, INC. ATTACHMENT 1 TEMPORARY RATE CALCULATION PRODUCTION EXPENSES: ---------- Electric Power 1,000 Maintenance/Repair 1,000 Superintendence - 1.5 hrs/week @ $35/hour for man and vehicle 2,730 Water testing - $12 per mo. bacteria, plus sanitary survey $450 ea. well over 3 444 -------- Total Production Expenses 5,174 GENERAL & ADMINISTRATIVE EXPENSES: ----------

Office rent - 144 s.f. @ $8 /2 576 Billing supplies - stamps 434 @ .20, envelopes 434 @ .06, invoices 434 @ .16 221 Telephone - $12/mo. 144 DES Permit fee 300 PUC Assessment 50 Insurance 158 Professional fees - prep. of PUC annual report; tax returns; general acctg. 400 Franchise fee - State of NH 200 Property Tax 2,283 -------

Total G & A Expenses 4,332 ----- Total O & M Expenses 9,506 ===== Number of Customers 31 ----- Temporary Annual Rate 307 ===== Monthly Rate 25.55 ===== ==========

NH.PUC*11/24/92*[73104]*77 NH PUC 741*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73104]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-213
ORDER NO. 20,678

77 NH PUC 741

New Hampshire Public Utilities Commission

November 24, 1992

Order NISI Approving Special Contract No. NHPUC-77

On November 3, 1992, Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-75 with Batesville Casket Company, a New Hampshire Corporation with facilities located in Nashua, New Hampshire; and

WHEREAS, Batesville Casket has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Batesville Casket currently takes electric service under Rate LG of PSNH's Retail Tariff; and

WHEREAS, PSNH indicates that Batesville Casket's average hours' use of maximum demand over the preceding twelve months has been less than 250 hours and that Batesville Casket's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Batesville Casket has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-77 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-77 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED NISI, that Special Contract No. NHPUC-77 between PSNH and Batesville Casket is approved; and it is FURTHER ORDERED, that PSNH provide a report no later than January 1, 1994, on the number, nature and time of interruptions called by PSNH as well as Batesville Casket's response to such calls, and what if any actions Batesville Casket has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a paper having general circulation in that part of the State in which operation are proposed to be conducted, such publication to be no later than December 9, 1992, said publication to be documented by affidavit filed with this office on or before December 29, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order NISI will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this twenty-fourth day of November, 1992.

==========

NH.PUC*11/25/92*[73105]*77 NH PUC 741*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73105]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-203
ORDER NO. 20,679

77 NH PUC 741

New Hampshire Public Utilities Commission

November 25, 1992

Order Approving Tariff Change to Rate ML-HPS

On October 26, 1992, Public Service Company of New Hampshire (PSNH) filed in accordance with Commission rules NHPUC No. 33 - Public Service Company of New Hampshire, 1st Revised Page 63, effective November 25, 1992; and

WHEREAS, PSNH is proposing to modify the availability of its Outdoor Lighting and Maintenance Service High Pressure Sodium Rate ML-HPS to permit service to any governmental agency, unit or department; and

WHEREAS, Rate ML-HPS is available currently only to municipalities and state highway departments; and

WHEREAS, before April 1, 1991, Rate ML-HPS was only available to municipalities due to a PSNH personnel and/or resources constraint in converting the existing luminaires to HPS; and

WHEREAS, the increased availability of energy efficient HPS lighting is in the public good; it is hereby

ORDERED Nisi, that the change in the tariff to expand Rate HPS to include any governmental agency, unit or department is approved; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published once in a paper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than December 7, 1992 said publication to be documented by affidavit filed with this office on or before December 28, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request a an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order Nisi will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of November, 1992.

==========

WILTEL OF NEW HAMPSHIRE, INC.

DE 92-215
ORDER NO. 20,680

77 NH PUC 742

New Hampshire Public Utilities Commission

November 30, 1992

Order NISI Approving WilTel's Legendsm Service

On November, 9, 1992, WilTel of New Hampshire, Inc. (WilTel) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce its Legendsm service; and

WHEREAS, WilTel's tariff filing complies with the Commission's orders issued regarding interim competition; and

WHEREAS, the public good is served by introduction of new services, during the interim period; it is hereby

ORDERED NISI, WilTel, is hereby authorized to implement its Legendsm service, and NHPUC PUC Tariff No. 1

2nd Revised Page 1

2nd Revised Page 6

2nd Revised Page 25

1st Revised Page 34

2nd Revised Page 35

2nd Revised Page 37

2nd Revised Page 39

2nd Revised Page 42

2nd Revised Page 51

2nd Revised Page 54

Original Page 54.1

Original Page 54.2

Original Page 54.3

are approved; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than December 28, 1992; and it is

FURTHER ORDERED, that WilTel file properly annotated tariff pages in compliance with this order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that pursuant to

Page 742

N.H. Admin Rules Puc 203.01, WilTel cause an attested copy of this Order Nisi to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be documented no later than December 11, 1992, and is to be documented by affidavit filed with this office on or before the 30th day of December, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirtieth day of November, 1992.

==========

NH.PUC*11/30/92*[73107]*77 NH PUC 743*WILTEL OF NEW HAMPSHIRE, INC.

[Go to End of 73107]

WILTEL OF NEW HAMPSHIRE, INC.

DE 92-216
ORDER NO. 20,681

77 NH PUC 743

New Hampshire Public Utilities Commission

November 30, 1992

Order NISI Approving WilTel's Network Servicesm Offering

On November, 9, 1992, WilTel of New Hampshire, Inc. (WilTel) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce its Network Servicesm offering; and

WHEREAS, Wiltel's tariff filing complies with the Commission's orders issued regarding interim competition; and

WHEREAS, the public good is served by introduction of new services, during the interim period; it is hereby

ORDERED NISI, WilTel, is hereby authorized to implement its Network Servicesm, and NHPUC PUC Tariff No. 1

1st Revised Page 1

1st Revised Page 6

1st Revised Page 25

1st Revised Page 34

1st Revised Page 35

1st Revised Page 37

1st Revised Page 39

1st Revised Page 42

1st Revised Page 51

1st Revised Page 54

are approved; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, WilTel cause an attested copy of this Order NISI to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be documented no later than December 11, 1992, and is to be documented by affidavit filed with this office on or before the 30th day of December, 1992; and it is

FURTHER ORDERED, that WilTel file properly annotated tariff pages in compliance with this order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that any interested party may file written comments

or request an opportunity to be heard in this matter no later than

December 28, 1992; and it is

FURTHER ORDERED, that this Order NISI will be effective 30 days from

the date of this order, unless the Commission provides otherwise in a

supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirtieth day of November, 1992.

==========

NH.PUC*11/30/92*[73108]*77 NH PUC 744*WILTEL OF NEW HAMPSHIRE, INC.

[Go to End of 73108]

WILTEL OF NEW HAMPSHIRE, INC.

DE 92-218
ORDER NO. 20,682

77 NH PUC 744

New Hampshire Public Utilities Commission

November 30, 1992

Order NISI Approving WILTEL Voice Card Service

On November 18, 1992 WILTEL OF NEW HAMPSHIRE, (WilTel) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce Voice Card Service as an addition to its Message Telecommunications Services.

WHEREAS, WilTel proposed the filing become effective December 18, 1992; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than December 28, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, WilTel cause an attested copy of this Order NISI to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than December 11, 1992 and is to be documented by affidavit filed with this office on or before December 30, 1992; and it is

FURTHER ORDERED NISI, that the following tariff pages of WilTel Tariff PUC No. 1 INTRASTATE TELECOMMUNICATIONS SERVICES are approved:

6th Revised Page 1

4th Revised Page 6

3rd Revised Page 25

1st Revised Page 36

3rd Revised Page 42

2nd Revised Page 49

1st Revised Page 50

4th Revised Page 51

Original Page 54.4

and it is

FURTHER ORDERED, that WilTel file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order NISI will be effective 30 days from the date of this

order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date. By order of the New Hampshire Public Utilities Commission this thirtieth day of November, 1992.

==========

NH.PUC*11/30/92*[73109]*77 NH PUC 744*MCI TELECOMMUNICATIONS CORPORATION

[Go to End of 73109]

MCI TELECOMMUNICATIONS CORPORATION

DE 92-206
ORDER NO. 20,683

77 NH PUC 744

New Hampshire Public Utilities Commission

November 30, 1992

Order NISI Approving MCI 900 Service

On November 5, 1992, MCI Telecommunications Corporation (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce MCI 900 Service as an Intrastate Telecommunications Service which permits interactive communications via a 900 number; and

WHEREAS, said service is an intrastate add-on to MCI's Interstate 900 Service provided in MCI's Tariff FCC No. 1; and

WHEREAS, MCI proposed the filing become effective December 14, 1992; and

WHEREAS, on October 23, 1991, the

Federal Communications Commission (FCC) issued an order pre- empting state regulation of pay-per-call services, unless the pertinent pay-per-call services are only accessible in the state in which they originate; and

WHEREAS, the pay-per-call rules and regulations adopted by the Commission prior to the issuance of the FCC's decision (N.H. Admin. R., Puc 410) were and are only intended to apply to pay-per-call services originating and terminating in the State of New Hampshire; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED NISI, that the following tariff pages of MCI Tariff PUC No. 1 - INTRASTATE

TELECOMMUNICATIONS SERVICES are approved:

13th Revised Page No. 1

6th Revised Page No. 3

8th Revised Page No. 3.1

4th Revised Page No. 4

1st Revised Page No. 48

Original Page No. 48.1

1st Revised Page No. 49;

and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than December 28, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, MCI cause an attested copy of this Order NISI to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than December 11, 1992, and is to be documented by affidavit filed with this office on or before December 30, 1992; and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order Nisi will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirtieth day of November, 1992.

==========

NH.PUC*11/30/92*[73110]*77 NH PUC 745*GRANITE STATE ELECTRIC COMPANY

[Go to End of 73110]

GRANITE STATE ELECTRIC COMPANY

DR 92-188
ORDER NO. 20,684

77 NH PUC 745

New Hampshire Public Utilities Commission

November 30, 1992

Cooperative Interruptible Service Program Report and Order Approving Settlement

---

Appearances: David J. Saggau, Esq. for Granite State Electric Company; Susan Chamberlin, Esq. and Thomas C. Frantz, Utility Analyst, for the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL BACKGROUND

On October 1, 1992, Granite State Electric Company ("Granite State Electric" or "Company") filed proposed long- run avoided cost calculations to be used in establishing credit levels in Granite State Electric's 1993 Cooperative Interruptible Service ("CIS") program. The Company's CIS program provides credits to large commercial and industrial customers based on the customers' ability and willingness to interrupt load as requested by the Company during capacity shortages.

An Order of Notice was issued by the Commission on November 4, 1992, requesting

Page 745

interventions on or before November 16, 1992, and setting a hearing for November 18, 1992. No party intervened in this proceeding.

A hearing was held on November 18, 1992 at which Granite State Electric and the Commission Staff submitted an Offer of Settlement ("Settlement") which resolves all issues among the parties in this proceeding. The Company presented one witness, Monica S. Bushnell, to describe and support the

Settlement. The Company requested that the Settlement be made effective on November 1, 1992.

II. BACKGROUND

The Company's currently effective CIS program was approved by this Commission in Order No. 20,370 on January 14, 1992 in Docket No. DR 91-154. Customers wishing to participate in this program choose from two different types of credits, the "committed" CIS-1 credit or the "uncommitted" CIS-2 credit. Under each credit, there are three options which differ in frequency, duration and notification period for interruptions. Credits available to customers under the six options are currently based on the long-run value of capacity as determined by the estimated 1992 avoided costs of Granite State Electric's wholesale supplier, New England Power Company ("NEP").

In its October 1, 1992 filing, Granite State Electric proposed long-run avoided cost calculations to be used in establishing credit levels in the Company's 1993 CIS program. The Company proposed no changes to the current program, and supported the continued use of the estimated long-run avoided costs to determine the credits for the CIS program.

Staff had concerns that use of the long-run avoided costs to establish credit levels in the Company's CIS program inaccurately reflects the value to the Company for the interruptible load. Staff believed that the credits for a one year interruptible load commitment should be based on the short-term value of capacity as opposed to a long-run capacity value.

III. OFFER OF SETTLEMENT

Under the terms of the Settlement, credits under the Company's CIS-1 ("committed") program will continue to be based on New England Power Company's ("NEP") long-run avoided costs. Participants in the CIS-1 program will be offered a contract with a seven-year termination notice provision. Credits under the Company's CIS-2 ("uncommitted") program will be based on a short-term capacity value. Customers participating in the Company's CIS-2 program will be offered a one-year contract.

IV. COMMISSION ANALYSIS

The Offer of Settlement contains two changes to the currently effective CIS program. First, under the Company's CIS-1, or "committed" program, the Company will continue to offer credits based on NEP's long-run avoided cost calculations, but the contract term will be extended from one year to seven years. Second, credits under the Company's CIS-2, or "uncommitted" program, will be based on the short-term value of capacity as opposed to the long-run avoided cost calculation. Participants in the CIS-2 program will continue to be offered one-year contract terms. All other elements of the Company's ongoing CIS program will remain unchanged.

We find the Settlement to be reasonable. Customers participating in the Company's CIS-1 program will be required to commit their interruptible load to the Company for a period of seven years. This justifies the use of the long-run avoided cost for the calculation of the credits to be paid to participating customers. Likewise, customers participating in the Company's CIS-2 program who are required to commit their interruptible load to the Company for one year will receive credits based on the short- term value of capacity. This better reflects the value to the Company for the resources made available to the Company by the customer.

At the hearing, a concern was expressed that during a period of excess capacity, such as currently exists in New England, it may be

Page 746

neither necessary nor economic to pay customers to interrupt load. However, the Company's witness explained that although New England has sufficient capacity to meet its peak loads, certain situations can and do occur when generating capacity is limited by unplanned outages. Thus, the availability of interruptible kilowatts under the CIS program continues to have value. As the Company's witness testified, during the past two program years, four interruptions were called when capacity was needed.

We are satisfied that the Company's ongoing CIS program, as modified under the terms of the Settlement, provides value to the Company and its ratepayers in both the short- term and the long-term. We believe the Offer of Settlement as filed is reasonable and in the public good.

ORDER

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

ORDERED, that the attached Offer of Settlement be, and hereby is, approved effective November 1, 1992, and is incorporated as part of this Report and Order.

By order of the Public Utilities Commission of New Hampshire this 30th day of November,

1992.

OFFER OF SETTLEMENT

I.Introduction

This Offer of Settlement is jointly submitted by the New Hampshire Public Utilities Commission Staff ("Staff") and Granite State Electric Company ("Granite State Electric" or "Company") together the "Parties," and resolves all issues among the Parties in this proceeding. A summary of the Company's proposal in this proceeding, Staff's position, and terms of settlement are contained herein. The Parties request that the Commission adopt this settlement as final resolution of this proceeding.

II.Company's Proposal

The currently effective Cooperative Interruptible Service ("CIS") program was approved by the Commission in Order No. 20,370 on January 14, 1992 in Docket No. DR 91-154. The Company's CIS program provides credits to large and medium- sized commercial and industrial customers of the Company who agree contractually to interrupt their load when called upon during peak periods. Customers wishing to participate in the current CIS program choose from two (2) different types of credits, the "committed" CIS-1 credit or the "uncommitted" CIS-2 credit. Under each credit, there are three (3) options which differ in the frequency, duration and notification period for interruptions. Credits available to customers under the six (6) options are currently based on the long-run value of capacity as determined by the estimated 1992 avoided costs of Granite State Electric's wholesale supplier, New England Power Company ("NEP").

On October 1, 1992, Granite State Electric filed with this Commission a proposed long-run avoided cost calculation to be used in establishing credit levels in the Company's ongoing CIS program. Granite State Electric proposed no changes to its current CIS program, and supported the continued use of the estimated long-run avoided costs to determine the CIS credits for the 1993 CIS program.

III.Staff's Position

Staff is concerned that use of the estimated long-run avoided costs to establish credit levels in the Company's CIS program inaccurately reflects the value to the Company for the interruptible load. The current CIS contracts have a one-year term - November 1 through October 31 of the following year. Staff believes that the use of the long-run avoided costs for calculating CIS credits results in a credit level which is too high for a one-year interruptible load resource.

Staff believes that since the Company's CIS contracts are for a term of one year, the value of the capacity available to the Company under the program is best measured by the short-term value of capacity.

IV.Settlement

In light of the foregoing, the Parties agree to the following terms as a final resolution among them of the issues raised in this docket:

1) Granite State Electric shall continue to offer one-year contracts for customers participating in the Company's CIS-2 ("uncommitted") CIS program. The credits to be paid under this program shall be based upon a short-term capacity value of $27 per kW. A copy of the revised CIS-2 contract is shown in Attachment 1. The credit calculations for CIS-2 contracts are shown in Attachment 2.

2) Granite State Electric shall offer a contract with a seven-year termination notice provision to customers participating in the Company's CIS-1 ("committed") program. The annual credits to be paid under this program shall be $41 per kW

Page 748

for Option 1, $45 per kW for Option 2, and $31 per kW for Option 3. These credits will be updated annually to reflect Granite State Electric's current estimate of long- run avoided costs. The revised CIS-1 contract is shown in Attachment 3. The credit calculations for CIS-1 contracts are shown in Attachment 4.

3) On or before October 1st of each year, Granite State Electric shall submit both updated short-run avoided cost information and updated long-run avoided cost information upon which credits for the following years' programs are to be based.

4) On or before January 1st of each year, Granite State Electric shall submit to the Commission a report summarizing the previous year's activity under the program, including the number of interruptions, duration of interruptions, compliance factors, amount of credits paid, and number of participating customers.

5) Nothing in this settlement shall preclude Staff or the Company from proposing future changes to the design of the CIS program; however, until such changes are proposed, the program shall remain in effect as updated annually to reflect changes in both the short-run and long-run avoided cost calculations.

V. Miscellaneous Provisions

1) Other than as expressly stated herein, this settlement establishes no principles and shall not be deemed to foreclose any Party from making any contention in any future proceeding or investigation.

2) Other than expressly stated herein, the approval of this settlement by the Commission shall not in any respect constitute a determination as to the merits of any issue in any subsequent proceeding.

3) This settlement is the product of settlement negotiations. All offers of settlement shall be without prejudice to the position of any Party or participant presenting such offer.

4) This settlement is submitted on the condition that it be approved in full by the Commission, and on further condition that if the Commission does not approve this settlement in its entirety, this settlement shall be deemed withdrawn and shall not constitute a part of the record in this or any proceeding or used for any purpose.

Dated this 18 day of November, 1992.

Respectfully submitted,

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

GRANITE STATE ELECTRIC COMPANY

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 ATTACHMENT 1 Page 1 of 3

THE GRANITE STATE ELECTRIC COMPANY CIS-2 Service Agreement

This Service Agreement is entered into by and between the Granite State Electric Company (Company) and the (Customer) with respect to Customer's facilities located at

This Service Agreement uses terms that are defined in Appendix A hereto, which are incorporated herein by reference and shall be deemed to be a part hereof. The Company and the Customer hereby agree that Customer shall purchase electricity from the Company on the following specified terms:

1. Rate Schedule

Customer shall pay for electric service purchased from the Company according to and subject to the terms and conditions of an available rate tariff except as explicitly modified by the terms of this agreement,

including Appendix A.

The Company shall credit Customer's electric bill for performance under the terms of this Service Agreement as follows:

(a) For each Interruption requested by the Company, the Company shall credit Customer's bill with the appropriate amount determined in accordance with the terms and conditions of Appendix A for the option specified in Paragraph 3 of this Service Agreement.

(b) For any month that the Company does not call for an Interruption, the Company shall credit Customer's bill with the appropriate Standby Interruptible Credit as set forth in the CIS-2 Terms and Conditions for the option specified in Paragraph 3 of this Service Agreement.

(c) Credits will be paid by the second succeeding month after the month in which credits are earned.

2. The Customer's Firm Power Level, Nominal Peak Period Load and Peak Period Load Factor will be updated annually as set forth in Schedule I. of this agreement which is made a part hereof.

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 ATTACHMENT 1 Page 2 of 3

3. Interruption Schedules

The maximum number of interruptions per year, the maximum number of interruptible hours per day, and the minimum period of notification shall be as specified for CIS-2 Option in the CIS-2 terms and ocnditions.

4. Limitation of Liability

The Company will not be liable to the Customer or any individual or third party for any damages or injury caused by or relating to any actions taken by the Customer to reduce its load under this CIS Service.

5. Term

This Service Agreement shall remain in effect until terminated by either party. A party may terminate this agreement upon one-year written notice.

6. Effective Date

This Service Agreement shall become effective upon execution by the Company.

In Witness Whereof, the Company and the Customer have caused this Service Agreement to be executed by their duly authorized representatives.

New Hampshire Public Utilities Commission

Granite State Electric Company

Page 750

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 ATTACHMENT 1 Page 3 of 3

SCHEDULE I.

For the purposes of the Agreement, the following Interruptible Rate Load definitions shall apply from November 1, 1991 through October 31, 1992:

Special term, other than those shown below:

Month/day/year through Month/day/year

All-Year Winter Summer (Nov-Oct) (Nov-Apr) (May-Oct)

The Customer's:

Peak Period Load is _____ _____ _____

Firm Power Level is - _____ _____ _____

Nominal Interruptible Load is = _____ _____ _____

Peak Period Load Factor is X _____ _____ _____

Credited Interruptible Load is = _____ _____ _____

_____ Name of Customer

_____ Customer Account Number

_____ C&LM Services Representative

_____ Date Schedule I Completed

GRANITE STATE ELECTRIC COMPANY

N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 1 Page 1 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR - CIS-2

AVAILABILITY

Cooperative Interruptible Service - 2 (CIS-2) is available only to Customers of the Company who (i) can designate as Nominal Interruptible Load the larger of either 100 kilowatts or twenty percent (20%) of their Nominal Peak Period Load.

Cooperative Interruptible Service is not available to a Customer who participates in the Company's standby or emergency generator program.

Each Cooperative Interruptible Service Customer must execute a CIS Service Agreement, subject to Company approval, which sets forth the choices and specific requirements of that Customer.

The Company reserves the right to restrict the availability of Cooperative Interruptible Service to new Customers if and when the amount of Nominal Interruptible Load in aggregate exceeds 10 megawatts.

DEFINITION OF TERMINOLOGY

Firm Power Level (FPL) - the specified level of demand in kilowatts that the Customer agrees not to exceed on average during each Interruption.

Interruption - a particular day chosen by the Company or its designated agent during which the Customer, after proper notification by the Company via the established communication system, agrees that their metered KW load will not on average exceed their FPL. Each Interruption will have specified hours.

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 1 Page 2 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR - CIS-2

Nominal Peak Period Load (NPPL) - the average of the maximum Peak Period demands, measured in kilowatts or 90% of kilovolt-amperes, whichever is larger, during each of the seven Peak Months prior to the current Program Year or prior to the time of executing the CIS Service Agreement.

Nominal Interruptible Load (NIL) - the difference between Nominal Peak Period Load and the Firm Power Level. This quantity is recalculated prior to and will be fixed for each Program Year.

Credited Interruptible Load (CIL) - the product of Nominal Interruptible Load and the Peak Period Load Factor.

Program Year - the 12 month period from November of a given calendar year through

October of the succeeding calendar year.

Peak Months - the seven billing months for June, July, August, September, December, January and February.

Peak Period - non-holiday weekdays during the hours of 8 am to 9 pm in June, July, August, September, December, January and February.

Peak Period Load Factor (PPLF) - the decimal, rounded off to four places, derived from the following formula:

Page 752

(Total KWH consumed during Peak Periods of Peak Months.)
_____ (NPPL x Hours in Peak Periods of Peak Months.)

In calculating PPLF, the most recent Program Year shall be used. The Company may, at its discretion, choose some other period of time to calculate PPLF, as well as NPPL. All days on which interruptions were called shall be deleted from the record of Customer loads used to calculate PPLF.

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 1 Page 3 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR - CIS-2

Interruption Period Load (IPL) - the average during each month of the 15-minute integrated load, as measured by the Company's metering equipment in kilowatts or as 90% of kilovolt-amperes, whichever is larger, during the specified hours of all Interruptions called in the month. If no Interruptions are called in a month, IPL is defined as zero (0).

Performance Credited Interruptible Load - the value determined by taking Credited Interruptible Load minus Non- Compliance Load.

RATE FOR SALES

The Customer shall pay for electricity actually used each month under the filed rate applicable to the Customer.

METHOD OF INTERRUPTION NOTIFICATION

Advance notice of interruption will be provided by the Company to the customer by means of a notification device which will be provided by the Company and owned and maintained by the Company.

The required notification periods for each option are shown on the following tables.

Page 753

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 1 Page 4 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR - CIS-2

INTERRUPTION SCHEDULE

The shedding of contractual Interruptible Load will be in accordance with the option selected by the Customer from the following schedule:

CIS-2 Option 1 Option 2 Option 3

Maximum Number of Interruption days/Program Year* 26 74 26

Maximum Number of Continuous Interruptible Hours/Day 8 12 8

Minimum Period of Notification 1 hour 1 hour Previous Business Day

*Includes up to two interruptions for testing purposes.

These limits for Options 1 and 2 may be adjusted and options added or deleted from time to time to conform with the requirements for Type 2 Pool Controlled Dispatchable Load - Operating Procedure #4, which are described in the New England Power Pool's Criteria, Rules and Standards No. 16. Under Option 3, each time an interruption is requested on the previous business day, the Customer will receive a minimum interruption credit of eight (8) hours.

Seasonally Differentiated Service Agreement

Subject to the mutual agreement between the Company and the Customer, a Customer selecting either CIS-2 Option 1, 2, or 3 may set the Firm Power Level at different levels in the program winter season, which is November through April, and the program summer season, which is May through October. In this situation, all customer data used to determine Credited Interruptible Load (CIL) will be segregated by the two program seasons and the CIL will be calculated seasonally. Credits for months during each program season will be based on the seasonal CIL. NEPOOL acceptance of the seasonally differentiated interruptible load is required under Options 1 and 2. The interruption schedule for the Option chosen will remain unchanged.

Page 754

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 1 Page 5 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR - CIS-2

INTERRUPTIBLE CREDIT CALCULATION

The Standby Interruptible Credit earned in zero interruption months is determined by the following formula:

SIC = A X CIL; where

SIC is the Standby Interruptible Credit earned monthly,

A is the Standby Monthly Credit per kW for the option selected, and

CIL is the Customer's Credited Interruptible Load.

The Standby Interruptible Credit is paid only in months in which zero interruptions are called.

The Performance Interruptible Credit earned monthly is determined by the following formula:

PIC = B x PCIL; where

PIC is the Performance Interruptible Credit

B is the Performance Monthly Credit per kW for the

option selected,

PCIL is Performance Credited Interruptible Load.

The amount PIC will be paid in the second succeeding month after it is earned.

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 1 Page 6 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR - CIS-2

INTERRUPTIBLE CREDIT SCHEDULE

MONTHLY MONTHLY SELECTED STANDBY CREDIT PERFORMANCE CREDIT OPTION PER KW PER KW

1 $0.43 $1.54

2 $0.47 $1.67

3 $0.30 $1.07

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 1 Page 7 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR - CIS-2

The Company shall request up to two (2) interruptions per Program Year for testing purposes.

Failure of performance by the Customer during any Interruption shall, at the Company's discretion, be sufficient cause for the adjustment of the Customer's Firm Power Level Commitment or termination of this Agreement by the Company under the provisions hereof.

Effective November 1, 1992

FILENAME: CIS92.WK1

GRANITE STATE ELECTRIC COMPANY RANGENAME: PAGE6 N.H.P.U.C. #92-188 CREATED BY: MJB Attachment 2 EDITED BY: MSB Page 1 of 3

CREDIT CALCULATION FOR CIS-2 OPTION1

1. NEP TOTAL MARGINAL CAPACITY COST = $27.00

2. FACTOR FOR DISTRIBUTION LOSSES X 1.13 = $30.51

3. FACTOR FOR NON-COMPLIANCE RISK X 0.8727 = $26.63

4. FACTOR FOR ACTUAL RELIEF ACHIEVED X 0.83 = $22.10

5. PROGRAM EXPENSES ($ PER KW) - $9.45 = $12.65

6. ANNUAL CREDIT ROUNDED TO WHOLE DOLLAR FOR MARKETING = $13.00 /KW YEAR

7. ANNUAL STANDBY CREDIT (LINE 6 TIMES .40) = $5.20

8. MONTHLY STANDBY CREDIT (LINE 7 DIVIDED BY 12) = $0.43 /KW MONTH

9. ANNUAL PERFORMANCE CREDIT (LINE 6 TIMES .60) = $7.80

10. MONTHLY PERFORMANCE CREDIT (LINE 9 DIVIDED BY 7 PLUS LINE 8) = $1.54 /KW MONTH

Page 757

FILENAME: CIS92.WK1

GRANITE STATE ELECTRIC COMPANY RANGENAME: PAGE7 N.H.P.U.C. #92-188 CREATED BY: MJB Attachment 2 EDITED BY: MSB Page 2 of 3

CREDIT CALCULATION FOR CIS-2 OPTION 2

1. NEP TOTAL MARGINAL CAPACITY COST = $27.00

2. FACTOR FOR DISTRIBUTION LOSSES X 1.13 = $30.51

3. FACTOR FOR NON-COMPLIANCE RISK X 0.8727 = $26.63

4. FACTOR FOR ACTURAL RELIEF ACHIEVED X 0.83 = $22.10

5. PROGRAM EXPENSES PER KW) - $9.45 = $12.65

6. PREMIUM FOR 74 INTERRUPTIONS @ 12 HOURS X 1.10 = $13.92

7. ANNUAL CREDIT ROUNDED TO WHOLE DOLLAR FOR MARKETING = $14.00/KW YEAR

8. ANNUAL STANDBY CREDIT (LINE 7 TIMES .40) = $5.60

9. MONTHLY STANDBY CREDIT (LINE 8 DIVIDED BY 12) = $0.47/KW MONTH

10. ANNUAL PERFORMANCE CREDIT (LINE 7 TIMES .60) = $8.40

11. MONTHLY PERFORMANCE CREDIT (LINE 10 DIVIDED BY 7 PLUS LINE 9) = $1.67/KW MONTH

FILENAME: CIS92.WK1

GRANITE STATE ELECTRIC COMPANY RANGENAME: PAGE8 N.H.P.U.C. #92-188 CREATED BY: MJB Attachment 2 EDITED BY: MSB Page 3 of 3

CREDIT CALCULATION FOR CIS-2 OPTION 3

1. NEP TOTAL MARGINAL CAPACITY COST = $27.00

2. FACTOR FOR DISTRIBUTION LOSSES X 1.13 = $30.51

3. FACTOR FOR NON-COMPLIANCE RISK X 0.8727 = $26.63

4. FACTOR FOR ACTURAL RELIEF ACHIEVED X 0.83 = $22.10

5. PROGRAM EXPENSES ($ PER KW) - $9.45 = $12.65

6. FACTOR FOR PREVIOUS DAY NOTIFICATION X 0.75 = $9.49

7. ANNUAL CREDIT ROUNDED TO WHOLE DOLLAR FOR MARKETING = $9.00/KW YEAR

8. ANNUAL STANDBY CREDIT (LINE 7 TIMES .40) = $3.60

9. MONTHLY STANDBY CREDIT (LINE 8 DIVIDED BY 12) = $0.30/KW MONTH

10. ANNUAL PERFORMANCE CREDIT (LINE 7 TIMES .60) = $5.40

11. MONTHLY PERFORMANCE CREDIT (LINE 10 DIVIDED BY 7 PLUS LINE 9) = $1.07/KW MONTH

GRANITE STATE ELECTRIC COMPANY

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 ATTACHMENT 3 Page 1 of 3

THE GRANITE STATE ELECTRIC COMPANY CIS-1 Service Agreement

This Service Agreement is entered into by and between the Granite State Electric Company (Company) and the (Customer) with respect to Customer's facilities located at

This Service Agreement uses terms that are defined in Appendix A hereto, which are incorporated herein by reference and shall be deemed to be a part hereof. The Company and the Customer hereby agree that Customer shall purchase electricity from the Company on the following specified terms:

1.Rate Schedule

Customer shall pay for electricity purchases from the Company according to and subject to the terms and conditions of an available rate tariff except as explicitly modified by the terms of this agreement, including Appendix A.

The Company shall credit Customer's electric bill for performance under the terms of this

Service Agreement as follows:

(a) For each interruption requested by the Company, the Company shall credit Customer's bill with the appropriate amount determined in accordance with the terms and conditions of Appendix A for the option specified in Paragraph 3 of this Service Agreement.

(b) Credits will be paid by the second succeeding month after the month in which credits are earned.

2. The Customer's Firm Power Level, Nominal Peak Period Load and Peak Period Load Factor will be updated annually as set forth in Schedule I. of this agreement which is made a part hereof.

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 ATTACHMENT 3 Page 2 of 3

3. Interruption Schedules

The maximum number of interruptions per year, the maximum number of interruptible hours per day, and the minimum hours of notification shall be as specified for CIS-1 Option in Appendix A.

4. Limitation of Liability

The Company will not be liable to the Customer or any individual or third party for any damages or injury caused by or relating to any actions taken by the Customer to reduce its load under this CIS Service.

5. Term

Once initiated, service under this contract shall continue until terminated by either party giving to the other at least seven years' written notice of termination directed to the end of a calendar month.

6. Effective Date

This Service Agreement shall become effective upon execution.

In Witness Whereof, the Company and the Customer have caused this Service Agreement to be executed by their duly authorized representatives.

Page 760

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 ATTACHMENT 3 Page 3 of 3

SCHEDULE I.

For the purposes of the Agreement, the following Interruptible Rate Load definitions shall apply from November 1, 1992 through October 31, 1993:

Special term, other than those shown below:

Month/day/year through Month/day/year

All-Year Winter Summer (Nov-Oct) (Nov-Apr) (May-Oct)

The Customer's:

Peak Period Load is _____ _____ _____

Firm Power Level is - _____ _____ _____

Nominal Interruptible Load is = _____ _____ _____

Peak Period Load Factor is X _____ _____ _____

Credited Interruptible Load is = _____ _____ _____

_____ Name of Customer

_____ Customer Account Number

_____ C&LM Services Representative

_____ Date Schedule I Completed

Page 761

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 3 Page 1 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR CIS-1

AVAILABILITY

Cooperative Interruptible Service - 1 (CIS-1) is available only to Customers who can designate as Nominal Interruptible Load the larger of either 100 kilowatts or twenty percent (20%) of their Nominal Peak Period Load.

Cooperative Interruptible Service is not available to a Customer who participates in the Company's standby or emergency generator program.

Each Cooperative Interruptible Service Customer must execute a CIS Service Agreement, subject to Company approval, which sets forth the choices and specific requirements of that Customer.

The Company reserves the right to restrict the availability of Cooperative Interruptible Service to new Customers if and when the amount of Nominal Interruptible Load in aggregate exceeds 10 megawatts.

DEFINITION OF TERMINOLOGY

Firm Power Level (FPL) - the specified level of demand in kilowatts that the Customer agrees not to exceed on average during each Interruption.

Interruption - a particular day chosen by the Company or its designated agent during which the Customer, after proper notification by the Company via the established communication system, agrees that the metered KW load will not exceed their FPL. Each Interruption will have specified hours.

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO

ATTACHMENT 3 Page 2 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR CIS-1

Nominal Peak Period Load (NPPL) - the average of the maximum Peak Period demands, measured in kilowatts or 90% of kilovolt-amperes, whichever is larger, during each of the seven Peak Months prior to the current Program Year or prior to the time of executing the CIS Service Agreement.

Nominal Interruptible Load (NIL) - the difference between Nominal Peak Period Load and the Firm Power Level. This quantity is recalculated prior to and will be fixed for each Program Year.

Credited Interruptible Load (CIL) - the product of Nominal Interruptible Load and the Peak Period Load Factor.

Program Year - the 12 month period from November of a given calendar year through October of the succeeding calendar year.

Peak Months - the seven billing months for June, July, August, September, December, January and February.

Peak Period - non-holiday weekdays during the hours of 8 am to 9 pm in June, July, August, September, December, January and February.

Peak Period Load Factor (PPLF) - the decimal, rounded off to four places, derived from the following formula:

Page 762

(Total KWH consumed during Peak Periods of Peak Months.)

(NPPL x Hours in Peak Periods of Peak Months.)

In calculating PPLF, the most recent Program Year shall be used. The Company may, at its discretion, choose some other period of time to calculate PPLF, as well as NPPL. All days on which interruptions were called shall be deleted from the record of Customer loads used to calculate PPLF.

Interruption Period Load (IPL) - the average of the 15- minute integrated load, as measured by the Company's metering equipment in kilowatts or as 90% of kilovolt- amperes, whichever is larger, during the specified hours of each Interruption.

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 3 Page 3 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR CIS-1

RATE FOR SALES

The Customer shall pay for electricity actually used each month under the filed rate

applicable to the Customer.

METHOD OF INTERRUPTION NOTIFICATION

Advance notice of interruption will be provided by the Company to the customer by means of a notification device which will be provided by the Company and owned and maintained by the Company, except as above provided.

The required notification period is shown on the Interruption Schedule.

Page 763

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 3 Page 4 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR CIS-1

INTERRUPTION SCHEDULE

The shedding of contractual Interruptible Load will be in accordance with the following schedule:

CIS-1 Option 1 Option 2 Option 3

Maximum Number of Interruption days/Program Year* 26 74 26 Maximum Number of Continuous Interruption Hours/Day 8 12 8 Minimum Period of Notification 1 hour 1 hour Previous Business Day

*Includes up to two interruptions for testing purposes.

These limits may be adjusted and options added or deleted from time to time to conform with the requirements for Type 2 Pool Controlled Dispatchable Load - Operating Procedure #4, which are described in the New England Power Pool's Criteria, Rules and Standards No. 16. Under Option 3, each time an interruption is requested on the previous business day, the Customer will receive a minimum interruption credit of eight (8) hours.

Seasonally Differentiated Service Agreement

Subject to mutual agreement between the Company and the Customer, a Customer selecting either CIS-1 Option 1, 2 or 3 may set the Firm Power Level at different levels in the program winter season, which is November through April, and the program summer season, which is May through October. In this situation, all customer data used to determine Credited Interruptible Load (CIL) will be segregated by the two program seasons and the CIL will be calculated seasonally. Credits for months during each program season will be based on the seasonal CIL. NEPOOL acceptance of the seasonally differentiated interruptible load is required under Options 1 and 2. The interruption schedule for the Option chosen will remain unchanged.

Page 764

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 3 Page 5 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR CIS-1

INTERRUPTIBLE CREDIT CALCULATION

The Total Interruptible Credit earned annually is determined by the following formula:

IC = A x CIL; where

IC is the Interruptible Credit earned,

A is the Total Annual Credit per KW for the option selected,

CIL is the Customer's Credited Interruptible Load, and

The IC is payable on the following terms. The interruptible credit will be paid within sixty (60) days of each interruption. The monthly additional customer charge for CIS will be added to each monthly bill.

NON-COMPLIANCE CHARGE CALCULATION

For each Interruption where the Interruption Period Load is greater than the Firm Power Level, a Non-Compliance Charge shall be determined by the following equation:

NCC = N X (IPL - FPL); where NCC is the Non-Compliance Charge assessed on each Interruption N is the Non-Compliance Charge per kW applicable to the option selected IPL is the Customer's Interruption Period Load, and FPL is the Customer's Firm Power Level.

Page 765

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 3 Page 6 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR CIS-1

The Non-Compliance Charge shall not be less than zero.

The Non-Compliance Charge shall be assessed to the Customer by the second succeeding month after the month in which it was incurred. Any upaid charges shall be deducted from monthly interruptible credits.

INTERRUPTIBLE CREDIT SCHEDULE

TOTAL ANNUAL MONTHLY SELECTED INTERRUPTIBLE CREDIT INTERRUPTIBLE CREDIT OPTION PER KW PER KW

1 $41.00 $3.42

2 $45.00 $3.75

3 $31.00 $2.58 NON-COMPLIANCE

EACH INTERRUPTION NON-COMPLIANCE SELECTED CHARGE OPTION PER KW

1 $4.10

2 $4.50

3 $3.10

Page 766

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. #92-188 APPENDIX A TO ATTACHMENT 3 Page 7 of 7

GRANITE STATE ELECTRIC COMPANY

COOPERATIVE INTERRUPTIBLE SERVICE TERMS AND CONDITIONS FOR CIS-1

The Company shall request up to two (2) interruptions per Program Year for testing purposes.

Failure of performance by the Customer during Interruptions shall, at the Company's discretion, be sufficient cause for an adjustment of the Customer's Firm Power Level commitment or termination of this Agreement by the Company under the provisions hereof.

Effective November 1, 1992

FILENAME: CIS92.WK1

Page 767

GRANITE STATE ELECTRIC COMPANY RANGENAME: PAGE3 N.H.P.U.C. #92-188 CREATED BY: MJB Attachment 4 EDITED BY: MSB Page 1 of 3 CREDIT CALCULATION FOR CIS-1 OPTION 1 1. NEP TOTAL MARGINAL CAPACITY COST = $58.22 2. FACTOR FOR DISTRIBUTION LOSSES X 1.13 = $65.79 3. FACTOR FOR NON-COMPLIANCE RISK X 0.8727 = $57.41 4. FACTOR FOR ACTUAL RELIEF ACHIEVED X 0.83 = $47.65 5. PROGRAM EXPENSES ($ PER KW) - $6.95 = $40.70 6. ANNUAL CREDIT ROUNDED TO WHOLE DOLLAR FOR MARKETING = $41.00/KW YEAR 7. MONTHLY PAYMENT (LINE 6 DIVIDED BY 12) = $3.42/KW MONTH NON COMPLIANCE CHARGE CALCULATION 8. TOTAL ANNUAL CREDIT (LINE 6) = $41.00/KW YEAR 9. PER INTERRUPTION DAY (LINE 8 DIVIDED BY 20) = $2.05 10. FACTOR FOR COMPANY RISK (LINE 9 TIMES 2) = $4.10/KW DAY

FILENAME: CIS92.WK1

Page 768

GRANITE STATE ELECTRIC COMPANY RANGENAME: PAGE4 N.H.P.U.C. #92-188 CREATED BY: MJB Attachment 4 EDITED BY: MSB Page 2 of 3

CREDIT CALCULATION FOR CIS-1 OPTION 2 1. NEP TOTAL MARGINAL CAPACITY COST = $58.22 2. FACTOR FOR DISTRIBUTION LOSSES X 1.13 = $65.79 3. FACTOR FOR NON-COMPLIANCE RISK X 0.8727 = $57.41 4. FACTOR FOR ACTURAL RELIEF ACHIEVED X 0.83 = $47.65 5. PROGRAM EXPENSES ($ PER KW) - $6.45 =

$40.70 6. PREMIUM FOR 74 INTERRUPTIONS @ 12 HOURS X 1.10 = $44.77 7. ANNUAL CREDIT ROUNDED TO WHOLE DOLLAR FOR MARKETING = $45.00/KW YEAR 8. MONTHLY PAYMENT (LINE 7 DIVIDED BY 12) = $3.75 /KW MONTH NON COMPLIANCE CHARGE CALCULATION 9. TOTAL ANNUAL CREDIT (LINE 7) = $45.00 10. PER INTERRUPTION DAY (LINE 9 DIVIDED BY 20) = $2.25 11. FACTOR FOR COMPANY RISK (LINE 10 TIMES 2) = $4.50/KW DAY

FILENAME: CIS92.WK1

Page 769

GRANITE STATE ELECTRIC COMPANY RANGENAME: PAGE5 N.H.P.U.C. #92-188 CREATED BY: MJB Attachment 4 EDITED BY: MSB Page 3 of 3 CREDIT CALCULATION FOR CIS-1 OPTION 3 1. NEP TOTAL MARGINAL CAPACITY COST = $58.22 2. FACTOR FOR DISTRIBUTION LOSSES X 1.13 = $65.79 3. FACTOR FOR NON-COMPLIANCE RISK X 0.8727 = $57.41 4. FACTOR FOR ACTURAL RELIEF ACHIEVED X 0.83 = $47.65 5. PROGRAM EXPENSES ($ PER KW) - $6.45 = $40.70 6. FACTOR FOR PREVIOUS DAY NOTIFICATION X 0.75 = $30.53 7. ANNUAL CREDIT ROUNDED TO WHOLE DOLLAR FOR MARKETING = $31.00/KW YEAR 8. MONTHLY PAYMENT (LINE 7 DIVIDED BY 12) = $2.58/KW MONTH NON COMPLIANCE CHARGE CALCULATION 9. TOTAL ANNUAL CREDIT (LINE 7) = $31.00 10. PER INTERRUPTION DAY (LINE 9 DIVIDED BY 20) = $1.55 11. FACTOR FOR COMPANY RISK (LINE 10 TIMES 2) = $3.10/KW DAY

==========

NH.PUC*11/30/92*[73111]*77 NH PUC 771*WATS/800 OF NEW HAMPSHIRE, INC.

[Go to End of 73111]

WATS/800 OF NEW HAMPSHIRE, INC.

DE 91-135
ORDER NO. 20,685

77 NH PUC 771

New Hampshire Public Utilities Commission

November 30, 1992

Order NISI Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire

---

On September 9, 1991, the New Hampshire Public Utilities Commission (Commission) received a petition from WATS/800, Inc., an Indiana Corporation, since incorporated as WATS/800 of New Hampshire, Inc. (WATS/800-NH), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, inter alia, RSA 374:22 and RSA 374:26.

WHEREAS, WATS/800-NH proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than December 28, 1992; and it is

ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than December 11, 1992. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before December 30, 1992; and it is

FURTHER ORDERED, NISI, that WATS/800-NH hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;

that WATS/800-NH shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;

that WATS/800-NH shall file tariffs for new services and changes in existing services (other than rate changes), with effective dates no less than 30 days after the date the tariffs are filed with this commission

that WATS/800-NH shall notify the Commission of a change in rates to be charged the public within one day after offering service at a rate other than the rate on file with the Commission;

that WATS/800-NH shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400;

that WATS/800-NH shall be subject to all reporting requirements contained in RSA 374:15-19;

that WATS/800-NH shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;

Page 771

that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

that WATS/800-NH shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, WATS/800-NH shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;

that WATS/800-NH shall report revenues associated with each service on a monthly basis;

that WATS/800-NH shall report the number of customers on a monthly basis;

that WATS/800-NH shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow WATS/800-NH to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, WATS/800-NH file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that such authority shall be effective 30 days from the date of this order, unless a hearing is requested as provided above or the Commission otherwise orders prior to the proposed effective date.

By order of the New Hampshire Public Utilities Commission this thirtieth day of November, 1992.

==========

NH.PUC*11/30/92*[73112]*77 NH PUC 772*HANOVER WATER WORKS COMPANY

[Go to End of 73112]

HANOVER WATER WORKS COMPANY

DF 92-210

ORDER NO.20,687

77 NH PUC 772

New Hampshire Public Utilities Commission

November 30, 1992

Order Approving Long Term Debt Financing

WHEREAS, Hanover Water Works Company, ("Hanover Water" or the "company"), is a corporation organized under a Special Act of the New Hampshire Legislature on March 31, 1893, amended January 28, 1925, and engaged in the business of supplying water for domestic and commercial use and for fire protection in the Town of Hanover, and with its principal place of business in Hanover, New Hampshire; and,

WHEREAS, the company having filed with the Commission on October 30, 1992, a petition for the approval of long term debt financing; and,

WHEREAS, the proposed commercial mortgage loan is for $960,000 with a 10 year balloon payment based on a 25 year term schedule of payments; and,

WHEREAS, the interest rate shall be fixed at 7.5% for 3 years, and this rate shall be subject to adjustment every three years based upon New York Prime Rate plus 1 1/2%; and,

WHEREAS, this loan shall be collateralized and secured by a first

security interest in all assets of the company to include but not be

limited to all accounts receivable, deposit accounts, real property,

inventory, machinery, equipment, and other business assets, now owned

and hereafter acquired, together with all rights associated with them,

together with all the Borrower's rights and franchises to operate as a

public utility in the Town of Hanover and elsewhere in the State of New

Hampshire; and,

WHEREAS, the purpose of the long term debt will be to retire current long term debt and for certain capital expenditures of the company; and,

WHEREAS, the company anticipates that various fees and expenses associated with obtaining this financing will approximate

$7,000; and,

WHEREAS, the proposed loan is in the public interest in that it will permit the company (a) to retire existing long term debt which contains a balloon payment of $585,000 due in 1995, and (b) to fund certain capital improvements of the company; it is hereby

ORDERED, NISI, that Hanover Water be, and hereby is, granted authorization, pursuant to

RSA 369:1 and 4 to enter into an agreement with First NH Bank to borrow $960,000, such borrowing to be in accordance with terms and conditions set forth in the petition; and it is

FURTHER ORDERED, that Hanover Water be, and hereby is, granted authorization, pursuant to RSA 369:2 to grant the Bank a lien on substantially all of the assets of the company; and it is

FURTHER ORDERED, that Hanover Water shall supplement these funds with additional funds from its Forestry Fund Reserve in order to carry out the proposed capital improvements as listed in its petition; and it is

FURTHER ORDERED, that public notice of this order be given by onetime publication in newspapers having general circulation in the area served, such publication to be within ten days of the date of this order, and said publication to be documented by affidavit filed with this office no later than December 30, 1992; and it is

FURTHER ORDERED, that all persons interested in responding to the petition be notified that they may submit their comments to the commission or may submit a written request for hearing in this matter no later than December 28, 1992; and it is

FURTHER ORDERED, that finalized copies of this financing arrangement be filed with the commission. A detailed accounting of the final actual issuance costs shall also be filed; and it is

FURTHER ORDERED, that on January 1st and July 1st of each year Hanover Water shall file with this commission, a detailed statement, duly sworn to by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of this financing until the whole of said proceeds shall have been fully accounted for; and it is

FURTHER ORDERED, that this Order NISI shall be effective December 30, 1992 unless a request for a hearing is filed with the commission as provided above or unless the commission orders otherwise prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this

thirtieth day of November, 1992.

==========

NH.PUC*12/01/92*[73113]*77 NH PUC 773*UNION TELEPHONE COMPANY

[Go to End of 73113]

UNION TELEPHONE COMPANY

DR 92-102
ORDER NO. 20,688

77 NH PUC 773

New Hampshire Public Utilities Commission

December 1, 1992

Order Authorizing Approval of Interim Rates for Block-a-Charge, Remote Call Forwarding

Service, and Dual-Mate Service

WHEREAS, on May 25, 1992, Union Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce BlockA-Charge, Remote Call Forwarding Service, and Dual-Mate Service for effect June 22, 1992; and

WHEREAS, on June 22, 1992 the proposed tariff pages were suspended by Order No. 20,516 to allow for further investigation; and

WHEREAS, the Company agreed in DR 92-030 to file with the Commission an incremental cost study no later than DecemberE9, 1992; and

WHEREAS, the Company believes it will require an extension of time to file its incremental cost study in order to meet the demands of the DE 90-002 hearings and hearing preparation; and

WHEREAS, in the absence of cost support, the Staff, consistent with the "Rate Case Stipulation" in docket DR 90220, has recommended and the Company has agreed

that a service and equipment charge of $8.00 for Block-A Charge, Remote Call Forwarding Service, and Dual- Mate Service is an appropriate rate on an interim basis; and

WHEREAS, upon review of the petition, the Commission finds the

proposed offering to be in the public good; it is therefore

ORDERED, that the services Block-A-Charge, Remote Call Forwarding, and Dual-Mate are approved effective as of the date of this order; and it is

FURTHER ORDERED, that the Company file revised compliance tariffs pages reflecting the $8.00 service and equipment charge in compliance with this order; and it is

FURTHER ORDERED, that the rates for this service be subject to review following the completion of the incremental cost study; and it is

FURTHER ORDERED, that if review of the incremental cost study and subsequent discovery indicate that the rates are below their incremental costs, Union Telephone Company stockholders will make up the deficiency between the rates charged and the incremental costs, for the period during which the rates for this service did not cover their costs; and it is

FURTHER ORDERED, that the above additions to NHPUC No.E7 incorporating these changes be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this first day of December, 1992.

==========

EDWARD POETTE V. ENERGYNORTH NATURAL GAS, INC.

DC 92-142
ORDER NO. 20,689

77 NH PUC 774

New Hampshire Public Utilities Commission

December 1, 1992

Order Granting EnergyNorth's Motion to Dismiss

On July 21, 1992, New Hampshire Legal Assistance (NHLA) filed with the New Hampshire Public Utilities Commission (commission) a petition on behalf of Edward Poette bringing a consumer complaint against EnergyNorth Natural Gas, Inc. (ENGI) pursuant to RSA 365; and

WHEREAS, ENGI subsequently removed the disputed transfer from Mr. Poette's account and is not seeking to collect any of this amount from him; and

WHEREAS, ENGI filed a Motion to Dismiss on October 5, 1992; and

WHEREAS, NHLA filed an Objection to the Motion to Dismiss on October 15, 1992 which does not deny that ENGI has removed the disputed transfer from Mr. Poette's account, nor that ENGI has communicated to Mr. Poette that they are not seeking to collect any of the disputed transfer amount from him;

and

WHEREAS, the commission staff is currently reviewing the commission's rules for gas utilities and will be addressing the issues raised by NHLA in its petition relevant to rulemaking; it is hereby ORDERED, that ENGI's Motion to Dismiss be granted.

By order of the New Hampshire Public Utilities Commission this first day of December, 1992.

==========

NH.PUC*12/01/92*[73115]*77 NH PUC 775*COMMUNICATIONS GATEWAY NETWORK, INC.

[Go to End of 73115]

COMMUNICATIONS GATEWAY NETWORK, INC.

DE 92-145
ORDER NO. 20,690

77 NH PUC 775

New Hampshire Public Utilities Commission

December 1, 1992

Order Granting Motion for Rehearing and Suspending Order No. 20,657

On November 2, 1992, in Order No. 20,657, the New Hampshire Public Utilities Commission (Commission) denied, without prejudice, the petition of Communications Gateway Network, Inc. (CGN), for Authority to Conduct Business as a Telecommunications Utility in New Hampshire; and

WHEREAS, CGN submitted a letter, dated November 6, 1992, stating that:

"CGN hopes the Commission will re-evaluate its position

and advise applicant on what it must do to reverse the

order [20,657], dated November 2, 1992 and grant CGN

the Authority to conduct business as a

telecommunications utility in the State of New

Hampshire.";

and

WHEREAS, the Commission accepts the above letter as a timely filed Motion for Reconsideration pursuant to RSA 541; and

WHEREAS, the applicant is not organized under the laws of the State of New Hampshire and, therefore, cannot be granted authority to operate as a utility pursuant to NH RSA 374:24; and

WHEREAS, Order 20,657 outlines additional defects in the application, beyond domestic incorporation; and

WHEREAS, the Commission deems it in the public good to grant the applicant a reasonable opportunity to cure the defects identified in Order 20,657; it is hereby

ORDERED, that Order 20,657 is suspended for a period of sixty days from the date of this order; and it is

FURTHER ORDERED, CGN is granted forty-five days, from the date of this order, to cure the defects identified in Order 20,657; and it is

FURTHER ORDERED, CGN shall fully and expeditiously demonstrate to the Staff satisfaction of the defects identified in Order 20,657, within forty-five days of this order; and it is

FURTHER ORDERED, CGN shall engage in continuous and expedited or "rolling" discovery during the above forty-five day period for curing the said defects; and it is

FURTHER ORDERED, the Staff will review the discovery collected during the forty-five day period and prepare a recommendation for the Commission, as to approve or deny CGN's application, within sixty days of this order; and it is

FURTHER ORDERED, that this order is subject to the on- going rights of the Commission and the public to reconsider this order in the future should circumstances so warrant.

By order of the New Hampshire Public Utilities Commission this first day of December,

1992.

==========

[Go to End of 73116]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-050; DR 92-165
ORDER NO. 20,691

77 NH PUC 775

New Hampshire Public Utilities Commission

December 1, 1992

Fuel and Purchased Power Adjustment Clause

On September 25, 1992, Public Service Company of New Hampshire (PSNH) filed testimony and exhibits with the New Hampshire Public Utilities Commission (Commission) supporting a request for a rate of $0.00274 per kilowatt- hour to its Fuel and Purchased Power Adjustment Clause (FPPAC) effective December 1, 1992 on a bills rendered basis; and

WHEREAS, the commission held duly noticed hearings on November 9, 10 and 12, 1992 concerning PSNH's September 25th FPPAC filing, as well as certain issues held over from DR 92- 050, the last FPPAC proceeding; and

WHEREAS, the Commission has considered the reasonableness of the PSNH rate request and, despite our reluctance to raise electric rates in a difficult economic period, finds that the record supports and the public interest is best served by approval of the proposed rate for the upcoming FPPAC period; and

WHEREAS, the Commission will issue a full report and order on the issues in DR 92-165 and the issues reserved from DR 92-050, including our decision on whether or not to accept the Joint Recommendations, after review of the record in these dockets including the briefs and reply briefs that will be submitted December 15 and 22, 1992, respectively, and any comments from non-signatory parties concerning the proposed Joint Recommendations of which they were a party; it is hereby

ORDERED, that the FPPAC rate of $0.00274 per kWh is hereby approved effective December 1, 1992 on a bills rendered basis; and it is

FURTHER ORDERED, that the short-term avoided capacity and energy rates for small power producers filed by PSNH in DR 92-165 are hereby approved until this Commission orders otherwise; and it is

FURTHER ORDERED, that PSNH file properly annotated compliance tariff pages reflecting the approved FPPAC rate; and it is

FURTHER ORDERED, that comments by the non-signatories to the Joint Recommendations, which have been signed by PSNH, the staff and the Office of Consumer Advocate, be filed with the Commission within 10 days of the date of this Order.

By order of the New Hampshire Public Utilities Commission this first day of December, 1992.

==========

NH.PUC*12/02/92*[73117]*77 NH PUC 776*GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

[Go to End of 73117]

GENERIC INVESTIGATION INTO INTRALATA TOLL COMPETITION

DE 90-002
Report and Order No. 20,692

77 NH PUC 776

New Hampshire Public Utilities Commission

December 2, 1992

Order Dismissing Certain Parties Motion for Rehearing of Report & Order No. 20,608

REPORT

I. PROCEDURAL HISTORY

On September 8, 1992, the Office of Consumer Advocate, Chichester Telephone Company, Dunbarton Telephone Company, Inc., GTE of New Hampshire, GTE Maine, Granite State Telephone, Inc., Kearsarge Telephone Company, Meriden Telephone Company, Inc., Merrimack County Telephone Company, Inc., New England Telephone and Telegraph Company, and Wilton Telephone Company, Inc. (Original Movants) filed a joint motion requesting the Commission to designate certain of its employees as "advocate" employees, and certain employees as "decisional" employees pursuant to N.H. Admin. R., Puc 203.15. See, Joint Motion at Par. 1-4. Attached thereto was a memorandum in support of the motion which the Original Movants sought to incorporate into the motion.

On September 21, 1992, the commission issued Report and Order No. 20,608 granting the Original Movants request to designate Staff "advocates" and Staff "decisional" employees pursuant to Puc 203.15.

On October 12, 1992, Granite State Telephone Company, Inc., Merrimack County Telephone Company, Wilton Telephone Company, Inc. and Dunbarton Telephone Company, Inc. (Movants) filed a motion for rehearing of Report and Order No. 20,608 pursuant to RSA 541:3.

II. COMMISSION ANALYSIS

The issue at the heart of the Movants' motion is the procedure which will be followed in these proceedings given that we have found that rate investigations are generally, and in this particular instance, legislative in nature, rather than adjudicative, and, therefore do not require adherence to the provisions of RSA 541-A:16-21.

The Movants base their motion on the Commission's failure to agree with the Movants' rationale for granting their motion pursuant to Puc 203.15, rather than the Commission's failure to grant their motion.

Thus, we find the Movants lack standing to file a motion pursuant to RSA 541:3, but we will respond, briefly, to the gravamen of the motion in the interest of clarification.

In Report and Order No. 20,608 we held that we would treat this phase of the docket as an "adversarial" proceeding pursuant to our procedural rules as authorized by statute. We further held that we would separate the Staff into decisional and advocate employees pursuant to those procedural rules as requested by the Original Movants. See, RSA 365:8[1(41)] .

To date, the hearings in this case have been conducted in a manner consistent with the requirements of RSA 541-A:16- 21. If, at any time in these proceedings, any party believes we are, or have, proceeded in a manner inconsistent with any of the procedural requirements of RSA 541-A:16-21 it may raise the issue at that time and we will address the specific application of the statute to the circumstances at hand.

Our order will issue accordingly.

Concurring: December 2, 1992

ORDER

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

ORDERED, that because Granite State Telephone Company, Inc.'s, Merrimack County Telephone Company's, Wilton Telephone Company, Inc.'s and Dunbarton Telephone Company, Inc.'s motion to bifurcate Staff pursuant to N.H. Admin. R., Puc 203.15 was granted in Report and Order No. 20,608, they lack standing to request rehearing of Report and Order No. 20,608 pursuant to RSA 541:3 and the motion for rehearing is dismissed.

By order of the New Hampshire Public Utilities Commission this second day of December, 1992.

FOOTNOTE

[1]We note that the Commission's procedural rules were adopted on November 26, 1990, with the approval of the Joint Legislative Committee on Administrative Rules.

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-186
ORDER NO. 20,693

77 NH PUC 777

New Hampshire Public Utilities Commission

December 2, 1992

Fuel Adjustment Clause Filing Report and Order Approving Fuel Adjustment Charge Increase

---

Appearances: Broderick and Dean by Mark W. Dean, Esq. for the New Hampshire Electric Cooperative, Inc., Michael W. Holmes, Esq. of the Office of the Consumer Advocate on behalf of residential ratepayers, Amy L. Ignatius, Esq. on behalf of the Commission Staff.

REPORT

I. PROCEDURAL HISTORY

On October 1, 1992, New Hampshire Electric Cooperative, Inc. (NHEC) filed with the New Hampshire Public Utilities Commission (Commission) testimony and exhibits requesting an adjustment of rates to reflect changes in fuel and purchased power costs, to be effective November 1, 1992. The Commission suspended the filing pending staff review and scheduled the matter for evidentiary

hearing on November 20, 1992 in Report and Order No. 20,655 (October 30, 1992).

The Commission heard evidence from NHEC Power Supply Administrator Teresa L. Muzzey on November 20, 1992 as scheduled. At the hearing, Ms. Muzzey presented supplemental direct testimony which modified the request from an increase of $.01649 per kWh to an increase of $.01887 per kWh. There were no intervenors.

II. POSITIONS OF THE PARTIES AND STAFF

A. New Hampshire Electric Cooperative

NHEC testified that the rate adjustment requested in the October 1, 1992 filing has changed due to the delay in implementation from November 1 to December 1, 1992, which resulted in a larger under-recovery as the April 1, 1992 fuel cost credit of $0.01596 per kWh remained in effect for an extra month, and finalization by Public Service Company of New Hampshire (PSNH) of wholesale fuel and purchased power adjustment clause (FPPAC) rates from an estimated credit of $.00075 to a charge of $.00068 per kWh. As a result of these two changes, the requested FAC factor is $.00291 per kWh.

NHEC testified that the $.00291 adjustment would remain in effect for thirteen months, from December 1, 1992 through December 1993. While NHEC's changed structure for fuel and

purchased power cost recovery, due to begin in January 1993 as a part of its bankruptcy reorganization plan may result in further adjustment, the $.00291 per kWh adjustment would remain unchanged and would be fully accounted for under the new mechanism.

NHEC also testified that the terms of the Amended Partial Requirements Agreement (APRA) by which NHEC purchases energy from PSNH will become effective on January 1, 1993, even if the bankruptcy reorganization plan effective date has not yet occurred. NHEC relies on PSNH for 90% of its power, which means that the increases in wholesale power costs incurred by PSNH can have a tremendous impact on NHEC ratepayers.

Finally, NHEC testified that a typical 500 kWh residential bill is presently $51.87 and will be $61.31 after the $.00291 FAC factor becomes effective. The $61.31 typical residential bill reflects the Step 1 rate increases and temporary surcharges ordered by the Commission in Report and Order No. 20,618 (October 5, 1992). After termination of the surcharges in September and December 1993, a typical 500 kWh residential bill would be reduced $3.08 per month. NHEC states that its projected January 1, 1993 rates, with Step 2 changes in effect, result in a typical 500 kWh bill comparable to the average PSNH residential bill of $63.41.

B. Office of Consumer Advocate

OCA did not present testimony of its own, but questioned Ms. Muzzey regarding the series of rate increases NHEC customers have faced in the past year. OCA pointed out that a typical 500 kWh residential bill in January 1993 would be approximately $65.85, which is estimated to be approximately 35% higher than the January 1992 bill of $48.71.

C. Commission Staff

Staff did not present testimony of its own, but questioned Ms. Muzzey regarding the change in NHEC's refiled testimony to the request for an increase to the FAC factor of $.01887 per kWh, the interconnection between the APRA, the bankruptcy reorganization plan effective date, and the new FPPAC mechanism NHEC expects to file in early December for effect January 1, 1993.

III. COMMISSION ANALYSIS

We have reviewed the testimony of Ms. Muzzey and are persuaded, reluctantly, that the requested FAC rate of $.00291 per kWh is necessary. Given the discontinuance of the refund, the total adjustment on a kWh basis will be an increase of $.01887 per kWh. We are tremendously concerned, however, at the

magnitude of the increases imposed on NHEC ratepayers in recent months.

It is important that ratepayers understand that in reaching this decision we have evaluated NHEC's fuel adjustment increase in the context of the rate fluctuations NHEC has faced prior to and subsequent to seeking bankruptcy reorganization. With our decision to approve the FAC request, NHEC customers will see their fourteenth rate change since January 1, 1990. Many of these changes were to the benefit of NHEC customers and resulted in rates for NHEC customers which have been lower, due to NHEC's unique circumstances, than nearly all other New England electric utilities over the past two years. The overall effects of so many changes, however, have

been rate instability and uncertain price signals to customers. NHEC's efforts to moderate rate design changes for the goal of rate stability will meet little success if overall rates continue to change in the future as often as they have the past few years.

We find the use of a percentage change in rates may confuse more than clarify the movement of rates. When using percentages, one must evaluate the reasons for the existing rate to fully understand the import of the changed rate. For example, under questioning by OCA, a comparison was made between NHEC's January 1992 residential bill for 500 kWh versus a 500 kWh bill for January 1993. The increase was approximately 35%. This 35% increase, however, includes temporary surcharges due to expire in September and December 1993 and, more importantly, compares a bill in which the refund amount being returned to NHEC customers was still in effect (January 1992) against a bill after the refund has been discontinued (January 1993). Had we not ordered a fuel cost adjustment decrease from a charge of $0.00199 per kWh to a credit of $0.00336 per kWh effective December 1, 1991, the January 1, 1992 500 kWh bill would have been higher by $2.68 (refund amount of $0.00336 plus $0.00199 times 500 kWhs). Although we do not believe the calculation of the percentage change in NHEC's rates is an insignificant matter, a better comparison between the two months would be made by using $51.39 (a 500 kWh residential bill without the $2.68 change) for January 1992 and $62.77 for January 1994 (after the temporary surcharges have expired).

Calculated in this manner, the increase is still troubling, but we are encouraged by NHEC's statement that it expects to remain in line with the long term projections of rates which were introduced in the course of DR 92-009. While we recognize that those projections are not binding on NHEC, we believe NHEC must develop a longer term perspective on rates and recovery than it has had in the past, to avoid the pattern of rate fluctuations that have plagued NHEC in the past and made planning decisions for NHEC customers a trying task. We also strongly encourage NHEC to continue to explore ways to reduce costs. Because NHEC must buy nearly all its power, however, we recognize that when fuel and purchased power costs increase, rates must be increased accordingly. It is for that reason that we believe we must authorize the fuel adjustment charge requested by NHEC.

Our order will issue accordingly.

Concurring: December 2, 1992

ORDER

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

ORDERED, that, despite our reluctance to raise electric rates in a difficult economic period, the fuel and purchased power adjustment of $.00291 per kwh requested by New Hampshire Electric Cooperative, Inc. (NHEC) be approved and applied on a bills rendered basis as of December 1, 1992, to be collected through December 31, 1993; and it is

FURTHER ORDERED, that NHEC file compliance tariff pages within 10 days from the issuance date of this Order.

By order of the Public Utilities Commission of New Hampshire this second day of December, 1992.

==========

NH.PUC*12/07/92*[73120]*77 NH PUC 783*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73120]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DE 92-204
ORDER NO. 20,695

77 NH PUC 783

New Hampshire Public Utilities Commission

December 7, 1992

Order NISI Granting Authorization for an Overhead Electric Crossing of State Owned Railroad Property in the Town of Danbury, New Hampshire

---

WHEREAS, on October 26, 1992, Public Service Company of New Hampshire filed with this commission a petition seeking license under RSA 371:17 to construct, operate, and maintain an aerial electric line over state-owned railroad property in the Town of Danbury; and

WHEREAS, the entire crossing consists of a single aerial #4 triplex secondary operated at 120/240 volts from PSNH pole #29/130 to a customer owned pole, spanning a distance of approximately 300 feet; and

WHEREAS, said overhead service crosses

Page 783

the Northern Railroad (state owned property) at approximate Valuation Station 1823 + 13, V32.1/35 in Danbury; and

WHEREAS, a map and profile of the crossing is on file with this Commission; and

WHEREAS, the crossing referred to in the petition falls under the jurisdiction of the New Hampshire Department of Transportation, Bureau of Railroads (NHDOT) in accordance with RSA 373:1; and

WHEREAS, NHDOT has signified its concurrence with the crossing and has agreed to proceed with an unexecuted license pending Public Utilities Commission review and approval; and

WHEREAS, the Commission finds the crossing isnecessary to provide electric service to Mr. David Fernandes without substantially affecting public rights on said state property, and it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is

ORDERED, that all persons interested in responding to this petition be notified that they may

submit their comments or file a written request for a hearing on this matter before the Commission no later than January 5, 1993; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Danbury area, said publications to be no later than December 21, 1992. In addition, pursuant to RSA 541-A:22, the petitioner shall serve a copy of this order to the Danbury town clerk, by first class U.S. mail, postage prepaid, and postmarked on or before December 21, 1992. Compliance with these notice provisions shall be documented by affidavit(s) to be filed with the Commission on or before January 7, 1993; and it is

FURTHER ORDERED, NISI that license be, and hereby is granted, pursuant to RSA 371:17 et seq. to Public Service Company of New Hampshire to construct, operate, maintain, and repair and the aforementioned crossing of an electric line over public railroad property in Danbury, New Hampshire identified at approximate Valuation Station 1823 + 13, 32.1/35, effective 30 days from the date of this order, unless a hearing is requested as provided above or the commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the NHDOT Bureau of Railroads, the National Electrical Safety Code and others as mandated by the Town of Danbury.

By order of the Public Utilities Commission of New Hampshire this seventh day of December, 1992.

==========

NH.PUC*12/09/92*[73121]*77 NH PUC 784*GENERIC INVESTIGATION INTO NATURAL GAS

[Go to End of 73121]

GENERIC INVESTIGATION INTO NATURAL GAS

DE 91-149
ORDER NO. 20,696

77 NH PUC 784

TRANSPORTATION SERVICE AND RATES

New Hampshire Public Utilities Commission

December 9, 1992

Order Denying Anheuser-Busch Companies, Inc.'s Motion to Discontinue Generic Hearings and Establish Separate Proceedings to Determine the Price of Transportation for Each LDC

On deliberation of all pertinent pleadings, and in order to expeditiously advise the parties of this docket of the commission's decision in this matter pertaining to hearings scheduled herein, commencing December 15, 1992; it is hereby

ORDERED, that Anheuser-Busch Companies, Inc.'s Motion to Discontinue Generic Hearings and Establish Separate Proceedings to Determine the Price of Transportation for Each LDC is hereby denied; and it is

FURTHER ORDERED, that a more detailed report and order will be subsequently issued.

Page 784

By order of the New Hampshire Public Utilities Commission this ninth day of December, 1992.

==========

NH.PUC*12/14/92*[73122]*77 NH PUC 785*CONTEL OF NEW HAMPSHIRE d/b/a GTE NEW HAMPSHIRE

[Go to End of 73122]

CONTEL OF NEW HAMPSHIRE d/b/a GTE NEW HAMPSHIRE

DR 92-227
ORDER NO. 20,697

77 NH PUC 785

New Hampshire Public Utilities Commission

December 14, 1992

Order NISI approving tariff revisions reducing local service categories by 10.0% or approximately $201,000 reduction in annual Local Service Revenues.

On December 4, 1992, Contel of New Hampshire, Inc., d/b/a GTE New Hampshire (the Company), filed a petition before the New Hampshire Public Utilities Commission (Commission), for effect on January 1, 1993, seeking to reduce permanent local service rates; and

WHEREAS, the Company is seeking to respond to a June 3, 1992 inquiry initiated by the Commission Staff regarding the Company's financial condition; and

WHEREAS, the reduction to local service rates will bring the Company costs in line with its currently authorized rate of return; and

WHEREAS, the across the board reduction to local service rates results in a larger benefit over time to the Company's ratepayers than would a one-time refund; and

WHEREAS, the Company and Commission Staff are interested in balancing the ratepayer and shareholder interests and allowing the Company to continue to provide safe and adequate service in the future; it is hereby

ORDERED NISI, that GTE New Hampshire, be and hereby is authorized to implement the following tariff changes:

P.U.C. — New Hampshire — No. 11

Contel of New Hampshire, Inc. d/b/a GTE

New Hampshire

SECTION 3

Sixteenth Revised Sheet 1

Tenth Revised Sheet 9

Seventh Revised Sheet 9.1

Third Revised Sheet 15

SECTION 4

Sixth Revised Sheet 1

SECTION 8

Sixth Revised Sheet 3

Sixth Revised Sheet 4

Second Revised Sheet 5

SECTION 12

Tenth Revised Sheet 2;

and it is

FURTHER ORDERED, that pursuant to Rules PUC 203.01, the Company cause an attested copy of this Order Nisi to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than December 16, 1992, and is to be documented by affidavit filed with this office on or before December 16, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than December 30, 1992; and it is

FURTHER ORDERED, that this Order Nisi will be effective on January 1, 1993, unless the commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this day of December 14, 1992.

==========

NH.PUC*12/15/92*[73123]*77 NH PUC 786*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Go to End of 73123]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

DR 92-224
ORDER NO. 20,698

77 NH PUC 786

New Hampshire Public Utilities Commission

December 15, 1992

Order NISI Approving Special Contract No. NHPUC-78

On December 3, 1992, Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-78 with Henniker Hardwood and Pallet, Inc., a New Hampshire corporation located in Henniker, New Hampshire; and

WHEREAS, Henniker Hardwood has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Henniker Hardwood currently takes electric service under Rate LG of PSNH's Retail Tariff; and

WHEREAS, PSNH indicates that Henniker Hardwood's average hours' use of maximum demand over the preceding twelve months has been less than 250 hours and that Henniker Hardwood's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Henniker Hardwood has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-78 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Report and Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-78 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED Nisi, that Special Contract No. NHPUC-78 between PSNH and Henniker Hardwood is approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than January 1, 1994, on the number, nature, and time of interruptions called by PSNH as well as Henniker Hardwood's response to such calls, and what if any actions Henniker Hardwood had undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a paper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than December 18, 1992, said publication to be documented by affidavit filed with this office on or before December 31, 1992; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the publication date of this Order; and it is

FURTHER ORDERED, that this Order Nisi will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this fifteenth day of December, 1992.

==========

NH.PUC*12/15/92*[73124]*77 NH PUC 787*GENERIC INVESTIGATION INTO NATURAL GAS TRANSPORTATION SERVICE AND RATES

[Go to End of 73124]

GENERIC INVESTIGATION INTO NATURAL GAS TRANSPORTATION SERVICE AND RATES

DE 91-149
ORDER NO. 20,699

77 NH PUC 787

New Hampshire Public Utilities Commission

December 15, 1992

Report and Order Denying Anheuser-Busch Companies, Inc.'s Motion to Discontinue Generic Hearings and EstablishSeparate Proceedings to Determine the Price of Transportation for Each LDC

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esq. for Anheuser-Busch Companies, Inc.; McLane, Graf, Raulerson and Middleton by Jacqueline L. Killgore, Esq. for EnergyNorth Natural Gas, Inc.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; LeBoeuf, Lamb, Leiby & MacRae by Paul Connolly, Esq. and Meabh Purcell, Esq. for Northern Utilities, Inc.; Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. for Sprague Energy Corp.; Michael W. Holmes, Esq. of Office of Consumer Advocate for residential ratepayers; James T. Rodier, Esq. and Amy Ignatius, Esq. for the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

An Order of Notice was issued by the New Hampshire Public Utilities Commission (Commission) in this proceeding on November 20, 1991, pursuant to a petition by Anheuser-Busch Companies, Inc. (Anheuser-Busch) for the purpose of commencing a generic investigation into natural gas transportation service and rates. Intervention was granted to the Business and Industry Association (BIA), Northern Utilities (Northern), EnergyNorth Natural Gas, Inc. (ENGI), Public Service Company of New Hampshire and Northeast Utilities Service Company (PSNH) and Sprague Energy Corp. (Sprague).

Pursuant to the Commission approved procedural schedule, hearings commenced November 23, 1992 and continued through November 25, 1992. Hearings are now scheduled to resume on December 15, 1992.

On December 1, 1992 Anheuser-Busch filed a Motion to Discontinue Generic Hearings and Establish Separate Proceedings to Determine the Price of Transportation for Each LDC (Motion to Discontinue). Sprague, Northern and ENGI, PSNH, OCA, and the Commission Staff (Staff) filed objections to the Motion. Also filed December 1, 1992 was a motion jointly filed by ENGI and Northern to Designate Staff, which the Commission denied orally at its December 7, 1992 public meeting. Because of the necessity of expeditiously advising the parties of our decision on this matter, the Commission issued Order No. 20,696 on December 9, 1992 denying the Motion to Discontinue without citing therein the rationale for the decision. In that order, the Commission indicated that a more detailed Report and Order would be subsequently issued. This Report and Order No. 20,699 fulfills that purpose.

II. POSITIONS OF THE PARTIES AND STAFF

A. Anheuser-Busch

Anheuser-Busch asserts that counsel for Northern stated that there were no policy considerations still pending in the docket and, therefore, the Commission should discontinue the hearings and proceed instead to establish dockets to develop specific rates for Northern and ENGI, New Hampshire's two local distribution companies (LDCs).

B. ENGI and Northern

ENGI and Northern jointly filed an objection to the Motion to Discontinue, arguing that their due process rights would be violated if they were not able to complete the record. They offered to discontinue the hearings if all parties and the Staff agreed to value of service

Page 787

pricing for interruptible gas transportation services, as is now the case for interruptible sales service.

C. Sprague

Sprague objected to the Motion to Discontinue, arguing that there are numerous policy issues yet to be developed on the record and resolved by the Commission. Sprague argues that competition is best served by continuation of the hearings as scheduled.

D. PSNH

PSNH responded to the Motion to Discontinue by noting that many issues have not yet been developed on the record, and PSNH has not had an opportunity to argue its position in a brief to the Commission.

E. OCA

OCA objected to the Motion to Discontinue, stating that the record is far from complete on important policy issues and, therefore, it would be premature to discontinue the generic hearings.

F. Commission Staff

Staff objected to the Motion to Discontinue, arguing that it did not appear that all policy issues were in fact resolved in the case, and that certain threshold policy determinations had to be addressed by the Commission prior to the development of LDC specific rates.

III. COMMISSION ANALYSIS

We have reviewed the Motion to Discontinue and the objections filed thereto. We see no benefit in discontinuing the hearings, as there appear to be many policy issues on which we have not heard all the evidence. After review of the prefiled direct testimony, we expect that other parties intend to present witnesses who will take positions significantly different from those of Anheuser- Busch's expert, the only witness thus far to take the stand. We note, for example, that the LDCs have stated that they intend to develop on the record the effects on firm ratepayers of certain pricing principles advocated by some of the parties and Staff. Similarly, there has been questioning regarding the appropriateness of value of service pricing versus cost based pricing, what standards should govern the handling of imbalances, the appropriate load factor to be applied and whether there should be any provision for seasonality. We do not find, therefore, that the parties and Staff are in agreement on all policy issues presented in this docket.

While we agree that in the near future we will have to focus on specific LDCs in determining actual rates for transportation, we do not find it appropriate to close the record on policy issues after hearing only from one party, Anheuser-Busch. The record is far from complete, and as such, we believe we should move forward with the generic hearings in order to provide the parties and Staff the necessary threshold policy determinations for the development of gas transportation services in New Hampshire.

Our order will issue accordingly.

Concurring: December 15, 1992

ORDER

Upon consideration of the foregoing Report, which is made a part hereof, and as previously ordered by Order No. 20,696 dated December 9, 1992; it is hereby

ORDERED, that Anheuser-Busch Companies, Inc.'s Motion to Discontinue Generic Hearings and Establish Separate Proceedings to Determine the Price of Transportation for Each LDC is hereby denied.

By order of the New Hampshire Public Utilities Commission this fifteenth day of December, 1992.

==========

NH.PUC*12/15/92*[73125]*77 NH PUC 789*GENERIC INVESTIGATION INTO NATURAL GAS TRANSPORTATION SERVICE AND RATES

[Go to End of 73125]

GENERIC INVESTIGATION INTO NATURAL GAS TRANSPORTATION SERVICE AND RATES

DE 91-149
ORDER NO. 20,700

77 NH PUC 789

New Hampshire Public Utilities Commission

December 15, 1992

Report and Order Denying Motion of EnergyNorth Natural Gas, Inc. and Northern Utilities, Inc. to Designate Staff

---

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esq. and John T. Alexander, Esq. for Anheuser-Busch Companies, Inc.; McLane, Graf, Raulerson and Middleton by Jacqueline L. Killgore, Esq. for EnergyNorth Natural Gas, Inc.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; LeBoeuf, Lamb, Leiby & MacRae by Paul Connolly, Esq. and Meabh Purcell, Esq. for Northern Utilities, Inc.; Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. and Anu Mather, Esq. for Sprague Energy Corp.; Business and Industry Association by Kenneth A. Colburn; Michael W. Holmes, Esq. of Office of Consumer Advocate for residential ratepayers; James T. Rodier, Esq. and Amy Ignatius, Esq. for the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

An Order of Notice was issued by the New Hampshire Public Utilities Commission (Commission) in this proceeding on November 20, 1991, pursuant to a petition by Anheuser-Busch Companies, Inc. (Anheuser-Busch) for the purpose of commencing a generic investigation into natural gas transportation service and rates. Intervention was granted to the Business and Industry Association (BIA), Northern Utilities (Northern), EnergyNorth Natural Gas, Inc. (ENGI), Public Service Company of New Hampshire and Northeast Utilities Service Company (PSNH) and Sprague Energy Corp. (Sprague).

Pursuant to the Commission approved procedural schedule, hearings commenced November 23, 1992 and continued through November 25, 1992. Hearings are now scheduled to resume on December 15, 1992.

On December 1, 1992 Anheuser-Busch filed a Motion to Discontinue Generic Hearings and Establish Separate Proceedings to Determine the Price of Transportation for Each LDC, which was denied by the Commission. See Report and Order No. 20,699 (December 15, 1992) and Order No. 20,696 (December 9, 1992). Also filed December 1, 1992 was a motion by ENGI and Northern to Designate Staff (Motion to Designate). This Report and Order will address ENGI's and Northern's Motion to Designate.

II. POSITIONS OF THE PARTIES AND STAFF

A. ENGI and Northern

ENGI and Northern jointly filed a Motion to Designate Staff, pursuant to N.H. Admin., Puc 203.15, arguing that Staff witness George McCluskey was committed to a particular result in this

matter and failure to designate him as an advocacy employee would result in due process violations. Further, ENGI and Northern argued that all other staff members should be designated decisional employees.

B. Anheuser-Busch

Anheuser-Busch objected to the Motion to Designate, arguing that ENGI and Northern would suffer no due process violation and that the request was not timely.

C. Sprague

Sprague objected to the Motion to Designate, asserting that there was no due process right to designation of Staff, that there was nothing improper in

Page 789

the discussions between some of the parties and Staff and that there is no need to change the order of witnesses.

D. PSNH

PSNH, though a party, took no position on the Motion to Designate.

E. OCA

OCA, though a party, took no position on the Motion to Designate.

F. Commission Staff

Staff objected to the Motion to Designate, arguing that Mr. McCluskey's testimony, while taking a position, did not indicate bias or inability to fairly advise the Commissioners. Staff also argued that there is no requirement that it meet with all parties to a case, and that there is no reason to change the standard order of witnesses in this case.

III. COMMISSION ANALYSIS

We note that this request comes on the heels of a similar request in the Telephone Generic Competition Docket, DE 90- 002. See Report and Order No. 20,591 (September 3, 1992). While reaffirming our analysis in that case, we find no basis on which to bifurcate the Staff in this case.

We do not find that Staff witness McCluskey has so committed himself to a particular result that he can no longer fairly advise us, or that his position might bias our decision if asked to serve as an advisor in resolving technical matters, as envisioned by the legislature when enacting RSA 363:27. We are also troubled by the timing of the request, coming well into the development of the case on the record. For these reasons we deny the request of ENGI and Northern to designate Mr. McCluskey as an advocacy employee and similarly deny the request that we designate other employees as decisional, pursuant to Puc 203.15.

In denying the request to designate Staff, we also reject the argument advanced by EnergyNorth and Northern that Staff should not have developed recommendations with less than all of the parties to a case. Quite often there are technical sessions and other meetings between Staff and one or two parties, which we believe are a valuable and efficient way to allow Staff to question a party and understand the details of a particular filing. The alternative would be the use of formal discovery for all matters, a process which can be cumbersome and expensive, and

which at times fails to illuminate the real issues to be resolved.

In this case, it appears that Staff met with all parties in protracted settlement discussions, but when these discussions failed to reach a consensus position among all parties, Staff entered into discussions with three parties to develop joint recommendations on a number of issues. Our preference is for settlements and recommendations joined by Staff and all parties, and we would have been pleased to see resolution of one or more issues in this case, but we recognize that is not always possible. The failure to reach agreement among all participants, however, should not be a reason to abandon all discussions. We find nothing improper in Staff's work with three parties after full discussions failed, and therefore reject the suggestion that Staff may not meet with fewer than all parties in this case or in cases in the future.

Finally, we see no reason to deviate from the standard order of witnesses in cases brought before us. We deny, therefore, the request that Mr. McCluskey take the stand prior to the parties to this case.

Our order will issue accordingly.

Concurring: December 15, 1992

ORDER

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

ORDERED, that the request to designate Staff filed by EnergyNorth Natural Gas, Inc. and Northern Utilities, Inc. is denied.

By order of the Public Utilities

Commission of New Hampshire this fifteenth day of December, 1992.

==========

NH.PUC*12/15/92*[73126]*77 NH PUC 791*NEW ENGLAND TELEPHONE COMPANY

[Go to End of 73126]

NEW ENGLAND TELEPHONE COMPANY

DR 91-105
ORDER NO. 20,701

77 NH PUC 791

Phonesmart[sm] Services

New Hampshire Public Utilities Commission

December 15, 1992

Report and Order on Staff's Motion for Clarification

Appearances: Robert A. Lewis, Esq. for New England Telephone and Telegraph Company; Devine, Millimet & Branch by Anu R. Mather, Esq. for Dunbarton Telephone Company, Granite State Telephone Inc., Merrimack County Telephone Company and Wilton Telephone Company; and Susan Chamberlin, Esq. for the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On July 23, 1991, New England Telephone and Telegraph Company (NET) filed a tariff introducing Phonesmartsm Service - consisting of Repeat Dialing, Call Return, Call Trace and Caller ID - to be effective August 22, 1991.

On August 8, 1991, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,204 suspending the filing pending further investigation, and scheduled a prehearing conference for September 20, 1991.

After due notice, the Commission held the prehearing conference as scheduled. The Commission granted intervenor status to the following entities: Granite State Telephone Company; Merrimack County Telephone Company; Wilton Telephone Company; Dunbarton Telephone Company; The New Hampshire Association of Chiefs of Police; The Honorable Neal Kurk; Contel of New Hampshire and Contel of Maine (collectively "GTE"); MCI Telecommunications Corporation (MCI); and the New Hampshire Coalition Against Domestic and Sexual Violence (Coalition).

On April 28, 1992, the Commission heard testimony from the Staff of the Commission (Staff) and NET in support of a proposed Stipulation.

On May 27, 1992, the Commission issued Order No. 20,494 modifying the terms proposed in the Stipulation. On June 15, 1992, NET timely filed a Motion for Clarification or Rehearing. On June 17, 1992, Staff filed a Response to NET's Motion.

On June 26, 1992, the Commission issued Report and Order No. 20,522 granting NET's Motion for Clarification and denying its Motion for Rehearing. The Commission ordered any party wishing a full hearing on the merits to submit a request within thirty days and waived NET's compliance with Order No. 20,494 in the interim.

On August 5, 1992, the Commission issued Order No. 20,562 giving full force and effect to Order No. 20,494.

On October 7, 1992 Staff filed a Motion for Clarification (the "Motion") requesting the Commission clarify Order No. 20,494 (May 27, 1992) and Order No. 20,562 (August 5, 1992) because neither of the above-cited Orders or the Stipulation refer to blocking options for payphones: public, semi-public and public access lines (PAL). In addition, the Staff's Motion recommended tariff language that excluded per-call-blocking availability for two-party lines and services provided via trunk lines (e.g. hotel/motel, college dormitory, PBX, and toll access circuits served by trunks). On October 19, 1992 Representative Neal Kurk filed a Response to Staff's Motion for Clarification ("Response").

II. POSITION OF THE PARTIES AND STAFF

A. New England Telephone

NET concurred with Staff's Motion.

B. Representative Neal Kurk

Rep. Kurk argued in his Response that each pay telephone (including public, semi-public and PAL) should be required to have a notice of blocking options affixed to it to clarify privacy considerations and deter improper telephone usage. (Exhibit 2-C.) He also wrote that the Commission should not exempt hotel, motel, college dormitory, two- party, PBX or comparable lines from Caller ID blocking options, except where an employment relationship exists. Id. Rep. Kurk concluded that to the extent current technology does not permit blocking options, the right to require them when technology permits should be preserved. Id.

C. Staff

Staff requested that the Commission prohibit per call blocking availability to public and semi-public payphones and PAL, to deter individuals from using such lines for illegal purposes. Staff also requests the Commission prohibit line blocking availability to public and semi- public payphones and PAL, except for special arrangements made with Domestic Violence agencies for the same public policy considerations.

Staff witness Kathryn M. Bailey testified in support of the Motion. She stated that prohibiting per call blocking and line blocking availability to public and semi- public payphones and PAL, is a public policy recommendation given for the reasons stated above. Ms. Bailey testified that it is Staff's understanding that the present unavailability of blocking options for hotel, motel, two-party, PBX trunks and toll access lines is due to technological limitations. Staff supports making blocking options available to subscribers to these types of lines as soon as the technology is developed.

In reply to Rep. Kurk's request to attach notices to pay telephones, Ms. Bailey stated that she does not object to the idea of providing notice of the telephone's blocking configuration to pay telephone users. However in practice it is difficult to verify whether notices have been attached and it has been her experience that most notices do not remain on pay telephones for very long. She noted that if a pay telephone user did not know the line was unblockable and tried to block a call by dialing *67, the line would emit a busy signal. In this manner, the telephone user would know that the call could not be blocked.

III. COMMISSION ANALYSIS

The Commission grants Staff's Motion regarding blocking from pay telephones and will adopt as policy, a prohibition against blocking on pay telephones, except for special arrangements made with Domestic Violence agencies. We find the possible negative effects of blocking a pay telephone outweigh the benefits of an individual's expectation of privacy when calling from a pay telephone.

Regarding the issue of stickers on pay telephones, we share the concerns raised by Rep. Kurk. However, based on staff's testimony that the stickers do not remain on payphones and that a busy signal will provide an indication that an attempt to block was unsuccessful, we find that

stickers are not necessary.

We understand the company is not technically capable of providing per-call-blocking on two-party lines, and that it is not technically capable of providing per-call or line blocking on trunk circuits. We are also aware, however, of Rep. Kurk's concern that when technology permits, services provided via trunk circuits should have the same blocking options as one-party residence service. We will allow NET to except hotels and motels served by trunks, PBX trunks and toll access trunk lines from blocking availability until technically feasible. In the meantime, we will require NET to include status reports on the progress of technical feasibility for blocking options on

Page 792

trunk circuits, in its semi-annual report to the Commission on the availability of a unique unblocking code required by Order No. 20,494. We do not expect NET to develop per-call-blocking for two-party customers.

Our Order will issue accordingly.

Concurring: December 15, 1992

ORDER

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

ORDERED, Staff's Motion for Clarification, as amended November 19, 1992, is approved; and it is

FURTHER ORDERED, that New England Telephone (NET) shall file amended tariff pages within 30 days indicating that:

(1) per-call blocking and line blocking are prohibited

on all types of pay telephones: public and semi-public

payphones and Public Access Line (PAL) service, and

(2) special arrangements shall be made by NET to except

Domestic Violence agencies from the prohibition on

blocking from payphones, and

(3) per-call blocking is not available on two-party

residence service, and

(4) per-call blocking and line blocking are not

available on trunk services, that is, hotel and motel

phones served by trunks, PBX trunks and toll access

line trunks, until technically feasible.

FURTHER ORDERED, that the Company file a status report on the availability of per-call blocking on trunk services, and the availability of line blocking on trunk services, every six

months. The report shall be filed simultaneously with the six-month filing date cycle of the report required for the development of a unique unblocking code, as required in Order No. 20,494, dated May 27, 1992; and it is

FURTHER ORDERED, that NET is not expected to develop per- call blocking for two-party residential service.

By order of the New Hampshire Public Utilities Commission this fifteenth day of December, 1992.

==========

NH.PUC*12/15/92*[73127]*77 NH PUC 793*GENERIC INVESTIGATION INTO INTRALATA COMPETITION

[Go to End of 73127]

GENERIC INVESTIGATION INTO INTRALATA COMPETITION

DE 90-002
ORDER NO. 20,702

77 NH PUC 793

New Hampshire Public Utilities Commission

December 15, 1992

Report and Order Allocating Costs of Contract for Outside Attorneys

---

REPORT

I. PROCEDURAL HISTORY

On September 8, 1992, the Office of Consumer Advocate, Chichester Telephone Company, Dunbarton Telephone Company, Inc., GTE of New Hampshire, GTE Maine, Granite State Telephone, Inc., Kearsarge Telephone Company, Meriden Telephone Company, Inc., Merrimack County Telephone Company, Inc., New England Telephone and Telegraph Company, Union Telephone Company, and Wilton Telephone Company, Inc. filed a joint motion requesting the Commission to designate certain of its employees as "advocate" employees, and certain of its employees as "decisional" employees pursuant to N.H. ADMIN. R., Puc 203.15. See, Joint Motion at E 1-4.

On September 21, 1992, the Commission issued Report and Order No. 20,608 granting the request to designate Staff "advocates" and Staff "decisional" employees pursuant to Puc 203.15.

As a result of the bifurcation of Staff, the Commission was denied the benefit of certain expert support personnel to assist them in the performance of their duties. See, RSA 363:27. That is, due to the importance of this docket to the State, the Commission assigned many of its

personnel with an expertise in telecommunications issues to the investigation of competition

in the intrastate market. As a result of their investigation, and based on their expertise, these staff members made a recommendation to the Commission in the form of prefiled testimony in this docket. It was this recommendation that led the parties listed above to move for Staff bifurcation. Thus, the Commission was left without the ability to consult with many of the members of its Staff that are the most qualified to assist them in analyzing the complex issues which abound in this docket during the decision-making process following hearings.

In response to this void the Commission was forced to retain outside consultants pursuant to RSA 365:37 and 38 to provide the necessary expertise. On September 21, 1992, the Commission retained the services of the law firm of Blumenfeld and Cohen of Washington D.C. which specializes in telecommunications law with the approval of the Governor and the Executive Council (Contract). The terms of the Contract provide that the services provided by Blumenfeld and Cohen will not exceed $90,000 without the further approval of the Governor and Council. On October 28, 1992, the Commission issued invoices to each of the fourteen utilities participating in this docket requesting each to pay 1/14th of Blumenfeld and Cohen's first monthly bill. In response to these invoices the parties disagreed with the manner in which the Commission had allocated the expenses of the contract. Therefore, the Commission must now address the issue of which party or parties are responsible for Blumenfeld and Cohen's fees pursuant to the above referenced statutes and in what proportion.

II. POSITIONS OF THE PARTIES

A number of the parties have submitted memoranda supporting a particular methodology for allocating the fees among the parties.

A. Long Distance North

On November 10, 1992, Long Distance North (LDN) submitted a letter to the Commission objecting to the Commission's allocation of any of the cost of the Contract to LDN. LDN asserted that this phase of the proceedings was, as stated in Report and Order No. 20,608, a rate investigation and that the Local Exchange Companies (LECs) should bear the cost of the Contract pursuant to RSA 365:38. LDN further asserted that it was inequitable to assess any of the cost of the Contract on Interexchange Carriers (IXCs) that sought to compete with the LECs in the intrastate (intraLATA) market because it was the LECs that had requested Staff bifurcation resulting in the incurrence of the costs.

On November 20, 1992, LDN submitted a second letter to the Commission relative to this issue. In this letter LDN went on to assert that the Commission lacked jurisdiction over the determination of who should pay the costs of the Contract and in what proportion. LDN further asserted that RSA 365:37 had no relevance to this proceeding because LDN had already been granted authority pursuant to RSA 374:22 and 26 to operate as a public utility in the State of New Hampshire (citing Report and Order No. 20,039).

B. Union Telephone Company

On November 13, 1992, Union Telephone Company (Union) submitted an objection to the October 28, 1992, invoice. In its objection Union asserts that the Commission lacks jurisdiction to assess it any of the costs of the Contract because it is not a petitioner pursuant RSA 365:37. Union goes on to assert that it should be allowed to recover any costs incurred pursuant to RSA 368:38 through a rate assessment.

C. Dunbarton Telephone Company, Inc., Granite State Telephone, Inc., Merrimack County Telephone Company, Inc., and Wilton Telephone Company, Inc., and Bretton Woods Telephone Company

On November 13, 1992, Dunbarton Telephone Company, Inc., Granite State Telephone, Inc., Merrimack County Telephone Company, Inc., Wilton Telephone Company, Inc., and Bretton Woods Telephone Company (Independents) submitted an objection to the assessment. In their objection the Independents assert that it is inequitable to assess each participant an equal share of the Contract costs. In support of this assertion, the Independents note that they are being assessed two thirds of the cost of the Contract while their combined assets, revenues or access lines do not even begin to approach those of such parties as New England Telephone and Telegraph Company, AT&T, MCI or Sprint. The Independents further assert that these proceedings were initiated by the IXCs in their attempt to enter the intrastate toll market and they should, therefore, bear the cost of the Contract pursuant to RSA 365:37.

As a compromise position, taken should the Commission decide to assess all parties some portion of the cost, the Independents suggested that the Commission allocate one-half of the cost of the contract to the IXCs and one-half of the costs to the LECs, and allocate within the groups based on the "size" of the company.

D. MCI

On November 18, 1992 MCI filed an objection to the assessment. In its objection MCI asserts that the cost of the Contract should be borne by the LECs because the proceedings involve the access charges (rates) the LECs will be allowed to charge their intrastate competitors. In support of its position, MCI also cites the fact that the scope of the hearings has been broadened to include the "pooling" and "settlement arrangements" between and among the LECs and that it was the LECs along with the Office of the Consumer Advocate that necessitated incurring the costs of the Contract.

E. Kearsarge Telephone Company, Meriden Telephone Company, Inc. and Chichester Telephone Company.

On November 20, 1992, Kearsarge Telephone Company, Meriden Telephone Company, Inc. and Chichester Telephone Company (TDS) submitted an objection to the assessment. In its objection TDS adopted the position of the "Independents".

III. COMMISSION ANALYSIS

The issue before the Commission is who should bear the costs incurred by the Commission in retaining the services of Blumenfeld and Cohen to assist them in this particular phase of docket DE 90-002.

As we have stated previously, this phase of docket DE 90- 002 involves the setting of access rates to be charged by the LECs to their competitors in the intrastate toll market for access to their facilities. See, Report and Order No. 20,608. However, subsumed within this discrete issue is the broader issue of the efficacy of intrastate toll competition in the State of New Hampshire.

There are currently 13 telecommunication utilities which have been granted authority to provide intrastate toll services in competition with the LECs. However, each order allowing these competitors to conduct business has explicitly stated that the approval to provide these services in New Hampshire is "interim" contingent on a determination by the Commission that intrastate toll competition is in the "public good" ("public interest"). See eg., Report and Order Nos. 20,039, 20,040, 20,041 and 20,042.

To date, none of our orders has found that competition in the intrastate toll market is in the "public good". We do not believe we have the data to make such a determination at this time. In fact, the whole purpose of this phase of docket DE 90-002 is to set an access rate at an "appropriate level", thereby providing us with the data essential to a proper analysis of this issue by creating a regulatory climate in which competition can exist, and will exist should we provide for a competitive intrastate toll market on a "permanent" basis.

The two issues are, therefore, inextricably linked (proper access rates, and authority to conduct business in competition with the

Page 795

LECs) and cannot be separated at this time.

The Contract in issue came about as the result of a September 21, 1992, request by the Commission to the Governor and the Executive Council. The specific request read as follows:

[t]o authorize NHPUC to enter into a contract with the

law firm of Blumenfeld & Cohen ... pursuant [sic] to

RSA 365:37 and 365:38.

RSA 365:37 provides the Commission with the authority to retain the services of outside consultants when their services are necessary to assist the Commission in ruling upon the request of a petitioner for the right to conduct business in the State of New Hampshire as a public utility pursuant to RSA 374:22 and 26. RSA 365:37 further provides that the petitioner shall be responsible for the costs incurred in retaining those consultants.

RSA 365:38 provides the Commission with the authority to retain the services of outside consultants when their services are necessary to assist the Commission in ruling upon the rates of a utility. RSA 365:38 further provides that the utility, whose rates are being investigated, is responsible for the costs incurred in retaining those consultants.

Thus, our contract with Blumenfeld & Cohen has its basis in both RSA 365:37 and 38 and both the petitioners (seeking authority) and the LECs (charging an access rate) are responsible for the costs incurred by the Commission in entering into the Contract.

In reliance on this reasoning, we believe an equitable allocation of the costs of the Contract is to split them on a pro rata basis among the parties based on their total intrastate toll revenues. We will use the most recent data on file with the Commission to determine each party's share of the costs. (See Appendix A)

In response to both LDN's and Sprint's request that the LECs bear the cost of the Contract

because it was their motion requesting bifurcation of the Staff that required the Commission to incur the costs of the Contract, we do not believe it would be appropriate to adopt such a standard because of its "chilling effect"; that is, it may discourage a party from requesting relief to which it may well be entitled.

In response to Union's assertion that the LECS be allowed to surcharge their customers for any costs that are incurred as a result of the Contract, we will address this issue with all other cost recovery issues at the conclusion of these proceedings.

Our order will issue accordingly.

Concurring: December 15, 1992

ORDER

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

ORDERED, that the cost of the Blumenfeld and Cohen contract be split among the Local Exchange Companies and those companies that are participating in these proceedings that seek to compete with the Local Exchange Companies in the intralata toll market; and it is

FURTHER ORDERED, that bills be issued for the costs of the Blumenfeld and Cohen contract based on the percentages set forth in Appendix A, attached hereto, and incorporated herein.

By order of the New Hampshire Public Utilities Commission this fifteenth day of December, 1992.

APPENDIX A

BLUMENFELD & COHEN ASSESSMENT

ASSESSMENT RATIO

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

Bretton Woods0.05%
Chichester* 0.39%
GTE-NH* 1.39%
Dunbarton 0.26%
Granite State* 1.56%
Kearsarge* 0.70%
Meriden* 0.06%
Merrimack* 1.64%
Union* 0.60%
Wilton* 0.37%
NET** 86.65%

AT&T ** 3.41%
LDN *** 1.14%
MCI ** 0.88%
Sprint ** 0.90%
100.00%

*Source: Quarterly Reports F-1B

**Source: Interim Authority Reports

***Source: Fax report 12/11/92

==========

NH.PUC*12/17/92*[73128]*77 NH PUC 797*BEAVER VILLAGE REALTY TRUST

[Go to End of 73128]

BEAVER VILLAGE REALTY TRUST

DE 92-226
ORDER NO. 20,703

77 NH PUC 797

New Hampshire Public Utilities Commission

December 17, 1992

Order to Show Cause Why Utility Should Not Be Placde in Receivership.

On March 26, 1992, the Commission Staff wrote one William Dickey informing him that as the owner of the Porcupine Park Water System he is subject to the jurisdiction of the New Hampshire Public Utilities Commission pursuant to RSA 362:2 (Supp.); and

WHEREAS, the Staff requested Mr. Dickey to file a petition for a franchise and rates; and

WHEREAS, Mr. Dickey responded to Staff's letter on March 31, 1992 via a letter dated March 27, 1992; and

WHEREAS, in that letter Mr. Dickey informed the Staff that Porcupine Park Water System was owned by the Beaver Village Realty Trust, managed by William Dickey; and

WHEREAS, Mr. Dickey stated that the "[t]rust does not charge for services rendered" rather it charges an annual fee of $60 for electricity testing and maintenance; and

WHEREAS, Mr. Dickey further informed the Staff that Beaver Realty Trust was in bankruptcy; and

WHEREAS, the facts related by Mr. Dickey confirm that the Porcupine Park Water System is in fact a public water utility pursuant to RSA 362:2 (Supp.); and

WHEREAS, the customers of the Porcupine Park Water System have recently received notices from Granite State Electric that the utility has not paid its electric bill since August of 1992 and that electric service would be discontinued to the utility unless payment arrangements could be reached with the customers pursuant to N.H. Admin. R., Puc 303.08(l); and

WHEREAS, Beaver Realty Trust's bankruptcy and failure to pay its electric bills may present a "serious and imminent threat to the health and welfare of the customers of..." the Porcupine Park Water System; and

WHEREAS, Granite State Electric Company has agreed to forgo any disconnection procedures against the Porcupine Park Water System until January 1, 1993; it is hereby

ORDERED, that Beaver Realty Trust, its trustee(s) and beneficiary(ies) and William Dickey appear at the New Hampshire Public Utilities Commission at its offices at 8 Old Suncook Road

in Concord, New Hampshire at two o'clock in the afternoon on December 29, 1992 to show cause why the utility should not be placed in receivership pursuant to RSA 374:47-a (Supp.); and it is

FURTHER ORDERED, Beaver Realty Trust, its trustee(s) or beneficiary(ies) serve a copy of this order upon each of the utility's customers in hand and Granite State Electric Company via first-class mail on or before December 21, 1992.

By order of the New Hampshire Public Utilities Commission this seventeenth day of December, 1992.

==========

NH.PUC*12/18/92*[73129]*77 NH PUC 798*CONCORD ELECTRIC COMPANY EXETER & HAMPTON ELECTRIC COMPANY

[Go to End of 73129]

CONCORD ELECTRIC COMPANY EXETER & HAMPTON ELECTRIC COMPANY

DR 91-065
ORDER NO. 20,704

77 NH PUC 798

New Hampshire Public Utilities Commission

December 18, 1992

Report and Order Accepting a Retail Rate Design Settlement

Appearances: LeBoeuf, Lamb, Leiby & MacRae by Paul Dexter, Esq. for Concord Electric Company and Exeter & Hampton Electric Company; Kenneth Traum for the Office of the Consumer Advocate; Susan Chamberlin, Esq. for the Staff of the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On May 15, 1991, pursuant to Order No. 20,094 (April 1, 1991), UNITIL Service Corp. filed, on behalf of Concord Electric Company and Exeter & Hampton Electric Company (the "Companies"), comprehensive rate design proposals.

On June 3, 1991, the commission issued an Order of Notice setting a prehearing conference for June 20, 1991. At the duly noticed prehearing conference, the Staff of the New Hampshire Public Utilities Commission (Staff) and the parties submitted a proposed procedural schedule. Pursuant to the procedural schedule, which was revised several times, Staff, the Office of the Consumer Advocate (OCA) and the Companies met in technical sessions to discuss the filing before the Companies filed the tariff pages.

On November 18, 1991, the commission granted the Companies request to make a January 1, 1992 tariff filing.

On December 31, 1991, UNITIL Service Corp. filed, on behalf of the Companies, an original and eight copies of proposed Tariff NHPUC No. 11 - Electricity, Concord Electric Company, and Tariff NHPUC No. 16 - Electricity, Exeter & Hampton Company, both effective February 1, 1992. On January 27, 1992, the commission issued Order No. 20,376 suspending the tariff pages filed on December 31, 1991. A duly noticed prehearing conference was held on March 10, 1992. The parties conferred on a procedural schedule, which was changed several times during the course of the docket with commission approval. The final hearing on the merits was scheduled for October 20, 1992. On October 20, 1992, the Staff and the parties presented a Settlement and Agreement (Settlement) for commission review.

II. POSITIONS OF STAFF AND THE PARTIES

A. The Companies

The Companies filed fully allocated, or embedded Cost of Service Studies (COSS), Marginal Cost Studies (MCS), Electric Loss Studies, a Study of Fuel and Purchased Power Adjustment Mechanisms, a Load Research Report, and a Rating Period Study. (Exh. 1 and Exh. 2) The filing did not propose any increases or decreases in the Companies' overall revenue requirement, but does shift revenue responsibility among the customer classes. (Exh. 4) For Concord Electric Company, the residential and industrial classes will receive 1.46% and 0.93% increases, respectively, while the commercial class' overall revenue level will decrease by 2.56%. The residential class of Exeter & Hampton Electric will receive an overall revenue increase of 1.47%. Commercial and industrial class revenues will decrease by 0.93% and 2.33%, respectively. Individual customer bills within each class will vary from the average depending on usage patterns. For example, certain industrial customers of Concord Electric may see increases as high as 10% depending on their on-peak usage and load factor. Higher than average bills will also occur to low usage residential customers due to the increased customer costs. (Exh. 4)

Page 798

In designing the rates for each of the classes, the Companies first allocated the revenue responsibility to each rate class based on the embedded COSS. The embedded COSS calculates class cost responsibility and determines which classes of customers are not meeting their revenue responsibility based on equalized rates of return. The Companies use the embedded COSS to determine the inter-class revenue allocation. The second step is the development of rates designed to promote economic efficiency while satisfying the revenue responsibility of each rate class, determined by the embedded COSS. The second step involves intra-class rate design. To achieve the second step, the Companies rely on the MCS, modified to avoid any large rate changes over a short period of time. (Exh. 2 at 5 - 6)

The Companies also propose modifications to the Fuel Adjustment Clause (FAC) and the Purchased Power Adjustment Clause (PPAC). The Companies filed testimony pointing out three areas where they believe the present FAC/PPAC mechanisms adversely affect rate design principles of fairness and equity. (Exh. 1. MCH 6) The Companies state that the flat across-the-board kWh charge results in an increasing disparity between cost responsibility for

fuel and purchased power costs and the corresponding revenue contributed through the FAC and PPAC charges. The Companies also believe that the flat kWh charge results in rates which are not reflective of marginal cost considerations. They further state that the accounting process for the FAC and PPAC rate components is the single most important factor in determining earnings stability, and therefore, any inconsistencies in that process can result in distortions in the financial implications of various rates. (Exh. 1. MCH 6) To address these problems, the Companies propose to include in the tariff rates FAC and PPAC values based on the properly classified and allocated test year fuel and power expenses and to modify the FAC and PPAC accounting methods to reflect test year economics and eliminate financial distortions in rate design. (Exh. 1. MCH 6)

The Companies propose to incorporate interest calculations on over and under collections of purchased power expense, as is presently done with fuel expense. (Exh. 1. MCH 6)

The Companies also propose mandatory Time of Use (TOU) rates for the Companies' largest customers and optional TOU's for other general service and residential customers, the elimination of various smaller "end-use" rate sub- classes and restructuring of the industrial rate PL of CECO. (Exh. 2 at 4)

The Companies believe that their proposals reflect the overall rate design objectives of efficiency, equity, rate continuity and revenue stability. (Exh 2. at 5.)

B. Staff

Staff witness Thomas Frantz filed testimony addressing, inter alia, the use of an embedded COSS for inter-class revenue allocations and the use of a MCS for intra-class rate design, the 8 a.m. to 10 p.m. on-peak period proposed by the Companies for TOU rates, and the structure of the residential blocks. (Exh. 5 at 3) Staff supports using MCS in rate design for three reasons: rates based on marginal costs give customers a better price signal of the true cost of consuming one more unit of output; marginal costs are forward looking, complementing a utilities' least cost integrated resource planning process; and marginal costs also aid the commission in evaluating the proper price for use in an interruptible or discounted rate program. (Exh. 5 at 5-6) Staff also states that it is not necessary, nor any more fair, to base the interclass allocation on an embedded COSS, than on a MCS. The commission has endorsed marginal cost based rate design in numerous decisions. (Exh. 5 at 5) Staff summarizes that other important rate design objectives - rate continuity and fairness - also must be considered when using either a COSS, a MCS or a combination of the two.

Staff recommends that the Companies use an 8 a.m. to 9 p.m. on-peak period instead of the 8 a.m. to 10 p.m. period proposed by the Companies for TOU rates. This rate would give

customers a larger off-peak window but still allow the Companies to avoid stimulating a drastic shift in usage with resulting negative effects on revenue stability. (Exh. 5 at 10)

Staff also recommends changing the structure of the three block residential rate to a two block rate, blending the tail-block into the second energy rate. The Companies' studies do not support imposing lower costs per kWh on customers who use more than 1,000 kWh of

electricity. Therefore, a two block rate more accurately reflects the costs based on customer consumption patterns. (Exh. 5 at 10)

C. The OCA

The OCA did not file testimony in this docket but supported the Settlement and Agreement.

III. COMMISSION ANALYSIS

The commission finds that the Companies have met their obligation to file rate redesign proposals pursuant to Order No. 20,094 (April 1, 1991). In that Order, we noted that "...[t]he lack of cost-reflective rate structures will unquestionably affect UNITIL's ability to pursue resource planning as required..." Id. at 67. With this filing, plus the changes recommended by staff and incorporated into the Settlement, the Companies are moving towards cost reflective rate structures. The Settlement proposes the Companies base the allocation of the class revenue responsibility (inter-class allocation) on an embedded cost of service study and the intra-class rate designs on the marginal cost of service study. The commission favors marginal cost pricing because marginal cost prices provide customers with prices that more accurately reflect the actual cost of providing energy. The commission is aware, however, that marginal cost pricing must be tempered to prevent dramatic changes in rates. In this case, particularly where the rate redesign is revenue neutral, the difference between tempered marginal cost pricing for the inter-class allocation and embedded cost pricing is balanced by the marginal cost based intra-class rate designs. The marginal cost study indicates that the revenue allocation would move in the same direction as the Companies have proposed, but by a larger degree. For this filing, the commission accepts the Settlement terms allowing the Companies to use the embedded COSS for inter-class revenue allocations and the MCS for intra-class rate design.

The Settlement proposes to restructure the FAC/PPAC mechanisms by collecting (Exh. 3 at 3) base purchase power revenue through class-specific demand and energy charge components, and reflecting time differentiated base fuel charges for TOU rates. The commission finds that this will improve revenue stability for the Companies without adversely affecting the customers and will more accurately reflect cost responsibility. The fuel and purchased power costs will continue to be collected through the FAC/PPAC on a forecasted basis with reconciliations every six months. These reconciling amounts will be collected, as is done presently, on a flat cents/kWh basis. To assist the commission staff in its ongoing evaluation of the Companies' cost of service and rate design we will require the Companies to provide monthly reports which reconcile the base fuel costs by customer class and provide an analysis of the Time-of-Use sales. These reports shall be filed thirty (30) days after the close of the month, as part of the fuel and purchased power reconciliation reports. We find that treating the over and under collected PPAC amounts the same as the FAC amounts by allowing interest to accrue on them is reasonable. The Settlement also contains mandatory Time of Use (TOU) rates for the large general service class and optional TOU rates for the residential and regular service classes; a two block lifeline rate structure instead of the present three block structure; and a residential on-peak rate shortened by one hour on a trial basis. We find that these rates will further the commission goal of cost reflective pricing, and we support their inclusion in the Settlement. In this case, the results of the embedded COSS and the MCS tend to move us in the same direction, but we do not find that an embedded

COSS study is better or more "fair", in general, than an inter-class allocation based on a MCS. Additionally, we wish to emphasize that our approval of this Stipulation should not end the Companies pursuit of more cost reflective rate design that will result in lower costs and more efficient use of electricity. Cost reflective pricing is also necessary if the Companies are to realize the true benefits of DSM opportunities and to meet customer needs in a least cost manner. For example, Time-of-Use (TOU) rates should be applied wherever the benefits exceed the incremental metering costs. At a minimum, the Companies should develop proposals for the introduction of seasonal rates and undertake studies to determine the cost effectiveness of TOU rate structures for all customers. We will direct the Companies to file the results of their TOU rate studies in UNITIL's next Integrated Resource Plan filing. The commission finds that the proposed Settlement, attached to this Report, moves the Companies positively toward the rate design goals of economic efficiency, fairness and equity, revenue stability, rate continuity and rate simplicity. The commission hereby adopts the Settlement, as presented by the staff and the parties on October 20, 1992, as just and reasonable and in the public good.

Our Order will issue accordingly.

Concurring: December 18, 1992

ORDER

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

ORDERED, that the Settlement and Agreement dated October 20, 1992, attached hereto as Appendix A, is hereby approved; and it is

FURTHER ORDERED, that the Companies file compliance tariffs within fifteen (15) days of the issuance date of this order.

==========

NH.PUC*12/21/92*[73130]*77 NH PUC 801*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 73130]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-009
ORDER NO. 20,705

77 NH PUC 801

New Hampshire Public Utilities Commission

December 21, 1992

Report and Order Denying Motion for Rehearing Regarding Disqualification of Commissioners by Campaign for Ratepayers Rights, Burling, Easton and McCool

---

Appearances: as previously noted.

REPORT

I. PROCEDURAL HISTORY

On October 5, 1992, the New Hampshire Public Utilities Commission (Commission) issued Report and Order No. 20,618 (Order No. 20,618) approving the various components of the bankruptcy reorganization plan of New Hampshire Electric Cooperative, Inc. (NHEC). On October 26, 1992, Campaign for Ratepayers Rights, Representative Peter Burling, and NHEC members Gary McCool and Roger Easton (collectively CRR) and the Office of Consumer Advocate (OCA) filed Motions for Rehearing of Order No. 20,618, which were denied by Commission Order No. 20,671 (November 19, 1992). Also on October 26, 1992, CRR filed a Motion to Disqualify Commissioners Ellsworth and Stevens, in which OCA concurred on November 2, 1992. The Motion was denied by Commission Order No. 20,667 (November 16, 1992). CRR, on December 7, 1992, filed a Motion for Rehearing of Order No. 20,667. OCA had originally joined CRR in its original Motion to Disqualify. As a result of the unanimous vote of its Advisory Board, however, OCA withdrew its support of that position, based on the November 2, 1992 letter of Deputy Attorney General G. Dana Bisbee. See letter of Michael Holmes dated December 11, 1992. No other parties responded to CRR's Motion. On December 10, 1992, however, Commission Staff (Staff) objected to the

Motion.

This Report and Order will address CRR's Motion for Rehearing and Staff's Objection filed thereto.

II. POSITIONS OF THE PARTIES AND STAFF

A. Campaign for Ratepayers Rights et al.

CRR alleges that the Commission's order denying the request to be kept informed of NHEC's circumstances through the 1988 meeting with General Manager Bellgowan was in error, as there are statutory provisions for utility reports and investigation which allow the Commission to fulfill its responsibility. CRR also alleges that Mr. Bellgowan's recollection of events is different from that of Commissioners Ellsworth and Stevens and that any meeting should have been noticed and transcribed.

B. Commission Staff

Staff objects to CRR's Motion for Rehearing, arguing that CRR has raised no new relevant allegations and therefore the Motion for Rehearing should be denied.

III. COMMISSION ANALYSIS

After consideration of the Motion for Rehearing and the response filed by Staff, we agree with the Staff's recommendation that the Motion for Rehearing should be denied. We find no relevant arguments asserted by CRR that have not already been fully litigated. Appeal of Gas Service, Inc., 121 N.H. 797 (1981).

We find no significant inconsistency between the recollections of Mr. Bellgowan and those contained in the letter to the Attorney General. Similarly, we find no merit to the argument that RSA 91-A compels public notice and transcription of every meeting between Commissioners and a representative of a regulated utility. Because there was no discussion at that meeting of a matter then pending before the Commission, the meeting was not improper. Finally, we note that CRR raised one allegation not previously raised in its Motion for Recusal, that is, that reporting provisions in RSA 374:4 are adequate to satisfy our need to keep informed as the condition of regulated utilities. The allegation indicates little familiarity with the reports required by the legislature to be filed with the Commission. They are generally reports of past operation, wholly inadequate in a situation such as that faced by NHEC in 1988 prior to its bankruptcy filing. All other arguments advanced by CRR are equally without merit. We deny, therefore, the Motion for Rehearing of Order No. 20,667.

Our order will issue accordingly.

Concurring: December 21, 1992

ORDER

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

ORDERED, that Campaign for Ratepayers Rights' Motion for Rehearing of Report and Order No. 20,667 is hereby denied.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of December, 1992.

==========

NH.PUC*12/21/92*[73131]*77 NH PUC 802*ENERGYNORTH NATURAL GAS, INC.

[Go to End of 73131]

ENERGYNORTH NATURAL GAS, INC.

DE 92-044
ORDER NO. 20,706

77 NH PUC 802

New Hampshire Public Utilities Commission

December 21, 1992

WHEREAS, on March 6, 1992 the commission opened the above docket to ascertain how least cost integrated resource planning (IRP) should be utilized by EnergyNorth Natural Gas, Inc. (ENGI); and

WHEREAS, on April 2, 1992 the commission issued Report and Order No. 20,431 approving an agreed procedural schedule to govern this case; and

WHEREAS, the approved procedural schedule contemplated the filing of a letter

agreement that would delineate guidelines for preparing plans and identify the issues to be addressed in an IRP filing; and

WHEREAS, on December 15, 1992, the staff and ENGI filed a letter agreement that describes several developmental steps that the parties believe are necessary to reach agreement on methods and to obtain the data for good demand-side management (DSM) program design; and

WHEREAS, the letter agreement includes preliminary cost estimates and recommends a cost recovery mechanism patterned on electric utility DSM filings; and

WHEREAS, the various elements of the letter agreement result in a reasonable approach to the development of a least cost integrated resource plan; it is hereby

ORDERED, that the developmental steps and the cost recovery mechanism set forth in the letter agreement are approved; and it is

FURTHER ORDERED, that ENGI file quarterly reports describing the activity and progress made in meeting the letter agreement's requirements.

By order of the New Hampshire Public Utilities Commission this twenty-first day of December, 1992.

==========

NH.PUC*12/21/92*[73132]*77 NH PUC 803*NORTHERN UTILITIES, INC.

[Go to End of 73132]

NORTHERN UTILITIES, INC.

DE 92-045
ORDER NO. 20,707

77 NH PUC 803

INTEGRATED GAS RESOURCE PLANNING

New Hampshire Public Utilities Commission

December 21, 1992

Order Approving Letter Agreement

WHEREAS, on March 6, 1992 the commission opened the above docket to ascertain how least cost integrated resource planning (IRP) should be utilized by Northern Utilities, Inc. (Northern); and

WHEREAS, on April 6, 1992 the commission issued Report and Order No. 20,433 approving an agreed procedural schedule to govern this case; and

WHEREAS, the approved procedural schedule contemplated the filing of a letter agreement that would delineate guidelines for preparing plans and identify the issues to be addressed in an IRP filing; and

WHEREAS, on December 9, 1992, the staff and Northern filed a letter agreement that describes several developmental steps that the parties believe are necessary to reach agreement on methods and to obtain the data for good demand-side management (DSM) program design; and

WHEREAS, the letter agreement includes preliminary cost estimates and recommends a cost recovery mechanism patterned on electric utility DSM filings; and

WHEREAS, the various elements of the letter agreement result in a reasonable approach to the development of a least cost integrated resource plan; it is hereby

ORDERED, that the developmental steps and the cost recovery mechanism set forth in the letter agreement are approved; and it is

FURTHER ORDERED, that Northern file quarterly reports describing the activity and progress made in meeting the letter agreement's requirements.

By order of the New Hampshire Public Utilities Commission this twenty-first day of December, 1992.

==========

NH.PUC*12/21/92*[73133]*77 NH PUC 803*PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, INC.

[Go to End of 73133]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, INC.

DE 92-080
ORDER NO. 20,708

77 NH PUC 803

New Hampshire Public Utilities Commission

December 21, 1992

On September 25, 1992, the Conservation Law Foundation (CLF) filed preliminary Information Requests requesting Public Service Company of New Hampshire (PSNH) to provide information relative to PSNH vulnerability to load loss from self generation and cogeneration (CLF-5,6,7,8,10,13, and 14): and

WHEREAS, by motion dated November 23, 1992, PSNH requested a protective order limiting public access and a restriction on the parties' use of the data contained in the

responses to the above referenced Information Requests; and

WHEREAS, both the Staff and the parties concurred in the motion; and

WHEREAS, PSNH's assertion that the responses to the above referenced Information Requests contain confidential and proprietary material of a competitive nature establishes a prima facie showing that the information qualifies for exemption from the general provisions of RSA Chapter 91-A; it is hereby

ORDERED, that the Motion For a Protective Order filed by PSNH is granted; and it is

FURTHER ORDERED, that any party seeking this information shall sign a statement agreeing to keep the information confidential and privileged in accordance with this Order or be subject to administrative sanctions or civil suit by any affected party; and it is

FURTHER ORDERED, that the commission expressly reserves its right to reconsider this order in light of RSA Chapter 91-A on its own motion or the motion of any party or member of the public during the evidentiary phase of this docket should the documents be proffered as a part of the record.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of December, 1992.

==========

NH.PUC*12/22/92*[73134]*77 NH PUC 804*WILTEL OF NEW HAMPSHIRE, INC.

[Go to End of 73134]

WILTEL OF NEW HAMPSHIRE, INC.

DE 92-222
ORDER NO.20,710

77 NH PUC 804

New Hampshire Public Utilities Commission

December 22, 1992

Order Nisi Approving Network Travel Card

On December 3, 1992 WILTEL OF NEW HAMPSHIRE, (WilTel) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce Network Travel Card as an addition to its Message Telecommunications Services.

WHEREAS, WilTel proposed the filing become effective January 3, 1993; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than January 19, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, WilTel cause an attested copy of this Order Nisi to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than December 31, 1992 and is to be documented by affidavit filed with this office on or before January 22, 1993; and it is FURTHER ORDERED NISI, that the following tariff pages of WilTel Tariff PUC No. 1 INTRASTATE TELECOMMUNICATIONS SERVICES are approved:

7th Revised Page No. 1

5th Revised Page No. 6

3rd Revised Page No. 54

1st Revised Page No. 54.1

and it is

FURTHER ORDERED, that WilTel file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order NISI will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-second day of December, 1992.

==========

NH.PUC*12/22/92*[73136]*77 NH PUC 806*CONNECTICUT VALLEY ELECTRIC COMPANY INC.

[Go to End of 73136]

CONNECTICUT VALLEY ELECTRIC COMPANY INC.

DR 92-113
ORDER NO. 20,712

77 NH PUC 806

New Hampshire Public Utilities Commission

December 22, 1992

Order Approving Conservation and Load Management Percentage Adjustment

---

WHEREAS, on June 15, 1992, the Connecticut Valley Electric Company (CVEC) filed with the New Hampshire Public Utilities Commission (Commission) its 1993 conservation and load

management program proposal for Conservation and Load Management Percentage Adjustment (C&LMPA); and

WHEREAS, on September 30, 1992, based on an agreement of CVEC and Staff, the Commission extended the effective date of the 1992 C&LMPA to remain in effect until replaced by a superseding Commission order; and

WHEREAS, following review and discussion with Staff, CVEC adopted the recommendations of Staff; and

WHEREAS, Staff and CVEC entered into a Stipulation addressing all potentially contested issues; and

WHEREAS, on December 14, 1992, the Commission held a hearing on the merits at which CVEC presented testimony and exhibits and later filed with this Commission a Stipulation detailing the settlement of all issues raised by Staff in its testimony, and a proposed tariff, attached hereto as Attachments A and B; and

WHEREAS, the Commission finds that the programs and conditions described in the Stipulation and CVEC's filing are in the public good; and

WHEREAS, the Commission accepts the findings and conclusions of law regarding the antitrust issues raised by CVEC, as enumerated in the Brief of CVEC Regarding Anti- Trust Concerns and Requests for Specific Commission Actions, attached hereto as Attachment C; it is hereby

ORDERED, that CVEC implement its programs as described in the testimony and the Stipulation and proposed tariff.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of December, 1992.

I. STIPULATION

This Stipulation sets forth the agreement between the New Hampshire Public Utilities Commission Staff ("Staff") and Connecticut Valley Electric Company Inc. ("Connecticut Valley" or the "Company") regarding Connecticut Valley's conservation and load management ("C&LM") programs and its proposed Conservation and Load Management Percentage Adjustment ("C&LMPA") to be effective on or after January 1, 1993.

II. PROCEDURAL HISTORY

1. On December 31, 1991, in Order No. 20,359 and on April 23, 1992, in Order No. 20,457, in Docket DR 91-024, the New Hampshire Public Utilities Commission (the "Commission") approved Connecticut Valley's C&LM programs as described in a stipulation among the Company, Staff and The Office of the Consumer Advocate ("OCA") and in Connecticut Valley's initial programs filing, and allowed Connecticut Valley to apply the approved C&LMPA to bills rendered from January 1, 1992 through September, 1992.

On June 15, 1992, in Docket DR 92-113, Connecticut Valley filed with the Commission its "1993 Conservation and Load Management Program Proposal for C&LM Percentage Adjustment to be Effective October 1, 1992" ("June 15, 1992 Program Proposal"). On September 11, 1992, in Order No. 20,599, the Commission suspended Connecticut Valley's Tariff pages

included in the June 15, 1992 Program Proposal. On September 30, 1992, in Order No. 20,617, based upon the agreement of the Company and Staff, the Commission extended the effective date of the 1992 C&LMPA to remain in effect until replaced by a superseding Commission order. 3. On November 3, 1992, following technical sessions, telephone conferences, and discovery by Staff and responses thereto by the Company, Connecticut Valley filed its "1993 Conservation and Load Management Program Proposal for C&LM Percentage Adjustment to be Effective January 1, 1993" (November 3, 1992 Program Proposal"). The November 3, 1992 Program Proposal updated and replaced the June 15, 1992 Program Proposal, included testimony incorporating numerous changes

Page 806

resulting from the aforementioned technical sessions, telephone conferences, and discovery, and included revised Tariff pages proposed to be effective January 1, 1992.

4. On November 18, 1992, Staff prefiled its testimony in this Docket. In its testimony, Staff raised certain concerns and made recommendations to resolve such concerns. Following review and discussion with Staff, Connecticut Valley agreed to implement the recommendations of Staff included in its testimony, thus resolving to the satisfaction of Staff and the Company all potentially contested issues.

5. On December 14, 1992, the Commission held a hearing on the merits at which Connecticut Valley and Staff presented testimony and exhibits, and represented to the Commission that there were no contested issues to be resolved by the Commission. Staff and Connecticut Valley further represented that they would present a stipulation to the Commission detailing the settlement of all issues raised by Staff in its testimony. This document is that stipulation.

6. OCA, a party to this Docket, was provided with necessary notices and all testimony, exhibits and discovery requests and responses. OCA did not participate in the technical sessions, telephone conferences or settlement discussions, and did not appear at the hearing.

III. RESOLUTION OF ISSUES

7. AUTOMATED TRACKING SYSTEM.

Staff requested and Connecticut Valley agrees to provide a description and sample output of its automated tracking system when the system is developed and to report on any changes made to the Company's monitoring and evaluation plan. In addition, the Company offered to provide Staff with an on-site demonstration of the system when operational. Exh. 10 at 4, 5.

8. MARKETING AND OUTREACH.

Staff requested that the Company modify and improve its marketing and outreach effort for commercial and industrial new construction so that such effort is not reactive in nature. Connecticut Valley agrees to consider and propose more aggressive marketing and outreach efforts in its next C&LM program filing and to report on the number of potential customers identified and contacts made through its present efforts in its quarterly reports. Exh. 10 at 5.

9. APPLIANCE PROGRAM.

The Company will not implement an appliance program at this time, as the information available shows the program is not cost effective. The Company agrees to continue to monitor and evaluate Vermont and New Hampshire utilities' appliance programs and to update the Commission on activity, cost- effectiveness and recommendations in its next annual C&LM filing. Exh. 10 at 6.

10. LENDING PRACTICES.

In any quarterly C&LM report following discovery thereof, Connecticut Valley agrees to inform Staff of any lending activities by financial institutions in its territory which encourage energy efficiency in new construction. Exh. 10 at 6.

11. LOW INCOME CUSTOMER MEASURES.

Connecticut Valley acknowledges that its proposed Direct Installation Program was delayed due to reevaluation caused by information the Company discovered indicating that previous estimates of costs may have been low and estimates of savings may have been high. Subsequent evaluation showed the program was still cost effective. Connecticut Valley agrees to offer to the New Hampshire Weatherization Assistance Program ("WAP") a contract similar to contracts entered in Vermont (through Connecticut Valley's parent company, Central Vermont Public Service Corporation) as soon as possible and to report to the Commission when an agreement has been achieved with the WAP. Exh. 10 at 7.

12. PROGRAM FILING FORMATS.

Staff recommended that the Company

coordinate its filing attachments to permit a more logical progression of exhibits. The Company has attempted to accomplish this goal, and will continue to work with Staff to implement suggestions regarding coordination of attachments. Exh. 10 at 8.

13. C&LM COST ALLOCATIONS.

Staff and the Company agree that the current cost allocation methodology, which divides cost recovery into residential and non-residential classes and bases such recovery on expenditures by class, be maintained. The Company agrees that it will continue to investigate cost allocation methodologies to further refine cost allocations in relation to expenditures and/or benefits, and will provide an updated cost allocation study with its next annual C&LM filing. The Company also agrees that it will investigate and propose mechanisms that have participant customers pay a larger proportion of the cost of C&LM so as to reduce C&LM costs recovered via the C&LMPA. Exh. 10 at 8.

14. ESTIMATED C&LM COST RECOVERY / AVOIDED COSTS.

Staff agreed with the Company's recommended cost recovery of $86,177 for the residential class (C&LMPA of 1.25%) and $304,613 for the commercial/industrial class (C&LMPA of 3.22%), including, but not limited to, expenditures, lost revenues and utility incentives. Exh. 10 at 9, 10. The Company's recommended cost recovery was based upon calculations using avoided costs filed with the Company's 1992 Least Cost Integrated Plan in Docket DE 92-082; these

avoided costs have not been reviewed by Staff or approved by the Commission. Staff recommended and the Company agrees to base its cost recovery recommendations on the avoided costs filed and used in 1991 in Docket DR 91-024 to calculate the current C&LMPA. There are no significant differences between the 1991 and 1992 filed avoided costs. Exh. 10 at 10, 11. The recalculation of cost recovery recommendations using the 1991 avoided costs results in a cost recovery of $86,467 for the residential class (C&LMPA of 1.25%) and $305,744 for the commercial/industrial class (C&LMPA of 3.22%). Concurrent with this Stipulation, the Company has filed 4th Revised Sheet 20 to reflect this recalculated cost recovery, and the parties hereto mutually request approval and implementation of such Tariff page (when refiled to include Commission approval requirements).

15. PROGRAM IMPLEMENTATION SCHEDULES.

Staff noted that the Company's testimony reflected that certain programs approved in Docket DR 91-024 were implemented or are to be implemented either prior to or after the scheduled approved implementation dates. Exh. 10 at 11, 12. To keep Staff apprised of future implementation schedule deviations, if any, Connecticut Valley agrees to report proposed changes in implementation schedules as part of its quarterly reporting requirements.

16. PROGRAM CHANGES.

Connecticut Valley proposed three changes to its Residential New Construction Program: (1) incentives to replace incandescent exterior lights with energy efficient exterior lighting; (2) reduced rebates for energy efficient refrigerators and freezers plus reduced freerider estimates and technical potential; and (3) incentives to encourage customers who select electric water heating to use a controlled water heating rate. Staff recommended approval of change (2) and recommended disapproval of changes (1) and (3). Exh. 10 at 15. The Company agrees to withdraw its request for approval of changes (1) and (3), and to provide Staff with further details supporting such changes. If the Company wishes to implement these changes following provision of additional information and discussion with Staff, it will seek Commission approval at that time.

17. EFFECT OF STIPULATION.

The parties agree that this Stipulation relates only to these parties and should not be construed by any party or tribunal as having precedential or other impact on proceedings involving other utilities. The parties made compromises on specific issues to reach this Stipulation. The parties reserve the right in any future proceeding to advocate positions that differ from positions in this Stipulation. The parties agree that this Stipulation, or portions hereof, shall be effective, and shall bind the parties hereto, only upon approval of the Commission.

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

NHPUC No. 5 - Electricity
4th Revised Page 20
CONNECTICUT VALLEY ELECTRIC COMPANY INC.
Superseding 3rd Revised Page 20

Company may apply, or any interested party may petition the Public Utilities commission to order the Company to apply, to the Public Utilities Commission for approval and authorization of an appropriate Interim C&LMPA to be applicable during the remainder of said annual period. A variance report presenting the expected over/undercollection shall be submitted to the Public Utilities commission monthly. Program status reports shall be filed quarterly.

21. CONSERVATION AND LOAD MANAGEMENT PERCENTAGE ADJUSTMENT CALCULATION

The percentage adjustments to be applied to bills rendered beginning January 1, 1993 shall be calculated as follows:

Rates	D,D-1,D-T,O,O-N	G,G-T,GV,T
1. Conservation and Load Management Costs	$ 57,937	$ 333,268
2. Amortization of C&LM Deferrals Through September 30, 1991	7,512	60,456
3. Net Revenue Loss	7,332	46,512
4. Incentive Share	432	12,823
5. Interest	268	(3,624)
6. Interest on Unamortized C&LM Deferrals	573	4,600
7. Total Costs	$ 74,054	$ 454,035
8. Prior Period (Over)/Undercollection	18,110	(98,531)
9. Net Estimated C&LM Cost Recovery	$ 92,164	$ 355,504
10. Less Base C&LM Revenues	5,697	49,760
11. Remaining Net Estimated C&LM Cost Recovery	$ 86,467	$ 305,744
12. Total Estimated Revenues	$6,941,180	$9,494,076
13. Conservation and Load Management Percentage Adjustment	1.25%	3.22%

Issued: December 21, 1992 Issues by: William J. Deehan
William J. Deehan
Effective: January 1, 1993 Title: Assistant Vice President

(Authorized by NHPUC Order No. in Docket DR 92-113 dated .)

Page 809

BRIEF OF CONNECTICUT VALLEY ELECTRIC COMPANY INC. REGARDING ANTI-TRUST CONCERNS AND REQUESTS FOR SPECIFIC COMMISSION ACTIONS

INTRODUCTION

Connecticut Valley Electric Company Inc. (Connecticut Valley" or the "Company") has filed testimony in this docket addressing the potential market impacts which may arise out of the implementation and continuation of its comprehensive package of Conservation and Load Management ("C&LM") programs. While Connecticut Valley does not believe that its C&LM programs are anti-competitive, and in fact believes that its programs promote competition, Connecticut Valley is concerned that its actions could be challenged as anti- competitive. Accordingly, Connecticut Valley respectfully requests that the Commission, in reviewing and approving the details of the Company's C&LM programs in this docket, also specifically acknowledge the potential market impacts of such programs and make appropriate findings approving the details of the C&LM programs with particular regards to their potential market impacts. Connecticut Valley believes such action affords the Company a defense of

state action immunity under both New Hampshire law and court interpretations of federal anti-trust law.

I. THE COMMISSION SHOULD ACKNOWLEDGE AND MAKE FINDINGS ON POTENTIAL MARKET IMPACTS.

The Company is required pursuant to Commission orders to include cost-effective C&LM measures in its utility resource planning. As such, the Company is required to engage in non-traditional methods to provide utility service which cause it to become intertwined in the operation of new markets. The Company asks that the Commission find that the Company's provision of its C&LM programs is consistent with the markets in which they will be provided and does not, or is not intended to, have an anti-competitive effect. The Company believes that the Commission's consideration of these factors will, as part of the overall consideration and approval of the Company's programs, afford the C&LM programs and the Company's provision thereof with the broadest possible protections against anti-trust challenges.

The Company requests that the Commission make the following findings, consistent with testimony presented in this docket:

1. The Company's filings in this docket and in DR 91-024 detail the customers, services, delivery, marketing, investment, schedule, impact and cost of each proposed program. Where appropriate, the impact of the program is presented in terms of its projected energy savings. (Exh. 1 at 2; Order No. 20,457 at 18.

2. The Company's C&LM programs are designed to remove market barriers which have prevented its customers from using electricity more effectively. Exh. 1 at 15.

3. The Company's C&LM programs are designed to be of a limited term subject to comprehensive monitoring and evaluation activities undertaken by the Company and reviewed by Commission Staff and the Commission. Id.

4. If it is determined that the market barriers which created the need for some or all of the programs have been removed or are determined not to exist, the Company will be in a position to halt the provision of such programs. In addition, if the Commission believes the market barriers no longer exist, the Commission can move to halt the

Page 810

provision of such programs. Exh. 1 at 16.

5. The Commission accepts that the Company has stated that it does not fund or subsidize or intend to fund or subsidize activities which are or presently could be served by the marketplace without the Company's assistance. Exh. 1 at 15.

6. The Company's portfolio of C&LM programs has been designed to serve the public's conservation and efficiency interests. Exh. 1 at 16. It is prudent utility practice to take advantage of all cost effective resource options including demand side management options. Order No. 10,457 at 18. The Commission reviews programs developed by the Company to determine whether they are in line with Commission policies. Id.

7. The Company has implemented and intends to continue to implement its programs through programs and tariffs filed with and specifically approved by the Commission. In this way, the prices, rates, terms and conditions of the C&LM programs offered by the Company will be

pursuant to the continued review and approval of the Commission. Exh. 1 at 16.

8. The Commission provides review for the Company programs, authorizes the Company to offer approved programs to customers and provides for cost recovery for such programs where the programs prove to be a cost effective resource option for the Company. Order No. 20,457 at 20.

9. The Commission does not believe that the Company's C&LM activities will cause it to gain monopoly control over prices and competition within the markets in which it operates, and the Company has stated that it does not wish to gain such control. The Company's activities are designed to integrate with and be regulated by prevailing market forces; the Company will not regulate or attempt to regulate such forces. Nothing the Company has proposed or implemented is intended to operate improperly to control prices or exclude competitors from the energy or related product and service market in which the Company's C&LM programs will operate. Exh. 1 at 17; Order No. 20,457 at 19.

10. The price structures and terms the Company employs and will employ in its implementation of its filed programs will meet demonstrated tests necessary to achieve Commission approval. The price structures and terms will, as such, have been the subject of the Commission's regulatory review and approval process and have operated and will operate within the context of a duly filed rate schedule subject to the Commission's supervision and review. Exh. 1 at 17. The Company will meet with Commission Staff on a quarterly basis to update the Commission on program performance. Order No. 10,457 at 18; Stipulation of 12/4/92.

11. When customer incentives are offered, the comprehensive set of C&LM programs is designed to ensure that appropriate programs are available to all potential program participants on terms which will achieve cost-effective energy savings. The portfolio of programs is designed to meet customer needs in all customer sectors (residential, commercial and industrial). Once the programs are implemented, all customer sectors will have access to a comprehensive portfolio of C&LM program services. Other than incidentally, the programs will not involve the cross subsidization of customer sectors or market segments by the Company and its customers. Order

Page 811

No. 20,547 at 18.

12. None of the programs filed and implemented by the Company is designed to substantially lessen competition between or among the Company, its customers, its suppliers or other participants in the potentially impacted markets on either a local or regional basis. Exh. 1 at 18.

13. Nothing implemented or proposed by the Company is intended to have the effect of leveraging the Company into other markets where it will enjoy monopoly power. Id.

14. The programs proposed by the Company have been designed to remove market barriers, not create them. The programs are designed to remedy market failures. Id.

15. If a flourishing market for a particular C&LM program product or service existed, the Company would have no need to provide programs designed to improve efficiency in such markets as efficiency would likely have been the result of this market. When the Company and the Commission determine that amendments in the operation of a C&LM program are required

due to removal of a market barrier, the program can be modified either by petition of the Company or by the Commission on its own motion. Id.

16. Since the C&LM programs have been and will continue to be implemented through filings, Staff review, Commission approvals and tariffs, at the time it is determined that a modification is required, the programs will continue to be subject to review. The Commission will therefore actively supervise the the conduct of the Company in its provision of the C&LM programs, assuring that the Company's conduct is and remains consistent with the markets in which it operates and does not result in the creation of market barriers or impediments. Exh. 1 at 19.

17. Certainly many market impacts not discussed in the Company's filings may result from the implementation of the Company's programs. Any C&LM program which involves the provision of incentives, services or products without charge, or at a price less than market, may impact the market for the products or services so provided to some extent. Id.

18. When the Company provides a program service, it will maintain a monitoring and evaluation process to measure the program's quality and cost effectiveness. Due to the rigors of this process and continuing Staff and Commission review, the Company believes that all programs will be delivered at competitive costs. In doing so, market forces will serve to regulate the Company's provision of program services. Exh. 1 at 20; Exh. 2, Attachments WJP-1 and 2.

19. Intended market results include increases in customer awareness of efficiency products. Through demonstration and introduction, many efficiency products and services provided through the programs will likely gain market acceptance. Exh. 1 at 20.

20. The Company's activities are designed to stimulate market action and promote competition in energy savings and load control technologies and services. Through the Company's programs described in its filings, the resources devoted to the acquisition of conservation, efficiency and load control equipment by the Company and by others within its service territory will be stimulated. In a classic sense, an economic transfer to these market

participants will occur; however, this transfer will occur only so as to remove market barriers. Exh. 1 at 21.

21. The Company's program activities are not designed to squelch competition but will instead promote conservation, efficiency and load control market development: a public good desired and mandated by the Commission. Id.

II. THE COMMISSION SHOULD EXPRESSLY RECOGNIZE THAT THE COMPANY'S PROVISION OF C&LM PROGRAMS IS AN "AUTHORIZED ACTIVITY" PURSUANT TO RSA 356: 8-a

RSA 356: 8-a provides:

Exemption for Authorized Activity. Activities of and arrangements between persons shall be exempt from this chapter if such are permitted, authorized, approved, required or regulated by a regulatory body acting under a federal or state statutory scheme or otherwise subject to the

jurisdiction of a regulatory agency.

The "chapter" referred to in the above statute is "Combinations and Monopolies," dealing expressly with anti- competitive and anti-trust activities.

The Company believes that its C&LM programs are entitled to the exemption afforded by RSA 356: 8-a. The Company also believes, however, that without an express statement to that effect by the Commission in its Order in this Docket, a challenge of the Company's activities could be predicated upon a failure to qualify for the statutory exemption.

In order to preclude such a basis for challenge, the Company requests an express finding by the Commission, as the Commission found in Order No. 20,457, that the Company's C&LM programs are "permitted, authorized, approved and required or regulated by a regulatory body acting under a federal or

state statutory scheme or otherwise subject to the jurisdiction of a regulatory agency," and that the Company, as a regulated New Hampshire utility, is subject to the specific jurisdiction of the Commission in regards to reviewing, approving and supervising the Company's C&LM programs and their ongoing performance.

III. THE COMMISSION SHOULD EXPRESSLY RECOGNIZE THAT THE COMPANY'S PROVISION OF C&LM PROGRAMS IS PURSUANT TO STATE POLICY AND IS SUBJECT TO STATE SUPERVISION.

As discussed above, the Company believes it is entitled to the exemption for state-authorized activity under RSA 356:8- a. The state law, however, does not and cannot expressly provide protection from claims asserted under federal anti- trust laws. In addition, RSA 356: 14 expressly states: "In any action or prosecution under this chapter, the courts may be guided by interpretations of the United States' antitrust laws."

For the Company to be entitled to so-called "state action immunity" to causes of action brought under such federal antitrust laws or interpretations of such laws, the Company believes that the Commission should expressly articulate findings sufficient to establish such immunity as a defense. Such immunity attaches when the activity satisfies the two- part test enumerated by the United States Supreme Court in California Retail Liquor Dealers Association v. Midcal, 445 U.S. 97 (1980). The test requires (1) a clearly articulated and affirmatively expressed state policy to displace competition and (2) active supervision by the state.

The actions of the Company proposed in this Docket and in DR 91-024 satisfy that test. As stated by the Commission in Order No. 20,457, "[t]he Commission has expressed a state policy of requiring companies to participate in least cost utility planning. Re Public Service Company of New Hampshire, 73 NHPUC 117 (1988); Re Public Service

Company of New Hampshire, 73 NHPUC 285 (1984)." Order No. 20,457 at 20 (cites as in original). Furthermore, if the Commission finds that the Company's activities are entitled to the exemption of RSA 356: 8-a, as requested above, such activities would be, therefore, specific state authorized and regulated activities.

In addition, the Company's activities are subject to initial and ongoing supervision by the Commission. As discussed in Order No. 20,457 and in Proposed Findings 1, 7, 10, 16 and 18 above, the Company's C&LM activities were subject to detailed scrutiny in DR 91-024 and this Docket, are implemented through approved tariffs and filings, and are subject to performance reviews and modifications on at least a quarterly basis. Such active supervision and review by the Commission satisfies the second part of the Midcal test.

The Company is undertaking its C&LM programs at the express direction, and under the strict supervision, of the Commission. It is engaging in these prudent utility

activities to acquire conservation resources for the benefit of the State of New Hampshire and to stimulate such activities in a market which is not currently satisfying the needs of the State.

For the Commission to require such activities and to engage in such extensive review, and then to fail to provide the Company with an expressed basis for state action immunity seems patently unfair and unreasonable. The Company is not asking the Commission to expand the circumstances which exist; rather, the Company is only respectfully requesting that the Commission articulate these circumstances to protect the Company while it is performing activities to advance state policies adopted and encouraged by the Commission.

Such articulation is not unprecedented and was included in the Commission's Order No. 20,457, in which the Commission first reviewed and approved the Company's proposed C&LM programs. In addition, the Vermont Public Service Board, in reviewing the Company's parent corporation's very similar package of C&LM programs, expressly found that the parent corporation's activities would be entitled to state action immunity under the Midcal test. (See Vermont Public Service Board Order entered May 20, 1991, in Docket No. 5270-CV-3, at pp. 86-92, a copy of which is attached hereto as Exhibit A.)

CONCLUSION

The Company respectfully requests that the Commission continue to articulate appropriate findings regarding the Company's C&LM programs and activities, the resulting market impacts, and the continuing review and scrutiny of the Commission, accordance with state policy and law and federal law and interpretations thereof.

Dated at Rutland, Vermont, this 22d day of December, 1992.

Respectfully submitted,

/s/_____ Kenneth C. Picton, Esq. Attorney for Connecticut Valley Electric Company Inc. 77 Grove Street Rutland, Vermont 05701

==========

NH.PUC*12/23/92*[73135]*77 NH PUC 805*BELLEAU LAKE CORPORATION d/b/a BELLEAU LAKE WATER SYSTEM

[Go to End of 73135]

BELLEAU LAKE CORPORATION d/b/a BELLEAU LAKE WATER

SYSTEM

DC 92-231
ORDER NO. 20,711

77 NH PUC 805

New Hampshire Public Utilities Commission

December 23, 1992

Order to Show Cause Why Utility and its Agents Should not be Fined or Criminally Prosecuted

---

In the fall of 1991 Lakes Region Water Company (Lakes Region), a franchised public water utility, filed a petition with this Commission requesting authority to purchase a water utility located in Wakefield, New Hampshire, known as the Belleau Lake Water System; and

WHEREAS, Lakes Region subsequently withdrew its petition; and

WHEREAS, the Belleau Lake Water System was and continues to be an unfranchised public water utility subject to this Commission's jurisdiction; and

WHEREAS, Belleau Lake Water System's agent, one Ernest R. Belleau, Jr., was notified by the Commission Staff by letter dated October 30, 1992, after the petition by Lakes Region was withdrawn that Belleau Lake Water System must apply for a franchise from this Commission pursuant to RSA 374:22 and 26; and

WHEREAS, the staff also informed Mr. Belleau that Belleau Lake Water System could not charge rates until it obtained a franchise and a rate order from this Commission; and

WHEREAS, the Commission received a telephone response to this letter from Mr. Belleau with no written follow-up; and

WHEREAS, on December 18, 1992, the Commission received a copy of a letter sent to the customers of the Belleau Lake Water System that the system would be abandoned in eight months and that homeowners must install their own water system and that the rate for water would be $130.00; and

WHEREAS, Mr. Belleau has no authority to charge the customers of the Belleau Lake Water System any rates until they have been reviewed and approved by the Commission pursuant to RSA chapter 378; and

WHEREAS, Mr. Belleau cannot abandon the system without approval from the Commission pursuant to RSA 374:28; it is hereby

ORDERED, that Ernest R. Belleau, Jr. appear before the New Hampshire Public Utilities Commission at its offices at 8 Old Suncook Road, Concord, New Hampshire at 10:00 in the forenoon on January 13, 1993 to show cause why he or the utility, or the coproration known as the Belleau Lake Corporation should not be subject to criminal or administrative proceedings pursuant to inter alia RSA 365:41 and 42; and it is

FURTHER ORDERED, that all customers be informed that they are not required to make any payments for water services form the Belleau Lake Water System because no rate has ever

been approved by this Commission; and it is

FURTHER ORDERED, that all customers of the Belleau Lake Water System be informed that the water distributuion cannot be abandoned without the permission of this Commission; and it is

FURTHER ORDERED, that Ernest R. Belleau, Jr. serve a copy of this order upon each of the utility's customers in hand, on or before December 31, 1992. By order of the Public Utilities Commission of New Hampshire this twenty-third day of December, 1992.

==========

NH.PUC*12/31/92*[73137]*77 NH PUC 815*EDWARD POETTE v. ENERGYNORTH NATURAL GAS, INC

[Go to End of 73137]

EDWARD POETTE v. ENERGYNORTH NATURAL GAS, INC

DC 92-142
ORDER NO. 20,713

77 NH PUC 815

New Hampshire Public Utilities Commission

December 31, 1992

Report and Order Denying Edward Poette's Motion for Reconsideration and Rehearing

---

Appearances: McLane, Graf, Raulerson and Middleton by Steven V. Camerino, Esq. for EnergyNorth Natural Gas, Inc.; New Hampshire Legal Assistance by Deborah Schachter, Esq. for Edward Poette.

REPORT

I. PROCEDURAL HISTORY

On July 22, 1992, Edward Poette, through New Hampshire Legal Assistance (NHLA), filed a consumer complaint with the New Hampshire Public Utilities Commission (Commission) alleging that EnergyNorth Natural Gas, Inc. (ENGI) was holding Mr. Poette responsible for prior debt incurred by his current housemate. Mr. Poette alleged that ENGI's attempts to hold him responsible for his housemate's debt was contrary to the Commission's determination in Coombs, et al. v. PSNH and Ruth A. Wentworth v. PSNH, which involved third party debts on electric utility accounts. See Order No. 20,377 (January 28, 1992). A procedural schedule was agreed to between Mr. Poette and ENGI for discovery and settlement discussions to occur through December, 1992.

On October 5, 1992, ENGI filed a Response and Motion to Dismiss, asserting that ENGI would no longer hold Mr. Poette responsible for the prior debt of his housemate. Mr. Poette filed an Objection to the Motion to Dismiss on October 15, 1992. The Commission, on December 1, 1992, granted ENGI's Motion to Dismiss, finding that because ENGI was no longer seeking payment from Mr. Poette and because Commission staff (Staff) had represented that it was

finalizing draft rules consistent with the Coombs and Wentworth cases to be applicable in most instances to other utilities, including gas, Mr. Poette no longer had a complaint for adjudication. See Order No. 20,689 (December 1, 1992).

On December 11, 1992, Mr. Poette filed a Motion for Reconsideration and Rehearing of Order No. 20,689.

II. POSITIONS OF THE PARTIES

A. Edward Poette

Mr. Poette, through NHLA, argues that the Commission was in error in granting the Motion to Dismiss, as ENGI had made no commitment to refrain from such billing in the future, and that ENGI had failed to notify him of his "appeal rights" pursuant to N.H. Admin. Rules, Puc 503.09(e). The Motion asserts that utilities should not be allowed to pursue improper billing practices and only drop their billing attempts in those cases in which a complainant comes forward to the Commission. Finally, Mr. Poette argues that Staff efforts at developing rules are not a sufficient remedy, and that the case should proceed for full development on the record.

B. ENGI

ENGI did not file a response to the Motion for Reconsideration and Rehearing.

III. COMMISSION ANALYSIS

After consideration of the Motion for Reconsideration and Rehearing, we conclude that the Motion should be denied. We remain convinced that because ENGI is no longer pursuing the prior third party debt with Mr. Poette, there is no need to adjudicate his complaint. We recognize NHLA's argument that there is a larger issue it wishes to address, extending beyond Mr. Poette's billing status with ENGI. We believe, however, that the draft rules now being finalized by Commission Staff will provide NHLA, all utilities, and any other interested parties the opportunity to address, in

a generic context, the larger issues raised by Mr. Poette's case. We also note that any person may petition the Commission to adopt, amend, or repeal a rule pursuant to RSA 541-A:6. For these reasons, we will deny the Motion for Reconsideration and Rehearing.

We note, however, the assertion that ENGI did not adequately inform Mr. Poette of his right to file a complaint with the Commission. While we draw no conclusions about ENGI's handling of the Poette dispute, we have instructed our Executive Director to remind ENGI of the Commission's rules regarding notification of customer complaint procedures and ask that it be diligent in meeting its responsibilities under our rules.

Our order will issue accordingly.

Concurring: December 31, 1992

ORDER

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

ORDERED, that Edward Poette's Motion for Reconsideration and Rehearing is hereby

denied.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1992.

==========

Endnotes

1 (Popup)

[1]Although Southern labeled its motion as a motion to dismiss, the relief granted herein is more in the nature of the granting of a motion for summary judgment. Cf., RSA 491:8-a (providing for summary judgments by the Superior Court). This is because the relief is being granted based, in part, on the record developed during the hearings of August 13 and 14, 1991. Based upon the material undisputed facts in that record, we have concluded that Southern is entitled to judgment as a matter of law. Id. The question of the proper labeling of Southern's motion is not material to our underlying analysis and we will therefore continue to refer to, and rule on, it as a motion to dismiss.

2 (Popup)

[2]The Commission notes that this will be the first time the Commission has applied the Mobile-Sierra doctrine to a water utility or, for that matter, any other type of utility under its jurisdiction.

3 (Popup)

[1]The Commission notes that since July 31, 1990 NHEC has filed for bankruptcy and just recently presented a consensual reorganization plan to the Bankruptcy Court for approval.

4 (Popup)

[1]The Commission notes that since July 31, 1990 NHEC has filed for bankruptcy and just recently presented a consensual reorganization plan to the Bankruptcy Court for approval.

5 (Popup)

[2]The Commission is aware that intervening events may affect the timing of the resolution of issues identified and completion of tasks required herein. Therefore, the Commission would be willing to entertain a motion from NHEC for an extension of time for the filing of its next LCIP. The Commission suggests that NHEC consult with Staff on an appropriate deadline.

6 (Popup)

[2]The Commission is aware that intervening events may affect the timing of the resolution of issues identified and completion of tasks required herein. Therefore, the Commission would be willing to entertain a motion from NHEC for an extension of time for the filing of its next LCIP. The Commission suggests that NHEC consult with Staff on an appropriate deadline.

7 (Popup)

[3]Again, intervening events make this a particularly appropriate time to revisit the question of the appropriate avoided costs for NHEC.

8 (Popup)

[1]The operating lease is the same agreement which the company seeks to capitalize as a part of rate base in the instant proceeding.

9 (Popup)

[2]We do not mean to imply by this analysis that ratepayers should be required to indemnify investors from waste, mismanagement, or other imprudent actions; nor are we providing that ratepayers must bear the costs associated with a deteriorating market for the utility's service. In this case, however, there is no evidence of imprudence or other wrongful actions by utility management. At the time management made its investment and accounting decisions, sewage companies were not subject to utility regulation. This is readily distinguishable from other cases before us where it was the imprudent, erroneous or wrongful actions of management that subjected ratepayers to the risk of the adverse consequences attendant to a financially distressed utility. See e.g., Re Mountain High Water Company, supra.

10 (Popup)

[1]In fact, RSA 378:14 proscribes the provision of free service by a public utility.

11 (Popup)

[1]The Tax Agreement was not filed with the company's materials in the initial part of this proceeding, nor had it previously been filed with the commission in accordance with the requirements of RSA 366:3. Indeed, the document was first mentioned and presented to us for review on rehearing. When asked why it had not presented such critical evidence in its initial presentation, Granite State replied that it had filed an earlier version of the document with the commission as an exhibit in Re UNITIL, Docket No. DR 85-362 and it assumed that the commission, sua sponte and without notice, would review that exhibit. Granite State conceded that the document had been amended since that filing and that the amendments were not on file with the commission. Granite State's explanation hardly approaches plausibility. See e.g., Appeal of Granite State Electric Company, 121 N.H. 787 (1981). Under these circumstances, we were entitled to exclude the Tax Agreement and the arguments relating thereto from our consideration on rehearing. Appeal of Gas Service, Inc., 121 N.H. 797 (1981). However, we have elected in this instance to exercise our discretion not to allow a procedural deficiency to stand as a barrier to a proper substantive result.

12 (Popup)

[1]PSNH very recently reported the following information to the Securities and Exchange Commission:

Revenues for the quarter ended March 31, 1992 include $53.7 million in short-term power sales, of which $47.8 million was sold to NU, compared to $32.2 million in total short-term power sales, of which $29.6 million was sold to NU, for the same period in 1991. The significant increase in short term sales to NU is primarily due to a decrease in the availability of NU system capacity, since NU's Millstone units were out of service at various points during the period.

13 (Popup)

[1]See page 2 of the "Stipulated Recommendations of the Parties" in DR 79-187, Phase II.

14 (Popup)

[2]On November 16, 1990, in DR 90-187,EnergyNorth Natural Gas,Inc. filed with the

Commission a special contract with Hadco Corporation (Hadco) pursuant to RSA 378:18, which contained a discounted industrial rate for natural gas service to Hadco. After staff filed testimony concerning policy considerations raised by discounted industrial and other economic development rates, PSNH and others filed for and were granted intervenor status in DR 90-187. The Parties in DR 90-187 recommended that the important policy issues concerning discounted rates be explored and resolved by the Commission in a new docket on a generic docket basis. The Parties to DR 90-187 would be granted party status in the new generic docket and allowed to withdraw all or part of their testimony, supplement their testimony or file testimony if none was

originally filed in DR 90-187.

DR 91-172 was opened as the generic docket to investigate issues pertaining to discounted and economic development rates. Report and Order No. 20,272 (October 21, 1991). Hearings in the generic proceeding were held on February 19, 20, and 21, 1992. Briefs were filed on April 3, 1992. Presently, the Commission is deliberating on the issues of economic development and competitive market-based rates.

15 (Popup)

[3]A supplemental original and 8 copies of the signature page were filed by PSNH on October 8, 1991. The October 3, 1991 filing did not contain Ms. Nelkens' signature or the support of CRR and Biomass. Ms. Nelkens' signature, indicating she agreed the Report and Stipulations accurately represented her position and the positions of the parties though not her support on the resolution of the issues, was later added and included to the October 8th filing. On October 11, 1991, Biomass indicated it would not support the Stipulation.

16 (Popup)

[4]The Report and Stipulations, attached hereto as Attachment A, will not be repeated verbatim herein.

17 (Popup)

[5]As part of DR 92-050, the Commission approved extending the FPPAC rate through the end of May and billing the new FPPAC rate on June 1, 1992, on a bills rendered basis. Order No. 20,444, April 20, 1992. Additional issues, such as elimination of the Rate WI rider, elimination of Rate D-TOU, the correction of the "Holidays" section of the Terms and Conditions to replace Fast Day with Civil Rights Day, an extension of the service provision in the Controlled Water Heating Rate, and a revision to the Availability section of Rate D-TL to limit the rate to existing customers and locations, were approved by Order No. 20,261, October 2, 1991.

18 (Popup)

[6]Since the prehearing conference on January 31, 1991, at which the commission granted Mr. Cushing leave to represent CRR in this matter, we found that Mr. Cushing has appeared so regularly before this commission on behalf of CRR as to be "commonly" practicing law in

violation of RSA 311:3. Should CRR seek reconsideration of this Report and Order, therefore, Mr. Cushing is without authorization to make such a filing.

19 (Popup)

[7]The use of the terms "base retail rates" in Paragraph 6 and "allocation of base rate responsibility" in RSA 362- C:8 refers to the subject matter of Paragraph 5 of the Rate Agreement provides that "FPPAC will have no impact on [base] rates if reference assumptions....are achieved....."

20 (Popup)

[8]If the statutory language precluded changes to allocation of revenue responsibility among residential, commercial, industrial and municipal classes, we would be much more comfortable with this analysis. While we must acknowledge that this is not the case, we do not believe that use of the term "customers" in the statute rather than "classes" is fatal to our analysis. As discussed supra, the technical term "allocation of base rate revenue responsibility" inherently contemplates allocation to classes. Moreover, the four types of customers enumerated in the statute, i.e., residential, commercial, industrial and municipal, closely resemble the customer groupings routinely represented on company business records for, inter alia, purposes of reporting to the commission.

21 (Popup)

[9]The information NU/PSNH will provide in the monitoring docket, IR 90-218, is intended to help Staff track and evaluate both the short-term and long- term financial and operational effects and changes of the merged company during the fixed rate period. Some effects, such as whether seven years of fixed rate increases without a reallocation of revenue responsibility could lead to significant rate redesign and allocation changes later, are not included in the monitoring. Staff and PSNH/NU should consider this possibility, though not necessarily as part of the monitoring docket.

22 (Popup)

[9]The information NU/PSNH will provide in the monitoring docket, IR 90-218, is intended to help Staff track and evaluate both the short-term and long- term financial and operational effects and changes of the merged company during the fixed rate period. Some effects, such as whether seven years of fixed rate increases without a reallocation of revenue responsibility could lead to significant rate redesign and allocation changes later, are not included in the monitoring. Staff and PSNH/NU should consider this possibility, though not necessarily as part of the monitoring docket.

23 (Popup)

[10]See, for example, Re Connecticut Valley Electric Company, 74 NHPUC 165 (1989), in which we approved, inter alia, seasonal and hourly rates based on marginal costs. In Re Connecticut Valley Electric Company, Rate Redesign Phase II, Docket DR 91-189, Report and Order No. 20,385 (February 7, 1992), we approved further seasonality in rates and based the phased-in cost allocation among the classes on marginal costs. A marginal cost basis for rates was adopted in gas in Re Gas Rate Design, 73 NHPUC 492 (1988) in an order establishing the theoretic framework for the calculation of marginal cost and directing EnergyNorth, Inc. and

Northern Utilities, Inc. to develop marginal cost of service studies based on the framework to be filed in their subsequent rate cases. On May 12, 1992, we approved the use of the resulting cost of service study as the basis of rate design in Re EnergyNorth Natural Gas, Inc., Docket No. DR 90-183. The Settlement Agreement in Re Northern Utilities, Inc., Docket No. DR 91-081, which incorporates a marginally cost based rate design, is currently before the commission. We adopted the incremental cost study as the basis of rates in Re New England Telephone and Telegraph Co., Inc., 123 PUR4th 289 (1992), and on an individual basis have directed or accepted commitments from the independent telephone companies to develop and submit incremental cost studies within the next year: Re Meriden Telephone Company, Docket DR 92-012, Order No. 20,381 (February 3, 1992); Re Chichester Telephone Company, Docket DR 92-010, Order No. 20,379 (February 3, 1992); Re Kearsarge Telephone Company, Docket DR 92-011, Order No. 20,380 (February 3, 1992); Re Granite State Telephone Company, Docket DR 91- 183, Order No. 20,335 (December 16, 1992); Re Union Telephone Company, Docket 90-220, Report and Order No. 20,328 (December 9, 1991); Re Wilton Telephone Company, Docket 90-221, Report and Order No. 20,391 (February 18, 1992).

24 (Popup)

[1]Adjusted slightly to facilitate quarterly billing.

25 (Popup)

[1]The Special Contracts, NHPUC-71 and NHPUC-72, are appended to this Report and Order as Attachment A.

26 (Popup)

[2]We wish to emphasize that our conditional approval of these Special Contracts between James River and PSNH shall have no preclusive effect on our decision in DR 91-172.

27 (Popup)

[1]The Commission notes that some of the monies that constitute the Trust's long term debt to Water industries were used to pay the costs of these proceedings, as such, they are more properly accounted for as rate case and franchise establishment expenses and should be amortized (franchise expenses) or surcharged (rate case expenses) appropriately. Therefore, the Trust shall remove these expense items from their books as a debt and allocate them appropriately for ratemaking purposes.

28 (Popup)

[1]i.e., there is a 95% probability that the true but unknown mean

degree days lies within the interval.

29 (Popup)

[2] See also Report and Order No. 20,385, Connecticut Valley Electric Company, Rate Design Phase II, Docket DR 91- 189 in which we approved further seasonality in rates and based the phased-in cost allocation among the classes on marginal costs.

30 (Popup)

[3] In Report and Order No. 20,504, Public Service Company of New Hampshire, Retail Rate Redesign, we stated our belief that economic efficiency is enhanced by sending customers proper price signals and that marginal cost pricing sends better long-term price signals than prices based on embedded cost studies.

31 (Popup)

[1]The Commission recognizes that additional savings may have been foregone because the BECo energy was not available for inclusion in the PSNH/NU swap.

32 (Popup)

[1]The Office of consumer Advocate, GTE New Hampshire, Union Telephone Company, Granite State Telephone Company, Wilton Telephone Company, Dunbarton Telephone Company, and Merrimack County Telephone Company concur in NET's position. AT&T takes no position.

33 (Popup)

[1]Although there is a subsequent "Water Service and Connection Agreement" that purportedly modifies the Declaration and calls for quarterly payments of the $48 fee, there is no evidence it was filed at the Registry of Deeds or signed by the lot owners, and, therefore, it cannot be said that quarterly fees were a basis of any bargain for real estate; the Declaration, therefore, will control.

34 (Popup)

[1]Although there is a subsequent "Water Service and Connection Agreement" that purportedly modifies the Declaration and calls for quarterly payments of the $48 fee, there is no evidence it was filed at the Registry of Deeds or signed by the lot owners, and, therefore, it cannot be said that quarterly fees were a basis of any bargain for real estate; the Declaration, therefore, will control.

35 (Popup)

[1]Although this generic docket, which consists of an investigation by the Commission into whether intralata toll competition is in the public good, commenced with the filing of AT&T's petition, the substantive issue was actually brought before the Commission by Long Distance North with its petition to provide intralata toll competition in New Hampshire in 1988.

36 (Popup)

[1]Although this generic docket, which consists of an investigation by the Commission into whether intralata toll competition is in the public good, commenced with the filing of AT&T's petition, the substantive issue was actually brought before the Commission by Long Distance North with its petition to provide intralata toll competition in New Hampshire in 1988.

37 (Popup)

[2]See amicus brief of the State of New Hampshire in Appeal of Atlantic Connections Limited, 135 N.H. 510 (1992), and Appeal of the Office of Consumer Advocate, 134 N.H. 651 (1991)

38 (Popup)

[2]See amicus brief of the State of New Hampshire in Appeal of Atlantic Connections Limited, 135 N.H. 510 (1992), and Appeal of the Office of Consumer Advocate, 134 N.H. 651 (1991)

39 (Popup)

[3]As the rule was initially promulgated in 1982 it preceded the adoption of the portions of the Administrative Procedures Act at issue in this Report. Thus, the nomenclature of the rule varies from the nomenclature of the Administrative Procedures Act.

40 (Popup)

[3]As the rule was initially promulgated in 1982 it preceded the adoption of the portions of the Administrative Procedures Act at issue in this Report. Thus, the nomenclature of the rule varies from the nomenclature of the Administrative Procedures Act.

41 (Popup)

[4]Alternatively, the Commission could adopt the practice of declaring all of its employees "decisional" and allow its experts to present their advice to the Commissioners outside of the hearing room after the parties have presented their case.

42 (Popup)

[1]We believe it is worth noting, that the Commission respects and expects a diversity of opinions from its Staff. The presentation of diverse opinions provides us with the type of record necessary to address the issues which come before us. We believe that this type of testimony is especially productive when the Commission is faced with an analysis pursuant to the "public good" or "public interest" standard.

43 (Popup)

[2]We note, however, that Pennichuck has already devalued these assets by $755,000. Thus, any disallowances that were to be made to these assets in the future would be based on Southern's cost of installation (Southern's book value prior to this transaction).

> This note is not intended to suggest that we foresee any disallowances in the Amherst assets it merely reflects our views on the transaction and our inability to totally foreclose ratebase disallowances in Amherst, or, for that matter in any utility investments under our jurisdiction.

44 (Popup)

[3] We note that the provision not to "unreasonably" exercise the right to terminate the contract by Pennichuck contained in Exhibit P-5 will be strictly construed by this Commission. Our decision to allow Southern to capitalize the Water Supply Contract is based in large part on the long term rights it provides Southern in water from the Merrimack River. Thus, we assume that Pennichuck will be bound to renew this contract unless some unforeseen circumstance makes it unreasonable to do so. We note that the possible scarcity of water rights fifty years from the date of the contract is foreseeable.

45 (Popup)

[1] The position of the Consumer Advocate that the Company bear the cost of meter pits is rejected because the Commission's existing rules specifically require the customer to provide a safe and protected area for the placement of a meter. Puc 605.02.

46 (Popup)

[2] To ensure that it obtains the lowest cost for installing the meter pits, Southern shall be required to put the contract for installation of meter pits that are to be done by Southern out to bid in an attempt to lower even further the estimated $350 charge for installation of the pit.

47 (Popup)

[3] Any revenues derived by the Company from services it has provided in the past shall be retained by the Company. It is our intent that the flat rate currently being charged in Green Hills be reduced on a forward looking basis to reflect additional customers.

48 (Popup)

[1]We note that the Commission's procedural rules were adopted on November 26, 1990, with the approval of the Joint Legislative Committee on Administrative Rules.