

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DG 09-139**

**CONCORD STEAM CORPORATION**

**Notice of Intent to File Rate Schedules**

**Order Granting Temporary Rates, Approving Proposed Procedural Schedule and  
Addressing Waiver Requests**

**ORDER NO. 25,034**

**October 29, 2009**

**APPEARANCES:** Sarah Knowlton, Esq., of McLane, Graf, Raulerson & Middleton, P.A., for Concord Steam Corporation; Matthew J. Fossum, Esq. for the Staff of the Public Utilities Commission.

**I. PROCEDURAL HISTORY**

On August 6, 2009, Concord Steam Corporation (Concord Steam or Company), a utility providing steam service to 110 customers, mostly commercial and institutional, filed with the Commission a notice of intent to file rate schedules seeking an increase in its permanent steam distribution rates. On September 4, 2009, Concord Steam filed rate schedules reflecting a permanent increase in its base rates of \$341,940, or 6.53%, annually. The increase would be spread proportionally among the three tiers of the Company's declining block rate structure. Included in its filing was a request that temporary rates be granted at the same level as permanent rates, effective on November 1, 2009, or the date on which customers were notified, whichever was earlier. In addition, the Company's petition seeks waiver of various filing requirements in New Hampshire Code of Administrative Rules Puc 1604.01(a).

On September 14, 2009, the Commission issued Order No. 25,012, which suspended the Company's proposed tariffs and set a pre-hearing conference and hearing on temporary rates for

October 15, 2009. The parties met in a technical session on October 8, 2009. On October 13, 2009, Staff filed the testimony of Stephen Frink, assistant director of the Commission's gas and water division, regarding the Company's request for temporary rates. The pre-hearing conference and hearing on temporary rates were held on October 15, 2009. There were no intervenors in the docket.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. Concord Steam**

In connection with its filing for a permanent base rate revenue increase of \$341,940, Concord Steam requested that temporary rates be approved that would allow the Company to increase its rates on a temporary basis in the same amount as its proposed increase in permanent rates. This increase would provide Concord Steam with a rate of return of approximately 1.5 percent. Concord Steam contended that temporary rates were appropriate because it had been substantially under-earning and was continuing to incur the additional costs to operate that had caused the under-earning. More specifically, Concord Steam asserted that its overall rate of return in the 2008 test year was negative 5 percent, compared to the Commission-authorized level of approximately 8.04 percent. *See Concord Steam Corp.*, Order No. 24,866 (June 27, 2008). According to the Company, its earnings will erode even further unless it can begin to recover its increased costs during the upcoming heating season, during which it earns the bulk of its revenues.

Concord Steam contended that it could have requested a base rate revenue increase of over \$750,000 based on traditional rate-making principles. However, in order to remain competitive with other fuel sources, it seeks a base rate revenue increase of about half of that

amount, with the increase allocated proportionately over the Company’s three categories of block rates. The following table summarizes the proposed increase to base rates.

	<b>Current Base Rate</b>	<b>Percent Increase</b>	<b>Amount Increase</b>	<b>Proposed Base Rate</b>
First 500 Mlbs./month	\$15.87	16.8%	\$2.67	\$18.54
500 – 2000 Mlbs./month	\$13.93	16.8%	\$2.34	\$16.27
Over 2000 Mlbs./month	\$11.54	16.8%	\$1.94	\$13.48

With respect to overall rates, comprising the current cost of energy rate and the base rate components, the Company stated that the proposed revenue increase represents an overall increase of 6.53 percent. The following table summarizes the proposed increase to overall rates.

Cost of Energy Revenue (prior to Nov. 1, 2009)	\$ 3,204,734
Base Rate Revenue	+ <u>\$ 2,033,393</u>
Overall Revenue Before Increase	= \$ 5,238,127
Proposed Increase	\$ 341,940
Percent Overall Increase	6.53%

At the hearing on October 15, 2009, Concord Steam president Peter G. Bloomfield testified that the Company was under-earning due to a combination of increases in labor costs, insurance costs and general operational costs, and decreases in customer load and steam sales even after allowing for weather corrections. Transcript of October 15, 2009 Hearing (Tr.) at 9-10. He stated that although the Company has not lost any customers over the previous 2 years, sales had nevertheless declined. Tr. at 9. Mr. Bloomfield noted, however, that the Company was in the process of adding a large new customer, the Rundlett Middle School, and that it was actively pursuing new customers in downtown Concord. Tr. at 23-24.

The Company explained that it was requesting a revenue increase substantially less than that to which it is entitled because it is trying to maintain its customer base until it can make significant changes to its physical plant and operations to become more efficient. More specifically, Mr. Bloomfield provided an update of the Company's plans to build a new wood-fired electricity and steam co-generation plant that, when operational, would be able to provide steam service at lower rates. Tr. at 16-19. *See Concord Steam Corp.*, Order No. 24,969 (May 22, 2009). He stated that the Company intended to begin construction in the spring of 2010 and that it would be completed in 2012. Tr. at 17-18. At that point, Concord Steam would purchase its steam needs from the new plant at rates below the current ones. Tr. at 11-12. The Company's present, small increase in rates was intended to keep it competitive until the new plant becomes operational. Tr. at 11.

The Company indicated that the impact on customers would be an increase in the distribution rate of about 7 percent across all usage blocks, based on test year energy rates. In terms of dollar amounts, the distribution rate increase is approximately \$650 per year for a small user, about \$3,900 per year for a medium user, and about \$19,000 per year for a large user, exclusive of energy costs. When factoring in the proposed decrease in the cost of energy, which is currently before the Commission as Docket No. DG 09-169, the total bill impact on customers would be a decrease of approximately 5 percent. Mr. Bloomfield clarified that the Company was requesting temporary rates to be effective November 1, 2009 on a service-rendered basis. Tr. at 12.

As part of its filing, Concord Steam requested that certain filing requirements be waived.

Finally, Concord Steam and Staff presented a proposed procedural schedule to govern the remainder of the docket, as follows:

Company responses to 10/8/09 technical session data requests	November 18, 2009
Staff Data Requests to Company Technical Session	December 16, 2009
Staff Testimony	January 21, 2010
Company Data Requests to Staff	February 11, 2010
Staff Responses	February 25, 2010
Settlement Conference	March 11, 2010
Submit Settlement, if any	March 18, 2010
Hearing	April 1, 2010
	April 15, 2010

## **B. Staff**

Staff recommended that the Commission approve the Company's request for temporary rates. Tr. at 32. Mr. Frink stated that Staff's analysis of the temporary rate request reflected the traditional approach under which 2008 test year net operating income and rate base were considered without regard to any *pro forma* adjustments. Tr. at 26. Mr. Frink used a cost of capital that reflected a return on equity in line with that being authorized by the Commission in other dockets, and the Company's current cost of long-term and short-term debt. Tr. at 26-27. Based on this method, Mr. Frink calculated a revenue deficiency of approximately \$766,000. Tr. at 27. He supported the Company's request for a revenue increase of a lesser amount, which represented about a 50 percent decrease from his calculation and was consistent with the Company's objective of keeping its steam rates competitive with other fuel sources pending the Company's restructuring and the new plant becoming operational. Tr. at 27-28.

Staff also supported the Company's request for a November 1, 2009 effective date for temporary rates so that the increase in distribution rates would coincide with a decrease in the Company's annual cost of energy. Tr. at 27. Staff supported the Company's request for waivers of certain filing requirements as a means to limit rate case expenses and customer bill impacts. Tr. at 27-28. Finally, with regard to permanent rates, Mr. Frink stated that although the Company's request appeared reasonable, a thorough investigation would be undertaken to ensure that the proposed rates were appropriate. Tr. at 29.

### **III. COMMISSION ANALYSIS**

RSA 378:27 requires the Commission to set temporary rates at a reasonable level, which the New Hampshire Supreme Court has determined must be:

sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service less accrued depreciation, as shown by the reports of the utility filed with the commission, unless there appears to be reasonable ground for questioning the figures in such reports.

*Appeal of the Office of Consumer Advocate*, 134 N.H. 651, 661 (1991). The Court has further held that “[t]his standard is ‘less stringent’ than the standard for permanent rates, in that temporary rates shall be determined expeditiously, without such investigation as might be deemed necessary to a determination of permanent rates.” *Id.* at 660 (citation and quotation marks omitted). The effect of establishing current rates as temporary rates ensures that the utility ultimately receives “just and reasonable” rates that are fixed as permanent rates, consistent with the Court's holding in *Public Service Company of New Hampshire*, 102 N.H. 66, 70 (1959). In addition, as the Court observed in *Appeal of Pennichuck Water Works*, 120 N.H. 562, 564

(1980), the effective date of temporary rates “fixes and determines the period during which the rates allowed in the underlying permanent rate proceeding may apply.”

Based on the record in this case and the applicable legal standard, we find that Concord Steam has demonstrated that its request for temporary rates is warranted. The Company is clearly not earning its allowed rate of return and increasing its rates on a temporary basis pending investigation of its permanent rates is justified. In addition, we find that the effective date for temporary rates proposed by Concord Steam, November 1, 2009, is reasonable in that it will allow the new rates to be in effect during the Company’s higher earning winter period and it will coincide with the effective date of the Company’s new cost of energy rate. Finally, we note that temporary rates are subject to reconciliation pursuant to RSA 378:29 after the final determination of permanent rates.

We turn to the Company’s request for waiver of a number of the rate case filing requirements found at Puc 1604.01(a). First, the Company seeks a waiver of the requirement to file a cost of service study because it does not intend to alter its rate design. Additionally, the Company requests waivers of the requirements to file Form 10K and Form 10Q from the Securities and Exchange Commission (SEC), a depreciation study, quarterly income statements and a statistical report, contending that such items are not available. Finally, the Company seeks waivers of the filing requirements relative to parent and subsidiary relationships because such documentation is inapplicable to Concord Steam.

After reviewing the Company’s filing, pursuant to Puc 201.05, we will grant the requested waiver for a cost of service study, as there is no change proposed in the Company’s rate design. Undertaking the time and expense of a cost of service study in this instance would

not serve the public interest. We also grant the requested waiver regarding parent and subsidiary relationships, as they are inapplicable to the Company. The requirement that Concord Steam file SEC forms is also waived, in that the Company is not publicly traded and thus is not required to file a Form 10K or 10Q. Similarly, the requirement of statistical reports applies only to gas and electric utilities and thus will be waived.

As to the reports that Concord Steam states are unavailable, we take them in order. Concord Steam has not undertaken a depreciation study for this filing. Given the aging generation infrastructure that the Company hopes to shut down in the next two years, and the desire to keep rate case expenses to a minimum for a small company facing competitive pressures, we conclude there is not sufficient value to be gained from a depreciation study on Concord Steam's assets. The time and expense of a full depreciation study in this instance does not serve the public interest and the requirement will be waived pursuant to Puc 201.05. During the discovery process in this docket, however, the Company should be prepared to discuss the depreciation rates applied to its assets.

Our rules require quarterly income statements for the previous five years, which Concord Steam states are not available. Given the desire to keep rate case expenses at a minimum, we will not require the Company to create such income statements at this time. The information, on an annual basis, is contained within the reports on file with the Commission and thus we will grant the waiver pursuant to Puc 201.05. During the course of discovery, however, Concord Steam should be prepared to discuss the information contained within these reports and break out the data on a quarterly basis, if so requested by Staff.

Finally, the procedural schedule proposed by the Company and Staff is reasonable and we therefore approve it.

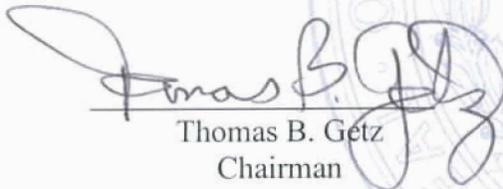
**Based upon the foregoing, it is hereby**

**ORDERED**, that temporary rates as requested by the Concord Steam Corporation are **APPROVED**, commencing on November 1, 2009 on a service-rendered basis; and it is

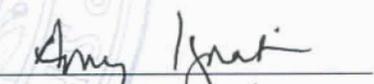
**FURTHER ORDERED**, that the Company's request for waiver of certain filing requirements is **GRANTED**; and it is

**FURTHER ORDERED**, that the proposed procedural schedule set forth herein is **APPROVED**.

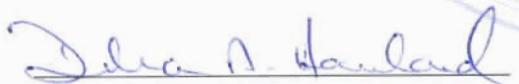
By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of October, 2009.

  
Thomas B. Getz  
Chairman

  
Clifton C. Below  
Commissioner

  
Amy L. Ignatius  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director

