

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 11-216

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Petition to Establish an Alternative Default Energy Service Rate

Order Denying Petition

ORDER NO. 25,320

January 26, 2012

APPEARANCES: Gerald M. Eaton, Esq., and Sarah B. Knowlton, Esq., on behalf of Public Service Company of New Hampshire; James T. Rodier, Esq., on behalf of Freedom Energy Logistics and Halifax American Energy Company; the Office of Consumer Advocate on behalf of residential ratepayers by Meredith A. Hatfield, Esq.; and Suzanne G. Amidon, Esq., on behalf of Commission Staff.

I. PROCEDURAL HISTORY

On September 23, 2011, Public Service Company of New Hampshire (PSNH or Company) filed a petition for approval of an Alternative Default Energy Service Rate ADE. In support of its petition, PSNH filed the testimony of Stephen R. Hall, the Company's Rate and Regulatory Services Manager, with attachments consisting of illustrative tariff pages. PSNH made the filing pursuant to Commission Order No. 25,256 (July 26, 2011) in Docket No. DE 10-160, *Public Service Co. of N. H., Investigation of the Effects of Customer Migration*. In Order No. 25,256, the Commission directed PSNH to develop and file as part of its 2012 default energy service filing "alternate rates and tariffs for customers who return to PSNH default energy service from competitive supply." Order No. 25,256 at 40. In its petition, PSNH recommended that Rate ADE become effective on January 1, 2012.

PSNH said that Rate ADE will be consistent with RSA 369-B:3, IV(b)(1)(A) since it will be based on PSNH's actual costs, which for Rate ADE is the forward market price (PSNH's

marginal cost) for power necessary to serve additional customers returning from competitive supply to PSNH's default energy supply. In its petition, PSNH proposed an adder to Rate ADE to recover the non-operating costs of the newly-installed wet flue gas fluidized desulfurization system (Scrubber Project) at Merrimack Station. PSNH said that Rate ADE cannot take effect until the Scrubber Project is providing service to customers and, because that had not occurred at the time of the initial filing, PSNH had not proposed a Rate ADE amount. PSNH stated that, as is customary in cases involving establishment of its default energy service rate (Rate DE), it would update the filing just prior to the hearing in the docket. PSNH expected to have more information regarding the in-service date and the costs of the Scrubber Project at that time to use in calculating the appropriate rate level and effective date for Rate ADE.

The Commission issued an order of notice on October 5, 2011 scheduling a prehearing conference for October 17, 2011. On October 12, 2011, the Office of Consumer Advocate (OCA) notified the Commission of its participation in this docket on behalf of residential ratepayers consistent with RSA 363:28. On October 13, 2011, Freedom Logistics, LLC d/b/a Freedom Energy Logistics and Halifax-American Energy Company, LLC (FEL/HAEC) filed a joint petition to intervene. On October 14, 2011, PSNH filed an objection to FEL/HAEC's petition to intervene; the Commission granted the joint petition by a secretarial letter dated October 20, 2011 and also approved a procedural schedule including a hearing scheduled for December 19, 2011.

PSNH filed the supplemental testimony of Mr. Hall and testimony of Frederick White on October 14, 2011 and included an update of Rate ADE using estimated costs for the Scrubber Project. Mr. White is a Supervisor in the Wholesale Power Contracts department of Northeast Utilities (NU) Service Company, the entity which provides services to NU's affiliates, including

PSNH. The testimony claimed that the Scrubber Project at Merrimack Station began operation on September 28, 2011 and was used and useful as of that date. PSNH calculated the adder comprising the non-operating costs of the scrubber to be 0.97 cents per kilowatt hour (kWh). PSNH stated that it would further update Rate ADE closer to the date of the hearing in this matter.

On November 4, 2011, Commission Staff filed a letter requesting that the Commission either assign a separate docket for consideration of the Scrubber Project costs, or extend the time within the current docket for consideration of those costs. Staff indicated that all parties except PSNH agreed with its recommendations. In its November 4, 2011 response to Staff's recommendation, PSNH said that while it agreed that the prudence and amount of Scrubber Project costs could be determined by the Commission in a separate docket, it would be in the best interest of PSNH customers to place the estimated Scrubber Project costs into ES rates as of January 1, 2012 to avoid deferral of approximately \$61 million.

On November 15, 2011, the Commission determined that it would open a separate docket in which to consider the in-service status, PSNH's prudence, the appropriate rate treatment and the costs of the Scrubber Project. The Commission stated that costs of the Scrubber Project would not be included in any PSNH rates proposed for effect January 1, 2012. The Commission also said that it would treat the October 14, 2011 filing as PSNH's petition in that separate docket.¹

On November 17, 2011, PSNH filed a motion for protective treatment for its response to data request OCA 1-8 that requested a "fully functioning electronic copy of the 'power supply portfolio model' " referenced in the Company's supplemental testimony. FEL/HAEC filed an

¹ The Commission designated Docket No. DE 11-250 as the docket for investigation of the Scrubber Project costs.

objection to PSNH's motion for protective treatment on November 29, 2011; FEL/HAEC withdrew its objection at hearing.

On November 22, 2011, PSNH filed the second supplemental testimony of Mr. Hall in response to the Commission's decision to consider Scrubber Project costs in a separate docket. In that testimony, the Company said that the Commission could still establish a Rate ADE for use as of January 1, 2012 by establishing Rate ADE equal to PSNH's marginal cost of providing energy service plus an adder of one cent per kWh. PSNH said that the one cent adder could remain in place until such time as PSNH begins to recover the costs of the Scrubber Project through its ES rate. PSNH further updated the filing on December 14, 2011. Based on its updated forecast, the Company estimated its marginal cost of power to be 6.33 cents per kWh, plus the one cent per kWh adder referred to in its November 22 filing. As a result, PSNH requested approval of a Rate ADE of 7.33 cents per kWh. The parties filed written closing statements on December 21, 2011.

II. POSITIONS OF THE PARTIES AND STAFF

A. Public Service Company of New Hampshire

PSNH testified that Rate ADE was developed pursuant to Order No. 25,256 in Docket No. DE 10-160. Consistent with RSA 369-B:3, IV(b)(1)(A), PSNH designed Rate ADE based on PSNH's actual cost, which for Rate ADE is the forward market price (PSNH's marginal cost) for power necessary to serve additional customers returning to PSNH's ES rate, plus an adder based on the non-operating costs of the Scrubber Project. As proposed by PSNH, Rate ADE would only be available to customers who take delivery service under Primary General Service Rate GV, Large General Service Rate LG, or Backup Service Rate B (the rate classes for PSNH's largest customers) and who return to PSNH energy service after having taken energy

service from one or more competitive suppliers for at least twelve months. The Company said that it had not designed a product for residential or small commercial customers who return to PSNH from competitive supply because such customers were billed under a different billing system than Rate GV, Rate LG and Rate B customers, and reprogramming that separate billing system would be a major effort.

According to the Company, the proposed Rate ADE was designed so that once a customer terminated service from a competitive supplier following at least twelve consecutive months of taking competitive supply, that customer must take energy service from PSNH under Rate ADE during any of the next twenty-four months. Because the default energy service rate (Rate DE), also known as Energy Service (ES), would not be available to customers during the twenty-four month period, PSNH also proposed to change the availability of Rate DE to clarify that it is not available to customers who are required to take service under Rate ADE.

To illustrate how Rate ADE would be applied, PSNH assumed that a qualifying customer has been taking service from a competitive supplier for at least twelve consecutive months and decides to return to PSNH for energy service. The commencement of service under Rate ADE would start a twenty-four month “clock” during which the customer may take service either under Rate ADE or from a competitive supplier, with no restrictions on transferring from PSNH to the competitive market or vice versa. During this twenty-four month period, if the customer subsequently switches to a competitive supplier for at least twelve consecutive months, the twenty-four month “clock” is reset and begins counting anew when and if the customer returns to PSNH for energy service. If the customer switched to competitive supply but returns to Rate ADE within twelve months, the original twenty-four month “clock” continues to run. Once the

twenty-four month period expires, the customer would thereafter be rendered service under Rate DE as long as the customer takes energy service from PSNH.

According to PSNH, prices under Rate ADE may be less than or greater than under Rate DE, depending upon PSNH's then-current marginal costs. At present, PSNH's marginal cost of providing energy service is lower than its average cost, resulting in pricing of Rate ADE to be below the pricing under PSNH's Rate DE. PSNH explained that limiting the availability of Rate ADE to customers who have taken service from a competitive supplier for at least twelve months will ensure that customers who are currently taking service under Rate DE don't terminate such service for a brief period for the sole purpose of qualifying for service under Rate ADE. Without this limitation, customers could switch from Rate DE to the competitive market and return for a period as short as one month for the sole purpose of qualifying for Rate ADE and receive a lower price, resulting in revenue loss to the detriment of all remaining Rate DE customers. The Company claimed that this limitation will prevent "gaming" by customers who would otherwise frequently switch between service from a competitive supplier and energy service from PSNH.

In the event that market prices increase in the future, PSNH's marginal cost of providing energy service could be in excess of its average cost. If that situation occurs, Rate ADE would be priced above Rate DE. According to the Company, in such an event, customers who have been taking energy service from the competitive market would then have an incentive to return to Rate DE at the very time that increased load under Rate DE would result in higher rates for all other customers. To avoid this situation, any customer who returns to energy service from PSNH after at least twelve consecutive months of service from a competitive supplier must take such service under Rate ADE rather than under Rate DE.

PSNH proposed to determine Rate ADE on an annual basis in the same time frame that PSNH determines its Rate DE. Under this scheme, prices would be effective January 1 of each year but would be subject to a mid-year adjustment on July 1 to the extent that forward market prices for the second half of the year are materially different than they were at the time that the rate was initially calculated.

The Company said that the price would be a forecast of the marginal cost to provide full requirements service to the New Hampshire load zone, plus an adder. The forecast of the marginal cost will include forward energy market prices, forward capacity market prices, forecasted ancillary service costs, forecasted Independent System Operator-New England (ISO-NE) market administration costs and forecasted renewable portfolio standard compliance costs, all of which will be determined in a manner consistent with that utilized in calculating Rate DE. In practice, the marginal cost to provide full requirements service to the New Hampshire load zone will be calculated as the change in cost to serve energy service load divided by the change in energy service sales resulting from the removal of migration from the energy service forecast.

PSNH originally proposed that the adder be equal to the non-operating costs of the Scrubber Project. Exh. 1 at 6-7. Following the Commission's letter of November 15, 2011 which stated that the costs of the Scrubber Project would not be considered in the instant docket, the Company proposed an adder of one cent per kWh. Exh. 2 at 3. PSNH proposed keeping the one cent per kWh adder in place until such time as PSNH begins to recover the costs of the Scrubber Project in energy service rates, at which point the adder would be calculated based on the non-operating costs of the Scrubber Project. *Id.* The Company said that PSNH's customers could benefit by the implementation of Rate ADE even without recovery of the Scrubber Project costs because the adder "will provide benefits to all other customers that will not otherwise

exist.” PSNH said that the purpose of the adder to be paid by customers who return to Rate ADE from competitive supply is to provide revenue in excess of PSNH’s marginal cost for the benefit to all other energy service customers. *Id.* at 4.

The Company said that the adder of one cent per kWh was reasonable, based on its judgment and stated that it doesn’t really matter how the adder is calculated as long as it exists and provides benefits to all customers. PSNH also agreed that if no customers took service under Rate ADE, the proposal would not address certain issues that were explored in Docket No. DE 10-160, because the remaining customers taking service under Rate DE would still be paying for all of PSNH’s fixed generation costs.

In its closing statement, PSNH said that its proposed Rate ADE complied with RSA 369-B:3, IV(b)(1)(A) and that it had appropriately calculated its marginal costs based on forward market prices for 2012, including capacity costs, ancillary services, Renewable Portfolio Standard costs and ISO-NE expenses that would be incurred by the return of customers from competitive supply. PSNH claimed that Rate ADE is reasonable and designed to attract customers back to default service and that the rate is adequate enough to provide a contribution to fixed energy service costs, but not so high as to discourage customers from switching to Rate ADE. In addition, PSNH said Rate ADE was designed to prevent customers “gaming” for the lowest energy service rate.

According to PSNH, the proposed Rate ADE is not discriminatory. The Company said that absolute equality in rates is not required and that there is no undue preference afforded to those customers who qualify for Rate ADE. PSNH stated that the expense and administrative burden of reprogramming the billing system under which small customers are billed is not

justified given the small number of such customers who have migrated and the small amount of associated load.

PSNH also argued that Rate ADE will not unduly harm competition. The Company said the purpose of the rate is to provide an alternative default service price for customers taking service from competitive suppliers and contribute to the default service costs above marginal costs; and that the proposed Rate ADE is another price signal for customers to use when comparing offers from competitive suppliers.

PSNH concluded by requesting that the Commission approve Rate ADE to provide migrated customers with an opportunity to return to energy service from PSNH at a time when market prices are low and to avoid the incurrence of higher costs by standard energy service customers as a result of migrated customers returning to energy service supplied by PSNH when the market price for energy is high. PSNH noted that all of the benefits realized from providing energy to returning customers at a price in excess of marginal costs will flow to standard default energy service customers.

B. FEL/HAEC

FEL/HAEC said that “default service” is electricity supply that is available to retail customers who are otherwise without an electricity supplier pursuant to RSA 374-F:2, VI. FEL/HAEC said that large customers have competitive supply available to them and therefore the proposed Rate ADE is prohibited by the statute. Further, FEL/HAEC pointed out that the price of default service for PSNH should be its “actual, prudent, and reasonable costs of providing such power” pursuant to RSA 369-B:3, IV (b)(1)(A).

FEL/HAEC said that PSNH hopes that Rate ADE will attract large customers from the competitive market; however, because the rate is based on PSNH’s marginal cost, or market cost,

it will be very unlikely that Rate ADE will be attractive to any large PSNH customer unless the customer has very poor credit. FEL/HAEC concluded by saying that implementation of Rate ADE would not address PSNH's financial problems.

C. Office of Consumer Advocate

The OCA argued that, pursuant to RSA 369-B:3, IV(b)(1)(A), the price of default service must be PSNH's actual, prudent and reasonable costs of providing such power. According to the OCA, PSNH's proposal violates this requirement because it includes a penny "add" that the Company admits is not based upon the cost to provide the service but rather is based on the Company's judgment that a penny seems right. The OCA pointed out that one cent per kWh was very close to the Company's original add, which was calculated to recover certain costs associated with the Scrubber Project. Because the ADE proposal does not represent PSNH's actual costs of providing energy service, the OCA concluded that there is no legal basis to approve it.

The OCA noted that one of the purposes of the add, according to PSNH, is to provide additional revenues in the event that the estimated costs of providing ADE service is too low. PSNH stated at hearing, however, that it is possible that the proposed ADE rate, even with the add, will be too low to recover the actual costs of providing the service, and any under-recovery will be collected from all regular default service customers. The OCA opined that this effect undermines the purpose of Rate ADE, which is to reduce the costs and risks to default energy service customers resulting from migration.

The OCA then argued that PSNH's second reason for the add, to provide benefits to regular default service customers, is problematic, as PSNH said at hearing that if no customers take Rate ADE, there will be no benefit to regular default service customers. The OCA further

pointed out that customers eligible for Rate ADE could “game the system,” thus obviating any benefits to those who are not eligible to take Rate ADE.

The OCA argued that the proposed Rate ADE is discriminatory because it is not available to all customers. The OCA noted that the Commission’s order in Docket No. DE 10-160 stated that alternate rates must be cost-based and non-discriminatory. According to the Company, PSNH will not offer Rate ADE to all residential and small commercial customers who have migrated, in part due to billing software changes that would be necessary. The OCA opined that, as a result, the Rate ADE proposed by PSNH violates RSA 378:10, which prohibits preferences or discrimination in rates. The OCA also noted that the Company had not conducted an analysis of the impact of Rate ADE on competition.

The OCA said that it was troubling for small customers that the ADE rate, which would not be available to small customers even if they have migrated, is so much lower than regular default service. For example, the regular default service rate was calculated at 7.91 cents per kWh for 2012 in Docket No. DE 11-215 while the marginal cost to serve incremental load in the instant proceeding was estimated to be 6.33 cents per kWh. The implication, according to the OCA, is that the cost related to PSNH using its own plants to provide regular default service is 1.58 cents per kWh more than the cost of buying power from the market. The OCA noted that this rate did not take into account the additional estimated costs related to the Scrubber Project, for which PSNH had proposed to add an additional 1.18 cents per kWh to regular default service, for a total default service rate of 9.09 cents per kWh for 2012. The OCA said that these rate comparisons illustrate that the excess cost of PSNH’s aging fleet is increasing rates for customers, thus driving up customer migration, and also demonstrates that the ADE rate is

unjust, unreasonable, discriminatory and not palliative of the effects of migration on customers taking default service from PSNH.

The OCA pointed out that PSNH did not work collaboratively with other parties to develop its Rate ADE as encouraged by the Commission in Order No. 25,256, nor did it seek any customer feedback in developing the proposal. In conclusion, the OCA requested that the Commission reject the proposed ADE rate and require PSNH to work with interested parties and Staff in the development of a new proposal that actually addresses the cost-shifting problems from migration.

III. COMMISSION ANALYSIS

A. Motion for Protective Treatment

PSNH requested protective treatment for its response to OCA 1-8 which provided “a fully functioning electronic copy” of the Company’s power supply portfolio model used by the Company to evaluate its generation and load responsibilities in both power and environmental markets. PSNH claimed a privacy interest in the response. According to the Company, the model contains all of the inputs used to develop not only the ADE service rate but the default energy service rate itself. While some of the of the proprietary assumptions and information regarding generating unit characteristics were removed from the model because they were not necessary to the calculation of the ADE Rate, the Company claimed that it would be disadvantaged if the model were released publicly, particularly to competitive electric suppliers. If the information about how the Company modeled its load as well as its needs for wholesale procurement of energy or Renewable Energy Certificates (RECs) were publicly available, PSNH said its ability to negotiate the best possible prices could be compromised to the detriment of its customers. In addition, PSNH stated that if the Company’s portfolio strategies were revealed to

competitive electric suppliers, they may gain an ability to negotiate with customers who might seek to migrate away from the Company's energy service rate. The Company said that this would be particularly harmful since the purpose of the ADE Rate is to attract customers back to taking electricity from PSNH.

The Right-to-Know Law provides each citizen with the right to inspect public information in the possession of the Commission. RSA 91-A:4, I. We have had occasion to rule on motions for confidential treatment in the context of confidential, commercial, and financial information regarding utilities and their affiliates. *See, Unital Corporation and Northern Utilities, Inc.*, Order No. 25,014 (September 22, 2009) 94 NH PUC 484 and *Public Service Co. of New Hampshire*, Order No. 25,037 (October 30, 2009) 94 NH PUC 611.

Following the approach in these cases, we consider the three-step analysis applied by the New Hampshire Supreme Court in *Lambert v. Belknap County Convention*, 157 N.H. 375, 382 (2008) in determining whether the information identified by PSNH should be deemed confidential and private. First, the analysis requires an evaluation of whether there is a privacy interest at stake that would be invaded by the disclosure. If no such interest is at stake, the Right-to-Know law requires disclosure. *Id.* at 382-83. Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id.* at 383. Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.* Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interest in non-disclosure. *Id.*

We have reviewed the response to OCA 1-8 *in camera* and have determined that this information is confidential to PSNH. If this information were made public, and made accessible to competitive electric suppliers, PSNH would be at a competitive disadvantage in establishing

Rate ADE. The result could be detrimental to the customers who continue to take energy service from PSNH. We find that disclosure of this information could harm customers who might end up paying higher costs for energy service if the portfolio strategy were disclosed. Further, disclosure of this information does not provide the public with any information regarding the Commission's statutory responsibilities. Therefore, we do not find that the public has an interest in disclosure of this information and grant the motion for confidential treatment in the response to data request OCA 1-8. We will not address FEL/HAEC's objection because it was withdrawn at hearing.

B. Rate ADE

PSNH's filing was made pursuant to Order No. 25,256 in Docket No. DE 10-160, which was opened because PSNH had demonstrated that, as energy service customers migrate to third party competitive supply during a time when the marginal cost to serve is lower than the average cost to serve, Rate DE increases for those customers (primarily residential and small commercial customers) who continue to take energy from PSNH. Among other things, Order No. 25,256 directed PSNH to file an alternative proposed rate for customers who return to PSNH energy service from competitive supply. The Order also identified issues to take into account regarding the design of an alternative default service rate. Specifically, the proper design of rates would need to; discourage the long-term use of default service (RSA 374-F:3, V(c)), be based on PSNH's actual, prudent and reasonable costs of providing such service (RSA 369-B:3,IV(b)(1)(A)), and be nondiscriminatory to be consistent with the policy principles of RSA 374-F. Order No. 25,256 at pp. 31-32.

PSNH designed Rate ADE based on its marginal cost for power necessary to serve additional customers returning to PSNH's default energy supply plus an adder to provide

benefits to customers who continue to take service under PSNH's Rate DE. The specific marginal cost rate proposed in PSNH's December 14 updated filing is 6.33 cents per kWh; and the adder proposed by PSNH is one cent per kWh based on its subjective judgment that one cent is an appropriate adder. The result would be a Rate ADE of 7.33 cents per kWh, which is almost a penny less than the ES rate of 8.31 cents per kWh that we approved in Order No. 25,313 (December 30, 2011) in Docket No. DE 11-215.

Our first concern is that the pricing of Rate ADE may not reflect market prices. PSNH proposes to adjust Rate ADE twice a year, in January and July, which is the schedule for its adjustments to the ES and stranded cost adjustment charge rates; and it proposes to establish those rates based on forecasts of power costs. If market prices suddenly increased or decreased, for example, in March or August of any year, under PSNH's proposal, Rate ADE would remain unchanged.

If market prices increased during the six-month period between rate adjustments, Rate ADE would be more attractive to customers who had migrated to competitive supply, and those customers could return to PSNH for energy service. If qualifying load returned to PSNH at a lower-than-market Rate ADE, PSNH would not collect sufficient revenue from returning load to pay the marginal cost of power. In this example, PSNH would have to purchase power on the market at a higher rate than the revenue collected through Rate ADE. Because the ADE rate is not reconciled to actual costs as is the DE rate, in a rising market, PSNH would then expect to recover any under-collection due to Rate ADE from customers remaining on Rate DE. Those remaining customers would pay not only the actual cost of power they receive but the additional under-collection amount associated with Rate ADE, exacerbating existing adverse effects of customer migration on the Rate DE customer group.

If market prices suddenly and significantly decreased, PSNH has acknowledged that Rate ADE customers could migrate to competitive supply and there would be no benefit to customers remaining on Rate DE. PSNH's failure to consider significant and unexpected market swings in the design of the rate could have the unintended consequence of either (1) increasing costs to customers who remain on PSNH's Rate DE, or (2) denying the benefit intended by Rate ADE. While the rate fluctuations used in these examples may seem unlikely, the examples suggest that further development is warranted.

Our second concern is that the Company designed Rate ADE so that that any customer returning to Rate ADE following 12 consecutive months of taking energy from a competitive supplier must remain on Rate ADE for a 24-month period; however, during that 24-month period, a customer would be able to move between competitive supply and Rate ADE on a monthly basis, as long as the customer did not stay with a competitive supplier for a consecutive 12-month period. The risk that customers will switch from PSNH's Rate ADE to competitive supply, whichever is at lowest cost – a form of “gaming” – is inherent to the rate design. The ability of the customer to move back and forth between competitive supply and Rate ADE, combined with fact that Rate ADE is fixed for a period of six months, increases the possibility that PSNH will under-recover costs in Rate ADE, resulting in higher costs for Rate DE customers than currently results from existing customer migration.

Finally, we find that the record does not support the calculation of the adder at one cent per kWh. Furthermore, there is enough uncertainty in the rate design to suggest that the one cent per kWh may not collect enough revenue to cover unexpected price spikes in the marginal cost of electricity that would be used to supply Rate ADE load.

With respect to other issues raised during the proceeding, the OCA argued that the proposed Rate ADE is discriminatory because it would not be offered to residential and small commercial customer rate class customers who had migrated to competitive supply, having been designed for only large commercial customers. PSNH should have as its ultimate goal the design of an alternate energy service rate that would be available to customers in all rate classes who qualify for the alternative rate upon their return to PSNH from competitive supply; however, we do not find it discriminatory or preferential that PSNH begin to offer an alternative rate to its large customers, who comprise the greatest amount of load that has migrated to competitive supply.

The OCA also argued that PSNH should have worked collaboratively with other parties to develop its proposal. In Order No. 25,256, we said that it “could prove useful” for PSNH to work with other parties in developing its alternative rate design. Order No. 25,256 at 33. While it is true that the Company was not required to seek assent in developing its proposal, the course of this proceeding does speak to the benefits of working with parties who have expressed an interest in the alternate rate design inasmuch as such collaboration may have led to the design of a mechanism that would have addressed many of the concerns raised above. Therefore, we expect that in a future filing PSNH will demonstrate its efforts towards collaboration; at the same time we want to make clear that PSNH is not compelled to submit a filing that is agreed to on all issues or by all parties.

Based on the foregoing analysis, we find that PSNH’s proposed alternative default energy service rate requires further development. We therefore direct the Company to file a redesigned Rate ADE by June 30, 2012, based on the analysis provided herein. We restate our direction in Order No. 25,256 that “such rates must be cost-based and non-discriminatory and should not

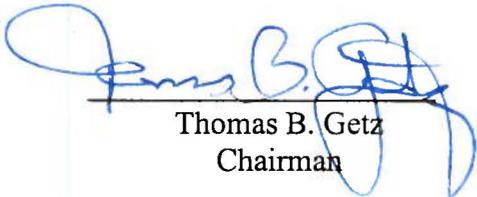
have an adverse effect on competition,” and that the alternative rate may exceed the marginal cost of default service. Order No. 25,256 at 32-33. With respect to PSNH’s large customer group, we also restate our suggestion in Order No. 25,256 that PSNH consider having a separate tariff and default service rate for its largest classes of customers generally.

Based upon the foregoing, it is hereby

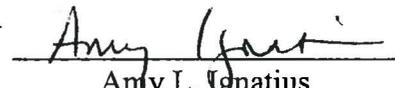
ORDERED, that the petition for a proposed Rate ADE originally filed by Public Service Company of New Hampshire on September 23, 2011 and modified by subsequent filings is hereby DENIED; and it is

FURTHER ORDERED, that the motion for protective treatment filed by Public Service Company is hereby GRANTED,

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of January, 2012.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director