

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 12-292**

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

**Proposed Default Energy Service Rate for 2013**

**Order Approving 2013 Energy Service Rate**

**ORDER NO. 25,448**

**December 28, 2012**

**APPEARANCES:** Matthew J. Fossum, Esq. on behalf of Public Service Company of New Hampshire; the Office of Consumer Advocate by Susan W. Chamberlain, Esq. on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. on behalf of Commission Staff.

**I. PROCEDURAL HISTORY**

On September 28, 2012, Public Service Company of New Hampshire (PSNH or Company) filed a proposal to establish its default energy service (ES) rate to take effect for service rendered on and after January 1, 2013. Pursuant to RSA 369-B:3, IV(b)(1)(A), customers taking ES from PSNH are billed an ES rate equal to PSNH's actual, prudent and reasonable costs of providing power, as approved by the Commission. In its filing, PSNH provided an initial estimate of 8.97 cents per kilowatt hour (kWh) for the 2013 ES rate, but stated that a final proposed rate would be filed prior to the hearing to reflect the most recent estimates of fuel and energy costs. In support of its filing, PSNH submitted the testimony and related exhibits of Robert A. Baumann, Director of Revenue Requirements for Massachusetts and New Hampshire for Northeast Utilities Service Company (NUSCO). NUSCO provides centralized services to the Northeast Utilities operating subsidiaries, including PSNH.

The Commission issued an order of notice on October 9, 2012, scheduling a prehearing conference for October 24, 2012. On October 11, 2012, the Office of Consumer Advocate

(OCA) notified the Commission of its participation on behalf of residential ratepayers consistent with RSA 363:28. On October 25, 2012, Staff filed a proposed procedural schedule, which the Commission approved by secretarial letter dated October 29, 2012. The procedural schedule noticed a hearing for December 18, 2012.

The OCA filed the testimony of Stephen R. Eckberg on November 21, 2012. Pursuant to the procedural schedule, on December 12, 2012, PSNH updated its ES rate calculations and provided a technical statement that explained the changes between the initial filing and the update. The update requested approval of an ES rate of 9.54 cents per kWh. Also on December 12, 2012, PSNH filed a report entitled "Review of Costs/PSNH Generation" (Generation Report) as required by Order No. 25,380 (June 27, 2012) in Docket No. DE 11-215, the docket designated for the review of PSNH's 2012 ES rate. Pursuant to RSA 91-A:5, IV and N.H. Code Admin. Rules Puc 203.08, PSNH filed a motion for protective order requesting confidential treatment of the contents of the Generation Report.

The hearing was held as scheduled. On December 19, 2012, in response to a record request generated at the hearing, PSNH filed the affidavit of Terrance J. Large, Director of Business Planning and Customer Support Services for PSNH which addressed the conformance of PSNH's filing with its least cost integrated resource plan (LCIRP) most recently filed and found adequate by the Commission pursuant to RSA 378:40.

Conservation Law Foundation (CLF) filed public comment on Mr. Large's affidavit on December 24, 2012. On December 24, 2012, the OCA filed a letter commenting on the affidavit of Mr. Large. Also on December 24, 2012, CLF filed an objection to PSNH's motion for protective order for the Generation Report, and PSNH filed a motion to strike the objection of

CLF. On December 27, 2012, the Commission issued a secretarial letter designating Mr. Large's affidavit as Exhibit 6 and the OCA response as Exhibit 7 in the instant docket.

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

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

In prefiled testimony, PSNH witness Robert A. Baumann stated that the Company's current ES rate of 7.11 cents per kWh was established by the Commission in Order No. 25,380 (June 27, 2012) in Docket No. DE 11-215, PSNH's 2012 ES filing. Based on the Company's preliminary calculations, Mr. Baumann said that for the period January 1, 2013 through December 31, 2013, PSNH's prudent and reasonable cost of providing energy service was expected to be 8.97 cents per kWh. Mr. Baumann testified that the proposed ES rate of 8.97 cents per kWh includes the temporary rate of 0.98 cents per kWh approved by the Commission in Order No. 25,346 (April 10, 2012) for recovery of costs associated with the installation of the wet flue gas desulfurization (Scrubber) system at PSNH's Merrimack Station generation unit. *See, Docket No. DE 11-250, PSNH, Investigation into Scrubber Cost and Cost Recovery.*

Mr. Baumann testified that the major cost categories comprising the ES costs are revenue requirements for owned generation assets and the costs of purchased power obligations, the fuel costs associated with PSNH's generation assets, the costs from supplemental energy and capacity purchases, certain Independent System Operator-New England ancillary service charges and the cost of compliance with the New Hampshire Renewable Portfolio Standard (RPS) (RSA 362-F) and the Regional Greenhouse Gas Initiative (RSA 125-O:19 *et seq.*). The generation revenue requirements include non-fuel costs of generation, including non-fuel operation and maintenance costs, allocated administrative and general costs, depreciation, property and payroll taxes and a return on the net fossil/hydro investment.

PSNH included Independent Power Producer (IPP) generation as a source of power to meet PSNH's load requirements and stated that IPP power costs are based on projected market costs for energy and capacity. PSNH explained that the over-market costs of purchases from the IPPs are recovered through Part 2 of the stranded cost recovery charge (SCRC). As market prices change, the value of IPP purchases recovered through the ES rate changes. At the same time, however, there is a corresponding change to the SCRC for the above-market value of IPP purchases. To properly match the recovery of IPP costs, PSNH said it also separately filed for a change in the SCRC for effect on January 1, 2013 (Docket No. DE 12-291).

Mr. Baumann testified that the level of migration (the percentage of customer load receiving energy supply service from competitive suppliers) assumed in the Company's initial filing reflected the actual August 31, 2012 migration level of 40.0%. In proposing an ES rate for 2013, PSNH said it did not presume that customers will migrate more or less than the actual level of 40%.

In accordance with the procedural schedule, PSNH updated its ES rate calculations on December 12, 2012 and provided a technical statement that explained the changes between the initial filing and the update. The update requested approval of an ES rate of 9.54 cents per kWh, an increase of 0.57 cents per kWh from the ES rate of 8.97 cents per kWh proposed in the initial filing, and an increase of 2.43 cents per kWh over the current rate of 7.11 cents per kWh. PSNH testified that it included the temporary Scrubber cost recovery rate of 0.98 cents per kWh in the calculation of the 9.54 cents per kWh rate. According to PSNH, the increase in the ES rate calculated for 2013 is primarily due to an increase in the forecasted market price of power and an increase in the rate of customer migration from 40.0% in the initial filing to 42.5%, reflecting

migration as of October 2012. In addition, PSNH forecast that ES sales would be 4% lower than the estimates forecast in the initial filing, primarily due to customer migration.

During the hearing, PSNH introduced Exhibit 3 which depicted the cost components included in overall customer rates and the percentage increases and decreases proposed for effect in the SCRC and ES rate beginning January 1, 2013. According to Exhibit 3, the updated request for the 2013 ES rate to 9.54 cents per kWh represents an increase of 34.18% over the current rate of 7.11 cents per kWh

PSNH testified that the Generation Report was filed pursuant to Commission Order No. 25,380. Regarding the Report, PSNH said that Staff, the OCA and the Company agreed that the Generation Report should be fully investigated and that it was premature to address it in the hearing on ES rates proposed for effect beginning January 1, 2013.

The OCA raised a question at hearing regarding whether all of the contents of the Report should be entitled to confidential treatment as requested in PSNH's motion for protective order. PSNH said that it would discuss this issue with Staff and the OCA to determine whether any information in the report could be provided in a public filing.

The OCA also asked the Commission to determine whether PSNH complied with RSA 378:40, relative to least cost planning requirements, in its petition to establish an ES rate for 2013. PSNH did not have a witness available at the hearing who could speak to the Company's compliance with RSA 378:40 and, consequently, the Commission reserved Exhibit 6 for the Company's response.<sup>1</sup> On December 19, 2012, PSNH filed the affidavit of Mr. Terrance J. Large (Exhibit 6) in which Mr. Large attested that the filing in the instant docket conformed to PSNH's 2007 LCIRP, the LCIRP most recently filed with and found adequate by the

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<sup>1</sup> At the hearing, the Commission provided Staff and the OCA opportunity to comment on PSNH's record request response. The OCA filed a letter with the Commission on December 24, 2012; Staff did not make a comment filing.

Commission. Mr. Large further stated that PSNH's most recent LCIRP filing in Docket No. DE 10-261 is currently pending before the Commission.

**B. Office of Consumer Advocate**

The OCA stated that PSNH's operation model causes the fixed price of generation to be borne by a shrinking customer rate base consisting primarily of residential customers, and that the result is unfair to those customers. The OCA stated that as PSNH's ES rate moves higher than the market price, more customer migration will result. The OCA opined that it is unfair that large customers are not supporting the fixed cost of generation. The OCA said that the filing is reasonable, however, the overall structure of PSNH's ES rates cannot continue. The OCA referred to the Generation Report and stated that it had not had time to review it, that the Generation Report would be subject to ongoing review, and that the OCA would participate in that review.

On December 24, 2012, the OCA filed a letter stating that it was unable to take a position regarding the affidavit of Mr. Large because the affidavit did not add to the record in a substantive manner.

**C. Staff**

Staff said that PSNH had calculated the ES rate consistent with the manner in which it calculated the ES rate in previous filings and stated that it did not object to the petition. Staff noted that the Company's proposed rate is over market which is of concern from a customer perspective and cautioned that the rate may cause more customer migration which would continue to push PSNH's rates higher going forward. With respect to PSNH's Generation Report, Staff said that it had discussed the matter with the Company and the OCA and that the parties were in agreement that, due in part the limited time available to review the Generation

Report for this hearing, the Staff and the OCA should be given an opportunity to examine the Generation Report. Staff said that any recommendations that result from the examination could be addressed in the proceeding to consider PSNH's the mid-year adjustment to its ES rate.

### **III. COMMISSION ANALYSIS**

Pursuant to RSA 369-B:3, IV(b)(1)(A), the price of PSNH's ES shall be its "actual, prudent, and reasonable costs of providing such power, as approved by the commission." The genesis of the two-part procedure for calculating default service rates, which PSNH refers to as ES rates, and the reconciliation of those rates, lies in RSA 374-F, and the Settlement Agreement in Docket No. DE 99-099, which implemented electric utility restructuring for PSNH, and Docket No. 02-166, Order No. 24,117 (January 30, 2003), which further refined the mechanism for setting transition service rates, now ES rates. Because PSNH is entitled to recover its *actual* costs of providing power and those costs cannot be known prior to providing that power, the Commission has adopted a two-step process for setting ES rates. The first step, which is determined in this docket, is based upon an estimate of future costs for the following calendar year. The second step, which occurs after the power has been produced or purchased and delivered, involves reconciling the estimated rate with the actual costs and reviewing the prudence of those costs.

PSNH has requested an ES rate of 9.54 cents per kWh for effect with service rendered on and after January 1, 2013 and the Company has provided supporting data and documentation that demonstrates that the rate was correctly calculated. While there is no technical deficiency to the filing, the fact that the proposed ES rates are increasing by such a significant percentage impacts PSNH's energy service customers and could exacerbate customer migration. By our calculation,

for a residential customer using 500 kWh per month, the energy service component of their bill would increase by \$12.15 per month, from \$35.55 to \$47.70—a significant increase.

In calculating the costs for power in 2013, PSNH stated it did not consider the volume of purchased power commitments and the associated price of that power resulting from a power purchase agreement between the Company and Berlin Station, a biomass-fired generating plant under construction in Berlin, New Hampshire. According to the Company, Berlin Station may begin producing power in the fall of 2013. While we understand there is some uncertainty regarding the expected in-service date for the Berlin Station, we expect that if PSNH has updated information on the status of the Berlin Station at the time it files for a mid-year adjustment to the ES rate, that the Company will include information and any associated costs in that mid-year filing.

As noted above, at hearing, the OCA asked the Commission to determine whether PSNH complied with RSA 378:40 in its petition to establish an energy service rate for 2013. The statute reads as follows:

No rate change shall be approved or ordered with respect to any utility that does not have on file with the commission a plan that has been filed and reviewed in accordance with the provisions of RSA 378:38 and RSA 38:39. However, nothing contained in this subdivision shall prevent the commission from approving a change, otherwise permitted by statute or agreement, where the utility has made the required plan filing in compliance with RSA 378:38 and the process of review is proceeding in the ordinary course but has not been completed.

At the hearing, we pointed out that RSA 378:41 is also implicated in proceedings before the Commission. RSA 378:41 reads as follows:

Any proceeding before the commission initiated by a utility shall include, within the context of the hearing and decision, reference to conformity of the decision with the least cost integrated resource plan most recently filed and found adequate by the commission.

Because PSNH did not have a witness at the hearing to address compliance with RSA 378:40, we issued a record request to allow PSNH to provide a written response on the issue. The response provided by PSNH was an affidavit signed by Mr. Large which addressed the request for adjustment to the SCRC rate in Docket No. DE 12-291 and the adjustment to PSNH's ES rate in the instant docket. In the affidavit, Mr. Large attested to the instant filing being in conformance with PSNH's 2007 LCIRP, the most recent LCIRP filed with and found adequate by the Commission. Mr. Large further stated that PSNH's most recent LCIRP filing in Docket No. DE 10-261 is currently pending before the Commission.

We have reviewed the assertions made by Mr. Large in his affidavit and find that, as Mr. Large averred, the LCIRP most recently reviewed and found adequate by the Commission was filed by PSNH on September 28, 2007 in Docket No. DE 07-108. In Order No. 24,966 (May 1, 2009) in Docket No. DE 07-108, the Commission ruled on a motion for rehearing and required PSNH to file its next LCIRP no later than May 3, 2010. Subsequently, in Docket No. DE 09-180, PSNH's 2010 Energy Service docket, we directed the Company to file its next LCIRP no later than September 30, 2010, the date on which PSNH made the LCIRP filing in Docket No. DE 10-261. *See* Order No. 25,061 (December 31, 2009).<sup>2</sup> The filing in DE 10-261 is currently pending our review.

The 2007 LCIRP, which was found adequate by the Commission, contains several sections which describe the process whereby PSNH provides energy service to its default service customers, including the following description of the annual establishment of ES rates.

Energy Service Rate – The Energy Service rate for 2007 is based upon the currently effective Energy Service rate, updated for current power market conditions as of February 14, 2007. The Energy Service rates for 2008-2012 are adjusted annually to reflect the forecasted energy and capacity cost from PSNH's owned generating assets and

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<sup>2</sup> In Order No. 25,061, the Commission extended the LCIRP filing deadline to allow PSNH additional time to perform a continued unit operation study of its Newington generation unit. Order No. 25,061 at 31.

the projected market cost of purchasing additional energy to serve load. PSNH LCIRP filing, September 28, 2007 p 21-22.

In this petition, PSNH seeks to make the annual adjustment to its ES rate consistent with the terms of the 2007 LCIRP, the LCIRP most recently filed and found adequate by the Commission. In addition, pursuant to RSA 369-B:3, IV(1)(A), the price for PSNH default service shall be PSNH's "actual, prudent, and reasonable costs of providing such power, as approved by the commission." Based on the foregoing, we find that PSNH's energy service filing conforms to the most recent LCIRP filed and found adequate by the Commission pursuant to RSA 378:41.

PSNH filed a motion for protective order for its Generation Report related to the costs of its generation units. At hearing, the OCA expressed concern that some of the material in the Generation Report is not entitled to confidential treatment and the Commission noted that the entire Generation Report was redacted. In response to this concern, PSNH agreed that it would review the information contained in the Generation Report with the OCA and Staff to determine whether any information in the Report could be made publicly available. We expect that, in the event that the Company determines that some of the information need not be protected, it will withdraw the pending motion for protective order and file a more limited pleading for confidential treatment.

CLF filed an objection to PSNH's motion for protective order. CLF states that it was a party to Docket No. DE 11-215, the proceeding in which the Commission directed PSNH to file the Report on generation costs. Order No. 25,380 (June 27, 2012). The Commission rules provide that if a party has a duty, right, privilege or interest in a proceeding, the party may file a motion to intervene in that proceeding. New Hampshire Code Admin. Rules Puc 203.17. CLF did not file a motion to intervene in the instant proceeding.

PSNH filed a motion to strike CLF's objection on the basis that CLF is not a party to this proceeding and is therefore not eligible to file formal pleadings. Because PSNH is now evaluating whether the request for protection was broader than it needed to be, it would be premature at this time to take any action on PSNH's motion for protective order or CLF's objection to the motion. If a revised motion for protective treatment is not submitted within 14 days of this order, we will rule on PSNH's December 12, 2012 motion as well as the CLF objection and PSNH motion to strike.

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

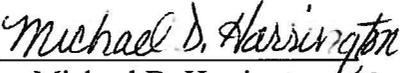
**ORDERED**, that the petition of Public Service Company of New Hampshire to adjust its energy service rate to 9.54 cents per kilowatt hour effective with service rendered on and after January 1, 2013 is hereby APPROVED; and it is

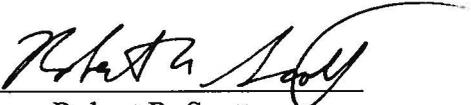
**FURTHER ORDERED**, that issues regarding PSNH's motion for protective treatment are held in abeyance pending PSNH's opportunity, within 14 days of the date hereof, to seek a modified request for protection; and it is

**FURTHER ORDERED**, that PSNH shall file tariffs conforming to this Order within 30 days of the date hereof.

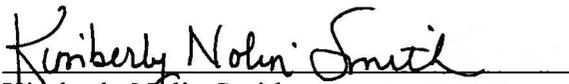
By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of  
December, 2012.

  
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Amy L. Ignatius  
Chairman

  
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Michael D. Harrington  
Commissioner

  
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Robert R. Scott  
Commissioner

Attested by:

  
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Kimberly Nolin Smith  
Assistant Secretary