STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 09-038

NEW HAMPSHIRE GAS CORPORATION

Petition for Permanent Rate Increase and for Temporary Rates

Order Approving Temporary Rates

ORDER NO. 24,964

April 30, 2009

APPEARANCES: Meabh Purcell, Esq., of Dewey & LeBoeuf LLP, on behalf of New Hampshire Gas Corporation; and Matthew J. Fossum, Esq. and Edward N. Damon, Esq., for the Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

On April 1, 2009, New Hampshire Gas Corporation (NHGC or Company) filed with the Commission a Petition for Rate Increase seeking permission to implement new permanent propane air service delivery rates. Pursuant to RSA 378:27 it also requested permission to charge temporary rates, effective with service rendered on and after May 1, 2009. The Company also sought a waiver of certain provisions of N.H. Code Admin. Rules Puc 1604.01, requiring the filing of certain information by a public utility applying for rate relief, as well as a waiver of Puc 1203.02(c) and (d), which require a utility to send each of its affected customers a statement of the rate schedules applied for within 30 days of the filing. On April 2, 2009, the Commission issued Order No. 24,955, suspending the tariffs included in the Company's delivery rate filing and scheduling a pre-hearing conference coupled with a hearing on temporary rates for April 21, 2009. On April 20 the Office of the Consumer Advocate (OCA) notified the Commission of its limited participation in the docket on behalf of residential ratepayers consistent with RSA 363:28. There were no other intervenors in this docket. On April 20, 2009, Staff filed the direct testimony of Stephen P. Frink, Assistant Director of the Gas & Water Division and the pre-hearing conference and hearing on temporary rates were held on April 21, 2009.

II. POSITIONS OF THE PARTIES AND STAFF

A. NHGC

NHGC proposed permanent distribution rates are designed to produce an increase of $423,806 in annual revenues, representing a 42 percent increase in distribution revenues compared to current distribution rates. As a result of significantly lower commodity rates during the test year, the overall rate impact (proposed distribution rates and current commodity rate) on residential and commercial customers is a decrease of 24 and 34 percent, respectively.

In its petition, NHGC requested that the Commission, pursuant to RSA 378:27, grant temporary distribution rates designed to produce a temporary increase of $69,995 in annual revenues. The Company requested that the temporary rates be effective May 1, 2009 on a service-rendered basis in accordance with the rate design proposal set forth in its temporary rate filing. This rate design is essentially the same as the current delivery rate structure, with the temporary rate factor of $0.058 added to all blocks for each rate class. In support of its petition, NHGC asserted that it earned less than a one percent rate of return for the 12-month test year ended December 31, 2008. Further, pursuant to a settlement agreement in DG 02-003, NHGC has been collecting additional revenue in approximately the same amount as the proposed temporary rate increase as a "deferred revenue surcharge." Collection of the deferred revenue surcharge under the settlement will end on April 30, 2009. *See New Hampshire Gas Corp.*, Order No. 24,102 (December 23, 2002). As a result, the termination of the deferred revenue surcharge would be offset by the increase in temporary rates and customers would not see any significant rate change if the proposed temporary rates went into effect on May 1, 2009. Likewise, distribution revenues would remain essentially unchanged.

In addition to requesting temporary rates, NHGC requested a waiver of certain portions of Puc 1604.01(a), and 1203.02(c) and (d), which require the filing of certain information by any utility applying for rate relief. NHGC asserted that complying with the filing requirements of Puc 1604.01 would be unnecessarily burdensome, and would result in unnecessary added rate case expense. NHGC asserted that a waiver of Puc 1203.02(c) and (d) is appropriate because the intent of the rule, sufficient notice to customers of the proposed rate increase, can be achieved through display ads in local newspapers, and publication of the order of notice. At the hearing, however, the Company indicated that it would be willing to issue a notice via a bill insert or a mailing, whichever was less expensive. Also at the hearing, the Company requested that its temporary rate increase of $0.0528 per therm be effective May 1, 2009 on a bills-rendered basis, rather than a service-rendered basis as requested in its petition. This is so because the billing system does not support service-rendered billing and it would be costly to implement a new system. Moreover, the Company has traditionally used a bills-rendered approach to which its customers are accustomed. Accordingly, NHGC requested a waiver of Puc 1203.05(b) which requires that rate changes be implemented on a service-rendered basis.

B. OCA

OCA stated that it had no objection to the temporary rates proposed by the Company. OCA did make certain that the institution of temporary rates would not overlap with the deferred revenue surcharge and result in a “double” impact to ratepayers, but otherwise expressed no objection to temporary rates. OCA agreed with Staff’s proposal for a bill insert notifying customers of the rate change.

C. Staff

Staff supported the proposed temporary increase in rates, noting that there would be little or no impact on customer bills as a result of the increase because the temporary rate increase is designed to offset the expiring deferred revenue surcharge. Staff testified that the requested temporary rates are intended to maintain non-gas revenue at the test year level – revenue that resulted in negative earnings of approximately one percent. Staff noted that the 2008 winter months were only 1.4 percent warmer than normal and, therefore, increased sales and revenues that would have been realized under normal weather would not have had a significant impact on the Company's substantial under earning. Staff stated that although the Company has been earning well below its allowed rate of return, NHGC has demonstrated the ability to provide safe and reliable service at the current revenue level. That revenue level would be maintained under the proposed temporary rates.

Staff also supported NHGC's request for a waiver of certain of the provisions of Puc 1604.01 related to filing information about the parent company. Since the parent company is a very large international energy company it is reasonable to assume that the information regarding the parent company required pursuant to the Commission rules is of little or no relevance to the Commission's review of NHGC. Staff supported conditional approval of NHGC's request for a waiver regarding information directly related to the operation of NHGC, such as cost of service and depreciation studies. Staff testified that such studies can be expensive and shared the Company's concern regarding the potential rate impact, but noted that those studies are relevant to the Commission's review. Staff will attempt to address the cost of service and depreciation issues absent such studies, but reserves the right to request such studies if Staff determines that such studies are essential.

As to NHGC's request to waive Puc Rule 1203.02(c) and (d), the requirement whereby each customer is to be provided a clear and concise statement of the rate schedules and applicability within 30 days from the date of the filing, Staff recommended that the 30 day requirement be waived, but that the other notice requirements pursuant to the rule be enforced. Staff suggested that because the filing was made April 1 and NHGC issues bills early in the month, a May bill insert would provide notice just beyond the 30 day requirement and would eliminate some mailing costs. Such a process would provide the necessary notice without significantly increasing rate case expenses. Staff recommended that the Commission allow additional time for customers to file for intervention due to the delay in customer notice.

As to the Company's requested waiver of Puc 1203.05(b) regarding a change in rates on a bills-rendered, rather than a service-rendered, basis, Staff supported the Company's request. Staff emphasized that the Company has made clear that its billing system does not support service-rendered billing and that changing the system would be expensive and time-consuming.

Staff recommended Commission approval of NHGC's proposed rate design for temporary rates. NHGC's proposal to increase the volumetric charge by $0.0528 per therm is designed to provide the requested increase in the revenue requirement and is consistent with how the expiring deferred revenue surcharge was collected. Therefore, the increase will have no impact on customers' rates.

Finally, Staff took the opportunity to state its initial position on NHGC's permanent rate filing, expressing concern with: (1) the 11.25 percent return on equity the Company is seeking – a rate far in excess of what the Commission has recently granted other utilities; (2) the overall amount of the proposed rate increase and related rate impact; (3) estimated rate case expenses;

and (4) failure to provide any analysis on how the proposed rate increase would impact NHGC's ability to compete with the alternative energy providers in the Keene area.

III. COMMISSION ANALYSIS

Pursuant to RSA 378:27, the Commission may grant temporary rates for the duration of the proceeding if, in its opinion, the public interest so requires and the records of the public utility on file with the Commission indicate it is not earning a reasonable return on its property used and useful in the public service. The standard for approval of temporary rates is less stringent than that for permanent rates. Temporary rates are to be determined expeditiously and without the extent of investigation necessary for determining permanent rates. *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 660 (1991).

We find that temporary rates are appropriate in the circumstances present here. The Company's last approved increase in delivery rates was based on a 2001 test year and was designed to yield an overall rate of return of 4.3 percent. Based on its books and records, NHGC's actual rate of return for the 2008 test year is well below the authorized return and, without relief, future years will likely produce operating losses. In such an instance, we conclude that temporary rates are appropriate. Furthermore, temporary rates are appropriate here because the Company's collection of the deferred revenue surcharge will cease at month's end and should the current level of revenue not be maintained, the Company will face a significant shortfall while awaiting the conclusion of its permanent rate case.

We also conclude that approval of temporary rates is in the public interest. NHGC is, as noted, earning little return and will soon probably lose money. There is, therefore, some risk that a denial of temporary rates would strain the Company's finances. Ratepayers would be ill served by denying temporary rates when that denial may contribute to the financial instability of the

Company. Also, because the temporary rates are at an amount already borne by the ratepayers, the impact on their bills would be slight.

Consistent with RSA 379:29, temporary rates are reconciled with permanent rates upon a final determination of permanent rates. Thus, the Company may recoup any under-recovery while customers will be credited with any over-recovery. We are not, however, called upon here to decide the issue of how any over- or under-recovery will be handled following the reconciliation. We conclude only that the proposed temporary rates are reasonable and appropriate.

Regarding the Company's waiver requests, the Commission may grant a waiver of its rules provided the waiver serves the public interest and will not disrupt the orderly and efficient resolution of the matters before it. N.H. Code Admin. Rules Puc 201.05. Under this framework, we agree with the conditional approval suggested by Staff. As to NHGC's request for a waiver of certain of the provisions of Puc 1604.01 related to filing information about the parent company, we agree that information about the parent company is likely of little or no relevance to the Commission's review of NHGC, and thus need not be provided at this time. As to the waiver regarding information directly related to the operations of NHGC, such as cost of service and depreciation studies, we conclude that the waiver is appropriate given the expense of such studies and the desire to contain rate case expenses. Such expenses are of special concern in this case where the customer base is relatively small and substantial expenses would be onerous for them to bear. However, we also conclude that should the information identified in the rule be considered necessary to a complete review of NHGC's rates, this waiver may be modified or rescinded.

Regarding the waiver of notice under Puc 1203.02(c) and (d), at the hearing the Company agreed with Staff's suggestion to provide notice to customers by a bill insert, and stated it would provide customer notice through either a bill insert or a mailing, whichever was less expensive. We conclude that a letter or bill insert is a reasonable means to provide the necessary notice to customers and the least cost option should be used to contain expenses. We will waive the notice deadline set out in the rule. In the interest of fairness, we also will extend the time for interested parties to intervene as set out below.

Finally, in regard to the Company's request for a waiver of 1203.05(b) regarding service-rendered billing, we conclude that a waiver is appropriate. The Company's billing system will not readily or inexpensively adapt to a change from a bills-rendered system to a service-rendered system. Moreover, the customers are accustomed to a bills-rendered system. We conclude that the benefit to be obtained from requiring the implementation of a service-rendered system is outweighed by the desire for continuity of the Company's systems and the interest in containing expenses.

Based upon the foregoing, it is hereby

ORDERED, that temporary rates be allowed as set forth in 7th Revised Pages 19-20 attached to NHGC's petition for temporary rates, with temporary rates to be effective May 1, 2009 on a bills-rendered basis; and it is

FURTHER ORDERED, that NHGC's request for a waiver of Puc 1203.05(b) is GRANTED and NHGC may collect on a bills-rendered basis; and it is

FURTHER ORDERED, that NHGC's request for waivers of the Commission's rules under Puc 1604.01 is GRANTED to the extent described; and it is

FURTHER ORDERED, that NHGC's request for a waiver of the requirements of Puc 1203.02 is GRANTED as to the 30 day requirement only and that notice shall be provided to customers through a mailing or bill insert no later than May 15, 2009; and it is

FURTHER ORDERED, that any party seeking to intervene in the proceeding shall submit to the Commission an original and eight copies of a petition to intervene with copies sent to the Company and the Office of the Consumer Advocate on or be lore May 30, 2009, such petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Admin Rule Puc 203.17 and RSA 541-A:32, 1(b).

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 2009.

Thomas B. Getz Chairman	Graham J. Morrison (KNS) Commissioner	Clifton C. Below Commissioner

Attested by:

Debra A. Howland
Executive Director

STEPHEN R ECKBERG
OFFICE OF CONSUMER ADVOCATE
21 SOUTH FRUIT ST STE 18
CONCORD NH 03301

MEREDITH A HATFIELD
OFFICE OF CONSUMER ADVOCATE
21 SOUTH FRUIT ST STE 18
CONCORD NH 03301

MEABH PURCELL
DEWEY & LEBOEUF LLP
260 FRANKLIN ST
BOSTON MA 02110-3173

KEN E TRAUM
OFFICE OF CONSUMER ADVOCATE
21 SOUTH FRUIT ST STE 18
CONCORD NH 03301-2429

KAREN ZINK
NEW HAMPSHIRE GAS CORP/THE BE
115 CHESHIRE RD
PITTSFIELD MA 01201

04/30/09 Order No. 24,964 issued and forwarded to all parties.
Copies given to PUC Staff.

Docket #: 09-038 Printed: April 30, 2009

FILING INSTRUCTIONS: PURSUANT TO N.H. ADMIN RULE PUC 203.02(a),

WITH THE EXCEPTION OF DISCOVERY, FILE 7 COPIES (INCLUDING COVER LETTER) TO:

DEBRA A HOWLAND
EXEC DIRECTOR & SECRETARY
NHPUC
21 SOUTH FRUIT STREET, SUITE 10
CONCORD NH 03301-2429