

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 12-068

NORTHERN UTILITIES, INC.

2012 Summer Season Cost of Gas

**Order Approving Cost of Gas Rate and
Granting Motion for Confidential Treatment**

ORDER NO. 25,354

April 30, 2012

APPEARANCES: Susan S. Geiger, Esq., Orr & Reno, P.A., on behalf of Northern Utilities, Inc., and Alexander F. Speidel, Esq., for the Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

On March 15, 2012, Northern Utilities, Inc. (Northern or Company) filed proposed rate adjustments pursuant to the Cost of Gas (COG) clause in its tariff for the period May 1, 2012 through October 31, 2012, applicable to Northern's natural gas operations in the southeastern and seacoast areas of New Hampshire. *See* Hearing Exhibit 2, March 15, 2012 COG Filing. The filing was accompanied by supporting schedules and the direct testimony of Christopher A. Kahl, Francis X. Wells, and Joseph F. Conneely for Unutil Service Corporation, an affiliate company of Northern. In addition, Northern filed a motion for confidential treatment regarding specific schedules in the summer 2012 COG filings.

On March 23, 2012, the Commission issued an order of notice scheduling a technical session for April 9, 2012 and a hearing for April 19, 2012. The technical session was held as scheduled; on April 13, 2012, Northern filed a revised proposed COG rate for the summer season. *See* Hearing Exhibit 4, April 13, 2012 Updated COG Filing. The hearing was held as

scheduled on April 19, 2012, before Hearings Examiner F. Anne Ross, Esq. There were no intervenors. Hearings Examiner Ross filed a report regarding this hearing on April 26, 2012 in which she recommended approval of the revised summer COG rates as filed, and adopted Staff's recommendations related to ancillary matters at issue. *See* Hearing Examiner's Report of F. Anne Ross.

II. POSITIONS OF THE PARTIES AND STAFF

A. Northern

Among other things, Northern's witnesses Kahl, Wells and Conneely addressed the calculation of the proposed COG rates and customer bill impacts.

1. Calculation of the Proposed Firm Sales COG Rates and Bill Impacts

Pursuant to the COG clause, Northern, with the Commission's approval, may adjust on a semi-annual basis its firm gas sales rates in order to recover the costs of gas supplies, capacity and certain related expenses, net of applicable credits, as specified in Northern's tariff. The average COG rate, which is the COG rate payable by residential customers, is calculated by dividing total anticipated direct costs of \$3,165,697 and total indirect costs of \$18,025 by projected summer season sales of 7,466,573 therms. Costs include: anticipated indirect gas costs, consisting of working capital, bad debt, and overhead charges; anticipated direct costs, consisting of pipeline transportation capacity, storage capacity and commodity charges; and adjustments, including a prior period over-collection and interest, and anticipated losses from hedging.

Northern's filing proposes a 2012 summer season residential COG rate of \$0.4264 per therm, a decrease of \$0.1954 per therm from the weighted average 2011 summer season

residential COG rate of \$0.6218 per therm. The impact of the proposed firm sales COG rate is an overall decrease in the typical residential heating customer's summer gas costs of approximately \$58, or 14.5 percent, when compared to the average COG rates for the 2011 summer season.

Northern's proposed commercial and industrial (C&I) low winter use and high winter use COG rates are as follows: \$0.3835 per therm for the low winter use COG rate and \$0.4597 per therm for the high winter use COG. The reduction in low winter use and high winter use COG rates for C&I customers for the 2012 summer season are comparable to the reduction in residential rates.

2. Reasons for the Decrease in the COG Rates

According to Northern, the decrease in the proposed COG rates, as compared to last summer's rates, is the result of decreased commodity prices, decreased pipeline demand costs, and higher projected natural gas sales, and the application of adjustments resulting from a prior-period over-collection of approximately \$104,000. Also, the Company integrated cost adjustments related to the Settlement Agreement reached in its rate case, DG 11-069, as approved by the Commission in Order No. 25,352 (April 24, 2012), with rates effective as of May 1, 2012.

3. Motion for Protective Order and Confidential Treatment

Northern requested confidential treatment of certain information contained in Schedule 5A of its COG filing, and related attachments. The materials concern, respectively: peaking demand cost estimates; asset management agreement revenue; peaking supply demand costs;

details of commodity costs per unit; and commodity transportation terms and conditions (including pricing terms).

The Company asserts that the information for which it seeks confidential treatment constitutes trade secrets and should be protected as confidential commercial information. The Company further states that it does not disclose this information to anyone aside from its corporate affiliates and representatives. According to Northern, release of this information would likely result in competitive disadvantage for the Company because suppliers and service providers would be aware of Northern's expectations regarding commodity supply costs and other contract terms and would be unlikely to propose to supply such goods and services on terms more advantageous to Northern, ultimately resulting in higher prices to customers. Therefore, the Company argues, the information constitutes "confidential, commercial or financial information," as defined in RSA 91-A:5, IV, which is expressly exempt for the public disclosure requirements of RSA chapter 91-A, the Right-to-Know law.

4. Interstate Cost Allocation Adjustments

In his testimony, Mr. Kahl indicated that for the purposes of calculating its summer 2012 COG rates, the Company applied corrections to certain initial percentage-based commodity allocators used to determine the commodity cost split between the Company's Maine and New Hampshire divisions. These corrections were internally implemented by the Company in November 2011, coinciding with the beginning of the winter 2011 COG period, without notification of Staff. Specifically, Northern determined that its "Company-managed volumes" assigned to transportation customers in the Maine division had not previously been included in Northern's monthly commodity totals used to calculate the interstate commodity allocator

percentages. This error resulted in incorrect commodity costs being allocated to Northern's Maine and New Hampshire divisions for an unknown period of time prior to November 2011. Also, an incorrect percentage representing unaccounted-for gas volumes for both the New Hampshire and Maine Divisions had been applied by Northern in its past allocator calculations. To correct these errors for its summer 2012 COG filing, the Company made adjustments to its interstate allocation percentages between New Hampshire and Maine by reassigning "Company-managed volumes" commodity costs and integrating an updated unaccounted-for gas volumes percentage. *See* Hearing Exhibit 2, Direct Testimony of Christopher A. Kahl, at 15-17. The Company also proposed, in a data response to Staff, to apply reconciliation adjustments to the 2011 off-peak COG in the amount of \$10,385 monthly as a consequence of this error. *See* Hearing Exhibit 6, Company Data Response to Staff 1-3(d). The Company estimated that, if such adjustments had been hypothetically applied to the entire May 2010-April 2011 COG period, they would total approximately \$1.9 million dollars. *Id.* In its closing statement, Northern opposed the opening of a separate investigative docket by the Commission regarding the issue, and instead advocated for an informal interchange of discovery with Staff, in coordination with Maine Public Utilities Commission Staff. *See* Transcript of April 19, 2012 Hearing (Tr.) at 58-59.

B. Staff

Staff conducted pre-hearing discovery and oral interrogatories related to the interstate cost allocation issues brought forward by Northern in its filing. In its closing statement, Staff viewed approval of the Company's revised COG rates as appropriate, subject to reconciliation. Tr. at 56. Staff also viewed the Company's supply and demand forecasting presented within its

COG filing as acceptable and within the normal range of precedent. *Id.* In relation to the interstate allocation issues, Staff accepted the Company's adjustments as applied for the purposes of calculating its summer 2012 COG rates, but reserved the right to request further reconciliations and revisions. Tr. at 56-57. Because of the potentially large sums of New Hampshire customer monies involved in the Company's past errors, Staff recommended that the Commission open a separate investigative docket, through which Staff could develop recommendations for further reconciliations and revisions. Tr. at 57. Staff also recommended that the Company continue to work to enhance the transparency and user-friendliness of its COG filings. Tr. at 57.

III. COMMISSION ANALYSIS

A. Cost of Gas Rates

Based on our review of the record in this docket, we approve the proposed 2012 summer season COG rates, as revised, as just and reasonable pursuant to RSA 378:7. The proposed rates, as revised, represent current market data. Northern's forecasts of sales and costs appear reasonable and consistent with prior COG filings. We note also that pursuant to *Northern Utilities*, Order No. 24,961 (April 30, 2009), the approved rates may be adjusted monthly without further Commission action in order to eliminate or reduce projected over or under recoveries in a timely and efficient manner, although rate increases are limited to no more than twenty-five percent of the approved rates. Thus, monthly COG rates can be adjusted to reflect actual costs and revised cost projections throughout the period while limiting rate increases.

B. Motion for Confidential Treatment

Regarding Northern's motion for confidential treatment, RSA 91-A:5, IV states, in relevant part, that records of "confidential, commercial, or financial information" are exempted from disclosure. *See Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (September 22, 2009) at 2. In determining whether commercial or financial information should be deemed confidential, we consider whether there is a privacy interest that would be invaded by the disclosure. *Id.* at 2-3. Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id.* at 3. 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 interests in non-disclosure. *Id.* This is similar to the Commission's rule on requests for confidential treatment. *See* N.H. Code Admin. Rules Puc 203.08; *see also Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (September 22, 2009) at 3.

Applying the above considerations, we conclude that the information here is of a sufficiently sensitive nature that it need not be disclosed. Disclosure of Northern's existing arrangements or its expectations about pricing, supply, and demand of gas and related transportation services would reveal the internal business decisions of the Company, and could injure its bargaining position with its potential future suppliers of gas and transportation services. As such, disclosure would invade Northern's privacy interest and could damage its competitive position, potentially to the detriment of ratepayers. Further, there is no indication that disclosure of the information will inform the public about the workings of the Commission, and no party or person has objected to confidential treatment or asserted that disclosure would inform the public

about the activities of the government. Accordingly, in balancing the interests of the Company in protecting its information with the public's interest in disclosure, we conclude that the information may be protected and we grant Northern's motion. Consistent with Puc 203.08(k), our grant of this motion is subject to our on-going authority, on our own motion, on the motion of Staff, or on the motion of any member of the public, to reconsider our determination.

C. Interstate Cost Allocation; Request for Investigative Docket

We have reviewed the Company's filing, discovery responses, and oral testimony related to the interstate cost allocation issues. We have also reviewed Staff's closing statement provided at the April 19, 2012 hearing, together with Hearing Examiner Ross' report. On the basis of this record, we have concluded that, subject to future reconciliation, the Company's application of prospective adjustments to its COG filing to correct its interstate allocation errors are acceptable for the purposes of approval of the summer 2012 COG rates. Nonetheless, in light of the potentially large sums of misallocated costs involved, we agree with Staff and Hearings Examiner Ross that opening a separate investigative docket to independently examine this and other interstate cost allocation matters for the Company's operations would be in the public interest, and in the interest of Northern's New Hampshire customers.

Based upon the foregoing, it is hereby

ORDERED, that Northern's proposed 2012 summer season COG rates for the period May 1, 2012 through October 31, 2012 are **APPROVED** as set forth in this Order, effective for service rendered on or after May 1, 2012 as follows:

	Cost of Gas	Maximum COG
Residential	\$0.4264	\$0.5330
C&I, low winter use	\$0.3835	\$0.4794
C&I, high winter use	\$0.4597	\$0.5746

and it is

FURTHER ORDERED, that Northern may, without further Commission action, adjust the COG rates based upon the projected over-/under-collection for the period, the adjusted rate to be effective the first of the month and not to exceed a maximum rate of 25 percent above the approved rate with no limitation on reductions to the COG rates; and it is

FURTHER ORDERED, that Northern shall provide the Commission with its monthly calculation of the projected over- or under-collection, along with the resulting revised COG rates for the subsequent month, not less than five (5) business days prior to the first day of the subsequent month. Northern shall include revised tariff pages 38 & 39 – Calculation of Cost of Gas Adjustment and revised rate schedules under separate cover letter if Northern elects to adjust the COG rates, with revised tariff pages to be filed as required by N.H. Code Admin. Rules Puc 1603; and it is

FURTHER ORDERED, that the over- or under-collection shall accrue interest at the monthly prime lending rate as reported by the Federal Reserve Statistical Release of Selected Interest Rates; and it is

FURTHER ORDERED, that the pending motion for confidential treatment is GRANTED as set forth in this Order; and it is

FURTHER ORDERED, that a new docket be opened to investigate Northern's Maine-New Hampshire cost allocation methodology, including the allocation of costs related to "Company managed supply resources," and allocations for Northern's fixed and variable costs between its New Hampshire and Maine divisions generally; and it is

FURTHER ORDERED, that Northern shall file properly annotated tariff pages in compliance with the Order no later than 15 days from the issuance date of this Order, as required by N.H. Admin Rules, Puc 1603.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 2012.



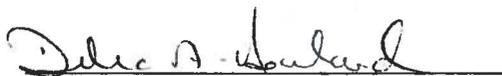
Amy L. Ignatius
Chairman

Michael D. Harrington (KNS)
Commissioner

Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director

SERVICE LIST - EMAIL ADDRESSES - DISCOVERY MATERIALS

Pursuant to N.H. Admin Rule Puc 203.09 (d) and 203.11 (a) (11) Electronic copies of all discovery shall be served on every person designated for discovery filings on the Commission's official service list. [Discovery shall not be filed as part of a docket filing pursuant to 203.02]

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FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:
- DEBRA A HOWLAND
EXECUTIVE DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.