

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 12-295

PNE ENERGY SUPPLY, LLC D/B/A POWER NEW ENGLAND

**Request for Review of Certain Tariff Charges of Public Service Company of
New Hampshire**

Order Approving Settlement Agreement

ORDER NO. 25,699

July 31, 2014

APPEARANCES: James T. Rodier, Esq., on behalf of PNE Energy Supply, LLC; Murtha Cullina, LLP by Robert J. Munnely, Jr., Esq., for North American Power & Gas, LLC; Orr & Reno, PA by Douglas L. Patch, Esq., on behalf of Retail Energy Supply Association; Bernstein, Shur, Sawyer & Nelson, PA by Christopher G. Aslin, Esq., on behalf of Electricity N.H., LLC; Matthew J. Fossum, Esq., on behalf of Public Service Company of New Hampshire; and Suzanne Amidon, Esq., on behalf of Commission Staff.

This order approves the following rates for certain services that PSNH provides by tariff to competitive suppliers: no charge for customer selection and collection services, and 7.0 cents per month for billing and payment services. The order directs PSNH to reconcile the permanent rates to the temporary rates approved by the Commission in Order No. 25,626 (January 31, 2014). Finally, the order denies PSNH's proposal to establish a \$5.00 charge per customer when a competitive supplier defaults and its customers must return to PSNH for energy supply. Instead, the Commission directs Commission Staff (Staff) to review the practice in other states and propose a methodology whereby utilities can determine and recover costs from the defaulting supplier.

I. PROCEDURAL HISTORY

The Commission opened this docket in response to a petition filed by PNE Energy Supply, LLC d/b/a Power New England (PNE) requesting that the Commission review the

reasonableness of charges for certain services that Public Service Company of New Hampshire (PSNH or Company) bills competitive suppliers who take consolidated billing services from PSNH.¹ Pursuant to its tariff, PSNH charges for customer selection, billing and payment, and collection services (Competitive Supplier Charges). In this proceeding the competitive energy supply intervenors (Intervenors) are North American Power & Gas (NAPG), Retail Energy Supply Association (RESA), and Electricity N.H. LLC (ENH). The Office of Consumer Advocate (OCA) participated in this docket pursuant to RSA 363:28.

Following testimony and hearing, the Commission issued Order No. 25,603 (December 13, 2013), which directed PSNH to conduct a cost-of-service study on the incremental costs associated with each of the Competitive Supplier Charges. Also on December 13, 2013, the Commission queried whether the Competitive Supplier Charges in effect should be established as temporary rates. *See* RSA 378:27. As a result, PSNH, PNE, the Intervenors, the OCA, and Staff agreed on proposed temporary charges, which the Commission approved in Order No. 25,626 (January 31, 2014). The temporary charges, effective February 1, 2014, were \$0.15 per selection charge transaction, \$0.26 per bill rendered for billing and payment services, and 0.252% of total monthly receivables for collection services.

On March 12, 2014, PSNH filed the incremental cost of service study which supported a charge of zero for customer selection and collection services, and a charge of 7.0 cents per customer per month for billing and payment services. In addition, PSNH requested authority to continue to assess the \$5.00 customer selection charge in the form of a “supplier default charge” when a competitive supplier defaults at the Independent System Operator-New England (ISO-NE). In such instances, if the defaulting supplier is in PSNH’s service territory, PSNH is

¹ For a complete background on this docket, see Order No. 25,603 (December 13, 2013) and the Commission’s website at <http://www.puc.nh.gov/Regulatory/Docketbk/2012/12-295.html>.

required to move the customers from the defaulting competitive supplier to PSNH electric service. PSNH stated that the \$5.00 per customer supplier default charge would allow the Company to recover costs associated with the work required to change customers' service.

On May 7, 2014, Staff filed a letter reporting that PSNH, PNE, Intervenors, and Staff agreed that the Competitive Supplier Charges should be set at the levels contained in the incremental cost-of-service study, but did not agree with allowing PSNH to impose a \$5.00 supplier default charge in the event of a competitive supplier default at ISO-NE. On May 12, 2014, the OCA filed a letter expressing agreement with setting the Competitive Supplier Charges at the level contained in the incremental cost-of-service study. The OCA also argued that because the Order of Notice in this docket does not reference a supplier default charge, the issue is not properly before the Commission.

On May 29, 2014, PSNH filed a record request response identified as Exhibit No. 25. The response stated that, in the event of a competitive supplier default at ISO-NE, PSNH's system cancels a pending customer enrollment with a new competitive supplier. PNE filed a responsive letter on June 9, 2014. PNE's letter disputed the adequacy of PSNH's record request response as well as issues related to supplier defaults.

II. POSITIONS OF THE PARTIES AND STAFF

A. PSNH

In its cost of service study, PSNH stated that it may incur incremental costs in a customer switch when a competitive electric supplier defaults at ISO-NE. PSNH testified that as a load serving entity, PSNH must provide service to customers of a competitive electric supplier who defaults at ISO-NE. Once PSNH is notified that a supplier has not complied with ISO-NE

financial requirements, PSNH has 72 hours to identify customers and move those customers to PSNH.

According to PSNH, the costs associated with such a supplier default include manual billing, physical meter reads, and notice to customers. In addition, PSNH said that it incurs additional costs when a customer is net-metered, or takes service under budget billing. The Company referred to such customers as “exception customers.” According to PSNH, non-exception customers who do not receive services under special circumstances could be transferred to PSNH energy service on an automated basis.

PSNH based its cost of \$5.00 per customer supplier default charge on the Company’s experience with two supplier ISO-NE default events. The first occurred in December 2013. The competitive supplier, PNE, served over 5,700 of PSNH’s customers at the time of its default at ISO-NE. PSNH said that the large number of exception accounts in the group required the Company to perform a physical reading of associated meters. PSNH calculated that in the PNE default, it incurred costs of \$5.92 per customer. In the more recent default of People’s Power & Gas (PP&G), PSNH calculated that it incurred \$5.11 in costs per customer. PSNH acknowledged that it had not conducted a cost-of-service study on the incremental costs associated with a supplier default at ISO-NE, but decided to use \$5.00 per customer as a proxy based on its experience with the PNE and PP&G defaults. PSNH said that more costs may be associated with the PP&G default due to related litigation.

PSNH conceded that in lieu of the \$5.00 per customer charge, the Company could create a charge for individual activities, such as meter reading, that are required when a competitive supplier defaults. According to PSNH, its affiliate in Massachusetts has a tariff charge for

off-cycle meter reading. In addition, PSNH agreed that some of the responsibilities and financial obligations of competitive suppliers who default at ISO-NE could be addressed in the competitive supplier rules. PSNH nonetheless maintained that having a \$5.00 per customer charge in the event of supplier default would be clearly understood by both the Company and the suppliers and make it more likely that PSNH would recover the costs, or at least a portion of the costs, that it incurs when a competitive supplier defaults at ISO-NE.

PSNH said that if the Commission approves the charges resulting from the cost-of-service study, the Company is prepared to reconcile the new tariff charges with the temporary charges approved by the Commission in Order No. 25,626. PSNH testified that it had tracked the charges by individual suppliers to refund the over-collection of Competitive Supplier Charges to each supplier taking consolidated services from PSNH.

B. ENH

ENH expressed support for the changes proposed by PSNH to the Competitive Supplier Charges. ENH agreed that PSNH should be able to recover costs caused by a supplier's default but disagreed with the proposed supplier default charge on several grounds. ENH pointed out that the supplier default charge was not noticed in this proceeding. Because the focus of the docket was the reasonableness of the Competitive Supplier Charges, only competitive suppliers who take consolidated services from PSNH intervened in this proceeding. ENH stated that the proposed supplier default charge is separate and distinct from the Competitive Supplier Charges and, because it was not properly noticed, other suppliers who would be subject to the charge upon default at ISO-NE should be given the opportunity to comment on the reasonableness of the charge.

According to ENH, PSNH had failed to justify the \$5.00 per customer charge in the event of a supplier's default at ISO-NE. ENH said that most of its New Hampshire customers are residential customers who would not fall in the exception category. In the event that ENH were to default at ISO-NE, the \$5.00 per customer charge would result in ENH overpaying for the work necessary to move customers to PSNH supply.

ENH suggested that PSNH could recover some of the costs associated with a supplier default through a special meter reading charge, or by having the Puc 2000 rules (the Commission rules regarding competitive suppliers) state clearly that the supplier is responsible for paying the distribution utilities any actual costs that the utility incurs as a result of a supplier default. ENH concluded by recommending that the Commission reject PSNH's proposed supplier default service charge.

C. RESA

RESA agreed with PSNH's proposal to change the Competitive Supplier Charges consistent with the incremental cost-of-service study. RESA also expressed opposition to the Company's proposed supplier default charge. RESA agreed with ENH that the issue could be addressed in the Puc 2000 rulemaking docket, in the Company's next distribution rate case, or in a special filing. RESA emphasized that any such filing would have to include prefiled testimony and additional cost-based information to justify the charge. RESA recommended that the Commission reject the proposed supplier default charge.

D. NAPG

NAPG agreed with the proposed change to the Competitive Supplier Charges. NAPG agreed with ENH regarding the lack of proper notice for the supplier default charge and also expressed concern that the \$5.00 per customer charge would over-recover costs when

non-exception customers were involved. NAPG recommended that the Commission reject PSNH's proposed supplier default charge.

E. PNE

PNE expressed agreement with the positions of ENH, RESA and NAPG. PNE said that the competitive suppliers need to understand in more detail the work that is required when a competitive supplier defaults.

F. Commission Staff

Staff said that PSNH should be entitled to compensation in the event that there is a supplier default at ISO-NE. Staff identified alternatives to collecting a selection charge. For example, PSNH could have an off-cycle meter reading tariff or the Commission could provide a recovery method through the competitive supplier rules. Finally, Staff stated its support for the changes to the Competitive Supplier Charges that resulted from PSNH's cost-of-service study.

III. COMMISSION ANALYSIS

Pursuant to RSA 541-A:31, V(a), informal disposition may be made of a contested case at any time prior to the entry of a final decision or order, by stipulation, agreed settlement, consent order, or default. Notwithstanding the informal agreement among the parties in this docket concerning the appropriate level of Competitive Supplier Charges, the Commission must independently determine whether the settlement results comport with applicable standards. N.H. Code Admin. Rules Puc 203.20(b) requires the Commission to determine whether the settlement results are just and reasonable and serve the public interest. RSA 378:7 authorizes the Commission to fix rates after a hearing upon determining that the rates, fares, and charges are just and reasonable.

The purpose of this docket is to investigate the amounts billed by PSNH for selection, billing, and collection services to competitive suppliers who take consolidated service from PSNH. Having reviewed of the cost-of-service study and considered the agreement of all parties to the costs proposed in the cost-of-service study, we determine that the rates proposed by PSNH in its incremental cost-of-service study appear to be cost based, just and reasonable, and in the public interest pursuant to RSA 378:7. The result is that PSNH will no longer charge a fee to competitive suppliers for customer selection or collections services, and will set the billing and payment services fee at 7.0 cents per month per customer.

The Commission established temporary tariff levels for the Competitive Supplier Charges effective February 1, 2104, pending the result of PSNH's incremental cost-of-service study. Order No. 25,626. We direct PSNH to reconcile the temporary charges to the permanent charges. PSNH may either issue checks for the refunds or credit the amounts of the refunds to the bills owed by competitive supplier for services. We direct PSNH to consult with PNE, the Intervenors, and other affected competitive suppliers, on the manner in which to refund the reconciliation amounts to the competitive suppliers. We also require PSNH to report to us the methodology used and the amount paid to each of the competitive suppliers once those arrangements have been made.

We agree with the Staff, the OCA, PNE, and Intervenors that this proceeding was not noticed to include a supplier default charge as PSNH proposed in its cost-of-service study. We also agree that PSNH or any other electric distribution utility may incur costs if a competitive supplier in the relevant service territory defaults at ISO-NE.

We are concerned that the market price volatility that occurred in the 2013-2014 winter season may recur in the upcoming winter, potentially causing more competitive supplier defaults.

Therefore, we direct Staff to investigate what systems other states have put in place to allow electric distribution utilities to recover incremental costs when a competitive supplier defaults at ISO-NE, or at other regional transmission organizations, and to report back to the Commission no later than October 1, 2014. We also direct PSNH to consider whether it would be advisable to institute a tariff or tariffs for some of the activities that are mandated by a competitive supplier default at ISO-NE and that have a uniform cost, *e.g.*, off-cycle meter reads. Finally, with respect to the pending rulemaking for the readoption and amendment of Puc 2000 rules for competitive suppliers (DRM 13-151), we direct Staff to include language in the draft rules stating clearly that competitive electric suppliers shall pay all incremental costs associated with a default at ISO-NE.

Based upon the foregoing, it is hereby

ORDERED, that Public Service Company of New Hampshire's request to eliminate its tariffed charge for customer selection and collection services, and to set the rate for billing and payment services to 7.00 cents per month is hereby APPROVED; and it is

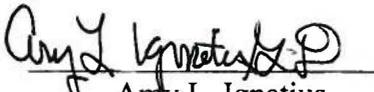
FURTHER ORDERED, that Public Service Company of New Hampshire shall reconcile the temporary charges established by Order No. 25,626 with the permanent charge as described in this order; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire shall file conforming tariffs pursuant to New Hampshire Code Admin. Rule Puc 1603 within 20 days hereof; and it is

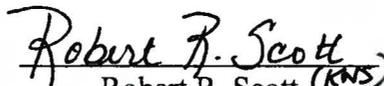
FURTHER ORDERED, that Public Service Company of New Hampshire shall consider whether it is reasonable to develop a tariff rate for any of the cost components related to a supplier default, including a tariff for off-cycle meter reads; and it is

FURTHER ORDERED, that Staff shall investigate what other states have done to allow electric distribution utilities to recover costs associated with a supplier default at ISO-NE, or other regional transmission organization, and file a report with the Commission no later than October 1, 2014; and shall include language in the Puc 2000 rules to clearly state the obligation of competitive supplier to pay electric distribution utilities for all incremental costs associated with such a default.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of July, 2014.



Amy L. Ignatius
Chairman

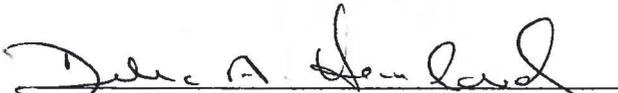


Robert R. Scott (RWS)
Commissioner



Martin P. Honigberg
Commissioner

Attested by:



Debra A. Howland
Executive Director

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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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
EXEC 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.