DE 99-179

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Fuel and Purchased Power Adjustment Clause (FPPAC)

Order Granting Request to Extend Current FPPAC and Short Term Avoided Cost Rates

O R D E R N O. 23,355

November 30, 1999

APPEARANCES: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Wynn E. Arnold, Assistant Attorney General, for the Governor's Office of Energy and Community Services; Representative Gary Gilmore, *pro se*; Donald M. Kreis, Esq. and Thomas C. Frantz, Chief Economist, for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On November 15, 1999, Public Service Company of New Hampshire (PSNH) filed a request with the New Hampshire Public Service Commission to extend the Company's currently applicable Fuel and Purchased Power Adjustment Clause (FPPAC) rate, as well as its short term avoided cost rates. As noted by PSNH, on May 28, 1999, the Commission entered Order No. 23,219, approving an extension through November 30, 1999 of the then-applicable FPPAC rate of $0.00383 per kWh. On that occasion, the Commission also approved a change to the rates paid to Qualifying Facilities for the period June 1, 1999 through November 30, 1999 based upon short-term avoided energy costs which were calculated using the same methodology used in previous FPPAC proceedings.

PSNH's instant request, as filed, seeks a further extension of the FPPAC and short-term avoided cost rates through "Competition Day," as that term is defined in the Agreement to Settle PSNH Restructuring now before the Commission in Docket No. DE 99-099, or, in the event the Commission does not approve the proposed settlement, until the Commission issues an order setting new FPPAC rates in an additional FPPAC proceeding. On November 22, 1999, PSNH filed the standard set of schedules supporting an FPPAC filing, along with the technical statement of Robert A. Baumann, manager of PSNH revenue requirements. On that occasion, PSNH also indicated that, based on discussions with Commission Staff, it was amending its request and simply seeking an extension of the FPPAC rate through May 31, 2000.

The Commission conducted a hearing on November 24, 1999, at which time it heard Mr. Baumann's testimony. At the hearing, the Commission granted without objection the intervention motion of the Governor's Office of Energy and Community Services (GOECS). Representative Gary Gilmore also attended the hearing and posed questions to Mr. Baumann.

II. POSITIONS OF THE PARTIES AND STAFF

A. <u>Public Service Company of New Hampshire</u>

PSNH's position is that it is in the public interest to leave current FPPAC and short-term avoided cost rates in place pending a decision on the proposed restructuring settlement now before the Commission in Docket No. 99-099. PSNH states that, under the terms of the proposed settlement, FPPAC would be eliminated and any deferred FPPAC balances would be recovered under the so-called Part 3 Stranded Cost Recovery Charge. It was Mr. Baumann's testimony, based on the schedules submitted by PSNH, that approximately $74 million in unrecovered FPPAC balances remain as of November 30, 1999, and that the effect of leaving the current FPPAC rate in place would be an unrecovered FPPAC balance of approximately $103 million as of May 31, 2000. Mr. Baumann noted that PSNH will not seek to recover interest on this balance, and that the projected increase in the unrecovered balance is largely attributable to the expected cessation of capacity transfer revenues as of January 1, 2000 from PSNH affiliates under the so-called Sharing Agreement and Capacity Transfer Agreements that were implemented as part of PSNH's acquisition by its current parent company, Northeast Utilities (NU). Mr. Baumann testified that this loss of revenue is attributable to the divestiture by PSNH affiliate Connecticut Light & Power (CL&P) of its fossil-hydro generation assets under that company's restructuring plan as approved by Connecticut regulators and CL&P's attendant loss of load responsibility. According to Mr. Baumann, PSNH will attempt to mitigate this loss of capacity transfer revenue through energy sales into the competitive market. Mr. Baumann also testified that PSNH will sell excess capacity into the market but that PSNH intends to flow this revenue back to shareholders as opposed to using it to offset FPPAC costs to be borne by ratepayers.

On the issue of short-term avoided cost rates, Mr. Baumann testified that a small decline in PSNH's avoided costs could justify a small adjustment in the short-term avoided cost rates paid to Qualifying Facilities (QF's), but that the small amounts involved and the short time-frame during which rates set in this docket will be in effect make such an adjustment impracticable. He further stated that PSNH's avoided costs would likely rise during the next six months because of anticipated sales into the capacity and energy markets.

Lastly, according to Mr. Baumann, PSNH estimates that current overall rates would increase by 7 percent if it were additionally to recover its current expenses in the current FPPAC proceeding, and that if the deferred FPPAC balance were to be fully recovered during the next six month FPPAC period rates would rise by 25 percent.

B. <u>Governor's Office of Energy and Community Services</u>

GOECS did not indicate any opposition to PSNH's request for maintaining the FPPAC status quo pending the possible approval of the proposed restructuring settlement, to which GOECS is a signatory.

C. <u>Staff</u>

Staff was also in general agreement with PSNH's request, subject to the understanding that the FPPAC rate would again come before the Commission prior to May 31, 2000. However, Staff expressed concerns about the increase in FPPAC deferrals based on the impending loss of joint dispatch savings and capacity transfer revenue PSNH currently receives by selling excess capacity to its affiliates in the Northeast Utilities system under the Sharing Agreement and Capacity Transfer Agreements.

III. COMMISSION ANALYSIS

We agree with the parties that, in light of the pendency of our review of the proposed settlement agreement, it is appropriate to leave the current FPPAC rate of $0.00383 in place pending our determination of the settlement docket. As the parties are aware, FPPAC itself is part of the Rate Agreement under which NU purchased PSNH when it emerged from bankruptcy. By the terms of the Rate Agreement, FPPAC rates are calculated for six-month periods and reconciled to actual data at the end of each such period. Therefore, as we did six months ago, we extend the current FPPAC rate for only the ensuing six months.

However, we find it necessary to note certain significant distinctions between this six-month FPPAC extension and the one that preceded it. The basis for the previous extension was the lack of any significant projected increase in deferred FPPAC balances. In the coming six months, FPPAC deferrals are expected to grow by approximately one-third, to more than $100 million, none of which PSNH intends to write off and all of which PSNH is potentially seeking to recover, with a return, (subject to a prudence determination for accruals after August 2, 1999) under the stranded cost recovery mechanism in its proposed settlement.

On November 29, 1999, the Commission issued Order No. 23,354 in Docket DE 99-117, approving the joint application of PSNH affiliates CL&P and Western Massachusetts Electric Company (WMECo) for findings, pursuant to the federal Public Utilities Holding Company Act (PUHCA), that it is in the public interest to deem certain generation assets being divested by CL&P and WMECo as Eligible Facilities within the meaning of PUHCA. That proceeding raised a key issue that recurs here: the ability of NU and its subsidiaries to satisfy their obligations to PSNH under the Sharing Agreement and the Capacity Transfer Agreements. In DE 99-117, CL&P took the position that the Sharing Agreement and Capacity Transfer agreements essentially become inoperable after January 1, 2000 because it no longer has load responsibility after that date and the new ISO-New England rules make it impossible to calculate its obligations to PSNH under those agreements. It is here, in the FPPAC docket, that the effect of this change is realized: the loss, according to evidence in both dockets, of approximately $4.7 million per month that has been offsetting what would otherwise be FPPAC deferrals.

When we issued our decision in DE 99-117 recently, we stressed we were making a very limited determination – that the generation assets in question should be permitted to become Eligible Facilities – and we explicitly retained jurisdiction to determine, at another appropriate time, issues relating to the loss by PSNH of benefits it had under the Sharing Agreement and Capacity Transfer Agreements. We issue precisely the same caveat here, subject to some further clarification. Because PSNH is proposing to recover its FPPAC deferrals under the proposed settlement agreement pending in Docket No. 99-099, and because the loss of capacity transfer revenue has a significant impact on the FPPAC deferral balance, we believe it is appropriate for us to consider in that docket issues relating to PSNH's conduct under the Sharing Agreement and Capacity Transfer Agreements.

We also place the parties on notice that we will consider in Docket No. 99-099 the question of what capacity revenues PSNH receives in the deregulated wholesale marketplace should flow back to PSNH ratepayers. The position articulated by PSNH here – that ratepayers should benefit from wholesale energy revenue but not capacity revenue – is directly inconsistent with a determination we previously made in a prior FPPAC proceeding. In Docket DR 97-014, we concluded that "the only equitable, just and reasonable treatment of the capacity transfer revenues is to pass the revenues back to ratepayers," either as part of the FPPAC formula or as an exercise of our general ratemaking authority. *Public Service Co. of N.H.*, 83 NH PUC 54, 67 (1998). We made clear that, in order to prevent a windfall to shareholders, "there should be parity under the FPPAC formula" so that costs *as well as revenues* associated with capacity purchases and sales should be reflected in the FPPAC rate. *Id*. at 68. We believe this language to be controlling and, in that light, expect to take up the issue of reconciling PSNH's capacity and energy sales in connection with calculating PSNH's Part 3 stranded costs in Docket No. 99-099 and, if necessary, in any future FPPAC proceeding.

Based upon the foregoing, it is hereby

ORDERED, that the current FPPAC rate of $.00383 per kWh shall remain in effect on and after December 1, 1999 through May 31, 2000 unless otherwise ordered by the Commission; and that PSNH shall file compliance tariffs in accordance with this order no later than December 6, 1999; and it is

FURTHER ORDERED, that PSNH's short term avoided cost rates for Qualifying Facilities, as set forth in Order No. 23,219, are approved for the period December 1, 1999 through May 31, 2000.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of November, 1999.

Douglas L. Patch Chairman	Susan S. Geiger Commissioner	Nancy Brockway Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary