

DE 02-054

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Delivery Service Tariff NHPUC No. 2
Filing of Revised Tariff Pages - Late Payment Charge

Order Nisi Approving
Stipulation of the Parties with Modifications

O R D E R N O. 24,083

November 1, 2002

I. BACKGROUND AND SUMMARY OF STIPULATION

On April 1, 2002, Public Service Company of New Hampshire (PSNH) filed certain revised pages to its delivery service tariff (NHPUC No. 2 - Electric Delivery Service) and accompanying written testimony with the New Hampshire Public Utilities Commission. The purpose of the tariff revision was to implement a late payment charge for residential customers, establishing such a charge at a uniform rate of one percent per month for all PSNH customers.

By Order No. 24,001 (June 27, 2002), and pursuant to RSA 378:6, I(b), the Commission suspended the proposed tariff change for three months and directed PSNH to provide information with regard to the proposal's conformity with the applicable Commission rule, Puc 1203.08 (requiring late payment charges to be cost-based). The Commission also scheduled a technical session for July 8, 2002. The session took place as scheduled.

On August 22, 2002, the Commission issued a secretarial letter granting intervenor status to the Save Our Homes

Organization (SOHO). The Commission further suspended the tariff revisions, through November 27, 2002, by Order No. 24,057 (September 26, 2002) at the request of SOHO, noting that SOHO had raised certain concerns about the PSNH filing and that there had been insufficient time for the Commission Staff to study certain information provided by PSNH on September 23, 2002. A second technical session was scheduled for October 16, 2002.

Following the technical session, on October 29, 2002, PSNH filed a Stipulation of Settlement entered into among PSNH, SOHO and the Office of Consumer Advocate (OCA). The Stipulation provides for a new late-payment fee of 1 percent per month, effective on December 1, 2002, for residential customers (Rate R and Rate R-OTOD), small commercial customers (Rate G and Rate G-OTOD) and outdoor lighting customers (Rate OL and Rate EOL). The Stipulation amends the original PSNH filing by recommending that the Commission approve the continuation of the current late payment charge of 1.5 percent per month for large commercial (Rate GV) and industrial (Rate LG) customers, as opposed to imposing a uniform, 1 percent charge for all customer classes.

If approved, the Stipulation would include exemptions from the late payment charge for (1) residential, small commercial or outdoor lighting customers if following an extended payment arrangement agreed to by PSNH, (2) residential customers taking service under the statewide Electric Assistance Program

(EAP), (3) residential customers whose bills are being paid in whole or in part under the Low Income Home Energy Assistance Program (LIHEAP), and (4) residential customers who are identified by a social service agency as eligible for PSNH's Enhanced Winter Protection Program during the winter period. (December 1 through March 31).

The Stipulation further includes an agreement by PSNH to offer its Enhanced Winter Protection Program for the period of December 1, 2002 through March 31, 2003. Under the program, customers who are identified as needy would not have their service disconnected for non-payment during this period, except with permission of the Commission's Consumer Affairs Division. PSNH agreed that any social service agency known to the Company may identify eligible customers, with eligibility based on receipt of assistance from "any of a variety of energy, housing, medical, nutritional, income and emergency assistance sources." PSNH agreed to meet with SOHO, the Commission Staff, OCA and any other interested party during the fall of 2003 to discuss the possibility of a similar program for the winter of 2003-04. PSNH further agreed to notify customers of the new late payment charge, the exemptions from it and the Enhanced Winter Protection Program through a bill insert and notification to social service agencies.

PSNH, SOHO and OCA agreed to particular treatment of the net incremental revenue from the introduction of the late payment charge to residential, small commercial and outdoor lighting customers. Specifically, PSNH would retain 40 percent of this revenue, which would be used to offset an increase in the Business Profits Tax effective on January 1, 2002, with PSNH foregoing any rate change related to the tax increase until the Company's next rate case. The remaining 60 percent of the net incremental revenue would be credited to PSNH customers as an offset to otherwise recoverable stranded costs under the Agreement to Settle PSNH Restructuring (Restructuring Agreement) approved by the Commission in Docket No. DE 99-099. Specifically, the revenue would be credited to the so-called Part 3 stranded costs as described in the Restructuring Agreement. This treatment would continue until the implementation of the rates established under the next PSNH rate case, when the incremental revenues would be reflected in PSNH's overall rates.

II. COMMISSION ANALYSIS

Our recently promulgated rule Puc 1203.08(a) recites that we will approve a proposed late payment charge when the requesting utility demonstrates that the revenue from the proposed charge will not exceed the actual costs incurred by the utility as the result of late payments. During the suspension period, considerable progress was made in developing a sound

method for calculating the net cost reduction that could be expected from imposition of a late payment fee. It appears from the responses to data requests that some level of late payment fee is warranted. The record so far does not establish to a certainty the particular level of fees that are cost-justified, even when taking ease of fee administration and customer understanding into account. We are concerned, in particular, that the 1.5 percent late payment charge imposed on large commercial and industrial customers may not meet this standard.

However, this aspect of PSNH's late payment proposal antedates the promulgation of Puc 1203.08(a). It is also our policy to encourage settlements, *see, e.g., Union Telephone Co., Order No. 23,791 (Oct. 1, 2001,)*, slip op. at 5 (noting that "we accord significant deference to stipulations in our public interest analysis" rather than "insisting that any stipulation match the relief that the Commission would have ordered" in a fully litigated case). We also take note of two realities. First, under the provisions of the Restructuring Agreement, PSNH will be filing a rate case in the latter half of 2003. Thus, we will soon have an opportunity to revisit the incremental costs of late payment in the context of the Company's overall rate structure. Second, we are aware that, although no representative of large commercial and industrial customers is a signatory to the Stipulation here, the Business and Industry Association has

recently acceded to a 1.5 percent late payment charge for large commercial and industrial customers in the context of our ongoing proceeding to consider the proposed restructuring of the Unitil Companies, Docket No. DE 01-247.

We approve the entire menu of late payment charges proposed by PSNH, SOHO and OCA in the Stipulation as a reasonable compromise among a utility and representatives of customers who will be newly subject to late payment fees. We stress our commitment to the policy articulated in Puc 1203.08(a) that late payment fees should be fundamentally cost-based. This principle assures that customers with on-time payment records are not providing a subsidy to late-paying customers.

Appropriately, the Stipulation squarely confronts the issue of residential customers who are unable, as opposed to unwilling, to make timely payments to PSNH. To a customer who simply cannot pay his or her utility bill, a late payment charge is not an incentive but, rather, an additional burden in a time of need. Thus the Stipulation contains a broad exemption from late payment charges for such customers. A key aspect of the exemption is assuring that all customers who truly need it are made aware of it and enabled to invoke it. To that end, we will broadly interpret the definition of the social service agencies that PSNH has agreed may certify a customer's eligibility to the Company.

Similarly, the Stipulation appropriately links the existence of a residential late payment charge and the perpetuation of a moratorium, during the winter months of December, January, February and March, on the disconnection for non-payment of customers unable to pay their PSNH bills (referred to by PSNH as its Enhanced Winter Protection Program). Rather than leaving this matter open for negotiation for the winter of 2003-04, because of the merit we find in the winter moratorium, we will require PSNH to implement the proposed Enhanced Winter Protection Program in both the coming winter and the winter of 2003-04. In the event a proceeding is commenced in the interim either on a generic basis or an individual basis with respect to PSNH, the specifics of the 2003-04 moratorium are subject to revision.

As so modified, the Stipulation is consistent with the public good and results in just and reasonable rates.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below and the conditions enumerated herein, the Stipulation of Public Service Company of New Hampshire, the Save Our Homes Organization and the Office of Consumer Advocate with regard to late payment charges is APPROVED; and it is

FURTHER ORDERED, that PSNH shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than November 6, 2002 and to be documented by affidavit filed with this office on or before November 12, 2002; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 19, 2002; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than November 26, 2002; and it is

FURTHER ORDERED, that this Order Nisi shall be effective December 1, 2002, unless PSNH fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that PSNH shall file a compliance tariff with the Commission on or before December 1, 2002, in accordance with N.H. Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New
Hampshire this first day of November, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary