

DE 03-200

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

**Delivery Service Tariff NHPUC No. 3
Request For Approval of Rate Increase
and Associated Tariff Revisions**

Order Following Pre-Hearing Conference

O R D E R N O. 24,277

February 6, 2004

APPEARANCES: Gerald M. Eaton Esq. and Robert A. Bersak, Esq. for Public Service Company of New Hampshire; Joel D. Newton, Esq. and Orr & Reno, P.A. by Douglas L. Patch, Esq. for FPL Energy Seabrook, LLC, Florida Power and Light Company and FPL Energy Maine Hydro, LLC; Orr & Reno, P.A. Connie L. Rakowsky, Esq. for Ski NH and Granite State Hydropower Association; Pentti J. Aalto for PJA Energy System Design; LeBoeuf, Lamb, Greene & MacRae, LLP by Meabh Purcell, Esq. for Unutil Energy Systems, Inc.; Brown, Olson and Wilson, P.C. by Robert A. Olson, Esq. for Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Bridgewater Power Company, LP, and Hemphill Power & Light Company; Gallagher, Callahan & Gartrell, P.A. by Seth L. Shortlidge, Esq. for Wausau Papers of New Hampshire; Office of Consumer Advocate by F. Anne Ross, Esq. on behalf of residential ratepayers; Jack K. Ruderman, Esq. for the Office of Energy and Planning; and Donald M. Kreis, Esq. of the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

After providing the requisite 30 days' notice, on December 29, 2003, Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) a revised Delivery Service tariff (NHPUC No. 3) that would, *inter alia*, increase PSNH's Delivery Service rates effective on February 1, 2004. The submission was accompanied by pre-filed direct testimony in support of the new tariff as

well as supporting work papers. On the same date it made its tariff filing, PSNH submitted a request for temporary rates pursuant to RSA 378:27, and a motion for confidential treatment of certain information with respect to the compensation of PSNH's officers that was furnished pursuant to the applicable Commission rule governing rate case filings.

The Commission entered Order No. 24,256 on December 31, 2003. Order No. 24,256 (1) suspended the newly filed tariff pursuant to RSA 378:6 pending further investigation by the Commission, (2) scheduled a Pre-Hearing Conference for January 21, 2004, (3) established a deadline of January 15, 2004 for intervention petitions, and (4) indicated that the Commission would not be able to consider and rule on the request for temporary rates prior to the requested effective date of February 1, 2004.

Pursuant to RSA 363:28, the Office of Consumer Advocate (OCA) entered an appearance on behalf of residential ratepayers. The Commission also received intervention petitions prior to the Pre-Hearing Conference from the Business and Industry Association of New Hampshire (BIA), Unitil Energy Systems, Inc. (Unitil), four independent power producers (Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Bridgewater Power Company, L.P., and Hemphill Power & Light Company) (collectively, the IPPs) which appeared jointly, Wausau

Papers of New Hampshire, PJA Energy System Design, Ski NH and Granite State Hydropower Association (appearing jointly), the Office of Energy and Planning (OEP) and three jointly appearing affiliates (Energy Seabrook, LLC, Florida Power & Light Company, and FPL Energy Maine Hydro, LLC) (collectively, FP&L). The Commission also received two letters from individual ratepayers objecting to the proposed rate increase.

The Pre-Hearing Conference took place as scheduled. At the Pre-Hearing Conference, the Commission indicated that it would not automatically grant intervention petitions absent objection but would, rather, require parties seeking intervenor status to describe the basis for their intervention under RSA 541-A:21, I(b) (requiring parties to state "facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests may be affected" by the proceeding or that the party qualifies as an intervenor under some provision of law). The Commission also placed the parties on notice that it would consider imposing conditions on any interventions pursuant to RSA 541-A:33, III. After taking appearances, hearing the parties with respect to RSA 541-A:21, I(b) and hearing statements of preliminary positions, the Commission took the pending intervention petitions under advisement and asked the parties to discuss the possibility of combined intervenor efforts as described in RSA 541-A:33,

III(c). Thereafter, for the purpose of discussing that subject as well as a proposed procedural schedule to govern the remainder of the proceeding, a technical session followed the Pre-Hearing Conference.

Newington Energy, LLC submitted an intervention petition on January 22, 2004. On January 23, 2004, Staff submitted a report of the technical session that followed the Pre-Hearing Conference. The report included a proposed procedural schedule and requested on behalf of the participants seeking intervenor status that the Commission defer consideration of any RSA 541-A:32, III limitations to allow such parties to conduct discovery and develop their substantive positions.

II. POSITIONS OF THE PARTIES AND STAFF

A. Public Service Company of New Hampshire

PSNH withdrew its petition for temporary rates and provided a summary of its proposal for permanent rates. PSNH noted that the Agreement to Settle PSNH Restructuring (Restructuring Agreement), approved by the Commission in 2001 in Docket DE 99-099, required PSNH to file proposed new Delivery Service rates with the Commission no later than January 1, 2004, to replace the initial rate established by the Restructuring Agreement averaging 2.8 cents per kilowatt-hour. The new rates were to be filed "for effect after the end of the Initial

Delivery Charge Period," i.e., February 1, 2004. PSNH also noted that RSA 369-B:1, XV requires such a rate proceeding and explicitly provides that the new Delivery Service rates shall "take effect immediately after 33 months after competition day," i.e., February 1, 2004. According to PSNH, these provisions provide independent authority for reconciling any new Delivery Service rates established in this proceeding to February 1, without the need for RSA 378:27 temporary rates.

PSNH expressed a preference for resolving this case by August 1, 2004 so as not to raise any issues with respect to RSA 378:6, III. This provision applies when the Commission is unable to make its determination prior to the expiration of six months following the originally proposed effective date of new rates filed by a utility. RSA 378:6, III allows the utility to implement the proposed rates in such circumstances, "upon furnishing the commission with a bond in such form and with such sureties, if any, as the commission may determine."

In its filing, PSNH proposes to increase overall rates by 2.6 percent on average, compared to the rate level in effect before February 1, 2004. This would involve increasing delivery rates by an average of 10.4 percent. PSNH proposes to unbundle delivery and transmission rates by implementing a "transmission cost adjustment mechanism" (TCAM) that would allow for annual changes to the transmission component of delivery charges in a

manner similar to traditional fuel adjustment proceedings. PSNH is not proposing any major changes in its rate design.

B. FPL Energy Seabrook, LLC, Florida Power and Light Company and FPL Energy Maine Hydro, LLC

FP&L indicated that its primary interest is in PSNH's Rate B, which applies to customers taking backup service.

C. Granite State Hydropower Association

The Granite State Hydropower Association indicated that it had not fully reviewed the PSNH filing but was interested in the avoided cost calculations in the filing.

D. Ski NH

Ski NH indicated that it would need 30 days to specify what issues were of concern to the organization in the PSNH filing.

E. PJA Energy System Design

PJA Energy System Design indicated that its main interest is the establishment of what it characterized as a "spot price type mechanism for Delivery Service charges" in light of advances in meter technology that allow for real-time pricing.

F. Unitil Energy Systems, Inc.

Unitil stated that it has an "obvious interest" in the rate proceeding of another New Hampshire electric utility, but only wishes to monitor the case and receive filings in it.

Unitil noted that the Commission has required it to file its own rate case in approximately a year and a half.

**G. Pinetree Power, Inc., Pinetree Power-Tamworth, Inc.,
Bridgewater Power Company, LP, and Hemphill Power & Light
Company**

The IPPs indicated that their interests are Rate B, unbundling and the allocation of revenue requirements as they affect Rate B.

H. Wausau Papers of New Hampshire

Wausau noted that electricity has a significant impact on its business and indicated that its interest is with respect to Rate B.

I. Office of Consumer Advocate

The OCA indicated that its concerns upon an initial review of the PSNH filing were related to the Company's proposed return on equity, its capital structure as it relates to cost of capital, the fact that PSNH seeks to make additions to its rate base based on expenditures that took place after the test year but is not correspondingly adjusting its sales calculations, the question of whether PSNH is seeking to recover on construction work in progress in violation of RSA 378:30-a, the results of the depreciation study and the question of rate design. The OCA expressed agreement with PSNH's position that temporary rates are unnecessary in order to permit PSNH to reconcile its new rates based on a February 1, 2004 effective date. The OCA also

indicated that it would support a two-phase proceeding in which issues related to rate design were deferred to a second phase.

J. Office of Energy and Planning

The OEP said its concerns involved the effect of the proceeding on both residential customers and customers in the commercial and industrial customer classes. The OEP indicated it would support reasonable and competitive rates for PSNH, and concurred that PSNH could reconcile any rate changes back to February 1, 2004 without temporary rates.

K. Staff

Staff took no initial position with respect to the PSNH filing, except to suggest that the Commission set temporary rates equal to current rates, which would allow for reconciliation to February 1, 2004, regardless of the relevant provisions of RSA 369-B and the Restructuring Agreement.

III. COMMISSION ANALYSIS

We begin with the issue of interventions. No objections to the pending intervention petitions have been interposed. We are satisfied that all parties presently requesting intervenor status have stated an interest that is cognizable under RSA 541-A:21, I(b). However, we reserve the right to impose limitations on the participation of any intervenor pursuant to RSA 541-A:33, III at an appropriate time prior to hearing. This is a complicated proceeding with many

issues and we will expect parties with issues in common to coordinate their efforts when possible. We will also expect parties to be mindful of the value of conducting the hearings in this case in as efficient a manner as possible, and thus to limit testimony and cross-examination to issues that reasonably relate to the purposes of their interventions.

Subsequent to the Pre-Hearing Conference, the parties participating in the technical session and Staff proposed the following schedule:

Rolling data requests to PSNH, with two weeks for reply	through March 5, 2004
Final PSNH responses to first-round data requests	March 19, 2004
Technical sessions	Apr. 7-8, 2004
Rolling follow-up data requests to PSNH, and data requests on rate design issues	through Apr. 23, 2004
Final PSNH responses to second-round data requests	May 7, 2004
Technical sessions/settlement conferences	May 12-13, 2004
Staff and intervenor testimony	May 28, 2004
Data requests on Staff and intervenor testimony	June 4, 2004
Staff and intervenor responses to data requests	June 18, 2004
Settlement conferences	June 29-30, 2004
Rebuttal testimony	July 13, 2004
Final settlement conference	July 20, 2004

Settlement filing deadline July 27, 2004

Merits hearing week of August 2, 2004

By way of explaining the reason for the four-month period between the Pre-Hearing Conference and the filing of Staff and intervenor testimony, Staff noted that the parties and Staff were concerned about the complexity and significance of the proceeding as well as the need of the OCA to hire an expert witness on rate design issues. OCA indicated that such hiring requires a request for proposals and subsequent contract approval by the Governor and Council. This also accounts for why the schedule reserves a particular opportunity (in the second round of data requests) for discovery on rate design issues. We find the efforts to accommodate these concerns in establishing the procedural schedule to be reasonable. Overall, we adopt the proposed schedule as an appropriate accommodation of the competing imperatives of conducting this case thoroughly and deciding it as expeditiously as possible.

Based upon the forgoing, it is hereby

ORDERED, that the intervention petitions of the Business and Industry Association of New Hampshire, Unitil Energy Systems, Inc., Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Bridgewater Power Company, L.P., Hemphill Power & Light Company, Wausau Papers of New Hampshire, PJA Energy System Design, Ski NH, Granite State Hydropower Association, the

Office of Energy and Planning, Energy Seabrook, LLC, Florida Power & Light Company, FPL Energy Maine Hydro LLC and Newington Energy LLC are hereby GRANTED;

FURTHER ORDERED, that the procedural schedule outlined above is hereby APPROVED.

By order of the Public Utilities Commission of New Hampshire this sixth day of February, 2004.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Graham J. Morrison
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary