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 Hearing

O R D E R N O. 24,369

September 2, 2004

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I. PROCEDURAL HISTORY

Public Service Company of New Hampshire (PSNH) instituted this proceeding before the New Hampshire Public Utilities Commission (Commission) on December 29, 2003 by filing, after the requisite 30-days' notice, a revised Delivery Service Tariff (NHPUC No. 3) to take on February 1, 2004. Included with the filing were supporting pre-filed testimony and exhibits as well as a request for temporary rates pursuant to RSA 378:27 and a motion for confidential treatment of certain information contained in the filing. PSNH was obliged to file proposed new, unbundled Delivery Service rates on or before January 1, 2004, pursuant to the Agreement to Settle PSNH Restructuring (Restructuring Agreement) approved in 2000 by the

Commission in Docket No. DE 99-099. *See PSNH Proposed Restructuring Settlement*, 85 NH PUC 154, 174, *on reh'g*, 85 NH PUC 536 (2000).

The Commission entered Order No. 24,256 on December 31, 2003, suspending the newly filed tariff pursuant to RSA 378:6 pending further investigation. The order also scheduled a Pre-Hearing Conference for January 21, 2004, established a deadline of January 15, 2004, for intervention petitions and 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.

The Pre-Hearing Conference took place as scheduled. The Commission noted the appearance of the Office of Consumer Advocate (OCA) on behalf of residential ratepayers, granted the intervention petitions of 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 (Wausau), PJA Energy System Design (PJA), Ski NH and Granite State Hydropower Association (appearing jointly), the Office of Energy and Planning (OEP) and three jointly appearing affiliates related to the Seabrook nuclear power plant (Energy Seabrook, LLC, Florida Power & Light Company and FPL Energy Maine Hydro, LLC) (collectively, FP&L). *See* Order No. 24,277 (February 6, 2004) (Order Following Pre-Hearing Conference). PSNH used the occasion of the Pre-Hearing Conference to withdraw its request for temporary rates.

The parties and Commission Staff conducted a technical session immediately after the Pre-Hearing Conference and agreed upon a procedural schedule to propose to the

Commission, culminating in hearings during the first week of August 2004. The Commission approved the procedural schedule. *See id*., slip op. at 9-10.

Discovery proceeded according to the procedural schedule. On April 20, 2004 and May 6, 2004, respectively, the IPPs filed and then withdrew a motion to compel certain discovery responses from PSNH. As contemplated by the procedural schedule, OCA and Staff submitted pre-filed direct testimony on May 28, 2004. No other party availed itself of this opportunity. On June 11, 2004, the Commission entered Order No. 24,333, granting in part and denying in part various motions for confidential treatment of documents that had been provided in discovery by PSNH.

As contemplated by the procedural schedule, settlement discussions also took place. As a result, on July 14, 2004 PSNH submitted a Stipulation of Settlement (Revenue Requirements Settlement) entered into by PSNH, OCA, Ski NH and Staff, resolving all issues related to PSNH's delivery service revenue requirements. On July 15, 2004, Executive Councilor Raymond Burton a requested that the Commission conduct a public statement hearing in connection with PSNH's pending requests for rate increases in this docket as well as in Docket No. DE 03-175. The latter proceeding involves PSNH's Transition Service Rates, which the Commission ultimately adjusted upward from 5.36 cents per kilowatt-hour to 5.79 cents. *See Public Service Company of New Hampshire*, Order No. 24,358 (August 2, 2004)

The Commission received a letter from Councilor Burton on July 16, 2004, stating that it was his understanding that electric rates for Wausau would be increasing by more than $100,000 per year and urging the Commission to lower electric rates for the paper industry in general, given the economic difficulties confronted by the North Country. On July 19, 2004, by secretarial letter, the Commission advised the parties to both this docket and DE 03-175 that it had scheduled a public hearing at the Twin Mountain Town Hall for July 28, 2004 at 7:00 p.m. The July 28 hearing took place as scheduled. The Commission received 18 written comments and nine oral statements.

On August 2, 2004, PSNH submitted a second stipulation of settlement, captioned "Settlement Stipulation Concerning Rate Design Issues" (Rate Design Settlement) entered into by PSNH, FP&L, the IPPs, the OCA and Staff. Because the Rate Design Settlement includes language adopting the terms of the Revenue Requirements Settlement, the five signatories to the Rate Design Settlement were effectively presenting the Commission with a proposed resolution of the entire case.

The merits hearing commenced as scheduled on August 3, 2004, and concluded on the same day. The Commission heard testimony from two panels of witnesses, the first in support of the Revenue Requirements Settlement and the second in support of the rate design terms contained in the Rate Design Settlement.

II. POSITIONS OF THE PARTIES AND STAFF

A. Public Service Company of New Hampshire, Ski NH, FPL Energy Seabrook, LLC, Florida Power and Light Company, FPL Energy Maine Hydro, LLC, Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Bridgewater Power Company, LP, Hemphill Power & Light Company, Office of Consumer Advocate and Staff.

a. Revenue Requirements

As noted, *supra*, the two pending settlement agreements would, if adopted, resolve all issues in the proceeding. The settlement signatories agreed to two upward adjustments of PSNH's revenue requirements associated with the provision of delivery service. Specifically, PSNH would be permitted to implement a rate increase effective on October 1, 2004 designed to allow the Company to recover an additional $3.5 million annually in retail delivery charges. This compares with the $21 million initially proposed by PSNH, which would have meant a 10.63 percent increase in PSNH delivery service revenue. Secondly, the signatories agreed to a revenue requirements increase on June 1, 2005, designed to allow PSNH to recover an additional $10 million in retail delivery charges beyond those included in the rates effective on October 1, 2004. Although the initial PSNH proposal did not provide for such an increase, it did include a so-called "Transmission Cost Adjustment Mechanism" whereby PSNH would have been able to pass through to customers changes in the Company's wholesale transmission costs.

The Revenue Requirements Settlement describes these proposed changes to PSNH's revenue requirements as "liquidated revenue requirements." Revenue Requirements Settlement, Exh. 4, at 3. The signatories adopted the recommendations contained in Staff's prefiled testimony with respect to the amortization of regulatory assets and liabilities on the books of PSNH.[1]

The signatories agreed that the two increases in PSNH's revenue requirements represent a reasonable compromise of all relevant issues, including PSNH's cost of capital, return on equity, capital structure, pro forma adjustments to the test-year revenues used to compute the revenue requirements,[2] capital additions to PSNH's rate base, treatment of PSNH's

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[1] A "regulatory asset" is a cost appearing on a utility's books that is not presently being recovered from customers but that the utility expects to recover from customers at some point in the future via the regulatory process. Similarly, a "regulatory liability" represents a sum on the books of a utility that it expects regulators to direct it to return to customers. In this instance, the regulatory assets include receivables arising out of the bankruptcy of an industrial customer, American Tissue Co. The other regulatory assets involve unclaimed property, environmental remediation expenses and additional tax liabilities associated with the New Hampshire Business Profits Tax as paid by PSNH. The regulatory liabilities involve excess funds in the Company's Major Storm Cost Reserve account as well as revenues received by PSNH in connection with fees charged by PSNH for servicing the Rate Reduction Bonds approved in the Restructuring Agreement.

[2] A "pro forma adjustment" is a change in a utility's revenue requirements that reflects known and measurable recurring expenses that were not part of the expenses during the test year used as the basis for calculating the revenue requirements. In this proceeding, PSNH used a test year consisting of the period from July 1, 2002 to June 30, 2003 and applied pro forma adjustments for certain expenses occurring in the 12 months immediately thereafter.

34.5 kilovolt facilities in light of their pending reclassification from transmission to distribution plant, operating expenses and transmission expenses.[3] The Revenue Requirements Settlement does not contain specific figures as to any of these elements. For purposes of comparison, PSNH's initial proposal included a return on equity of 11.2 percent and an overall projected capital structure (including short-term debt) of 55 percent debt and 45 percent equity. OCA proposed a return on equity of 9.52 percent. Staff's figure was 9.3 percent.

The revenue requirements of an electric distribution company typically include the expenses the company incurs in connection with wholesale transmission services necessary for the distribution of electricity at the retail level. The Revenue Requirements Settlement is designed to produce $23.366 million in annual transmission revenue, as originally proposed by Staff. In addition, the June 1, 2005 step increase would add $10 million to PSNH's revenue requirements, $5 million of which would be deemed transmission revenue and $5 million for distribution expenses. The increase related to transmission expenses is predicated on PSNH's moving forward with the reclassification of its 34.5 kilovolt distribution system from transmission to distribution, a change that would otherwise preclude PSNH from recovering on these assets under the currently applicable rate schemes at the wholesale and retail levels.

The step increase as it relates to distribution is predicated on PSNH's capital improvement program. PSNH agreed that, in the event its 2005 capital improvement program is less than $60 million, it would notify the other signatories to determine whether the applicable portion of the step increase is warranted. Additionally, PSNH agreed that no rate adjustments

[3] The Federal Energy Regulatory Commission (FERC) approved this reclassification in June. *See Northeast Utilities Service Co*., 107 FERC ¶ 61,246 (June 2, 2004).

would be made for capital expenditures in excess of $60 million. The step increase would be implemented via increasing transmission and distribution revenue by a uniform percentage.[4]

Under the Revenue Requirements Settlement, PSNH would discontinue the funding of its Major Storm Cost Reserve account created under the Restructuring Agreement. Rather, PSNH would create a new Major Storm Cost Reserve account, which would be funded at the rate of $250,000 per month for the period from February 1, 2004 through September 30, 2004. Effective on October 1, 2004, the new Major Storm Cost Reserve account would be funded at the rate of $1 million per year. Major storm costs incurred after February 1, 2004 would be charged to the new reserve fund, with PSNH authorized to defer any major storm costs that exceed the available reserve funds. For these purposes, a "major storm" is defined as any time that either (a) 10 percent or more of PSNH customers have lost power and there are more than 200 reported troubles, or (b) any time there are 300 or more reported troubles. The Commission would determine the disposition of any storm reserve funds remaining in the reserve, or any deferred costs, at the earlier of the next PSNH rate case or four years from the effective date of the Revenue Requirements Settlement. The stipulated rate of return in the Restructuring Agreement would apply to any balance for recovery or refund.[5]

The Revenue Requirements Settlement provides for the continuation of the Environmental Reserve account identified in the Restructuring Agreement, for sites at which remediation has not yet been completed. PSNH would defer for future recovery environmental remediation expenses for any new site that is identified subsequent to January 31, 2004, or for

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[4] These percentage increases would be transparent because, pursuant to RSA 374-F:4, I and the Commission's rehearing order in Docket No. DE 99-099, *see PSNH Proposed Restructuring Settlement*, 85 NH PUC at 554-55, PSNH's Delivery Service charges would be unbundled so that customers would see separate charges for transmission and distribution.

[5] The Restructuring Agreement provides for a stipulated rate of return that is "calculated assuming a return on equity of 8% after tax, an equity ratio of 40%, and the weighted cost of PSNH's non-securitized long-term debt." Restructuring Agreement at 10, lines 291-93.

any increase to estimated remediation costs for any sites that had already been identified as of that date. At the earlier of the next PSNH rate case or four years from the effective date of the Revenue Requirements Settlement, the Commission would review the amounts in the reserve account and PSNH would propose recovery or refund, as appropriate. The Revenue Requirements Settlement would commit the Commission to grant recovery of such remediation costs that it determines to be prudent and in the public interest. Any such deferrals would be amortized as they are recovered and, as with the storm reserve, the stipulated rate of return from the Restructuring Agreement would be applicable to balances or deferrals.

In its pre-filed testimony, Staff recommended that the Commission require the performance of a "focused comprehensive review of the PSNH distribution system" that would include "equipment maintenance practices and procedures, reliability related programs and assessments, assessment of the physical condition of the system, planning, ratings, manpower, tracking of corrective and planned maintenance items, protection, vegetation and animal control management practices, [operations and maintenance], and budgeting." Exh. 2, Testimony of Michael D. Cannata at 29. The Revenue Requirements Settlement addresses this recommendation by requiring a PSNH commitment "to cooperate with the Staff of the Commission to review its distribution reliability and system planning criteria to assure that PSNH reasonably meets its public utility obligations." Exh. 4 at 6. PSNH agreed that such cooperation would include, but not be limited to, PSNH engaging, at company expense, "an independent third party, approved by the Commission, to perform an independent, comprehensive and focused review of the subject matter" commenced no later than January 1, 2005 and concluded no later than December 31, 2005 or the date on which PSNH files its next distribution rate case if sooner. *Id*.

Included in the Revenue Requirements Settlement is a tariff creating a new rate category available to retail customers of PSNH that operate ski areas. PSNH witness Stephen Hall noted at hearing that these customers are currently taking delivery service under a special contract that terminates on October 31. He characterized the new tariff as essentially a continuation of certain of the special contract terms. Specifically, the tariff provides that PSNH may interrupt service to ski area snowmaking equipment, and will exclude from the determination of each ski area's maximum demand the periods in which the ski area tests its snowmaking equipment at times agreed upon with the Company. Since the maximum demand is the basis of these customers' payment obligation to PSNH, the latter provision represents a price discount. According to Mr. Hall, all PSNH customers benefit from the interruptibility provision because it allows PSNH to reduce costs at times when the Company's marginal cost of providing service is high.

The final substantive provision in the Revenue Requirements Settlement concerns depreciation. The signatories agreed to adopt Staff's recommendations, both as to the annual deduction from rate base to reflect the declining value of assets over time and as to the corresponding addition to PSNH's annual operating costs as depreciation expenses. Staff recommended that depreciation accrual rates be applied to plant balances as of June 30, 2003. It was Staff's further recommendation to use the whole life technique, as opposed to PSNH's proposed use of the remaining life technique, to determine estimated depreciation expense. Staff's proposed depreciation accrual rates are based on average service lives and the net salvage rates contained in the testimony of Staff witnesses Cannata and James J. Cunningham. Overall, in connection with distribution assets, Staff recommended a depreciation accrual rate of 3.22 percent, compared to the existing rate of 2.81 percent and PSNH's proposed 3.54 percent.

According to Staff, when its proposed depreciation accrual rates are applied to June 30, 2003 plant balances, the resulting depreciation expense is $27.3 million.

Mr. Cunningham testified that depreciation accrual rates represent only one of two components of forecasted depreciation expenses, the other component being the amortization of depreciation reserve imbalance. He explained that depreciation reserve imbalance is the difference between actual booked depreciation reserves and the depreciation reserves that would have been booked if PSNH had used the depreciation accrual rates it proposed in this proceeding. Staff determined that the company had recorded depreciation reserves that were approximately $55 million greater than they would have been under Staff's depreciation accrual rates. Staff recommended that this excess reserve imbalance be amortized over approximately 10 years. Accordingly, Staff recommended overall depreciation expenses of $21.675 million, a reduction of $6.132 million from the PSNH proposal. Staff further recommended an $11.3 million depreciation-related reduction to PSNH's proposal for net plant in rate base, to $494.977 million.

b. Rate Design

In its initial proposal, PSNH did not propose any changes to its present rate design and simply increased delivery revenue for each major rate class by an equal percentage in order to achieve the revised revenue levels under the new, increased revenue requirements. The Rate Design Settlement adopts this approach as well, with one key exception.

The exception concerns Rate B, which is the backup rate for large commercial customers that generate their own electricity and turn to PSNH for backup service when the customer-owned generation facilities are not available. The Rate Design Settlement adopted a Staff proposal to allocate transmission costs to the Rate B class based on the highest contribution of that class to the monthly Northeast Utilities System[6] peak demand over the period of January 2001 through December 2003.[7] These allocated transmission costs would be divided by the appropriate class billing determinants to produce the transmission charges applicable to Rate B customers. This results in a transmission demand charge of $1.02 per unit of Backup Contract Demand, as defined in the Rate B tariff.

B. Wausau Papers of New Hampshire

Wausau, which operates a paper mill in Groveton, interposed no objection to the terms of the Revenue Requirements Settlement. It did object, however, to the treatment of Rate B in the Rate Design Settlement and urged the Commission to reject the signatories' approach. Although Wausau sponsored no testimony, through counsel it reminded the Commission of what it views as two important facts not stressed by the signatories.

First, Wausau pointed out that the Rate Design Settlement uses a single method, average peak demand, to allocate transmission costs to every rate class except Rate B. Wausau believes this is unfair. Second, Wausau notes that the Rate B class itself contains two distinct groups that use PSNH delivery services differently: customers that are in the business of electricity generation and customers that are paper mills with on-site generation. In Wausau's view, the former group of customers places greater demands on the PSNH transmission system than the paper mills do and therefore should be allocated transmission costs accordingly.

In support of the latter contention, Wausau introduced and directed the Commission's attention to evidence (Exhibit 7) to the effect that the contribution of the Rate B class to the Northeast Utilities System monthly peak load from January 2001 through December

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[6] Northeast Utilities is the parent company of PSNH. It owns two other electric distribution utilities and, thus, the Northeast Utilities System peak demand is the peak demand recorded by all three affiliates collectively.

[7] For purposes of comparison, PSNH had proposed using the average of the Rate B class's contract demand to allocate transmission costs to the Rate B class.

2003 ranged from 0 (recorded in six of the 36 months) to 43,753 kilowatts in May of 2002, when the system peak load was recorded on the 31st day of the month. Wausau also noted that Exhibit 7 shows (1) that in October of 2003 the Northeast Utilities System recorded its peak demand on the 27th day of the month and the Rate B contribution to the peak was 43,188 kilowatts, and (2) other than in those two months, the Rate B contribution to the system peak never exceeded 9,000 kilowatts and was between 5,000 and 9,000 kilowatts only four times. As to the two months when the Rate B contribution to the system peak was in excess of 43,000 kilowatts, staff witness Pradip Chattopadhyay suggested that one large Rate B customer was causing the spikes, the Seabrook nuclear power plant. Tr. at 60. Wausau invited the Commission to draw the same inference and, to that end, produced two power reactor status reports from the web site of the Nuclear Regulatory Commission (NRC), one for May 31, 2002 and the other for October 2003. This Commission took administrative notice of the two NRC documents, both of which indicated that Seabrook Station was generating at 2 percent or less of capacity on the dates in question.

Wausau outlined several possible alternative approaches to Rate B. First, Wausau recommended that the Commission "proform the test year for Rate B customers using the same methodology as for other customers, and take an average coincidental system peak, based on a proformed test year, that includes one of the Seabrook outages, to give it an accurate reflection of Rate B's actual usage."[8] Tr. at 10. Second, Wausau asked the Commission simply "to allocate transmission costs to Rate B in the same manner that those transmission costs are allocated to every single other customer class that PSNH serves." *Id*. at 12.[9] Finally, Wausau suggested that

[8] Wausau did not specify in its opening or closing statements what test year it was proposing, nor did Wausau file any written document providing this detail. However, while cross-examining Mr. Chattopadhyay, counsel to Wausau referred to "a modified test year from January 2003 through December 2003" as "my proposal." Tr. at 76.

[9] Wausau also alluded to other concerns about Rate B that it lacked the resources to explore: whether Rate B is appropriately structured, whether distribution costs have been allocated correctly and whether, because there was no Seabrook Station outage during the test year, the billing allocation is correct. According to Wausau, "[a]ll of these

the Commission "allocate transmission costs within the Rate B customer class, to allocate appropriately among customers in the way that they use transmission." *Id*. at 107.

In *Public Service Co. of N.H.*, Order No. 24,171 (May 12, 2003), the Commission on petition of Wausau directed PSNH to provide Wausau with a special discounted backup rate designed to mitigate what the Commission determined were competitive harms suffered by Wausau as the result of a special contract between PSNH and another paper company.[10] This discounted rate, known as Rate BW, expires pursuant to the tariff approved by the Commission on June 30, 2004, at which time Wausau would revert to Rate B in connection with its backup service. Wausau alluded to this fact at hearing, noting that "just simply moving from Rate BW to Rate B is a substantial rate increase, and the additional increase on top of that is troubling." Tr. at 11. Responding to allegations that Wausau would only sustain an increase of approximately $8,000 in its annual PSNH bill as a result of the proposed changes to Rate B in the Rate Design Settlement, Wausau referred to the August 28 public comment session in Twin Mountain[11] and noted that "every dollar counts . . . especially for Rate B customers and Rate B paper mills." *Id*. at 107. Wausau asked the Commission to "remember that as it looks at these cost allocation methodologies and attempts to craft an allocation methodology that is fair to all customers." *Id*. at 107-08.

C. PJA Energy Systems Design

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are concerns that potentially could be explored in this docket, [but] unfortunately, as you've heard many times, Wausau just simply doesn't have the resources to hire the experts that are necessary to truly litigate those issues." Tr. at 11.

[10] The Commission clarified Order No. 24,171, as to certain details of the rate mechanism, in Order No. 24,182 (June 6, 2003).

[11] Nine people addressed the Commission in Twin Mountain: Councilor Burton, Representative Frederick King of Colebrook, sawmill owner Gerry Kelley, Wausau Vice President David Atkinson, small business owner Mike Beattie, Local 61 President Bill Potter, real estate broker Sally Pratt, Siwooganock Bank President John Pratt and Fraser Papers Mill Manager Bill Igoe. They urged the Commission to consider the economic challenges faced by the North Country, and its paper mills in particular, in deciding whether to allow PSNH to increase its rates both in this docket and in DE 03-175. There were also numerous written comments filed, to the same effect.

Although PJA presented no evidence either directly or through cross-examination, it asked the Commission to reject, or at least only approve as a temporary measure, the Rate Design Settlement on the ground that it is not cost-based. PJA urged the Commission to "begin to review the most basic of rate structure issues" by looking for ways to structure the recovery of fixed costs "from a more dynamic perspective." *Id*. at 12. According to PJA, imposing a demand charge on electric customers, as Rate B does, sends inappropriate price signals. As an example, PJA argued that a customer with a generator has no incentive under Rate B to coordinate its generation operations with those of the PSNH system as a whole. PJA suggested that such customers could save all customers money by operating its generation and/or deferring its use of PSNH power at times when the PSNH distribution system is otherwise overloaded.

III. COMMISSION ANALYSIS

RSA 378:7 requires evaluation of the proposal before us to determine, after hearing, whether the resulting rates for PSNH are "just and reasonable." "In determining just and reasonable rates, the PUC must balance the consumers' interest in paying no higher rates than are required with the investors' interest in obtaining a reasonable return on their investment." *Appeal of Eastman Sewer Co*., 138 N.H. 221, 224 (1994) (citation omitted).

In the circumstances of this case, we make that determination in the context of the Restructuring Agreement we approved in Docket No. DE 99-099. Under that agreement, Delivery Service rates were fixed through February 1, 2004, at an overall average rate of 2.80 cents per kilowatt hour. PSNH was required to file proposed new delivery rates for effect thereafter and these rates were required to be unbundled – i.e., with the distribution and transmission components broken out individually.[12] The Restructuring Agreement explicitly

[12] The Restructuring Agreement explicitly provides for reconciliation of the new Delivery Service rates to February 1, 2004. But, as already noted, PSNH has waived its right to such a reconciliation.

contemplated that the proposed rates would be suspended and an investigation and hearing would ensue.

We have examined the proposed revenue requirements as set forth in the Revenue Requirements Settlement and find that they are just and reasonable. Although the Revenue Requirements Settlement contains no explicit statement of what rate of return is being applied to PSNH, "the liquidated revenue requirements" figure in the agreement reflects an outcome that is much closer to Staff's initial proposal than that of PSNH and happens to be approximately midway between PSNH's proposal and the position taken by OCA. In this sense, the agreement provides PSNH's owners the opportunity to earn a reasonable return on their investment without unduly favoring such a result at the expense of customers. Likewise, the level of expenses reflected in the proposed revenue requirements is reasonable, reflecting a result that is substantially smaller than the sum PSNH originally proposed.

It is appropriate for the settlement signatories to have conditioned the June 1, 2005 step increase on PSNH actually moving forward with the initiatives that justify it, i.e., a significant program of capital improvements as well as the reclassification of PSNH's 34.5 kilovolt system from transmission to distribution. Likewise, we find it appropriate in these circumstances for PSNH to have committed to a comprehensive review by an independent expert of its distribution system.

We agree with the signatories that the proposed special rate for ski area customers is a positive development that serves the public interest. Both PSNH and the ski areas have committed themselves to the kind of flexibility that is likely to reduce PSNH's overall costs while not having a negative impact on any aspect of the customers' commercial activities.

The Restructuring Agreement includes several specific provisions that concern the Delivery Service rates we now consider. These provisions involve taking into account any revenues received by PSNH for servicing of outstanding Rate Reduction Bonds, Major Storm Cost Reserve, Environmental Reserve and environmental remediation expenses. We find that the signatories have included provisions in the Revenue Requirements Settlement that are compliant with these undertakings in the Restructuring Agreement and are otherwise in the public interest.

Finally, we note with approval the signatories' adoption of Staff's recommendations with respect to depreciation. The suggestions Staff made for depreciation-related revisions to PSNH's initial proposal are also for the public good.

The only contested issue in this case involves the design of Rate B. As proposed in the Rate Design Settlement, Rate B consists of (1) an administrative charge of $186.45 per month, (2) a translation charge of $31.07 per recorder per month, (3) a transmission demand charge of $1.02 per unit of "backup contract demand," (4) a distribution demand charge of $3.05 per unit of backup contract demand, (5) distribution energy charges equal to the charges contained in the standard rate for delivery service, and (6) a discount of $1.69 per unit of backup contract demand for customers taking service at 115,000 volts. "Backup contract demand" is specifically defined in the tariff as a measure of the demand the customer may impose on PSNH's facilities to back up the customer's generating facilities. For customers whose generation capacity is larger than their total internal load, backup contract demand is based on meter readings for on-peak periods during the current and preceding 11 months. This is the so-called "demand ratchet" that has the effect of imposing on these customers transmission and demand charges based on their peak usage over the preceding year.[13]

Rate B as contained in the Rate Design Settlement differs from the Rate B originally proposed by PSNH in only one respect, but it is a significant respect. Adopting Staff's proposal, the signatories agreed to calculate the demand charges by allocating transmission costs to the Rate B class based on the highest contribution of the class as a whole to the monthly Northeast Utilities system peak demand during 2001, 2002 and 2003. PSNH had proposed using the average of monthly billing demands to allocate transmission costs.

As an initial matter, we note that, apart from Rate B, there is agreement among the parties presenting evidence that PSNH should maintain its existing rate design.[14] The record supports a determination that such an approach is in the public interest.

Rate B raises the question of what portion of PSNH's revenue requirements should be borne by major industrial customers that only use PSNH's system as a backup source of energy. It is a challenging question because, on the one hand, and as noted by Wausau, in one sense backup customers are like everyone else: They have, in effect, a requirements contract with PSNH and are counting on PSNH to provide service whenever they need it. On the other hand, as pointed out by Mr. Hall of PSNH, Rate B customers are unique because of their infrequent use of the service. Regardless, as Mr. Hall noted, PSNH must nevertheless "have the

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[13] The proposed Rate B tariff language appears in the record at pages 68-70 of Attachment SRH-2 to Exhibit 1. Since this is the tariff filed by PSNH at the outset of the case, the numbers contained therein reflect the original PSNH proposal as opposed to the figures in the Rate Design Settlement. The relevant figures appear in the record at page 3 of Exhibit 5.

[14] There is one exception to this unanimity. PJA urges the Commission to require PSNH to adopt a different approach to rate design, one that involves rates which send price signals designed to incent self-generation and other customer measures at appropriate times. No evidence in the record supports a determination that we should take such action. We thus are unable to adopt PJA's views, but we make that determination in the context of noting that, as a general proposition, the kinds of innovative approaches to rate design urged by PJA are well worth exploring by electric utilities and their regulators.

transmission facilities ready, willing and able to serve them when and if they want to take power" and a failure to take this reality into account in the context of rate design would have the effect of shifting real and measurable costs to other customers. Tr. at 83.

Wausau does not take exception to this proposition. Rather, it argues that Rate B is in need of some refinement so as to allow the applicable rates to track more closely the costs caused by Rate B customers. Although we agree with the objective of designing rates that accurately reflect costs, none of the suggestions advanced by Wausau were sufficiently developed on the record to convince us they would be superior to Rate B as described in the Rate Design Settlement.

In cross-examining the rate design witnesses, Wausau was able to establish that one large Rate B customer, Seabrook station, is distinct from the rest of the class in terms of the magnitude of the demand it places on the PSNH system when it is off line or generating at low levels. However, one could just as likely develop evidence as to other distinctions within the class – e.g., Rate B customers that are in the business of electric generation likely impose different demands than customers that generate electricity purely to support their core businesses (i.e., paper mills). The same could likely be said of Rate B customers that consistently impose at least some demand on PSNH's system, as opposed to customers that do not. Indeed, Rate B as it is presently designed accommodates one such distinction by providing a rate discount to customers taking service at 115 kilovolts or higher – i.e., at a transmission-level voltage that causes little if any distribution-related costs. It is our finding that the record supports the fairness and the cost-causation assumptions underlying Rate B as proposed by the signatories.

Though we find the Rate B rate design in the Settlement to be just and reasonable, the public policy of the state would be advanced by further inquiry into the design of backup electricity rates so as to explore the general issues that Wausau raises. Accordingly, we direct Staff to conduct an investigation over the next several months that will culminate in the submission of a white paper report on this subject. Our expectation is that the parties with an interest in this issue here, as well as other utilities, customers and customer groups with an interest in the fairness and economic impacts of backup electric rates will have an opportunity to provide input. We will review the white paper and take action as necessary, potentially including formal proceedings to change the design of Rate B.

In the arguments it had submitted here as well as the public statements it has made in Twin Mountain, Wausau has stressed the importance of its energy expenses, noting that even a small variation in these expenses can have real significance for its success in a highly competitive industry that operates on a global scale. This reprises points made by Wausau in the proceedings that led to the establishment of Rate BW. We accept these contentions, but note as a practical matter that the proposals advanced by Wausau at hearing could actually have the effect in the near term, when compared to the settlement, of increasing rates for backup customers. This is because decreases to the transmission component of the rate would (prior to the 2005 step increase) result in a more than corresponding increase in the distribution component of the rate.

The proposed 2005 step increase would result in both higher transmission and distribution demand charges for Rate B customers. The changes proposed by Wausau would have only a modest downward impact, as the result of shifting some transmission costs to other customer classes. The record does not support a determination that such a cost shifting is appropriate.

We wish to assure the customers and public officials who addressed us in Twin Mountain and/or otherwise submitted written comments that we are mindful of their concerns about rate increases, particularly in the economically challenged North Country and particularly for industrial customers (and employers) that face challenging competitive pressures. In general, the distribution rate increases we approve here are limited,[15] do not portend a return to the former era of rate shock and to a great extent reflect the cost of system improvements that will have positive effects on the overall economy. We believe that the rates we approve today are as low as they can be while still providing for infrastructure improvements for the benefit of customers and the opportunity for a reasonable return on shareholder investment.

Based upon the foregoing, it is hereby

ORDERED, that the Revenue Requirements Settlement and the Rate Design Settlement, as proposed in this docket by Public Service Company of New Hampshire, FPL Energy Seabrook, LLC, Florida Power and Light Company, FPL Energy Maine Hydro, LLC; Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Bridgewater Power Company, LP, Hemphill Power & Light Company, Ski NH, the Office of Consumer Advocate and the Commission Staff is hereby APPROVED; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire submit a compliance filing that includes a tariff for effect on a bills-rendered basis on or after October 1, 2004 as well as a separate calculation of the rates expected to be effective (by rate class) on June 1, 2005, within ten days of this Order.

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[15] As has been noted in comments filed with the Commission, Wausau faces a significant increase in the cost of its backup service. However, the bulk of this increase is attributable to the termination of the specially discounted Rate BW, which was pegged to the existence of the also-expiring special contract with one of Wausau's competitors.

By order of the Public Utilities Commission of New Hampshire this second day of September, 2004.

Thomas B. Getz Chairman	Graham J. Morrison Commissioner

Attested by:

Michelle A. Caraway
Assistant Executive Director