

**DE 04-071**

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

**2003 Stranded Cost Recovery Charge Reconciliation**

**Order Following Hearing**

**ORDER NO. 24,387**

**October 29, 2004**

**APPEARANCES:** Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; F. Anne Ross, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; and Donald M. Kreis, Esq. of the Staff of the New Hampshire Public Utilities Commission.

**I. BACKGROUND AND PROCEDURAL HISTORY**

On April 30, 2004, Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) a proposed reconciliation of the accounts associated with the PSNH's Stranded Cost Recovery Charge (SCRC) and Transition Service charge for calendar year 2003, with accompanying pre-filed direct testimony. The filing follows up on Order No. 24,125 (February 14, 2003), in which the Commission approved an initial SCRC reconciliation and directed PSNH to file annual SCRC reconciliations thereafter by May 1 of the following year. The Commission approved the reconciliation for calendar year 2002 in Order No. 24,224 (October 24, 2003).

As explained in Order Nos. 24,125 and 24,224, the SCRC is the mechanism by which PSNH recovers those restructuring-related stranded costs that were allowed under the Agreement to Settle PSNH Restructuring (Restructuring Agreement) approved by the Commission in 2000. See *PSNH Proposed Restructuring Settlement*, 85 NH PUC 154 (approving Restructuring Agreement); *on reh 'g*, 85 NH PUC 536 and 85 NH PUC 645 (2000); *see also PSNH Proposed Restructuring Settlement*, 85 NH PUC 567 (2000) (resolving financing

issues related to securitization of stranded costs); RSA 369-B (establishing legislative conditions for securitization financing). Pursuant to RSA 374-F:2, IV, stranded costs are costs that electric utilities “would reasonably expect to recover if the [former] regulatory structure with retail rates for the bundled provision of electric service continued and that will not be recovered as a result of restructured industry regulation that allows retail choice of electricity suppliers, unless a specific mechanism for such cost recovery is provided.”

Transition Service is “electricity supply that is available to existing retail customers prior to each customer’s first choice of a competitive electricity supplier and to others, as deemed appropriate by the commission.” RSA 374-F:2, V. PSNH provides its Transition Service from its portfolio of non-divested generation assets, mandated purchases from independent power producers and, as necessary, wholesale market purchases. PSNH is entitled to recover certain deficiencies and must credit certain surpluses from Transition Service to its recoverable stranded costs. The instant docket reconciles for 2003.

The Commission entered an Order of Notice on May 20, 2004, scheduling a Pre-Hearing Conference for June 8, 2004 and establishing a deadline for intervention petitions. No petitions were submitted; the Office of Consumer Advocate (OCA) entered an appearance on behalf of residential ratepayers as authorized by statute. The Pre-Hearing Conference took place as scheduled, with the parties and Staff conducting a technical session immediately thereafter to develop a proposed procedural schedule for the duration of the docket. By secretarial letter on June 15, 2004, the Commission approved the proposed procedural schedule as submitted by the Commission Staff.

Thereafter, the parties and Staff conducted discovery, technical sessions and settlement conferences as contemplated by the schedule. On August 17 and 25, 2004, Staff

submitted written pre-filed direct testimony. At the request of the parties and Staff, the Commission canceled a settlement conference scheduled for September 16, 2004.

On October 4, 2004, PSNH filed a Stipulation and Settlement Agreement entered into among PSNH, the OCA and Staff. The Settlement, if approved, would resolve all outstanding issues in the docket.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. Public Service Company of New Hampshire**

In its initial filing, PSNH indicated that the costs associated with recovering already-allowed stranded costs and with providing Transition Service during 2003 were greater than the sum of PSNH's SCRC and Transition Service revenue. Therefore, according to PSNH, it deferred approximately \$6 million for recovery in 2004 via the SCRC. PSNH noted that the mechanism for recovering such deferrals is an increase in Part 3 stranded costs. Under the rubric established in the Restructuring Agreement and related approvals, Part 3 stranded costs are those recoverable stranded costs of which PSNH undertook some risk of non-recovery at the time the Restructuring Agreement was signed in 1999.

During January of 2003, PSNH charged 4.40 cents per kilowatt-hour for Transition Service as specified by RSA 369-B:3, IV(b)(1)(B). The statute further required PSNH to charge residential and small commercial customers 4.60 cents per kilowatt-hour as of February 1, 2003 for Transition Service, with the remaining Transition Service customers charged a rate reflecting PSNH's actual, prudent and reasonable costs. In Order No. 24,117 (January 30, 2003), the Commission established a Transition Service rate of 4.67 cents per

kilowatt-hour for those customers.<sup>1</sup> According to PSNH, notwithstanding these Transition Service rates for 2003, PSNH's actual cost of providing Transition Service during the period was approximately 5.37 cents per kilowatt-hour.

Because the statute requires the Commission to set PSNH's Transition Service rates based, among other things, on the utility's prudent costs, the SCRC reconciliations represent the Commission's opportunity to review the prudence of PSNH's power acquisition, including operation of its retained non-nuclear generation portfolio. See RSA 369-B:3, IV(b)(1)(A) and 369-B:3-a (providing that PSNH shall not sell these assets until at least April 30, 2006 and must, in the interim, use them to provide Transition Service and Default Service). PSNH characterized the performance of its generation units in 2003 as "exceptional," but also noted that its coal-fired units operated at a lower capacity factor than forecast, causing it to incur more costs than predicted.

PSNH noted that under the terms of the Restructuring Agreement, Part 3 stranded costs are subject to a "Recovery End Date," after which PSNH would be required to write off any unrecovered stranded costs from this category. PSNH indicated that it expects to have fully recovered its Part 3 stranded costs some time in 2007. According to PSNH, under the terms of the Restructuring Agreement the recovery end date cannot be calculated until PSNH sells its non-nuclear generation portfolio.

---

<sup>1</sup> The statute further called for all PSNH Transition Service rates to reflect actual, prudent and reasonable costs as of February 1, 2004. Accordingly, in Order No. 24,252 (December 19, 2003), the Commission set PSNH's Transition Service rate for all customers at 5.36 cents per kilowatt-hour. In Order No. 24,358 (August 2, 2004), the Commission approved an increase to 5.79 cents per kilowatt-hour, partially granting a PSNH request to increase the rate to 5.94 cents. On September 24, 2004 in Docket No. DE 04-177, PSNH filed a request to set the Transition Service rate at an estimated 6.14 cents per kilowatt-hour effective on February 1, 2005, subject to further adjustments as that date approaches based on projections of PSNH's actual, prudent and reasonable costs. Because they relate to bills rendered after 2003, these Transition Service charges are unrelated to the present SCRC reconciliation.

Included with the PSNH filing was the testimony of William H. Smagula, PSNH's director of generation. Mr. Smagula provided information about all outages, either planned or forced, that occurred at PSNH generation facilities during 2003 and required PSNH to replace the power. Mr. Smagula testified that, overall, PSNH's total generation for 2003 was more than 6.2 million megawatt-hours, a 37 percent increase over the average of the prior three years.

#### **B. Staff**

Staff sponsored the pre-filed direct testimony of two witnesses: Steven Mullen and consultant Michael Cannata.

Mr. Mullen addressed questions relating to decommissioning costs associated with the Connecticut Yankee nuclear power plant, for which PSNH is partially responsible, and issues relating to the Recovery End Date specified in the Restructuring Agreement. With respect to the former, Mr. Mullen noted that estimated decommissioning costs for Connecticut Yankee had reached \$831.3 million, compared to the 2000 estimate of \$435.7 million, with PSNH's share likewise increasing \$17.1 million to \$33.3 million. Mr. Mullen testified that he was concerned about this increase, which he traced in part to the termination in 2003 of Connecticut Yankee's contract with its decommissioning contractor and which he noted was the subject of pending litigation. He noted that the Federal Energy Regulatory Commission (FERC) would be considering the prudence of all expenses arising out of the decommissioning. Thus, he recommended that the Commission allow PSNH to recover these costs provisionally, leaving the issue open pending the FERC's decision.

Mr. Mullen further indicated that Staff did not fully agree with PSNH's position with respect to the Recovery End Date associated with Part 3 stranded costs under the

Restructuring Agreement. Specifically, Mr. Mullen took exception to PSNH's contention that the Recovery End Date cannot be determined absent a sale of PSNH's non-nuclear generation portfolio. According to Mr. Mullen, at the time the Restructuring Agreement was signed in 1999 the parties did not contemplate the possibility that PSNH would be retaining these assets. He said there is nothing in the Restructuring Agreement that eliminates the concept of a Recovery End Date in the event PSNH retains the generation assets, even though the date for calculating the Recovery End Date was pegged to the date on which PSNH divested the generation portfolio. Mr. Mullen suggested that the Commission leave this issue open for later resolution.

Mr. Cannata testified about his review of the prudence of PSNH's generation outages during 2003 as well as the prudence of PSNH's market-based capacity and energy planning during the period. With respect to the outages, both planned and forced, Mr. Cannata testified that all outages were reasonable, either necessary or not unexpected for the unit in question and reflected proper management oversight. Mr. Cannata also testified that PSNH made sound management decisions concerning capacity and energy transactions in a volatile wholesale market.

An issue Mr. Cannata addressed in some detail concerns the projections PSNH used at the beginning of 2003 for capacity factors applicable to its various generating units.<sup>2</sup> According to Mr. Cannata, in making its projections PSNH failed to take into account those times when PSNH could save money by purchasing power rather than generating it. According to Mr. Cannata, this had the effect of slightly underestimating PSNH's cost of providing Transition Service during 2003. According to Mr. Cannata, another effect, unanticipated but positive, was that PSNH made fewer advance energy purchases in anticipation of hot summer

---

<sup>2</sup> A generating unit's capacity factor is the actual power produced by the unit over a period of time expressed as a percentage of the power that may have been produced if the unit were running at full power for that period.

weather that ultimately did not materialize, thus saving some money. In any event, Mr. Cannata testified that PSNH has solved the capacity factor projection problem in connection with PSNH's current forecasts.

### **C. Summary of the Stipulation and Settlement Agreement**

The Stipulation and Settlement Agreement (Settlement) entered into among the parties and Staff adopts the recommendations of Messrs. Mullen and Cannata with respect to the recovery of PSNH's costs related to the provision of Transition Service in 2003. Specifically, the Settlement characterizes the capacity factor projections used by PSNH in 2003 as "reasonable but simplistic" and, therefore, PSNH agreed to consider and implement improvements to its capacity factor projections. The parties and Staff agreed that PSNH should not be subject to any cost disallowances and that PSNH should be allowed to recover its full cost of generation for 2003 as well as the cost of PSNH's purchased power supply net of energy sold by PSNH on the wholesale market. The Settlement explicitly adopts Mr. Mullen's recommendation that decommissioning costs associated with Connecticut Yankee be included in the instant reconciliation for recovery, pending the outcome of the FERC proceedings relating to the decommissioning.

The Settlement contains an acknowledgment that the parties and Staff are in disagreement with regard to the Recovery End Date associated with PSNH's Part 3 stranded costs under the Restructuring Agreement. According to the Settlement, the disagreement is the result of changes in law subsequent to the date of the Restructuring Agreement. According to the Settlement, neither the parties nor Staff believes the Commission needs to decide this issue in the present proceeding. Accordingly, the parties and Staff reserved their rights to petition the

Commission to address this issue in the future but recommended that the Commission take no action on the Recovery End Date at this time.

### III. COMMISSION ANALYSIS

As noted in the order on the 2002 reconciliation of PSNH's recoverable stranded costs, we review what is proposed here by the parties and Staff for its consistency with the Restructuring Agreement and with the public interest generally. *See* Order No. 24,224 (October 24, 2003), slip op. at 9. As explicitly contemplated by the Restructuring Agreement, we review the expenses incurred by PSNH in the provision of Transition Service for their prudence, which means we will disallow any replacement power costs incurred as a result of generation outages that were caused by imprudent operation of the PSNH non-nuclear generation portfolio. *Id.* Similarly, we review PSNH's wholesale power transactions for their consistency with the prudence standard.

The record reflects that Staff conducted a thorough analysis of the generation outages during the period, as well as PSNH's wholesale transactions associated with Transition Service, finding them to be consistent with PSNH's obligation to act with prudence in providing energy to its retail customers. The only potential exception cited by Staff relates to the capacity factor projections for 2003, but even these Staff characterized as reasonable. Accordingly, we adopt the recommendation of the parties and Staff that we find the relevant expenses to have been prudently incurred and appropriate for recovery from customers.

We also find it consistent with the public interest to adopt the recommendation to defer the issues of Connecticut Yankee decommissioning and the Recovery End Date for Part 3 stranded costs. With regard to the former, it is appropriate to permit PSNH to recover the relevant costs with the expectation that future SCRC reconciliations would allow for any



adjustments related to the FERC proceedings. With regard to the latter, we agree that it is not necessary in the reconciliation of recoverable stranded costs for 2003 that we resolve the issue of when the Recovery End Date might terminate PSNH's recovery of Part 3 stranded costs that will likely not otherwise be fully recovered until some time in 2007.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the Stipulation and Settlement Agreement entered into among Public Service Company of New Hampshire, the Office of Consumer Advocate and the Commission Staff is APPROVED.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of October, 2004.

---

Thomas B. Getz  
Chairman

---

Graham J. Morrison  
Commissioner

Attested by:

---

Michelle A. Caraway  
Assistant Executive Director