

DG 04-168

NORTHERN UTILITIES, INC. – PELHAM DIVISION

2004/2005 Winter Cost of Gas

Order Approving Cost of Gas Rate

O R D E R N O. 24,391

October 29, 2004

APPEARANCES: Patricia M. French, Esq., on behalf of Northern Utilities, Inc.; and Edward N. Damon, Esq., for the Staff of the New Hampshire Public Utilities Commission

I. PROCEDURAL HISTORY

On September 15, 2004, Northern Utilities, Inc. – Pelham Division (Northern) filed with the New Hampshire Public Utilities Commission (Commission) its Cost of Gas (COG) for the period November 1, 2004, through April 30, 2005, for Northern's propane service to 18 commercial customers located in Pelham, New Hampshire. The filing was accompanied by supporting attachments and the Direct Testimony of Joseph A. Ferro, Manager of Regulatory Policy.

On September 21, 2004, the Commission issued an Order of Notice setting a deadline for intervention requests and scheduling a hearing for October 19, 2004. No motions to intervene were filed. On October 15, 2004, Northern filed a revised COG and the duly noticed hearing on the merits was held at the Commission on October 19, 2004.

II. POSITIONS OF THE PARTIES AND STAFF

A. Northern

Mr. Ferro explained that Northern's Pelham Division customers are supplied propane through one 19,000 gallon tank. Mr. Ferro then addressed the following issues: 1)

calculation of the COG rate and the impact on customer bills; 2) factors contributing to the increased rate; and 3) plans to sell the system with minimal impact on the existing customers.

1. Calculation of the COG Rate and Rate Impact

As indicated on the proposed revised tariff page 40, the proposed 2004/2005 winter COG rate of \$1.2504 per therm was calculated by increasing the anticipated cost of gas of \$66,401 by the prior period under-collection of \$8,769 and related interest of \$214 and dividing the resulting anticipated costs of \$75,384 by projected therm sales of 60,287.

Northern's proposed 2004/2005 winter COG rate of \$1.2504 per therm represents an increase of \$0.2063 per therm from the 2003/2004 average weighted winter COG rate of \$1.0441 per therm. According to Northern's filing, assuming a monthly usage of 200 therms by a low annual/high winter use commercial customer, the proposed COG rate of \$1.2504 per therm will increase the monthly bill by \$62.17, or 13.17 percent, compared to last winter.

2. Factors Contributing to the Increased COG Rate

Mr. Ferro testified that the increase in the proposed COG rate as compared to last winter's rate can be primarily attributed to higher actual and forecasted propane prices for the upcoming winter period as compared to last winter's prices.

3. Plans to Sell the Pelham System

In *Northern Utilities, Inc.*, 87 NH PUC 269 (2002), approving the Northern – Pelham Division 2002 summer COG, the Commission directed Northern to develop and file a plan to allow for service to the Pelham propane system which would no longer be subject to Commission regulation. The directive came about as a result of the recognition by Staff and Northern that natural gas service cannot be economically provided to Pelham and that the existing propane service was not intended to be subject to Commission regulation indefinitely.

Mr. Ferro testified that Northern had notified the owner of the Pelham Plaza of plans to discontinue regulated service and Northern had offered to sell the propane equipment serving the Pelham Plaza to the owner. Northern responded to the owner's questions regarding the cost and operation of the system, but the owner decided against the purchase of the system. Northern may seek bids from independent propane suppliers to purchase the facilities and provide service. Northern plans to meet with Staff to discuss any further steps to be taken regarding the sale the facilities.

B. Staff

Staff stated that it had reviewed the filing and recommended approval of the proposed COG rate, noting that the demand and supply planning is consistent with what has been filed in previous years and approved by the Commission. Staff also added that customers are protected by the COG reconciliation, through which actual gas costs and revenues are reconciled and reviewed in the subsequent COG period.

III. COMMISSION ANALYSIS

After careful review of the record in this docket, we find that Northern's proposed COG rate will result in a just and reasonable rate pursuant to RSA 378:7. Accordingly, we accept and approve Northern's proposed 2004/2005 winter COG rate.

Prior to 1997, the Commission regulated Northern's Pelham Division as a public utility. Chapter 298:1, Laws of 1997 added RSA 362:4-b, which provides:

I. The term "public utility" shall not include any corporation, company, association, joint stock association, partnership and person, their lessee, trustee or receiver appointed by any court, or assignee, which provides, sells, delivers, or stores liquefied petroleum gas in cylinders or tanks, or who distributes liquefied petroleum gas through underground distribution systems, except for those systems regulated by the commission as of May 1, 1997.

II. Nothing in this section prevents the commission from regulating the rates and charges of the distributed propane operations of a regulated natural gas utility when those activities are provided as a temporary alternative to the provision of natural gas, and when the rates and charges are based on the cost of service of the regulated public utility.

III. Nothing in this section prevents the commission from monitoring or enforcing the provisions of federal pipeline safety standards relative to liquefied petroleum gas systems pursuant to the Natural Gas Pipeline Safety Act.

Propane systems such as Northern's are within the scope of RSA 362:4-b. In *Northern Utilities, Inc., supra* at 271, the Commission stated:

“The primary reason for the Commission regulating the Pelham propane system was the understanding that Northern would extend natural gas service to that system at some future date, as was done with the Northern Salem propane system some years ago. Northern asserts that natural gas service cannot be economically provided to Pelham at any time in the foreseeable future and that the system should no longer be subject to Commission regulation. We appreciate Northern's efforts to develop a plan that results in minimal impact on the Pelham customers and await Northern's filing detailing how that is to be accomplished.”

To date, Northern has been unable to execute a plan for deregulating its Pelham Division.

Although the Pelham Division was regulated prior to May 1, 1997 and therefore may be regulated by the Commission under RSA 362:4-b,II, it is abundantly clear that the Pelham Division is not a *temporary* alternative to the provision of natural gas and, consistent with RSA 362:4-b, it may no longer be appropriate that it be regulated as a public utility. Accordingly, we direct Staff to convene a meeting of interested parties regarding the further operations of the Pelham Division. Further options to discuss include the sale of the Pelham Division to an unregulated third party, the continued operation of the Pelham Division facilities by Northern on an unregulated basis or the continued operation of the Pelham Division on a regulated basis. It is our hope that a plan of future operation be resolved by the time the 2005 Summer COG is filed with the Commission.

We will direct Northern to notify by first class mail postmarked no later than December 1, 2004, all Pelham Division customers of this Order, including a cover letter noticing a place, date and time for a meeting with interested parties and Staff.

Based upon the foregoing, it is hereby

ORDERED, that Northern Utilities, Inc. - Pelham Division's proposed Winter COG rate of \$1.2504 per therm for the period November 1, 2004 through April 30, 2005, is **APPROVED**, effective for service rendered on or after November 1, 2004; and it is

FURTHER ORDERED, that Northern may, without further Commission action, adjust the approved COG rate upward or downward monthly based on Northern's calculation of the projected over or under-collection for the period, but the cumulative adjustments shall not exceed twenty percent (20%) of the approved unit cost of gas; and it is

FURTHER ORDERED, that Northern will provide the Commission with its monthly calculation of the projected over or under calculation, along with the resulting revised COG rate for the subsequent month, not less than five (5) business days prior to the first day of the subsequent month. Northern shall include a revised tariff page 40 - Calculation of Cost of Gas and revised rate schedules if Northern elects to adjust the COG rate; and it is

FURTHER ORDERED, that the over or under-collection shall accrue interest at the Prime Rate reported in the *Wall Street Journal*. The rate is to be adjusted each quarter using the rate reported on the first date of the month preceding the first month of the quarter; and it is

FURTHER ORDERED, that Northern shall file properly annotated tariff pages in compliance with this Order no later than fifteen (15) days from the issuance date of this Order, as required by N.H. Admin. Rules, Puc 1603; and it is

FURTHER ORDERED, that Northern shall notify by first class mail postmarked no later than December 1, 2004, all Pelham Division customers of this Order, including a cover letter scheduling a place, date and time for a meeting with interested parties and Staff to discuss the future of the Pelham Division, consistent with this order.

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