

DE 06-078

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Petition for Adjustment of Stranded Cost Recovery Charge

Order Granting Petition

ORDER NO. 24,641

June 30, 2006

APPEARANCES: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Brown, Olson & Gould, P.A. by David M. Shulock, Esq. for Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Bridgewater Power Company L.P. and Hemphill Power & Light Company; Office of Consumer Advocate by F. Anne Ross, Esq. on behalf of residential ratepayers; and Donald M. Kreis, Esq. of the Staff of the New Hampshire Public Utilities Commission

I. PROCEDURAL HISTORY

On May 26, 2006, Public Service Company of New Hampshire (PSNH) filed a petition with the New Hampshire Public Utilities Commission (PUC) seeking a downward adjustment to its Stranded Cost Recovery Charge (SCRC) effective on July 1, 2006. The SCRC is paid by all PSNH customers and is designed to compensate PSNH for certain costs that would otherwise have been unrecoverable in light of the industry changes brought about by the Electric Industry Restructuring Act, RSA 374-F. Although the SCRC varies by customer class, its average is currently 3.35 cents per kilowatt-hour, which PSNH proposes to reduce to 1.55 cents.

The Commission issued an Order of Notice on June 7, 2006, scheduling a hearing for June 21, 2006, and establishing a deadline of June 19, 2006, for intervention requests. The Office of Consumer Advocate (OCA) entered an appearance on behalf of residential ratepayers pursuant to RSA 363:28 on June 9, 2006.

The hearing took place as scheduled on June 21, 2006. Finding that they met the standard set forth in RSA 541-A:32, I, the Commission granted the intervention petitions of the

Office of Energy and Planning as well as the jointly appearing Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Bridgewater Power Company L.P. and Hemphill Power & Light Company. Testifying at hearing on behalf of PSNH were Robert A. Baumann, director of revenue regulation and load resources for PSNH affiliate Northeast Utilities Service Company, and Stephen R. Hall, PSNH's manager of rates and regulatory services.

II. POSITIONS OF THE PARTIES AND STAFF

A. Public Service Company of New Hampshire

PSNH explained that it was seeking a reduction in the SCRC to reflect the full recovery, as of approximately June 30, 2006, of all Part 3 stranded costs within the meaning of the PSNH Restructuring Settlement Agreement (Restructuring Agreement) approved by the Commission in *PSNH Proposed Restructuring Settlement* (Order No. 23,443), 85 NH PUC 154, *on reh'g*, 85 NH PUC 536 (2000). The Legislature has defined "stranded costs" as

costs, liabilities, and investments, such as uneconomic assets, that electric utilities would reasonably expect to recover if the [previously] existing 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.

RSA 374-F:2, IV (also limiting such costs to pre-existing commitments or obligations and certain additional commitments if approved by the Commission). Under the mechanism created by the Restructuring Agreement, customers currently pay an SCRC that is itself comprised of three parts. Part 3 stranded costs were those for which PSNH undertook some risk of non-recovery at the time it entered into the Restructuring Agreement in 1999.

Mr. Baumann testified that, based on actual figures through April 2006 and estimated data for the months of May and June, PSNH will have recovered virtually all Part 3 costs as of the end of June. Specifically, Mr. Baumann estimated that a small balance of \$3.181 million will

remain in the Part 3 account as of June 30, 2006. In these circumstances, according to Mr. Baumann, it is appropriate for PSNH to reduce the SCRC as of June 30, which is the same date on which PSNH proposes to reduce its Energy Service charge (the focus of proceedings in Docket No. DE 05-164) and increase its Delivery Service charge on a temporary basis (in connection with the Company's full Delivery Service rate case, Docket No. DE 06-028). Mr. Baumann stressed that PSNH was not seeking a determination as to the prudence of any incurred costs that might ultimately be recovered through the SCRC, noting that such issues are addressed in proceedings associated with the SCRC reconciliation that has traditionally been filed in May of each year, relating to the preceding calendar year.

Mr. Hall described PSNH's proposal for allocating the proposed reduction in SCRC revenue among the various rate classes. According to Mr. Hall, PSNH calculated the overall SCRC reduction as 53.68 percent and then reduced the specific SCRC revenue requirement for each rate class by that percentage. Mr. Hall noted that his proposal would have the effect of causing a small group of "special pricing" customers to begin making a negative contribution to net stranded cost recovery, but he testified to an offsetting increase in imputed delivery service revenue from these customers that would have the effect of preventing an unfair subsidy of these customers by ratepayers subject to the traditional cost-of-service-based rates.¹

Also addressed by the PSNH witnesses was the relationship between Part 2 stranded costs, Part 3 stranded costs and costs recovered via PSNH's Energy Service charge. According to Mr. Baumann, Part 2 stranded costs within the rubric of the Commission-approved

¹ As noted by Mr. Hall, "special pricing" customers are those industrial customers who are authorized to take service under rates that are discounted from those that are calculated based on the traditional cost-of-service methodology. The premise is that such customers would leave the PSNH system without the discount and, in light of the relatively low marginal cost of serving them, the provision of discounted rates and the consequent retention of their contribution to PSNH's overall revenue requirement is preferable from the standpoint of all PSNH customers. *See* RSA 378:11-a (authorizing approval of "electric service rates that foster economic development and . . . for retention of existing load within the state"). The tariffed, special pricing rates are the successors to the "special contract" arrangements that once applied to customers in this situation.

Restructuring Agreement include “‘ongoing’ costs consisting primarily of the over-market value of energy produced from independent power producers (IPPs) and the up-front payments made for IPP buy-downs and buyouts previously approved by the Commission, and PSNH’s share of the present value of the savings associated with those buy-down and buy-out transactions.” Exh. 1 (Mr. Baumann’s written prefiled testimony) at 3. According to Mr. Baumann, “Part 2 will include the revenue requirements associated with PSNH generating assets and purchased power obligations once all Part 3 costs are recovered, and therefore, no longer exist.” *Id.* However, Mr. Baumann made reference to the Stipulation and Settlement Agreement in Docket No. DE 05-164 that, henceforth, both over-recoveries and under-recoveries associated with the generation assets and power purchase obligations be reconciled via the Energy Service charge, instead of the current practice of reconciling them through Part 3 of the SCRC. On cross-examination, Mr. Baumann clarified that his reference here to the possibility of reconciling such costs through Part 2 of the SCRC arises out of the fact that PSNH views such an approach as consistent with the Restructuring Agreement, which did not envision PSNH continuing to retain its generation portfolio on a long-term basis. Mr. Baumann also testified that adjustments to Part 2 stranded costs could be necessitated by changes in expenses associated with decommissioning nuclear facilities in which PSNH holds minority ownership interests.

According to the PSNH witnesses, the current proposal for a revised SCRC applies only for the six-month period beginning on July 1, 2006. PSNH plans to seek additional changes to the SCRC every six months as various Part 1 and Part 2 stranded costs continue to be recovered.

B. Office of Consumer Advocate and Staff

Both OCA and Staff indicated their support of PSNH’s proposal. No other party took a position.

III. COMMISSION ANALYSIS

RSA 378:7 authorizes us to determine the just, reasonable and lawful rates to be charged by utilities within our jurisdiction. With respect to stranded cost recovery, the Legislature has specifically instructed us that any recovery “should be through a nonbypassable, nondiscriminatory, appropriately structured charge that is fair to all customer classes, lawful, constitutional, limited in duration, consistent with the promotion of fully competitive markets and consistent with [the restructuring policy] principles” enumerated in the Electric Utility Restructuring Act. RSA 374-F:3, XII(d). PSNH’s proposal to revise its Stranded Cost Recovery Charge to reflect the full recovery of its Part 3 stranded costs is consistent with these legal requirements. The Restructuring Agreement provides for Part 3 to “cease” if the costs covered by Part 3 are fully amortized; *see* Agreement to Settle PSNH Restructuring, revised version dated September 22, 2000, at 23; PSNH’s proposal is in keeping with this commitment. We note the absence of any objection to the manner in which PSNH has allocated the overall reduction in SCRC revenue occasioned by this proceeding to the specific classes of customers.

As noted by PSNH, the stranded cost provisions of the Restructuring Agreement were drafted on the assumption that, by this point in the history of restructuring, PSNH would have fully divested itself of generation assets and entitlements, leaving the company as a provider of distribution service as well as competitively procured default energy service for those customers not using a competitive retail supplier. Thus, immediately after the provision reciting that Part 3 will cease once the associated charges are fully amortized, the agreement notes that “to the extent that PSNH is unable to divest any asset, entitlement or obligation and the PUC has not exercised its authority to divest [in the event of a failed asset auction],” after the cessation of Part 3 “any such going forward costs related to those assets, entitlements, or obligations shall thereafter

become Part 2 costs with continued recovery.” *Id.* at 24. In Docket No. DE 05-164, according to terms that we are today approving in a separate order, PSNH commits itself to recovering such going-forward costs of non-divested generation assets and power entitlements via its Energy Service charge. The Company’s references here to the possibility of recovering these costs via Part 2 of the SCRC suggests an intention to reserve a right to that recovery avenue as a kind of backstop.

We express no view today as to the propriety of such an approach, or its continued viability in light of the significant changes to the assumptions about the course of New Hampshire’s electric industry reflected in the Restructuring Agreement. Upon approval of that Agreement, the Commission took care to stress that, apart from the securitization of certain recoverable stranded costs that are now reflected in Part 1 of the SCRC, the terms of the Restructuring Agreement would not be binding on future commissions in light of RSA 365:28 (authorizing Commission to “alter, amend, suspend, annul, set aside or otherwise modify any order” upon notice and hearing). Order No. 24,443, 85 NH PUC at 279-80. If, as the result of customer migration or for some other reason, the Energy Service charge were an inadequate or improvident mechanism through which to amortize all recoverable costs associated with PSNH’s generation portfolio and power purchase obligations, the determination whether to treat these costs as stranded and whether to authorize their recovery through the SCRC is a question the Commission would be free to take up anew at the appropriate time.

We note our disagreement with PSNH’s assumption that questions related to the prudence of any generation-related costs, as well as costs related to power procurement, will continue to be taken up in SCRC reconciliation proceedings if, in fact, the related costs are to be reconciled through the Energy Service charge.

In conclusion, upon a thorough review of the record it is our determination that the proposed change in PSNH's SCRC will result in a stranded cost charge that is just, reasonable and lawful. Accordingly, we approve the petition of PSNH seeking this change.

Based upon the foregoing, it is hereby

ORDERED, that the petition of Public Service Company of New Hampshire for a downward adjustment to its Stranded Cost Recovery Charge to reflect the amortization of Part 3 stranded costs is granted, effective with bills rendered on or after July 1, 2006; and it is

FURTHER ORDERED, that Public Service Company submit a compliance tariff prior to the effective date of this Order.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Kimberly Nolin Smith
Assistant Secretary