

**DE 06-028**

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

**Delivery Service Rate Proceeding**

**Order Establishing Temporary Rates**

**ORDER NO. 24,645**

**June 30, 2006**

**APPEARANCES:** Gerald M. Eaton, Esq. and Robert A. Bersak, 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 Energy & Planning by Amy L. Ignatius, Esq.; Office of Consumer Advocate by F. Anne Ross, Esq. on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. of the Staff of the New Hampshire Public Utilities Commission

**I. PROCEDURAL HISTORY**

On April 12, 2006, Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) a petition for temporary delivery service rates and a notice of intent to file rate schedules pursuant to RSA 378 and N.H. Code Admin. Rules Puc 1604.05.<sup>1</sup> According to its petition, the request for temporary rates is part of a set of proposed adjustments to its unbundled rates that would, if approved, result in an average reduction in overall retail electric service rates of over twelve percent. Ultimately, these rate adjustments, which are proposed to occur simultaneously on July 1, 2006, would affect PSNH's Stranded Cost Recovery Charge (SCRC), Default Energy Service Charge (ES),<sup>2</sup> Retail Transmission Charge, and Distribution Charge. PSNH filed its permanent delivery service rate

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<sup>1</sup> PSNH previously filed a Request for Waivers of Certain Tariff Filing Requirements with the Commission on February 17, 2006, which was granted by the Commission by Secretarial Letter dated April 12, 2006.

<sup>2</sup> See Dockets No. DE 06-078 and DE 05-164, respectively.

request, to increase its annual revenue requirement by \$49 million, on May 30, 2006.

In the instant filing, PSNH proposes to implement temporary delivery service rates (comprised of unbundled transmission and distribution charges), for effect July 1, 2006, to reflect actual changes to costs it has incurred and additions to rate base which took place subsequent to the Company's last general rate proceeding, Docket No. DE 03-200. According to its filing, the temporary rates PSNH is requesting would produce an overall increase to its annual delivery service revenues of approximately \$34 million, or 2.7 percent, as compared to PSNH's total revenues. With its petition, PSNH filed the testimony and related exhibits of Gary A. Long, president of PSNH, Stephen R. Hall, PSNH's rate and regulatory services manager, and Robert A. Baumann, director of revenue regulation and load resources for the Northeast Utilities Service Company, an affiliate of PSNH.

According to PSNH, the following are major categories of cost increases for its delivery and transmission service: Federal Energy Regulatory Commission (FERC)-jurisdictional tariff charges necessary to provide transmission service to retail customers; health care costs; pension costs; and carrying costs necessary to support new distribution capital investment. PSNH states that these cost increases have led to a serious erosion of earnings in PSNH's delivery segment, as supported by actual test year 2005 financial results. PSNH reports that its actual cost of capital return on equity for its delivery business in 2005 was approximately 6.6 percent, which it asserts is significantly below current and past industry standards of a fair and reasonable return. PSNH states that the proposed effective date for the temporary rates is the same date that the permanent rates are proposed for effect, July 1, 2006.

On April 12, 2006, the Commission issued an order of notice scheduling a prehearing conference on May 10, 2006. On May 2, 2006, the Office of Consumer Advocate (OCA) filed a letter stating its intent to participate in the docket on behalf of residential ratepayers. On May 4, 2006, Unitil Energy System, Inc. (UES) filed a petition to intervene. On May 5, 2006, Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Bridgewater Power Company, L.P., and Hemphill Power and Light Company (appearing jointly, and referred to herein collectively as “Pinetree”), Granite State Electric Company (GSEC) and the Office of Energy and Planning (OEP) each filed a petition to intervene.

The prehearing conference was held as scheduled on May 10, 2006. At the prehearing conference, the Commission granted all petitions to intervene. On the same day, the Staff of the Commission (Staff) filed with the Commission a proposed procedural schedule as agreed to by Staff and participants in the technical session that followed the prehearing conference. On May 17, 2006, the Commission approved the proposed procedural schedule.

Discovery ensued pursuant to the procedural schedule. On May 19, 2006, PSNH filed a motion for a protective order, seeking confidential treatment of certain responses to data requests that contained customer-specific usage information.

On June 1, 2006, Staff and the parties conducted a settlement conference. On June 15, 2006, PSNH filed a stipulation and settlement regarding temporary rates. The agreement was signed by the OCA, Pinetree, PSNH, OEP and Staff. On June 22, 2006, PSNH filed Attachment 1 to the settlement.

## II. SUMMARY OF THE SETTLEMENT

At hearing, the settlement was presented by PSNH witnesses Mr. Baumann and Mr. Hall. The settlement provides for temporary delivery service rates, for effect July 1, 2006, that, on an annual basis, would generate an estimated \$24.5 million increase in Delivery Service revenues. There are three main monetary components of the \$24.5 million revenue increase: return on rate base, the New Hampshire Business Profits Tax (BPT) and transmission expenses.

Regarding return on rate base, PSNH's Form F-1s<sup>3</sup> on file with the Commission reported earned returns on equity for the distribution segment of its business of 6.59 percent and 6.13 percent for the twelve months ending December 31, 2005, and March 31, 2006, respectively. According to the Parties and Staff,

[t]hese Distribution segment returns are below the last authorized rate of return for PSNH and, in current conditions, would be less than a 'reasonable return on the cost of the property of the utility used and useful in the public service' provided for in RSA 378:27.<sup>4</sup>

Therefore, the Parties and Staff agreed to recommend that PSNH be allowed to increase its revenues on a temporary basis by \$15 million during the course of the permanent rate proceeding. The settlement further states that the \$15 million was calculated by applying a cost of capital, using a cost of equity of 9.30 percent, to PSNH's test-year rate base.

\$1.5 million of the overall \$24.5 million increase relates to the Business Profits Tax. PSNH's parent company, Northeast Utilities (NU), files its New Hampshire tax returns on the unitary basis, meaning that all of NU's earnings, including those from both

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<sup>3</sup> Each quarter, PSNH files a Form F-1, pursuant to N.H. Code Admin. Rules Puc 308.11, reporting, among other things, the results of its segmented business operations.

<sup>4</sup> Exhibit 2 at 2.

its regulated and unregulated subsidiaries, are included in the calculation of PSNH's BPT.

According to the settlement, PSNH's 2005 BPT was significantly lower due to substantial losses incurred by NU's unregulated businesses during the year. NU is now in the process of exiting certain of those unregulated businesses and, therefore, the losses and related tax benefits are not expected to recur in 2006. As a result, the parties and staff recommend a \$1.5 million temporary increase to revenues to recognize higher current first quarter BPT.

The parties and Staff also recommend an \$8 million increase to reflect a significant portion of PSNH's increased transmission expenses. According to the terms of the settlement and as further explained by the witnesses at hearing, those expenses are reflected in charges computed under wholesale tariffs and rate schedules approved by the FERC.

The parties and Staff further recommend that the increase be recovered in a way that reflects the underlying cost drivers, with \$8 million being allocated to the transmission component of PSNH's rates and \$16.5 million being allocated to the distribution component of rates. The resulting increases would be applied uniformly across all rate classes, with the increases to transmission and distribution charges being 26.16 percent and 8.16 percent, respectively. Additional calculations and workpapers supporting the resulting rates were included as Attachment 1 to the settlement.

Finally, the Parties and Staff recommend that the temporary rates be implemented on a bills-rendered basis. PSNH has proposed simultaneous July 1, 2006 decreases to its

Stranded Cost Recovery Charge (SCRC) and Energy Service (ES) in dockets DE 06-078 and DE 05-164, respectively, which are also proposed to be implemented on a bills-rendered basis. The parties and Staff agreed that implementing the rate changes in all of the current proceedings on a bills-rendered basis will reduce customer confusion. In addition, the parties and Staff note that if changes to some rate components were to be implemented on a service-rendered basis and others on a bills-rendered basis, there would be insufficient time prior to July 1 for PSNH to program its billing system to implement such a change.

The witnesses also summarized the overall impact of the proposed simultaneous changes to the distribution charge, transmission charge, SCRC and ES charge. According to Messrs. Baumann and Hall, if all the rate changes are implemented as proposed during their respective hearings, the overall average decrease to rates would be approximately 17.3 percent.

Pinetree, the OEP, OCA and Staff all expressed their support for the settlement. In addition, the OEP stated that one of its principal concerns is rate stability for customers and that the settlement agreement is an attempt to bring the different pieces into a rate path that helps customers to have some projection of expected costs.

### **III. COMMISSION ANALYSIS**

We consider the merits of PSNH's request for temporary rates, as modified by the settlement agreement into which it has entered with the other parties and Staff. RSA 378:27 requires the Commission to set "reasonable" temporary rates, and which the New Hampshire Supreme Court has determined must be:

sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service less accrued depreciation, as shown by the reports of the utility filed with the [C]ommission, unless there appears to be reasonable ground for questioning the figures in such reports.

*Appeal of Office of Consumer Advocate*, 134 N.H. 651, 661 (1991).

The Court has further held that “[t]his standard is less stringent than the standard for permanent rates, in that temporary rates shall be determined expeditiously, without such investigation as might be deemed necessary to a determination of permanent rates.” *Id.* at 660 (citation and internal quotation marks omitted). We also note that establishing temporary rates (even if equivalent to existing rates) makes the utility ultimately entitled to receive the revenue to which it would have been entitled if whatever permanent rates are ultimately approved had been implemented on the effective date of the temporary rates. *See Public Service Co. of N. H.*, 102 N.H. 66, 70 (1959).

Temporary rates may not take effect before the date on which the utility files its request for a change in permanent rates, nor may temporary rates be made effective as to services rendered before the date on which the permanent rate request is filed. *Appeal of Pennichuck Water Works*, 120 N.H. 562, 567 (1980).

Based on the record in this case, we find that the temporary rates reflected in the settlement agreement are reasonable. The record supports a determination that the referenced expenses associated with Business Profits Tax, FERC-approved wholesale transmission charges and cost of capital are reasonable. With respect to the latter factor, we credit PSNH’s testimony that the Company’s rate base, i.e., the amount of investment on which it is entitled to earn a reasonable return, has grown significantly since the Commission last examined this issue.

Given that a less stringent standard applies to review of temporary rates, we stress that

when we consider PSNH's permanent rate request we will revisit each of these issues and subject them to appropriate scrutiny given our responsibility pursuant to RSA 378:7 to approve only rates that are just, reasonable and lawful. In the absence of any reasonable ground to question the calculations that form the basis of the temporary rates set forth in the settlement, and recognizing that PSNH is earning less than its allowed return, approval of these temporary rates is the appropriate result.

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

**ORDERED**, that Public Service Company of New Hampshire's Petition for Temporary Rate Increase as modified by the settlement agreement is hereby GRANTED; and it is

**FURTHER ORDERED**, that PSNH shall implement the temporary rates on a bill-rendered basis beginning July 1, 2006; and it is

**FURTHER ORDERED** that PSNH submit a compliance tariff within three days of this order.

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

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

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Clifton C. Below  
Commissioner

Attested by:

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Kimberly Nolin Smith  
Assistant Secretary