STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 08-115

NORTHERN UTILITIES, INC.

2008/2009 Winter Cost of Gas

Order Regarding the Cost of Gas Rates and Local Distribution Adjustment Clause and Other Rates

O R D E R N O. 24,912

October 31, 2008

APPEARANCES: Patricia French, Esq., for Northern Utilities, Inc.; Meredith Hatfield of the Office of the Consumer Advocate, on behalf of residential ratepayers; and Edward Damon, Esq., for the Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

On September 15, 2008, Northern Utilities, Inc. (Northern) filed its proposed cost of gas (COG) and other rate adjustments for the winter period, November 1, 2008 through April 30, 2009, applicable to Northern's natural gas operations in the seacoast area. The filing was accompanied by supporting attachments and the direct testimony of Ronald D. Gibbons, manager of regulatory accounting, and Francisco C. DaFonte, director of energy supply services. Previously, on September 12, 2008, Northern had filed environmental response cost information in support of the Company's proposed local distribution adjustment clause (LDAC) rate. On September 17, 2008, the Commission issued an order of notice scheduling a hearing for October 22, 2008. On September 23, 2008, the Office of the Consumer Advocate (OCA) notified the Commission of its participation in the docket on behalf of residential ratepayers consistent with RSA 363:28. On September 25, 2008, Northern filed a motion for confidential treatment of certain information related to input data, fixed capacity-related costs and demand cost allocations. There were no intervenors in this docket.

On October 21, 2008, Northern filed a revised 2008-2009 winter COG, including supporting attachments. Also on October 21, 2007, Staff filed the direct testimony of Robert J. Wyatt, Utility Analyst III. The hearing before the Commission was held as scheduled on October 22, 2008. On October 28, 2008, in accordance with its request made at hearing, Staff filed a report of its final review of the revised filing.

II. POSITIONS OF THE PARTIES AND STAFF

A. Northern

Northern witnesses Gibbons and DaFonte addressed the following issues: (1) calculation of the COG rates, (2) customer bill impacts and reasons for the increase, (3) supply reliability and price stability, (4) calculation of the LDAC rates, (5) the transportation supplier balancing charge, peaking service demand charge, capacity allocators and the firm sales service reentry fee, and (6) the Portland Natural Gas Transmission System (PNGTS) metering error resolution.

1. Calculation and Impact of the Firm Sales COG Rates

According to Northern's revised COG filing, the proposed 2008-2009 winter average residential firm sales COG rate of $1.2636 per therm comprises anticipated direct gas costs, indirect gas costs and various adjustments. Anticipated direct gas costs total $47,465,406 and are decreased by adjustments totaling $737,754 (made up of a prior period over-collection of $725,497, and interest of $12,257). Anticipated indirect gas costs total $988,772, consisting of production and storage capacity, working capital, bad debt and overhead charges. The gas costs to be recovered in connection with the 2008-2009 winter period (anticipated direct and indirect costs and adjustments) total $47,716,424 and are divided by projected winter period sales of 37,760,570 therms to arrive at Northern's proposed average COG rate.

Using the method approved in *Northern Utilities, Inc.*, Order No. 24,615, 91 NH PUC 177 (2006), Northern applied updated load factor ratios to the unit demand cost component, multiplied by the correction factor, and added the remaining average COG unit rate to determine the proposed commercial and industrial (C&I) low winter use COG rate of $1.0608 per therm and the C&I high winter use COG rate of $1.3949 per therm.

Northern expressed its support for the modified monthly COG rate adjustment mechanism proposed by Staff in its testimony. Northern also stated that it did not object to holding this docket and Docket No. 08-106, the winter period 2008-2009 COG filing of EnergyNorth Natural Gas, Inc. d/b/a National Grid NH, open for a period of time to allow the parties to discuss Staff's proposal in more detail and make a recommendation to the Commission.

2. Customer Bill Impacts and Reasons for the Increase

Northern's proposed 2008-2009 winter COG residential rate of $1.2636 per therm represents an increase of $0.1725 per therm from the average weighted 2007-2008 winter COG rate of $1.0911 per therm. The combined impact of the proposed firm sales COG and LDAC rates is an increase in the typical residential heating customer's winter gas costs of $167, which represents a 12 percent increase from last winter's rates.

According to Northern, the increase in the proposed COG rate from last winter can be attributed to an increase in commodity and demand costs and $2 million less of an over-collection compared to the prior year.

3. Supply Reliability and Price Stability

Northern testified that its gas supply portfolio focuses on supply and resource diversity, as well as on economic efficiencies and resource flexibility. Northern testified that along with pre-purchased supplies in storage, a substantial volume of index-priced supplies have been hedged for this winter pursuant to its hedging plan, effectively locking in prices for approximately 72 percent of its winter period supply. As a result of Northern's storage supplies and hedging, 28 percent of its forecasted winter period supply is subject to changes in the natural gas commodity market.

4. LDAC Rates

Under Northern's proposal, charges to be included in the LDAC rates are related to environmental costs to remediate manufactured gas plant (MGP) sites, energy efficiency programs and the residential low-income assistance program (RLIAP).

In *Northern Utilities, Inc.*, Order No. 23,046, 83 NH PUC 580 (1998), the Commission approved a recovery mechanism for environmental response costs associated with former MGP sites. These costs are filed during Northern's winter COG proceedings for Commission review and are recovered over a seven year period. Northern filed for recovery of $33,280 in unamortized deferred environmental response costs incurred from July 1, 2007 through June 30, 2008. The environmental response costs, when increased by a prior period under-collection of $136,407 and combined with environmental response costs approved for recovery in prior years and not yet recovered, total $638,119, to be recovered from ratepayers over the upcoming year. This yields a proposed environmental response cost rate of $0.0103 per therm to be applied from November 1, 2008 through October 31, 2009.

In *Energy Efficiency Programs for Gas Utilities,* Order No. 24,109, 87 NH PUC 892 (2002), the Commission approved the implementation of energy efficiency programs for New Hampshire's natural gas utilities for a three-year period and subsequently approved the continuation of Northern's energy efficiency programs for an additional three years in *Northern Utilities, Inc.*, Order No. 24,630, 91 NH PUC 256 (2006). The LDAC rate includes a proposed energy efficiency charge of $0.0113 per therm for residential customers and $0.0069 per therm for C&I customers, effective November 1, 2008 through October 31, 2009.

In *New Hampshire Natural Gas Utilities,* Order No. 24,508, 90 NH PUC 358 (2005), the Commission approved implementation of a pilot RLIAP for New Hampshire's natural gas utilities and subsequently approved the continuation of the RLIAP in *Northern Utilities, Inc.*, Order No. 24,669, 91 NH PUC 390 (2006). The estimated cost of the RLIAP for the upcoming year is $242,203, which includes a prior period under-collection $27,631. The LDAC rate includes a proposed RLIAP charge of $0.0039 per therm for all firm sales and transportation customers, effective November 1, 2008, through October 31, 2009.

5. Revised Transportation Charges and Allocators

In *Gas Restructuring-Unbundling and Competition in the Natural Gas Industry,* Order No. 23,652, 86 NH PUC 131 (2001), the Commission approved a supplier balancing charge and peaking service demand charge to be updated once a year, commencing with the November billing month. Supplier balancing charges are the charges that suppliers are required to pay Northern for balancing services as Northern attempts to meet the shifting loads for the supplier's customer pools. Peaking service demand charges reflect Northern's peaking resources and associated costs.

Northern proposes to decrease the supplier balancing charge from $0.80 per MMBtu to $0.75 per MMBtu of daily imbalance volumes and to decrease the peaking service demand charge from $17.27 per MMBtu of peak maximum daily quantity (MDQ) to $16.82 per MMBtu of peak MDQ. The changes are based on an update of volumes and costs used in calculating the charges. The capacity allocator percentages, which are used to allocate pipeline, storage and local peaking capacity to a customer's supplier under the mandatory capacity assignment required for firm transportation service, have been updated to reflect Northern's supply portfolio for the upcoming year. Finally, the Company filed its annual re-entry fee report and calculation. The monthly unit demand cost associated with the re-entry fee for November 1, 2008 through October 31, 2009 is $5.336. No capacity exempt customers switched back to firm sales service during the previous 12 months, and thus, none were exposed to this fee.

6. PNGTS Metering Error Resolution

On September 24, 2008, Northern filed its report on the unaccounted-for gas inquiry and proposed resolution of the PNGTS meter pulse factor error at Newington, New Hampshire. This report was filed in response to NHPUC Order No. 24,798 in Docket No. DG 07-102 (October 31, 2007) requiring Northern to address the reasons for the large increase in unaccounted-for gas on Northern's system. Northern's investigation led to the discovery of a software download error in metering equipment measuring gas volumes delivered to the Granite State Gas Transmission System (Granite) pipeline at Newington. The metering equipment was operated and maintained by a third party, Spectra Energy (Spectra), the parent company of Maritimes Northeast Pipeline (MNE). PNGTS and MNE share joint ownership of the section of pipeline connected to the Granite pipeline at Newington.

Northern reported that the metering error caused Granite (and thus Northern) to be billed for 758,702 Dekatherms (Dth) of natural gas commodity between June 2005 and December 2007 that were not actually delivered. Northern proposed a resolution of this problem pursuant to which Northern would receive delivery of an equivalent volume of natural gas from PNGTS on a ratable daily basis of 1382 Dth/day, subject to certain specified curtailment conditions, at no cost to Northern. According to Northern, the proposed resolution is consistent with Granite's FERC tariff and related agreements between Granite and Northern. Northern stated that the repayment volumes will be credited to Northern's commodity COG to both its Maine and New Hampshire Divisions in relation to how the metering error volumes were allocated to each Division.

The "payment-in-kind" volumes will commence no later than December 1, 2008 and will continue until the volumes are fully reimbursed to Northern. The repayment period will be 18 consecutive months in duration or until all the repayment volumes have been delivered. Northern will file semi-annual reports with the Commission indicating the status of repayment of the in-kind volumes, and explaining issues that may arise during the repayment period. Northern testified that this resolution provided greater benefits to its ratepayers than a cash settlement due to applicable FERC policies.

B. OCA

OCA did not oppose Northern's proposed COG rates to become effective on November 1, 2008. OCA supported the proposed resolution of the unaccounted-for gas metering error and an expedited ruling on the matter. OCA did not take a position regarding Staff's proposed modification to the monthly adjustment mechanism. However, OCA stated that it hoped Northern could provide notice to OCA and Staff as soon as it knew that it would be proposing an adjustment because a monthly adjustment filing deadline of 5 business days prior to the effective date of the proposed change provided very little time to review the adjustment filing. OCA also stated that it was willing to provide notice of the proposed change to the Business and Industry Association and ask whether its members would like to participate in the discussions.

C. Staff

Staff also supported Northern's proposed resolution of the unaccounted-for gas metering error and its offer of subsequent semi-annual reporting updates. Mr. Wyatt's testimony noted that Staff had reviewed the COG filing for the upcoming winter period and recommended approval of the proposed rates, subject to its more complete examination of Northern's recently received revised filing. In a post-hearing memorandum to the Commission, Staff stated that in its revised filing Northern had incorrectly applied a credit for the "payment-in-kind" commodity which, according to Staff, should have a $0.00 value. Staff stated that Northern agreed that this was an error. Consistent with Northern's suggestion, Staff recommended that the Commission approve the revised filing as presented at the hearing, that the error be corrected in Northern's December 2008 COG over- and under- collection projection report and that December rates be adjusted accordingly. Staff noted that the adjustment represents less than 2 percent of the 20 percent increase allowed through the existing monthly adjustment mechanism.

Staff noted that the filing is consistent with those filed and approved in previous winter periods. Also, Staff stated that it had reviewed and audited the 2007-08 COG reconciliation and found the costs to be reasonable and accurately reported, with the understanding, however, that the Audit Staff had not completed its review of the environmental remediation annual costs and recoveries. Staff reviewed the forecasts and schedules used to calculate the other proposed tariff changes and charges and recommended approval of the proposed rates.

Staff also recommended a modification to the monthly over/under adjustment mechanism. Currently, without further Commission action, the COG rates can be adjusted upward or downward within a +/- 20 percent bandwidth of the initially approved COG rate in order to reduce monthly over- or under-collections in the period. During the 2008 summer period two of the three regulated gas utilities in New Hampshire experienced substantial fluctuations in actual and projected natural gas costs. The two gas companies increased their COG rates to the maximum allowed and filed revised COG calculations to establish a rate that would eliminate the projected under collections. Following duly noticed hearings, the Commission approved the proposed rate increases effective August 1, 2008. Subsequent to the filings, actual and projected gas costs dropped to such an extent that reducing the approved rates by the maximum allowed without further Commission action was insufficient to eliminate the projected over collection. Because of the limited time remaining in the summer period there was insufficient time to file and process revised COG rate calculations.

Similar to the modification proposed by Staff in EnergyNorth's COG proceeding, Docket No. DG 08-106, Staff's proposed modification would allow for monthly adjustments beyond the 20 percent with Commission approval. Northern would file its required monthly report due five business days before the effective date of the proposed increase and, if beyond 20%, would request Commission approval. The request would be docketed and Staff and the parties would have the opportunity to file comments and recommendations with the Commission. The Commission could then rule on the request or require a hearing. It would no longer be necessary to file a completely revised cost of gas filing. Instead, the company would file a letter similar to the regular monthly letters it has been filing with summary information supporting the proposed change in the COG rate. If the proposed adjusted COG rate was outside the 20% bandwidth, however, the Company would not be authorized to implement the rate until it receives an authorizing letter from the Commission. The Commission would decide if a hearing is needed. Once outside the bandwidth, the company could further change the rate to move closer to the originally approved COG rate for that period, but not further away, without additional Commission action.

Staff testified that the modification ensures limited changes in rates without further action by the Commission, but allows for more substantive changes on a timely basis when merited without necessarily requiring a full blown proceeding and hearing. In cases where a revised COG filing can be avoided, this process would reduce administrative costs while increasing administrative efficiency.

III. COMMISSION ANALYSIS

After reviewing the record in this docket, we find that Northern's proposed COG rates and charges will result in just and reasonable rates as required by RSA 378:7. Accordingly, we approve Northern's proposed 2008-2009 winter COG rates, the LDAC rate components (including environmental cost recovery charge, energy efficiency charge, and RLIAP charge), the transportation supplier balancing rate, the transportation peaking service demand rate, the transportation capacity allocators, and the re-entry fee. Consistent with Staff's October 27 memorandum, Northern is directed to correct the error in the revised COG filing identified by Staff in its December 2008 COG over- and under-collection report and adjust its December rates accordingly. We note that the proposed environmental response cost recovery charge is based in part on July 2007 through June 2008 costs that have not yet been audited. Therefore, we will consider recommendations by the Staff regarding possible adjustments to those costs that may be filed with the Commission prior to the 2009-2010 winter period COG.

There was testimony at hearing regarding Northern's investigation into the unaccounted-for gas issue as reported in its recent cost of gas filings and reconciliations. Northern's September 23, 2008 report filed with us and submitted at hearing identified the cause of the increase in unaccounted-for volumes and proposed a resolution to a problem of serious concern to us. The responsible parties have agreed to fully repay Northern's customers for this metering error through a "payment-in-kind" agreement. The proposed resolution does not result in a cash payment to Northern's customers for the volumes billed and paid for, but not delivered. It is nevertheless a reasonable compromise given the FERC policy which would seem to preclude a full cash reimbursement for all the volumes not delivered. We will order Northern to take all possible steps to ensure that the "in-kind" volumes begin to flow for customers' benefit as soon as possible and in no event later than December 1, 2008. We accept Northern's offer to file semi-annual reports with the Commission indicating the status of repayment of the in-kind volumes and explaining any issues that may arise during the repayment period. Accordingly, we will order Northern to file semi-annual reports of the repayment of "in-kind" natural gas volumes as a part of each cost of gas filing until such time as all the repayment volumes have been delivered.

In connection with its COG filing, Northern moved for confidential treatment of certain cost information regarding its supply and capacity contracts, e.g., 7 pages of input data, 2 pages of fixed capacity related costs, and a one page calculation of demand cost allocations by contract, contained in backup information provided to Staff. Northern asserted that this material contains trade secrets and competitively sensitive information which Northern does not publicly disclose. According to Northern, release of this information would likely result in competitive harm to Northern in the form being disadvantaged in its bargaining position with its suppliers of gas commodity, transportation, peaking and related services. Northern stated that this could result in more expensive contracts or less advantageous contract terms as gas suppliers possessing this information would know Northern's expectations regarding gas supply costs and other contract terms and would be unlikely to provide Northern with terms and/or prices significantly more favorable than those which Northern seeks to protect. Northern concluded that this would ultimately harm its firm customers by creating higher prices.

The Right-to-Know Law provides each citizen with the right to inspect all public records in the possession of the Commission. *See* RSA 91-A:4, I. The statute contains an exemption, invoked here, for "confidential, commercial, or financial information." RSA 91-A:5, IV. Our applicable rule, Puc 203.08, is designed to facilitate the implementation of the statute as it has been interpreted by the courts. In most cases, a balancing test is used to determine whether confidential treatment should be granted. *See e.g., Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540, 553-554 (1997).

We note that no parties have objected to the motion for confidential treatment and that the information is similar to information for which the Commission has granted confidential treatment in the past. In this case there is a possibility that the identification of suppliers and costs would make it more difficult for Northern to negotiate with other suppliers in the future.

Conversely, public disclosure of this information would shed relatively little light on how the Commission discharges its responsibilities in COG proceedings.

In balancing the interests for and against public disclosure of the information, we find, on the basis of the record in this docket, that the interests of Northern, and its customers, in non-disclosure outweigh the public's interest in obtaining access to the information. We therefore grant the motion for confidential treatment. Consistent with Puc 203.08(k), our grant of the motions for confidential treatment is subject to our on-going authority, on our own motion, on the motion of Staff, or on the motion of any member of the public, to reconsider our determination.

One issue raised by Staff in this docket merits further discussion. Given the timing of Northern's filing and the need to have rates in place by November 1, 2008, we defer the issue of Staff's proposal to modify the monthly over/under adjustment to the summer 2009 cost of gas docket. In the interim, we request that the parties meet prior to the summer cost of gas filing to further discuss and refine Staff's proposal. We expect that any policy change applicable to EnergyNorth, Northern Utilities, Inc. and New Hampshire Gas Corporation will be made in a consistent manner.

Based upon the foregoing, it is hereby

ORDERED, that Northern's proposed 2008/2009 Winter period COG rates for the period November 1, 2008 through April 30, 2009 are APPROVED, effective for service rendered on and after November 1, 2008 as follows:

	Cost of Gas	Minimum COG	Maximum COG
Residential	$1.2636	$1.0109	$1.5163
C&I, Low Winter Use	$1.0608	$0.8486	$1.2730
C&I, High Winter Use	$1.3949	$1.1159	$1.6739

FURTHER ORDERED, that Northern may, without further Commission action, adjust the approved COG rates 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 20 percent of the approved unit cost of gas, i.e., the minimum and maximum rates as set above; and it is

FURTHER ORDERED, that Northern (1) provide the Commission with its monthly calculation of the projected over or under-calculation including correction of the credit error associated with metering issues, along with the resulting revised COG rates for the subsequent month, not less than five business days prior to the first day of the subsequent month and (2) include revised tariff pages 38 & 39 - Calculation of Cost of Gas Adjustment and revised rate schedules if Northern elects to adjust the COG rates; and it is

FURTHER ORDERED, that the over- or under-collection shall accrue interest at the monthly prime lending rate as reported by the Federal Reserve Statistical Release of Selected Interest Rates; and it is

FURTHER ORDERED, that Northern's proposed 2008-2009 LDAC per therm rates for the period November 1, 2008 through October 31, 2009 as filed in Proposed Twelfth Revised

Page 56, Superseding Eleventh Revised Page 56, are APPROVED, effective for service rendered on and after November 1, 2008 as follows:

	Energy Efficiency	Envir. Response Costs	Residential Low Inc. Assistance	LDAC
Residential	$0.0113	$0.0103	$0.0039	$0.0255
Commercial & Industrial	$0.0069	$0.0103	$0.0039	$0.0211

FURTHER ORDERED, that Northern's proposed transportation supplier balancing charge of $0.75 per MMBtu of daily imbalance volumes, as filed in Proposed Eighth Revised Page 154, Superseding Seventh Revised Page 154, is APPROVED; and it is

FURTHER ORDERED, that Northern's proposed transportation peaking service demand charge of $16.82 per MMBtu of peak MDQ, as filed in Proposed Eighth Revised Page 154, Superseding Seventh Revised Page 154, is APPROVED; and it is

FURTHER ORDERED, that Northern's proposed annual firm sales service re-entry fee per unit charge of $5.336 per MMBtu as filed in Proposed First Revised Page 170-b, is APPROVED; and it is

FURTHER ORDERED, that Northern's proposed transportation capacity allocators as filed in Proposed Seventh Revised Page 169, Superseding Sixth Revised Page 169, are APPROVED; and it is

FURTHER ORDERED, that Northern's proposed transportation capacity allocators as filed in Proposed Seventh Revised Page 169, Superseding Sixth Revised Page 169, are APPROVED; and it is

FURTHER ORDERED, that Northern shall file properly annotated tariff pages in compliance with this order no later than 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 take all possible steps to ensure that the "in-kind" volumes begin to flow for customers' benefit as soon as possible and in no event later than December 1, 2008 and that Northern file semi-annual reports of the repayment of "in-kind" natural gas volumes with this Commission as a part of each cost of gas filing until such time as all the repayment volumes have been delivered; and it is

FURTHER ORDERED, that Northern's motion for protective order and confidential treatment of certain information submitted in discovery is GRANTED as set forth above.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 2008.

Thomas B. Getz Chairman	Graham J. Morrison Commissioner	Clifton C. Below Commissioner

Attested by:

Lori A. Davis
Assistant Secretary