

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DG 08-141**

**CONCORD STEAM CORPORATION**

**Petition for Approval of a Special Contract for Denev Realty, LLC**

**Order *Nisi* Approving Special Contract**

**ORDER NO. 25,009**

**September 4, 2009**

On November 3, 2008, the petitioner, Concord Steam Corporation (Concord Steam or the Company), filed a petition for approval of a special steam supply contract with Denev Realty, LLC (Denev), a real estate company owning residential rental property located at 148-158 North Main Street, Concord, known as the "Vegas Building." Concord Steam asserts that special circumstances render a departure from its general tariff schedules just and consistent with the public interest.

According to the Company, the proposed special contract was designed to meet the specific needs of the Vegas Building while providing benefits for Concord Steam and its other customers. Concord Steam and Denev agree that steam supply is important to the Vegas Building and Concord Steam asserts that Denev relied on the special contract in making long term decisions concerning the source of heat and steam for the low-income tenants living in the building. Further, Concord Steam asserts that the restoration and retention of the Vegas Building's total steam load is important to the Company because it comprises a significant portion of Concord Steam's annual steam sales in the core downtown area. Thus, the special contract enables the Vegas Building to continue its operations while reducing the risk that Concord Steam will lose the Vegas Building steam load. According to the Company, retaining

Denev as a customer maintains an important contribution to recovery of fixed costs that will help to hold down rates for Concord Steam's other customers. Concord Steam represents that it will not seek to recover the revenue losses attributed to this special contract discounted rate in future rate filings.

The special contract has a ten-year term, commencing on October 15, 2008. Monthly payments under the contract are determined by multiplying the Company's current, lowest tier base rate by the expected annual usage, adding the current energy rate times the expected annual usage, adding the twelve monthly meter charges, and then dividing the total by 12. If Denev were to terminate the contract prior to its expiration for any reason other than to revert back to normal tariff rates, it would pay Concord Steam all service connection charges related to the initial restoration of steam service and associated costs incurred to supply steam service. In addition, Denev would be obligated to repay Concord Steam for any base rate discounts applied to the account if the account were in default or disconnected.

On August 12, 2009, following two rounds of discovery, Staff filed a memorandum recommending approval of the special contract. Staff discussed the importance of load retention to the Company and its customers noting that, in addition to the reasons cited in the Company's filing, service to the Vegas Building's domestic hot water system during the summer months serves to maintain system integrity and provides cash flow during the off-peak period when most customers do not take service. Staff recommended that annual usage of 972.2 Mlbs be used to determine the initial monthly charge, based on normalized annual usage, and that annual usage be adjusted each year to reflect load additions such as domestic hot water or load deductions, as well as energy efficiency measures taken to reduce steam energy usage. Staff further

recommended that amounts due under the contract be paid in accordance with tariff terms, including the applicable interest rate applied to unpaid balances. Payment arrangements should be worked out between Concord Steam and Denev for any arrearages that have occurred for reasons related to the use of incorrect steam rates or inaccurate annual usage estimates since the October 15, 2008 start of the special contract.

Staff noted that the special contract may not be necessary once Concord Steam's proposed restructuring is complete. The special contract provides Denev an annual discount of approximately 12 percent, while Concord Steam projects a 30 percent reduction in steam rates when it begins purchasing steam from Concord Power and Steam LLC under restructured arrangements. Staff recommends the contract terminate when rates related to the restructuring are in place, if, in fact, those rates are lower than Denev's special contract rate without Concord Steam's restructuring. Staff recommended that the special contract be revised to include a clause terminating the contract on the effective date of a general rate decrease of greater than 12 percent.

RSA 378:18 authorizes the Commission to approve a special contract when "special circumstances exist which render such departure from the general schedules just and consistent with the public interest." We review the Company's filing with this in mind, giving consideration to the policy precepts established in *Generic Discount Rates*, 77 NH PUC 650, 654-55 (1992) and *Generic Discounted Rates Docket*, 78 NH PUC 316, 316-17 (1993). See *Concord Steam Corporation*, 92 NH PUC 276, 278 (2007).

Load retention is an important consideration for Concord Steam, especially since the Vegas Building's load includes summer load that supports system integrity and provides

additional revenue during the off-peak summer period. Staff notes that, under the special contract, Concord Steam will experience some revenue loss – but if Concord Steam were to lose the Vegas Building load altogether, it would suffer even greater revenue loss. Staff estimates that, under the special contract, Concord Steam will retain \$11,500 in annual revenues compared to a loss of \$15,725 in annual revenues if the Vegas Building’s load is not retained. In addition, Staff provides supporting observations as to why it is reasonable to assume the monthly rate under the special contract is not below Concord Steam’s estimated long run marginal cost of providing service to the Vegas Building, a standard that the Commission has required since *Generic Discount Rates*, 77 NH PUC at 654, in order to prevent other customers from unreasonably subsidizing special contract holders.

Based upon our review of the record, we find that special circumstances exist that justify the departure from standard tariff rates and which render the special contract just and consistent with the public interest. The prefiled testimony of Mark Saltsman, the Vice President and General Manager of Concord Steam Corporation, indicates that steam service to the previous owner of the Vegas Building was terminated in May, 2008. Subsequently, Denev Realty acquired the building. Mr. Saltsman indicated that he spoke to the new owners about restoring service and that Emin Halilovic, the owner of Denev Realty, stated that he was “exploring alternate forms of heat for the Vegas Building, including natural gas.” Mr. Saltsman also reported that Mr. Halilovic “was only willing to consider restoring steam heat to the Vegas building if the company could provide some long term certainty, to the greatest extent possible, regarding Concord Steam’s rates.” Based on these discussions, Concord Steam executed the special contract and filed it for approval. In light of the importance of the Vegas Building’s load

to Concord Steam and the realistic possibility that Denev might switch to an alternative fuel, we will approve a special contract that incorporates the requirements set forth in Staff's recommendation.

Regarding lost fixed cost revenue resulting from the discount to base rates, we accept Concord Steam's assurance that it will not seek recovery of revenue losses pertaining to this special contract in future rate filings. With respect to the long run marginal cost standard, we agree with Staff that the Company's assertion that the special contract rate is higher than the marginal cost is likely to be correct, based on the fact that this load has been on the system for at least 25 years, during which time the Company has lost significant load from other large customers switching to other fuel energy alternatives. This special contract will not require the Company to add steam production or distribution capacity, nor will this special contract add to Concord Steam's operations and maintenance expenses.

With respect to the ten-year term of the special contract, we agree with Staff's recommendation that if the proposed restructuring of Concord Steam transpires and the resulting restructured steam rates are less than the special contract rate prior to restructuring, Denev should be transferred back to Concord Steam's tariff rates without penalty, and the special contract should be terminated.

The monthly rate for this special contract will be a bundled "budget" rate, which should be set at \$2,565 beginning November 1, 2008.<sup>1</sup> This rate reflects the sum of: (1) the normalized annual usage of 972.2 Mlbs multiplied by the cost of energy (COE) rate of \$19.81 in effect at that time divided by twelve months; plus (2) the normalized annual usage of 972.2 Mlbs

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<sup>1</sup> Concord Steam filed the special contract for effect October 15, 2008. Using the calculation methodology defined in this order, the special contract rate for October 15 through October 31, 2008 should be \$1,169.10.

multiplied by the tail block steam delivery tariff rate of \$11.54 per Mlb, then divided by twelve months; plus (3) the monthly meter charge of \$25, then rounded to the nearest whole dollar. This formula is to be used to determine new monthly rates every time there is a change to the COE rate, the meter charge, the steam delivery rate or the normalized annual usage. There is to be a reconciliation of costs and revenues whenever a rate change is necessary, with balances carried forward into the new rate calculation. Any reconciliation and new rate calculation is to be filed with the Commission within 15 days of the new special contract rate becoming effective. The Company shall file a revised special contract or an amendment to the contract whose terms conform to the requirements of this order.

If there are significant arrearages resulting from the initial calculations of this special contract that cannot easily be rolled into a new “going-forward” rate, the Company should work out a satisfactory payment arrangement with Denev that complies with its tariff and with the Commission’s rules, to recoup the under-billed revenues.

The Commission supports the Company’s commitment to work with Denev to make recommendations to improve the building’s steam heating system and its efficient use of steam energy. The Company should provide an update of progress on this matter, including measures taken so far by Denev and the Company and additional measures anticipated by Denev or the Company, to the Commission prior to December 1, 2009.

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

**ORDERED *NISI***, that subject to the effective date below, the proposed special contract is approved subject to the terms and conditions set forth herein; and it is

**FURTHER ORDERED**, that the Company shall file a revised special contract or an amendment to the contract whose terms conform to the requirements of this order on or before September 30, 2009.

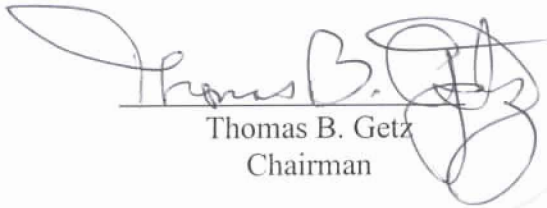
**FURTHER ORDERED**, that the Petitioner shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than September 15, 2009 and to be documented by affidavit filed with this office on or before October 5, 2009; and it is

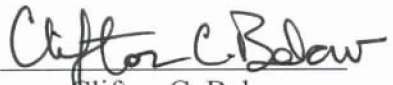
**FURTHER ORDERED**, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than September 22, 2009 for the Commission's consideration; and it is

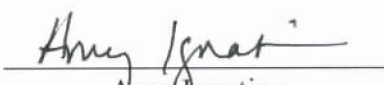
**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than September 29, 2009; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective October 5, 2009, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

By order of the Public Utilities Commission of New Hampshire this fourth day of  
September, 2009.

  
Thomas B. Getz  
Chairman

  
Clifton C. Below  
Commissioner

  
Amy Ignatius  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director & Secretary

