

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DG 07-072**

**Gas and Electric Indirect Costs—Carrying Charge Rate Regarding  
Supply Related Cash Working Capital**

**Order Approving Settlement Agreements**

**ORDER NO. 25,028**

**October 22, 2009**

**APPEARANCES:** Thomas P. O’Neill, Esq., for EnergyNorth Natural Gas, Inc. d/b/a National Grid NH and Granite State Electric Company, d/b/a National Grid; Susan S. Geiger, Esq., of Orr & Reno, PA, on behalf of Northern Utilities, Inc. and Unitil Energy Systems, Inc.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; and F. Anne Ross, Esq. for the Staff of the Public Utilities Commission.

**I. PROCEDURAL HISTORY**

On May 23, 2007, the Commission advised the parties in Docket Nos. DG 07-033 and DG 07-050 by secretarial letter that it was transferring an issue in both those dockets, relating to the indirect costs, respectively, of EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (EnergyNorth) and Northern Utilities, Inc. (Northern), into a new docket. On June 25, 2007, the Commission issued an order of notice opening this docket to consider, among other things, the appropriate carrying charge rate for cash working capital needed to meet the supply obligations of EnergyNorth and Northern Utilities. The order of notice indicated that if a new method for calculating the carrying charge is appropriate for the gas utilities, it might also apply to the electric utilities. Therefore, EnergyNorth, Northern, Unitil Energy Systems, Inc. (Unitil), Granite State Electric Company (Granite State Electric) and Public Service Company of New Hampshire (PSNH) were made parties to the docket.

On June 26, 2007, the Office of Consumer Advocate (OCA) indicated by letter that it would be participating in the docket on behalf of residential utility consumers pursuant to RSA 363:28. The order of notice scheduled a prehearing conference and technical session for July 25, 2009, both of which were held as scheduled. On July 27, 2007, PSNH filed a motion to be dismissed as a necessary party, to which Northern responded on August 1, 2007. On August 8, 2007, Staff filed a report of the technical session, recommending that preliminary motions, such as motions for designation of Staff, motions to dismiss, and requests regarding procedural matters, be filed with the Commission by August 15, 2007. EnergyNorth and Northern filed a joint motion on August 15, 2007 seeking Staff designation, bifurcation of the proceeding and a determination that Staff must file its testimony prior to the utilities. On the same day, Staff filed a motion regarding certain procedural issues and PSNH filed a statement of position on procedural matters. The following day, Unitil filed a letter supporting EnergyNorth's and Northern's joint motion. On August 31, 2007, EnergyNorth and Northern filed an objection to Staff's motion.

On September 27, 2007, the Commission issued Order No. 24,793: (1) denying PSNH's motion to be dismissed as a necessary party; (2) directing the parties and Staff to file a proposed procedural schedule by October 11, 2007; (3) designating utility analyst George McCluskey as a Staff advocate; (4) ruling that, in the interest of administrative efficiency, the proceeding would be conducted in two distinct phases; and (5) determining that Staff and non-utility parties must file testimony prior to that of the utilities, but allowing Staff and non-utility parties to have the opportunity to file rebuttal testimony following the filing of utilities' testimony.

On October 12, 2007, Staff filed a request that the Commission delay this proceeding until January 18, 2008. The Commission approved Staff's request by secretarial letter dated

October 30, 2007. On February 6, 2008, Staff submitted a proposed procedural schedule for approval, which the Commission approved by secretarial letter dated February 7, 2008. Staff filed direct testimony of James A. Rothschild, a financial consultant specializing in utility regulation, on May 5, 2008; and revised testimony of Mr. Rothschild on June 2 and July 14, 2008. On August 29, 2008, the utilities filed the direct testimony of Robert B. Hevert, President of Concentric Energy Advisors, Inc. (“Concentric”), a management consulting firm specializing in financial and economic services to the energy industry. Staff filed rebuttal testimony of James A. Rothschild on October 3, 2008.

A hearing took place on October 28, 2008, during which Mr. Rothschild testified. There were several objections to the testimony, and the hearing was suspended. On October 29, 2008, Staff and the parties filed a revised procedural schedule and requested that the Commission continue the hearing to a date. On November 5, 2008, the Commission approved the revised procedural schedule and continued the hearing to January 7, 2009. Staff witness, James Rothschild, filed his third revised testimony on November 14, 2008. Utility witness, Robert B. Hevert, submitted his supplemental testimony on December 5, 2008.

On January 6, 2009, Staff requested a continuance of the hearing scheduled for January 7, 2009, based upon a settlement agreement among Unitil, Northern and Staff. By secretarial letter dated January 9, 2009, the Commission rescheduled the hearing to February 4, 2009. On January 27, 2009, Staff requested a further continuance of the hearing, stating that Unitil, Northern, EnergyNorth, and Granite State had reached a settlement of the issues in this case and planned to file two settlement agreements with the Commission. The Commission canceled the February 4, 2009 hearing until further notice.

On March 24, 2009, Staff filed a settlement agreement among Unitil, Northern and Staff and on July 24, 2009, Staff filed a second settlement agreement among EnergyNorth, Granite State and Staff. On August 12, 2009, the OCA withdrew from this docket. By secretarial letter dated August 14, 2009, the Commission scheduled a hearing on the two settlement agreements for September 8, 2009.

## **II. PRELIMINARY POSITIONS OF THE PARTIES AND STAFF**

### **A. Staff**

Staff explained that supply-related cash working capital is the financing a utility needs to manage the relationship between its short-term accounts receivables and accounts payable in regards to purchasing natural gas or electricity. Prior to the unbundling of power supply-related costs by electric utilities and gas supply-related costs by gas companies, supply- and non-supply-related cash working capital was included in rate base and earned the utility's overall cost of capital, grossed up for taxes. Following the unbundling of supply related costs, the cost to finance the supply-related portion of cash working capital has been recovered by electric utilities through default service rates and by gas companies through cost-of-gas rates. Further, since those rates are adjusted periodically to reflect supply cost changes, the Commission is obliged to review the justness and reasonableness of the proposed rates, including their cash working capital components.

Based on the testimony of witness James A. Rothschild, Staff contends that it would be reasonable for the Commission to require Energy North, Granite State, Northern Utilities and Unitil to use the cost of short-term debt to calculate the cost of supply-related working capital. Although PSNH has yet to make a claim to recover the cost of supply-related working capital, Mr. Rothschild believes that the principles laid out in his testimony should govern the

determination of the appropriate carrying charge rate should PSNH request recovery of supply-related cash working capital in the future.

Staff's recommendation that Energy North, Granite State, Northern Utilities and Unitil use the cost of short-term debt to calculate the cost of supply-related working capital is based on the decision tree analysis presented by Mr. Rothschild in his testimony. Because the short-term debt available to any one of these utilities may already have been allocated to Construction Work In Progress (CWIP) per FERC rules and/or to the overall cost of capital applied to rate base, there may or may not be sufficient short-term debt remaining to finance supply-related working capital. If the analysis indicates that there is sufficient short-term debt remaining, then, according to Mr. Rothschild, the utility should use the short-term debt cost as the carrying charge rate when calculating the cost to finance supply-related working capital. If the analysis indicated otherwise, the next step would be to determine whether the utility properly availed itself of short-term debt. If the conclusion is that the utility is already using a reasonable amount of short-term debt and that amount has already been fully allocated to CWIP and rate base, Mr. Rothschild concludes that it would not be proper to use the cost of short-term debt as the carrying charge rate.

### **B. Utility Companies**

In response to the testimony filed by Mr. Rothschild on behalf of Staff, the utilities jointly filed the testimony of Robert Hevert, a utility consultant with expertise in financial and economic issues. Mr. Hevert argued that Mr. Rothschild's decision tree is not an appropriate tool for establishing or supporting the carrying charge rate applied to supply-related working capital. Mr. Hevert's position is based on his contention that the decision tree analysis: (1) presumes a hierarchy for the use of short-term debt that does not match the reality of corporate

financing practices; (2) is inconsistent with the Commission's finding that individual sources of financing cannot be tracked to specific assets; (3) inappropriately ignores the corollary adjustment that should be made to the percentage of short-term debt in the capital structure used to determine base rates; (4) is based on a set of decision rules that are ambiguous and subjective, enabling Mr. Rothschild to always arrive at the same conclusion, *i.e.*, that the supply-related working capital carrying charge should be the short-term debt rate; and (5) fails to consider the many factors that are involved in the day-to-day financing decisions made by utilities.

In addition, Mr. Hevert argued that supply-related working capital is not financed separately from other working capital requirements as Mr. Rothschild implies. Rather, the aggregate working capital requirement of the utility is evaluated on a daily basis and financed as necessary. Consequently, he contended that the decision tree is an unreasonably simplistic portrayal of the corporate financing process. Finally, Mr. Hevert argued that because the current proceeding is not a base rate proceeding, a significant change in the supply-related working capital carrying charge rate would constitute single issue ratemaking, which is disfavored because it can produce a skewed and confiscatory result.

### **III. SETTLEMENT AGREEMENTS**

Based upon information gathered through discovery, the submission of testimony and numerous technical sessions, the parties and Staff reached agreement on the carrying charge issues in this proceeding and filed the following two settlement agreements.

#### **A. Settlement Agreement among Unitil, Northern and Staff**

1. Effective November 1, 2008, and thereafter, the carrying charge rate for cash working capital related to gas supply costs for Northern is to be adjusted monthly using

the monthly prime lending rate, as reported by the Federal Reserve Statistical Release of Selected Interest Rates.

2. The carrying charge for cash working capital related to electric supply costs for UES shall remain at the prime lending rate, as reported by the Federal Reserve Statistical Release of Selected Interest Rates, and fixed on a monthly basis, consistent with Commission Order No. 24,682.

#### **B. Settlement Agreement among EnergyNorth, Granite State and Staff**

1. Effective November 1, 2008, and thereafter, the carrying charge rate for cash working capital related to gas supply costs for EnergyNorth is to be adjusted monthly using the monthly prime lending rate, as reported by the Federal Reserve Statistical Release of Selected Interest Rates.

2. The carrying charge for cash working capital related to electric supply costs for Granite State shall remain at the prime lending rate, as reported by the Federal Reserve Statistical Release of Selected Interest Rates, and fixed on a monthly basis, consistent with Commission Order No. 24,682 in the Unitil Energy Systems Docket DE 06-123.

### **IV. SETTLEMENT POSITIONS OF THE PARTIES AND STAFF**

#### **A. National Grid (EnergyNorth and Granite State)**

Mindy Rosen, the lead analyst in the Gas Regulatory Pricing Department for National Grid, representing Granite State Electric and EnergyNorth, testified that National Grid supports the settlement agreements entered into by the companies with Staff. Ms. Rosen clarified that the issue being settled in this docket is the carrying charge rate for cash working capital on gas supply costs for EnergyNorth and on electric supply costs for Granite State. The settlements are

agreements to use the prime lending rate as reported by the Federal Reserve to value that working capital requirement beginning November 1, 2008. Ms. Rosen testified that Granite State already uses the agreed upon rate, so the change would impact EnergyNorth only. Based on a prime rate of 3% and a 10% overall cost of capital, the Company estimated that EnergyNorth customers would see a reduction in rates of less than 1%.

#### **B. Northern and Unitil**

Lawrence Brock, Controller for both Northern and Unitil, testified that the companies supported the settlement agreements entered into with Staff. Mr. Brock recounted that Northern and Staff agreed to adjust the carrying charge rate for cash working capital on gas supply costs for Northern to the prime lending rate as reported by the Federal Reserve, effective November 1, 2008. Further, since UES already uses the prime rate as its carrying charge, he noted that there would be no rate impact for its customers. Finally, Mr. Brock stated that although he had not estimated the amount of the rate impact for Northern customers, the settlement would result in a small rate reduction, all other things being equal.

#### **C. PSNH**

PSNH stated that although it handles its fuel and power supply purchases in a different manner, the Company has been following and participating in this docket and believes the proposed settlements are reasonable.

#### **D. Staff**

Staff analyst George McCluskey testified that Staff supports the settlement agreements entered into with the utilities because they represent a reasonable outcome. Initially, Staff argued for the short-term debt rate, while the companies argued for the overall cost of capital. Setting the carrying charge rate at the prime lending rate as reported by the Federal Reserve falls



within the range of the litigation positions argued by the parties and Staff. Mr. McCluskey noted that while the final outcome may appear closer to Staff's initial position than to the utilities' position, this must be balanced by the fact that the new rate takes effect November 1, 2008, substantially later than the November 1, 2005 effective date that the Commission had endorsed in a previous order. In Mr. McCluskey's view, this concession means that the two utilities financially impacted by the settlement would realize significant monetary savings. Finally, Mr. McCluskey indicated that the settlement agreements are intended to resolve all of the issues in this proceeding.

## V. COMMISSION ANALYSIS

"In general, the Commission encourages parties to attempt to reach a settlement of issues through negotiation and compromise as it is an opportunity for creative problem solving, allows the parties to reach a result more in line with their expectations, and is often a more expedient alternative to litigation." *Concord Electric Co.*, Order No. 24,072, 87 NH PUC 694, 708 (2002) (quotation omitted). Under N.H. Code Admin. Rules Puc 203.20(b) the Commission shall approve the disposition of a contested case by settlement if it determines that the result is just and reasonable and serves the public interest. *See also* RSA 541-A:31, V(a). In determining the public interest we serve as arbiter between the interests of customers and those of regulated utilities. *See* RSA 363:17-a; *see also Public Service Co. of N.H.*, Order No. 24,919 (Dec. 5, 2008) at 7-8. Moreover, we scrutinize settlement agreements thoroughly regardless of whether a party appears at hearing to raise objections. *Kearsarge Tel. Co., et al.*, Order No. 24,885 (Aug. 8, 2008) at 11.

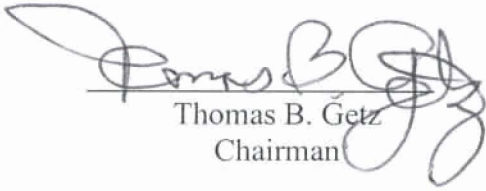
In this case each party to the proceeding has entered into one of two settlements containing essentially identical terms and no party has objected to any terms of either settlement.


The parties' litigated positions regarding the proper carrying charge rate for supply related working capital represented a significant percentage spread. The utilities asked for the Commission approved overall cost of capital, which when grossed up for taxes would mean a rate in the range 11-13% depending on the utility, and Staff asked for the short-term borrowing rate, which has been extremely variable through 2009 but is presently at around 2%. Both the utilities and Staff made principled arguments in support of their respective positions. Settling at the prime lending rate, which is currently a little over 3%, represents a compromise of the litigated positions and appears to balance the interests of ratepayers and utility investors, particularly when account is taken of the delayed effective date and the fact that two of the five utilities in the proceeding already use the prime lending rate as the carrying charge rate and are therefore unaffected by the change. Accordingly, we will approve the settlements and authorize Unitil, Granite State Electric, EnergyNorth and Northern to use the prime lending rate to calculate the cost of supply related working capital effective November 1, 2008.

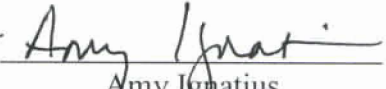
**Based upon the foregoing, it is hereby**

**ORDERED**, the Settlement Agreement between Unitil, Northern and Commission Staff and the Settlement Agreement between EnergyNorth, Granite State Electric and Commission Staff are approved as discussed herein.

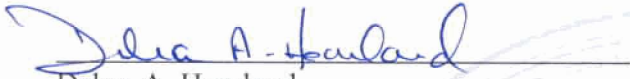
By order of the Public Utilities Commission of New Hampshire this twenty-second day  
of October, 2009.

  
Thomas B. Getz  
Chairman

  
Clifton C. Below  
Commissioner

  
Amy Ignatius  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director

