STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 10-050

NORTHERN UTILITIES, INC.

2010 Summer Season Cost of Gas

Order Approving Cost of Gas Rate

O R D E R N O. 25,097

April 29, 2010

APPEARANCES: Susan S. Geiger, Esq., Orr & Reno, P.A., on behalf of Northern Utilities, Inc.; Rorie E.P. Hollenberg, Esq., of the Office of Consumer Advocate, on behalf of residential ratepayers; and Matthew J. Fossum, Esq., for the Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

On March 15, 2010, Northern Utilities, Inc. (Northern or Company) filed proposed rate adjustments pursuant to the Cost of Gas (COG) clause in its tariff for the period May 1, 2010 through October 31, 2010, applicable to Northern's natural gas operations in the southeastern and seacoast areas of New Hampshire, which would decrease rates by approximately 8.8% from the summer of 2009. *See* Hearing Exhibit 1, March 15, 2010 COG Filing. The filing was accompanied by supporting schedules and the direct testimony of James D. Simpson, Vice President for Concentric Energy Advisors, on behalf of Northern, Francis X. Wells, Senior Energy Trader for Unitil Service Corporation, an affiliate company of Northern, and Todd Bohan, Senior Regulatory Analyst for Unitil Service Corporation.

On March 17, 2010, the Commission issued an order of notice scheduling a hearing for April 13, 2010. On March 23, 2009, the Office of Consumer Advocate (OCA) filed a notice of participation on behalf of residential ratepayers consistent with RSA 363:28. On April 12, 2010, Northern filed a revised proposed COG rate for the summer season. *See* Hearing Exhibit 2, April 9, 2010 Revised COG Filing. The hearing was held on April 13, 2010 as scheduled. At the hearing, Northern presented the "red-lined" testimony of Messrs. Simpson and Bohan showing the changes to their testimony following the revision to its filing. *See* Hearing Exhibit 3, Red-Lined Testimony of James Simpson and Hearing Exhibit 4, Red-Lined Testimony of Todd Bohan.

II. POSITIONS OF THE PARTIES AND STAFF

A. Northern

Northern witnesses Simpson, Wells and Bohan addressed: (1) calculation of the proposed COG rates; (2) reasons for the proposed rate decrease and customer bill impacts; and (3) Northern's sales and costs projections, including those relating to its hedging plan and specific litigation costs.

1. Calculation of the Firm Sales COG Rates and Bill Impacts

Pursuant to its COG clause, Northern may, subject to the Commission's approval, adjust on a semiannual basis its firm gas sales rates in order to recover the costs of gas supplies, capacity and certain related expenses, net of applicable credits, as specified in Northern's tariff. The average COG rate, which is the rate payable by residential customers, is calculated by dividing total costs of approximately $5,600,000 by projected summer season sales of approximately 8,450,000 therms. Costs include: anticipated indirect gas costs, consisting of working capital, bad debt, and overhead charges; anticipated direct costs, consisting of pipeline transportation capacity, storage capacity and commodity charges; and adjustments, consisting of a prior period over-collection, interest and anticipated losses from hedging.

Northern proposes a revised 2010 summer season residential COG rate of $0.6545 per therm, which represents a decrease of $0.1252 per therm from the average 2009 summer season residential COG rate of $0.7797 per therm and a decrease of $0.0436 from its initially proposed rate for the 2010 summer season of $0.6981. The impact of the proposed firm sales COG rate is a decrease in the typical residential heating customer's summer gas costs of $38.48, which is a decrease of 8.82 percent from last summer's rates.

Northern proposed commercial and industrial (C&I) low winter (LW) use rate of $0.6075 per therm and high winter (HW) use rate of $0.6905 per therm. The decreases in these rates from last year are commensurate with the decrease in the residential rate.

2. Reasons for the Change in the Residential COG Rate

According to Northern, the decrease in the proposed residential COG rate, which is also the average COG rate, as compared to last summer's rate, can be primarily attributed to a decrease in projected commodity costs. Northern also stated that the total indirect costs had decreased since last summer, due in part to a prior over-collection. The credit to customers from that over-collection was offset, in part, by the addition of a reconciliation amount for Adjusted Target Volumes (ATV) in Northern's filing.

The ATV reconciliation relates to gas that is delivered to non-daily metered customers through third-party suppliers over Northern's distribution system. According to the Company, as part of its responsibilities to balance gas supply from the interstate pipelines with customer demand on its system, it uses a consumption forecast algorithm to determine how much gas must be supplied to its distribution system each day by third-party suppliers to ensure the delivery of a sufficient supply to meet the total daily distribution requirements for its non-daily metered transportation customers. The ATV consumption forecast algorithm uses base load and heat load components for each of these transportation customers to forecast daily load requirements for the third-party suppliers. At the end of specific periods, as defined in Northern's tariff, the Company does a true-up of delivered volumes to actual metered volumes for these non-daily metered transportation customers through the ATV reconciliation and then bills or credits the suppliers for any imbalances at market-based cash-out prices.

In this instance, during the summer 2009 period, billing operations changed over from NiSource, Northern's prior owner, to Unitil, Northern's current owner. During that change in control, conversion of the appropriate billing data was delayed. Therefore, any adjustments that needed to be made to account for the differences in the delivered volumes and metered volumes were also delayed. The end result is that Northern was required to repay approximately $430,000 to marketers. As a consequence, Northern has included in this COG filing an adjustment to the COG rate that is meant to recover this amount. In its revised COG filing, Northern explained that it is more closely reviewing its ATV procedures and has developed a more robust and reliable software system to calculate the ATV reconciliation in a timely manner. These actions should also assist the Company in reducing future supplier imbalances on its distribution system.

Additionally, Northern's proposed COG rate has been adjusted to account for hedging losses it has incurred. In response to questioning, Northern stated that some of the changes to its hedging plan, recently approved by the Commission, were meant to minimize hedging related losses in the future. Non-Confidential Transcript of April 13, 2010 Hearing (Tr.) at 43-44. Finally, Northern noted that, as to the expenses it was continuing to incur in contesting the

PNGTS rate case at the federal level, those costs would be confined to the winter COG, and that it did not adjust its proposed rates to account for those costs. Tr. at 38.

3. Gas Supply Projections

Northern testified that it has numerous sources of gas supply available to meet its needs, including pipeline transportation contracts, storage contracts, peaking supply contracts, and an exchange agreement with Bay State Gas Company. Northern stated that it had discovered that it was under-utilizing some of its transportation contracts and that such contracts were valuable in the marketplace. Therefore, it permanently released some of those contracts, at maximum allowable rates. Northern stated that the value received for the contracts it released was in excess of the value it would have realized by keeping them and using the capacity they represented. Tr. at 32. Thus, Northern contended that customers have realized a benefit from the release of those contracts. Tr. at 34.

4. Motion for Confidential Treatment

In response to a data request from Staff, Northern provided information about its use of its underground storage supplies. Northern, however, sought confidential treatment for a portion of its response contending that disclosing the information would cause harm by placing it at a disadvantage in negotiations with third parties regarding contracts for gas supply, transportation and exchange. Northern contended that the information was competitively sensitive commercial information entitled to confidential treatment under RSA 91-A:5, IV and the Uniform Trade Secrets Act, RSA 350-B.

In a confidential portion of the hearing on this matter, Northern was asked by the Commission whether and to what extent such treatment was, in fact, necessary. In response, on

April 16, 2010, Northern filed a redacted version of its answer to Staff's data request. Northern maintained that the non-redacted answer was entitled to confidential treatment.

B. OCA

The OCA first questioned the Company about some of its projections of consumption by residential customers as reflected in Attachment 1 to Schedule 10B in its revised filing. Tr. at 20. The Company stated that its forecasts are made yearly, absent an unusual occurrence, and that at the time of making the forecast in its filing, the last year for which complete data was available was 2008. Tr. at 20. Therefore, the projections were based upon data from 2008 and were not necessarily reflective of more recent usage patterns. Tr. at 20-21. The Company further responded that had 2009 data been available its forecast might have been lower, but that recalculating the forecast at this point would have little impact on the summer rate. Tr. at 21.

The OCA also questioned the Company about some of the changes made between its original filing and its revised filing, specifically the changes to the Company's demand costs, supply costs, storage and peaking costs, hedging losses and the prior-period over-collection. Tr. at 22-24. With regard to the supply costs and hedging losses, the Company stated that both changes resulted from use of an updated, and lower, NYMEX cost. Tr. at 23. The Company attributed the change to the demand costs and the storage and peaking costs to a correction made in its schedules to move from billing months to calendar months in its reporting. Tr. at 22-23. As to the prior period over-collection, the Company eventually clarified that the change was made to reflect Staff's request that the amount of the prior over-collection should be that existing at the end of the prior summer period rather than that existing at the start of this summer period. Tr. at 45-46.

The OCA also questioned the Company about its ATV reconciliation to confirm that the payments it was required to make had already been made. Tr. at 28. Northern confirmed that it had already repaid the suppliers. Tr. at 28. Also, OCA asked the Company about the inclusion of interest on those amounts. Tr. at 28. The Company responded that it had not included interest on the amounts it repaid to the suppliers. Tr. at 28.

In its closing, the OCA stated that it did not oppose the COG rates as proposed by the Company. Tr. at 55.

C. Staff

Staff questioned the Company about changes made between the original filing and the revised filing. Tr. at 29. Initially, Staff sought supporting documentation for the changes to the Company's demand costs. Tr. at 29; *see also* Hearing Exhibit 6, Revised Schedule 1A. Staff also asked the Company about the reason for the significant increase in its therm sales as reflected on its Revised Schedule 9. Tr. at 30-31. The Company responded that part of the reason for the increase was the Company's change from billing months to calendar months in its reporting. Tr. at 31. The Company later explained that the increase was not due to an overall increase in volumes sold, but to an increase in its projections for the percentage of its deliveries made through Sales Service. *See* Hearing Exhibit 7, Explanation of Line 1 of Revised Schedule 9. According to the Company, it expects its Sales Service to comprise a larger portion of its deliveries in 2010 than it had in 2009 and that the COG rates are based upon its Sales Service, as opposed to total deliveries. *See* Hearing Exhibit 7.

Staff also asked Northern about the effects of its release of the capacity contracts. Tr. at 32. Northern replied that its recovery on those contracts was at the maximum allowable rates and that the current cost of gas rates do not include any of the costs associated with the permanent capacity releases. Tr. at 33-34. When questioned about the reason for the contracts being under-utilized, Northern stated that it was not clear why that was the case, but speculated that because major supply purchases were made just before Unitil took over Northern, it was possible that those supplies decreased the need for the other contracts. Tr. at 35. Also, Northern stated that, from an economic point of view, the contracts were not at competitive costs with its other supplies, and therefore the capacity they represented was less useful. Tr. at 35.

In its closing, Staff stated that it supported the Company's revised filing, subject to the receipt of information requested during the hearing. Tr. at 55-56. Staff noted that the Commission's Audit Staff had reviewed the 2009 summer reconciliation and found no substantive exceptions. Tr. at 56. Staff also supported Northern's ATV reconciliation. Tr. at 56. Staff noted that Northern had stated that its new system would limit such imbalances in the future. Tr. at 56. Finally, Staff noted that actual costs and revenues would be reconciled in the summer of 2011 and any concerns that may arise could be addressed at that time. Tr. at 56-57.

III. COMMISSION ANALYSIS

Based on our review of the record in this docket we approve the proposed 2010 summer season COG rate as a just and reasonable rate pursuant to RSA 378:7. Northern's forecasts of sales and costs appear reasonable and consistent with prior COG filings. Further, Northern has developed a better understanding of its supply needs and, as a result, has released under-used capacity while recognizing a benefit to customers. We note also that, pursuant to *Northern Utilities, Inc.*, Order No. 24,961 (April 30, 2009), the approved rate may be adjusted downward so far as is needed, and upward by no more than twenty-five percent, without further

Commission action. Thus, although the Company has already decreased the proposed rate through its revised filing, any further downward trend in prices may be met by the Company with further reductions in price and, to a limited extent, upward trends may be followed.

Also, while we recognize that Northern, with the guidance of Staff, has made significant amendments to its filing to make it more readily reviewable, it appears that some work may yet be done to improve the filing for Staff's review. We expect that the Company will continue to work on these filings so that it may more readily respond to questions about their contents.

As to the ATV reconciliation, we approve its inclusion in the COG rate. It is a cost emerging out of common transactions between the utility and third-party suppliers and appears to have grown as a result of a change in ownership. The Company has stated that its new systems will enable it to more timely account for these transactions and we will review its progress with those efforts in future COG filings.

Regarding the Company's request for confidential treatment of its response to Staff's data request, the Company contends that disclosing the response would cause harm because it will be disadvantaged in negotiations with other parties regarding contracts for gas supply, transportation and exchange, and that disclosing the information will impair its future bargaining positions and negatively affect customers. During questioning, the Company clarified that third-party suppliers who possessed the information in the response would understand the Company's gas supply needs, and the use of those supplies, and may be able to undercut the Company.

RSA 91-A:5, IV states, in relevant part, that records of "confidential, commercial, or financial information" are exempted from disclosure. *See Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (Sept. 22, 2009) at 2. In determining whether commercial or financial information should be deemed confidential, we consider whether there is a privacy interest at stake that would be invaded by the disclosure. *Id*. at 2-3. Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id*. at 3. Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id*. Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interests in non-disclosure. *Id*. This is similar to the Commission's rule on requests for confidential treatment. *See* N.H. Code Admin. Rules Puc 203.08; *see also Unitil Corp. and Northern Utilities, Inc.*, *supra* at 3.

While Northern's initial contentions were not clear, it has since articulated a particular privacy interest with regard to this information; specifically, that disclosure of the information would allow its competitors to take advantage of the information to undercut the Company. Thus, we find that there is a privacy interest at stake. As to the public interest, we find that any such interest is low. The request sought an explanation of how the Company uses the resources at its disposal and, among other things, the Company's redacted response states that it will utilize its resources in an economically reasonable manner and in the best interests of customers. There is nothing to indicate that the Commission has, or will, take any action relative to this information. Hence, the information does nothing to inform the public about the activities or conduct of its government. Accordingly we find that disclosure is not warranted. *Id*. at 3. Consistent with Puc 203.08(k), our grant of this motion 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.

Based upon the foregoing, it is hereby

ORDERED, that Northern's proposed 2010 summer season COG rates for the period of May 1, 2010 through October 31, 2010 are APPROVED, effective for service rendered on or after May 1, 2010 as follows:

	Cost of Gas	Maximum COG
Residential	$0.6545	$0.8181
C&I, Low Winter Use	$0.6075	$0.7594
C&I, High Winter Use	$0.6905	$0.8631

and it is

FURTHER ORDERED, that Northern may, without further Commission action, adjust the COG rates based upon the projected over-/under-collection for the period, the adjusted rates to be effective the first of the month and not to exceed a maximum rate of 25 percent above the approved rates and without limitation on its reduction in rates; and it is

FURTHER ORDERED, that Northern shall provide the Commission with its monthly calculation of the projected over- or under-calculation, along with the resulting revised COG rates for the subsequent month, not less than five (5) business days prior to the first day of the subsequent month. Northern shall 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 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. Code Admin. Rules Puc 1603.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 2010.

Thomas B. Getz Chairman	Clifton C. Below Commissioner	Amy L. Ignatius Commissioner

Attested by:

Debra A. Howland
Executive Director