STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 10-250

NORTHERN UTILITIES, INC.

Winter 2010-2011 Cost of Gas

Order Approving Cost of Gas Rates and Other Charges

O R D E R N O. 25,162

October 29, 2010

APPEARANCES: Susan S. Geiger, Esq., Orr & Reno, P.A., on behalf of Northern Utilities, Inc.; Kenneth Traum of the Office of Consumer Advocate, on behalf of residential ratepayers; and Alexander F. Speidel, Esq., for the Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

On September 15, 2010, Northern Utilities, Inc. (Northern or Company), a public utility providing natural gas service to approximately 29,000 customers in the seacoast region of New Hampshire, filed its cost of gas (COG) and other rate adjustments for the 2010-2011 winter period. Northern's filing included the pre-filed testimony of James D. Simpson, Vice President of Concentric Energy Advisors, a consulting firm working for Northern, Francis X. Wells, Senior Energy Trader for Northern, and Joseph F. Conneely, Senior Regulatory Analyst for Unitil Service Corp., an affiliated service company providing services to Northern.

On September 21, 2010, the Commission issued an order of notice scheduling a hearing for October 20, 2010. On September 28, 2010, the Office of Consumer Advocate (OCA) notified the Commission, consistent with RSA 363:28, of its participation in the docket on behalf of residential ratepayers. No other parties intervened in the docket. On October 5, 2010, Northern provided an affidavit of publication stating that the order of notice had been published on September 27. On October 12, 2010, Northern filed a motion for confidential treatment for certain responses to Staff data requests. On October 14, 2010, Northern submitted a revised COG filing that updated many of the rates and charges in the original filing. On October 20, 2010, a hearing before the Commission was held as scheduled.

II. POSITIONS OF THE PARTIES AND STAFF

A. Northern

As set out more fully below, Northern's witnesses Simpson, Wells and Conneely testified to: (1) the calculation of the proposed COG rate and the resulting customer bill impacts; (2) the reasons for the change in COG rates; (3) Company gas supplies and hedging; (4) legal expenses related to the Portland Natural Gas Transmission System (PNGTS) rate case; (5) the local distribution adjustment charge (LDAC); and (6) other COG related charges. In addition, throughout their testimony Northern's witnesses noted various changes that have been made to the Company's COG filing in consultation with Staff in order to make the filing more useful and readily reviewable.

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

Pursuant to its COG clause, Northern may adjust on a semi-annual 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. For the winter 2010-2011 period, the proposed average COG rate, which is the rate payable by residential customers, was calculated by adding the anticipated direct costs of $27,281,475 and anticipated indirect costs of $3,511,989 and then dividing the total costs by the projected winter period firm sales volume of 28,028,950 therms. Direct costs are those costs relating to pipeline transportation capacity, storage capacity and commodity charges, while indirect costs include working capital, bad debt and overhead charges. These costs are also subject to certain allowed adjustments and the indirect costs include a prior period under-collection of $2,527,403.

Northern's revised filing proposes a winter 2010-2011 residential rate of $1.0987 per therm, a $0.0851 per therm increase compared to the weighted average residential rate of $1.0136 per therm last winter. The impact of the proposed firm sales COG rate, coupled with other changes in the LDAC, is an overall increase for the typical residential heating customer using 1,250 therms per year of $94.17, or 7%, over last winter. Northern's proposed commercial and industrial (C&I) low winter use (LW) and high winter use (HW) COG rates are $0.9702 and $1.1231 per therm respectively, which represent comparable increases from last year's rates.

2. Reasons for the Increase in the COG Rates

The increase in the Company's rates is driven primarily by increases in demand costs, especially transportation costs, and the cost of supplemental supplies. These increases are partly offset by a decrease in gas commodity costs.

3. Gas Supply and Hedging

Consistent with its hedging program approved in the Commission's Docket No. DG 09-141, by Order No. 25,087 (March 30, 2010), Northern has hedged approximately 70% of its winter gas supply through financial and supply hedges. *See* Hearing Exhibit 1, Direct Testimony of Wells at 21-22.

In addition to its hedged supplies, Northern also addressed other matters relating to its gas supply portfolio; specifically, the Company has released a portion of its storage and pipeline capacity because its forecast showed that some of that capacity was not needed to meet its system demand requirements and because the Company believes it will, if necessary, have access to competitively priced supply alternatives in the marketplace. *See* Hearing Exhibit 1, Direct Testimony of Wells at 11-12.

4. Legal Expenses Related to PNGTS Rate Case

Northern proposes to recover extraordinary legal and consulting costs incurred in its opposition to two proposed rate increases by PNGTS in Federal Energy Regulatory Commission (FERC) Docket No. RP08-306, and in a more recent rate filing in FERC Docket No. RP10-729. In opposing PNGTS, Northern was joined with other customers of PNGTS in the PNGTS Shipper Group (PSG); Northern indicated that its, and PSG's, litigation efforts were largely successful in the earlier rate proceeding, with an initial FERC decision establishing a PNGTS rate of approximately $0.75 per dekatherm per day, instead of the originally-proposed rate of approximately $0.90 per dekatherm per day. *See* Transcript of October 20, 2010 Hearing (Tr.) at 37-38. The initial decision was very favorable to the PSG, with PNGTS losing on most significant issues, which should result in a refund of approximately $1.2 million, half of which would be credited to Northern's New Hampshire Division. In the more recent PNGTS FERC filing, PNGTS has proposed a 47 percent increase in rates, representing a $3.4 million increase in Northern's annual gas costs. *See* Hearing Exhibit 1, Direct Testimony of Wells at 17 and 23-25; Tr. at 37-40. In opposing the PNGTS rate increases, Northern states that it has incurred $376,840 in costs, slightly less than half of which is the New Hampshire division's share. *See* Hearing Exhibit 1, Direct Testimony of Wells at 24. Rather than include these charges in the LDAC, Northern has reflected these costs as a deduction from Asset Management revenues. *See* Hearing Exhibit 1, Direct Testimony of Wells at 24. This treatment means that all customers for whom Northern manages capacity (e.g., firm sales and capacity assigned transportation customers) are responsible for the costs.

5. LDAC

Northern's filing proposes a per therm LDAC of: $0.0456 for residential customers, an increase from $0.0297, and $0.0249 for C&I customers, an increase from $0.0166. The LDAC is a combined rate of various surcharges by the Company including those relating to the residential low income assistance program (RLIAP), demand side management (DSM) and environmental response costs.

As to the specific components of the LDAC, Northern is proposing to decrease the charges relating to the RILAP from $0.0055 to $0.0043 per therm for all classes, but it does not propose any change to the program at this time. The reason Northern proposes to change the RILAP rate despite not changing the program is to eliminate a projected over-collection. *See* Hearing Exhibit 1, Direct Testimony of Conneely at 3.

Regarding DSM, which covers the Company's energy efficiency programs, Northern proposes raising the charge from $0.0201 to $0.0359 per therm for residential customers and decreasing it from $0.0201 to $0.0152 per therm for C&I customers. Tr. at 26-27, 33.

Finally, Northern also proposes to adjust slightly the environmental response charge from $0.0057 to $0.0054. Under this charge, the Company is permitted to recover environmental response costs. The decrease in this charge is due, in part, to a prior over-collection. *See* Hearing Exhibit 1, Direct Testimony of Conneely at 4-5.

6. Other Charges

Northern is also proposing to update its supplier balancing charge. In *Gas Restructuring-Unbundling and Competition in the Natural Gas Industry,* Order No. 23,652 (March 15, 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 relate to daily imbalances in each supplier's resource pool at Northern delivery points (city gates). The suppliers pay Northern's supplier balancing charges as compensation for costs incurred by Northern to stay within daily operational balancing tolerances. Northern proposes to leave the supplier balancing charge unchanged at $0.75 per MMBtu of daily imbalance volumes, but to increase the peaking service demand charge from $16.49 per MMBtu of peak maximum daily quantity (MDQ) to $17.68 per MMBtu of peak MDQ. The increase in the peaking service demand charge is based on an update of volumes and costs used in calculating the charges. Also, 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 by New Hampshire for non-grandfathered firm transportation service, have been updated to reflect Northern's supply portfolio for the upcoming year. Finally, the firm sales service re-entry fee has been increased from a monthly unit charge of $4.823 per MMBtu to $6.50 per MMBtu to reflect updated costs.

7. Motion For Confidential Treatment

As part of its COG filing, Northern is required to file certain gas supply contract information with the Commission. Northern, by way of a motion filed with its COG filing (in relation to its responses to Staff's data requests), requests that this information be granted confidential treatment. More specifically, the information Northern seeks to protect is: (1) Company's response to Staff Data Request 1-6, in Attachment Staff 1-6; (2) Company's response to Staff Data Request 1-7(b), in Attachment 1-7B; (3) Company's response to Staff Data Request 1-7(c), in Attachment 1-7C; Company's response to Staff Data Request 1-7(d), in Attachment 1-7D; and Company's response to Staff Data Request 1-7(f), in Attachments 1-7F(a)-(h). Any pages of the above-identified schedules that are not specifically identified are part of the Company's non-confidential filing and are, therefore, not covered by the motion.

Northern argues that releasing this information will result in a competitive disadvantage to it in the form of less advantageous or more expensive gas supply contracts. According to Northern, if gas suppliers possessed this information they would be aware of the Company's gas supply costs and terms and would not be likely to propose terms as beneficial as those in existence. As such, Northern contends that disclosing its confidential commercial information would cause it competitive disadvantage and that the information should, therefore, be exempt from disclosure under RSA chapter 91-A, and otherwise be treated as confidential.

B. OCA

OCA stated that it did not object to the rates in the Company's revised COG filing. Tr. at 45. OCA questioned the Company about the recovery of its PNGTS litigation costs to clarify that the costs would, in fact, be borne by both sales and capacity assigned C&I customers on Northern's system. Tr. at 21-22. OCA also clarified with the Company the projected impact of demand costs. Tr. at 22-23. OCA also requested that the Company clarify its policy regarding the re-entry of grandfathered non-capacity-assigned customers to sales service. Tr. at 19-21.

C. Staff

Staff supported the Company's revised COG rates as filed, subject to review by the Commission's Audit Staff of the Company's recent edits to the reconciliation from last year's winter period. Tr. at 45. Staff also stated that the Company's hedging program had offered stability in a volatile market, and was consistent with the program changes implemented in Docket No. DG 09-141. Tr. at 46. Staff also recommended that the Company's proposed LDAC rate be implemented along with the COG rates on November 1. Tr. at 46-47. Staff noted that its review of some rates, such as those related to the environmental remediation costs, had not yet been completed, but that the rates relative to those costs should be allowed to go into effect, subject to future adjustments if any material errors were found. Tr. at 46-47. Finally, Staff recommended that the Company's proposed supplier balancing charges and capacity allocators be approved as it appeared they were accurate and reasonable. Tr. at 47.

III. COMMISSION ANALYSIS

Based upon our review of the record presented in this docket, we find that Northern's proposed adjustments will result in just and reasonable rates as required by RSA 378:7. Specifically, we approve the proposed 2010-2011 winter period COG and Transportation COG rates. We also approve Northern's LDAC rate components (consisting of the DSM charge, environmental cost recovery charge, and RILAP charge), transportation supplier balancing rate, transportation peaking service demand rate, transportation capacity allocators, and the firm sales service re-entry fee. Since the COG rates are reconciled year over year, any adjustments needed as a result of further inquiry into these matters can be made in Northern's next winter COG proceeding.

With regard to Northern's filing generally, we anticipate continued improvements as Unitil gains further experience in managing Northern's gas supplies and works with Staff to develop reports and schedules more informative to the Company and responsive to the Commission's review of the related costs and activities. We are satisfied that many of the Company's changes are meant to more accurately assign costs to the Company's New Hampshire and Maine divisions, as well as to improve allocations to the various rate classes.

As to the issue of the PNGTS litigation costs, which are not, strictly speaking, matters of either the COG rates or the LDAC, we approve the recovery of prudently incurred costs to this point. The Commission has encouraged Northern's participation in the PNGTS litigation. *See Northern Utilities, Inc.*, Order No. 24,853 (April 23, 2008), at 8. Northern has incurred the costs as part of a group of shippers that hold pipeline capacity on PNGTS and have intervened at the FERC in an effort to control costs. Moreover, it appears that the costs incurred are far less than the additional revenues that PNGTS would have collected from Northern had Northern not elected to challenge the PNGTS rate increase. For instance, during last year's Cost of Gas proceeding, Northern had estimated that if PNGTS were to prevail on all matters litigated in FERC Docket 08-306, Northern's costs could increase by as much as $5.5 million per year. *See Northern Utilities, Inc.*, Order No. 25,035 (October 29, 2009), at 5. We condition our approval on recovery of these costs in the manner described by Northern. Specifically, the costs will be treated as a deduction from Asset Management revenue, which is apportioned to Northern customers for whom PNGTS capacity is held. To the extent Northern incurs further costs, we will review those in a future filing. Finally, we note that our approval shall not establish any precedent for future, similar recoveries.

As to Northern's motion for confidential treatment, in determining whether commercial or financial information should be deemed confidential and private, we consider the three-step analysis applied by the New Hampshire Supreme Court. *Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (Sept. 22, 2009) at 3 (citing *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008)). First, we evaluate whether there is a privacy interest at stake that would be invaded by the disclosure; when commercial or financial information is involved, this step includes a determination of whether an interest in the confidentiality of the information is at stake. If no such interest is at stake, the Right-to-Know law requires disclosure. *Id*. Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id*. 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*.

In furtherance of the Right-to-Know law, the Commission's rule on requests for confidential treatment, N.H. Code Admin. Rules Puc 203.08, is designed to facilitate the balancing test required by the relevant case law. *Id*. The rule requires petitioners to: (1) provide the material for which confidential treatment is sought or a detailed description of the types of information for which confidentiality is sought; (2) reference specific statutory or common law authority favoring confidentiality; and (3) provide a detailed statement of the harm that would result from disclosure to be weighed against the benefits of disclosure to the public. N.H. Code Admin. Rules Puc 203.08(b).

As in previous COG hearings, no party has objected to the request for confidential treatment. We begin our analysis by noting that the information Northern seeks to protect relates to supply costs and availability. As noted by Northern, gas suppliers who may obtain the information would be aware of the Company's gas supply costs, and the terms of its supply agreements. These suppliers may, then, be less likely to propose terms as beneficial as those in existence. Moreover, protection of this information may redound to the benefit of ratepayers to the extent Northern is able to negotiate more favorable arrangements. Accordingly, we conclude that there is a privacy interest at stake which would be invaded by disclosure.

As to the public's interest in disclosure, the information at issue concerns the contracts and cost information of the Company. This information relates to the Company's financial arrangements with various suppliers, but reveals little if anything about the functions of the Commission. *See Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (Sept. 22, 2009) at 3 (citing *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008)). While the information is, in some sense, informative about the finances of the utility, which are subject to the Commission's scrutiny, we nevertheless conclude that any public interest in disclosure is slight. This is so because little information about the Commission, including the processes by which it reviews such information, or the conclusions drawn therefrom, would be discerned by disclosure. Balancing the above interests, we conclude that the Company's interest in privacy outweighs the public's interest in disclosure. Accordingly, we grant Northern's 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.

Based upon the foregoing, it is hereby

ORDERED, that Northern's proposed 2010-2011 Winter period COG rates of $1.0987 per therm for Residential, $0.9702 per therm for C&I low winter use and $1.1231 per therm for C&I high winter use for the period November 1, 2010 through April 30, 2011 are APPROVED, effective for service rendered on and after November 1, 2010; and it is

FURTHER ORDERED, that Northern may, without further Commission action, adjust the COG rates upward by no more than 25 percent and downward so far as is necessary based upon its projected over- or under-collection; 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 2010-2011 LDAC per therm rates for the period November 1, 2010 through October 31, 2011 are APPROVED, effective for service rendered on and after November 1, 2010 as follows:

	Low Income	Demand Side Management	Environmental Remediation	LDAC
Residential	$0.0043	$0.0359	$0.0054	$0.0456
Commercial & Industrial	$0.0043	$0.0152	$0.0054	$0.0249

and it is

FURTHER ORDERED, that Northern's proposed transportation supplier balancing charge of $0.75 per MMBtu of daily imbalance volumes is APPROVED; and it is

FURTHER ORDERED, that Northern's proposed transportation peaking service demand charge of $17.68 per MMBtu of peak MDQ is APPROVED; and it is

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

FURTHER ORDERED, that Northern's proposed annual firm sales service re-entry fee per unit charge of $6.50 per MMBtu is APPROVED; and it is

FURTHER ORDERED, that Northern's proposal to deduct $183,943.04 from Asset Management revenues for external legal and consulting expenses incurred by Northern in opposing PNGTS's proposed rate increase before the FERC is APPROVED as conditioned above; 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.

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

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

Attested by:

Lori A. Davis
Assistant Secretary