

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 11-070

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Request for Permanent Distribution Rate Change

Order *Nisi* Approving Permanent Distribution Rate Change

ORDER NO. 25,238

June 23, 2011

On March 28, 2011, Public Service Company of New Hampshire (PSNH) filed a Certification of Exogenous Events for 2010. The filing was made pursuant to a settlement agreement (Settlement Agreement) approved by the Commission in Order No. 25,214 (April 26, 2011) in Docket No. DE 09-035, PSNH's most recent distribution rate case. PSNH filed a supporting technical statement and related exhibits with its request. The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2011/11-070.html>.

Pursuant to the Settlement Agreement, PSNH may, on an annual basis, request an adjustment of distribution rates upward or downward in response to qualifying exogenous events if the total distribution revenue impact, positive or negative, of all such events exceeds \$1 million in any calendar year. PSNH's filing documented two exogenous events for 2010: (1) the termination of a Medicare subsidy credit; and (2) bonus tax depreciation. PSNH proposed a net annual increase in its distribution rates of \$2.93 million for effect July 1, 2011. The \$2.93

million is the difference between PSNH's proposed \$3.164 million annual increase due to the termination of the Medicare subsidy credit and PSNH's proposed \$0.234 million annual decrease due to the bonus tax depreciation.

As described in PSNH's filing, the Medicare credit subsidy issue involves two issues. The first is a \$1.331 million Medicare subsidy credit to deferred tax expense that was included in the test year costs in Docket DE 09-035, resulting in a lower revenue requirement. According to PSNH, the health care legislation passed in March 2010 eliminated this credit. Therefore, PSNH stated an increase of \$1.331 million to revenue requirements is necessary, and is consistent with the Exogenous Events section of the Settlement Agreement. The second issue relates to a tax asset that was created, beginning in 2005, while crediting deferred tax expense. PSNH explained that the health care legislation changed the deductibility of certain allowable tax benefits and, as a result, required companies to write off those tax assets that had been previously recorded on the books as of December 31, 2009. The write-off was taken by PSNH in March 2010. The revenue requirement impact of the write-off was \$5.336 million. In addition, PSNH stated that the loss of the tax credit for the period of January 2010 through June 2011 is and will be deferred for a total revenue requirement impact of \$1.997 million (1.5 years x \$1.331 million). The combined revenue requirement impact associated with the write-off and deferral of tax assets is \$7.333 million (\$5.336 million + \$1.997 million). As a result of the changes to federal health care legislation, PSNH proposed an increase to Distribution rates of \$3.164 million per year effective July 1, 2011 through the end of the term of the Settlement Agreement, June 30, 2015. PSNH explained that the \$3.164 million is a combination of the annual \$1.331 million shortfall and a

proposed four (4) year amortization and recovery of \$7.333 million accumulated deferred tax shortfall write-off at June 30, 2011 ($\$7.333 \text{ million} / 4 = \$1.833 \text{ million} + \$1.331 \text{ million} = \3.164 million). PSNH proposed a four-year recovery period which would coincide with the termination date of the DE 09-035 Settlement Agreement.

Regarding the bonus tax depreciation, PSNH explained that the Federal 2010 Tax Act passed by Congress and signed into law on December 17, 2010 provides companies the opportunity to utilize 100 percent accelerated bonus tax depreciation for tangible personal property placed in service after September 8, 2010 and through December 31, 2011. This is an increase from the current 50% bonus tax depreciation level that was embedded in the DE 09-035 rate case Settlement Agreement. For tangible personal property placed into service after December 31, 2011, and through December 31, 2012, the Act provides for the continuation of the 50% bonus depreciation. PSNH stated that as a result of this change in Federal Law, it is entitled to recognize for tax purposes additional bonus depreciation of approximately \$6.25 million for 2010. That additional depreciation will result in the creation of additional deferred tax obligations of \$2.2 million, thereby reducing rate base. PSNH calculated the revenue requirement impact of the additional deferred taxes as an annual reduction of \$192,000 effective July 1, 2011. In addition, PSNH stated that the bonus tax depreciation benefit accrued prior to and up through June 30, 2011 for three quarters of a year (fourth quarter 2010 and first and second quarters of 2011) is \$144,000 ($\$192,000 \times .75$). PSNH proposed a \$234,000 decrease to distribution rates effective July 1, 2011 through the end of the term of the Settlement Agreement on June 30 2015. PSNH derived the \$234,000 by adding the \$192,000 annual reduction to a

proposed four-year amortization of the \$144,000 prior benefits noted above (including carrying charges of \$24,000 ($\$144,000 + \$24,000 = \$168,000/4 = \$42,000$)).

Combining the two Exogenous Events in its filing, PSNH requested a \$2.930 million (\$3.164 million - \$0.234 million) increase to distribution rates effective July 1, 2011.

The Settlement Agreement further provided that Staff and the Office of Consumer Advocate (OCA) may, on or before May 1 of each year, make a filing requesting an exogenous event rate decrease or contesting an exogenous event rate increased proposed by PSNH. On behalf of itself and the OCA, Staff requested and was granted an extension of the filing deadline to May 13, 2011. In a letter filed on May 13, 2011, Staff proposed an alternative recovery period of 5½ years (66 months) to allow recovery of the written-off deferred tax asset at a rate similar to that at which the deferred tax credit had previously benefitted customers. As a result of Staff's proposal, PSNH's requested distribution rate increase associated with exogenous events will decrease by \$0.5 million from \$2.93 million to \$2.43 million.

On May 16, 2011, PSNH made a revised filing with spreadsheets that showed the calculation of the Medicare subsidy credit using the Staff's recommended 5½-year recovery period. That filing also contained a calculation of the net impact to distribution revenues resulting from a number of adjustments to its distribution rates scheduled to take effect on July 1, 2011. On May 17, 2011, PSNH filed a revised cover letter correcting its calculations to reflect an estimated overall average rate impact of the changes proposed for effect July 1, 2011 a 0.19% reduction in total rate level, or a 0.72% reduction in distribution rate level. In addition to the instant proceeding, the other proposed distribution rate proceedings that are scheduled for effect

July 1, 2011 are: (1) additions to net plant (Docket No. DE 11-095); (2) Step 1 of the reliability enhancement plan as provided in the Settlement Agreement; (3) recovery of storm expense and recovery of marketing and promotion costs associated with the renewable energy service product (collectively, Docket No. DE 11-082); and (4) termination of the recoupment allowed pursuant to the Settlement Agreement.

On June 17, 2011, Staff filed a memorandum with the Commission stating that it had reviewed the revised calculations and recommended approval of PSNH's certification of exogenous events as revised on May 16, 2011. Staff said it had consulted with the OCA and that the OCA did not object to its recommendation.

We have reviewed the filing and Staff's recommendation. We note that there is no dispute as to the validity of the exogenous events or the method and length of the recovery. Further, we find that PSNH followed the process adopted in the Settlement Agreement in filing the certification of exogenous events and we agree that elimination of the Medicare subsidy credit and the bonus tax depreciation qualify as exogenous events contemplated by the Settlement Agreement. Therefore, we find PSNH's May 16, 2011 revised filing reflecting an increase to distribution revenues of \$2.43 million to be just and reasonable and in the public interest and we approve it on a *nisi* basis.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that, subject to the effective date below, Public Service Company of New Hampshire's petition, as revised on May 16, 2011, to adjust its distribution rates to reflect

an increase of \$2.43 million resulting from certain exogenous events consistent with the terms of the Settlement Agreement in Docket DE 09-035, is APPROVED; and it is

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 June 27, 2011 and to be documented by affidavit filed with this office on or before July 1, 2011; and it is

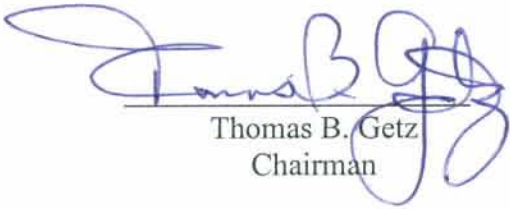
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than June 29, 2011 for the Commission's consideration; and it is


FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than June 30, 2011; and it is

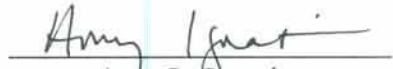
FURTHER ORDERED, that this Order *Nisi* shall be effective July 1, 2011, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that the Petitioner shall file a compliance tariff with the Commission on or before July 15, 2011, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this twenty-third day of
June, 2011.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Kimberly Nolln Smith
Assistant Secretary

