

**.STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 11-135

CONCORD STEAM CORPORATION

Petition for Approval of a Special Contract with the State of New Hampshire

Order *Nisi* Approving the Special Contract

ORDER NO. 25,260

August 9, 2011

I. BACKGROUND

On June 10, 2011, the petitioner, Concord Steam Corporation (Concord Steam or Company), filed with the Commission a petition for approval of a special contract with State of New Hampshire, Department of Administrative Services (State) for steam service in connection with multiple office spaces, facilities, and buildings currently owned or leased by the State, at various locations in downtown Concord and in the nearby Governor Hugh J. Gallen State Office Park. Concord Steam has been providing retail steam service to the State at various locations in Concord for over thirty years.

According to its petition, to ensure that it has a long term supply of steam at reasonable cost so that it can serve its customers at reasonable rates, Concord Steam has entered into a Steam Purchase Agreement (SPA) for its steam supply requirements with Concord Power and Steam, LLC (Concord Power). Concord Steam is an affiliate of Concord Power.¹ Concord Power intends to develop an 18 megawatt wood-fired steam boiler-electric generating unit (the Unit) which will be the usual source of the steam supplied to Concord Steam under the SPA.

¹ In Order No. 24,969 (May 22, 2009) in Docket No. DG 08-107 the Commission indicated that the terms of the SPA were reasonable but deferred approval of the SPA pending receipt of information not available at that time, such as the identity of the equity investor, arrangements with the investor, terms of the debt financing and lease or ownership arrangements for the wood yard and land for the plant site.

The financing necessary for Concord Power to construct the Unit cannot be obtained unless the Unit's electric generation output has been fully or nearly fully subscribed. The petition states that the State of New Hampshire desires to support the development of the Unit because it is expected to result in lower steam costs for all customers of Concord Steam, including the State, than if the Unit is not constructed. In addition, as Concord Steam's largest customer, the State's purchases of steam contribute significantly toward recovering the fixed costs incurred by Concord Steam to serve all of its customers. Therefore, Concord Steam is willing to enter into this special contract if, as part of the contract, the State commits to remain a customer of Concord Steam for a term of ten years with two five-year options to renew, and the uncommitted electric power output (approximately 33,500 megawatt hours) of the Unit is contracted for by the State or another party so that construction of the Unit can be financed.

II. STAFF RECOMMENDATION AND COMPANY RESPONSE

On July 13, 2011, Staff filed a recommendation outlining its investigation of the proposed contract. According to Staff, the proposed special contract, executed by representatives of the State and Concord Steam on June 1, 2011, and approved by the Governor and Executive Council on June 22, 2011, specifies that the State will purchase all of its steam requirements from Concord Steam for the term of the special contract. The term will commence on January 1, 2014, following the expected completion of the Unit, and runs for an initial ten-year term, with two five-year automatic renewals, subject to the prior approval of the Governor and Executive Council. Under the contract, the State will pay an "initial base rate," referred to as the "Usage Rate" in Concord Steam's tariff, of \$5.00 per Mlb of steam. This \$5.00/Mlb base rate/Usage Rate will be adjusted annually, beginning on January 1, 2015, by the annual percentage change in the third quarter Gross Domestic Product Implicit Price Deflator. In

addition, the State will pay the other components of Concord Steam's tariff, *i.e.*, the Meter Charge and Cost of Energy components, and any applicable tariff surcharges, at the same rates applied to all customers under Concord Steam's tariff. Under the terms of the special contract, Concord Steam will continue to maintain the steam distribution system on the campus of the Governor Hugh J. Gallen State Office Park at its expense.

Staff stated that in addition to the discovery conducted in the docket, Staff reviewed related dockets that were pertinent to this case, including Docket No. DG 08-107, pertaining to the SPA between Concord Steam and Concord Power, and Docket No. DG 09-154, pertaining to the special contract between the Company and the Concord School District, on behalf of Rundlett Middle School.

Order No. 25,030 (October 27, 2009) in Docket No. DG 09-154, approved a special contract between Concord Steam and the Concord School District (School District). According to Staff, in approving that contract the Commission found that the discounted delivery rate was in excess of the incremental costs associated with serving the load and that the term of the contract was appropriate because it allowed the School District the opportunity to recoup its contribution in aid of construction for the steam line extension to the school.

The terms of the proposed contract between Concord Steam and the State closely mirror those approved for the School District, with the exception of the two options for renewal of the contract and a few other minor differences. As in the contract between the Company and the School District, the discounted "initial base rate" exceeds the incremental cost to serve the load and provides for annual usage rate adjustments indexed to inflation, helping to ensure that the discounted delivery rate will exceed long-run marginal costs over the life of the contract.

Throughout the term of the special contract the base rate/Usage Rate will not be less than the initial base rate of \$5.00 per Mlb. of steam.

Relative to marginal costs, Staff notes that the Company stated that other than the cost of fuel, the marginal cost of steam generation comes from the costs for: ash disposal, boiler chemicals, boiler plant electricity requirements, and water and sewer expenses. According to Staff, these costs are expected to remain relatively flat over the term of the contract and most of them will be absorbed by Concord Power under the SPA. Attached to Staff's recommendation are calculations showing the Company's approximate incremental cost to serve in both 2008 and 2010 and an example of how the special contract usage rates will be adjusted each year, based on the change in the Gross Domestic Product from year to year. Lastly, the term of the proposed contract is tied to the length of the electric power contract between Concord Power and the State and allows the State the opportunity to recoup potentially higher electric costs than it would otherwise incur absent the contract.

In Docket No. DG 08-107, regarding the SPA, Concord Steam testified that the overall cost of steam service would drop by approximately 30% once the Unit is built whereas continuing operations at the existing plant would require significant upgrades, the cost of which would lead to a significant rate increase. According to Staff's recommendation, previously Concord Steam estimated a total rate of \$24.82 per Mlb. with a new plant compared to a rate of \$63.02 per Mlb. without, but based on updated costs, the estimated combined overall rates are now \$25.60 and \$42.40, respectively. Staff's recommendation states that by enabling construction of the new plant this contract will result in substantial overall savings to all Concord Steam customers, with varying bill impacts on individual customers. According to Staff's analysis, all customers will benefit from the efficiencies of the Unit, though the State will

achieve the greatest savings to offset its additional risk exposure related to potentially higher electricity costs. According to Staff's recommendation, the estimated rate impacts on the State and non-special contract customers will be a reduction of 35 and 19 percent, respectively.

Staff's recommendation notes that its estimated bill impacts do not reflect the cost of a 6,800 foot line extension that will be required to connect the new plant to the steam distribution system nor the system upgrades to repair and re-insulate approximately 5,500 feet of existing steam pipes to improve their performance and decrease line losses. In Docket No. DG 08-107 Concord Steam estimated the cost of the interconnection and distribution system upgrades would be approximately \$4 million. Because, according to Staff, the cost to connect the new plant to the steam distribution system is necessary to provide service to all customers and the system upgrades will reduce line losses and reduce the cost of energy rates, thereby benefiting all customers, these costs should be recovered from all customers. Staff recommended that the Commission consider assessment of a new surcharge, to be paid by all Concord Steam customers, including the State, upon completion of the Unit, to recover these costs.

As stated, Staff's recommendation notes that, despite their initial similarities, the contract between the Company and the State and the contract between the Company and the School District differ in minor ways. Specifically, they differ in the clarifying language regarding metering charges and a rate adjustment in the event of thermal renewable energy credits or certificates. The School District's contract states that the base rate discount does not apply to the meter charge, whereas the State's contract is silent on that point. Concord Steam has clarified with the State that the base rate discount rate does not apply to meter charges. In addition, the State's proposed contract includes a provision that would further reduce steam costs through a credit to Concord Steam's Cost of Energy of any value obtained through thermal renewable

energy credits or certificates that may be realized as part of the renewable portfolio standard established under RSA 362-F, if adopted in New Hampshire. According to Staff, this reduction in steam costs would benefit all steam customers and would not be limited to the State's steam accounts. Concord Steam expects that the proposed special contract with the State will represent 37 percent of the steam load of the Company in 2014.

In light of the above, Staff recommended that, subject to the inclusion of certain terms in the Commission's order, the Commission approve the proposed special contract between the Company and the State because Staff considered it to be in the public interest, as required by RSA 378:18. Specifically, Staff stated that the contract offers Concord Steam the opportunity to complete its long-planned combined power and steam plant, which would offer all Concord Steam customers, along with the State, economic benefits derived from the plant's increased efficiency and would also provide significant environmental benefits to the general public, as the new plant would have modern pollution controls. Moreover, according to Staff, the fact that 37 percent of Concord Steam's steam load will be covered by the special contract is not against the public interest, for the reasons detailed and because the local nature of the Company's steam service means that any large customer would have a relatively high percentage of its steam load in any instance.

Staff recommended that the following conditions be include in the Order: (1) load percentages not be dispositive in the analysis of special contracts; (2) the special contract rate apply specifically to a discount to the usage rate portion of the bill and the tariff rates apply to the Meter Charge and Cost of Energy rates paid by the State, together with applicable surcharges; (3) that when the new plant is built the Commission will consider a surcharge applicable to all customer to recover distribution-system upgrade costs; (4) that at no time during

the term of the agreement will the discount to the usage rate be less than the initial special contract rate; (5) that Concord Steam file annually, prior to each new contract year, the rate adjustment calculation using the template attached to Staff's recommendation; and, (6) at the end of the special contract the State steam accounts will return to normal steam tariff rates.

On July 21, 2011, Peter Bloomfield, President and majority owner of Concord Steam, filed a letter stating that the Company did not oppose the conditions recommended by Staff. The letter further states that Concord Power and Steam, LLC will pay for the cost of the line extension to connect the new plant to the existing steam distribution system through a contribution in aid of construction to Concord Steam to ensure that any future surcharges to customers are small and limited in scope and will result in lower energy costs for all customers.

III. COMMISSION ANALYSIS

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 also*, *Concord Steam Corporation*, Order No. 24,776 (July 12, 2007) and *Concord Steam Corporation*, Order No. 25,009 (Sept. 4, 2009).

Based upon our review of the record and for the reasons described in Staff's recommendation, we find that special circumstances exist that justify the departure from standard tariff rates and render the special contract just and reasonable and consistent with the public interest. The special contract rate applies specifically as a discount to the usage rate portion of the bill for each State steam account, but the normal effective tariff rates continue to apply to the

Meter Charge and Cost of Energy rates paid by the State, along with applicable surcharges. Because the State will be paying most of the normal charges, and on the charge for which it receives a discount it will still be paying more than the Company's marginal cost to serve, we find that the financial terms of the contract are appropriate. We condition this approval, however, on the discount not going lower than the initially discounted rate. We impose this condition, in part, because of the significant load represented by the State's accounts with Concord Steam. While the load percentage is not a dispositive issue, the scale of the State's load in this instance makes it both relevant to consider the percentage, and important to place a floor on the discount.

Regarding the length of the contract, we find its term appropriate. As noted, the steam sales are intended to offset the risk inherent in the State's future purchases of electricity from the Company's affiliate. The term is long enough to provide the needed stability on the purchases of electricity in order to make the overall transaction, including the steam purchases, possible.

While the costs and terms, in themselves, are reasonable, we note that what is not included in this contract are the costs of other additions and improvements the Company will need to complete its contemplated restructuring, which is made possible by this contract. Specifically, the contract does not cover the costs of the new steam line, nor the improvements and upgrades to existing lines. Staff recommended that we consider the assessment of a new surcharge related to these costs, applicable to all customers, at the time construction of the new plant is completed. Since the time of that recommendation, one significant cost, that of the steam line to connect the new plant to the existing distribution system, has been resolved through the decision of Concord Power and Steam, LLC to pay for the extension. System upgrades designed to reduce line losses, thereby lowering the cost of energy, should be recovered from all

customers. Examples of such system upgrades include insulating or replacing leak prone segments of the distribution system. When Concord Steam undertakes such projects it should track the costs and calculate expected energy savings to aid in determining whether the investments are cost effective. We anticipate that, when appropriate, Concord Steam will petition the Commission for approval to recover those costs at which time the Commission will determine how prudently incurred costs are to be recovered.

Furthermore, consistent with Staff's recommendation, we will require that the Company file annually with the Commission, and prior to each new contract year, the inflation rate adjustment calculation using the template attached to Staff's recommendation and reference this docket number in that annual filing. Such a filing will allow the Commission to understand the impact of this contract on the Company and on its customers and to be aware of the base rate/Usage Rate changes before they are made. Finally, consistent with Staff's recommendation we conclude that should the State continue to receive steam service following the end of the contract term, it will do so under the then existing steam tariff rates absent a petition by the Company and Commission approval of a new special contract.

Based upon the foregoing, it is hereby

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

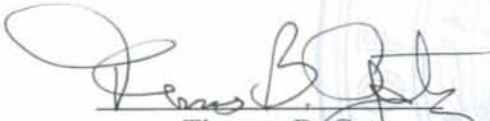
FURTHER ORDERED, that the Company shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than August 14, 2011 and to be documented by affidavit with this office on or before August 23, 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 August 17, 2011 for the Commission's consideration; and it is

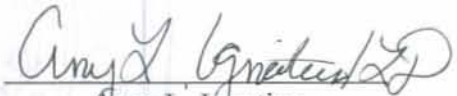
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than August 19, 2011; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective August 23, 2011, unless the Company fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.


By order of the Public Utilities Commission of New Hampshire this ninth day of August, 2011.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Lori A. Davis
Assistant Secretary