

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DG 13-153**

**CONCORD STEAM CORPORATION**

**Special Contract with D. McLeod Florist**

**Order *Nisi* Approving Special Contract**

**ORDER NO. 25,559**

**August 2, 2013**

**I. BACKGROUND**

On May 17, 2013, Concord Steam Corporation (Concord Steam) filed a petition seeking Commission approval of its Special Contract with D. McLeod Florist (McLeod), which the parties signed in 2010. The Special Contract's relevant provision is that Concord Steam agreed to charge McLeod at the lowest of its three "usage rate tiers" even though McLeod would never use enough steam to qualify for that rate under the existing tariff (more than 2,000Mlbs per month). Concord Steam thus seeks Commission approval as required by RSA 378:18.

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

**A. Concord Steam**

Concord Steam stated that the Special Contract should be approved because it provides benefits to the parties and serves the interests of its other customers. The Special Contract satisfied McLeod's need for a reliable source of heat for its business at a favorable price, it aids Concord Steam by adding a new customer with only a minimal investment, and McLeod's addition to the customer base helps other ratepayers with the utility's fixed costs.

## **B. Staff Investigation and Analysis**

Staff's primary concern was to ensure that the Special Contract's discount applied only to the usage rate and not to the other three components of a typical Concord Steam bill (cost of energy charge, meter charge, and any applicable surcharge). Staff observed that the Special Contract is not clear on this point. The payment terms provide as follows:

1. Rate and Usage. D. MCLEOD FLORIST shall pay Concord Steam a monthly rate that is based on the current cost of energy rate plus lowest tiered base rate multiplied by the monthly use.
2. Cost of Energy. The Monthly Rate includes the cost of energy, at an initial rate of \$19.89/Mlb. In accordance with Paragraph 1 of this Agreement, the Monthly Rate will be adjusted based on Concord Steam's applicable cost of energy, as approved by the New Hampshire Public Utilities Commission (the "Commission").
3. Base Rate. In accordance with Paragraph 1 of this Agreement, the Monthly Base Rate will be charged at Concord Steam's applicable lowest tiered base rate, as approved by the New Hampshire Public Utilities Commission, an initial rate of \$13.48/Mlb.

Staff would have preferred contract language that more clearly referenced the specific rate that was modified as a result of this agreement, and that more clearly applied the discount exclusively to the "base" usage rate, where the lowest cost third tier base rate has been used instead of the highest cost first tier rate. The cost of energy charge that applies to McLeod is the normal tariff rate in effect each month. Although the Special Contract is silent as to whether McLeod must pay the same meter charge and any applicable surcharge as other customers, it has always been Staff's position that these charges are applicable to all customers.

Staff conducted discovery and learned that over the first 30 months the Special Contract was in force, through May 2013, Concord Steam has indeed applied the discount only to the usage rate portion of McLeod's bills and not to the other charges.

### **III. STAFF RECOMMENDATION**

Staff considers the Special Contract to be in the public interest and recommends Commission approval because the Special Contract provides Concord Steam a new steam load which contributes to recovery of its overall fixed costs with minimal investment, while providing a slight benefit to Concord Steam's other customers.

Staff recommends that the Commission's order specify that McLeod will be charged the "over 2,000 Mlb" tier usage rate for all metered Mlbs, without any minimum metered Mlb quantity restrictions each month. McLeod will be charged the normal effective tariff rates for meter charges, cost of energy charges, and any surcharges.

Staff also recommends no fine or penalty for Concord Steam's failure to timely file this petition because, given its cash flow issues and limited ability to increase rates due to competition with natural gas prices, such a sanction could compromise Concord Steam's ability to provide safe and reliable service.

### **COMMISSION ANALYSIS**

A "special contract" is an agreement "for service at rates other than those fixed by [a public utility's] schedules of general application," and the Commission can approve such contracts "if special circumstances exist which render such departure from the general schedules just and consistent with the public interest." RSA 378:18; see *Generic Discount Rates*, 77 NH PUC 650 (1992), and *Generic Discounted Rates Docket*, 78 NH PUC 316 (1993).

Based upon our review of the record and for the reasons described in Staff's recommendation, we find that the manner in which the parties are carrying out the terms of the Special Contract is appropriate because McLeod only receives a discount on the usage rate, but is otherwise paying the same tariff rates as all other Concord Steam customers for the meter charge,

cost of energy rate, and any surcharges in each monthly bill. We thus reluctantly find that special circumstances exist that justify the departure from Concord Steam's standard tariff rates and render the Special Contract just, reasonable, and consistent with the public interest, and approve the Special Contract. We will approve the Special Contract with the conditions Staff recommended.

We are also concerned by Concord Steam's untimely filing. The Special Contract was signed in 2010 yet Concord Steam did not seek approval until the Commission ordered it to do so this year. Concord Steam's explanation that it "forgot" to file the petition is not acceptable. Nonetheless, we agree with Staff's recommendation not to impose a fine given Concord Steam's financial condition. We may act differently if there is a future violation.

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

**ORDERED**, that Concord Steam's Special Contract with McLeod is APPROVED;  
and it is

**FURTHER ORDERED**, that this approval is conditioned on Concord Steam specifically charging McLeod at the "over 2,000 Mlb" tier usage rate for all metered Mlbs, and otherwise charging McLeod at the normal effective tariff rates for meter charges, cost of energy charges, and any surcharges; and it is


**FURTHER ORDERED**, that Concord Steam 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 13, 2013 and to be documented by affidavit filed with this office on or before August 27, 2013; and it is

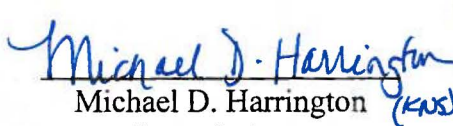
**FURTHER ORDERED**, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than August 20, 2013 for the Commission's consideration; and it is

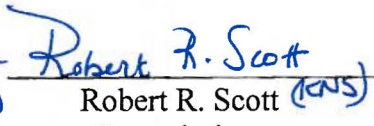
**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than August 27, 2013; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective August 30, 2013, unless Concord Steam fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

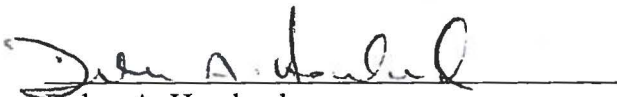
By order of the Public Utilities Commission of New Hampshire this second day of August, 2013.

  
Amy M. Ignatius  
Chairman

  
Michael D. Harrington  
Commissioner

  
Robert R. Scott  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director