

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 13-248

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Petition to Amend Rate EOL to Include Light Emitting Diode Technology

Order Approving Rate EOL Tariff and Settlement Agreement

ORDER NO. 25,701

August 4, 2014

APPEARANCES: Matthew J. Fossum, Esq., for Public Service Company of New Hampshire; Orr & Reno, PA, by Susan Geiger, Esq., for the City of Manchester; and Michael Sheehan, Esq., for the Staff of the Public Utilities Commission.

In this order the Commission approves an amendment to PSNH's Efficient Outdoor Lighting tariff to include LED technology. The Commission also approves a settlement agreement between PSNH and the City of Manchester that caps future LED rate increases for all governmental customers, allows the City to perform maintenance on its outdoor lighting, and acknowledges that the City qualifies for energy efficiency incentives.

I. PROCEDURAL HISTORY AND BACKGROUND

Public Service Company of New Hampshire (PSNH) filed a petition to amend its Efficient Outdoor Lighting tariff (the Tariff) to include light emitting diode (LED) technology. Exhibit 1.¹ The Tariff imposes an unmetered rate for outdoor lighting that is available to governmental customers who have converted to energy efficient fixtures. The Tariff currently accommodates high pressure sodium (HPS) and metal halide (MH) lights. PSNH proposes to add LED technology to the Tariff and to set a rate structure for LED lighting. PSNH also proposes Tariff language that accommodates future lighting technologies. *Id.* at 2.

¹ All Exhibit references are to the exhibits admitted during the July 17, 2014, hearing.

The Commission granted the City of Manchester's (the City) petition to intervene. Transcript of December 10, 2013, Hearing at 20. No other party sought intervention.

After the City intervened, the Commission suspended the procedural schedule to allow PSNH and the City to explore settlement. Those efforts were successful. PSNH and the City filed a joint request to approve the addition of LED technology to the Tariff and to approve a related Settlement Agreement. Exhibit 2. In support of the joint request the parties attached additional Prefiled Testimony of Charles R. Goodwin, Exhibit 2 at 6² (Goodwin Testimony); the Settlement Agreement, *id.* at 18; the proposed Tariff, *id.* at 29; and a projection of customer savings upon conversion to LED lighting, Exhibit 3.

II. POSITIONS OF THE PARTIES AND STAFF

A. PSNH and the City

Under the terms agreed to by the parties, PSNH proposes three substantive changes to the Tariff. First, PSNH seeks to add LED technology to the Tariff at the following rates: a per-fixture charge of \$3.30 per month and a distribution charge of \$0.05 per watt per month (compared to PSNH's original proposal of \$8.50 per fixture per month and \$0.0139 per watt per month). Goodwin Testimony at 10; Tariff at 31; Transcript of July 17, 2014, hearing (Tr.) at 26-27.

Second, PSNH proposes to change how it conducts and charges for maintenance. For existing HPS and MH fixtures, PSNH will continue to include a \$0.95 per fixture per month charge for maintenance and will continue to be responsible for maintenance. For LED lights, PSNH proposes to eliminate the \$0.95 charge and bill customers \$95 per fixture per visit for maintenance. Tariff at 33. According to Mr. Goodwin, "this 'unbundling' of LED maintenance

² Some documents within Exhibit 2 contain more than one page number. All references in this order are to the numbers at the bottom right of each page.

costs will reduce customers' monthly bills during the initial warranty period [of the new LED fixtures], and afterward, assuming LED fixtures perform to manufacturers' claims" of a long useful life. Goodwin Testimony at 13.

Third, PSNH proposes language that will allow future lighting technologies: "Service under this rate is for delivery and maintenance of street and area lighting service provided to fixtures utilizing high pressure sodium, metal halide, light emitting diode (LED), or other energy efficient technology accepted by the Company." Tariff at 29 (emphasis added); Tr. at 11-12.

A question arose during the hearing whether language in the proposed Tariff regarding the \$95 per visit maintenance charge will apply to new technologies. Tr. at 36-37. Mr. Goodwin testified that the intent was to have the language apply to LED and to future technologies. *Id.* at 37. With the assent of all parties, PSNH filed a revised proposed Tariff that clarified the relevant language. PSNH Revised Proposed Tariff, filed July 22, 2104 (Tab 18); *see* Tr. at 37.

PSNH acknowledged that the proposed LED rate is not cost-based but was initially adapted from the existing Tariff, which is also not based on actual costs. Goodwin Testimony at 11; Tr. at 26-28. PSNH expects a full review of distribution costs in its next rate case, which will involve, if appropriate, differential pricing among light technologies more closely based on actual costs. Goodwin Testimony at 11; Tr. at 24, 28-30.

PSNH's initial proposal resulted in little savings for converting smaller fixtures. Small fixtures comprise most of the Rate EOL lighting. Goodwin Testimony at 11. In discussions with the City, PSNH reviewed the LED rate structures at its affiliate utilities in Connecticut and Massachusetts. According to PSNH's testimony, those rates are based on cost of service studies. *Id.* The amended proposal is drawn from the Connecticut and Massachusetts models, is likely to be close to that resulting from PSNH's upcoming cost of service study, and provides a better

financial incentive to convert to LED technology. Goodwin Testimony at 12-13; Tr. at 25. Although converting to all sizes of LED lights will provide savings under the proposed tariff, the smaller LED fixtures will produce the greatest cost reductions. Tr. at 25. PSNH provided examples of cost savings from LED lights under the proposed tariff. Exhibit 3.

The Settlement Agreement between PSNH and the City assumes approval of the proposed Tariff, contains provisions that are particular to the City, and contains other provisions that apply to all customers under the Tariff.

First, the Settlement Agreement caps any increase in LED rates for all LED customers during PSNH's next rate case. Goodwin Testimony at 15-16; Settlement Agreement at 20-21; Tr. at 18-19. In order to preserve the incentive to convert to LED that is embodied in the proposed LED rates, the parties agree that "PSNH will hold any LED rate to a change no greater than the overall authorized distribution rate increase." Settlement Agreement at 20. Mr. Goodwin testified that it is unlikely the LED rates will be any higher than proposed in this docket, and will likely be lower. Goodwin Testimony at 12; Tr. at 18-19. This term of the Settlement Agreement applies to all LED customers. Tr. at 18.

Second, the Settlement Agreement allows the City, for the first time, to assume maintenance for all its outdoor lighting, the existing HPS and MH fixtures as well as the new LED lights, on a five year pilot basis. Settlement Agreement at 21-22. PSNH will credit the City \$0.95 per month for each existing MH and HPS fixture. *Id.* at 22. The City may hire contractors to perform maintenance, subject to PSNH approval. *Id.* at 23; Goodwin Testimony at 15; Tr. at 16, 33.

Third, the Settlement Agreement contains the parties' agreement "that the City's proposed LED street lighting installation project qualifies for incentives under the Municipal

Program (MP) and the Large Business Program (LBP), which are included in the core energy efficiency programs administered by PSNH.” Settlement Agreement, at 24; Tr. at 17. The parties acknowledge that any payments under PSNH’s programs will be made “in accordance with the requirements of the individual programs.” Settlement Agreement at 24; Tr. at 32-33.

PSNH and the City argue the proposed Tariff and the Settlement Agreement are in the public interest and contain just and reasonable rates and terms. Exhibit 1 at 4; Tr. at 43, 45.

B. Staff

Commission Staff filed a memorandum recommending that the Commission approve the initially proposed amended Tariff. Exhibit 4. Staff agreed with PSNH’s rationale for introducing the LED option. *Id.* at 2. Staff expressed concern that the proposed LED rate was not cost-based, the preferred method to set rates. The LED rate initially proposed was based on PSNH’s HPS and MH rates, which themselves are not cost-based. *Id.* Staff recognized the absence of cost data to use in setting the LED rate, and concluded that the manner in which PSNH arrived at the proposed LED rates was reasonable. Staff also concluded that the rate would allow PSNH to obtain its revenue requirement from street lighting and would provide savings for customers who choose the LED option. *Id.* Staff conditioned its recommendation on PSNH collecting data for all lighting under the Tariff so that cost-based rates may be set during PSNH’s next rate case. *Id.* at 3.

Staff also recommended approval of the proposed Tariff language that will allow PSNH to accept “other energy efficient lighting technology.” *Id.* at 2. Staff agreed with tariff language giving PSNH authority to approve the new technology to ensure the technology is safe, compatible with PSNH’s system, and can be installed and maintained at a reasonable cost. Staff

conditioned its recommendation on PSNH providing detailed criteria for how PSNH will decide which new technologies to accept. *Id.* at 3. PSNH described those criteria at hearing, Tr. at 11-12, and the proposed Tariff contains similar guidance, Tariff at 30.

After the City and PSNH reached a tentative settlement, Staff was provided a draft of the Settlement Agreement and the amended proposed Tariff. Staff agreed that the basis for the revised LED rates was sound, but that the parties should still collect cost data. PSNH and the City agreed to provide such data on the costs of LED lighting and maintenance. Tr. at 19-20, 42-43, 46. The parties also satisfied Staff's concerns about the City's eligibility for PSNH's energy efficiency programs. Staff gave its support for the amended proposed Tariff and Settlement Agreement. Tr. at 43-44.

III. COMMISSION ANALYSIS

The Commission first addresses PSNH's petition to amend the Tariff to include LED technology. This requires the Commission to decide whether it is in the public interest that PSNH offer an LED option under its Efficient Outdoor Lighting tariff, whether PSNH appropriately designed the LED option, and whether the resulting rates are just and reasonable pursuant to RSA 378:5 ("Whenever any schedule shall be filed with the commission stating new and higher rates ... which the public utility filing the same proposes to put into force, the commission may investigate the reasonableness of such proposed rates") and RSA 378:8 (the applicant carries "the burden of proving the necessity of" charging a higher rate).

The Commission has reviewed the proposed Tariff and the reasons given for adding LED technology. LED lighting provides a similar light output, uses substantially less electricity, and may require less maintenance. The Commission thus finds that adding LED technology is in the public interest. Regarding the proposed rates, the Commission commends PSNH and the City

for improving the initially proposed rate structure and finds that the amended proposed rates are just and reasonable. The Commission approves the Tariff language filed on July 22, 2014 (Tab 18) at “Attachment 2,” which contains the correction discussed above.

The Commission next addresses the Settlement Agreement. The Commission shall approve the disposition of any contested case by settlement “if it determines that the result is just and reasonable and serves the public interest.” N.H. Code of Admin. Rules Puc 203.20(b); *see* RSA 541-A:31, V(a) (“Unless precluded by law, informal disposition may be made of any contested case . . . by stipulation [or] agreed settlement”). Nonetheless, the Commission cannot approve a settlement agreement, even when all parties agree, “without independently determining that the result comports with applicable standards.” *Unitil Energy System, Inc.*, Order No. 24,677, 91 NH PUC 416, 425-26 (2006) (citation omitted). We will thus consider each section of the Agreement.

First, we approve the agreement to cap future rate increases for LED lighting under the Tariff to the amount of any overall rate increase. It is important for the City and other governmental customers to have certainty in future LED rates as they invest in conversion. It is also likely, according to PSNH, that future marginal cost of service and embedded cost of service studies will suggest lower LED rates.

Second, the Commission approves the pilot program to allow the City to maintain all of its outdoor lighting. The city may achieve cost savings by performing maintenance itself or through contractors. PSNH’s interests in preserving its distribution system are protected by the Tariff’s requirement that maintenance crews meet certain performance standards.

Thirdly, the Commission approves the agreement that the City “qualifies for incentives under the Municipal Program (MP) and the Large Business Program (LBP) as administered by

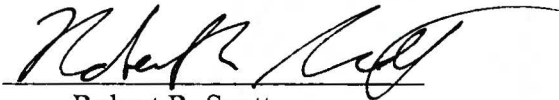
PSNH.” Settlement Agreement at 24. This approval is subject to the Settlement Agreement’s requirement that PSNH finally determine whether the City receives those incentives “in accordance with the requirements of the individual programs.” *Id.*

Based upon the foregoing, it is hereby

ORDERED, that PSNH’s request to approve the amended proposal to include LED lighting under the Tariff is GRANTED; and it is

FURTHER ORDERED, that the joint request to approve the Settlement Agreement between the City and PSNH is GRANTED.

By order of the Public Utilities Commission of New Hampshire this fourth day of August, 2014.

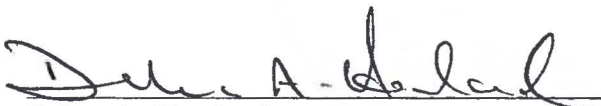


Robert R. Scott
Commissioner



Martin P. Honigberg
Commissioner

Attested by:



Debra A. Howland
Executive Director