NH.PUC*01/02/79*[78221]*64 NH PUC 1*Gilford Forest Estates Water Company

[Go to End of 78221]

Re Gilford Forest Estates Water Company

DE 78-78, Order No. 13,455

64 NH PUC 1

New Hampshire Public Utilities Commission

January 2, 1979

PETITION for authority to establish a water utility; granted.

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1. PUBLIC UTILITIES, § 10 — Public utility status — Water company.

[N.H.] A water company was found to be a public utility subject to the commission's jurisdiction. p. 1.

2. PAYMENT, § 19 — Billing — Water company.

[N.H.] The commission required that a water utility bill all lots, whether sold or unsold, in order to ensure fair billing. p. 2.

3. ACCOUNTING, § 55 — Accounting — Water company.

[N.H.] A water company was required to maintain separate accounts for the water system and its related construction. p. 2.

APPEARANCES: Willard G. Martin, Jr., for the petitioner; J. Michael Love for the Legislative Utility Consumers' Council; Dom S. D'Ambruoso, special counsel for the public utilities commission.

BY THE COMMISSION:

Report

By petition filed April 13, 1978, Gilford Forest Estates Water Company seeks authority to operate as a public water utility engaged in the operation of a water system in a limited area in the town of Gilford, New Hampshire. The company by its petition seeks to be granted a franchise area and to have the water rates it currently charges its customers authorized by their commission. A duly noticed hearing was held at the office of the commission on June 29, 1978.

[1] The water system in question has been operating since 1974. The operation of such a water system is a public utility. See RSA 362:4 which reads as follows:

"362:4 — *Water Companies, When Public Utilities* — Every such corporation, company, association, joint stock association, partnership, or person shall be deemed to be a public utility by reason of the ownership or operation of any water system or part thereof. If the whole of such water system shall supply a less number of customers than ten, each family, tenement, store, or other establishment being considered a single consumer, the commission may exempt any such water company from any and all provisions of this title whenever the commission may find such exemption consistent with the public good. A municipal corporation furnishing water outside its municipal boundaries shall not be considered a public utility under this title for the purpose of accounting, reporting, or auditing functions with respect to said service."

The petition filed herein is to comply with RSA 374:22 which states as follows:

"374:22 — *Other Public Utilities* — I. No public utility shall commence its business as such within this state, or shall engage in such business, or begin the construction of a plant, line, main, or other apparatus or appliance to be used therein, in any town in which it shall not already be engaged in such business, or

Page 1

shall exercise any right or privilege under any franchise not theretofore actually exercised in such town, without first having obtained the permission and approval of the commission."

The company presented testimony that the water system served 44 lots in the Gilford Forest subdivision. The system, although serving 44 lots, has been approved by the Water Supply and Pollution Control Commission for 47 lots. Of those 47, approximately 30 lots have houses constructed thereon. The system is served by two wells and is a duplex system throughout. The transcript includes a comprehensive description of the workings of the water system.

The company further presented testimony to explain income statements for the years ended December 31, 1974, to 1977, as well as fixed capital and depreciation schedules. The commission staff questioned various items contained in the schedules and computations. As a result thereof the staff requested written response to certain questions and revised schedules to be submitted. All of the staff requests were complied with.

[2] The commission does not fully accept the revised schedules; however, the commission finds that it is in the public interest to allow the company to maintain the current annual rate of $120 billed to users of water and $60 to standby lots. To insure fair billing practices the company shall bill all lots, whether sold or unsold, and said lots shall be billed at the above mentioned rates.

[3] The evidence presented to the commission that the company has invested more money into the system than they have recouped through contributions in aid of construction is accepted.

From the date of this order separate accounts shall be maintained for the water company and its related construction. Our order will issue accordingly.

Upon consideration of all of the testimony and exhibits filed in this matter, the commission finds that it is in the public good to authorize the operation of a water system in the requested franchise area to the petitioner. A more detailed description of the franchise area will be

described in our order following this report.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Gilford Forest Estates Water Company be, and hereby is, authorized to operate as a public water utility pursuant to RSA 362:4 in a limited area further described as follows:

Beginning at a point on the easterly side of Hoyt road, said point being 2,040 feet southerly of New Hampshire Route 11-A, and running southerly along the easterly side of Hoyt road 750 feet; thence running easterly 500 feet, thence southerly 280 feet, thence easterly 820 feet to the Gunstock river at a point 300 feet northerly of Goodwin road; thence northerly along said river 600 feet to land of the town of Gilford; thence running westerly 250 feet, northerly 700 feet, north-northwesterly 630 feet and northwesterly 270 feet along said town of Gilford land to Sprucewood drive; thence continuing northwesterly across Sprucewood drive and continuing 760 feet, thence southwesterly 750 feet, thence southeasterly 470 feet to a point approximately 25 feet from Timber lane, thence southwesterly approximately parallel with said Timber lane 540 feet, thence westerly 320 feet to point of beginning; said areas being outlined on

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maps on file in the office of the commission; and it is

Further ordered, that Gilford Forest Estates Water Company shall maintain separate accounts for the water system and its related construction; and it is

Further ordered, that its tariff, NHPUC No. 1 — Water, Gilford Forest Estates Water Company setting forth rates, terms, and conditions covering service, shall become effective with the date of this order; and it is

Further ordered, that Gilford Forest Estates Water Company shall immediately file three signed copies of its tariff and seven additional copies.

By order of the Public Utilities Commission of New Hampshire this second day of January, 1979.

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NH.PUC*01/05/79*[78222]*64 NH PUC 3*Francestown Village Water Company

[Go to End of 78222]

Re Francestown Village Water Company

DR 78-202, Supplemental Order No. 13,457

64 NH PUC 3

New Hampshire Public Utilities Commission

January 5, 1979

PETITION authorizing temporary rates for water company revised; approved by the

commission.

BY THE COMMISSION:

Supplemental Order

Whereas, Francestown Village Water Company was, by commission Order No. 13,413, authorized temporary rates effective December 1, 1978, from which it could accumulate $9,260 in annual revenues; and

Whereas, said company, in compliance with the aforementioned order, has filed Third Revised Page 6 to its tariff, NHPUC No. 3 — Water, to reflect rates allowing such revenues; it is

Ordered, that said Third Revised Page 6 be, and hereby is, approved, and the rates specified thereon deemed permanent.

By order of the Public Utilities Commission of New Hampshire this fifth day of January, 1979.

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NH.PUC*01/08/79*[78223]*64 NH PUC 3*Pennichuck Water Works

[Go to End of 78223]

Re Pennichuck Water Works

DR 79-3, Order No. 13,459

64 NH PUC 3

New Hampshire Public Utilities Commission

January 8, 1979

PETITION for increase in water company rates; suspended pending investigation by the commission.

Page 3

BY THE COMMISSION:

Order

Whereas, Pennichuck Water Works, a public utility engaged in the business of supplying water service in the state of New Hampshire, on December 29, 1978, filed with this commission certain revisions of its tariff, NHPUC No. 4 — Water, providing for an increase in rates for all classes of service in the amount of $596,017 (23 per cent), effective January 31, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that that Seventh Revised Pages 21-24 of tariff, NHPUC No. 4 — Water of Pennichuck Water Works be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighth day of January, 1979.

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NH.PUC*01/10/79*[78224]*64 NH PUC 4*Pembroke Water Works

[Go to End of 78224]

Re Pembroke Water Works

DR 79-1, Order No. 13,463

64 NH PUC 4

New Hampshire Public Utilities Commission

January 10, 1979

PETITION for revisions of water company tariffs providing revised connection charges and extension provisions; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, Pembroke Water Works, a public utility engaged in the business of supplying water service in the state of New Hampshire, on January 2, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 1 — Water, providing for revised connection charges and extension provisions; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Fifth Revised Pages 4 and 13 of tariff, NHPUC No. 1 — Water, of Pembroke Water Works be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this tenth day of January, 1979.

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NH.PUC*01/10/79*[78225]*64 NH PUC 5*Walnut Ridge Water Company, Inc.

[Go to End of 78225]

Re Walnut Ridge Water Company, Inc.

DR 79-2, Order No. 13,464

64 NH PUC 5

New Hampshire Public Utilities Commission

January 10, 1979

PETITION for revisions of water company tariff relating to increased rates and disconnection charges; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, Walnut Ridge Water Company, Inc., a public utility engaged in the business of supplying water service in the state of New Hampshire, on January 2, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 1 — Water, relative to increased rates and disconnection charges; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Original Pages 1 through 7 of tariff, NHPUC No. 1 — Water of Walnut Ridge Water Company, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this tenth day of January, 1979.

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NH.PUC*01/12/79*[78226]*64 NH PUC 5*Town of Bartlett

[Go to End of 78226]

Re Town of Bartlett

DT 78-234, Order No. 13,466

64 NH PUC 5

New Hampshire Public Utilities Commission

January 12, 1979

PETITION for authority to lay out and construct a public crossing at grade over railroad tracks; granted.

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1. CROSSINGS, § 38 — Creation of public crossing — Authority.

[N.H.] The commission authorized a town to lay out and construct a public crossing where

there was a private crossing already in existence. p. 6.

2. CROSSINGS, § 24 — At-grade crossings — Safety features.

[N.H.] The commission required an at-grade public crossing over the tracks of a railroad company to be protected by the installation of automatic flashing lights. p. 6.

BY THE COMMISSION:

Order

Whereas, the town of Bartlett and the Maine Central Railroad have reached an agreement relative to laying out and constructing a public way across the single track line of the Maine Central Railroad

Page 5

at Valuation Station 3283 + 53 to provide access to a subdivision known as Rolling Ridge; and

Whereas, a copy of this agreement is on file at the office of this commission marked DT 78-234; and

Whereas, the commission by Order No. 8330 in DT 4337, dated December 28, 1964, authorized a public crossing at Valuation Station 3265 + 33, to be protected by automatic flashing lights at a point 1,820 feet east of the presently proposed crossing, which crossing was never constructed; and

Whereas, it is now the desire of the town to have a public crossing at the new location where there presently exists a private crossing; and

Whereas, the commission is of the opinion that a protected crossing should be authorized, the location of which provides for reasonable safety; it is

[1] Ordered, that the town of Bartlett be, and hereby is, authorized to lay out and construct a public way across the tracks of the Maine Central Railroad at Valuation Station 3283 + 53 in accordance with a plan and accompanying agreement on file at this office, marked DT 78-234; and it is

[2] Further ordered, that the crossing herein authorized shall be protected by the installation of automatic flashing lights in a manner satisfactory to this commission; and it is

Further ordered, that the town of Bartlett shall bear the cost of laying out and construction of the crossing and the installation of the automatic flashing lights as required herein; and it is

Further ordered, that Order No. 8330, dated December 28, 1964, in DT 4337 be, and hereby is, revoked.

By order of the Public Utilities Commission of New Hampshire this twelfth day of January, 1979.

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NH.PUC*01/15/79*[78227]*64 NH PUC 6*Public Service Company of New Hampshire

[Go to End of 78227]

Re Public Service Company of New Hampshire

DF 78-187, Supplemental Order No. 13,467

64 NH PUC 6

New Hampshire Public Utilities Commission

January 15, 1979

PETITION for authority to issue and sell shares of common stock; granted.

SECURITY ISSUES, § 108 — Common stock issuance — Price.

[N.H.] The commission authorized a sale of 2 million shares of a utility's common stock since it found the plan, including the price of the issue, to be consistent with the public good.

BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 13,372 dated October 24, 1978, issued in the above entitled proceeding, authorized Public Service Company of New Hampshire, inter alia, to issue and sell not exceeding 2 million shares of common stock, $5 par

Page 6

value, subject to further order of this commission; and

Whereas, in compliance with said Order No. 13,372, following negotiations with underwriters, the company has submitted to this commission the details concerning the sale of said common stock, which contemplate the issue and sale of 2 million shares of said common stock by the company to underwriters who will make a public offering thereof, as set forth in the underwriting agreement between the company and the underwriters, a copy of which is to be filed with the commission, said common stock to be sold at a price to the company of $19.82 per share; and

Whereas, after due consideration, it appears that the issue and sale of said common stock upon the terms, including the price, hereinabove set forth or referred to, is consistent with the public good; it as

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell at a price of $19.82 per share in cash, 2 million shares of its common stock, $5 par

value, said stock to be sold at said price of $19.82 per share to underwriters who will make a public offering thereof, as set forth in the underwriting agreement between the company and the underwriters; and it is

Further ordered, that all other provisions of said Order No. 13,372 of this commission relating to the sale of common stock are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of January, 1979.

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NH.PUC*01/16/79*[78228]*64 NH PUC 7*Dunbarton Telephone Company

[Go to End of 78228]

Re Dunbarton Telephone Company

DF 78-229, Order No. 13,469

64 NH PUC 7

New Hampshire Public Utilities Commission

January 16, 1979

PETITION for approval of a supplemental mortgage, mortgage note, and loan contract; granted.

SECURITY ISSUES, § 58 — Authority to issue notes — Additions and betterments.

[N.H.] A utility was permitted to issue mortgage notes where the transaction would result in an improvement in the quality of telephone service in the area served and an increase in the capacity of the exchange to allow for future expansion.

APPEARANCES: Crandall R. Wallenstein for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed December 13, 1978, Dunbarton Telephone Company, a telephone public utility operating under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 and any amendments thereto, to issue and sell its mortgage notes in an aggregate

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amount of $283,500 to the Rural Telephone Bank.

The petitioner alleges in its petition and represented at the public hearing in Concord on

January 9, 1979, that its presently authorized long-term debt consists of authorized borrowing, of which the amount presently outstanding as of September 30, 1978, is $200,225. As of September 30, 1978, there remains $89,617 of funds at 2 per cent interest, available to the petitioner, which have not as yet been advanced by REA. The petitioner has no short-term debt. Its presently authorized common stock consists of 70 shares having a par value of $25 per share, with 58 shares issued and outstanding valued at $1,450.

Petitioner has entered into an agreement with the Rural Telephone Bank to issue to it $283,500 in mortgage notes payable in quarterly payments over a 35-year period, with interest at 7 per cent per annum, included in the payments. Petitioner proposes to use the proceeds of this loan for the expansion of its central office and feels that the most reasonable approach is to install a digital central office adequate to cover growth expectations rather than to increase the building size and add to the present equipment. The proposed construction program and sources of funds as detailed on Exh A follows:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

EXHIBIT A

Digital Central Office
Ticketing
2 Systems T Carrier
3-8 Channel Station Carrier
T Carrier Test Equipment
Aerial Plant
218 Main Stations
130 Extensions
Removal of C.O. Equipment
Engineering
Contingencies

Total Construction
REA Telephone Bank Stock

Total Funds Required
Estimated Salvage
Balance of Previous Loan
General Funds

Loan Funds Required
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The petitioner filed the requisite minutes of a special meeting of the stockholders authorizing the proposed financing. Also filed as exhibits at the hearing were the company's schedule of contemplated construction and use of loan funds; estimated cost of financing; a balance sheet as of September 30, 1978, pro formed to reflect the effect of the financing; detail of expenses and income projection pro forma through 1983; depreciation schedule; federal and other tax computations pro forma through 1983; rate base and capitalization ratios. Also filed were specimen copies of the mortgage note, loan contract agreement, and mortgage and security agreement.

Upon consideration and investigation of the evidence and exhibits submitted, this commission finds that the authorization sought herein will result in an improvement of the quality of telephone

service in the area served by the company and will increase the capacity of the exchange to allow for future expansion. The commission is further of the opinion that the proposed issuance of these notes, upon the terms and for the purposes outlined at the hearing, is consistent with the public good. We find that the improvements of the quality of telephone service and the requisite planning for anticipated customer demands are contingent upon the proposed financing. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Dunbarton Telephone Company be, and hereby is, authorized to issue and sell its secured promissory note in the aggregate principal amount of $283,500, said note to bear interest at the rate of 7 per cent per annum, payable quarterly and to be payable over a period of thirty-five years, and to be secured by a mortgage and security agreement applicable to all the petitioner's property, presently owned or after acquired, including its franchises, and said borrowing to be subject to the provisions of the proposed telephone loan contract, the provisions of which proposed telephone loan contract, proposed secured promissory note, and proposed mortgage and security agreement are as set forth in the exhibits attached to the petition and on file with the commission; and it is

Further ordered, that the said secured promissory note will be issued for addition to and improvement of plant facilities to include a digital central office, purchase of certain other assets, and for other lawful corporate purposes as set forth in the petition and attached exhibits; and it is

Further ordered, that on January 1st and July 1st of each year, said Dunbarton Telephone Company shall file with this commission a detailed statement sworn by its treasurer, showing the disposition of proceeds of said notes until the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of January, 1979.

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NH.PUC*01/18/79*[78229]*64 NH PUC 9*Public Service Company of New Hampshire

[Go to End of 78229]

Re Public Service Company of New Hampshire

DR 76-46, 36th Supplemental Order No. 13,475

64 NH PUC 9

New Hampshire Public Utilities Commission

January 18, 1979

PETITIONS for authority to apply a fuel adjustment charge to monthly billings; granted.

RATES, § 303 — Fuel expenses — Recovery.

[N.H.] The commission permitted electric companies to recover varying fuel costs by application of an adjustment derived by dividing the total fuel cost for the month by total kilowatt-hours sold.

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APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers, for Public Service Company of New Hampshire; Rocco Pelillo for Concord Electric Company; Robert W. Boisvert for Exeter and Hampton Electric Company; Mayland H. Morse, Jr., for New Hampshire Electric Cooperative, Inc.; James Enterkin for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; John Cassidy for Littleton Water and Light Department; Diane Gilman for the Connecticut Valley Electric Company, Inc.; Michael V. Roy for the Woodsville Water and Light Department; J. Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378 :3-A(II), the commission on January 17, 1979, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular February, 1979, monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

Woodsville Water and Light Department

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 12, 1979, filed with this commission 27th Revised Page 10-B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1979. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of December, 1978, the total fuel cost billed by Central Vermont was $4,296.30. During this same period the total kilowatt-hours sold by Woodsville was 926,703. The fuel adjustment, therefore, by simple division and rounded, which is proposed for effect in the month of February, 1979, is 46 cents per hundred kilowatt-hours.

Littleton Water and Light Department

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 10, 1979, filed with this commission 61st Revised Page 6 of its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1979. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of December, 1978, was $11,090.72. During this same period the total kilowatt-hours sold by Littleton was 3,171,917.

The fuel adjustment, therefore, by simple division and rounded, which is proposed for effect in the month of February, 1979, is 35 cents per hundred kilowatt-hours.

Municipal Electric Department of Wolfeboro

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 5, 1979, filed with this commission Fifth Revised Page 11 to its tariff, NHPUC No. 5 — Electricity, comprising

Page 10

the monthly calculation of the fuel adjustment charge for effect February 1, 1979. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of December, 1978, the total fuel cost billed by Public Service was $37,455.84. During the same period the total kilowatt-hours sold by Wolfeboro was 2,530,620. The fuel adjustment, therefore, by simple division and rounded, which is proposed for effect in the month of February, 1979, is $1.48 per hundred kilowatt-hours.

Granite State Electric Company

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 12, 1979, filed with this commission 53rd Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect February 1, 1979. Granite State purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was $118,627.98. Total sales to Granite State customers during the same period was 33,607,856 kilowatt-hours. By simple division this yields $.003530 per kilowatt-hour, which is added to the fixed fuel portion of $.0124 per kilowatt-hour. Thus, the fuel adjustment charge applicable to bills rendered in the month of February, 1979, is proposed to be $1.59 per hundred kilowatt-hours.

New Hampshire Electric Cooperative, Inc.

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 12, 1979, filed with this commission Tenth Revised Page 17 to its tariff, NHPUC No. 8 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1979. The company reported that the total fuel cost billed by its several power suppliers for power during the month of December, 1978, was $388,676. Total sales by the co-op during the same month was 28,225,608 kilowatt-hours. The fuel adjustment, therefore, by simple division and rounded, which is proposed for effect in the month of February, 1979, is $1.38 per hundred kilowatt-hours.

Connecticut Valley Electric Company, Inc.

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 12, 1979, filed with this commission 22nd Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1979. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation.

Connecticut Valley reported that during the month of December, 1978, the total fuel cost billed by Central Vermont was $71,054. During this same period the total kilowatt-hours sold by Connecticut Valley Electric Company was 14,543,026. The fuel adjustment, therefore, by simple division and rounded, which is proposed for effect in the month of February, 1979, is 49 cents per hundred kilowatt-hours.

Exeter and Hampton Electric Company

Exeter and Hampton Electric Company,

Page 11

a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 10, 1979, filed with this commission 43rd Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1979. Exeter and Hampton Electric Company purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the month of December, 1978, was $401,341.36. Total sales by Exeter and Hampton during the same period was 26,588,685 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded, which is proposed for effect in the month of February,1979, is $1.51 per hundred kilowatt-hours.

Concord Electric Company

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 9, 1979, filed with this commission 47th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1979. Concord Electric Company purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of December, 1978, was $371,916.23. Total sales during the same period was 24,801,987 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded, which is proposed for effect in the month of February, 1979, is $1.50 per hundred kilowatt-hours.

Public Service Company of New Hampshire

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 15, 1979, filed with this commission 11th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1979.

The company reported a fuel cost above base of $7,399,551 and total kilowatt-hours subject to the fuel adjustment of 493,173,000, resulting in a per kilowatt-hour charge of $.01500397. The fuel adjustment charge rounded to $1.50 per hundred kilowatt-hours is proposed to go into effect in the month of February, 1979.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of February, 1979, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 11th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of $1.50 per hundred kilowatt-hours for the month of February, 1979, be, and hereby is, permitted to become effective February 1, 1979; and it is

Further ordered, that 47th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity,

Page 12

providing for the monthly fuel surcharge of $1.50 per hundred kilowatt-hours for the month of February, 1979, be, and hereby is, permitted to become effective February 1, 1979; and it is

Further ordered, that 43rd Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of $1.51 per hundred kilowatt-hours for the month of February, 1979, be, and hereby is, permitted to become effective February 1, 1979; and it is

Further ordered, that 22nd Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 49 cents per hundred kilowatt-hours for the month of February, 1979, be, and hereby is, permitted to become effective February 1, 1979; and it is

Further ordered, that Tenth Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.38 per hundred kilowatt-hours for the month of February, 1979, be, and hereby is, permitted to become effective February 1, 1979; and it is

Further ordered, that 53rd Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.59 per hundred kilowatt-hours for the month of February, 1979, be, and hereby is, permitted to become effective February 1, 1979; and it is

Further ordered, that Fifth Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of $1.48 per hundred kilowatt-hours for the month of February, 1979, be, and hereby is, permitted to become effective February 1, 1979; and it is

Further ordered, that 61st Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 35 cents per hundred kilowatt-hours for the month of February, 1979, be, and hereby is, permitted to become effective February 1, 1979; and it is

Further ordered, that 27th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 46 cents per hundred kilowatt-hours for the month of February, 1979, be, and hereby is, permitted to become effective February 1, 1979.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of January, 1979.

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NH.PUC*01/19/79*[78230]*64 NH PUC 14*New Hampshire Department of Public Works and Highways

[Go to End of 78230]

Re New Hampshire Department of Public Works and Highways

DT 79-12, Order No. 13,476

64 NH PUC 14

New Hampshire Public Utilities Commission

January 19, 1979

PETITION to widen a grade crossing over a spur track; granted.

CROSSINGS, § 61 — At-grade crossing — Authorization for alterations.

[N.H.] The state department of public works and highways was granted authority to widen a grade crossing over a railroad's spur track where the commission found the project to be in the public interest and not inconsistent with public safety.

BY THE COMMISSION:

Order

Whereas, the New Hampshire Department of Public Works and Highways has proposed a federal project for improvements to New Hampshire highway Route 16 in the town of Milton identified as LS-1828(6), New Hampshire project P-2282-C, which proposes a widening of the present grade crossing from 36 feet to 54 feet, which crossing involves the spur track used by the Boston and Maine Corporation for access to the Spaulding Fiber Company mill located in the town of Milton; and

Whereas, there is no proposal to change the protection of said crossing which is now provided by flagging train movements by a member of the crew; and

Whereas, the commission is of the opinion that the proposed improvements are in the public interest and not inconsistent with public safety; and

Whereas, the cost of the project including widening of the crossing will be borne by the state of New Hampshire; it is

Ordered, that the New Hampshire Department of Public Works and Highways be, and hereby is, authorized to widen the crossing at the intersection of New Hampshire highway Route 16 and

the spur track leading to the Spaulding Fiber Company mill in the town of Milton, from the present 36-foot width to approximately 54 feet, including the shoulders, in accordance with plans on file at this office marked DT 79-12; and it is

Further ordered, that all costs of the project relating to this crossing shall be borne by the state of New Hampshire Department of Public Works and Highways.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of January, 1979.

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NH.PUC*01/26/79*[78231]*64 NH PUC 15*Public Service Company of New Hampshire

[Go to End of 78231]

Re Public Service Company of New Hampshire

DE 78-223, Order No. 13,478

64 NH PUC 15

New Hampshire Public Utilities Commission

January 26, 1979

PETITION for authority to construct and maintain electric lines; granted.

ELECTRICITY, § 7 — Transmission lines — Authorization.

[N.H.] The commission granted a license permitting electric transmission line construction where there was no objection to the plan and the lines were necessary to meet the reasonable requirements of the public.

BY THE COMMISSION:

Order

Whereas, by petition filed November 30, 1978, Public Service Company of New Hampshire seeks a license pursuant to RSA 371:17-20 to construct and maintain electric lines under and across Winnisquam lake in the town of Tilton, New Hampshire; and

Whereas, the petitioner represents that the proposed submarine cable is designed to replace existing overhead lines; and

Whereas, following due notice no other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights; it is

Ordered, that a license be, and hereby is, granted to Public Service Company of New Hampshire to construct and maintain electric lines under and across Winnisquam lake in the town of Tilton, New Hampshire, in accordance with the above description which is contained on a plan of file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of January, 1979.

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NH.PUC*01/30/79*[78232]*64 NH PUC 15*New England Telephone and Telegraph Company et al.

[Go to End of 78232]

Re New England Telephone and Telegraph Company et al.

I-R14,714, Third Supplemental Order No. 13,482

64 NH PUC 15

New Hampshire Public Utilities Commission

January 30, 1979

PETITION of a telephone company for tariff revisions; granted as modified.

Page 15

RATES, § 639 — Experimental tariffs — Status reports.

[N.H.] The commission found that eighteen months was an unnecessarily long period for a company to assess the impact of its experimental offering of selective calling service and required that the utility provide it with a status report within a shorter amount of time.

BY THE COMMISSION:

Supplemental Order

Whereas, the New England Telephone Company, a public utility authorized to provide telephone service in New Hampshire, has currently filed tariff (Part V — Message toll, Section 2, Original Page One), selective calling service, providing an experimental offering of selective calling service for certain customers in selected exchange boundaries; and

Whereas, by its filing of January 15, 1979, New England Telephone proposed to make certain changes to that offering which will (1) reduce the monthly customer access charge and (2) make the service available to business customers; and

Whereas, in order to properly evaluate the reaction which the new offering will have on both

the company and its customers, the company proposes by its filing to extend the experiment for an additional 18-month period, ending with billing periods after August 1, 1980; and

Whereas, upon investigation this commission concurs that the availability of this alternate offering on an experimental basis is in the public interest, but that it is unnecessary that the full 18-month period is necessary to adequately analyze the results of this experiment; and

Whereas, it is our judgment that a reduced experiment can be performed under the provisions of the proposed filed tariff; it is

Ordered, that New England Telephone and Telegraph Company tariff, NHPUC No. 70, Part V — Message toll, Section 2, First Revised Page One, be, and hereby is, allowed to become effective on February 1, 1979; and it is

Further ordered, that the test period of the experimental offering shall be reduced in such manner as necessary to require the company to provide this commission with an interim status report of the new proposed offering by October 1, 1979; and it is

Further ordered, that the interim status report shall include, as a minimum, such information as is included in Attachment B, Attachment C (page one of two), and Attachment D of the proposed filing, as those attachments refer to New Hampshire subscribers; and it is

Further ordered, that the company shall be prepared to present to the commission at a time subsequent to October 1, 1979, a recommended filing which shall be made available to all New Hampshire subscribers.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of January, 1979.

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NH.PUC*02/01/79*[78233]*64 NH PUC 17*Manchester Gas Company

[Go to End of 78233]

Re Manchester Gas Company

DR 78-100, Supplemental Order No. 13,486

64 NH PUC 17

New Hampshire Public Utilities Commission

February 1, 1979

SUPPLEMENTAL order accepting bond for temporary rates.

RATES, § 656 — Rates pending final approval — Bonding.

[N.H.] Where a utility filed for a rate increase and the statute provided that the utility be allowed to place its proposed schedule of rates into effect, subject to approved bonding, the commission accepted the utility's repayment bond without sureties.

BY THE COMMISSION:

Supplemental Order

Whereas, Manchester Gas Company, a duly organized public gas utility operating in a franchised area in the state of New Hampshire, filed with this commission a proposed revision to its tariff, for effect July 15, 1978, said revision proposing a revenue increase of approximately $557,752; and

Whereas, said increase was suspended by commission Order No. 13,201 dated June 26, 1978; and

Whereas, the company, on November 17, 1978, filed a petition for temporary rates and a duly noticed hearing on said petition was held on November 28, 1978, the result of which was the granting by Order No. 13,439 of current rates as temporary rates, effective December 18, 1978; and

Whereas, under provisions of RSA 378:6, following suspension of a schedule, a utility is allowed to place into effect its proposed schedule of rates if action is incomplete six months from the originally proposed effective date, subject to approved bonding; and

Whereas, Manchester Gas Company, on January 9, 1979, did file with this commission a repayment bond; it is

Ordered, that the repayment bond of Manchester Gas Company executed by its senior vice president and treasurer, Robert R. Giordano, on January 15, 1979, be, and hereby is, accepted without sureties.

By order of the Public Utilities Commission of New Hampshire this first day of February, 1979.

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NH.PUC*02/07/79*[78234]*64 NH PUC 17*New Hampshire Department of Public Works and Highways

[Go to End of 78234]

Re New Hampshire Department of Public Works and Highways

DT 79-22, Order No. 13,487

64 NH PUC 17

New Hampshire Public Utilities Commission

February 7, 1979

PETITION for authority to install automatic signals at a railroad crossing; granted.

Page 17

CROSSINGS, § 68 — Crossings — Installation of lights.

[N.H.] The commission authorized the installation of automatic flashing lights at the intersection of a road and railroad line after finding that the project was in the public interest.

BY THE COMMISSION:

Order

Whereas, the New Hampshire Department of Public Works and Highways proposes, through the Federal Highway Act of 1973, §§ 203 and 230, to install automatic flashing lights at the intersection of the Boston and Maine Woodsville-Berlin line and the Cherry Mountain road, crossing AAR-DOT 53 695J; and

Whereas, said Cherry Mountain road crossing is not now protected by automatic signals; and

Whereas, the commission is of the opinion that the installation, as proposed, is in the interest of public safety; and

Whereas, the installation will be accomplished through the use of federal funds with no contribution requested from the railroad; it is

Ordered, that the New Hampshire Department of Public Works and Highways, together with the Boston and Maine Corporation, be, and hereby is, authorized to install automatic signals at the Cherry Mountain road crossing on New Hampshire Route 115, AAR-DOT 53 695J, in the town of Jefferson; and it is

Further ordered, that all costs of the installation of the signals authorized herein shall be borne by the state of New Hampshire and the use of federal funds; and it is

Further ordered, that the signals authorized shall be installed in a manner satisfactory to the public utilities commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of February, 1979.

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NH.PUC*02/09/79*[78235]*64 NH PUC 18*New England Telephone and Telegraph Company et al.

[Go to End of 78235]

Re New England Telephone and Telegraph Company et al.

I-R 14714, Fourth Supplemental Order No. 13,489

64 NH PUC 18

New Hampshire Public Utilities Commission

February 9, 1979

PETITION of telephone companies for authorization to continue selective calling service; granted as modified.

RATES, § 120.1 — Experimental rates — Test period.

[N.H.] The commission reduced the test period for an experimental rate where it found an 18-month trial to be unnecessarily long.

BY THE COMMISSION:

Supplemental Order

Whereas, the Granite State

Page 18

Telephone, a public utility authorized to provide telephone service in New Hampshire, has currently filed tariff (Supplement No. 3 to NHPUC No. 6 — Telephone), selective calling service, providing an experimental offering of selective calling service for Chester exchange (887) customers; and

Whereas, by its filing January 30, 1979, Granite State Telephone, proposed to continue to offer selective calling service, on an experimental basis ending with billing periods, after August 1, 1980; and

Whereas, upon investigation, this commission concurs that the availability of this alternate offering on an experimental basis is in the public interest, but that it is unnecessary that the full 18-month period, ending with billing periods after August 1, 1980, be utilized to analyze the results; and

Whereas, it is our judgment that a reduced experiment can be performed under the provisions of the proposed tariff; it is

Ordered, that Granite State Telephone, Tariff NHPUC No. 6, Supplement No. 4 — Telephone, be, and hereby is, allowed to become effective February 1, 1979; and it is

Further ordered, that the test period of the experimental offering shall be reduced in such manner as necessary to require the company to provide this commission with an interim status report of the proposed offering by October 1, 1979; and it is

Further ordered, that the company shall be prepared to present at a time subsequent to October 1, 1979, a recommended filing which shall be made available to Chester exchange (887) customers and other exchange customers who might avail themselves of selective calling service.

The secretary of the commission is hereby directed to issue the above order this ninth day of February, 1979.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1979.

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NH.PUC*02/12/79*[78236]*64 NH PUC 19*Manchester Gas Company

[Go to End of 78236]

Re Manchester Gas Company

DE 78-152, Order No. 13,490

64 NH PUC 19

New Hampshire Public Utilities Commission

February 12, 1979

PETITION for condemnation of easement rights; granted.

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1. EVIDENCE, § 4 — Judicial notice — Commission proceedings.

[N.H.] The commission judicially noticed a prior proceeding before it. p. 20.

2. EMINENT DOMAIN, § 5 — Easements — Necessity.

[N.H.] The commission granted a utility a temporary easement where the company, through oversight, had left itself with no other effective means of filling its propane tanks. p. 20.

APPEARANCES: Arthur Green for the petitioner; Emile Bussiere for the respondents.

BY THE COMMISSION:

Report

On August 17, 1978, Manchester Gas Company, a duly organized corporation having its principal place of business in Manchester, New Hampshire, and engaged in business as a public utility in New Hampshire, submitted to this commission a petition under RSA 371 for condemnation of certain easement rights in real estate owned by Terrance J. Perrino and Susan J. Perrino of 30 Kaunas Circle, Manchester, New Hampshire. The petition requested that this commission award a temporary easement for ingress and egress and to travel upon and across the respondents real estate with trucks and other equipment for the purposes of maintaining, servicing, repairing, replacing, installing, removing, and refilling the petitioners' propane gas tanks and installation presently situated on real estate adjacent to the respondents' and further requested that the commission award damages to the respondent.

A public hearing was held at the offices of this commission in Concord on September 12, 1978.

The company produced witnesses Robert Mongan, a real estate appraiser; Robert Giordano, company vice president; and Al Hanlon, company distribution superintendent.

[1] The company's witness, Robert Giordano, testified that this need for taking is the result of an oversight on the part of the company in a previous eminent domain case that was before this commission. In 1964, the company petitioned for rights for a temporary propane gas installation on the property of Francis E. and Alice F. Molan. The installation was necessary to supply fuel for 13 residential dwelling houses in Kaunas Circle. The commission takes judicial notice of its consideration of that petition in docket DE 4321 and its Order No. 8320 dated November 25, 1964.

[2] The Molan property abuts the respondents Perrino property. The Molan petition and the order entered did not provide access rights to the tank installation. The company witness testified that it reached the propane installation across land currently owned by Perrino in accordance with an unwritten agreement with the previous owner. Mr. Perrino has denied them continued access across his property. The company contends that such access is crucial to the operation of the propane installation since it provides the only safe and adequate access to the property for company vehicles. Safe, convenient access across Molan property does not exist. The company requires a 35-foot by 104-foot parcel to permit ready access by its delivery truck and maintenance vehicles for filling, maintaining, and, if necessary, removing propane storage tanks.

Upon cross-examination, the company testified that there were two alternatives available. It could first consider maintenance and filling propane tanks without access; i.e., company vehicles would be parked on Goffstown road and the employees could walk the approximate 50 feet to perform the necessary maintenance with a hose from the delivery truck to the tanks for filling. Such an alternative is unsatisfactory in the eyes of the company since Goffstown road is a heavily traveled two-lane highway, and parking of vehicles, particularly during winter months, would constitute a safety hazard both to the company and to passing traffic. Such an alternative does not totally address the potential, although slight, need for access

to remove equipment from the tank site. Such an alternative does not totally address the access problem since the Molan right of way terminates at a point at Goffstown road and the company would be left with a requirement to take action to widen that requirement at least for foot traffic. The respondent testified that this alternative would be undesirable.

A second alternative available to the company is to negotiate for a similar but smaller taking of additional Molan property to allow vehicle access to the tank installation. The company testified that this alternative would require such excavation and shade tree removal as to make the option undesirable.

The company witness, Robert Mongan, testified that his best estimate of the value of the property was $364, based on his appraisal that local zoning ordinance prohibited its use for other purpose and based on the fact it is located in an existing Public Service Company of New

Hampshire right of way.

Company witness, Al Hanlon, testified to the frequencies of deliveries as being approximately ten to 11 per year.

Mr. Giordano testified to the temporary nature of the easement and explained that the propane installation would be removed upon a determination by the company that natural gas service could be made available to the area; such availability might be made within twelve months.

Mr. Perrino's testimony addressed three main points: (1) the company's deliberate trespass upon his property without permission; (2) the damage caused by the vehicular traffic on the property; and (3) the damage caused by improper maintenance of his property. He recognized the need for safe company access to the property, and, although speaking to a preference that he not have to relinquish any controls on the property, he acknowledged a willingness to make such concession if proper physical and monetary controls were devised for his protection and well-being.

The commission is extremely sensitive to the rights of property owners in controlling the destiny of their own property. It does not take its eminent domain authority lightly. It is sensitive to the needs and desires of the respondent.

On January 8, 1979, the site was reviewed in the purpose of both the petitioner and the respondent. That view causes us to find that the required taking of the Perrino property is superior to the other alternatives available to the company. A view of the property adequately demonstrates that all of the taking is necessary to allow for the facilities to operate safely and for the company to maintain the area.

Based upon all of the evidence and the testimonies in this proceeding, the commission is of the opinion that the taking is necessary and that a reasonable consideration of the easement should be in the sum of $1,500. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof, it is

Ordered, that Manchester Gas Company, be, and hereby is, ordered to pay the sum of $1,500 to Terrance and Susan J. Perrino, as compensation for a temporary easement providing for ingress and egress over and across land owned by the Terrance and Susan J. Perrino bounded and described as follows:

Beginning at a point on the southwesterly side of Goffstown road, so-called,

at the northwesterly corner of Lot No. 4 and the northeasterly corner of Lot No. 13, as shown on a plan entitled "Portion of Subdivision Along Goffstown Road Kaunas Circle Development," dated February 23, 1963, recorded in the Hillsborough county registry of deeds as Plan No. ; thence southerly along the westerly line of Lot No. 4, 103.9 feet, more or less, to a point; thence westerly at right angles with the last-described course for a distance of 35 feet, more or less, to a point; thence northerly at right angles with the last-described course in line parallel with the

first-described course for a distance of 103.9 feet, more or less, to a point on the southwesterly side of Goffstown road; thence easterly by Goffstown road for a distance of 35 feet, more or less, to the point of beginning.

Further ordered, a certified copy of the petition and this order shall be recorded in the registry of deeds for Hillsborough county.

By order of the Public Utilities Commission of New Hampshire this twelfth day of February, 1979.

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NH.PUC*02/16/79*[78237]*64 NH PUC 22*Revision of Overhead Line Extension Policies

[Go to End of 78237]

Re Revision of Overhead Line Extension Policies

DE 79-29, Order No. 13,493

64 NH PUC 22

New Hampshire Public Utilities Commission

February 16, 1979

PETITION to revise overhead line extension policies; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 30, 1979, and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that First Revised Pages 9-13 of tariff, NHPUC No. 8 — Electricity, of New Hampshire Electric Cooperative, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of February, 1979.

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NH.PUC*02/21/79*[78238]*64 NH PUC 23*New England Telephone and Telegraph Company et al.

[Go to End of 78238]

Re New England Telephone and Telegraph Company et al.

I-R 14,714, Fifth Supplemental Order No. 13,494

64 NH PUC 23

New Hampshire Public Utilities Commission

February 21, 1979

PETITION of telephone companies to continue selective calling service; granted as modified.

RATES, 120.1 — Experimental rates — Test period.

[N.H.] The commission reduced the test period for an experimental rate where it found an 18-month trial to be unnecessarily long.

BY THE COMMISSION:

Supplemental Order

Whereas, Union Telephone Company, a public utility authorized to provide telephone service in New Hampshire has currently a filed tariff to NHPUC No. 6 — Telephone, selective calling service, providing an experimental offering of selective calling service for twenty exchange customers; and

Whereas, by its filing February 1, 1979, Union Telephone Company, proposed to continue to offer selective calling service for Alton exchange (875) customers on an experimental basis ending with billing periods after August 18, 1980; and

Whereas, upon investigation, this commission concurs that the availability of this alternate offering on an experimental basis is in the public interest, but that it is unnecessary that the full 18-month period, ending with billing periods after August 18, 1980, be utilized to analyze the results, and

Whereas, it is our judgment that a reduced experiment can be performed under the provisions of the proposed tariff, it is

Ordered, that Union Telephone Company, tariff NHPUC No. 6 — Telephone, Section 5, Second Revised Sheet 2 be, and hereby is, allowed to become effective February 1, 1979; and it is

Further ordered, that the test period of the experimental offering shall be reduced in such manner as necessary to require the company to provide this commission with an interim status report of the proposed offering by October 1, 1979; and it is

Further ordered, that the company shall be prepared to present at a time subsequent to October 1, 1979, a recommended filing which shall be made available to all residence and business customers who might avail themselves of selective calling service.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of

February, 1979.

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NH.PUC*02/21/79*[78239]*64 NH PUC 24*Public Service Company of New Hampshire

[Go to End of 78239]

Re Public Service Company of New Hampshire

DR 76-46, 37th Supplemental Order No. 13,495

64 NH PUC 24

New Hampshire Public Utilities Commission

February 21, 1979

PETITIONS of electric companies for authority to apply a fuel adjustment charge to customer bills; granted.

RATES, § 303 — Increased fuel expenses — Recovery.

[N.H.] The commission permitted electric companies to recover varying fuel costs by application of an adjustment derived by dividing the total fuel cost for the month by total kilowatt-hours sold.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Rocco Pelillo for Concord Electric Company; Richard Gilmore for Exeter and Hampton Electric Company; Mayland H. Morse, Jr., for New Hampshire Electric Cooperative, Inc.; James Enterkin for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; John Cassidy for Littleton Water and Light Department; Richard Schwartz for the Connecticut Valley Electric Company, Inc.; Michael V. Roy for the Woodsville Water and Light Department; Harold T. Judd for the Legislative Utility Consumers' Council; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission on February 15, 1979, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular March, 1979, monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

Woodsville Water and Light Department

Woodsville Water and Light Department, a public utility engaged in the business of

supplying electric service in the state of New Hampshire, on February 12, 1979, filed with this commission 28th Revised Page 10-B to its tariff, NHPUC No.3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1979. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of January, 1979, the total fuel cost billed by Central Vermont was $784.06. During this same period the total kilowatt-hours sold by Woodsville was 853,859. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of March, 1979, is nine cents per hundred kilowatt-hours.

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Littleton Water and Light Department

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 8, 1979, filed with this commission 62nd Revised Page 6 of its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1979. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of January, 1979, was $2,378.29. During this same period the total kilowatt-hours sold by Littleton was 3,195,735. The fuel adjustment, therefore, by simple division and rounded, which is proposed for effect in the month of March, 1979, is seven cents per hundred kilowatt-hours.

Municipal Electric Department of Wolfeboro

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 5, 1979, filed with this commission Sixth Revised Page 11 to its tariff, NHPUC No. 5 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1979. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of January, 1979, the total fuel cost billed by Public Service was $52,178.88. During the same period the total kilowatt-hours sold by Wolfeboro was 2,937,942. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of March, 1979, is $1.77 per hundred kilowatt-hours.

Granite State Electric Company

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 12, 1979, filed with this commission 54th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect March 1, 1979. Granite State purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was $24,814.76. Total sales to Granite State customers during the same period was 37,921,417 kilowatt-hours. By simple division this yields $0.0007 per kilowatt-hour, which is added to the fixed fuel portion of $0.0124 per kilowatt-hour. Thus, the fuel adjustment charge applicable to bills rendered in the month of March, 1979, is proposed to be $1.31 per hundred kilowatt-hours.

New Hampshire Electric Cooperative, Inc.

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 13, 1979, filed with this commission 12th Revised Page 17 to its tariff, NHPUC No. 8 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1979. The company reported that the total fuel cost billed by its several power suppliers for power during the month of January, 1979, was $572,931. Total sales by the co-op during the same month was

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35,074,190 kilowatt-hours. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of March, 1979, is $1.63 per hundred kilowatt-hours.

Connecticut Valley Electric Company, Inc.

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 15, 1979, filed with this commission 23rd Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1979. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of January, 1979, the total fuel cost billed by Central Vermont was $13,214. A refund adjustment of $6,498 has been credited to arrive at a net fuel adjustment charge of $6,716. During this same period the total kilowatt-hours sold by Connecticut Valley Electric Company was 15,285,325. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of March, 1979, is four cents per hundred kilowatt-hours.

Exeter and Hampton Electric Company

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 8, 1979, filed with this commission 44th Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1979. Exeter and Hampton Electric Company purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the month of January, 1979, was $510,922.09. Total sales by Exeter and Hampton during the same period was 32,541,861 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of March, 1979, is $1.57 per hundred kilowatt-hours.

Concord Electric Company

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 7, 1979, filed with this commission 48th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1979. Concord Electric Company purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of January, 1979, was $471,321.31. Total sales during the same period was 28,557,806 kilowatt-hours. The fuel

adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of March, 1979, is $1.65 per hundred kilowatt-hours.

Public Service Company of New Hampshire

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on

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February 13, 1979, filed with this commission 12th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1979.

The company reported a fuel cost above base of $7,313,894 and total kilowatt-hours subject to the fuel adjustment of 565,165,000 resulting in a per kilowatt-hour charge of $.01294117. The fuel adjustment charge rounded to $1.29 per hundred kilowatt-hours is proposed to go into effect in the month of March, 1979.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of March, 1979, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 12th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of $1.29 per hundred kilowatt-hours for the month of March, 1979, be, and hereby is, permitted to become effective March 1, 1979; and it is

Further ordered, that 48th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of $1.65 per hundred kilowatt-hours for the month of March, 1979, be, and hereby is, permitted to become effective March 1, 1979; and it is

Further ordered, that 44th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of $1.57 per hundred kilowatt-hours for the month of March, 1979, be, and hereby is, permitted to become effective March 1, 1979; and it is

Further ordered, that 23rd Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of four cents per hundred kilowatt-hours for the month of March, 1979, be, and hereby is, permitted to become effective March 1, 1979; and it is

Further ordered, that 12th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.63 per hundred kilowatt-hours for the month of March, 1979, be, and hereby is, permitted to become effective March 1, 1979; and it is

Further ordered, that 54th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.31 per hundred kilowatt-hours for the month of March, 1979, be, and hereby is, permitted to become effective March 1, 1979; and it is

Further ordered, that Sixth Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of $1.77 per hundred kilowatt-hours for the month of March, 1979, be, and hereby is, permitted to become effective March 1, 1979; and it is

Further ordered, that 62nd Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of seven cents per hundred kilowatt-hours for the month of March, 1979, be, and hereby is, permitted to

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become effective March 1, 1979; and it is

Further ordered, that 28th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of nine cents per hundred kilowatt-hours for the month of March, 1979, be, and hereby is, permitted to become effective March 1, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of February, 1979.

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NH.PUC*02/22/79*[78240]*64 NH PUC 28*Golden Brook Water System, Inc.

[Go to End of 78240]

Re Golden Brook Water System, Inc.

DE 77-38, Second Supplemental Order No. 13,496

64 NH PUC 28

New Hampshire Public Utilities Commission

February 22, 1979

PETITION seeking new water company rate schedule; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 13164 dated May 31, 1978, directed Golden Brook Water System, Inc., to file new tariff pages to incorporate certain changes in tariff terms and conditions, and specify rates to provide allowed revenues; and

Whereas, on January 10, 1979, the company filed the appropriate revised tariff pages but without a proposed effective date; and

Whereas, said revisions appear to meet the requirements of the earlier order; it is

Ordered, that First Revised Pages 10, 17, and 18 of Golden Brook Water System, Inc., tariff, NHPUC No. 1 — Water, be, and hereby are, allowed to become effective on the date of this order; and it is

Further ordered, that said tariff pages be appropriately marked with the effective date, and the statement "Issued in compliance with NHPUC Order No. 13,164 as approved by Order No. 13,496."

By order of the Public Utilities Commission of New Hampshire this twenty-second day of February, 1979.

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NH.PUC*02/22/79*[78241]*64 NH PUC 28*Golden Brook Water System, Inc.

[Go to End of 78241]

Re Golden Brook Water System, Inc.

DE 78-209, Order No. 13,497

64 NH PUC 28

New Hampshire Public Utilities Commission

February 22, 1979

PETITION seeking extension of franchise area for water company; granted.

BY THE COMMISSION:

Order

Whereas, Golden Brook Water System, Inc., a public water utility under RSA 362:4, on October 26, 1978, filed with this commission a petition praying that it be allowed extension of its water service area to serve 28 additional lots in an area within the town of Windham; and

Whereas, said extension is adjacent to the existing franchise area of the company, and said service to be in the public interest; and

Whereas, the Water Supply and Pollution Control Commission has verified the adequacy of the system to meet the additional demands; it is

Ordered, that Golden Brook Water System, Inc., be, and hereby is, authorized to operate as a public water utility in the area bounded and described in Appendix A attached hereto and made a part of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of February, 1979.

Appendix A

Beginning at the northeast corner of the premises on the southerly side of Range road;

Thence following an arc at the intersection of Range road and Princeton street, said arc having the following dimensions: R=25; T=25.35; L=39.61 to a stake on the easterly side of Princeton street;

Thence south 14 degrees, 39 minutes, 13 seconds east along the easterly side of said Princeton street a distance of 446.37 feet to a stake;

Thence north 75 degrees, 29 minutes, 47 seconds east a distance of 6.83 feet to a stake on land now or formerly of Rose Boda;

Thence south 14 degrees, 30 minutes, 31 seconds east a distance of 192.50 feet to a stake;

Thence turning and running north 76 degrees, 07 minutes, 47 seconds east a distance of 504.84 feet to a stake;

Thence turning and running south 04 degrees, 17 minutes, 15 seconds east a distance of 46.98 feet to a stake;

Thence continuing south 05 degrees, 24 minutes, 00 seconds east a distance of 18 feet to a stake;

Thence north 05 degrees, 24 minutes, 00 seconds west a distance of 60 feet to a stake;

Thence continuing south 05 degrees, 24 minutes, 00 seconds east a distance of 42 feet to a stake;

Thence continuing south 13 degrees, 59 minutes, 47 seconds east a distance of 188.04 feet to a stake;

Thence turning and continuing south 16 degrees, 00 minutes, 00 seconds west a distance of 84.57 feet to a stake;

Thence continuing south 16 degrees, 00 minutes, 00 seconds west a distance of 120 feet to a stake;

Thence continuing south 17 degrees, 25 minutes, 00 seconds west a distance of 174.41 feet to a stake;

Thence continuing south 24 degrees, 15 minutes, 00 seconds west a distance of 39.84 feet to a stake;

Thence continuing south 24 degrees, 15 minutes, 00 seconds west for two courses, the first course being a distance of 51.79 feet and the second course being a distance of 88.50 feet to a stake;

Thence turning and running south 14 degrees, 36 minutes, 00 seconds west a distance of 207.69 feet to a stake;

Thence continuing south 14 degrees, 36 minutes, 00 seconds west a distance of 53.06 feet to

a stake;

Thence turning and continuing south 30 degrees, 13 minutes, 00 seconds west 127.91 feet to a stake;

Thence continuing south 30 degrees, 13 minutes, 00 seconds west a distance of 42.96 feet to a stake;

Thence continuing south 08 degrees, 14 minutes, 00 seconds west along two courses, the first course being a distance of 66.99 feet and the second course being a distance of 130.81 feet to a stake;

Thence continuing south 21 degrees, 05 minutes, 00 seconds west a distance of 36.26 feet to a stake;

Thence turning and running south 65 degrees, 09 minutes, 20 seconds west a distance of 143.32 feet to a stone bound;

Thence continuing south 47 degrees, 16 minutes, 30 seconds west crossing Princeton street as shown on said plan to the southeast corner of Lot No. 24-G-121 to a stake in the center of an old stone wall bed;

Thence turning and running north 74 degrees, 34 minutes, 00 seconds west for a distance of 630.73 feet to a stake in the center of an old stone wall bed;

Thence turning and running north 21 degrees, 15 minutes, 16 seconds east a distance of 46.50 feet to a pile of stones;

Thence turning and running north 26 degrees, 48 minutes, 22 seconds west a distance of 216.17 feet to an iron pin set;

Thence continuing following an arc, said arc having the following dimensions: R=200; D=48-26-20; L=169.07 to a brook;

Thence continuing following another arc, having the following dimensions: R=200; D=62-07-53; L=216.88 to an iron pin set;

Thence turning and running north 17 degrees, 00 minutes, 00 seconds east a distance of 395.09 feet to a stake;

Thence turning and running north 06 degrees, 00 minutes, 00 seconds east a distance of 28.23 feet to a stake;

Thence continuing north 06 degrees, 00 minutes, 00 seconds east a distance of 311.77 feet to a stake;

Thence turning and running north 38 degrees, 00 minutes, 00 seconds east a distance of 110 feet to a stake;

Thence continuing north 38 degrees, 00 minutes, 00 seconds east a distance of 130 feet to a stake;

Thence continuing north 37 degrees, 55 minutes, 47 seconds east a distance of 60 feet to a

stake;

Thence continuing north 75 degrees, 20 minutes, 56 seconds east for two courses, the first course being a distance of 90.61 feet and the second course being a distance of 260.10 feet to a stake;

Thence turning and running north 14 degrees, 39 minutes, 31 seconds west for three courses, the first course being a distance of 57.22 feet, the second course being a distance of 173.65 feet, and the third course being a distance of 219.13 feet to a stake on the southerly side of Range road;

Thence north 75 degrees, 20 minutes, 57 seconds east along the southerly side of Range road a distance of 174.47 feet to a stake and the beginning of the intersection of Range road with Princeton street;

Thence continuing along the southerly side of Range road crossing the intersection of Range road and Princeton street a distance of 100 feet to the point of beginning.

Meaning and intending to describe the perimeter of the franchise extension of the lots shown on the plan of George Armstrong by Edward N. Herbert dated February, 1978, and approved by the Windham Planning Board and consisting of three sheets.

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NH.PUC*02/23/79*[78242]*64 NH PUC 31*Laconia Water Works

[Go to End of 78242]

Re Laconia Water Works

I-E 14,824, Order No. 13,498

64 NH PUC 31

New Hampshire Public Utilities Commission

February 23, 1979

PETITION seeking correction of tariff revision; granted.

BY THE COMMISSION:

Order

Whereas, Laconia Water Works filed its tariff, NHPUC No. 3 — Water, for effect August 18, 1978; and

Whereas, said tariff was allowed to become effective on the date specified; and

Whereas, said tariff contained an omission, now corrected by the filing of an appropriate revised tariff page; it is

Ordered, that First Revised Page 9 of Laconia Water Works tariff, NHPUC No. 3 — Water, be, and hereby is, authorized for effect as of February 15, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of February, 1979.

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NH.PUC*02/26/79*[78243]*64 NH PUC 31*Goodwin Railroad, Inc.

[Go to End of 78243]

Re Goodwin Railroad, Inc.

I-T14,825, Order No. 13,499

64 NH PUC 31

New Hampshire Public Utilities Commission

February 26, 1979

PETITION by railroad to establish a rate for the shipment of coal; granted with modification.

BY THE COMMISSION:

Order

Whereas, the Goodwin Railroad, Inc., by Herbert W. Goodwin, president, has filed a petition for authority:

"To establish a rate of $2.80 per ton of 2,000 pounds on shipments of bituminous coal from Concord, New Hampshire, to Lincoln, New Hampshire"; and

Whereas, said petition requests that it be permitted on less than statutory notice; it is

Ordered, that said petitioner is authorized to put into effect on less than statutory notice the above requested tariff change; and it is

Further ordered, that the above order number shall be shown on the face of the tariff as authorized for less than statutory notice.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of February, 1979.

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NH.PUC*02/27/79*[78244]*64 NH PUC 32*Granite State Electric Company

[Go to End of 78244]

Re Granite State Electric Company

DF 79-38, Order No. 13,500

64 NH PUC 32

New Hampshire Public Utilities Commission

February 27, 1979

PETITION for authority to issue securities; granted.

SECURITY ISSUES, § 29 — Securities — Authorization.

[N.H.] The commission granted an electric company authority to issue and renew short-term securities in an aggregate amount of $2 million dollars without prior approval.

BY THE COMMISSION:

Order

Whereas, by 27th Supplemental Order No. 13,072 (DF 74-22) of this commission dated February 27, 1978, Granite State Electric Company was granted an exemption from commission regulations permitting it to issue and renew, from time to time, its bonds, notes, or other evidence of indebtedness payable less than twelve months after the date thereof, in an aggregate amount thereof outstanding at any one time (not including any such indebtedness which is to be retired with the proceeds of any such issue or renewal) not in excess of $750,000 which exemption expired March 30,1979; unless such period is extended by order of this commission; and

Whereas, Granite State Electric Company, on February 5, 1979, sought authority to continue the exemption in said Order No. 13,072 to March 31, 1980, but, to increase its authority to issue its short-term notes in an amount not to exceed $2 million; and

Whereas, the aforementioned docket DF 74-22 shall be superseded by this docket DF 79-38 so that a more orderly accounting of these exemptions be maintained; and

Whereas, this commission, after investigation and consideration, finds that said request is consistent with the public good; it is

Ordered, that Granite State Electric Company, without first obtaining the approval of this commission, be, and hereby is, authorized from time to time to issue and renew its notes, bonds, and other evidences of indebtedness payable less than twelve months from the date thereof, in an aggregate amount thereof outstanding at any one time (not including any such issue of renewal) not in excess of $2 million; and it is

Further ordered, that the exemption contained herein shall expire March 31, 1980, unless extended by order of this commission; and it is

Further ordered, that on January 1st and July 1st in each year, said Granite State Electric Company shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of said notes, bonds, or other evidences of indebtedness.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of February, 1979.

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NH.PUC*02/27/79*[78245]*64 NH PUC 33*New England Power Company

[Go to End of 78245]

Re New England Power Company

DF 79-33, Order No. 13,502

64 NH PUC 33

New Hampshire Public Utilities Commission

February 27, 1979

PETITION for authority to issue short-term securities; granted.

SECURITY ISSUES, § 29 — Securities — Authorization.

[N.H.] The commission granted an electric company authority to issue and renew short-term securities in an aggregate amount not exceeding $78 million without prior approval.

BY THE COMMISSION:

Order

Whereas, by Tenth Supplemental Order No. 13,073 (DF 74-23) of this commission dated February 27, 1979, New England Power Company was granted an exemption from commission regulations to issue and renew, from time to time, its bonds, notes, or other evidence of indebtedness, payable less than twelve months after the date thereof, in an aggregate amount outstanding at any one time (not including any such indebtedness which is to be retired with the proceeds of any such issue or renewal), not in excess of $130 million which exemption expired March 30, 1979, unless such period is extended by order of this commission; and

Whereas, New England Power Company, on February 5, 1979, sought authority to continue the exemption in said Order No. 13,073 (DF 74-23) to March 31, 1980, but, to decrease its authority to issue short-term notes in an amount not to exceed $78 million; and

Whereas, the aforementioned docket DF 74-23 shall be superseded by this docket DF 79-33 so that a more orderly accounting of these exemptions be maintained; and

Whereas, this commission, after investigation and consideration, finds that said request is consistent with public good; it is

Ordered, that New England Power Company, without first obtaining the approval of this commission, be, and hereby is, authorized, from time to time, to issue and renew its notes, bonds, or other evidence of indebtedness payable less than twelve months from the date thereof, in an aggregate amount thereof outstanding at any one time (not including any such indebtedness

which is to be retired with the proceeds of any such issue or renewal), not in excess of $78 million; and it is

Further ordered, that the exemption herein shall expire March 31, 1980, unless extended by order of this commission; and it is

Further ordered, that on January 1st in each year said New England Power Company shall file with this commission a detailed statement, duly sworn by its treasurer, showing the disposition of proceeds of said notes, bonds, or other indebtedness until the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of February, 1979.

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NH.PUC*03/12/79*[78246]*64 NH PUC 34*Hudson Water Company

[Go to End of 78246]

Re Hudson Water Company

DR 78-145, Order No. 13,511

64 NH PUC 34

New Hampshire Public Utilities Commission

March 12, 1979

PETITION for a temporary surcharge; denied.

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1. CONSTRUCTION AND EQUIPMENT, § 2 — Temporary surcharge — Damage costs.

[N.H.] The commission held that it had jurisdiction over a petition for a temporary surcharge to recover construction damage costs. p. 34.

2. RATES, § 260 — Rate surcharges — Burden of proof.

[N.H.] Where a utility which had filed suit to recover construction damage costs filed a petition to recover those costs through a 5 per cent surcharge (with a proposal to refund any proceeds of the litigation to customers), the commission denied the petition finding insufficient economic need for a surcharge since there was no immediate emergency. p. 34.

APPEARANCES: John R. McLane, Jr., and Stephen J. Selden for the petitioner; Harold Judd and J. Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On August 1, 1978, the Hudson Water Company, a New Hampshire corporation having a principle place of business in Hudson, New Hampshire, and enfranchised to provide water service to customers in Hudson and Litchfield, New Hampshire, submitted to this commission a petition for a temporary surcharge as to recover the sum of $68,683 for construction damage costs that allegedly were caused by contractors for the town of Hudson during the construction of a new sewer main system.

The company proposed a special tariff imposing a surcharge on all Hudson customers of 5 per cent on all bills rendered after October 1, 1978, until the sum of $68,683 has been recovered.

The petition was suspended by commission Order No. 13,274 on August 14, 1978.

A public hearing on the matter was held before the commission at its office in Concord, 8 Old Suncook Road, Building No. 1, at 10 A.M. on October 18, 1978.

[1] The Legislative Utility Consumers' Council filed a motion to dismiss the company's petition contending that the commission is not empowered to make judicial findings of negligence or for damages and there lacks jurisdiction in the matter. They further contend that the petition is premature and an award of the commission would remove any incentive for the company to pursue their action pending in the United States district court against the contractor et al.

The commission is satisfied that it has statutory authority over the subject matter of this petition RSA 378:9 authorizing any public utility, when it is of its opinion that an emergency exists, to alter or amend a rate to provide relief to stop continuing losses. The motion to dismiss is therefore denied.

[2] Testimony presented at the hearing discloses that the town of Hudson entered into a contract with Morgenroth & Associates, Inc., for the design and

supervision of construction of a new sewer main system. The town also entered into construction contracts with Seaward Construction Company for construction of the sewer system as designed and supervised by Morgenroth. During construction substantial damages have occurred to the facilities of Hudson Water Company. Expenses to the company incurred as a result of those damages, which the company contends are continuing as of the date of the hearing, have resulted in substantial economic hardship to the company. The company has brought suit against both Morgenroth and Seaward in the United States district court for the district of New Hampshire (Docket No. Civil 78-58) which is currently pending. This petition requesting a 5 per cent surcharge to recover $68,683 is intended to carry the company through its present financial difficulties pending resolution of that court proceeding. The company proposes to refund future settlements resulting from the court proceedings to its customers.

The real issue before the commission is whether or not sufficient economic need exists for the company to impose an immediate surcharge upon its customers. We find that answer to be in the negative. We will not question in the context of this hearing that the costs were actually incurred. We do find, however, a lack of evidence to substantiate that immediate relief is necessary. The expenses associated with the damages are discussed in the Hudson Water

Company's general rate increase proceeding in docket DR 78-135. We will give consideration, in the context of that proceeding, to the proper treatment of those expenses. The absence of any immediate emergency, however, gives us cause to deny the company's petition. Our order will issue accordingly.

Order

In consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the Hudson Water Company tariff, NHPUC No. 7 — Water, Supplement No. 1, Original Page 1 be, and hereby is, rejected; and it is

Further ordered, that the company give appropriate notice of this decision in a newspaper having general circulation in the area served.

By order of the Public Utilities Commission of New Hampshire this twelfth day of March, 1979.

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NH.PUC*03/16/79*[78247]*64 NH PUC 35*Hudson Water Company

[Go to End of 78247]

Re Hudson Water Company

DR 78-135, Third Supplemental Order 13,514

64 NH PUC 35

New Hampshire Public Utilities Commission

March 16, 1979

PETITION for a rate increase; denied.

Page 35

1. VALUATION, § 25 — Time of valuation — Future expenses.

[N.H.] The commission valued a utility's rate base as of the end of the year and stated that it was not its policy to use estimates of expenses in determining the rate base. p. 37.

2. VALUATION, § 219 — Land removed from service — Land held for sale.

[N.H.] The cost of land which was withdrawn from operations and was being held for sale was deleted from a utility's rate base. p. 37.

3. VALUATION, § 202 — Abandoned storage tank — Rate base treatment.

[N.H.] An abandoned storage tank was deleted from a utility's rate base. p. 37.

4. VALUATION, § 319 — Working capital allowance — Computation.

[N.H.] The commission determined the working capital allowance for a water company by use of the balance sheet method. p. 37.

5. REVENUES, § 2 — Estimates — Pro forma adjustments

[N.H.] Pro forma adjustments were made to a water company's revenue projection to reflect increased revenues from expected new connections. p 39.

6. DEPRECIATION, § 26.1 — Accelerated depreciation — Normalization.

[N.H.] The commission permitted a water utility to normalize the benefits of accelerated depreciation. p. 39.

7. EXPENSES, § 92 — Rate case expenses — Amortization.

[N.H.] Rate case expenses were required to be amortized over a two-year period. p. 40.

8. EXPENSES, § 11 — Abnormal expenses — Test-year treatment.

[N.H.] Nonrecurring and abnormal expenses were excluded from a utility's test-year expenses. p. 40.

9. RETURN, § 115 — Rate of return — Factors considered.

[N.H.] The commission determined a proper rate of return for a water company by consideration of the earnings-price, earnings-proceeds, and dividend yield methods, as well as by assessing the impact of a change permitting the utility to reap the benefits of accelerated depreciation on its cost of capital. p. 42.

10. RETURN, § 40 — Attrition allowance — Factors.

[N.H.] The commission allowed a water utility a 0.5 per cent attrition allowance since it found that a reduction in the corporate tax rate, as well as the elimination of abnormal expenses, would allow the company to sustain its rate of return with that attrition factor. p. 43.

11. CONSTRUCTION AND EQUIPMENT, § 6 — Management discretion — Construction.

[N.H.] The commission denied a requested tariff revision which would have authorized private contractors, in addition to the utility, to lay main pipe extensions, since it found that absent a showing of a lack of good judgment or gross mismanagement the commission would not infringe on management's policies or prerogatives. p. 45.

12. RATES, § 210 — Rate blocks — Comparisons.

[N.H.] The commission approved a proposed tariff change reducing the number of rate blocks where the change resulted in two towns having the same rates. p. 46.

APPEARANCES: John R. McLane, Jr., and Stephen J. Selden for the petitioner; Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Supplemental Report

On July 31, 1978, the Hudson Water Company, a duly organized New Hampshire

corporation operating as a public water utility in the towns of Hudson and Litchfield, filed revisions to its tariff, NHPUC No. 7 — Water, providing for an increase in its estimated annual revenues from $637,688 to $865,235, or an increase of $227,547. The commission suspended the proposed rate increase by Order No. 13,277, dated August 14, 1978.

On October 13, 1978, the company submitted a petition requesting the commission to prescribe its presently effective rates as temporary rates to be

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retroactive to August 18, 1978. On November 14, 1978, the commission heard the company's request on temporary rates, and by Order No. 13,438, dated December 18, 1978, permitted the company to place its present scheduled rates into effect as temporary rates effective with all current billings rendered on or after December 18, 1978.

The company submitted testimony and exhibits based on a test year ended December 31, 1977. Pro forma adjustments were made to rate base, revenues and expenditures, and a pro forma statement of capital. The rate of return on average rate base was 8.24 per cent and was projected as 7.26 per cent on a pro forma basis.

Rate Base

[1] The company submitted computations showing an average rate base of $2,162,801. Estimated changes in gross plant of $231,233 and the depreciation reserve of $49,663 were used to pro form the rate base to December 31, 1978. As it is not the policy of this commission to include estimated future expenditures in rate base and the actual figures for 1978 additions are now available, we will use those amounts to calculate the rate base. The actual 1978 additions amounted to $176,841.

[2, 3] The company testified and submitted data which stated that there had been an abandonment of an elevated storage tank. The staff recommends, and we concur, that plant in service should be reduced by $17,717. Distribution reservoir and standpipe, Account 2308.5, should be reduced by the cost of the tank and foundation by $17,309, and the cost of the land ($408) should be transferred from distribution reservoir land, Account 2307.5, to nonoperating property, Account 110. The land has been withdrawn from operations and is being held for sale. The reserve for depreciation should be charged with the cost of the plant ($17,309) and the cost of removal ($5,000), in the amount of $22,309.

The company in its brief has proposed that depreciation reserve be adjusted by $49,227 from $300,860 to $350,087, with an increase in annual depreciation expense of $1,414 due to plant additions. The adjustment is based on an average depreciation rate of 1.6 per cent. The staff has calculated the average depreciation rate for the company at 1.53 per cent. Using that rate, the staff has calculated the additional depreciation for 1978 in the amount of $48,418, which includes $1,350 of depreciation on plant additions.

[4] The company, in its original filing, included working capital calculated on the basis of four months' operating and maintenance expense which was pro formed for known and measurable charges in those accounts. Combining that amount of $94,525 with the average materials and supplies inventory of $66,136 resulted in working capital allowance of $160,661.

The company, as a result of data requests, submitted a working capital computation based on the balance sheet approach. The balance sheet approach produced a working capital requirement of $180,424, when the $66,136 of materials and supplies is included. The LUCC contends that many of the deferred debits included in the balance sheet calculation should be removed because they are either nonrecurring extraordinary expenses or items more properly included in construction work in progress. They further contend that deferred federal income taxes of $12,995 and unamortized investment tax credits of $48,063 should be excluded.

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The staff recommends that the company's balance sheet approach to the working capital computation be accepted, with one exception. That exception being the inclusion of a deduction for deferred taxes in the average amount of $12,995 for the timing differences between pretax accounting income and taxable income and $10,946 for the average deferred taxes applicable to accelerated depreciation. Staff's recommendation for acceptance of the working capital computation is based upon the large amount of deferred debits due to damages to the system by sewer construction which has occurred during and since the end of the test year. These expenses are in litigation in the courts, and by allowing the inclusion of those deferred amounts in working capital in this case, the company will be able to cover the costs of providing funds to carry the deferral on its books until a decision is made by the courts.

The LUCC contends that there are many items included in deferred debits which are actually construction work in progress and, therefore, should not be included in the working capital computation. An analysis of working capital requirements of the company based on the latest available data (September 30, 1978) indicate that the amount is approximately the same and includes an average of $89,000 in deferred debits. The Seaward construction and Seaward relocations amounted to $81,658 as of September 30, 1978. In view of the fact that the company's petition in DR 78-145 to surcharge these expenses have been denied, we find that it is reasonable to permit their inclusion in working capital until the company's lawsuit to recover those costs is adjudicated. It is anticipated that lawsuit could last for a period of two years. That period would coincide with the commission's two-year filing rule under RSA 378:7.

The LUCC recommends that a further reduction be made for unamortized investment tax credits in the amount of $48,063. The commission will allow the company to continue to "normalize" the post-1970 investment tax credits in the customary manner.

We find the average rate base for the test year in an amount of $2,538,377 (see following table) is a reasonable and proper basis upon which to establish just and reasonable rates.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

AVERAGE RATE BASE
YEAR 1978

Plant in Service
Less: Abandoned Plant

Total
Less: Depreciation Reserve
Abandoned Plant Reserve


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Adj. Depr. Reserve
Contr. in Aid of Const.
Customer Advances

Net Plant in Service
Add: Working Capital
Materials and Supplies
Deferred Taxes

Average Rate Base
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Test-year Expenses

[5] The company submitted the actual results of operations for the year ended December 31, 1977. Pro forma adjustments were made for known changes to expenses which occurred prior to the end of the test year. A pro forma adjustment was made to revenues to reflect increased revenues due to the expected connections relating to the large amounts of capital additions in 1977. The pro forma adjustment to revenue amounted to $73,690 and the pro forma adjustments to expenses amounted to $71,389, resulting in an addition of $2,301 in net utility operating income.

[6] It has been the company's practice in the past to utilize an accelerated depreciation method in computing its federal income taxes. This resulted in a lesser present tax liability which was passed on to the ratepayers. This technique is commonly referred to as the "flow-through" method of accounting. In the present proceeding, the petitioner implicitly proposed the adoption of the "normalization" method of accounting by proposing a tax adjustment which no longer included the passthrough of tax benefits to the ratepayers. In response to staff inquiries on this adjustment, the company submitted testimony to justify this change in accounting. Under normalization, a fund for deferred depreciation is set up, and the amount of the fund would be a deduction from rate base as a source of cost-free capital. Petitioner argues that the "flow-through" method creates a mismatching of expenses with revenues, because accelerated depreciation of an asset results in a larger depreciation in the earlier years and a lesser amount in the later years of the life of an asset. Ratepayers in the earlier years would get a benefit at the expense of ratepayers in later years. Petitioner also argues that the company's cost of capital would be less under normalization with the cash flow manifested by this deferred expense. The witness further testified that interest coverage would improve as a result of "normalization."

The company further states that unless normalization is approved, there is the possibility of the loss of the tax benefits of accelerated depreciation under § 167 of the Internal Revenue Code. Staff responds that a utility that used a flow-through method of accounting for its pre-1970 accounting period public utility property other than property depreciated under the straight-line method, and that did not make an election under § 167 (1), (4), (A), may (if permitted by the state regulatory authority), but is not required to, normalize the tax deferral resulting from the election to apply the class life ADR system in the case of public utility property for which the taxpayer used a flow-through method of accounting.

The commission feels that prudent accounting of the funds generated through accelerated depreciation would dictate a fund for deferred taxes, which must be paid by the utility. It is felt

that the company should be afforded equal treatment with other companies who have been allowed to normalize the effects of accelerated depreciation. The commission has reviewed the record herein and is of the opinion that the change in the treatment of depreciation for tax purposes should be allowed. The cash-flow benefit resulting from normalizing depreciation expense is a useful and appropriate encouragement to construct required facilities, which was the original purpose in permitting accelerated depreciation. The commission, therefore, accepts the

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company's proposal to normalize depreciation for tax purposes.

There are several areas of both agreement and disagreement between all parties in this case on the test-year expenses and pro forma adjustments. We will first address the adjustments on which all parties agree and then address the items of disagreement.

The company, the LUCC, and the staff agree that the following adjustments be made to net operating income:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Description	*Increase (Decrease)*
1. Power cost of pumping	$4,253
2. Pension cost	3,097
3. Audit cost	300
4. Transportation expense	1,868

The company submitted an adjustment to depreciation expense of $8,655 based upon the average plant estimated to be in service for the year ending December 31, 1978. The average included the projected capital additions for 1978. As we have previously stated in the rate base section of this report, the actual additions to plant are now available. We accept the staff's computation of depreciation expense in the amount of $48,418. The test-year pro forma depreciation expense included in operating expense is $7,410.

[7] The company submitted an adjustment for rate case expense in the amount $18,500 amortized over a two-year period, or $9,250 per year. The LUCC has proposed that these expenses be amortized over a three-year period, the time difference between this rate case and the previous case, 1975 and 1978. The company brief points out that rate case expenses for this case are higher than originally estimated and in order to avoid compounding of those expenses with the next rate case, they should be amortized over two years. Staff recommends that the pro forma adjustment filed by the company be accepted. We concur with the staff in as much as the pro forma adjustment filed by the company being included in expenses should provide for this expense over a two-year period.

The property tax adjustment submitted by the company was for an increase of $17,552, which would bring the total property tax to $101,426. During the hearings, it was testified that the town of Hudson was in the process of reassessment. The new assessments and the property taxes are now available, and the staff recommends that those figures be used. The reevaluation has resulted in lower property taxes for the company in the town of Hudson. Using the current tax billings by the towns of Hudson and Litchfield, $61,469 and $14,655 respectively, and applying those expenses on a tax-year basis, the staff computes property taxes at $77,300. An

additional amount of $4,200 for other taxes must be added to that amount, for a pro forma total of $81,500. A total $83,874 was booked in the test year; therefore, a negative adjustment of $2,374 is required.

[8] The LUCC has suggested that a downward adjustment should be made for the billings by Consumer's Water for the time of Mr. Peter Johnson's charges to the company. Their recommended adjustment is based upon increased hours spent by Mr. Johnson during the test year on sewer construction activities and the resulting effects of that activity on the Hudson Water system. They further state that the increased charges are unlikely to continue because of an increase work force, increased cooperation between the town and the company, and the pending federal district court

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proceeding. The company in its brief argues that the increased work force will not replace the time of the president of the company and that there is no reason to anticipate increased cooperation between the town and the company. They further claim that the pending federal court proceeding will require more time spent by the president on Hudson's affairs. The staff points out that even though there has been an increase of 141 hours in the test year by Mr. Johnson, fifty-two of those hours were spent on the Litchfield division. As we can foresee the additional time (eighty-nine hours) being required by Mr. Johnson due to the ongoing sewer construction program and the pending federal court case, we do not agree that an adjustment should be made. We would further point out that the charges for Mr. Johnson's time are distributed to both construction and other operating expenses, and there is nothing on the record which addresses the distribution of those charges by Hudson Water Company.

The LUCC contends that expenses should be reduced by $40,000 because of increased expenses related to the sewer project which are "nonrecurring, abnormal, as well as unusual." Their analysis is based upon the question of whether or not these expenses are nonrecurring and should be excluded from ordinary operating expenses. The company replies that in their opinion these costs will recur during the present rate cycle and should not be treated as nonrecurring expenses. The staff has analyzed the company's operation and maintenance expenses for the latest period available to them. These expenses for the twelve months ending September 30, 1978, even with the increases for salaries, pension benefits, power costs, and transportation expense, has, in fact, decreased by $9,036 when compared to test-year expenses. For the nine months ending September 30, 1978, maintenance expenses have decreased by approximately $12,000, while operations expenses have increased by approximately $3000. An audit by the staff states that 1977 expenses include $7,370 which were attributable to mistakes in marking streets by the utility in relation to sewer construction. The staff recommends that a $7,370 downward adjustment be made. We will accept the staff's recommendation on the basis that those expenses were avoidable and should not be recurring in the future. Due to the fact that the sewer project is ongoing and appears to be having a continuing effect upon the company's expenses, we will reject the recommendation of the LUCC.

The test-year net operating income is calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Net Utility Operating Income per Books		$178,267
Pro Forma Adjustments:		
Revenue Adjustment	$73,690	
Payroll Increases	(7,204)	
Payroll Taxes	(690)	
Power Cost Increase	(4,253)	
Transportation Cost Increase	(1,868)	
Audit Cost Increase	(300)	
Rate Case Amortization	(9,250)	
Depreciation Expense Increase	(7,410)	
Pension Costs	(3.097)	
Property Taxes	2,374	
Sewer Marking Expenses	7,370	
Total Adjustments	49,362	
Combined Income Tax Effect	33,272	
Net Income Adjustment		16,090
Pro Forma Net Utility Operating Income		$194,357

Rate of Return

[9] The company submitted testimony and other evidence attempting to show the need for an 11.72 per cent rate of return. In arriving at this rate of return, the company used: 14 per cent rate of return on common equity; 8.85 per cent cost of long-term debt; 13.24 per cent cost of short-term debt; an attrition allowance of 0.81 per cent; and used a capital structure up-dated from May 31, 1978, to September 30, 1978.

The company submitted three different methods to determine the cost of equity capital. These methods are (1) an adjusted earnings-price method. (2) an earnings-net proceeds method and (3) a dividend yield method. The staff recommends that the first two methods not be considered due to the fact that both calculations adjust market price to the net proceeds which the comparison companies receive when new shares of common stock are issued. The market price at which new shares of stock are issued reflects the purchaser's expectations of the pressure which issuance costs will exert upon the price to the public. The staff takes the position that the market price reflects stockholders' expectations and to adjust that price downward when the company states that it has no plans to issue common stock for several years would be erroneous. The dividend yield method is a mechanistic approach which can easily produce different results depending upon the choice of data used and the spot market: price per share. For example, the company averages yields of nine water companies for the months of May through September, 1978. These yields are based upon the closing market price of those shares on one trading day each month. A more appropriate method would be to use the average market price during the period, and ideally for the period of a year. The formula for this method also assumes a desired "minimum market-to-book ratio" and a "desired payout ratio of 65 per cent." Staff points out that by using that formula and by substituting the actual payout ratio of 75 per cent by those same companies for October, 1978, the resulting yield would be 13.2 per cent.

We find that the fair rate of return on common equity for the company should remain at 13.5 per cent. In arriving at that rate of return, we have considered those facts previously stated along with the fact that the company is a wholly owned subsidiary of Consumers' Water Works and by allowing the company to change its accounting for the tax benefits of accelerated depreciation,

its cost of capital will be less with the cash flow and the improved interest coverage ratio provided by this deferred expense.

The company has factored compensating balances into its calculation of the effective cost of short-term debt. These balances are, in fact, included in rate base in the calculation of working capital and to increase the cost of the actual interest rate for these balances would have the effect of double counting. We have, therefore, included short-term debt at the current prime bank loan rate of 11.75 per cent.

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Attrition is separately dealt with in a later section of this report.

Updating the capital structure to September 30, 1978, we find the fair rate of return to be 10.7 per cent computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Per Cent Of Total	*Rate*	*Weighted Rate of Return*
Debt			
Long Term	59.7	8.8%	5.3%
Short Term	1.9	11.3	.2
Total	61.6		5.5%
Common Equity	38.4	13.5	5.2
Total	100.0		10.7%

We find that the allowed rate of 10.7 per cent should provide sufficient earnings to assure the financial integrity of the company and permit it to attract the necessary capital.

Attrition

[10] The company submitted testimony that an attrition allowance of 0.81 per cent annually is needed. Phelps' Exh C and D measure the actual rate of return measured against the rate of return of 10.1 per cent which was allowed by this commission in its last rate case (DR 75-180). Those exhibits show that for the first full year in which those rates were in effect, the company's rate of return on rate base was 10.5 per cent, and in the second year the return was 8.73 per cent. Therefore, the actual earned rate of return was an excess of 0.4 per cent in the first year, and a deficiency of 1.37 per cent in the second year. Data submitted for the twelve months ended September 30, 1978, show a rate of return of 9.58 per cent, or a deficiency of 0.52 per cent.

In each of the periods discussed above, a 0.5 per cent attrition allowance was in effect. In the first year, the attrition allowance along with the allowed pro forma adjustments compensated the company in an amount approximately equal to the rate of return which includes the attrition allowance, therefore, above the cost of capital. This situation was reversed in the second full year in which the rates were in effect. However, there has been considerable testimony that expenses were at a higher level during the test year due to damages to the company's facilities arising from the sewer project in Hudson. Notes from the company's meeting with Hudson selectmen indicate that new sewer contracts are not in the area of existing mains and testimony of witness Johnson that indicates closer cooperation between the company and the town which should reduce

damages to water lines. The improved rate of return for the twelve months ended September 30, 1978, of 9.58 per cent would indicate a substantial improvement and indicates that additional expenses caused by sewer construction have been reduced.

In the calculation of revenue requirements, we have taken into consideration certain known and estimated expense increases occurring after the test year. The staff points out that beginning in 1979, the corporate federal income tax has been reduced from 48 per cent to 46 per cent. The effect of this tax change would be to reduce federal income taxes by $5,620 and improve the actual rate of return by 0.2 per cent.

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Our best judgment based upon all of the evidence is that an attrition allowance of 0.5 per cent will sustain the company's actual rate of return not only at the time of its order, but for a reasonable period of time thereafter.

Revenue Requirement

The required increase in rates is computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Accepted Cost of Capital	10.7%	
Plus: Allowance for Attrition	.5	
	11.2%	
Times: Rate Base		$2,538,377
Required Net Operating Income		284,298
Less: Test-year Net Operating Income		194,357
Required Increase in Net Operating Inc.		89,941
Plus: Tax Adjustment (÷ 48.34)		96,118
		$ 186,059

Rate Structure

A number of proposed changes to the company's tariff were recommended by the LUCC and the company. We will address each recommendation separately.

Service Connection Fee

The LUCC recommends that the company tariff be changed to impose a flat charge of $200 to new customers. They contend that there is an imbalance between existing customers and new customers in that the new customers are not charged a flat service connection fee. It is alleged that the incremental investment in new customers is substantially higher now than it was in the past, with the result that existing customers are subsidizing the new customers. They propose that the additional revenue raised by the imposition of a flat connection fee of $200 be used to reduce basic water rates to existing customers.

The company responds that the addition of such a charge would have no effect on present revenue needs and, therefore, would not reduce basic rates. It also cautions that such a connection fee would be taxed as income thereby increasing its tax liability.

The existing rate schedule (tariff) provides that a customer is responsible for the installation, ownership, and maintenance of the pipes and service on his property. The commission recognizes some merit on the LUCC proposal that the new customer should also share in the costs of service connections at the main. However, there is no evidence in the record that justifies the sum of $200 as being a reasonable fee and to impose same would be speculative and arbitrary, and, therefore, must be denied. We repeat that we do see merit in the proposal and recommend the company consider the proposal in future rate cases and be prepared to present costs associated therewith.

Main Pipe Extensions

The LUCC filed a petition on June 12, 1978 (DR 78-99), wherein they present a tariff to be imposed on the company. As the filing of this general rate case was imminent, all parties consented to the merits of that petition be considered in this proceeding. Having considered the merits of that petition in the context of this proceeding, our order will issue dismissing the petition in DR 78-99.

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[11] In DR 78-99, LUCC proposed that main pipe extension should be laid by either private contractors or Hudson Water Company. The company's existing tariff directs that this work be performed by the company. The commission regards tariff provision in question to reflect management's policies and prerogatives and will not direct others to perform work which the company in its judgement decided should be done by its own employees. Without sufficient evidence to substantiate a lack of good judgement or a showing of gross mismanagement, the commission cannot accept the proposed recommended change and this request is denied.

The LUCC further proposed that the existing tariff provision which provides that the size of pipes shall be determined solely by the company be changed to provide that "the size of main distribution pipes shall be determined by the town board of engineers and the board of selectmen or its designated agent in conjunction with the Hudson Water Company with the New Hampshire Public Utilities Commission acting as an arbitrator in the case of disagreement." The thrust of the proposal is that there should be joint control between the town and the company over the size and placement of pipe. The commission finds this proposal unacceptable. The company is the only one that can be held accountable for providing continuous service to its customers. The town is not accountable for the company's failures, nor can it be. The management of the company is vested in its board of directors and stockholders. We will not diminish their authority — or responsibility — by delegating basic management decisions to the municipality. The proposal for joint decision for pipe size is denied.

That portion of the proposed change relating to the town's determination of pipe sizes taking precedence over any other provision of the tariff is also denied.

Deposits

The LUCC proposes a change in the deposits provision of the main pipe extension program by requiring "in those instances where the customer is either commercial or industrial, or where the extension is for commercial or industrial purposes, the deposit will be apportioned according

to the water to be used based on unit demand." The company's existing tariff presently provides "the deposit may be apportioned among the customers to be served." We find no evidence in the record which would lead us to find the proposed change has any advantage over the present tariff. Accordingly, we deny that portion of the proposal.

Municipal Fire Protection — Developer Responsibility

The LUCC proposed to make the developer responsible for municipal fire protection charges until January 1st of the second calendar year following the installation of a main. Subsequent charges would be reduced in accordance with the number of building units completed within the project. The LUCC claims that the proposal merely places the cost of fire protection on the party responsible for those costs and avoids a town government subsidy during the period that an area is being developed. The company is silent on the issue. The proposal puts the developer in a rate-paying posture. He has already assumed all construction costs for the water installation within the development. During the first year of the development, there

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may be housing units built and occupied. Prescribing rate-paying responsibility to the developer would be abrogating the town's responsibility to provide and pay for fire protection service to its taxpayers. We will deny the proposal.

Municipal Fire Protection — Rates

The LUCC further proposed to change the terms of the municipal fire protection tariff to provide that additional fire hydrants shall be duly authorized by the town board of engineers or its designated agent. The current tariff provides that such decisions will be duly authorized by "the city, town, village, or other political subdivision to which such service is rendered." We find no material change in the concept of the wording and find sufficient flexibility in the existing wording to provide the town the authority to make its choice as to whom it should delegate the authority. We will deny that portion of the petition.

Municipal Fire Protection — Inch-foot Charges

The LUCC also recommends a change to the tariff relative to municipal fire protection as follows: "If pipe or main feeds another town or city other than Hudson, Hudson will not pay an inch-foot charge for any excess inches above the size of pipe needed to serve Hudson alone." The company is silent on the issue. We find merit in that proposal on the basis that it is entirely likely that the company might properly size its main distribution pipe lines in consideration of future needs beyond the municipal boundaries of Hudson. We find it unjust to charge the town of Hudson for inch-foot charges over and above its own needs. We will accept and allow that portion of the LUCC proposal to stand.

General Metered Service

[12] The company proposed to change its general metered service tariff for the town of Litchfield by reducing the number of quarterly rate blocks from five to four and reducing the monthly rate blocks from five to four. This makes the rate blocks consistent with those proposed for the town of Hudson. The rates in both Hudson and Litchfield will be the same. We will approve the change.

Municipal Fire Protection — Litchfield

The company proposes to add a tariff provision for municipal fire protection in Litchfield. The company testified that due to the reduced fire protection offering by the town of Litchfield that hydrant charges and inch-foot charges should be less than those charged the town of Hudson. We find no argument to the company's proposal and will allow the differentiated rates to stand.

The rates proposed in the various tariffs are based on the company's request for an increase of $227,547 in revenues. We will direct the company to submit new tariff pages providing for the commission's authorized increase of $186,059. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions of the Hudson Water Company tariff, NHPUC No. 7 — Water, Original Pages 21A and 21B, First Revised Page 18A, Ninth

Page 46

Revised Page 17, and Tenth Revised Pages 19 and 21, which revisions were suspended by commission Order 13,277, dated August 14, 1978, be, and hereby are, rejected; and it is

Further ordered, that in accordance with the increase in rates authorized by this report and order, Hudson Water Company filed new tariff pages setting forth therein rates designed to produce an annual increase in gross revenues of $186,059; and it is

Further ordered, that revised tariff pages incorporating the above changes be filed to become effective with all current bills rendered on or after the date of this order, such pages to carry the notation "Issued in compliance with Third Supplemental Order No. 13,514 in case DR 78-135"; and it is

Further ordered, that Hudson Water Company file with this commission a computation of revenues collected under temporary rates since December 18, 1978, Order No. 13,438, and its plan to surcharge customers for the difference between such revenue and that authorized by this order, said plan to be filed as Supplement No. 1 to tariff NHPUC No. 7; and it is

Further ordered, that Hudson Water Company give public notice of these new rates by publishing the same in a newspaper having general circulation in the territory served; and it is

Further ordered, that the Hudson Water Company develop and submit to this commission a tariff provision which will assure that inch-foot charges to the town of Hudson shall be based only on those pipe sizes necessary to serve customers within the municipal boundaries of the town.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of March, 1979.

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Re Manchester Water Works

DR 79-52, Order No. 13,523

64 NH PUC 47

New Hampshire Public Utilities Commission

March 20, 1979

PETITION seeking water company rate increase; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, Manchester Water Works, a public utility engaged in the business of supplying water service in the state of New Hampshire, on March 5, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 3 — Water, including new rates for a net increase in revenue of $20,645 (6.5 per cent), effective June 1, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Original Pages 9A and 30; First Revised Pages 9 and 29; Second

Page 47

Revised Pages 4, 5, 7, 8, and 23-28; and Third Revised Pages 6, 22, and 28A of tariff, NHPUC No. 3 — Water, of Manchester Water Works be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twentieth day of March, 1979.

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NH.PUC*03/21/79*[78249]*64 NH PUC 48*Pennichuck Water Works

[Go to End of 78249]

Re Pennichuck Water Works

DR 79-3, Order No. 13,526

64 NH PUC 48

New Hampshire Public Utilities Commission

March 21, 1979

PETITION for a rate increase; order setting procedural guidelines.

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1. PARTIES, § 18 — Consumer advocate — Powers.

[N.H.] The commission found that the consumer advocate represented the rights and interests of consumers and that, therefore, he should be allowed to file exhibits, present evidence, and cross-examine witnesses. p. 49.

2. PROCEDURE, § 2 — Hearings and testimony — Procedural guidelines.

[N.H.] The commission issued an order providing procedural guidelines for the receipt of testimony and exhibits and the scheduling of hearings. p. 49.

APPEARANCES: John Pendleton for the petitioner; Larry Eckhaus for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On December 29, 1978, Pennichuck Water Works, a New Hampshire corporation engaged in the supply and distribution of water in Nashua and Merrimack, New Hampshire, filed certain revisions of its tariff, NHPUC No. 4 — Water, providing for an increase in rates for all classes of service in the amount of $596,017 which represents a 23 per cent increase effective for January 31, 1979.

On January 8, 1979, the commission issued Order No. 13,459 pursuant to RSA 378:6 suspending the proposed effective date of said increase pending full investigation and decision thereon. A duly noticed hearing was held at the office of the commission on February 22, 1979, for the express purpose of delineating procedure applicable throughout these rate proceedings. The several issues raised at the hearing are decided here.

Parties to the Proceeding

On January 16, 1979, an order of notice issued providing for a procedural hearing to take place at the commission office in Concord on February 22, 1979, at ten o'clock in the morning; said order provided that the commission will not accept appearances for any party after the date of the procedural hearing unless

the party can demonstrate good cause for an appearance and demonstrate that failure to appear may be detrimental to that party and to the public generally.

[1] The only party to enter their appearance in these proceedings in addition to the attorney for the petitioner was the Legislative Utility Consumers' Council advocate. The consumer advocate representing the Legislative Utility Consumers' Council is adequately trained in law, familiar with the proceedings of the commission, familiar with the principles of administrative

law, educated as to the complexities of a rate case, and the rights, obligations, and remedies of an intervenor at every stage of a proceeding. The rights and interests of the consumer are so protected and advocated through the guidance, direction, and representation of the consumer advocate. Therefore, the presentation of evidence, cross-examination, filing of exhibits in this case shall be accomplished by council for the petitioner, the commission staff, and the Legislative Utility Consumer's Council through its consumer advocate.

Testimony, Exhibits, Discovery, Data Requests

[2] Prepared prefiled testimony and exhibits will be received by the commission from the petitioner on or before March 16, 1979. The consumer advocate will expeditiously review these filings and exercise diligence in making data requests and conducting discovery by March 23, 1979. The petitioner shall endeavor to complete its discovery by March 30, 1979. The consumer advocate shall file any prefile testimony or exhibits by March 30, 1979. Barring any unforeseen difficulties by any of the parties, and assuming that all of the discovery and prefiled testimony can be completed by March 30, 1979, hearings on the merits of these proceedings shall be held.

Hearings

Hearings on the merits of these matters shall be held at the office of the commission and shall commence on April 10, 1979. The date of April 11, 1979, is reserved by the commission for further hearings on the merits if it is necessary. In the event that the proceedings are not completed at the end of the hearings held on April 11, 1979, future hearing dates shall be set by the commission. An evening information hearing will be held on April 9, 1979, in the city of Nashua at a place and time to be hereinafter set and published in the *Nashua Telegraph*, a newspaper circulated in the area.

Petition for Temporary Rates

On February 12, 1979, the petitioner filed a petition for temporary rates. It was agreed by the parties to this proceeding that the evidence pertaining to temporary rates should be consolidated with the permanent rate hearing. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that all parties appearing in this proceeding shall comply with the procedural guidelines set forth in the attached report as well as the rules and regulations of the commission.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of March, 1979.

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NH.PUC*03/22/79*[78250]*64 NH PUC 50*Pennichuck Water Works

[Go to End of 78250]

Re Pennichuck Water Works

DR 79-3, Supplemental Order No. 13,527

64 NH PUC 50

New Hampshire Public Utilities Commission

March 22, 1979

PETITION requesting that hearings be postponed; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, the parties to this action have consented to the fact that the dates of April 10 and 11, 1979, are inconvenient; it is

Ordered, that hearings on the merits of these matters shall be held at the office of the commission and shall commence on April 25, 1979, in lieu of April 10, 1979; and it is

Further ordered, that the date of April 26, 1979, in lieu of April 11, 1979, is reserved by the commission for further hearing on the merits if it is necessary.

By order of the New Hampshire Public Utilities Commission this twenty-second day of March, 1979.

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NH.PUC*03/23/79*[78251]*64 NH PUC 50*Public Service Company of New Hampshire

[Go to End of 78251]

Re Public Service Company of New Hampshire

DR 76-46, 38th Supplemental Order No. 13,529

64 NH PUC 50

New Hampshire Public Utilities Commission

March 23, 1979

PETITION of electric companies for authority to apply a fuel adjustment charge to customer bills; granted.

RATES, § 303 — Increased fuel expenses — Recovery.

[N.H.] The commission permitted electric companies to recover varying fuel costs by application of an adjustment derived by dividing the total fuel cost for the month by total kilowatt-hours sold.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New

Hampshire; Rocco Pelillo for Concord Electric Company; Richard Gilmore for Exeter and Hampton Electric Company; Thomas W. Morse for New Hampshire Electric Cooperative, Inc.; Kirk L. Ramsauer for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; John Cassidy for Littleton Water and Light Department; Richard Swartz for the Connecticut Valley Electric Company, Inc.; Hayden Waterhouse for the Woodsville Water and Light Department; Harold T. Judd

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and Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission on March 20, 1979, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular April, 1979, monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

Woodsville Water and Light Department

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 14, 1979, filed with this commission 29th Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1979. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of February, 1979, the total fuel cost billed by Central Vermont was a $178.39 credit. During this same period the total kilowatt-hours sold by Woodsville was 829,341. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of April, 1979, is a two-cent credit per hundred kilowatt-hours.

Littleton Water and Light Department

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 8, 1979, filed with this commission 63rd Revised Page 6 of its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1979. Mr. Cassidy also reaffirmed the fuel adjustment figures that had been previously submitted and used on billings rendered during the month of March, 1979. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of February, 1979, was $8,518.08. During this same period the total kilowatt-hours sold by Littleton was 3,487,699. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of April, 1979, is 24 cents per hundred kilowatt-hours.

Municipal Electric Department of Wolfeboro

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of

supplying electric service in the state of New Hampshire, on March 7, 1979, filed with this commission Seventh Revised Page 11 to its tariff, NHPUC No. 5 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1979. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of February, 1979, the total fuel cost billed by Public Service was $42,144.36. During the same period the total kilowatt-hours sold by Wolfeboro was 3,249,234. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect

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in the month of April, 1979, is $1.29 per hundred kilowatt-hours.

Granite State Electric Company

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 14, 1979, filed with this commission 55th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect April 1, 1979. Granite State purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was $92,898.42. Total sales to Granite State customers during the same period was 37,276,617 kilowatt-hours. By simple division this yields $.0025 per kilowatt-hour which is added to the fixed fuel portion of $.0124 per kilowatt-hour. Thus, the fuel adjustment charge applicable to bills rendered in the month of April, 1979, is proposed to be $1.49 per hundred kilowatt-hours.

New Hampshire Electric Cooperative, Inc.

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 14, 1979, filed with this commission 13th Revised Page 17 to its tariff, NHPUC No. 8 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1979. The company reported that the total fuel cost billed by its several power suppliers for power during the month of February, 1979, was $471,505. Total sales by the co-op during the same month was 38,520,590 kilowatt-hours. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of April, 1979, is $1.22 per hundred kilowatt-hours.

Connecticut Valley Electric Company, Inc.

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 15, 1979, filed with this commission 24th Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1979. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of February, 1979, the total fuel cost billed by Central Vermont was a $3,107 credit. During this same period the total kilowatt-hours sold by Connecticut Valley Electric Company was 14,890,355. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of April, 1979, is a two-cent credit per hundred kilowatt-hours.

Exeter and Hampton Electric Company

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 8, 1979, filed with this commission 45th Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1979. Exeter and Hampton Electric Company purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton

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reported that the total fuel cost billed by Public Service Company for the month of February, 1979, was $394,782.87. Total sales by Exeter and Hampton during the same period was 28,608,637 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of April, 1979, is $1.38 per hundred kilowatt-hours.

Concord Electric Company

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 13, 1979, filed with this commission 49th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1979. Concord Electric Company's filing of 49th Revised Page 15A filed for effect on April 1, 1979, be, and hereby is, rejected and Concord Electric Company shall file a 50th Revised Page 15A for effect April 1, 1979, issued in lieu of 49th Revised Page 15A, said page to correct the "cost month." Concord Electric Company purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of February, 1979, was $360,944.85. Total sales during the same period was 28,629,924 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of April, 1979, is $1.26 per hundred kilowatt-hours.

Public Service Company of New Hampshire

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 16, 1979, filed with this commission 13th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1979.

The company reported a fuel cost above base of $7,903,281 and total kilowatt-hours subject to the fuel adjustment of 552,103,000 resulting in a per kilowatt-hour charge of $0.01431487. The fuel adjustment charge rounded to $1.43 per hundred kilowatt-hours is proposed to go into effect in the month of April, 1979.

Witnesses testified to the facts that a substantial credit of $14,357 reflected in the Schiller plant's internal combustion generation figures was brought about by the settlement of four Tennessee gas rate cases and represented a settlement on 167,000 Mcf of gas in the amount of $16,836.74. This refund when combined with expenses created a net yield of $14,357. Contributing factors to higher costs in February were a higher charge by NEPEX for purchased

power, higher loads, less hydro generation due to low water, and the loss of the Jackman station for the entire month. Also, during February the company attained an all-time peak of 1,178 megawatts.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of April, 1979, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing

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report, which is made a part hereof; it is

Ordered, that 13th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of $1.43 per hundred kilowatt-hours for the month of April, 1979, be, and hereby is, permitted to become effective April 1, 1979; and it is

Further ordered, that 49th Revised Page 15-A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, filed for effect on April 1, 1979, be, and hereby is, rejected; and it is

Further ordered, that Concord Electric Company file 50th Revised Page 15A for effect April 1, 1979, issued in lieu of 49th Revised Page 15A, said page to correct the "cost month" and to provide for the monthly fuel surcharge of $1.26 per hundred kilowatt-hours for the month of April, 1979, be, and hereby is, permitted to become effective April 1, 1979; and it is

Further ordered, that 45th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of $1.38 per hundred kilowatt-hours for the month of April, 1979, be, and hereby is, permitted to become effective April 1, 1979; and it is

Further ordered, that 24th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of two cents credit per hundred kilowatt-hours for the month of April, 1979, be, and hereby is, permitted to become effective April 1, 1979; and it is

Further ordered, that 13th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.22 per hundred kilowatt-hours for the month of April, 1979, be, and hereby is, permitted to become effective April 1, 1979; and it is

Further ordered, that 55th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.49 per hundred kilowatt-hours for the month of April, 1979, be, and hereby is, permitted to become effective April 1, 1979; and it is

Further ordered, that Seventh Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of $1.29

per hundred kilowatt-hours for the month of April, 1979, be, and hereby is, permitted to become effective April 1, 1979; and it is

Further ordered, that 63rd Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 24 cents per hundred kilowatt-hours for the month of April, 1979, be, and hereby is, permitted to become effective April 1, 1979; and it is

Further ordered, that 29th Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of two cents credit per hundred kilowatt-hours for the month of April, 1979, be, and hereby is, permitted to become effective April 1, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of March, 1979.

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NH.PUC*03/26/79*[78252]*64 NH PUC 55*Hampton Water Works Company

[Go to End of 78252]

Re Hampton Water Works Company

DR 79-51, Order No. 13,541

64 NH PUC 55

New Hampshire Public Utilities Commission

March 26, 1979

PETITION by water company seeking rate increase and revised tariff provisions relating to meter testing, termination of service, line extensions, and miscellaneous charges; suspended pending commission investigation.

By the COMMISSION:

Order

Whereas, Hampton Water Works Company, a public utility engaged in the business of supplying water service in the state of New Hampshire, on February 22, 1979, filed with this commission its tariff, NHPUC No. 7 — Water, providing for increased rates and revised tariff provisions relative to meter testing, termination of service, line extensions, miscellaneous charges, etc., for effect March 24, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that tariff, NHPUC No. 7 — Water, of Hampton Water Works Company, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of March, 1979.

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NH.PUC*03/27/79*[78253]*64 NH PUC 55*Utility Advertising

[Go to End of 78253]

Re Utility Advertising

DE 79-63, Order No. 13,547

64 NH PUC 55

New Hampshire Public Utilities Commission

March 27, 1979

ORDER requiring utilities to submit information relating to advertising expenses.

EXPENSES, § 26 — Advertising expenses — Allocation.

[N.H.] The commission ordered utilities to submit testimony and other evidence in order that it could determine the proper allocation of expense for various types of advertising.

BY THE COMMISSION:

Order

Whereas, the Public Utility Regulatory Policies Act of 1978 in its §§ 113(b)(5), 115(h), 303(b)(2), and 304(b) establishes federal standards for utility advertising; and

Whereas, such standards state that no

gas or electric utility may recover from any person other than the stockholders (or other owners) of such utility any direct or indirect expenditures by such utility for promotional or political advertising; and

Whereas, said types of advertising are defined as follows by the PURPA:

(A) The term "advertising" means the commercial use, by a gas or electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of a gas or electric utility or the selection or installation of any appliance or equipment designed to use such utility's service. The terms "political advertising" and "promotional advertising" do not include (1) advertising which informs consumers how they can conserve or can reduce peak demand, (2) advertising required by law or regulation, including advertising required under Part 1 of Title II of the National Energy Conservation Policy Act, (3) advertising regarding service interruptions, safety measures, or emergency conditions, (4) advertising concerning employment opportunities with such utility, (5) advertising which promotes the use of energy efficient appliances, equipment, or services, or (6) any explanation or justification of existing or proposed rate schedules, or notification of hearings thereon; and

Whereas, this commission is aware that the New Hampshire legislation has also identified the need to reconsider the provisions under which advertising expenses are allowed, and has considered certain revisions of RSA 374:7 which would task the commission with the determination of the types of advertising to be allowed in operating expenses; and

Whereas, this commission recognizes that the PURPA is limited in applicability to those gas utilities with retail sales in excess of 10 billion cubic feet and to those electric utilities with retail sales in excess of 500 million kwh and that the Public Service Company of New Hampshire is the only New Hampshire utility which meets these criteria; and

Whereas, this commission continually strives for conformity among its utilities, such conformity supported in the advertising area by any forthcoming legislation; it is

Ordered, that Concord Electric Company; Connecticut Valley Electric Company; Exeter and Hampton Electric Company; Granite State Electric Company; New Hampshire Electric Cooperative; Public Service Company of New Hampshire; Claremont Gas and Light Company; Concord Natural Gas Corporation; Gas Service, Inc.; Manchester Gas Company; and Northern Utilities, Inc., submit to this commission by July 1, 1979, any testimony and other evidence which will, after public hearing, enable this commission to determine proper allocation of expense for various types of advertising.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of March, 1979.

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NH.PUC*03/28/79*[78254]*64 NH PUC 57*New Hampshire Department of Public Works and Highways

[Go to End of 78254]

Re New Hampshire Department of Public Works and Highways

DT 79-19, Order No. 13,549

64 NH PUC 57

New Hampshire Public Utilities Commission

March 28, 1979

PETITION to remove automatic signals and pave over track at a railroad crossing; granted.

CROSSINGS, § 42 — Abandonment — Safety features.

[N.H.] The commission permitted the removal of signals and the paving over of an abandoned crossing on the condition that the signals be inventoried for future use and that the crossing be paved over in such a manner as to be removable should circumstances require the reestablishment of train service.

APPEARANCES: Roderick Cyr for the New Hampshire Department of Public Works and Highways; Francis Shane for the New Hampshire Transportation Authority; John S. Hird for the city of Keene.

BY THE COMMISSION:

Report

By petition filed January 22, 1979, the New Hampshire Department of Public Works and Highways seeks authority to remove the automatic crossing protection signals on New Hampshire Route 12 bypass grade crossing situated about one mile west of Main street in the city of Keene and to pave over the tracks to virtually eliminate the crossing and to avoid the stopping of certain types of vehicles before passing over the same. Hearing thereon was held on March 15, 1979.

This grade crossing was constructed under authority issued by this commission in Order No. 7775, dated December 6, 1961, in D-T 3977 (43 NHPUC 267). It was later widened and improved pursuant to Order No. 8567, dated August 4, 1966, in D-T 4487 (48 NHPUC 205). It consists of two through lanes carrying New Hampshire Route 12 in a generally north and south direction with an entering ramp from West street on the northerly side of the main highway and an exit ramp to West street on the southerly side. It has been protected by automatic flashing lights placed at each side of the single track line on the right-hand approach to the highway.

The railroad line in question was authorized to be abandoned by the Interstate Commerce Commission effective July 24, 1972 (ICCFD 25992), following hearings thereon at which the state appeared in opposition to the abandonment. There have been no train operations over this line of track since that time. However, to preserve the line for future use, if necessary, this commission issued Order No. 10,817 on December 11, 1972, directing the Boston and Maine Corporation to refrain from tearing up and removing any of the rail on the abandoned line. (D-T 6392, 57 NHPUC 335, Book II.)

The New Hampshire Department of Public Works and Highways have now designed a project identified as FR-012-1 (20) NH Project No. 3342 providing for

the improvement of the highway surfacing, guard rails, etc., for approximately one mile, which includes the crossing herein considered, the total cost of which is estimated at $525,000.

Present traffic volume on the highway is given as 12,000 average daily, with a projected increase to 15,660 in 1989. The designed speed of the highway is 50 miles per hour.

It is the position of the petitioner that since there has been no rail traffic for several years over this crossing that it should be permitted to pave over the tracks to a depth of approximately one to one and one-half inches, that it requests that crossing signs be removed to result in a free flow of traffic. It is willing to stipulate, however, that should circumstances arise wherein rail traffic is reestablished over this line the crossing will be reinstated and the state will bear the cost of reinstalling such protection as may be required. In its plans the concrete bases on which the flashing lights for crossing protection are mounted will be removed because failure to do so would constitute a traffic hazard.

It is testified that if necessary the pavement can be dug out from the rails and the crossing reestablished on relatively short notice, although the replacing of the crossing protection might require several months depending upon the circumstances and availability of equipment.

The width of the crossing, including the traffic lanes and the ramps, totals approximately 125 feet. To comply with present requirements it would be necessary to install pedestals at least six feet beyond the paved surface and mount the lights on cantilever structures for adequate protection of this type.

It is the position of the New Hampshire transportation authority that this line should be retained for possible use, but no objection is voiced to the instant proposal, provided the crossing can be reopened on short notice and properly protected.

The city of Keene appeared in opposition to the proposal and introduced testimony to indicate that the Cheshire branch should be preserved for future use for the transportation of property, and possibly people, because of the uncertainty of the future availability of energy. It is also pointed out that a study made by transportation consultant Herbert E. Bixler in 1972 recommended that this branch be retained and that it be acquired by the state or lease to a short-line railroad operator with the Ashuelot branch.

The Green Mountain Railroad which operates from Bellows Falls, Vermont, to Vermont points with a terminal for repairs at North Walpole did not appear at the hearing, but has indicated in correspondence that it is opposed to anything which will lead toward the removal of rail on that portion of the Cheshire branch between Keene and North Walpole.

It is clear from the testimony in this proceeding that there is considerable opposition to anything which tends toward the removal of rails or equipment resulting in the elimination of possible train service on the Cheshire branch.

This position is also recognized by the petitioner, who has agreed to reestablish the crossing and its protection should circumstances require or permit the operation of trains on this line.

From a highway standpoint it must be conceded that if a crossing is to remain certain hazards are present in the requirements for stopping certain vehicles such as those carrying flammable and explosive materials as well as school

buses to stop before passing over the same thereby contributing to unnecessary traffic impediments when, in fact, there are no train operations conducted over the line.

Even though under these circumstances an exempt sign can be installed the practical consideration of maintaining a crossing which is not used by the railroad equipment can be seriously questioned.

The Boston and Maine Corporation was not represented at the hearing.

Upon consideration of all the facts the commission is of the opinion that public safety will be served by permitting the removal of the crossing protection signals and its equipment, provided they are inventoried for future use should occasion require, and that permission should be given to pave over the crossing provided that said pavement can be removed if circumstances require the reestablishment of train service. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the New Hampshire Department of Public Works and Highways be, and hereby is, authorized to pave over the crossing at the intersection of New Hampshire Route 12 bypass and the Cheshire branch of the Boston and Maine Corporation in the city of Keene; and it is

Further ordered, that the New Hampshire Department of Public Works and Highways and the Boston and Maine Corporation be, and hereby are, authorized to remove the crossing protection signals and related equipment to be held in inventory for possible future use; and it is

Further ordered, that the provisions contained in this order are conditioned upon the reestablishment of the crossing and its protection should railroad service be reestablished on this section of the line; and it is

Further ordered, that all costs incidental to the changes herein authorized shall be borne by the New Hampshire Department of Public Works and Highways.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of March, 1979.

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NH.PUC*03/28/79*[78255]*64 NH PUC 59*Town of Lincoln

[Go to End of 78255]

Re Town of Lincoln

DT 79-42, Order No. 13,550

64 NH PUC 59

New Hampshire Public Utilities Commission

March 28, 1979

PETITION for authority to lay out and construct an at-grade crossing; granted.

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1. CROSSINGS, § 32 — Establishment — Purposes.

[N.H.] The commission granted authority which enabled a town to establish a crossing to provide access to a recycling plant. p. 60.

2. CROSSINGS, § 68 — Safety devices — Installation.

[N.H.] The commission required a crossing to be

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protected by the maintenance and installation of stop signs and a locked gate. p. 60.

3. CROSSINGS, § 18 — Establishment — Division of cost.

[N.H.] The commission required a municipality to bear the cost of establishing a crossing. p. 60.

APPEARANCES: George McGee for the Selectmen of Lincoln and Peter Welch environmental engineer.

BY THE COMMISSION:

Report

[1] By petition filed February 21, 1979, the town of Lincoln seeks authority to lay out and construct a public crossing at grade across the track of the state-owned Concord-Lincoln line to provide access to its recycling plant and incinerator. Hearing thereon was held at Concord on March 14, 1979, at which no one appeared in opposition to the granting of the petition.

It is the desire of the town of Lincoln to construct an incinerator building and a recycling building on a parcel of land located on the east side of the railroad tracks in the town of Lincoln. It is proposed to construct a 24-foot public highway for access to this property from Main street, which parallels the railroad at approximately 400 feet to the west. In addition to a traveled way it is proposed to construct a six-inch water main five feet six inches below the grade on the north side of the highway and there would be a one and one-half inch rigid conduit telephone cable and a four-inch electrical cable buried approximately five feet below the grade line.

[2] It is also proposed to construct a gate located just westerly of the crossing which would be kept closed and locked during periods when caretakers at the recycling plant and incinerator are off duty.

Final arrangements have not yet been made for access through the presently owned property located on the west side of the railroad between its right of way and the Main street. The instant proposal would place the crossing at a point 841.5 feet north of milepost 21, but it may be

necessary to change the location to a point approximately 641.5 north of the same milepost to avoid excessive land damage costs, because by so doing it would be near the southerly bound of the property and thus would not cause a separation for two pieces of property by slicing through a highway.

The incinerator will serve both the town of Lincoln and the North Woodstock area.

Construction is proposed to commence in April to provide these necessary facilities. Since the town is not able to make a taking of the land for the purpose of the crossing it is proposed to either obtain a lease or a permit to cross the state-owned property with the public highway. The town is prepared to assume the cost of installing the crossing, also to assume cost of maintaining the same by providing the necessary asphalt to keep a reasonably smooth crossing and for plowing the same in the winter.

To provide proper protection it is proposed to maintain stop signs at each approach not less than 15 feet, not more than 25 feet, from the crossing.

No appearances were made at the hearing, neither on behalf of the New Hampshire Transportation Authority which is the owner of the line, nor the Goodwin Railroad Company which operates the service under contract with the authority. The former, however, is on

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record as not being in opposition to the granting of the crossing as requested.

Upon consideration of all the facts the commission is of the opinion that its consent should be given to the laying out and constructing of the crossing and also that stop signs shall be erected upon each approach thereon in the interest of the safety of the traveling public. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the town of Lincoln be, and hereby is, authorized to lay out and construct a public crossing over the track of the state-owned railroad in the town of Lincoln in a manner satisfactory to this commission, in accordance with plans on file at the office of this commission marked DT 79-42; and it is

Further ordered, that the crossing authorized herein shall be protected by the installation and maintenance of stop signs located at the right-hand side of each approach of the crossing at a distance of not less than 15 feet, nor more than 25 feet, from the nearest rail; and it is

[3] Further ordered, that the cost of the installation and maintenance of the crossing shall be borne by the town of Lincoln.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of March, 1979.

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Re Continental Telephone Company of New Hampshire, Inc.

DE 79-64, Order No. 13,551

64 NH PUC 61

New Hampshire Public Utilities Commission

March 29, 1979

PETITION by telephone company seeking special service board contracts; granted.

BY THE COMMISSION:

Order

Whereas, Continental Telephone Company of New Hampshire, Inc., a public utility engaged in the business of supplying telephone service in franchised areas of the state of New Hampshire, on March 2, 1979, filed with this commission a revision to its tariff, PUC-NH-No. 11, Section 16, Third Revised Sheet No. 1, canceling Second Revised Sheet No. 1, providing for a change in the discontinuance date of fire and police dispatching service in the towns of Henniker, Hillsboro, Antrim, Hollis, and Bennington; and

Whereas, by this filing it intends to replace an existing filing, Second Revised Sheet No. 1, and thereby extend the discontinuance date to June 1, 1980, from its existing intended discontinuance date of June 30, 1979; and

Whereas, this commission is in receipt of affidavit by town council for the affected towns consenting to such a provision; and

Whereas, after investigation and consideration by this commission, it is

Ordered, that PUC-NH-No. 11, Section 16, Second Revised Sheet No. 1 be, and hereby is, canceled; and it is

Further ordered, that Continental Telephone Company of New Hampshire, Inc., PUC-NH-No. 11, Section 16, Third Revised Sheet No. 1 be, and hereby is, permitted to become effective on March 2, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of March, 1979.

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NH.PUC*03/29/79*[78257]*64 NH PUC 62*Public Service Company of New Hampshire

[Go to End of 78257]

Re Public Service Company of New Hampshire

DF 79-53, Order No. 13,555

64 NH PUC 62

New Hampshire Public Utilities Commission

March 29, 1979

PETITION of utility for authority to sell short-term notes; granted.

SECURITY ISSUES, § 29 — Short-term note — Authorization.

[N.H.] The commission authorized a utility to issue, sell, and renew short-term notes in an aggregate amount not exceeding an amount calculated using the formula in the company's charter.

APPEARANCES: Ralph H. Wood for the petitioner; Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

By this unopposed petition filed March 13, 1979, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash, and from time to time to renew, notes payable less than twelve months after the date thereof (hereinafter referred to as short-term notes) in such amounts that short-term notes outstanding at any time may aggregate up to but not exceed the maximum short-term unsecured indebtedness the company may at any time issue or assume without a favorable vote of its preferred stockholders. That maximum is set forth in subdivision 8(b) of Art V of the company's Articles of Agreement, as follows:

"Twenty per cent of the total of (i) the total principal amount of all bonds or other securities representing secured indebtedness issued or assumed by the corporation, and then to be outstanding and (ii) the capital and surplus, less the amount, if any, by which electric plant adjustments exceed reserves provided therefor, as then stated on the books of account of the corporation."

A public hearing was conducted on March 26, 1979, at the commission. Company witness Harrison testified that at January 31, 1979, using the above formula, the maximum allowable amount of short-term indebtedness was approximately $121.7 million. The maximum will increase from time to time in proportion to the increase in the company's secured indebtedness, capital, and surplus. Harrison further testified that the short-term notes currently outstanding

amount to $95.1 million, and that the current projections would change this figure to $98.1 million at March 31, 1979, and to $114.1 million on April 30, 1979.

The proceeds of the sale of the short-term notes will be expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the company's business and for other proper corporate purposes and will primarily be used to finance the company's construction program on an interim basis. The company stated that the construction program for the years 1979-84 would include principally the following listed items estimated to cost about $1,046,500,000.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Facilities	*Estimated Construction Expenditures 1979-84 (Millions of Dollars)*
Generation Facilities	
Company's Share of Seabrook Nuclear Plant	$ 751.5
Participation in Other Plants	70.6
Other Generation	8.4
Total Generating Facilities	830.5
Transmission Facilities	106.4
Distribution and General Facilities	109.6
Total	$1,046.5

The company presently has lines of credit with banks aggregating $100,350,000. All of the banks without the state of New Hampshire are presently loaning moneys on a "revolving credit agreement." This group has indicated a willingness to increase their credit extension to the company by another $20 million.

A balance sheet as of January 31, 1979, a statement of estimated cash flow for the period of February through April, 1979, and a copy of authorizing votes of the company's board of directors were filed as exhibits.

The LUCC had no objection to an extension of short-term debt limits and consented to waive any rights of appeal to the granting of the petition by the commission based on the evidence submitted.

The commission is aware of RSA 369:1 which requires any utility to seek our approval concerning the issuance and sale of stocks, bonds, notes, and any other evidence of indebtedness. The commission has a duty pursuant to RSA 369:1 and 369:4 to consider the public interest in each financing arrangement contemplated by a utility. As a consequence, the commission is hesitant to issue an open-ended order that would tie the commission to an automatic formula.

However, the commission is firmly

convinced that the maximum allowable amount of short-term indebtedness should be extended to $121.7 million at this time since this order is being issued three days after the public hearing. The company is aware that quick regulatory action is possible if necessary.

Based upon all of the evidence, the commission finds that the maximum short-term debt limit should be raised to $121.7 million. The proceeds from the short-term notes will be reasonably necessary for present and future use in the conduct of the petitioner's business and for other corporate purposes. The issuance and sale of short-term notes will be consistent with the public good. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell, and from time to time renew, for cash its notes or notes payable less than twelve months after the date thereof in an aggregate principal amount not exceeding $121.7 million; and it is

Further ordered, that interest on bank borrowings will be at the prime rate or a rate or rates based on the prime rate; and it is

Further ordered, that on or before January 1st and July 1st of each year, Public Service Company of New Hampshire shall file with this commission a detailed statement, duly sworn to by its treasurer or an assistant treasurer, showing the disposition of the proceeds of the notes herein authorized until the expenditures of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of March, 1979.

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NH.PUC*03/29/79*[78259]*64 NH PUC 66*Rule-making Procedure Relating to Customer Deposits

[Go to End of 78259]

Re Rule-making Procedure Relating to Customer Deposits

DE 79-11, Order No. 13,558

64 NH PUC 66

New Hampshire Public Utilities Commission

March 29, 1979

ORDER amending commission rules and regulations.

Page 66

1. SERVICE, § 161 — Commission rules — Modifications.

[N.H.] Amendment of commission rules, by rule making, prescribing service standards for

electric utilities. p. 67

2. PAYMENT, § 59 — Deposits — When required.

[N.H.] Amendment of commission regulation regarding circumstances under which a utility may require a customer deposit as a condition precedent to new or continuing service. p. 67.

3. PAYMENT, § 65 — Guarantees for service — When acceptable.

[N.H.] Amendment of commission regulation providing that an irrevocable written guarantee may be acceptable in lieu of a deposit, as a condition precedent to new or continuing service. p. 67.

APPEARANCES: Franklin Hollis for Concord Electric Company, Exeter and Hampton Electric Company, and Northern Utilities, Inc.; Pierre Caron for Public Service Company of New Hampshire; David A. Skrzysowski for Manchester Gas Company; Richard T. Martell for New England Telephone; Mayland H. Morse for New Hampshire Electric Cooperative, Inc.; Victor J. Blondin for Gas Service, Inc.; Kathleen Gardner for Granite State Electric Company; Alderic O. Violette for New Hampshire Telephone Association; Ronald Bisson for Concord Natural Gas Corporation; Harry Judd for the Legislative Utility Consumers' Council; Gerald M. Eaton for Community Action Program; John Collins for Pennichuck Water Works; Joseph Ransmeier for Hampton Water Works; and Elizabeth Crory, Representative.

BY THE COMMISSION:

Report

[1-3] On January 16, 1979, on its own motion the New Hampshire Public Utilities Commission instituted a rule-making procedure for the purpose of considering amendments to Section III, Par 4, rules and regulations prescribing standards for electric, gas, water, and telephone utilities relative to consumer deposits. On January 17, 1979, an order of notice issued providing for a hearing to be held at the office of the commission on March 8, 1979, at 10:00 A.M. Said order provided that all interested parties may present their views at said hearing.

This proceeding conforms to the requirements of RSA 541-A et seq. and implements § 113, subparagraph b(4), and subparagraph c of the Public Utility Regulatory Policies Act of 1978.

On March 8, 1979, a duly advised public hearing was held in Concord.

The commission staff submitted the following provisions to the commission for consideration;

a. A utility can no longer arbitrarily demand a deposit before new service is given. Just cause must be shown.

b. A utility may, when conditions justify, require a deposit as a condition to maintain existing service, not solely as a provision to provide new service.

c. The minimum deposit requirement is increased to $10. The present minimum is $5.

d. A utility shall be required to maintain detailed records of deposits.

e. In lieu of a cash deposit, a customer would have an opportunity to provide some alternate

written guarantee of a responsible party as a surety for his account.

The above proposed rule was advertised and mailed to all the affected utilities and consumer groups. The following comments from those groups and recommendations by staff were received by the commission:

The Community Action Program proposed an amendment which would distribute the payment of a deposit over twelve consecutive months. It also provides that delinquent accounts themselves should be prorated on over twelve consecutive months. If we allow the deposit itself to be prorated, we will be destroying the very purpose for which the deposit was intended; i.e., to protect a company against losses resulting from a customer's failure to pay his future bills. If we allow the prorating of delinquent accounts themselves over twelve months, we will be imposing precise payment arrangements contrary to and more liberal than the intent of our existing termination procedures. Those procedures provide that all current bills must be paid within thirty days and the balance in reasonable installments depending on various considerations which the rules themselves define. The staff recommends disapproval of both Community Action Program proposals.

The New England Telephone Company generally agreed with each condition of our proposal. The company's concern for separation between residential and nonresidential rules is supported by testimony of other companies. The staff recommends that the commission make that separation. It requested that the commission give consideration to a nationwide credit study which the Bell system has recently conducted. Staff respects the effort that the Bell system has made in its study and recommends that, should additional changes to these rules be necessary in the future, that the commission give serious consideration to adoption of these recommended procedures at that time.

The New Hampshire Telephone Association requested that we revise Section III, 4a(1) to enable one utility to consult with another utility regarding a customer's previous account. Their request is similar to one made by attorney Franklin Hollis and will be addressed hereafter in this report. Staff recommends that the commission accept their proposal. The New Hampshire Telephone Association also recommends that the commission eliminate the words "whichever occurs first" in Section III, 4c(2). Staff recommends approval of this proposal.

The Granite State Electric Company requested that the responsibility for returning a deposit be placed on the customer instead of on the company and that the customer ask to have the deposit returned. The staff recommends the commission deny that proposal on the basis that it is the company's responsibility to maintain its own records and accounts. The company would also like to retain a deposit for one month after termination of service to allow clearance of a final payment through the banks. Staff recommends approval of that provision.

Representative Crory recommended that we insert the interest rate in the rules and regulations and increase that rate over the current 6 per cent used by utilities. Staff recommends adoption of both of those recommendations. Staff takes notice of the fact that the gas companies under commission jurisdiction provide an 8 per cent annual interest rate on excess revenues collected in their cost-of-gas adjustment. Staff also takes notice of the fact that this commission

has recently allowed customer deposits in the capital structure. Staff recommends that the commission adopt a new 8 per cent annual interest rate to be applied to consumer deposit.

Representative Crory also proposed a change in Section III, 4b(1) to allow four

disconnect notices before a deposit is imposed. Staff advises that the change would be contrary to the intent of deposit requirement and recommends denial of that amendment on the same basis that staff recommends denial of the Community Action Program proposal.

Representative Crory also proposed an amendment which would set the limit of the amount of the deposit to no more than two-twelfths of the reasonably estimated charge for service for a period of twelve months. Staff advises that this change would be contrary to the intent of a deposit. In order to be an effective safeguard against nonpayment, a deposit must be equal in amount to a reasonable approximation of a customer's highest bill. Anything less would not provide the necessary protection. In the case of a telephone bill, which on a monthly basis is reasonably stable, Representative Crory's proposal would be satisfactory. In the case of an electric or gas heating customer, however, bills can vary from near zero in the summer to hundreds of dollars in the winter. An average of those monthly bills would not provide the necessary deposit protection. In order to treat all customers equally, staff recommends that the commission deny the proposal. Staff recommends, instead, adoption of Mr. Hollis' use of the words "two high-use months" except that no utility will be allowed to use the single highest usage month in this determination. Staff recommends that the commission include a proviso to that effect.

Gas Service, Inc., proposed changes to Section III, 4b(2) eliminating the annual crediting of interest. Staff recommends adoption of the proposal so that deposits "shall be credited with simple annual interest upon the service account of the customer and paid upon the refund of deposit." They also recommend elimination of the entire section entitled "guarantees in lieu of deposits." Staff originally proposed that guarantee to provide an opportunity for a customer to present a bank letter of credit or similar guarantee to enable the use of other identifiable assets instead of drawing on additional cash assets. Staff recommends denial of the company's proposal.

Franklin Hollis, on behalf of Concord Electric Company, Exeter and Hampton Electric Company, and Northern Utilities, Inc., offered a number of proposals. Staff endorses his recommendation that the rules apply only to residential customers on the basis of his testimony that the risk involved in consideration of a commercial account is much greater than that of a residential account and, therefore, necessitates more liberal deposit requirements. Staff endorses his proposal that the company be allowed to check with another utility company for a check of credit except that in lieu of the words "any utility," staff recommends the adoption of the words "any similar type of utility."

Mr. Hollis recommends the inclusion of a new Section III, 4e to provide for a deposit when a lease is of indefinite duration or less than one year. Staff envisions no situation in which the company can anticipate whether or not a customer is truthfully stating the intended duration of his lease. Staff cannot accept his concern that it will resolve the problem of the deceitful

customer. Staff recommends denial of the proposal.

Mr. Hollis proposes an addition to Section III, 4b(1), adding a provision that two consecutive disconnect notices will qualify for a cash deposit. Staff finds that unnecessarily restrictive. In order for a customer to receive a second consecutive disconnect notice, he must have paid, albeit belatedly, the arrears on his

first disconnect notice. The company suffers no substantial accumulative revenue deficiency and is unnecessarily burdened only by the additional administrative effort needed to make the belated collection. Staff recommends disapproval of that proposal.

In response to a need for clarification of Section III, 4a(1)(a) to assure that an unpaid bill is undisputed before a deposit is required, staff proposes revised wording to that section. Staff recommends changing the wording to require that unpaid prior bills must be paid at least thirty days before the date of the new application in order to prevent a customer who has deliberately left an old bill unpaid for a period of years from simply paying the old bill and getting new service without a deposit.

Mr. Ransmeier, representing Hampton Water Works, addressed the need to reflect the varied billing periods of water companies. Staff concurs that such a distinction should be made and recommends adoption of Mr. Hollis' submission in Section III, 4d(2)(a) in that regard.

Staff recommends denial of Mr. Hollis' proposal relative to "definition," in which includes not only the individual in whose name the account is requested, but also any other individual who is a member of that household. The company's contract is with the customer of record who applies for service. Existing tariff provide that service can be denied to any customer when that service is to be for the benefit of another past customer who is indebted to the company. There is no additional need for this definition.

Mr. Hollis made revisions to Section III, 4b(3), relating to the manner in which refunds are made. Staff recommends adoption of that portion of his revision which allows that, with the agreement of the customer, deposits may be applied against an outstanding account. Staff disagrees with the need for extending, for a period of sixty days after termination, the payment of any remaining deposit, having earlier concurred with the need for a 30-day extension.

Mr. Hollis also suggests a new provision, entitled Section III, 4d, "Special Cases," whereby a guarantee or deposit may be required in a particular case if approved by the commission. Staff recommends adoption of that paragraph.

Staff submits neither the original proposal nor any proposed amendments by participants addressing the need for a stated appeal provision whereby customers may bring disputed deposits requests before the commission. Appeal opportunities have, in fact, always existed for customers regarding deposits. Accordingly, staff recommends adoption of a new Section III, 4f, to properly document that procedure.

Finally, in his written response of March 12, 1979, Mr. Hollis suggests a new paragraph Section III, 4d, "Discrimination," explaining that it is an inclusion of an original provision of HB 151 with changes: (1) preserving the right to use utility credit records, (2) limiting it to

residential customers, and (3) providing an age limitation of eighteen years of age. The staff agrees with the concept and has made certain wording changes to clarify the section. This supports provision originally made by Representative Crory in HB 151.

Upon consideration of all the comments, recommendations, statements, testimony, and exhibits presented to the commission, an order will issue amending and supplementing Section III, 4 of the rules and regulations prescribing standards for electric, gas,

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telephone, and water utilities. The commission shall advise the staff to analyze the effect and impact of the rule as adopted and, if necessary, report to the commission six months after the effective day hereof.

Order

Whereas, the commission in the exercise of its general rule-making powers pursuant to RSA 365:8 and in accordance with RSA 541-A and to implement § 113, subparagraph b (4) of the Public Utility Regulatory Policies Act of 1978, and after a public hearing held on March 8, 1979, at Concord; it is

Ordered, that Section III Service Provision 4, Deposits, of Rules II, III, IV, and V prescribing standards for electric, telephone, gas, and water utilities of the New Hampshire Public Utilities Commission rules attached hereto as adopted; and it is

Further ordered, that existing Section III, 4, of Rules II (electric), III (telephone), IV (gas), and V (water) of the New Hampshire Public Utilities Commission Rules is hereby revoked effective as of the date of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of March, 1979.

Rules and Regulations

Prescribing Standards for Electric Utilities

III. Service Provisions

4. Deposits

a. A utility, to protect against loss, may require a satisfactory cash deposit or other guarantee as a condition of new or continuing service. However, for residential consumers of utility service, such deposit or guarantee may be required only as provided below:

(1) *New Service*. For new residential service a utility may require a cash deposit or other guarantee only when:

(a) The customer has had a prior utility service account with any similar type of utility within the last six years, which, within thirty days remains unpaid but undisputed, or prior to the date of the application; or

(b) Any utility has successfully obtained a judgment against the customer during the past two years for nonpayment or a delinquent account for utility service; or

(c) Any similiar type utility has disconnected the customer's service within the last six years because the customer interfered with, or diverted, the service of the utility situated on or about the customer's premises; or

(d) The customer has requested short-term service — i.e., service for a time period of less than twelve consecutive months — provided, however, that if the customer has not been delinquent in his/her utility accounts for a period of six months prior to application for service, no deposit may be required.

(2) *Existing Service*. For existing residential service, a utility may require a cash deposit or other guarantee only when:

(a) The customer, when billed monthly has had four disconnect notices for nonpayment, when billed bimonthly has had three disconnect notices, when billed quarterly has had two disconnect notices, each within a 12-month period; or

(b) The service of the customer has been discontinued for nonpayment or a delinquent account; or

(c) A utility has disconnected the

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customer's service because the customer interfered with, or diverted, the service of the utility situated on, or delivered on or about, the customer's premises.

b. *Deposit Conditions*. A cash deposit required pursuant to these rules, is subject to the following terms and conditions:

(1) No deposit shall be less than $10 nor more than the estimated charge for utility service for a period of two high-use months. The highest-use month will not be used in determining the amount of deposit.

(2) Interest shall be payable by the utility on all deposits held six months or more at the rate of 8 per cent annually and shall be credited with simple annual interest upon the service account of the customers and paid upon the refund of deposit.

(3) Deposits, plus accrued interest thereon, less any amount due the company, shall be refunded (a) within thirty days of termination of service, or (b) when all bills have been paid without delinquency for twelve consecutive months for a residential customer, and thirty-six consecutive months for a nonresidential customer; provided, however, with the agreement of the customer, deposits on continuing account may be applied against an account until the balance of the deposit is exhausted. When a deposit is applied against an account which has been terminated, interest shall cease to be accumulated on the balance at the date of termination, and the balance shall be returned promptly to the customer.

(4) A utility shall maintain a detailed record of all deposits received from customers, showing the name of the customer, location of the service, date of the making and amount of the deposit, the amount of interest and date paid as well as a record of any amount retained by the utility upon termination to settle a delinquent account.

(5) A utility shall provide each customer posting a cash deposit a receipt containing, as a minimum, the customer's name, the place, the date and amount of payment; the name and signature of the employee receiving the deposit; and a statement of the terms and conditions governing the receipt, retention, and refund of deposits.

c. *Guarantees in Lieu of Deposits*. In lieu of a cash deposit allowed by these rules, a utility shall accept the irrevocable written guarantee of a responsible party as a surety for a customer service account, provided that:

(1) The guarantee shall be in writing.

(2) The guarantee shall state all its terms, including the maximum amount guaranteed, and shall specify that the utility shall not hold the guarantor liable for the sums in excess thereof unless agreed to in a separate written agreement.

(3) Credit shall be established for a customer and the guarantor shall be released from liability when all bills have been paid without delinquency for twelve consecutive months for a residential customer, and thirty-six consecutive months for a nonresidential customer.

d. *Special Cases*. A deposit or guarantee may be required in a particular case in such amount and for such period of time as may be approved by the commission.

e. *Discrimination*. A utility shall not require a residential customer to make a cash deposit or furnish a guarantee as a condition of new or continued service based upon income, home ownership, residential location, race, color, creed, sex, marital status, age over 18, national origin, and shall make such requirement only as otherwise provided in this section.

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f. *Appeals*. Disputes arising from the provisions of this section may be referred to commission staff for resolution. Service terminations resulting from the enforcement of this section shall be delayed pending that commission determination.

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NH.PUC*03/30/79*[78258]*64 NH PUC 64*Pembroke Water Works

[Go to End of 78258]

Re Pembroke Water Works

DR 79-1, Order No. 13,556

64 NH PUC 64

New Hampshire Public Utilities Commission

March 30, 1979

PETITION for tariff amendments; granted in part.

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1. SERVICE, § 191 — Connection charges — Subsidization.

[N.H.] The commission permitted a water company to increase its service connection charges where the company testified that increased materials and construction costs resulted in connection charges which were currently below actual costs, and that existing customers were subsidizing new customers. p. 65.

2. WATER, § 12 — Line installation — Tariff revisions.

[N.H.] The commission denied a water utility's request for tariff revisions which would preclude developers from installing their own water distribution lines, since it found that such a restriction was not in the best interest of the consumers. p. 65.

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APPEARANCES: Maurice L. Lavoie, chairman, Board of Water Commissioners for the petitioner; Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On December 22, 1978, Pembroke Water Works, a municipal company regulated as a public utility to supply water service to the towns of Pembroke, Allenstown, and Hooksett, filed a petition to make certain changes to its tariff, NHPUC No. 1 — Water. The proposed changes (1) increased the connection charges for new service installations and (2) prohibited developers from bidding on waterworks contracts in their developments.

The petition was suspended by commission Order No. 13,463 dated January 10, 1979.

Notice of a public hearing was issued on January 15, 1979. Such notice duly appeared in a newspaper having general circulation in the area on January 11, 1979. The public hearing was held at the offices of the commission in Concord, 8 Old Suncook Road, Building No. 1, at 10:00 A.M. on February 28, 1979.

Application for Service

[1] The company proposes to revise its Fourth Revised Page No. 4 to increase the cost of a three-fourths inch service connection charge to $165 from its present $135. The connection charge for a one-inch service will increase to $190 from $150. The company noted increased construction and materials costs as being responsible for the needed increase. It testified that the current connection charges were significantly below actual costs and that the difference was being charged to other ratepayers not benefiting from the construction. The company submitted as petitioners' Exh No. 1 reflecting that the actual cost for a one-inch service is $192.27 and that the actual costs for three-fourths service is $172.03. They testified that although there is still some subsidization, they are attempting to reflect more closely those actual construction costs. The company testified that the Board of Water Commissioners had approved the increased connection charges for its own municipal customers. Customers beyond the municipal boundaries of the town of Pembroke will, by our approval of this tariff page, be treated in the

same manner as the municipal customers.

We accept the calculations in the company's exhibit and find the increased connection charges to be more truly reflective of actual costs and in the best interests of all customers.

Main Installations

[2] The company proposes to change its Fifth Revised Page No. 13 to prohibit a developer from installing water distribution lines in its own development. It testifies to two problems: (1) developers are frequently unqualified to properly follow good water construction procedures, and (2) the bids submitted by developers frequently do not reflect all costs necessary for construction and, therefore, provide them an unfair advantage over other interested contract bidders.

The company currently uses the system of bidding to notify interested contractors of upcoming projects. They do not specify in the bids the specific considerations necessary to properly

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define the work the contractor is prepared to do. Current bidding practice also provides no professional requirements by which a contractor can be evaluated as to his capability to satisfactorily perform construction work.

The company testified that costs for construction are borne by the developer. We are certain that those costs are ultimately borne by the home purchaser who soon becomes the water ratepayer.

It is, in our judgment, in the best interests of the ratepayer to assure that the company adopt bidding practices which will assure the best possible construction procedures at the lowest possible cost. Accordingly, we find that precluding a developer for bidding on his own project is not in the best interests of the customer. The company has the opportunity, by revising its bidding procedures, to assure that both bidding inequities and poor installation practices are prevented by revising those practices to specifically indicate its needs. We will disapprove the company's proposed Fifth Revised Page No. 13 and direct that they submit a new Sixth Revised Page No. 13, issued in lieu of Fifth Revised Page No. 13, deleting the last provision of that page, "The developer shall not be eligible to bid for said contract."

Our order will issue accordingly.

Order

Upon consideration of the foregoing report which is made a part hereof; it is

Ordered, that the town of Pembroke tariff, NHPUC No. 1 — Water, Fifth Revised Page No. 4, is approved; and it is

Further ordered, that the town of Pembroke tariff, NHPUC No. 1 — Water, Fifth Revised Page No. 13, is disapproved for the reasons set forth in the attached report; and it is

Further ordered, that the town of Pembroke tariff, NHPUC No. 1 — Water, Fifth Revised Page No. 13, issued in lieu of Fifth Revised Page No. 13, reflecting the changes noted in the

attached report; and it is

Further ordered, that Fifth Revised Page No. 4 shall become effective on or after the date of this order; and it is

Further ordered, that Sixth Revised Page No. 13 shall become effective upon receipt by this commission, unless otherwise directed; and it is

Further ordered, that the public be given appropriate notice and that a copy of such notice be furnished to this commission accompanied by affidavit notification.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of March, 1979.

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NH.PUC*04/02/79*[78260]*64 NH PUC 73*Pennichuck Water Works

[Go to End of 78260]

Re Pennichuck Water Works

DF 79-46, Order No. 13,559

64 NH PUC 73

New Hampshire Public Utilities Commission

April 2, 1979

PETITION of water utility for authority to issue and sell unsecured notes; granted.

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1. SECURITY ISSUES, § 58 — Purposes of capitalization — Additions and betterments.

[N.H.] The commission authorized the issuance and sale of unsecured notes where it found that the proceeds of the sale would be used to finance a facility required by federal law and that any excess amount would be used for debt service. p. 73.

2. SECURITY ISSUES, § 112 — Sale of securities — Competitive bidding.

[N.H.] The commission authorized the issuance and sale of unsecured notes without competitive bidding where the utility asserted its belief that the negotiated loan had been made on the most favorable terms available. p. 74.

APPEARANCES: John B. Pendleton for the petitioner; and H. Philip Howorth for the city of Nashua.

BY THE COMMISSION:

Report

[1] By this unopposed petition, filed March 7, 1979, Pennichuck Water Works (the

"company"), a corporation duly organized and existing under the laws of the state of New Hampshire, and operating therein as a water public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369:1, 369:3, and 369:4 to issue and sell for cash not exceeding $7 million its unsecured notes.

At the hearing on the petition, held in Concord on March 23, 1979, the company submitted that it plans to place this note with the Provident National Bank of Philadelphia as the prime lender, and they have agreed to a commitment of up to $4 million of the total funds required. New England Merchants National Bank of Boston has agreed to loan up to $3 million; Indian Head National Bank of Nashua, up to $1 million; and Bank of New Hampshire, N.A., up to $1 million of the additional funding necessary.

The lending institutions have agreed to advance the moneys from time to time as construction needs require over a maximum construction period of twenty-seven months. Between the end of the 27-month period and the forty-fifth month, any unused portion of the $7 million may be used to satisfy debt service on the loan. The maximum term of the loan will be for a period of forty-five months at the conclusion of which the company shall have made arrangements for and obtained permanent financing.

Proceeds from the loan will be used to

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finance the cost of a water treatment facility which is required by the Federal Safe Drinking Water Act, together with rules and regulations promulgated by the Environmental Protection Agency and the New Hampshire Water Supply and Pollution Control Commission.

[2] The company asserted its belief that the negotiated loan had been made on the most favorable terms available under the present conditions prevailing in today's money markets.

The company submitted a balance sheet as of December 31, 1978, actual and pro formed in two stages to reflect the effect of the plant construction at the end of two periods. (It is anticipated that construction will be completed within a two-year period.) In addition, exhibits were also submitted showing: pro formed income statements; source and disposition of the proceeds; estimated expenses of the financing; statement of capitalization ratios at December 31, 1978; and pro formed to include the construction loan; interest coverages; and commitment letters from the four banks that were addressed earlier in this report.

Mr. H. Philip Howorth, Esquire, corporation counsel for the city of Nashua, entered an appearance and stated for the record that the city agrees with the need for the plant, that they are interested in receiving an adequate supply of water, and desire the company to remain in a strong position with rates as low as possible. He also submitted a map as an exhibit which reflected 575.4 acres of land which is presently owned by the company.

Upon investigation and consideration, the commission is satisfied that the proceeds from the proposed financing will be expended (1) to finance the construction of a water treatment facility and (2) to the to the extent that the cost of construction is less than $7 million, for debt service on the loan itself, and finds that the issue of these unsecured notes for the purposes as heretofore stated will be consistent with the public good. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Pennichuck Water Works be, and hereby is, authorized to issue and sell for cash not exceeding $7 million its unsecured note; and it is

Further ordered, that the proceeds from the sale of this note shall be used to finance the construction of a water treatment facility and to the extent that the cost of construction is less than $7 million, for debt service on the loan itself; and fit is

Further ordered, that on January 1st and July 1st in each year, Pennichuck Water Works shall file with this commission a detailed statement, duly sworn by its financial vice president or its treasurer, showing the disposition of the proceeds of said note being authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this second day of April, 1979.

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NH.PUC*04/02/79*[78261]*64 NH PUC 75*Municipal Electric Department of Wolfeboro

[Go to End of 78261]

Re Municipal Electric Department of Wolfeboro

I-R 14,821, Supplemental Order No. 13,562

64 NH PUC 75

New Hampshire Public Utilities Commission

April 2, 1979

PETITION seeking optional time-of-use and time-of-day rates; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, the Municipal Electric Department of Wolfeboro has filed optional time-of-day rates for residential service, as required by commission Order No. 13,454, dated December 29, 1979; it is

Ordered, that Original Pages 24, 25, 26, and 27 of tariff, NHPUC No. 5 — Electricity, filed for effect May 1, 1979, by the Municipal Electric Department of Wolfeboro be, and hereby are, permitted to become effective, as filed, on May 1, 1979.

By order of the Public Utilities Commission of New Hampshire this second day of April, 1979.

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NH.PUC*04/03/79*[78262]*64 NH PUC 75*Eastman Water Company

[Go to End of 78262]

Re Eastman Water Company

DF 79-44, Order No. 13,564

64 NH PUC 75

New Hampshire Public Utilities Commission

April 3, 1979

PETITION for authority to issue capital stock and long-term notes; granted.

SECURITY ISSUES, § 58 — Purpose of capitalization — Addition to plant.

[N.H.] The commission authorized a water utility to issue shares of its common stock in consideration for conveyance to it of 10 per cent of the value of water facilities; to issue notes in consideration for conveyance to it of 20 per cent of the value of the facilities; and the remaining 70 per cent of the value of the project to be treated as a contribution to capital.

APPEARANCES: Peter B. Rotch for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed March 6, 1979, Eastman Water Company, a corporation duly organized under the laws of the state of New Hampshire, operating as a public water utility in limited areas in the towns of Enfield, Grantham, and Springfield, seeks authority, pursuant to the provisions of RSA 369, to issue 18,867 shares

of its common capital stock, $5 par value, and to issue long-term notes in the amount of $188,670. The consideration for the securities to be issued will be the conveyance of completed water utility facilities, at actual cost, on the following basis:

a. Common capital stock for 10 per cent of the value of said facilities;

b. A promissory note payable in five years with interest at the rate of 9.5 per cent per annum for 20 per cent of the value of said facilities;

c. A contribution to the capital of the petitioner for 70 per cent of the value of said facilities.

A hearing was held on the petition on March 29, 1979.

The procedure for capitalizing the amount was detailed to this commission in D-E6374. The petitioner filed copies of appropriate votes, a pro forma balance sheet, and listings of the

facilities to be transferred. The facilities to be transferred are mainly comprised of 55,325 feet of four-inch PVC-installed pipe.

Upon consideration of the evidence submitted, this commission finds that the issuance of common capital stock and promissory notes, upon the terms proposed, is consistent with the public good. Our order, authorizing the issuance of the petitioner's common capital stock and long-term notes, will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Eastman Water Company be, and hereby is, authorized to issue 18,867 shares of its common capital stock, par value $5, in consideration for conveyance to it of 10 per cent of the value of the said water facilities; and it is

Further ordered, that Eastman Water Company be, and hereby is, authorized to issue its promissory notes payable, payable in five years, with interest at the rate of 9.5 per cent per annum, in the amount of $188,670 in consideration for the conveyance to it of 20 per cent of the value of said water facilities; and it is

Further ordered, that Eastman Water Company be, and hereby is, authorized to accept as a contribution to its capital the conveyance to it of 70 per cent of the value of said water facilities, all in accordance with terms and conditions set forth in the petition and as presented at the hearing; and it is

Further ordered, that this commission, after investigation and consideration, finds that the granting of this petition is consistent with the public good; and it is

Further ordered, that Eastman Water Company shall file with this commission, within ninety days after the issuance of the securities, a detailed balance sheet, duly sworn to by its treasurer, showing the conveyance of the water facilities and the issuance of the securities.

By order of the Public Utilities Commission of New Hampshire this third day of April, 1979.

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NH.PUC*04/03/79*[78263]*64 NH PUC 77*New Hampshire Department of Public Works and Highways

[Go to End of 78263]

Re New Hampshire Department of Public Works and Highways

I-T 14,828, Order No. 13,566

64 NH PUC 77

New Hampshire Public Utilities Commission

April 3, 1979

PETITION to exempt vehicles from rule requiring them to stop at a crossing; granted.

CROSSINGS, § 71 — Discontinued use — Exempt signs.

[N.H.] Where rail operations over a spur track had been discontinued, the commission permitted the erection of "exempt" signs at the track's crossing in order to eliminate the necessity for certain vehicles to stop before proceeding over the crossing.

BY THE COMMISSION:

Order

Whereas, a grade crossing exists at the intersection of New Hampshire Route 155 and the spur track of the Boston and Maine Corporation leading to the former gravel bank in Madbury; and

Whereas, rail operations over this spur track have been discontinued; and

Whereas, the said crossing is protected by flashing lights; and

Whereas, under present circumstances motor vehicles carrying inflammable or dangerous commodities are required to stop before proceeding over the crossing, thus creating an unnecessary hazard to highway traffic; it is

Ordered, that pursuant to the provisions of RSA 262-A:47 III, the New Hampshire Department of Public Works and Highways be, and hereby is, authorized to erect and maintain standard "exempt" signs on the masts which support the advance warning discs at each approach to the grade crossing at the intersection of the gravel bank spur track and New Hampshire Route 155 in the town of Madbury to eliminate the necessity for stopping certain vehicles before proceeding over the same.

By order of the Public Utilities Commission of New Hampshire this third day of April, 1979.

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NH.PUC*04/03/79*[78264]*64 NH PUC 77*Legislative Utility Consumers' Council

[Go to End of 78264]

Re Legislative Utility Consumers' Council

DE 78-99, Order No. 13,567

64 NH PUC 77

New Hampshire Public Utilities Commission

April 3, 1979

PETITION seeking dismissal of proceeding; denied.

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BY THE COMMISSION:

Order

Whereas, the merits of this proceeding were considered and determined by the commission in DR 78-135; it is

Ordered, that the petition filed in this docket be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this third day of April, 1979.

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[Go to End of 78265]

Re Revision of Overhead Line Extension Policies

DE 79-29, Supplemental Order No. 13,570

64 NH PUC 78

New Hampshire Public Utilities Commission

April 6, 1979

PETITION seeking revision of overhead line extension policies; suspended pending commission investigation.

BY THE COMMISSION:

Supplemental Order

Whereas, Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 30, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Electricity, providing for a new line extension rate, effective May 1, 1979; and

Whereas, it appears to the commission that the rights and interest of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that First Revised Page 11-B, Second Revised Pages 12 and 13, and Fourth Revised Page 1 of tariff, NHPUC No. 6 — Electricity, of Concord Electric Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this sixth day of April, 1979.

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[Go to End of 78266]

Re Revision of Overhead Line Extension Policies

DF 79-29, Second Supplemental Order No. 13,571

64 NH PUC 79

New Hampshire Public Utilities Commission

April 6, 1979

PETITION seeking revision of overhead line extension policies; suspended pending commission investigation.

BY THE COMMISSION:

Supplemental Order

Whereas, Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 30, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 11 — Electricity, providing for a new line extension rate, effective May 1, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that First Revised Pages 13 and 14, and Second Revised Page 12 of tariff, NHPUC No. 11 — Electricity, of Exeter and Hampton Electric Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this sixth day of April, 1979.

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NH.PUC*04/06/79*[78267]*64 NH PUC 79*Manchester Water Works

[Go to End of 78267]

Re Manchester Water Works

DE 79-80, Order No. 13,574

64 NH PUC 79

New Hampshire Public Utilities Commission

April 6, 1979

PETITION of water utility for authority to redefine its service area; granted.

CERTIFICATES, § 134 — Franchise area — Redefinition.

[N.H.] The commission authorized a water company to redefine its franchise area to include an area to be served under its regularly filed tariff.

BY THE COMMISSION:

Order

Whereas, Manchester Water Works, a water public utility operating under the jurisdiction of this commission, by a petition filed March 29, 1979, seeks authority under RSA 374:22 and 26 as amended, to redefine its franchise area in the town of Bedford; and

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Whereas, no other water utility has franchise rights in the area sought, and the petitioner submits that the area will be served under its regularly filed tariff; and

Whereas, the board of selectmen, town of Bedford, has stated that it is in accord with the petition; and

Whereas, after investigation and consideration, this commission is satisfied that the granting of the petition will be for the public good; it is

Ordered, that Manchester Water Works be, and hereby is, authorized to redefine its franchise area in the town of Bedford to include the area herein described, and as set forth on a map on file in the commission offices, as follows:

"An area bounded by existing franchise limits along the westerly side of South River road, from Kilton road southerly to the northerly most line of Route 101 as granted by the public utility commission by Order No. 6644 and DE 3428 (1955), on the south by the northerly most line of Route 101, from South River road westerly to a point that is in direct line with the westerly most franchise limit for Kilton road, as granted by the public utilities commission by Order No. 12,419 and DE 76-125 (1976), on the north and west to the point of beginning, by all existing franchise limits south of the south line of Kilton road as granted by the public utilities commission by Order No. 12,419 and DE 76-125 (1976);" and for these purposes to construct and maintain the necessary lines and apparatus.

By order of the Public Utilities Commission of New Hampshire this sixth day of April, 1979.

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NH.PUC*04/16/79*[78268]*64 NH PUC 80*Francestown Electric and Water Company

[Go to End of 78268]

Re Francestown Electric and Water Company

DR 78-62, Supplemental Order No. 13,586

64 NH PUC 80

New Hampshire Public Utilities Commission

April 16, 1979

PETITION seeking rate increase; rejected as utility previously authorized to discontinue operations.

BY THE COMMISSION:

Supplemental Order

Whereas, Francestown Electric and Water Company, a public utility engaged in the business of supplying water service in the state of New Hampshire, on May 5, 1978, filed with this commission certain revisions to its tariff, NHPUC No. 3 — Water, providing for an increase in rates; and

Whereas, said filing was suspended by commission Order No. 13,143, dated May 17, 1978; and

Whereas, said utility subsequently petitioned the commission on June 5, 1978, to discontinue operations as a utility, such authorization being granted on August 1, 1978, under docket DE 78-97

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by Order No. 13,254, dated August 1, 1978; it is

Ordered, that Second Revised Page 6 of tariff, NHPUC No. 3 — Water, be, and hereby is, rejected.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of April, 1979.

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NH.PUC*04/16/79*[78269]*64 NH PUC 81*Public Service Company of New Hampshire

[Go to End of 78269]

Re Public Service Company of New Hampshire

DF 79-28, Supplemental Order No. 13,587

64 NH PUC 81

New Hampshire Public Utilities Commission

April 16, 1979

PETITION of utility for authority to issue and sell preferred stock; continued.

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1. SECURITY ISSUES, § 27 — Preferred stock — Specification of dividend rate.

[N.H.] As a condition of its granting authorization for a sale of preferred stock, the commission required that the utility provide the commission with information concerning the dividend rate applicable to the sale. p. 81.

2. SECURITY ISSUES, § 11 — Preferred stock — Proceeds.

[N.H.] The commission required that the proceeds from the sale of preferred stock be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of the company. p. 81.

BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 13,519, dated March 19, 1979, issued in the above entitled proceeding, authorized Public Service Company of New Hampshire, inter alia, to issue and sell not exceeding $30 million in par value of preferred stock; and

Whereas, Order No. 13,519 did not address the commission's required approval of the dividend rate applicable to this proposed offering; it is

[1] Ordered, that Public Service Company of New Hampshire shall submit to this commission, in addition to the number of shares of preferred stock sold and the purchase price thereof, the dividend rate applicable to this issue. Following this required submission, a further supplemental order will issue approving the terms of the issue and sale of the securities, including the number of shares of preferred stock and the price thereof and dividend rate thereon; and it is

[2] Further ordered, that the proceeds from the sale of said preferred stock shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of said company, and for other lawful corporate purposes; an it is

Further ordered, that all other provisions of said Order No. 13,519 of this commission are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of April, 1979.

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NH.PUC*04/17/79*[78270]*64 NH PUC 82*Exeter and Hampton Electric Company

[Go to End of 78270]

Re Exeter and Hampton Electric Company

DR 79-91, Order No. 13,588

64 NH PUC 82

New Hampshire Public Utilities Commission

April 17, 1979

PETITION seeking electric rate increase; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 13, 1979, filed with this commission its tariff, NHPUC No. 13 — Electricity, providing for increased rates in the amount of $502,965 (3.5 per cent), effective May 14, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that tariff, NHPUC No. 13 — Electricity, of Exeter and Hampton Electric Company, be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of April, 1979.

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NH.PUC*04/18/79*[78271]*64 NH PUC 82*New Hampshire Electric Cooperative, Inc.

[Go to End of 78271]

Re New Hampshire Electric Cooperative, Inc.

DE 78-232, DE 78-233, Order No. 13,589

64 NH PUC 82

New Hampshire Public Utilities Commission

April 18, 1979

ORDER setting rates for sale of power by limited electrical energy producers.

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1. PROCEDURE, § 15 — Proceedings — Scope.

[N.H.] The chairman, by statement at the commencement of the hearing, enlarged the scope of the proceeding from a consideration of incremental cost to an analysis of all elements of cost relating to power purchases. p. 84.

2. RESEARCH, development, and demonstration — Cogeneration — Legislative intent.

[N.H.] The commission found that the intent of both the United States Congress and the state

legislature was to encourage the development of power from small-scale or alternative energy sources. p. 86.

3. DEFINITIONS — Incremental cost.

[N.H.] For purposes of implementing statutes requiring the commission to foster the development of cogeneration, the commission refused to adopt a narrow definition of incremental cost (i.e., present average incremental costs) and required the total cost per kilowatt-hour from the next plant to be built also to be considered. p. 86.

4. EXPENSES, § 39 — Cogenerated power — Price.

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[N.H.] In setting prices to be paid by utilities for cogenerated powers, the commission distinguished between those producers providing capacity and energy and those providing only energy. p. 87.

5. EVIDENCE, § 3 — Judicial notice — Annual reports.

[N.H.] The commission judicially noticed annual report's of electric utilities. p. 88.

6. EXPENSES, § 39 — Cogenerated power — Price.

[N.H.] The commission found that on the basis of state law and the Public Utility Regulatory Policies Act, the projected cost of a utility's next major generating facility, the present cost of existing capacity, and the absence of federal regulations, 4.5 cents per kilowatt-hour was a reasonable price for utilities to pay cogenerators which supply both capacity and energy and that four cents per kilowatt-hour is a reasonable price for these plants supplying only energy. p. 88.

7. PROCEDURE, § 32 — Reexamination of issues — Cogeneration.

[N.H.] The commission held that its order providing prices for cogenerated electricity would be reexamined after the promulgation of federal regulations. p. 89.

APPEARANCES: John Pillsbury, manager, and Mayland H. Morse, Jr., for the New Hampshire Electric Cooperative, Inc.; Philip Ayers for Public Service Company of New Hampshire; Eugene S. Daniell, Jr., for Wards 2 and 3, Franklin; Robert Rowe for Franklin Falls Hydro-Electric Corporation; Harold T. Judd and Larry Eckhaus for the Legislative Utility Consumers' Council; Diana Carroll for the League of Women Voters of the state of New Hampshire.

BY THE COMMISSION:

Report

On December 19, 1978, this commission issued Order No. 13,433 in DE 78-232 and Order No. 13,444 in DE 78-233 directing New Hampshire Electric Cooperative, Inc. (hereinafter referred to as "the cooperative"), and Public Service Company of New Hampshire (hereinafter referred to as "Public Service") respectively, to develop and be prepared to present testimony in the above entitled matter at a hearing to be scheduled by the commission. On December 27, 1978, the commission ordered that such hearing be held at its office in Concord, on February 7,

1979. Said hearing was held following proper public notice. Additional hearings were held on March 7 and March 19, 1979.

Chapter 362-A, a newly enacted statute approved on June 22, 1978, with an effective date of August 22, 1978, specifies that:

"Producers of electrical energy, not involving the use of nuclear or fossil fuels, with a developed output capacity of not more than five megawatts shall not be considered as public utilities and shall be exempt from all rules, regulations, and statutes applying to public utilities."

It further specifies that:

"The entire output of electric energy of such limited electrical energy producers, if offered for sale, shall be purchased by the electric public utility which serves the franchise area in which the installations of such producers are located"; and finally specifies:

"Public utilities purchasing electrical energy in accordance with the provisions of this chapter shall pay a price per kilowatt-hour to be set from time to time by the public utilities commission."

Following the enactment of this statute and in anticipation of the commission's involvement in this matter, the commission's staff verified the fact that both the cooperative and Public Service were buying power from small hydro

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producers at an interim rate pending passage of the statute and commission determination of a price. The cooperative is buying energy from Goodrich Falls Hydro-Electric Corporation (hereinafter referred to as "Goodrich Falls") at Bartlett, and Public Service is buying from the Franklin Falls Hydro-Electric Corporation (hereinafter referred to as "Franklin Falls") at Franklin, New Hampshire. Both contracts result in a price to be paid of approximately two cents per kilowatt-hour.

Public Service's contract is based on the cost-of-production expense of its fossil fuel plants, on the basis that this is the only saving to Public Service when buying hydro power from small plants, when available.

The cooperative's contract calls for a price substantially equal to the energy charge, including fuel surcharge, of its principal supplier's (Public Service) wholesale rate, on the basis that this is its only saving when buying power from a small hydro plant as available.

As a prelude to a commission order setting a rate, following a formal hearing on the matter, the commission staff met (on October 12 and November 30, 1979) informally with the parties to see if a formula might be derived to set a mutually agreeable price for the sale and purchase of the energy involved. Also present at these meetings were Representative Eugene Daniell, Jr., of Franklin, the sponsor of the new statute; and, for the first meeting only, a representative of the Legislative Utility Consumers' Council (LUCC). During the period these meetings were scheduled, the Public Utility Regulatory Policies Act of 1978 (PURPA) was approved by Congress, October 15, 1978. PURPA brought Public Service under its jurisdiction and set forth the general provision, under the section on small power production, that no rule prescribed, not

later than one year after the enactment of the act, shall provide for a rate for purchases of energy by electric utilities which exceeds the incremental cost to the electric utility of alternative electric energy. PURPA goes on to define incremental cost as follows:

"For the purposes of this section, the term 'incremental cost of alternative electric energy' means, with respect to electric energy purchased from a qualifying cogenerator or qualifying small power producer, the cost to the electric utility of the electric energy which, but for the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source."

[1] A lack of agreement surfaced as to the meaning of "incremental cost" and the staff recommended that the commission set the matter for formal hearing. In its orders directing the hearing, the commission specified that each utility would derive a rate based on its incremental cost as required by PURPA. At the commencement of the hearing, however, the chairman stated that notwithstanding the specific nature of the order of notice, the commission was not going to limit the scope of the hearing strictly to incremental cost and that the parties present could submit testimony on all elements of cost for commission consideration.

Public Service produced Henry J. Ellis, vice president in charge of engineering, construction, and maintenance; and Wyatt W. Brown, a staff engineer, as the first witnesses who presented evidence only on the incremental cost basis, indicating the average incremental costs to be:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	Cost (Cents Per Kwh)
1975	2.331
1976	2.221
1977	2.160
1978	2.256

Public Service proposed that, in setting its rate, the 1978 figure of 2.256 cents per kwh could be used as a proxy for 1979, with a lump sum adjustment to reflect actual 1979 figures when available.

The cooperative indicated its "incremental costs" were the energy costs plus fuel surcharge that it paid to Public Service, its wholesale supplier at the Conway area location of Goodrich Falls — a figure of approximately two cents per kwh; however, Mr. Pillsbury, manager of the cooperative, took exception to the interpretation of the definition of incremental cost and offered the opinion that it means not only the cost of the next kilowatt-hour to be bought but also should include the total cost per kilowatt-hour from the next plant that has to be built some time in the near future.

Representative Daniell, through cross-examination of Public Service's witness (Ellis), introduced an exhibit entitled "Hydro Electric Energy in New Hampshire — Existing and Potential Development," prepared by the governor's commission on hydro-electric energy in April, 1977. This report showed estimated costs of generation for rehabilitation of five small hydro plants, averaging 685 kw of installed capacity, at 1980 dollars, ranging from 5.8 cents per kwh to 7.89 cents per kwh. Six new plants averaging 35,000 kw of installed capacity showed

costs ranging from 11.9 cents per kwh to 15.1 cents per kwh. Representative Daniell sought to show through this report that the two cents per kwh being paid under the present interim contracts, and proposed under the incremental cost approach was too low that total costs should be considered, and that PURPA's definition of incremental cost meant the full cost of alternate sources could be considered.

Representative Daniell produced an expert witness (Warren Daniell) who testified that small hydro developments needed at least five cents per kilowatt-hour to support their operation. This witness also suggested that one rate should be used for the state as a whole, as opposed to developing individual rates for each small plant involved. Further testimony was introduced on the proposed contract between the Lawrence Hydro-Electric Associates and New England Power Company, indicating that the proposed 4.28 cents per kwh did not include all the costs of the project. Actually, under the contract, this price is subject to downward adjustment based on the cost of replacement power. Representative Daniell also submitted testimony through Public Service that its cost of power from Seabrook, when available in 1983, would be from four and one-half to five cents per kilowatt-hour, which counsel for Public Service confirmed.

Attorney Robert Rowe, representing Franklin Falls, the owners of which also own and operate Goodrich Falls, produced several witnesses.

Edward J. Forster, involved with a small hydro plant in Franklin, New Hampshire, testified that a study, based on 1977 data, indicated a rate of five cents per kwh plus escalation for future inflation would be necessary to support redevelopment of the plant.

Edward Larter, Jr., treasurer of Franklin Falls and Goodrich Falls, testified that the approximate two cents

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per kwh these companies were now receiving for power was inadequate and that six cents to eight cents per kilowatt-hour was needed to support these plants. He did not have detailed cost data on either plant, but indicated that right now the monthly labor payroll for the Franklin Falls plant was exceeding the monthly revenue. He testified that he had also looked at several other sites in New Hampshire, three of which appeared promising, and that a rate in the vicinity of six cents per kwh plus future escalation would be necessary to encourage their development.

Dr. John J. Finn, a part owner of a site in Bristol, New Hampshire, testified that a study of the rehabilitation of this plant by a nationally reputable engineering firm found an overall total rate of 5.23 cents per kwh necessary to support its operation.

Diana Carroll, representing the League of Women Voters of the state of New Hampshire, stated the League's position as favoring a fair and just payment to small hydro producers as a means of support for restoring use of renewing sources of energy.

Professor Louis H. Klotz of the University of New Hampshire, principal investigator of Small-scale Hydroelectric Generation Workshop, sponsored by the U. S. Department of Energy, stated that the commission should consider other cost factors than the "incremental cost."

Dr. Jere R. Beckman of New Market, New Hampshire, appearing on his own behalf as an interested customer, recommended that the price should be set at not less than four cents per kwh

nor in excess of seven cents per kwh.

[2] The major issue in the proceeding concerns an interpretation of the term "incremental costs" as it relates to PURPA and any inconsistencies between PURPA and NH RSA 362-A. While PURPA provides a definition, it also contains a requirement that the Federal Energy Regulatory Commission (FERC) must prescribe rules for the determination of rates between electric utilities and qualifying small power production facilities. These rules are to be promulgated by the FERC after consultation with state regulatory agencies within one year of the enactment of PURPA (November 8, 1979). Since as of this date no regulations have been issued either in notice of rule making or final form, the commission is lacking an instrumental piece of the incremental cost puzzle. As a consequence, this commission will reevaluate this decision after the promulgation of the FERC rules and regulations pertaining to PURPA.

While the commission cannot know what the final rules for PURPA will be, we do have for now the legislative histories of RSA 362-A-1 and PURPA to rely upon in arriving at a rate for small power producers. RSA 362-A-1 as well as the debate in both houses is very clear, as to intent. Namely, the general court desires the development of small-scale and diversified sources of supplemental electric power. Likewise, the intent of the United States Congress is to encourage unequivocally the development of power from alternative energy sources and the conservation of fossil fuels that such development entails. Joint Explanatory Statement of the Committee of Conference, U. S. Code Congressional and Administrative News, 95th Congress, Second Session, Vol 12(c) at p. 8010.

[3] While all parties recognize that both NH RSA 362-A and PURPA require the encouragement of hydro facilities, the parties disagree

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dramatically as to the definition of increment costs. Public Service would have the commission adopt a narrow definition of incremental costs; namely, the present average incremental costs. However, the commission is compelled by the legislative intent of both RSA 362-A and PURPA to reject such a conclusion. If the position of Public Service was adopted, the state would only continue to receive the benefits of existing hydro facilities without any development or encouragement of additional facilities. Both statutes seek the development of additional hydro facilities and specifically reject the maintenance of the status quo.

Besides the noncompliance with the legislative intent the figures submitted by the company appear low in relation to commission records which indicate the wholesale rates of Public Service and New England Power. These wholesale rates are a more accurate reflection of today's cost of electric generation, and when combined together they yield the following:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	Kilowatt-hours	Dollars	Cents Per Kwh	Per Cent Change Over Previous Year
1976	1,228,313,708	$35,505,723	2.89	
1977	1,268,481,568	39,982,972	3.15	+ 9.0
1978	1,359,326,876	43,619,633	3.21	+ 2.0

Annualization of the wholesale increase granted Public Service under bond by the FERC

together with a similar increase granted New England Power, coupled with the recent oil price, increases the figure for 1979 increases to above three and one-half cents. However, again this figure only provides for continuation of existing hydro facilities and no encouragement for additional sources of hydro generation.

The LUCC, New Hampshire Electric Cooperative, Representative Daniell, Franklin Falls Hydro-Electric Corporation, and the other hydro producers suggest that the commission should interpret incremental cost to be not only the cost of the next kilowatt-hour to be bought but also should include the total cost per kilowatt-hour from the next plant to be built in the near future. Each of these parties has focused on the projection by Public Service Company that Seabrook power will be between four and one-half to five cents per kwh levelized over a ten-year period from 1983 to 1993.

[4] Public Service Company responded to this position in its brief by stating that any comparison between Seabrook and run-of-the-river hydro facilities is equivalent of the old adage about apples and oranges. Public Service correctly asserts that the Seabrook plant will provide both capacity and energy where run-of-the-river hydro facilities will supply only energy.

Hydro plants which supply capacity as well as energy can be used to satisfy reserve requirements and possibly increase the intervals of time between construction of major base load facilities. Hydro plants which supply energy but not capacity still have some advantages such as a reduction in oil-fired generation. However, the additional value attached to capacity requires this commission to find separate rates based on this distinction.

The intent of the U. S. Congress in passing PURPA clearly supports this

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distinction as was stated by the conference managers:

"In interpreting the term 'incremental cost of alternative energy,' the conferees expect that the commission and the states may look beyond the cost of alternative sources which are instantaneously available to the utility. *Rather, the commission and states should look to the reliability of that power to the utility and the cost savings to the utility which may result at some later date by reason of supply to the utility at that time of power from the cogenerator or small power producer ... ."* (Emphasis supplied.) Joint Explanatory Statement of the Committee Conference, U. S. Code Congressional and Administrative News, 95th Congress Second Session, Vol 12(c) at pp. 8010, 8011.

Since the intent of Congress was to look beyond present-day costs and to give favorable consideration to reliability, the commission finds that some level of compensation above three and one-half cents is mandated for hydro facilities with an even higher level for facilities that provide both capacity and energy.

[5] In setting the rate for hydro facilities that provide both capacity and energy, the commission finds the next major facility scheduled for operation, Seabrook, to be a factor. The unchallenged evidence in this proceeding is that the cost of Seabrook will be between four and one-half cents and five cents per kwh. However, the commission does not rest its finding solely on this factor. In addition, the commission has available the annual reports of electric utilities.

These reports have been judicially noticed during the proceeding and are incorporated by reference into this report. The 1978 annual report for Public Service Company reveals existing capacity costs greater than that projected for Seabrook. The following table illustrates the costs of capacity for units which Public Service Company presently has an entitlement interest:
Unit!Cost per Kwh

Connecticut Light and Power! Combustion Turbines!42.53 ¢ Fitchburg Gas and Electric Co.! Combustion Turbines!12.09 Wyman No. 4!7.74

Similar figures from the 1977 annual report were submitted by intervenors to this proceeding. However, these figures are misleading since they represent high-capacity charges and low usage. As these plants begin to produce a greater percentage of the Public Service Company's requirements, the cost per kwh will be in the range of four and one-half cents to five cents per kwh.

[6] As a consequence, the commission finds that four and one-half cents per kwh is a reasonable price for producers of electrical energy, not involving the use of nuclear or fossil fuels, where the plants will provide *both* capacity and energy. This finding is based on (1) the legislative intent of both RSA 362-A and PURPA, (2) the projected cost of the next major generating station — Seabrook, (3) the present cost of existing capacity to Public Service Company, (4) the testimony and evidence in this proceeding, (5) the absence of specific rules and rule-making procedures related to PURPA.

For plants that provide only energy, e.g., run-of-the-river hydro facilities, the commission finds that four cents per kwh is a reasonable price for producers of electric energy not involving the use of nuclear or fossil fuels. This finding is based on (1) the legislative intent of both RSA 362-A and PURPA, (2) the cost determined to be reasonable for plants

which provide both capacity and energy, (3) the testimony and evidence in this proceeding with special emphasis on the ability to substitute hydro for barrels of oil, (4) the absence of specific rules and rate-making procedures related to PURPA.

[7] The commission also finds the need to reexamine this issue after the promulgation of PURPA rules by the Federal Energy Regulatory Commission. We also believe that the aforementioned figures should be adjusted annually to reflect new facts and situations. When such reexamination takes place the commission will attempt to examine sub-categories based on capacity, energy, size, price, existing equipment, and financial stability.

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that pursuant to the provisions of PURPA and RSA 362-A:4, public electric utilities purchasing electrical energy from limited electrical energy producers operating plants in the utility's franchise area, not involving the use of nuclear or fossil fuels, with a developed output capacity of not more than five megawatts, shall pay for the entire output of electric energy, if

offered for sale, a price for the next twelve months for all energy purchased on and after May 1, 1979, as follows:

A. From plants which produce energy on a nondependable capacity basis (such as run-of-the-river hydro plants) — four cents per kilowatt-hour;

B. From plants which produce energy on a dependable capacity — four and one-half cents per kilowatt-hour; and it is

Further ordered, that the commission will reexamine the PURPA issues in this proceeding upon the issuance of rules by the FERC; and it is

Further ordered, that it is the intent of this commission that subsequent annual adjustments will be made.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of April, 1979.

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NH.PUC*04/18/79*[78274]*64 NH PUC 95*Manchester Gas Company

[Go to End of 78274]

Re Manchester Gas Company

DR 78-100, Third Supplemental Order No. 13,590

64 NH PUC 95

New Hampshire Public Utilities Commission

April 18, 1979

PETITION of a gas utility for an increase in rates; granted as modified.

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1. VALUATION, § 287 — Working capital allowance — Computation.

[N.H.] The commission found that a utility is entitled to include a working capital requirement in its rate base to the extent that the money is supplied by investors, and that, absent a detailed lag study, the balance sheet approach will properly offset the ratepayers' contributions. p. 99.

2. RETURN, § 26.4 — Cost of equity capital — Determination.

[N.H.] Determination of the cost of common equity requires a judgment based on approximations and estimates after considering numerous factors. p. 104.

3. RETURN, § 35 — Attrition allowance Computation.

[N.H.] Calculation of the effects of attrition should be made as of the first year rates were in effect and should include consideration of changes, such as a decrease in the federal income tax rate, which will affect the utility's return. p. 105.

4. REVENUES, § 2 — Pro forma revenues — Adjustment.

[N.H.] Pro forma revenues were adjusted by correction of billing errors to normalize the period for test-year purposes. p. 106.

5. EXPENSES, § 10 — Test-year expenses — Adjustment.

[N.H.] Pro forma adjustments were made for known changes to expenses which occurred during or subsequent to the base year, in order to derive an estimate of future expenses for a utility. p. 106.

6. EXPENSES, § 92 — Rate case expense — Amortization.

[N.H.] A utility's rate case expense was amortized over a two-year period. p. 107.

7. EXPENSES, § 81 — Office expense — Apportionment.

[N.H.] The commission did not require that office

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lease costs be apportioned according to the ratio of nonutility to utility revenues where the utility stated that it allocated expenses to nonutility operations on the basis of space used. p. 107.

8. EXPENSES, § 109 — Property taxes — Expense treatment.

[N.H.] The commission adjusted a utility's property tax expense to include a discount offered by communities for the prompt payment of taxes even though the utility did not receive the discounts. p. 107.

9. EXPENSES, § 62 — Insurance expense — Apportionment.

[N.H.] Insurance expense was reduced by an amount related to the company's nonutility operations. p. 107.

10. EXPENSES, § 57 — Customer deposits — Interest.

[N.H.] The commission disallowed expense treatment for interest on customer deposits and included the interest cost in the overall cost of capital. p. 108.

11. RATES, § 294 — Customer charges — Cost of service.

[N.H.] The commission approved a utility's request to establish a "customer charge" (which would not account for energy usage) in lieu of its minimum charge, even though the company did not present a fully allocated cost-of-service study which would have enabled the commission to determine the exact customer costs for each class of service. p. 109.

12. RATES, § 238 — Contract rates — Rate schedules.

[N.H.] Where all a utility's interruptible service was provided by special contract, and review of the contracts revealed that the contracts were all the same, the commission found that there was no reason to provide such service by contract and that the utility should provide interruptible service under a tariff. p. 110.

VALUATION, § 309 — Working capital allowance — Computation.

[N.H.] Discussion of the methods of calculating a gas utility's working capital allowance. p. 97.

RETURN, § 26.4 — Cost of equity capital — Determination.

[N.H.] Discussion of comparative earnings studies and the discounted cash-flow method as indicia of a proper rate of return for a gas utility. p. 100.

APPEARANCES: John R. McLane, Jr. and Stephen J. Selden for the petitioner; J. Michael Love and Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Supplemental Report

On June 15, 1978, the Manchester Gas Company, a duly organized New Hampshire corporation, with its principal place of business in Manchester, New Hampshire, operating in the city of Manchester and in the towns of Goffstown, Hooksett, and Bedford, New Hampshire, filed a proposed revision to the company's tariff, NHPUC No. 12 — Gas, to become effective July 15, 1978. The proposed increase was designed to increase annual revenues by $557,752.

The proposed increased in rates was suspended until further order of this commission by virtue of Order No. 13,201, dated June 26, 1978.

On November 17, 1978, a petition for temporary rates was filed. Also on November 17, 1978, an order of notice was issued scheduling a public hearing on temporary rates for November 28, 1978, at the commission office.

The company represents that under its present rates, it is receiving a rate of return of 8.18 per cent on its rate base for the year ended January 31, 1978, contrasted with the rate of return of 9.7 per cent (exclusive of the 0.2 per cent allowance for attrition) allowed by the commission in Order No. 12,297, dated June 10, 1976.

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On November 28, 1978, the commission heard the company's request on temporary rates, and by Order No. 13,429, dated December 18, 1978, permitted the company to place its present scheduled rates into effect as temporary rates effective with all current bills rendered on or after December 18, 1978.

On January 16, 1979, the company, under the provisions of RSA 378:6, placed into effect its proposed schedule of rates under bond. On February 1, 1979, the repayment bond of Manchester Gas Company was accepted without sureties by the commission in Order No. 13,486.

Rate Base

The company submitted computations showing an average rate base of $6,818,510 as of January 31, 1978. Adjustments were made to rate base to remove the propane storage facilities which related to retail propane activities, to reflect the pro forma changes in operation and maintenance expense and to reflect a late adjustment of deferred federal income taxes. The net

result of the adjustments was to reduce rate base by $16,219 to $6,802,291.

All parties in this case agree that the adjustment for the cost of the retail propane tank should be increased from $3,071 to $6,375. The company in its original filing had incorrectly computed the average cost and depreciation reserve for this item.

This case has produced an issue regarding the calculation of working capital. The company submitted its working capital computations of $126,462 based upon two months of operating and maintenance expense with additions for the average amount of materials and supplies and deductions for customer deposits, deferred federal income taxes, and pre-1971 investment tax credits. The Legislative Utility Consumers' Council (hereinafter referred to as LUCC) witness Eckhaus submitted testimony calling for negative working requirements of $867,256 using the "balance sheet approach." That balance sheet approach was later revised to a negative requirement of $1,017,675.

The company argues that in using a cash working capital requirement equal to two months' operation and maintenance expense, they have used the same basis that was allowed in the company's most recent rate case (DR 75-207). They have performed studies of leads and lags associated with its revenues and expenses in order to determine whether the use of sixty days' operations and maintenance expense has in fact resulted in a reasonable allowance for cash working capital. They conclude that the "test demonstrates clearly that the company's proposed cash working capital allowance is not only reasonable, but is substantially less than its actual requirements."

The LUCC witness testified that the most precise method to determine working capital is a detailed lag study which would analyze each item of revenue and expense on an individual basis. He further testified that the next most accurate method would be the balance sheet approach which he used. The third method is the formula method which the company has used in this case. Mr. Eckhaus states there are many problems with this approach. The major problem is that it is based on broad assumptions that must be made and that it does not include all items of working capital. He concludes that the company has made tremendous use of its cash flow and has a negative working capital requirement.

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His final recommendation is a negative working capital requirement in the amount of $1,017,675. The final LUCC figures are based upon the conclusion that the company's merchandise sales and appliance rental operations are non-utility. The company argues that this approach is incorrect and their treatment of these items conforms with the commission's Uniform Classification of Accounts.

The staff has spent considerable time analyzing the working capital approaches of both parties. Their conclusion is that the balance sheet approach to working capital should be used in this case. However, there are several modifications they would make to the requirement which was recommended by the LUCC witness. The first adjustment would be to reduce sources of working capital by $308,164 for the deferred cost of gas adjustment and the Tennessee refund. Both of these accounts show abnormal balances which are not representative of the company's past and which will not necessarily recur in the future. Both of these amounts are presently being

returned to customers through the operation of the winter and summer cost-of-gas adjustment clause. A second adjustment would be the removal of the post-1970 unamortized investment tax credits in the amount of $251,343. The commission in the past has allowed the "normalization" of those credits. To do otherwise would put the company in jeopardy of losing the tax benefit of those credits in accordance with § 46 of the Internal Revenue Code. Another reduction in sources of working capital is customer deposits in the amount of $193,546. That amount has been included in the cost of capital calculation. The staff further recommends that the accounts receivable for merchandise and appliance rental operations be added back to uses of working capital in the amount of $65,813. The company is presently accounting for these items in accordance with the commission's Uniform System of Accounts. (The staff further recommends that the commission consider changes to the chart of accounts, not only for these accounts, but for other concepts and developments which have occurred since their adoption in 1939. The accounting treatment of merchandising operations for gas companies is inconsistent with the electric utility chart of accounts.) Appliance sales losses have grown from a loss of $1,511 in 1974 to losses of $45,147 in 1977 and $42,542 in the test year. The staff has adjusted the material and supplies inventory to restore the merchandise inventory that was excluded from the LUCC's revised working capital requirement. The 13-month average of materials and supplies — storeroom is $234,340.

The staff points out that they have reservations about accepting the lag study presented by the company to confirm their working capital computation. The company in its original testimony did not consider the lag in payment of taxes. Subsequently, they filed a computation of the tax lag based on accrued taxes of $413,933, which they equated to four and one-half days. The staff points out that accrued taxes for the test year actually amounted to an average of $500,359. The company has further presented an analysis of property tax based upon these costs actually being booked on a tax year which was from April 1st of one year to March 31st of the following year. The detailed monthly reports of the company show that those expenses are booked and paid on a calendar year basis. The staff further points

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out that the company's lag study fails to recognize all of the elements which make up working capital.

[1] The commission finds that the company is entitled to include a working capital requirement in its rate base, but only to the extent that it is supplied by investors. In this proceeding we find that the balance sheet approach will properly offset the ratepayers' contribution to determine the cash and working capital requirements of the company. In the absence of a detailed lag study, it is our judgment that the balance sheet approach uses actual data recorded monthly on the company's balance sheet, provides a true match between rate base (including working capital) and all sources of capital by considering all items on the balance sheet, and the method has computational ease. We will accept the staff's recommended computation, which includes the aforementioned adjustments. The working capital amount to be included in rate base is as follows:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Uses of Capital:
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Cash	$ 122,947
Special Deposits	9,581
Petty Cash	1,000
Accounts Receivable (Net): Utility	651,327
Merchandise	53,333
Miscellaneous	14,925
Materials and Supplies: Storeroom	234,340
LP Gas Stock	42,983
LNG Gas Stock	10,517
Prepayments	123,481
Gas Stored Underground	181,839
Clearing Accounts	(18,235)
Suspense Accounts	10,319
Total Uses of Capital	$1,438,357
Sources of Capital:	
Accounts Payable	566,519
Dividends Payable	28,998
Accrued Taxes	500,359
Accrued Interest	73,973
Unamortized Investment Tax Credits Pre-1971	40,476
Deferred FIT — Utility	284,860
Deferred Compensation	1,896
Total Sources of Capital	$1,497,081
Excess of Sources over Uses of Capital	$58,724

We find the average rate base for the test year in an amount of $6,613,806 (see following table) is a reasonable and proper basis upon which to establish just and reasonable rates.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Average Rate Base
Year Ended January 31, 1978

Plant in Service	
Less: Retail Propane Tank (Net)	
Construction Work in Progress	
Depreciation Reserve	
Contribution in Aid of Construction	
Net Plant in Service	
Less: Working Capital Requirement	
Average Rate Base	

Rate of Return

The company submitted testimony and other evidence attempting to show the need for an 11.19 per cent rate of return. In arriving at this rate of return, the company used: 14.5 per cent rate of return on common equity; 7.78 per cent cost of long-term debt; 7 per cent cost of preferred stock; an attrition factor of 0.2 per cent; and used a capital structure as of January 31, 1978. In the company's brief, they take the position that the attrition allowance should be increased to 0.8 per cent and argue that it should be used in the computation of the revenue requirement.

Company witness Monteau testified to the cost of capital. The principal thrust of his

testimony was in the area of the cost of common equity. He used a comparative earnings study and the discounted cash-flow method. For his comparative earnings study, Mr. Monteau analyzed and compared the company using financial information for ten gas distribution companies and 22 highly rated industrial companies. The witness testified that he first selected publicly traded utilities for which financial and market information was publicly available and which derived 75 per cent or more of their revenue from gas operations. He then selected ten companies with the lowest operating revenues which he claims would be most similar to Manchester Gas Company. For the comparison industrial companies, he selected companies that were all rated A+ by Standard and Poor's. He stated that such stocks "having a record of stability and of consistent growth in earnings and dividends are thus comparable to utility stocks." He further argues that the rating criteria are such that virtually all utility companies would be A+ rated if the industrial company criteria were used. The company stated in its brief that "comparison with smaller or lower rated companies would tend to indicate a higher investor required return." Manchester Gas Company brief, p. 5.

Witness Monteau's comparable earnings study concludes that the average return earned by the comparable gas companies during the period 1967-77 ranged between 10.3 per cent and 13.7 per cent, with an average for the entire period of 11.3 per cent. The comparison gas companies averaged a 13.2 per cent return on common equity in 1977, as did Manchester Gas Company. He states that since utility common stocks have continued to sell below book value that return is insufficient. He further testified that the industrial companies which he considers as comparable in risk earned between 14.3 per cent and 17.2 per cent, in the past ten years, with an average of 15.5 per cent. As a result of the study of the two comparison groups, witness Monteau concludes that the company's cost of common equity is 14.5 per cent after giving "due consideration to the disparity of risks and returns."

Witness used the comparison utilities to perform a discounted cash-flow analysis. He examined the historic growth rates and made estimates of future rates of growth in earnings, dividends, and book value, and determined current yields. He states that he was able to determine the rates of return investors were requiring by comparing these figures with market prices of the stock. He arrived at a range from 12.46 per cent to 16.74 per cent, with an average of 14.55 per cent. Witness Monteau concludes from his discounted risk-flow study that the cost of common equity was "at least 14 per cent and probably in the vicinity of 15 per cent." On that basis

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he arrives at his recommended cost of equity of 14.5 per cent.

The LUCC in its brief argues that for several reasons the commission should find that the company's rate on common equity should be not more than 13 per cent. The LUCC argues that the company is less risky due to the fact that its common equity as a percentage of average invested capital is far greater than the average of other gas utilities in New Hampshire. They further state that this commission found that ratio as an important measure of risk comparison in the Public Service Company of New Hampshire rate case (DR 77-49). Their position is that Public Service had a five-year average of 32.16 per cent common equity and a ten-year average of 31.89 per cent. Manchester Gas, in comparison, had a five-year average of 48.08 per cent and

a ten-year average of 50.73 per cent. They further argue that the company has a higher percentage of common equity than the average of other gas utilities in New Hampshire and conclude that the company is considerably less risky. They further argue that the other New Hampshire gas utilities are far more comparable to the company than the utilities used by witness Monteau. They claim that the group of companies used for Monteau's comparison "do not satisfy the test of Bluefield in that they are not comparable in region, size, or activity. This group contains Arkansas-Western Gas which the commission staff rejected as a comparable company in DR 74-70. The commission order in that case states the following:

"Staff rejected one of these ten companies as not comparable; Arkansas-Western Gas, whose earnings levels and market price are substantially influenced by its oil and gas exploration efforts, is not comparable to Manchester Gas." Page 2 of DR 74-70, Order Decision.

The LUCC presented copies of witness Monteau's testimony as to return for Mobile Gas where he used only southern companies which is in keeping with the Bluefield requirement of comparing like companies within the same region. They state that over half of the companies used by the company's witness compared companies from outside New England. They further argue that if witness Monteau's comparison is used, the comparison gas utilities are clearly more risky as compared to Manchester in terms of percentage of equity. The comparison companies averaged 44.4 per cent of common equity compared to the company's average of 50.8 per cent. The LUCC concludes that Manchester Gas is substantially less risky when the risk variable of percentage of common equity is examined.

The LUCC goes on to compare the risk factor related to fixed charge coverage after taxes and quotes the commission witness in the Public Service Company, DR 77-49 (1978) case.

"Mr. Trawicki analyzed fixed charge coverages and concludes that based upon his comparison that the company had a coverage that is lower than all other composites used in his comparison." (Opinion, p. 53.)

They argue that Manchester Gas is above the average fixed coverage ratios of the other composites in evidence in this proceeding. "The five-year averages of evidence in this proceeding are as follows:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Manchester Gas             2.64
Monteau's Companies        2.36
Excluding Arkansas-Western 2.14"
(LUCC Brief, p. 13)
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They further state that the coverage before taxes produces similar results to

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those stated above. Therefore, they conclude that Manchester Gas is less risky in terms of both coverage before and after taxes in as much as coverage ratios are an important measurement of risk.

Finally, the LUCC argues that the comparison between the market price and the book value of the company's stock is invalid in this case because it is impossible to determine the market

price for Manchester Gas stock. Mr. Monteau readily admits that there were no new sales of stock and very minor amounts of transactions.

The LUCC attacks witness Monteau's comparison of 22 companies with supposedly A+ rating from Standard and Poor's. They argue that the use of those companies violates the criteria set forth in Bluefield. As the Supreme Court stated:

" ... but it has no constitutional right to profit such as are valued or anticipated in highly profitable enterprises or speculative ventures." (262 US at p. 393, PUR1923D 11.) (LUCC Brief, p. 16)

They state that the use of these companies as a comparison "are of a highly profitable nature and are, therefore, unfair and irrational choices for comparison with Manchester Gas." They further claim that Mr. Monteau stopped his analysis in 1976 and many of the companies that he used are no longer A+ rated companies. Some of these companies have dropped three rating classifications in two short years. Therefore, if Mr. Monteau is correct that A+ companies are comparable to Manchester Gas, then his analysis is faulty for he has failed to use a group of companies that fit that criteria.

The LUCC further argues that the comparison gas companies used by the company witness are not comparable in size and many of the companies are involved in exploration and production of natural gas and oil, that the revenues of these companies exceed Manchester Gas by extraordinary amounts; and, although the witness has used Manchester Gas as a comparable company when he testified for Gas Service, he failed to obtain any information about other New Hampshire gas utilities. They state that the commission should give no credence to the argument concerning utility and nonutility returns because the witness has made no such calculations for his comparison companies.

The company responds in its reply brief that "the standards established by Bluefield Water Works & Improv. Co. v West Virginia Pub. Service Commission, 262 US 679, PUR1923D 11, do not require simply that a utility be permitted to earn whatever return on equity similar companies are earning. Rather the requirement is that a utility is 'entitled' to earn that return being realized by companies 'attended by corresponding risks.' Id., 262 US at 692, PUR1923D 11." p. 5.

The company submits that the constitutional requirement of the Bluefield decision is "not satisfied simply by allowing the utility a rate of return equal to that earned by similar companies where that return is inadequate to permit the company to assure confidence in its financial condition, maintain its credit, and attract capital." (Manchester Gas Company, Reply Brief, DR 78-100, p. 5.) They argue that in order to make an adequate assessment, it is not enough just to look at comparison companies, but it is also necessary to determine what returns will meet the Bluefield tests, and that the LUCC position produces "an extreme example of circularity." They further argue that it is necessary to make a comparison of publicly traded companies to determine whether the public

perceives those returns as adequate. Witness Monteau testified that the 13.2 per cent average return of his comparison utilities is inadequate because they are selling at less than book value

and this is a signal from investors that they require a higher return, and, therefore, the Bluefield tests are not being met.

The staff has analyzed the original testimony and the briefs filed by both parties in great detail. In analyzing the comparison gas utilities, witness Monteau has purported to use companies which derive 75 per cent or more of their revenue from gas operations and are comprised of companies with the lowest operating revenues. A review of the companies included indicate that Arkansas-Western Gas is an exploration and producing company, producing 60 per cent of its own requirements, and producing oil, gas, and extracted products for sales to others. The staff has excluded data for that company because they believe it is noncomparable to Manchester Gas Company. Excluding Arkansas-Western Gas, staff arrives at a return on average common equity of 11.9 per cent for the three-year period 1975-77. During the same period, the common dividend payout ratio for the comparison companies was 57.6 per cent compared to 51.6 per cent for Manchester Gas Company. Staff points out that when you look at the years 1975, 1976, and 1977 and omit the two companies, Arkansas-Western Gas for the reasons previously mentioned and North Penn Gas where data provided is incomplete, the return on average common equity for the comparison companies is 9.8 per cent in 1975, 13.5 per cent in 1976, and 12.4 per cent in 1977. Averaging the three years, the return is 11.9 per cent. During this same period, Manchester Gas averaged 11.5 per cent return on common equity. For 1977 the company had a return of 13.2 per cent in common equity compared to 12.4 per cent for the comparison companies. Witness Monteau's exhibits indicate that the average common equity as a per cent of average invested capital was less for the comparison companies than for Manchester Gas indicating that the common stock of the company bears less risk. Another measurement of risk which is more favorable for the company is the fixed charge ratio, as previously pointed out by the LUCC. The fixed charge coverage before and after taxes has consistently been higher for Manchester Gas than the comparable utilities.

Staff recommends that the commission assign little value to the A+ rated company analysis presented by the company witness. They feel that the process is too selective and provides an incomplete comparison. If, as the company witness claims, these are comparable in ratings to utilities, the staff feels that comparisons should have been presented of other utility groups in order to determine the relative risk position of the comparison companies with other utility groups. These would also be viable alternative investments for common stock investors. Commission witness Trawicki pointed this out in his testimony on Granite State Electric, DR 77-63, at p. 24:

"[T]hrough the use of well-known composites of large numbers of companies one is precluded from exercising analytical prejudice in selecting companies for comparison of earnings and relative risk indicators. Nor do the reported performance, accounting changes, or restatement of results by any one company have a significant effect on

the composites used, and therefore on the relative risk comparisons."

The company's witness applied the discounted cash-flow technique to historical data in order to assess investors expectations. He explains that the DCF method attempts to recognize that an

investor will pay a price for a share of common stock by discounting to its present value each expected annual dividend, and the selling price he expects to receive when he sells it. His first step in this evaluation was to arrive at an indicated dividend rate by using the current dividend yield based on the weighted average high and low market prices for May, June, and July, 1978. The current dividend yield for his comparison companies was 8.63 per cent. He then adjusted that return by 7.5 per cent to compensate investors for the additional costs of financing and the effects of market pressure. This produced an adjusted average yield of 9.33 per cent. Adding that yield to his estimated growth rates for earnings per share (6.75 per cent), dividends per share (4.85 per cent), and book value per share (4.05 per cent), he arrives at cost of common equity of 14.55 per cent.

The staff has calculated the cost of common equity using the DCF technique for the comparison gas utilities. For their analysis they have excluded Arkansas-Western Gas because of its heavy involvement in gas exploration and drilling and Bay State Gas because comparable data is not available to measure growth rates. They have calculated the compound growth rate of dividends for the years 1975, 1976, and 1977 at 3.4 per cent. Using the adjusted dividend yield for the remaining ten companies (9.75 per cent) and adding the historical growth rate in dividends per share, they arrive at a cost of common equity of 13.2 per cent. Staff points out that this rate of return is within the range that was earned by the company in 1977 and is above the return earned by the comparison companies, excluding Arkansas-Western, of 12.41 per cent. When staff looks at the compound growth rate of dividends for the five-year period from 1972 through 1977, they calculate the growth rate to be 3.95 per cent. Combining the compound growth rate with the adjusted dividend yield (9.75 per cent), they arrive at a cost of common equity of 13.7 per cent.

[2] The cost of common equity capital is a most difficult factor to determine. This cost element cannot be precisely measured because it involves the future earnings expectations of investors, therefore, it does not lend itself to exact calculation. The determination of the cost of common equity becomes judgmental based on approximations and estimates after considering numerous factors. We have considered the testimony and briefs in addition to the staff's analysis. It is our judgment that the risk position of the company relative to the comparison gas companies would require a lower cost of common equity. The company has been able to reduce its financial risk by the use of a lesser amount of debt than the comparison companies and has been able to maintain higher levels of interest coverage both before and after taxes. Although it is true that we must consider that a regulated company must be able to compete in the same marketplace for capital funds as other industries, we must also consider in this case whether the witness has presented data for companies which bear comparable risk to Manchester Gas Company. It is our judgment that the industrial companies used for comparison by the witness are

not comparable and the sample used was highly selective. The sample chosen by the witness, for example, shows an average return of 15.5 per cent on common equity for the period 1966-76. The ten-year average of Moody's industrials averaged 12.99 per cent, somewhat below the average of the companies chosen by the witness.

We find that the fair rate of return on common equity for the company should be 13.2 per

cent. This return should be sufficient to enable the company to maintain its credit standing and financial integrity and be sufficient to attract new capital. We also note that for a period of ten years, the company has been able to maintain its financial integrity without issuing common stock, other than stock dividends which came from stockholders' equity. Therefore, the company has satisfied its common equity needs with internally generated funds.

Using the capital structure presented by the company and including customer deposits as a source of customer-supplied capital, we find the fair rate of return to be 10.21 per cent computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Amount	*Per Cent of Total*	*Rate*	*Weighted Rate Of Return*
Debt				
Long Term	$2,070,000	31.2	7.27	2.27%
Short Term	500,000	7.5	9.875	.74
Subtotal	2,570,000	38.7	7.78	3.01
Preferred Stock	698,600	10.5	7.0	.74
Common Equity				
Common Stock	1,144,090			
Capital Surplus	380,713			
Earned Surplus	1,622,264			
Subtotal	3,147,067	47.4	13.2	6.26
Customer Deposits	222,833	3.4	6.0	.20
Total	$6,638,500	100.0		0.21%

We find that the allowed rate of 10.21 per cent should provide sufficient earnings to assure the financial integrity of the company and permit it to attract the necessary capital.

Attrition

[3] The company in its initial filing included an allowance of 0.2 per cent for attrition. The company in its brief proposes an attrition allowance of 0.8 per cent. They argue that during the test year, the actual rate of return was 8.18 per cent, a difference of 1.72 per cent from the overall return allowed in its last rate proceeding of 9.9 per cent. Therefore, the company has factored the 0.8 per cent attrition factor into its revised rate increase figures in its brief.

We find that there are serious flaws in the company's calculation of the attrition rate. The company has calculated attrition by using the rate of return last allowed, 9.9 per cent. That calculation includes in it a 0.2 per cent attrition allowance which should have been removed for the purposes of its calculation. A calculation of the effects of attrition should have been made of the first year in which the rates were in effect. During the company fiscal year ended September 30, 1976, which included eight months of the last increase, the rate of return was 9.54 per cent compared to the 9.7 per cent cost of capital. In 1977, which was the first full year which included the rate increase, the rate of

return was 9.22 per cent. Staff points out that the company has made allocations of operation and maintenance expenses and federal income taxes to LP operations (nonutility) in their filing.

When this adjustment is made, the rate of return changes from 8.18 per cent to 8.5 per cent. If these allocations were properly made in previous years, the rate of return on utility operations would also have changed. Staff further points out that beginning in 1979 the corporate federal income tax has been reduced from 48 per cent to 46 per cent, along with changes in the tax rates on the first $100,000 of net income. These changes in the corporate tax rates are the first that have been made in many years and should help to offset the effects of attrition. Applying the new rates to the test year adjusted for the required increase, the effect of this tax change would be to reduce federal income taxes by approximately $27,000 and improve the actual rate of return by 0.4 per cent.

We will, therefore, allow an attrition rate of 0.2 per cent as originally filed by the company. That rate in addition to the pro forma adjustments should allow the company to offset the effects of attrition on earnings. We further point out that federal income taxes for the rate increase has been calculated at the old corporate tax rates and the new rates will help to reduce future attrition.

Revenue Adjustment

[4] A pro forma adjustment of $8,760 has been applied to reduce test-year revenues from $6,218,020 to $6,209,260. The amount was due to a billing adjustment which was booked both by the computer system and the general ledger accounting department in two separate transactions. The company witness testified that all pro forma adjustments reflect all known changes which are unrelated to future growth. A positive adjustment of $6,360 should also be made to reflect underbillings to two customers during the test period. These underbillings were caused by the incorrect application of the multiplier for base pressure index meters. As this error has been discovered, revenues will be higher in the future. It should further be pointed out that if the proper billing rates had been used for these commercial customers, the rate of return of the company would have been higher, which we will take into account in our discussion on attrition. During the test year, the company has underbilled these customers by $15,520. From that total we have deducted the cost of gas adjustment that was under billed in the amount of $2,350, and the base cost of gas which would have been booked as expense in the amount of $6,800. Therefore, revenues would have been higher by $6,370. Applying the $6,370 against the filed adjustment of $8,760, revenues should be adjusted downward by $2,390.

Test-year Expenses

[5] The company submitted the actual results of operations for the twelve months ended January 31, 1978. Pro forma adjustments were made for known changes to expenses which occurred during or subsequent to the base year. The net effect of the pro forma adjustments was to reduce net operating income by $70,122 from $557,939 to $487,817.

Since the original filing, the company has proposed adjustments and accepted adjustments proposed by others which change the adjusted net operating income. These changes are presented in Schedule A of the company's brief and

would reduce the net operating income by $77,505.

There are several areas of both agreement and disagreement between all parties in this case on test-year expenses and pro forma adjustments. We will address the items on which there is disagreement.

[6] The company submitted an adjustment of $15,000 based upon rate case expenses of $30,000 amortized over a two-year period. The LUCC argues that rate case expenses should be amortized over a three-year period. The company argues that the two-year period for amortization has been standard practice and, given the likelihood of attrition, a new rate filing will the required relatively soon. We will accept the company's adjustment based on RSA 378:7 which states that the commission shall be under no obligation to investigate any rate on or after which it has investigated within a period of two years. Test-year expenses, however, include $1,121 of rate case amortization, which we will exclude as nonrecurring.

[7] A pro forma adjustment in the amount of $10,978 was made for additional office lease costs. The LUCC proposes that approximately 10 per cent (the ratio of nonutility to utility revenues) should be allocated to nonutility operations. The company responds that they have made allocation to nonutility operations on the basis of space used. We will accept the company's adjustment as a reasonable method to determine the allocation of lease costs for office space.

[8] The company's adjustment for property taxes was originally based upon an estimate. Since the original filing the company has submitted two further adjustments to property tax expense with the final adjustment being based upon the actual tax bills received in the amount of $255,594. In the past the company has taken advantage of discounts offered by certain communities for the prompt payment of taxes. For this filing they claim that a management decision was made not to take advantage of the discount as a greater return could be made by investing the funds. Both the LUCC and staff propose that the discount should be included in the adjustment. Staff argues that the interest income earned on these funds will be included in nonutility income which is to the advantage of the stockholder while the expense would be borne by the ratepayer. They recommend that a property tax expense of $255,163 be used, therefore, a pro forma adjustment of $24,163. We will accept the staff's recommendation to arrive at the proper pro forma adjustment that should be included for rate-making purposes. We would further point out that staff's calculations show that it would be more beneficial in terms of net cost to take advantage of the discount than to take advantage of the interest rate on certificates of deposit.

[9] The company submitted a pro forma adjustment for liability ($9,000) and workmen's compensation ($3,706) in the amount of $12,706. During the hearings, the company asked that the adjustment for liability be increased by another $6,000 due to an increase in annual premiums. The LUCC claims that an adjustment of 10 per cent should be made to account for the fact that some of the company's operations are nonutility. As a result of staff's inquiry, the company has reduced workmen's compensation by $649, therefore, reducing that adjustment to $3,057. Staff points out that liability coverage in the Concord Gas Company case, DR 78-96, was based on

revenues, and they agree that a downward adjustment should be made to provide for an allocation to nonutility operations. Using test-year operating revenues of $6,209,260 and LP revenues of $615,279, staff arrives at a total of $6,824,539. LP revenues are 9 per cent of total revenues. They recommend a downward adjustment of $1,350 for the liability insurance adjustment to $13,650. Staff further points out that the coverage for liability insurance runs from May for a period of a year, therefore, for a period beyond the test year. We will accept the staff's recommendation as it is reasonable to assume that nonutility operations are included in the company's overall insurance coverage.

The company has submitted additional downward adjustments for the payroll increase allowable to capital accounts in the amount of $1,489, and $994 for the amount of promotional allowances which were included in test-year expenses. The adjustment for promotional allowances was made because they were fully amortized by December, 1977; however, we point out that we have disallowed these expenses in the past due to their nature.

[10] The company's original filing deducted customer deposits from rate base. During the hearing the company proposed that the interest on these deposits in the amount of $11,436 be included in utility expense. As interest expense in a below-the-line item, we will disallow that adjustment and include customer deposits as an interest cost in the overall cost of capital.

The LUCC has requested that the cost of the appliance operations be removed from expenses in this rate case on the basis that "ratepayers should not be required to subsidize the appliance program which supplies appliances only to a small portion of its consumers and is in competition with other appliance dealers." The company argues that its treatment of the appliance business is consistent with the commission's classification of accounts and the treatment of this item by other gas utilities in the state. The LUCC argues further that these operations should be required to provide the same return as the company requests for its utility gas operations. Staff agrees that the accounting methodology used by the company is consistent with the classification of accounts presently being used by this commission. They point out that the methodology is at variance with that used for electric companies since the FPC (FERC) chart of accounts was adopted by this commission. Staff requests that the commission consider adoption of the FPC Uniform System of Accounts prescribed for natural gas companies to replace the classification of accounts adopted in 1939. Staff points out that appliance sales has moved from approximately the break-even point in 1974 to the point where it incurred losses of $45,157 in 1977. Until we have studied this situation further, we will deny the LUCC request. However, we are of the opinion that the company should take measures to improve its merchandising business to the extent that it pays its own way.

A pro forma adjustment of $7,538 was made to restore the bad debt reserves at January 31, 1978, to its normal year-end balance. Company Exh 14 shows an analysis of bad debt expense. That analysis clearly indicates that on a fiscal year basis bad debt expense has remained at the same level. Staff recommends, and we concur, that this adjustment should be eliminated.

After consideration of the aforemen

tioned items, the test-year net operating income is calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Net Utility Operating Income Per Books		557,939
Pro Forma Adjustments:		
Billing Adjustment	$(2,390)	
Rate Case Expense	(13,879)	
Additional Lease Costs	(10,978)	
Liability Insurance Increase	(13,650)	
Workmen's Compensation Increase	(3,057)	
Clearing Account Adjustment	(4,736)	
Postage Cost Increase	(4,320)	
Office Maintenance Cost Increase	(1,730)	
Security Service Increase	(3,614)	
Electricity Cost Increase	(972)	
Retail LP Allocation	10,664	
Salaries and Wages Increase	(81,896)	
Pension Costs Increase	(2,571)	
Depreciation Expense	(203)	
Property Tax Increase	(24,163)	
Promotional Allowances	994	
Gas Supply East Allocation	4,000	
Net Decrease in Taxable Income	$ 152,501	
Decrease in Income Tax (52.16%)	79,544	
Retail L.P. Tax Allocation	10,749	
Income Tax Adjustment	90,293	
Net Income Adjustment	62,208	
Pro Forma Net Utility Operating income		495,731

Revenue Requirements

The required increase in rates as computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Accepted Cost of Capital	10.21%	
Plus: Allowance for Attrition	.2%	
Allowed Rate of Return	10.41%	
Times: Rate Base		6,613,806
Required Net Operating Income		$ 688,497
Less: Adjusted Test-year Net Operating Income		495,731
Required Increase in Net Operating Income		$ 192,766
Plus: Tax Adjustment		210,174
Required Revenue Increase		$ 402,940

The revenue deficiency ($192,766) is adjusted for income taxes to yield the additional amount of revenue the company must be allowed to collect on an annual basis going forward. We conclude, therefore, that an increase in revenues in the annual amount of $402,940 is the increase in basic rates to which the company is entitled on this record.

Rate Structure

[11] In its filing, the company proposed to establish a "customer charge" in lieu of a "minimum charge." The basic difference is the absence of energy in the former. This is a

departure from the traditional declining block rate structure in which such customer costs

are hidden within the early blocks of the structure. There has been a trend, particularly among New Hampshire's electric utilities, to separate some or all of the fixed customer charges from the energy blocks. The commission has approved such separation for those electric utilities and considers such appropriate for gas utilities.

However, as brought out in testimony, there has not been presented a fully allocated cost-of-service study. Consequently, the exact customer costs for each class is indeterminate, except for those on a work sheet presented by witness Duda and admitted as LUCC Exh 1. Cross-examination of Mr. Duda by the LUCC and staff showed no credible basis for the allocation of customer costs or the allocation of increases within blocks. Accordingly, the commission feels that, in the absence of a fully allocated cost-of-service study, increases should be apportioned by equal percentages among the various blocks. We will, however, allow the separation of energy units from the minimum charge and allow a customer charge of $3 for each class.

Meter Testing

The company proposed to revise the terms by which meters were tested upon request. Since these terms are standardized by rules and regulations of this commission, the company agreed in testimony that any changes in this area should be the result of separate proceedings (T5-11). Accordingly, their original proposal is denied.

Late Payment Charges

Late payment charges of one and one-half per cent per month on the unpaid balance are imposed by Manchester Gas Company on customers failing to pay in full within twenty-five days of the billing date. For residential customers, revised rules issued by this commission in late 1977 state that a bill becomes past due thirty days from its postmark. The commission feels the terms "late" and "past due" are synonymous; therefore, the levying of such charges twenty-five days from a billing date, which is often a few days before the postmark, would be unfair to the customer. The revised rules referenced apply only to residential customers, but, in consideration of the requirements of RSA 378-10, the treatment should apply to all classes.

Interruptible Rates

[12] In the course of these hearings, considerable questions were raised on the matter of interruptible rates and the fact that no increase was proposed for those customers. As indicated in testimony, all interruptible service is provided under special contract as approved by the commission. Based upon this fact, any increase in these rates must be considered by separate process. Review of all valid contracts for interruptible service by the Manchester Gas Company has revealed that all are the same. This raises the question why such need be provided by special contract. The commission tariff filing rules indicate in Par 4 that "special contract" means rates and charges, including terms and conditions, covering all service rendered under prices and conditions which vary from those contained in the filed tariff. At the present time, the only reason for needing the special contract is the absence of an interruptible class within the tariff.

Because of the commonality of terms and rates among these

various contracts, the commission feels the tariff should be amended to include such a class.

Temporary Rates

Temporary rates went into effect December 18, 1978, in accordance with Order No. 13,439. Upon receipt of this decision, the company shall submit a calculation of either a required refund or surcharge to conform to this report.

The rates proposed in the filed tariffs are based on an increase in rates of $557,752. We will direct the company to submit new tariff pages providing for the commission's authorized increase of $402,940. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Fourth Revised Page 10, Tenth Revised Page 12, and Ninth Revised Page 13 to Manchester Gas Company tariff, NHPUC No. 12 — Gas, be, and hereby are rejected; and it is

Further ordered, that Manchester Gas Company file with this commission revised tariff pages in lieu of those rejected, such revisions to reflect an increase in revenue of $402,940, such increase to be spread by equal percentages among energy blocks for all classes; and it is

Further ordered, that such revised tariff pages become effective with all billings issued on or after the date of this order; and it is

Further ordered, that the use of a "customer charge" in lieu of a minimum charge is approved, such charge to be equal to current minimum charges, but omitted any energy; and it is

Further ordered, that provisions for late payment charges be revised to reflect current rules of this commission which indicates a bill is not late until thirty days from its postmark; and it is

Further ordered, that Manchester Gas Company show cause to this commission why interruptible rates cannot be included as a tariff item; and it is

Further ordered, that the Manchester Gas Company file with this commission its plan to adjust the differences between revenues received under bond and those allowed by this commission during the period between December 18, 1978, and the date of this order; and it is

Further ordered, that Manchester Gas Company give public notice of this order by publication of same in a newspaper having broad circulation in the area served.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of April, 1979.

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[Go to End of 78275]

Re New Hampshire Electric Cooperative, Inc.

DR 79-93, Order No. 13,591

64 NH PUC 111

New Hampshire Public Utilities Commission

April 19, 1979

PETITION seeking revision of tariff terms and conditions regarding customer deposits; granted.

Page 111

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., on April 16, 1979, filed with this commission certain revisions to its tariff, NHPUC No. 8 — Electricity, designed to ensure tariff compliance with revised rules and regulations prescribing standards for electric utilities relative to customer deposits; and

Whereas, said revised rules and regulations became effective as of April 24, 1979; and

Whereas, this commission is permitted under RSA 378:3 to authorize tariff changes on less than thirty days' statutory notice; and

Whereas, the tariff change referred to above is deemed to be for the public good; it is

Ordered, that First Revised Page 4, New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, be, and hereby is, approved for effect as of April 24, 1979.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of April, 1979.

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NH.PUC*04/19/79*[78276]*64 NH PUC 112*Public Service Company of New Hampshire

[Go to End of 78276]

Re Public Service Company of New Hampshire

I-E14,374, 23rd Supplemental Order No. 13,592

64 NH PUC 112

New Hampshire Public Utilities Commission

April 19, 1979

PETITION seeking extension of contract terms; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire, a utility selling electricity under the jurisdiction of this commission, has filed with this commission an amendment to its Special Contract No. 36-4 with Emmett H. Massie and Theresa Massie, further extending the term of said contract to December 31, 1979; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said amendment may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of April, 1979.

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NH.PUC*04/20/79*[78272]*64 NH PUC 89*Armand R. Mastropietro d/b/a Armand's Auto Body

[Go to End of 78272]

Re Armand R. Mastropietro d/b/a Armand's Auto Body

DT 79-18, Order Nos. 13,593, 13,595

64 NH PUC 89

New Hampshire Public Utilities Commission

April 20, 1979

APPLICATION for authority to operate as a common and contract carrier; granted.

1.CERTIFICATES, § 106 — Certificate of public convenience and necessity — Factors considered.

[N.H.] Factors to be considered by the commission in granting a certificate of public convenience and necessity are whether there is a

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substantial public need which is not met by existing carriers and which can be met by the applicant. p. 91.

2. MONOPOLY AND COMPETITION, § 62 — Motor carriers — Competition.

[N.H.] While destructive competition is to be avoided in the interest of maintaining an efficient and stable service, some competition is desirable and in the public interest. p. 91.

APPEARANCES: Armand R. Mastropietro, pro se.; Stephen L. Tober for McCoy Alignment and A.P.R., Inc.; Alvin Shuman for Shuman's Garage.

BY THE COMMISSION:

Report

By application filed January 19, 1979, Armand R. Mastropietro d/b/a Armand's Auto Body seeks authority to operate as a common and contract carrier of property by motor vehicle in the transportation of wrecked, disabled, repossessed, and stolen motor vehicles between all points and places within a 25-mile radius of the town of Newfields.

The applicant, Armand R. Mastropietro of Route 108, Newfields, New Hampshire, has been in business since 1970. His business is primarily the repair of auto bodies. In conjunction with his auto body repair business the applicant has been towing automobiles and light trucks for approximately four years. The purpose for filing the application in this matter is to enable the applicant to enlarge his towing service. Applicant offers a 24-hour service, seven days a week. He operates the service alone but expects to hire an additional employee in the near future. He maintains and operates a 1963 GMC one-ton wrecker truck which is fully hydraulic and of modern design. He also has an older truck as a spare.

The applicant testified that there are no other holders of PUC authority in the towns of Stratham, Greenland, or Newfields. To support his application the applicant has submitted letters from the chiefs of police for the towns of Stratham, Greenland, and Newfields. A letter was also submitted from the sheriff of Rockingham county. In addition, customers' letters were received from Peter A. McFarland, Frank Cook, Barbara Martin, and Coakley Construction Incorporated.

The American Automobile Association submitted a letter supporting the applicant's request for contract and common carrier authority and the director of the association, Henry Scarfo, testified that they had entered a contract with the applicant to render emergency road and towing service in the town of Newfields and within a ten-mile radius. Since February 6, 1978, the applicant has responded to render service to AAA members at least 50 times.

The applicant testified one of every five calls appears to involve service requiring PUC authority. In addition, he is on the police call list for the towns of Greenland, Stratham, and Newfields and the service requested from these police departments are such that authority is desired.

The chief of police for the town of Newfields was represented by patrolman Nathaniel H. Sawyer, Jr., who testified that the applicant is the only service called by the department, that they would continue to utilize his service, and were very happy with the service rendered.

The application was objected to by three wrecker services. Alan Lampert testified that he is operating with PUC

authority in three counties — Rockingham, Hillsborough, and Strafford — and that there are considerable operators in the 25-mile radius requested by the applicant. The Lampert operation

includes four trucks and his maximum number of trucks on the road at all times is two. The average number of calls per day vary from three to six.

Mr. Harold McCoy testified that he is a PUC operator since 1971. He has not received many calls from Newfields recently but does an active business in the Stratham area. The applicant is the main competitor. He further testified that the rotation or splitting up of calls of the police department appears unfair at this time.

Mr. Alvin Shuman participated in cross-examination of applicant but did not testify.

In this proceeding, the applicant has requested a common carrier certificate and a contract carrier permit for all points and places within a 25-mile radius of Newfields.

[1] The certificate of public convenience and necessity sought by the applicant is authorized by RSA 375-B:5:

"375-B:5 Issuance of Common Carrier Certificate. A certificate shall be issued to any qualified applicant therefor, as defined in § 2, Pars IV, V, or VI, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this act, and the requirements, rules, and regulations issued by the commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be *required by the present or future public convenience and necessity*; otherwise such application shall be denied."

The factors to be considered by the commission in determining the public convenience and necessity are specified in Section VIII, New Hampshire Public Utilities Commission Rules and Regulations 1 (d).

(a) Substantial public need. The evidence presented shows than the police departments of the towns of Newfields, Greenland, and Stratham use the service of the applicant. There are also other customers who sought his services. The commission finds there is some need for the service.

(b) Can applicant serve a useful purpose responsive to the public demand. The applicant does meet a responsive demand for services requested and is available to those motorists who break down in this rural area.

[2] (c) Can existing carriers reasonably meet this need. This factor along with subparagraphs 8 and 9 all relate to competition, perhaps is the crucial issue in this type of case. By necessity the commission must address itself to a consideration of competition. It would be noted that there is nothing in the statutes requiring either monopoly or competition between carriers. The question of competition in its transportation industry has been addressed by various state commissions including New York and California. The New York Public Service Commission (1961) 39 PUR3d 106, in affirming its order granting a motor carrier permit for cement hauling authority, discussed the issue fully:

"When a new area of motor truck transportation opens up, as it did here, we do not believe that the first applicants who obtain authority in the area are entitled to monopolize it. Unlike other utility services which are not generally subject to duplicative competition — e.g., railroads, telephones, electric, and

gas services — motor carriers operate in an industry where duplicatory services are readily available. They are not so strictly regulated as the monopoly services, because they are not natural monopolies. Nor is a complete monopoly in any portion of this field desirable or in the public interest. While destructive competition is to be avoided in the interest of maintaining an efficient and stable transportation service (for the *public* — not just *private* benefit), *some* competition is desirable and in the public interest — complete monopoly is not." (39 PUR3d at pp. 110, 111.)

Portions of the New York commission's discussion are applicable to this proceeding. The regulation by this commission of intrastate transportation service is relatively new. The commission agrees with the New York commission's statement that while destructive competition is to be avoided, some competition is desirable and in the public interest.

The California Public Utilities Commission took a similar position in Re Hills Transp. Co. 39 PUR3d 271, wherein it stated:

"Transportation does not flourish best as a regulated monopoly. Historically, it always has been a highly competitive undertaking. Re Investigation of All Carriers of Property (1949) 48 Cal PUC 587. The pattern of transportation regulation has been 'regulated competition.' Re Santa Fe Transp. Co. (1938) 41 Cal RC 239; Re Investigation of All Carriers of Property, *supra*. Competition, to the extent that it does not impair the economic stability of the transportation industry, is desirable in the field of highway common carriage. Re Savage Transp. Co. (1949) 48 Cal PUC 711." (39 PUR3d at p. 274.)

See also our supreme court's discussion of competition, New England Household Moving & Storage, Inc. v New Hampshire Pub. Utilities Commission, 117 NH 1038, 1041:

Especially is this so in light of the unique provisions of N. H. Constitution, Part II, Art 83, providing that free enterprise and the market economy are constitutional rights in this state. 'Free and fair competition' in the trades and industries is an inherent and essential right of the people ... Id. The legislature is authorized to effectuate this policy so that no one will 'destroy free and fair competition ... .' Regulatory agencies have come under recent scrutiny in a report this year by the N. H. House Special Committee on Licensing and Regulatory Boards. Its report found that boards may be 'knowingly or unknowingly' raising barriers to entrance into business and may be out of step with legislative intent by being 'protectionist of their trade and limit(ing) competition.' N.H. House Record 1003-1005, at 1004 (April 7, 1977). This attitude was found to be 'not in the public interest.' Id. at p. 1005. See also economist Milton Friedman's conclusion that the Interstate Commerce Commission has become 'an agency to protect ... existing truck companies from competition by new entrants.' M. Friedman, Capitalism and Freedom 29 (1963)."

The applicant also seeks contract authority within the same geographic area set forth above. A contract carrier interest permit is authorized by RSA 375-B:7:

"375-B:7 Issuance of Contract Carrier Permits. A permit shall be issued to any qualified applicant therefor, as defined in § 2, Par VII authorizing in whole or in part the operations covered by the application, if it appears from the application or from any hearing held thereon,

that the applicant is fit, willing, and able

properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this act and the lawful requirements, rules, and regulations of the commission thereunder, and that the proposed operation, to the extent authorized by the permit, will be consistent with the public interest and the policy declared in § 1 of this act; otherwise such application shall be denied."

Upon consideration of the application filed, the testimony submitted, and the evidence introduced in this proceeding, the commission finds that the applicant is fit, willing, and able properly to perform the service proposed and is willing to conform to the rules and regulations issued of the commission.

The commission further finds that the public convenience and necessity require the applicant to be granted a common carrier certificate to operate as a common carrier of property by motor vehicle in its transportation of wrecked, disabled, repossessed, and stolen motor vehicles *from and within* the towns of Newfields, Greenland, and Stratham *to* a radius of 25 miles *from* the town of Newfields. There is no evidence of any need for the applicant to pick up or tow any vehicle from points outside of the aforementioned towns.

The commission further finds that the only request for contract authority emanates from the AAA contract between the applicant and the American Automobile Association. As this contract affects a considerable amount of potential customers, the commission concludes a need exists for a contract carrier permit to issue. The commission finds that it is consistent with the public interest that a contract carrier permit for contract carrier of property of motor vehicle in the transportation of wrecked and disabled motor vehicles between all points and places within a ten-mile radius of the town of Newfields. This contract carrier permit is limited to the contract between the applicant and the American Automobile Association and any renewal thereof confined to the geographical territory set forth above.

Our order will issue accordingly.

Order

Property Carrier Certificate of Public Convenience and Necessity No. 512

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Armand R. Mastropietro d/b/a Armand's Auto Body of Newfields, New Hampshire, be, and hereby is, authorized to engage in operations as an irregular-route common carrier of property for hire by motor vehicle as follows:

Transportation of wrecked, disabled, repossessed, and stolen motor vehicles *from and within* the towns of Newfields, Greenland, and Stratham *to* a radius of 25 miles *from* the town of Newfields; and it is

Further ordered, that said operations shall comply with the provisions of RSA 375-B and the rules and regulations prescribed by the Public Utilities Commission pursuant thereto.

By order of the Public Utilities Commission of New Hampshire this twentieth day of April,

1979.

Order

Property Carrier Public Interest Permit No. 1,226

Upon consideration of the foregoing report, which is made a part hereof; it is

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Ordered, that Armand R. Mastropietro d/b/a Armand's Auto Body of Newfields, New Hampshire, be, and hereby is, authorized to engage in operations as an irregular-route contract carrier of property for hire by motor vehicle as follows:

Transportation of wrecked and disabled motor vehicles between all 1points and places within a ten-mile radius of the town of Newfields pursuant to the AAA contract; and it is

Further ordered, that said operations shall comply with the provisions of RSA 375-B and the rules and regulations prescribed by the Public Utilities Commission pursuant thereto.

By order of the Public Utilities Commission of New Hampshire this twentieth day of April, 1979.

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NH.PUC*04/24/79*[78277]*64 NH PUC 113*Gas Service, Inc. et al.

[Go to End of 78277]

Re Gas Service, Inc. et al.

DE 79-13, Order No. 13,600

64 NH PUC 113

New Hampshire Public Utilities Commission

April 24, 1979

PETITION for approval of the sale and transfer of a utility's assets; granted.

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1. CONSOLIDATION, MERGER, AND SALE, § 46 — Sale of gas utility — Allowable depreciation.

[N.H.] Where a purchaser acquired assets of a gas utility with a book value of $461,340 for $56,000, the commission permitted the purchaser to recover the full amount of depreciation expense that was being charged by the seller but required that the purchaser's return on utility plant be computed using the actual price paid. p. 114.

2. CONSOLIDATION, MERGER, AND SALE, § 19 — Transfer and sale of assets — Gas utility.

[N.H.] The commission authorized the sale and transfer of all a gas utility's assets to a newly

formed corporation where it found the transaction to be in the public interest. p. 116.

APPEARANCES: Charles Toll, Jr. for the petitioner's Gas Service, Inc.; Dom D'Ambruoso for Keene Gas Corporation; Larry Eckhaus for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On January 15, 1979, Gas Service, Inc., a duly organized New Hampshire corporation operating as a public gas utility in the cities of Nashua, Laconia, and Keene, filed for approval of the sale and transfer of its Keene division business and assets to Keene Gas Corporation, a newly formed New Hampshire corporation seeking authority to operate as a public gas utility, and for other relief.

A public hearing was held on February 14, 1979, at 10:00 A.M. at the commission offices in Concord.

The company submitted testimony and exhibits based on a 12-month period ending November 30, 1978. Pro forma adjustments were made to reflect the effect on the books of Gas Service, Inc. after the divestiture of the Keene division. The net changes include Gas Service, Inc. reabsorbing wages and expenses previously assigned to the Keene division and include a tax increase brought about by the sale. Despite the additional expenses referred to, this transfer, if allowed, would increase the profitability of the remaining two divisions. Also, the loss brought about on the sale of the fixed capital of the corporation will be absorbed by the stockholders as opposed to the ratepayers.

As was borne out in the testimony, the Keene division is not presently being served by the natural gas pipeline, while the remaining divisions, with the exception of peaking, are completely supplied from this source.

Gas Service, Inc. indicated that they had not solicited their stockholders to determine whether a two-thirds majority would vote in favor of this divestiture, however, management indicated at the hearing that directors control approximately 60 per cent of the stock, that letters were sent to all stockholders indicating the company's intention (pet. Exh 5) and that no responses were received.

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Keene Gas, the buyer, proposes to retain the present tariff now in existence, and indicated that they would conduct a concerted effort to induce householders whose property is adjacent to existing gas mains to become customers. Although the Keene division is not presently in a profitable position, testimony given at the hearing (TR.40) indicates that the new owners do not intend to file a rate request petition in the near future.

From the standpoint of how this transaction affects the two petitioners, it would appear that the key determination here is whether or not this sale is in the public good. Intervenors have no objection to the sale of the Keene division by Gas Service to Keene Gas with the one exception

of the accounting treatment proposed for the difference between the purchase price and the net book value.

[1] The purchaser (Keene Gas) proposes to acquire the fixed capital of the Keene division of Gas Service, Inc. for a price of $56,000. The book value of the assets involved in this transaction are new plant $374,967, net non-operating assets $17,611, and materials and supplies of $68,762, for a total of $461,340. The purchaser has requested authority to treat the difference between the net book value of assets ($461,340) and the actual purchase price ($56,000) as acquisition surplus ($405,340). By giving effect to this accounting treatment, the purchaser through continued full depreciation allowances would recapture the entire remaining value of the original plant.

The Uniform Classification of Accounts for gas utilities, as adopted and presently in use by this commission, provide a fixed capital adjustment account (BA1304) for the purpose of entering any premium or discount involved between the asset value as recorded on the books of the seller and the actual price paid for those assets by the buyer. The purpose of this account is to directly control the amount that the buyer is allowed to recoup via depreciation over the remaining life and up to the amount of his investment.

Intervenors contend that this accounting policy be strictly adhered to while the petitioner (Keene Gas) prays that the commission will deviate from this requirement as has been done on at least two separate occasions cited by them during the proceedings: Re Public Service Co. of New Hampshire (1945) 27 NH PSC 176; and Re Portsmouth Gas Co. (1944) 26 NH PSC 176.

The fixed capital adjustment account and the so-called acquisition surplus account are not one and the same, as was mentioned at the hearing (TR.34) and which is cited in Re Portsmouth Gas Co. (1944) 26 NH PSC 176, rather the fixed capital adjustment account is included in the fixed capital section of the balance sheet while the acquisition surplus account appears in the surplus section and is truly another form of capital surplus.

In both instances cited above the variance between net book value and acquisition cost was substantial and reflected the purchase of fixed plant at far below its indicated value, as does the case we are addressing, today. Earlier we determined that the main point of contention was whether this sale was in the public good. We now believe that we have to take this one step further and determine whether we should consider the public good only for the present or whether we should also take into consideration the future ratepayer.

If we determine that our only concern is the welfare of today's customer and ratepayer, then there can be no doubt

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that the proper accounting treatment of this transfer would be to utilize the fixed capital adjustment account for the purpose for which it was created, namely to allow the purchaser to recapture the price paid for the utility via depreciation and no more. If, however, we decide that the ratepayer of tomorrow should be given some consideration, we arrive at the reasoning that was used on at least two occasions in the past when this commission permitted a deviation from the general rule and allowed the use of the account acquisition surplus.

The use of the acquisition surplus account allows the purchaser who has paid less than book value for the assets of a utility the opportunity to recover the full rate of depreciation on those assets over the remaining life of the plant. The main reason for this rationale is to avoid the tremendous impact placed upon the ratepayer when the plant is fully depreciated and sufficient reserves for replacement are nonexistent. The owner of the utility would, at that point in time, have to infuse large amounts of capital either through debt, equity, or going to the ratepayers for contributions in aid of construction. Any one of these avenues would create a dramatic increase in the cost of continued utility service, especially where acquisition cost represented a small percentage of the net plant value at time of transfer.

After giving careful consideration to the merits of the method by which Keene Gas would like to have this sale handled and also the method by which the LUCC determines to be a proper accounting, the commission determines that Keene Gas should be allowed to recover the full amount of depreciation expense that is presently being charged by Gas Service, Inc. However, the commission feels that the return on net fixed capital (net utility plant) should be allowed only to the extent of the actual price paid for this plant.

Based on the test period submitted, the breakdown of assets purchased would be as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

PAYMENT ALLOCATION
347,967
17,611
68,762
461,340

The balance sheet following the sale would appear as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Fixed Capital Utility		720,087
Fixed Capital Nonutility		123,859
	329,450	
Fixed Capital Adjustment	15,472	(344,922)
Cash		44,000
Materials and Supplies		68,762
Total Assets		611,786
Depreciation Reserve Utility		345,120
Depreciation Reserve Nonutility		106,248
Common Stock		100,000
Capital Surplus		60,418
		611,786

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Rate Base

Due to the substantially lower price being paid for this utility, it does not lend itself to the presentation of an average rate base. Rather, the initial net value of utility plant ($45,517) as stated earlier, and the materials and supplies ($68,762), would comprise the initial components allowed in the makeup of the rate base. Based on test-period information, this would total $114,279.

Cost of Capital

The cost of capital that the commission finds reasonable in this acquisition is 13 per cent and at the time of transfer is comprised solely of equity.

Revenue Requirement

The operating expenses that are being allowed to Keene Gas are outlined below:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Cost of Gas	495,000
Operations and Maintenance	205,400
Depreciation	32,146
Taxes — Property and Payroll	15,000
Allowed Rate of Return	14,856
	762,402

Treatment of Fixed Capital Adjustment Account

The utility-related portion of the fixed capital adjustment account at time of acquisition, based again on test-year figures, is a credit of $329,450. This account will be charged annually $28,243, which is the pro rata amount arrived at by first dividing $329,450 (utility-related fixed capital adjustment) by the $374,967 (net utility plant) and then applying the rate (87.86 per cent) to the annual depreciation ($32,146). The offsetting credit will be made to capital surplus.

Summation

Keene Gas proposes to make a concerted effort to increase their utility revenues from the $601,790 as reported by Gas Service to $695,000 during the first year of operation. It is their feeling that many former customers and others adjacent to their mains may be induced to use gas.

As has been stated earlier, the company does not intend to file for a rate increase in the immediate future even though their projected income ($695,000) falls short of their indicated revenue requirement ($762,402).

The principal of Keene Gas has indicated that he desires to pursue a very aggressive position in the attainment of the utility's goal — namely to turn it around from its present deficit into a profitable operation.

Based on the foregoing report, the commission finds that this transfer is reasonable and proper and is in the public good.

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

[2] Ordered, that Gas Service, Inc., be, and hereby is, authorized to sell and transfer its franchise and all of its works and system used in the generation, transmission, and distribution of gas located in the city of Keene, to Keene Gas Corporation; and it is

Further ordered, that Keene Gas Corporation be, and hereby is, authorized to engage in business as a gas public utility in the territory encompassing the franchise that was formerly

served by the Keene division of Gas Service, Inc.; and it is

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Further ordered, that within three months of the effective date of acquisition, Keene Gas Corporation, shall file with this commission a copy of the journal entries recording the acquisition of the gas properties.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of April, 1979.

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NH.PUC*04/30/79*[78278]*64 NH PUC 117*Pennichuck Water Works

[Go to End of 78278]

Re Pennichuck Water Works

DR 79-3, Order No. 13,603

64 NH PUC 117

New Hampshire Public Utilities Commission

April 30, 1979

REQUEST for authority to collect temporary rates; granted.

RATES, § 630 — Emergency rates — Water company.

[N.H.] The commission authorized temporary rates for a water company.

BY THE COMMISSION:

Order

Whereas, at the public hearing for temporary rates petitioned by the water works an oral request was made that the rates currently being collected under the Sixth Revised Pages 21-24 be allowed as temporary rates in this proceeding; and

Whereas, the current allowed rate being collected consist of $647,000 annual revenues and $117,000 representing an annual recoupment of revenue granted in DR 76-113 or total current rates of $764,000.

Upon due consideration of the pleading and testimony presented; it is

Ordered, that Pennichuck Water Works be, and hereby is, allowed temporary rates to permit revenue in the amount of $764,000 per annum, and it is

Further ordered, that the requirement of Order No. 12,717 to file new tariff pages prior to

April 30, 1979, is hereby waived; and it is

Further ordered that allowed temporary rates become effective with all billings issued on or after April 30, 1979; and it is

Further ordered, that Pennichuck Water Works give public notice of these temporary rates by publishing same in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 1979.

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NH.PUC*04/30/79*[78279]*64 NH PUC 118*Public Service Company of New Hampshire

[Go to End of 78279]

Re Public Service Company of New Hampshire

DR 76-46, Thirty-ninth Supplemental Order No. 13,604

64 NH PUC 118

New Hampshire Public Utilities Commission

April 30, 1979

PETITION of a utility for authority to apply a fuel adjustment charge to its regular monthly billing; granted.

RATES, § 303 — Fuel adjustment clauses — Passthrough of costs.

[N.H.] The commission permitted a utility to pass through increased fuel costs pursuant to its fuel adjustment clause.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Harold T. Judd for the Legislative Utility Consumers' Council; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission on April 19, 1979, held a hearing on the petition of Public Service Company of New Hampshire for authority to apply a fuel adjustment charge to regular May, 1979, monthly billings to its customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

Public Service Company of New Hampshire, a public utility engaged in the business of

supplying electric service in the state of New Hampshire on April 17, 1979, filed with this commission 14th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect May 1, 1979.

The company reported a fuel cost above base of $7,474,957 and total kilowatt-hours subject to the fuel adjustment of 501,431,000 resulting in a per kilowatt-hour charge of $0.01490725. The fuel adjustment charge rounded to $1.49 per hundred kilowatt-hours is proposed to go into effect in the month of May, 1979.

Witnesses testified to the facts that a substantial amount of the unscheduled maintenance that occurred during the month of March was caused by anchor ice problems. Contributing factors to the increase of the fuel adjustment charge over the preceding month were increases in fuel costs — approximately 35 cents a ton for coal and 83 cents a barrel for oil, a greater volume of purchases from NEPEX and a lesser volume of nuclear energy purchases brought about by shutdowns at Maine and Vermont Yankees.

Company witnesses submitted an exhibit consisting of a letter addressed to the Maine Yankee Atomic Power Company in which they expressed their concern over the recent shutdown of the plant which was ordered by the Nuclear Regulatory Commission. In the letter they specifically request that they be apprised of any legal rights that Maine

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Yankee may have as a result of the out-age and what participation, if any, Public Service Company of New Hampshire might have in that regard.

The Legislative Utility Consumers' Council filed a pleading and memorandum requesting that the commission deny the fuel adjustment as submitted by the company for the following reasons: (1) the cost of fuel burned should not be placed through to customers in a fuel adjustment clause where the burning of that fuel resulting in a zero megawatt output, and (2) the increased cost of fuel incurring in replacing Public Service Company's entitlement in Maine Yankee should not be placed along to the consumers via the fuel adjustment clause.

The Community Action Program, through its attorney, join in said request.

Public Service Company responded to the pleading filed by the Legislative Utility Consumers' Council and the Community Action Program by filing written memorandum.

The commission will set forth its opinion on the pleadings filed by a future supplemental report.

Based upon all of the pleading's testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charge for the month of May, 1979, is just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 14th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of $1.49 per hundred kilowatt-hours for the month of May, 1979, be, and hereby are permitted to become effective May 1, 1979.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 1979.

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NH.PUC*04/30/79*[78280]*64 NH PUC 119*Concord Natural Gas Corporation

[Go to End of 78280]

Re Concord Natural Gas Corporation

DR 79-73 et al. Order No. 13,605

64 NH PUC 119

New Hampshire Public Utilities Commission

April 30, 1979

PETITION of utilities for cost-of-gas adjustment; granted.

RATES, § 303 — Cost-of-gas adjustment — Authorization.

[N.H.] Where there was no evidence that disputed a utility's projected costs or projected sales, the commission allowed the cost of a gas adjustment to go into effect pursuant to filed tariffs.

REVENUES, § 2 — Revenue forecasts — Accuracy.

[N.H.] Statement that it is the goal of the commission that companies be accurate in their forecasts and that close scrutiny will be given future cost-of-gas filings to determine the impact of inaccurate forecasts on the consumers. p. 120.

APPEARANCES: Fred L. Potter for Northern Utilities, Inc.; Charles H. Toll, Jr., for Concord Natural Gas Corporation and Gas Service, Inc.; David A. Skrzysowski for Manchester Gas Company; Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

The conformance with commission tariff filing rules and cost-of-gas adjustment terms

outlined in the individual tariffs of each of the named companies, proposed cost-of-gas adjustments for the summer period, May 1, 1979, through October 31, 1979, were filed for commission consideration. Companies proposed cost-of-gas adjustments as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Concord Natural Gas Corporation	($0.0379) per therm
Gas Service, Incorporated: Nashua	($0.0051) per therm
Keene	($0.0937) per therm
Laconia	($0.0010) per therm
Manchester Gas Company	$0.0284 per therm
Northern Utilities, Inc. (Allied Gas)	$0.0433 per therm

A duly noticed public hearing was held at the offices of the commission on April 19, 1979, at which time a witness of each company discussed the components of its cost-of-gas adjustment.

Testimony and cross-examination of company witnesses revealed that methods of forecasting costs of natural gas and peak-shaving gas were consistent with those approved previously by this commission. Impacting the cost-of-gas adjustment were the following:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

5.63 cents per mcf	Louisiana First-use Tax
2.94 cents per mcf	Increase under bond for two-part rate customers
4.37 cents per mcf	Increase under bond for one-part rate customers

Offsetting these increases are credits for the Tennessee Gas Pipeline refund allocated to the summer period. (See docket DR 78-146.) Also included are adjustments for over- or undercollection during the previous summer period. (Note that the commission requires 8 per cent interest on any overcollected revenues.)

The commission has no evidence that would dispute the projected costs or projected sales, so will allow the cost-of-gas adjustments as presented to go into effect as proposed. Our order will issue accordingly.

The commission does have some concern with the accuracy of company forecasts. In the previous summer period, two companies reported undercollection of the cost-of-gas revenue, while two reported overcollection. Despite the fact that 8 per cent interest is required on overcollected revenues, it is the goal of the commission that companies be accurate in their forecasts. In this regard, close scrutiny will be given future cost-of-gas filings to determine the impact of inaccurate forecasts on the consumer.

Our order will issue accordingly.

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Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 13th Revised Page 21 and 11th Revised Page 21A of Concord Natural Gas Corporation tariff, NHPUC No. 13 — Gas, providing for a cost-of-gas adjustment of ($0.0379) per therm for the period May 1, 1979, through October 31, 1979, be, and hereby are, approved; and it is

Further ordered, that Section 2, 14th Revised Page 3; Section 3, 12th Revised Page 3; and Section 4, 13th Revised Page 3 of Gas Service, Inc., tariff NHPUC No. 5 — Gas, providing for cost-of-gas adjustment of ($0.0051) per therm for Nashua; ($0.0937) per therm for Keener and ($0.0010) per therm for Laconia for the period May 1, 1979, through October 31, 1979, be and hereby are approved; and it is

Further ordered, that 14th Revised Page 20 of Manchester Gas Company, tariff NHPUC No. 12 — Gas, providing for a cost-of-gas adjustment of $0.0284 per therm for the period May 1, 1979, through October 31, 1979, be, and hereby is, approved; and it is

Further ordered, that 12th Revised Page 22A of Northern Utilities, Inc., Allied Gas Division, tariff NHPUC No. 6 — Gas, providing for a cost-of-gas adjustment of $0.0433 per therm for the period May 1, 1979, through October 31, 1979, be and hereby is approved; and it is

Further ordered, that revised tariff pages approved by this order become effective with all billings issued on and after May 1, 1979; and it is

Further ordered, that public notice of this cost-of-gas adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 1979.

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NH.PUC*05/02/79*[78281]*64 NH PUC 121*New Hampshire Electric Cooperative, Inc.

[Go to End of 78281]

Re New Hampshire Electric Cooperative, Inc.

IR 14,834, Order No. 13,609

64 NH PUC 121

New Hampshire Public Utilities Commission

May 2, 1979

PETITION seeking replacement power cost adjustment for electricity; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 6, 1979, filed with this commission additional pages to its tariff, NHPUC No. 8 — Electricity, providing for a customer surcharge should costs of replacement power, in the event of loss of nuclear entitlement, exceed $75,000 annually; filed for effect May 1, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Original Pages 14A and 14B of tariff, NHPUC No. 8 — Electricity, of New Hampshire Electric Cooperative, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this second day of May, 1979.

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NH.PUC*05/03/79*[78282]*64 NH PUC 122*Public Service Company of New Hampshire

[Go to End of 78282]

Re Public Service Company of New Hampshire

I-E14,374, 24th Supplemental Order No. 13,610

64 NH PUC 122

New Hampshire Public Utilities Commission

May 3, 1979

PETITION requesting extension of term of contract; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire, a utility selling electricity under the jurisdiction of this commission, has filed with this commission an amendment to its Special Contract No. 36-12 with Richard A. Parrot and Frances R. Parrot, further extending the term of said contract to December 31, 1979; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said amendment may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this third day of May, 1979.

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NH.PUC*05/03/79*[78283]*64 NH PUC 122*Public Service Company of New Hampshire

[Go to End of 78283]

Re Public Service Company of New Hampshire

I-E14,374, 25th Supplemental Order No. 13,611

64 NH PUC 122

New Hampshire Public Utilities Commission

May 3, 1979

PETITION to extend terms of service contract; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire, a utility selling electricity under the jurisdiction of this commission, has filed with this commission an amendment to its Special Contract No. 36-15 with Richard L. Lavigne and Sherily M. Lavigne, further extending the term of said contract to December 31, 1979; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said amendment may be come effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this third day of May, 1979.

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NH.PUC*05/04/79*[78284]*64 NH PUC 123*Municipal Electric Department of Wolfeboro

[Go to End of 78284]

Re Municipal Electric Department of Wolfeboro

IR 14,821, Second Supplemental Order No. 13,614

64 NH PUC 123

New Hampshire Public Utilities Commission

May 4, 1979

PETITION seeking optional time-of-day rates; granted with clarification.

BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 13,454, dated December 29, 1978, required the Municipal

Electric Department of Wolfeboro to file tariff pages providing for optional time-of-day rates; and

Whereas, on March 28, 1979, the department filed such pages, for effect May 1, 1979; and

Whereas, the filing included Original Pages 24, 25, 26, and 27, such pages being approved by the commission Order No. 13,562 dated April 2, 1979; and

Whereas, it appears that the use of Original Page 24 by the department was duplicative, Original Page 24 being already included in the tariff as part of the outdoor lighting service Rate ML; it is

Ordered, that "Original Page 24" of Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, with issue date of April 1, 1979, and effective date of May 1, 1979, be, and hereby is, redesignated "Original Page 24A"; and it is

Further ordered, that First Revised Page 1 of said tariff be corrected to reflect this redesignation of Original Page 24 as Original Page 24A; and it is

Further ordered, that both First Revised Page 1 and Original Page 24A be annotated to show this order number

as the authorization for such page designation change.

By order of the Public Utilities Commission of New Hampshire this fourth day of May, 1979.

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NH.PUC*05/08/79*[78285]*64 NH PUC 124*Public Service Company of New Hampshire

[Go to End of 78285]

Re Public Service Company of New Hampshire

DR 79-107, Order No. 13,617

64 NH PUC 124

New Hampshire Public Utilities Commission

May 8, 1979

ORDER excluding construction work in progress from a utility's rate base.

VALUATION, § 224 — Construction work in progress — Statutory exclusion from rate base.

[N.H.] The commission ordered a utility, which had included in its rate base amounts relating to construction work in progress, to file a new tariff which complied with the legislature's direction that construction work in progress not be allowed in rate base.

BY THE COMMISSION:

Order

Whereas, the legislature enacted House Bill No. 155 amending RSA 378:30(a) which reads as follows:

"1. Costs of Construction Work in Progress Excluded from Rate Base. Amend RSA 378 by inserting after § 30 the following new section:

"378:30(a). Public Utility Rate Base; Exclusions. Public utility rates or charges shall not in any manner be based on the cost of construction work in progress. At no time shall any rates or charges be based upon any costs associated with construction work if said construction work is not completed. All costs of construction work in progress, including but not limited to, any costs associated with constructing, owning, maintaining, or financing construction work in progress, shall not be included in a utility's rate base nor be allowed as an expense for rate-making purposes until and not before, said construction project is actually providing service to consumers.

"2. Effective Date. This act shall take effect upon its passage."

and

Whereas, the bill became effective May 7, 1979; and

Whereas, House Bill No. 155 prohibits any rates or charges to be based upon any costs associated with construction work if said construction work is not completed; and

Whereas, cost of construction work in progress includes, but is not limited to, any costs associated with constructing, owning, maintaining, or financing construction work in progress and shall not be included in a utility's rate base nor be allowed as an expense for rate-making purposes until, and not before, said construction project is actually providing service to consumers; and

Whereas, the present rates allowed by DR 77-49 include costs involved with construction work in progress in report and 11th Supplemental Order No. 13,162 and 14th Supplemental Order No. 13,370 and report relating to the elderly discount program;

Now therefore, in consideration of the aforegoing, the Public Service Company of New Hampshire shall file a new tariff limited to implementing provisions of House Bill No. 155 by May 25, 1979, and in the event that such new tariff is not filed by May 25, 1979, then Public Service Company of New Hampshire shall show cause before the New Hampshire Public Utilities Commission on June 5, 1979, at 10:00 A.M. why an order shall not issue by the commission that the Public Service Company of New Hampshire eliminate from the company's existing rates that portion of the rates based on construction work in progress or associated therewith as of May 7, 1979.

By order of the Public Utilities Commission of New Hampshire this eighth day of May, 1979.

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NH.PUC*05/09/79*[78286]*64 NH PUC 125*Union Telephone Company

[Go to End of 78286]

Re Union Telephone Company

DF 79-62, Order No. 13,621

64 NH PUC 125

New Hampshire Public Utilities Commission

May 9, 1979

PETITION for authority to issue and sell notes and stock; granted.

SECURITY ISSUES, § 48 — Notes and stock issuance — Authorization.

[N.H.] Where there was no objection to a utility's proposal to issue and sell short- and long-term notes and to issue additional shares of common stock, and the proposal was supported by various exhibits, the commission authorized the sale.

APPEARANCES: Wallace Flaherty for the petitioner; Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this unopposed petition filed March 22, 1979, Union Telephone Company of New Hampshire (the company), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as a telephone public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash, and from time to time to renew, its short- and long-term notes payable in such amounts that the aggregate of such said notes shall not exceed $1.3 million. Such debt to be issued with interest rates not exceeding the prime loan rate at the time of issuance or renewal. Authority is also requested under the same statute to increase and issue for cash 4,000 additional shares of $25 par value common capital stock.

At the public hearing held in Concord on May I, 1979, company witness

Flaherty testified that the renewal of the authority allowing a total debt level limitation of $1.3 million was necessary for the company to maintain its orderly growth and to partially finance its projected construction program. He also testified that the increase in common shares from 8,000 to 12,000, after the sale, would yield approximately $140,000 ($35 per share being the proposed price at which the stock would be offered). These proceeds would be used to immediately reduce a portion of the presently outstanding debt and for other proper corporate purposes.

The petitioner submitted the following schedule of long- and short-term debt, along with the effect created by the application of the proceeds derived from the proposed sale of additional common stock.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

$ 35,000	Long-term Debt
821,000	Other Long-term Debt
399,600	Short-term Debt
1,255,600	
140,000	Proceeds of Stock Offering
1,115,600	
184,000	Available Borrowing Capacity
$1,300,000	Debt Level Limit

Various exhibits were submitted in support of the proposal, including a 1979 pro forma construction budget, a 1977-78 comparative balance sheet, a 1977-78 comparative income statement, adjusted balance sheets and income statements, a statement of changes in financial position, rate of return and cost of capital for 1978 on a trial as well as an adjusted basis, a financial analysis, and a copy of the vote by the board of directors authorizing the petition.

The only intervenor at the hearing was the LUCC, and they expressed no objection to the $1.3 million debt level limit being renewed nor to the issuance of 4,000 additional shares of $25 par value common capital stock at the price of 535 per share.

Based upon all of the evidence, the commission finds that the debt level limitation, including both long- and short-term notes, should be renewed to an aggregate amount not in excess of $1.3 million for a period of one year from the date of this order. The commission further finds that the authorization and sale of 4,000 additional shares of $25 par value common capital stock at a price of $35 per share should be allowed and that both of these requests are consistent with the public good. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Union Telephone Company be, and hereby is, authorized to issue and sell for cash, and from time to time renew, its short- and long-term notes payable in such amounts that the aggregate of such said notes shall not exceed $1.3 million for a period of one year from the date of this order with interest rates not to exceed the prime bank loan rate at the time of issuance or renewal; and it is

Further ordered, that Union Telephone Company be, and hereby is, authorized to increase

and sell for cash 4,000 additional shares of $25 par value common capital stock at a price of $35 per share; and it is

Further ordered, that the proceeds from the sale of stock would be used to reduce a portion of the presently outstanding debt and for other proper corporate purposes; and it is

Further ordered, that the company shall submit to the commission copies of the registration statement filed with the

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Securities and Exchange Commission covering the additional 4,000 shares of $25 par value common capital stock; and it is

Further ordered, that on or before January 1st and July 1st in each year, Union Telephone Company shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of the common stock sale and also the disposition of the proceeds of the notes herein authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this ninth day of May, 1979.

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NH.PUC*05/14/79*[78287]*64 NH PUC 127*Public Service Company of New Hampshire

[Go to End of 78287]

Re Public Service Company of New Hampshire

DF 79-28, Second Supplemental Order No. 13,622

64 NH PUC 127

New Hampshire Public Utilities Commission

May 14, 1979

PETITION of utility for authority to issue and sell preferred stock; granted.

SECURITY ISSUES, § 48 — Preferred stock sale — Authorization.

[N.H.] The commission authorized a sale of preferred stock as consistent with the public good where it found that proceeds would be expended to pay off a portion of a utility's outstanding short-term notes, the proceeds of which were expended in the acquisition of needed property.

APPEARANCES: Ralph H. Wood and Frederick J. Coolbroth for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition, filed February 12, 1979, Public Service Company of New Hampshire (the company) a corporation duly organized and existing under the laws of the state of New Hampshire, and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash not exceeding 1.2 million shares of preferred stock, $25 par value. A duly noticed hearing was held in Concord on March 6, 1979.

Company witness Harrison testified that the proceeds of the sale of the preferred stock will be used to pay off a portion of the short-term notes outstanding at the time of the sale (estimated to be about $98,325,000) also, that there is a possibility that a portion might be used to pay for current construction costs payable on or near the date of the closing instead of repaying such loans and then immediately reborrowing to pay such construction costs. All expenses incurred in accomplishing the financing will be paid from the general funds of the company.

The preferred stock will be sold

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through a negotiated public offering. The negotiated price is expected to be the par value, which is the minimum amount permitted under New Hampshire law and the expected dividend rate to be carried by these securities will fall between 10 and 11 per cent.

The company submitted a balance sheet as of December 31, 1978, actual and pro formed to reflect the sale of 2 million shares of common stock that have been sold since that date and also to reflect the proposed sale of 1.2 million shares of preferred stock for which the company is seeking authority. Exhibits were also submitted showing: disposition of proceeds, estimated expenses of the issue and capital structure as of December 31, 1978, and pro formed for the sale of the common and preferred stock as referenced above. Projected financing requirements and estimated construction expenditures were outlined in testimony, however, it was stated that any sale by the company either in whole or in part of any of their present holdings in unfinished construction projects could alter the 1979 construction program estimated expenditures as submitted at the hearing. A certified copy of the resolution of the company's board of directors authorizing the issuance and sale was put in evidence at the hearing.

Based upon all of the evidence, the commission finds that the proceeds from the proposed financing will be expended to pay off a portion of the short-term notes outstanding at the time of the sale, the proceeds of which will have been expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the petitioner's business, and for other corporate purposes, and further finds that the issue and sale of the preferred stock will be consistent with the public good. Our order will issue accordingly.

Order

Based upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of new Hampshire be, and hereby is, authorized to

issue and sell not exceeding 1.2 million shares of preferred stock, $25 par value, for cash in accordance with the foregoing report and as set forth in its petition; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this commission the number of shares of said preferred stock sold and the purchase price thereof, after which a supplemental order will issue approving the number of shares of said preferred stock sold and the purchase price thereof; it is

Further ordered, that the proceeds from the sale of said preferred stock shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of said company; and it is

Further ordered, that Public Service Company of New Hampshire furnish this commission with copies of its registration statement for the preferred stock filed with the Securities and Exchange Commission and any amendments thereof; and it is

Further ordered, that on July 1st and January 1st in each year, Public Service Company of New Hampshire shall file with this commission a detailed statement, duly sworn by its treasurer or assistant treasurer, showing the disposition of the proceeds of said securities being authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

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By order of the Public Utilities Commission of New Hampshire this nineteenth day of March, 1979.

Supplemental Order

Whereas, our Order No. 13,519, dated March 19, 1979, and Supplemental Order No. 13,587 dated April 16, 1979, issued in the above entitled proceeding, authorized Public Service Company of New Hampshire, inter alia, to issue and sell not exceeding 1.2 million shares of preferred stock, $25 par value, subject to further order of this commission; and

Whereas, in compliance with said Order No. 13,519 and Supplemental Order No. 13,587, following negotiation with underwriters, the company has submitted to this commission the details concerning the number of shares of preferred stock to be sold, and the price, dividend rate, and other terms thereof, which contemplate the issue and sale of 1.2 million shares of a new series of its preferred stock, $25 par value, designated "sinking fund preferred stock 11.24 per cent dividend series, $25 par value," either to the public, through an offering by underwriters on behalf of the company, or to underwriters who will make a public offering thereof, or both; said preferred stock to be sold bearing a dividend rate of 11.24 per cent per year, at a price to the company of $25 per share, and to provide for a mandatory sinking fund under which 60,000 shares will be redeemed annually beginning May 15, 1985, and for optional redemption of an additional 60,000 shares on each mandatory sinking fund redemption date with compensation to the underwriters in the aggregate amount of $1,176,000; all as set forth in the underwriting agreement between the company and the underwriters, a copy of which is to be filed with the commission; and

Whereas, after due consideration, it appears that the issue and sale of said preferred stock upon the terms, conditions, and price hereinabove set forth or referred to, is consistent with the

public good; it is

Ordered, that Public Service Company of New Hampshire, be, and hereby is, authorized to issue and sell at a price of $25 per share in cash 1.2 million shares of its sinking fund preferred stock 11.24 per cent dividend series, $25 par value, as hereinabove set forth, with compensation to the underwriters in the aggregate amount of $1,176,000; said stock to be sold at said price $25 per share either to the public, through an offering by underwriters on behalf of the company, or to underwriters who will make a public offering thereof, or both, all as set forth in the underwriting agreement between the company and the underwriters; and it is

Further ordered, that all other provisions of said Order No. 13,519 and Supplemental Order No. 13,587 of this commission are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of May, 1979.

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NH.PUC*05/16/79*[78288]*64 NH PUC 130*Williamsburg Water Company

[Go to End of 78288]

Re Williamsburg Water Company

DE 78-235, Order No. 13,624

64 NH PUC 130

New Hampshire Public Utilities Commission

May 16, 1979

ORDER suspending authority to operate a water system and granting temporary authority to operate the system to a second utility.

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1. CERTIFICATES, § 152 — Authorization of service — Revocation.

[N.H.] The commission suspended a water company's authority to operate a water system where it found that customers of the company were dissatisfied, where there were many interruptions of service, and when requests for service had met with a totally negative response. p. xxx.

2. CERTIFICATES, § 76 — Temporary authorization of service — Water company.

[N.H.] Where present water service was inadequate, the commission granted another water company temporary authority to operate the water system. p. xxx.

BY THE COMMISSION:

Order

[1] Whereas, joint petitions were filed by the Williamsburg Water Company and the Beaver Brook Water Company on December 26, 1978, and a public hearing was held on January 11, 1979; and

Whereas, the testimony and evidence presented to the commission strongly indicated that the present operator, Williamsburg Water Company, was desirous of discontinuing operations and that the customers of said operator were very dissatisfied with the operation of the water company; and

Whereas, the financial circumstances of the operating company were such that the operating company was willing to sell its franchise, equipment, and assets publicly for a nominal sum; and

Whereas, the Beaver Brook Water Company indicated its willingness to obtain the franchise and to continue the service provided by the operating company; and

Whereas, the town of Pelham has conveyed a tax sale deed for past due taxes; and

Whereas, a motion was filed by the Hudson Water Company, a subsidiary of the Consumers Water Company, to stay the proceeding and reopen the hearing; and

Whereas, this commission finds that during the period of December 26, 1978, to the date of this order there has been many interruptions of service to the consumers of the water system and that continued requests for service by customers have met with totally negative responses, and that at this time Beaver Brook Water Company can not respond to correct the emergency situation; and

Whereas, the town of Pelham has during the past month; by necessity, repaired equipment and maintained same so as to provide its citizens with continued water service;

Now therefore, in consideration of the foregoing the New Hampshire Public Utilities Commission finds that an emergency exists and hereby orders that the Williamsburg Water Company's authority to operate a water system in a

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limited area in the town of Pelham is hereby suspended; it is

[2] Further ordered, that the Hudson Water Company is granted temporary authority to operate the water system previously operated by Williamsburg Water Company and is authorized to repair, service, and maintain the equipment in an effort to provide continuous and efficient service to the customers of the water system; and it is

Further ordered, that Hudson Water Company shall file a petition for permanent authority as soon as possible and this commission shall keep this docket open for the purpose of accepting a petition for permanent authority.

This order is consented to by counsel for Hudson Water Company, Beaver Brook Water Company, and the Legislative Utility Consumers' Council.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of May, 1979.

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NH.PUC*05/16/79*[78289]*64 NH PUC 131*Kearsarge Telephone Company

[Go to End of 78289]

Re Kearsarge Telephone Company

I-E14,837, Order No. 13,626

64 NH PUC 131

New Hampshire Public Utilities Commission

May 16, 1979

ORDER providing for a rate reduction through the elimination of zone rates.

RATES, § 541 — Zone rates — Elimination.

[N.H.] Where a telephone company earned a return on equity which exceeded the amount authorized, the commission ordered the elimination of service zone charges in order to reduce the company's rates.

BY THE COMMISSION:

Order

Whereas, Kearsarge Telephone Company, a public utility authorized to provide telephone service in New Hampshire has currently a filed tariff NHPUC No. 5 which became effective March 21, 1977, in compliance with this commission's Order No. 12,634 in case DR 76-171; and

Whereas, included in the filed tariff there is contained a section (Section 2, Second Revised Sheet 2) local exchange service zones providing for specific additional monthly rates to customers living outside the base exchange area; and

Whereas, the commission in the company's last rate case authorized the company an opportunity to earn 13.5 per cent on common equity; and

Whereas as a result of an audit performed by this commission on January 3, 1979, and as a further result of the commission's review of the company's 1978 annual report, it has been determined that the company's actual return on common equity exceeds that amount authorized by this commission; and

Whereas, the elimination of such service zone rates will be a positive opportunity for the company to provide continued service to its customers outside the base exchange at reduced rates; it is

Ordered, that Kearsarge Telephone Company submit revised pages to replace its tariff, NHPUC No. 5, Section 2, Revised Sheet 2, Sheet 6, Sheets 1A, B (maps), local exchange service zones, which will eliminate all monthly zone charges for zones 1, 2, and 3 for all one-party and two-party lines and thereby reduce rates; it is

Further ordered, that these tariff pages be submitted to become effective with all bills rendered on or after June 1, 1979; and it is

Further ordered, that public notice of this filing be made by such convenient method as will assure that all affected customers will receive proper notice of this offering.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of May, 1979.

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NH.PUC*05/17/79*[78290]*64 NH PUC 132*Armand R. Mastropietro, d/b/a/ Armand's Auto Body

[Go to End of 78290]

Re Armand R. Mastropietro, d/b/a/ Armand's Auto Body

DT 79-18, Supplemental Order No. 13,627

64 NH PUC 132

New Hampshire Public Utilities Commission

May 17, 1979

PETITION for rehearing of application for authority to operate as a common carrier of property; denied.

BY THE COMMISSION:

Supplemental Order

This commission having before it a motion for rehearing filed May 10, 1979, for, and on behalf of Merl L. O'Neil et al., for a rehearing on the commission decision rendered in Order Nos. 13,593 and 13,595 issued on April 20, 1979; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is, that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of May, 1979.

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NH.PUC*05/17/79*[78291]*64 NH PUC 133*Crystal Laundry and Dry Cleaners, Inc.

[Go to End of 78291]

Re Crystal Laundry and Dry Cleaners, Inc.

DT 78-28, Supplemental Order No. 13,628

64 NH PUC 133

New Hampshire Public Utilities Commission

May 17, 1979

REHEARING of order granting authority to construct a private grade crossing; affirmed as modified.

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1. CROSSINGS, § 68 — Crossings — Safety measures.

[N.H.] The commission required that train movements over a crossing it authorized be protected by requiring the train to make a full stop and be flagged by a member of the crew before passing over the crossing. p. 135.

2. CROSSINGS, § 24 — Liability insurance — Jurisdiction.

[N.H.] The commission found that while it was concerned with safety at all public and private crossings, it lacked jurisdiction to require liability insurance. p. 136.

3. CROSSINGS, § 33 — Establishment — Factors considered.

[N.H.] The commission rejected an interpretation of its statute which would have placed a duty on a railroad to provide a crossing only when there is no other access to land, and held that if reasonable use of the property requires a crossing, it should be provided. p. 136.

4. DEFINITIONS — Suitable crossing.

[N.H.] In considering whether to authorize the construction of a crossing, the commission noticed the attorney general's interpretation of the statute to the effect that a "suitable crossing" is one reasonably safe and convenient for the purpose at a location to be determined according to the use made of the land, and that the fact a parcel of land is directly accessible from a highway without crossing the railroad is not dispositive, but is merely a factor to be considered in determining necessity and in balancing the respective benefits and burdens. p. 136.

5. CROSSINGS, § 41 — Establishment — Apportionment of cost.

[N.H.] In authorizing a crossing, the commission noted the state attorney general's opinion that there is no statutory provision for the apportionment of costs for private crossings, and that if a crossing is necessary, the landowner has a right to it and the railroad must provide same at its own expense. p. 137.

APPEARANCES: Robert F. McNeil for the petitioner; Gary Hicks for the Boston and Maine Corporation.

BY THE COMMISSION:

Report on Rehearing

The report on the original case and an order providing for a private crossing was issued August 1, 1978. A motion for rehearing was filed on behalf of the Boston and Maine Corporation on August 18, 1978; and on August 22, 1978, Order No. 13,295 was issued granting the motion for rehearing. Notices were issued on August 24, 1978, providing for rehearing to be held on October 20, 1978, but upon request of counsel for petitioner, it was postponed. Arrangements were set for the rehearing on December 7, 1978, following which it was postponed again on request of counsel for the petitioner. Subsequent to this, a rehearing was held on March 19, 1979, at Concord at the office of the commission.

The motion for rehearing sets forth three grounds as follows:

1. Said order exceeded the statutory authority granted the public utilities commission under RSA 373:1 in that the

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railroad is under no duty to construct a private crossing unless the property is divided by or separated from a public highway.

2. Said order was incomplete in that it failed to assess maintenance responsibility and costs for the crossing and for any necessary signs or signals to Crystal Laundry and Dry Cleaners, Inc. The failure to assess maintenance responsibility and costs of the crossing and any necessary signs or signals to the owner was an abuse of the discretion and against the weight of evidence.

3. Said order was against the weight of the evidence and an abuse of discretion by the commission in that it was based on an erroneous finding of suitability for the additional crossing on Valley street.

In support of the first exception, it is argued that the commission is without authority to require a private crossing when there is presently access to the property by a public highway, and in this particular instance, it is pointed out that access is readily obtainable from both Union street on the west and Merrill street on the south.

RSA 373:1 provides that: "It shall be the duty of every railroad to provide suitable crossings, stations, and other facilities for the accommodation of the public, and suitable gates, crossings, cattle passes, and other facilities for the accommodation of persons whose lands are divided or are separated from a highway by a railroad." The railroad corporation takes the position that, since the track parallels only the northerly border of the property, it is not reasonable to require access to a third side of the lot. In support of its position, photographs were introduced to indicate that there is no impediment to provide such access as may be neccessary from both sides of the property bordering Union and Merrill streets.

Exception No. 2 indicates that the original order failed to assess responsibility for the costs of maintenance of the crossing and for any necessary signs or signals. It is claimed that this is abuse of discretion and is against the weight of the evidence. In arguing this exception, counsel for the railroad also includes failure to require liability insurance on the part of the property owner.

Exception is also taken to language contained in the original report which states: "Without such a facility (crossing) it will be impossible to develop this lot for the purpose intended." It is correctly pointed out by counsel for petitioner that this language was used in summing up the position of the petitioner and was not included as a conclusion of the commission. It is agreed that a better choice of language might have been the use of the word "impractical" instead of "impossible."

The third exception is a claim that the original order was against the weight of the evidence and an abuse of discretion by the commission in that it was based on an erroneous finding of suitability for the additional crossing on Valley street.

There were eight photographs submitted at the rehearing taken from various positions near the intersection of the highways bordering the lot which is proposed to be developed. All of these photographs, taken a few days before the rehearing, reveal an undeveloped lot on which there are presently no buildings, although some advertising signs appear to be located thereon or immediately adjacent thereto.

Information was presented concerning the condition of the side track which was not entered at the original hearing. The track parallels Valley street on a 20-foot

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right of way just south thereof. This track leads from the Manchester-Portsmouth branch near its intersection with Valley street and continues in a generally westerly direction to a point some 300 feet west of Union street. It crosses Wilson, Lincoln, Maple, Beech, Union, and Pine streets. The record is silent concerning any positive use of the track west of the Agway property which is just east of the land of the petitioner, even though the railroad witness present offered no information as to the frequency of use, or the location of users or any freight service on this track, west of the Agway property. A witness for the petitioner indicates that an examination of the tracks reveals that the tops of the rails are well rusted, that there is a growth of grass and weeds with no indication of any crushed material on or about the track. Near the end of this spur is an advertising sign mounted on two pipes and stretched across the track at a point approximately 300 feet west of Union street.

This witness also testified that he has not seen any evidence of use nor any freight cars spotted on any portion of the track west of the Agway property. It is generally conceded, however, that this is an industrial area and is a likely location for future business that might wish to use rail facilities.

As outlined in the original report, the proposed development has been placed before the Manchester planning board and has been approved by that board. There is no evidence that the development of the property will result in any use of railroad freight service.

The original report contained the following language: "The record is silent as to the number of train movements made on this spur, but it is reasonable to assume that it is available for use whenever the demand exists for the service. The fact that the number of train movements has not been submitted may be due to very infrequent use in which case it would seem unfair to deprive the improvement of land usage simply because a spur track exists adjacent to the property. Under

the circumstances, however, it does not appear within reason to require the railroad to provide such a crossing at its own expense."

Accordingly, with this decision, the Boston and Maine Corporation was required to construct a private crossing for the benefit of the petitioner, but the cost of the construction, together with its approaches, would be borne by the petitioner.

The physical characteristics of the track are such that a descending grade of 2.5 per cent exists east of Beech street, which is about 491 feet east of the petitioner's property. A runaway car on this section of the line might well continue into this area. If such should happen, it could develop very serious consequences. However, this would not constitute any greater hazard to a private crossing than to that which now exists with respect to Beech, Union, and Pine Street crossings.

[1] The question of protecting the crossing and the cost of the same is raised as not having been dealt with in the original report. This is a spur track and carries nothing but switching movements with respect to railroad service. Since it is customary to protect all train movements by a member of the crew, any such crossing authorized should be protected in this manner. The cost of the same would be very difficult to determine, especially when there is no evidence presented of any train movements over the area where this crossing is petitioned to be located.

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[2] The railroad's attorney suggests in argument that the commission should require petitioner to provide liability insurance if a private crossing is to be required. While we are concerned with safety at all private and public crossings, there is no statutory authority to require liability insurance; thus this problem is one which must be a concern of the petitioner and the railroad corporation.

[3] No conditions were imposed in the original order relative to maintaining the crossing because of the language in RSA 373:1 which sets forth that it is the duty of the railroad. Based upon all of the facts presented at the rehearing, it would appear that the original order should be affirmed. However, the legal interpretation of the statute must be considered in the light of the argument raised at the rehearing. If the interpretation of this statute must be in its narrowest form, that it is the duty of the railroad corporation to provide a suitable crossing for persons whose land is separated from a highway by a railroad only when there is no other access to the land, then the petitioner is not legally entitled to a crossing because there is access to the property from both Union and Merrill streets.

If the statute can be interpreted to require a private crossing when access is desired from a public highway from which the land is separated by a railroad, then the commission does have the authority to require such a crossing, and it is the duty of the railroad corporation to provide it. It is possible, and there have been previous cases before the commission in which more than one private crossing has been authorized to properly provide the landowner with necessary access. (Plymwood Furniture Co. v Boston & Maine Corp. 49 NH PUC 89, 54 NH PUC 375.)

We believe that the broad interpretation of the statute is intended; and, since the property in question is separated from Valley street by the railroad spur track, if reasonable use of the property requires a crossing, it is necessary that a suitable crossing be provided. The proposal

has been placed before the planning board of the city of Manchester and has been approved.

The development of the land as intended requires a crossing; and, since there is no evidence that such a crossing will be unsafe or will constitute an undue hazard to either the railroad or the public, the commission is of the opinion that it should be provided.

[4] Because of the legal interpretations of the statutes involved, a request was submitted to the office of the Attorney General as to the authority of the commission as to whether a railroad corporation can be required to provide a private crossing where other access to the property is available without a crossing.

In response to this request, an opinion has been received. It reads in part as follows:

"A ' "suitable crossing" is one reasonably safe and convenient for the purpose, at a location to be determined according to the use made of the land ... .' Id. 'The question of the location ... is to be determined by the application of the doctrine of reasonable use. The convenience of all parties is to be considered in determining this question.' (Citiations omitted.) Costello v Railway (1900) 70 NH 403. Thus, a railroad has a duty to provide a crossing from a highway to a parcel of land when the crossing is necessary to the use of that parcel by the landowner, and requiring a crossing is reasonable when all of the benefits and burdens upon both

the railroad and the landowner are considered.

"The fact that a parcel of land is directly accessible from a highway without crossing the railroad, as in this case, is not dispositive of the question, but is merely a factor to be considered in determining necessity and in balancing the respective benefits and burdens. Bolger v Railroad (1926) 82 NH 372, 379. In the instant case, Crystal has the burden of proving that access to the subject parcel of land from Valley street across the railroad, in addition to the existing access to that parcel from Union street and Merrill street, is necessary to the reasonable use of the parcel of land by Crystal, and that, if necessary, the burden upon Boston and Maine in constructing and maintaining that crossing, is outweighed by the benefit conferred upon Crystal.

[5] "It should be noted that there is no provision for the apportionment of cost for private crossings. If a crossing is necessary, the landowner has a right to that crossing, and the railroad must provide it at the expense of the railroad."

Upon consideration of all the facts and upon consideration of the opinion of the Attorney General, the commission is of the opinion that the petitioner is entitled to a crossing as authorized in our original report. However, the original report and order must be amended to conform to the interpretation of the statute to eliminate the provisions which require the petitioner to assume the cost of the crossing. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the Boston and Maine Corporation be, and hereby is, directed to construct the private crossing over the Valley Street spur track adjacent to the Crystal Laundry and Dry Cleaners, Inc., in accordance with plans on file with the office of this commission, marked DT

78-28; and it is

Further ordered, that all train movements passing over the crossing authorized above shall be protected by making a full stop and flagged by a member of the crew before passing over the crossing; and it is

Further ordered, that Order No. 13,253, dated August 1, 1978, be, and hereby is, revoked.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of May, 1979.

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NH.PUC*05/18/79*[78292]*64 NH PUC 137*Walter J. Komisarek, Jr. et al.

[Go to End of 78292]

Re Walter J. Komisarek, Jr. et al.

DF 79-50, DF 79-49, Order No. 13,629

64 NH PUC 137

New Hampshire Public Utilities Commission

May 18, 1979

MOTION for order to show cause as to why electric service should not be terminated; granted.

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PAYMENT, § 8 — Arrearages — Show cause order.

[N.H.] The commission issued an order requiring a customer and the utility to show cause why electric service should not be terminated for the customer's failure to pay bills rendered for electric service supplied.

BY THE COMMISSION:

Order

A motion for order to show cause having been filed by Public Service Company of New Hampshire in the above dockets (DF 79-49 and DF 79-50) on May 17, 1979, as to why electric service to the petitioners, Walter J. Komisarek, Jr., and Mary Jane Komisarek, should not be terminated as of May 28, 1979, supported by a statement of account showing bills rendered subsequent to the filing of the appeal which remain unpaid, and upon reading the motion filed, and it appearing to the commission that good cause having been shown; it is hereby

Ordered, that Walter J. Komisarek, Jr., and Mary Jane Komisarek, and Public Service

Company of New Hampshire appear at the commission office on May 24, 1979, at nine o'clock in the forenoon to show cause and present testimony to the New Hampshire Public Utilities Commission why electric service should not be terminated on May 28, 1979, for failure to pay bills rendered for electric service supplied subsequent to the date the petitioners filed on May 17, 1979.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of May, 1979.

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NH.PUC*05/21/79*[78293]*64 NH PUC 138*Walnut Ridge Water Company, Inc.

[Go to End of 78293]

Re Walnut Ridge Water Company, Inc.

DR 79-2, Supplemental Order No. 13,630

64 NH PUC 138

New Hampshire Public Utilities Commission

May 21, 1979

PETITION seeking water rate increase and disconnection, changes; granted with modification.

BY THE COMMISSION:

Supplemental Order

Whereas, Walnut Ridge Water Company, Inc., a public utility engaged in the business of supplying water service in the state of New Hampshire, filed with this commission on January 2, 1979, a revised tariff erroneously designated NHPUC No. 1 — Water; and

Whereas, said revised tariff should have been designated NHPUC No. 2 — Water; it is

Ordered, that all references to NHPUC No. 1 — Water in commission Order 13,464, dated January 10, 1979, be, and hereby are, amended to read NHPUC No. 2 — Water; and it is

Further ordered, that all copies of said

tariff be corrected to reflect the proper designation.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of May, 1979.

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NH.PUC*05/21/79*[78294]*64 NH PUC 139*Manchester Gas Company

[Go to End of 78294]

Re Manchester Gas Company

DR 78-100, Fourth Supplemental Order No. 13,631

64 NH PUC 139

New Hampshire Public Utilities Commission

May 21, 1979

PETITION for an increase in rates; granted.

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1. REVENUES, § 2 — Late payment charges — Alterations.

[N.H.] The commission denied a utility's request for an adjustment of revenues relating to a redefinition of what constitutes a "late payment," since it found that the change would not have a great impact on revenues. p. 139.

2. VALUATION, § 309 — Working capital — Apportionment.

[N.H.] A gas utility's working capital allowance was determined after apportioning use of those funds to utility and nonutility operations. p. 140.

APPEARANCES: Peter Guenther and John R. McLane, Jr. for the petitioner; Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Supplemental Order

This report supplements the report and Order No. 13,590 issued on April 18, 1979. Manchester Gas Company has asked that the commission reconsider several items which it has discussed with the staff and the Legislative Utility Consumers' Council. Its discussions have been summarized in a letter dated May 1, 1979, to the commission. The Legislative Utility Consumers' Council has submitted a letter, dated May 7, 1979, expressing its position on the various items raised by Manchester Gas Company for reconsideration.

[1] Manchester Gas contends that it will have a revenue loss from the change required by the commission's order in terms of late payment charges. In the past the company has imposed a late payment charge twenty-five days after the billing date. The commission has ruled, in accordance with its revised rules, that a bill becomes past due thirty days from its postmark date. At the hearings on this case, the company witness estimated a revenue loss of $14,000 to $15,000. Subsequent to the receipt of the order, the company has analyzed its accounts receivable and contends that there is a potential loss of $17,236, or 59.9 per cent, of its late payment charges. Therefore, it requests that a revenue adjustment be made in the amount of $17,236. The company's position is based upon the fact that accounts receivable thirty days overdue are 59.9 per cent of accounts receivable thirty-sixty-ninety days overdue.

The staff disagrees that such a loss in

revenue will result. While there will be some loss of late payment charges, it will only result from those late payers who consistently pay between the twenty-fifth day following the billing date and thirty days from its postmark date. At most this should be no greater than ten days difference. The company admits that its problem with late payments consistently lies with those who chronically pay forty-five days from the billing date. If a bill is not paid thirty days from its postmark, the customer is still liable for the late payment charge even though it appears on a subsequent bill. The company has indicated that it would not "back bill" a customer for the late payment charge. As a result of this unwillingness to back bill, the company expects the $17,236 loss. We cannot accept this. It has also been alleged that the company computer cannot handle this small administrative change. This is also unacceptable to the staff. The small investment in reprogramming would be far exceeded by recurring annual revenues of $17,236. We will, therefore, deny any adjustment for increased revenues because of the change in late payment rules.

[2] The company in its review of the staff's recommended computation of working capital noted that all of the account receivable, storeroom materials, and retail LP gas stock associated with nonutility operations have been excluded from the debit side (uses) of its balance sheet while the credit side (sources) included entire balances for accounts payable, dividends payable, accrued taxes, and interest, with no reduction for a portion attributable to nonutility operations. It recommends that the non-utility items be included and then an allocation of 9 per cent of the resulting difference between the debit and credit side be made. The company further contends that deferred compensation should be deleted because it is not a gratuitous item of liability but one which costs the company 8 per cent annually in interest.

The LUCC agrees that the LP gas stock amount used in the balance sheet approach is incorrect and accepts the figure supplied by the company. However, it disagrees with the company's contention that the 9 per cent the commission used in allocating liability insurance coverage should be used to allocate balance sheet amounts. It states that the use of that percentage would be improper and that any allocation, properly made, would be de minimus.

The staff has analyzed the company's request in great detail and it recommends that some of the changes be accepted. It agrees that the LP gas stock — utility amount should be adjusted to $44,943. It, however, disagrees with the company's position that the 9 per cent allocation which the staff used for insurance expense should be used to allocate other items on the credit side of the balance sheet. It claims that it would be improper to apply this percentage to accrued taxes and interest, and dividends payable. Accrued taxes includes an amount for property taxes which the company has testified are solely the responsibility of utility operations. Accrued utility and franchise taxes are the responsibility of utility operations. Of the $500,359 of average accrued taxes, a total of $122,659 is applicable to property, franchise, and public utility taxes. Accrued federal income and business profits taxes for the test period were $380,076. Approximately 4 per cent of these taxes were applicable to non-utility operations in the amount of $15,203. It is also possible to allocate payroll taxes in direct proportion of non-utility payroll to total payroll. Retail

payroll was approximately 2 per cent of total payroll. Accrued payroll taxes for the test year were $29,896; therefore, $598 (2 per cent) can be allocated to nonutility operations. In total, $15,801 of the average accrued taxes (3.2 per cent) is applicable to nonutility operations.

The staff further recommends that an adjustment be made for dividends payable in direct proportion of nonutility net income to total net income. Nonutility income was approximately 5.5 per cent of total net income. Therefore, of the $28,998 of average dividends payable, $1,595 should be allocated to nonutility operations.

The staff feels that it is reasonable to apply the 9 per cent to accounts payable. This adjustment would reduce the average amount from $566, 519 to $515,532. It further feels that it would be appropriate to make the same adjustment to prepayments, cash, and clearing accounts. Prepayments include a large proportion of insurance expense which would be applicable to the allocation used to adjust that expense. Therefore, prepayments would be reduced from $123,481 to $112,368. Applying the same percentage to cash, the amounts would change from $123,947 to $112,792. Clearing and suspense accounts would be changed from a negative $7,915 to $7,204.

We will accept the staff's calculation of a revised working capital allowance. It should be pointed out that the staff has used a reasonable basis to allocate all of the items of the balance sheet which could be clearly identified. Any items not clearly identified have been allocated on the basis of the relationship of non-utility revenue to utility revenue. The company has had the opportunity to suggest methods of allocation during the course of these proceedings and has stated that it was unable to segregate its utility from nonutility. We feel that the resulting working capital computation reasonably compensates the company for working capital funds used for its utility operations.

The adjusted working capital amount to be included in rate base is as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Original	*Revised*
Uses of Capital:		
Cash	$ 123,947	$ 112,792
Special Deposits	9,581	9,581
Accounts Receivable (Net):		
Utility	651,327	651,327
Merchandise	53,333	53,333
Miscellaneous	14,925	14,925
Materials and Supplies:		
Storeroom	234,340	234,340
LP Gas Stock	42,983	44,943
LNG Gas Stock	10,517	10,517
Prepayments	123,481	112,368
Gas Stored Underground	181,839	181,829
Clearing and Suspense Accounts	(7,916)	(7,204)
Total Uses of Capital	$ 1,438,357	$ 1,418,761
Sources of Capital:		
Accounts Payable	$ 566,519	$ 515,532
Dividends Payable	28,998	27,403
Accrued Taxes	500,359	484,558
Accrued Interest	73,973	70,030

Unamortized Investment Tax Credits — Pre-1971	40,476	40,476
Deferred FIT — Utility	284,860	284,860
Deferred Compensation	1,896	1,896
Total Sources of Capital	$ 1,497,081	$ 1,424,755
Excess of Sources over Uses of Capital	$ (58,724)	$ 5,994

Rate Base

We find the average rate base for the test year in an amount of $6,678,524 is a reasonable and proper basis upon which to establish just and reasonable rates.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Net Plant In Service	$6,672,530
Less: Revised Working Capital Requirement	5,994
Average Rate Base	$6,678,524

Cost of Capital

Customer deposits have been included in the calculation of the cost of capital at a cost of 6 per cent. This commission has adopted new regulations regarding customer deposits which raise the interest rate required to 8 per cent. We, therefore, will use that percentage in the adjusted cost of capital.

The company contends that it will have to replace these funds with short-term debt at a current cost of 11 per cent to 11.75 per cent and plans to refund substantially all of its customer deposits by September, 1979. We will deny that request because the commission allowed the company twelve months to return those deposits which do not meet its new requirements. There is also the probability that some of those deposits will not meet the new criteria and, in addition, will be replaced by new deposits.

We find the fair rate of return to be 10.48 per cent computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Amount	*Per Cent of Total*	*Rate*	*Weighted Rate Of Return*
Debt:				
Long Term	$2,070,000	31.2	7.27	2.27%
Short Term	500,000	7.5	9.875	.74
Subtotal	2,570,000	38.7	7.78	3.01
Preferred Stock	698,600	10.5	7.0	.74
Common Equity				
Common Stock 1,144,090				
Capital Surplus	380,713			
Earned Surplus	1,622,264			
Subtotal	3,147,067	47.4	13.2%	6.26
Customer Deposits	222,833	3.4	8.0%	.27
Subtotal	$6,638,500	100.0	10.28	
Attrition				.2
Total				10.48%

Test-year Expenses

The company points out that several errors were made in the computation of test-year expenses. The staff agrees that test-year expenses should be corrected for promotional allowances, insurance taxes, and the retail LP tax allocation. The amount of $994 for promotional allowances was deducted twice therefore,

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the amount should be restored to the clearing account adjustment. The revised amount for that adjustment is $5,730. The adjustment of $2,403 for the insurance premium tax on liability insurance premiums should be restored, as it was previously overlooked. The retail LP tax allocation was made without taking into account additional taxes due to the staff's allocation of insurance premiums. That adjustment changes the retail LP tax allocation from $10,749 to $10,044.

The company further requests that the adjustment for rate case expenses be revised because its previous estimate was too low. It claims to have incurred rate case expenses of $43,178 and argues that the commission should allow an adjustment for these increased expenses. As these expenses were not presented during the proceedings and the staff and intervenors have not had opportunity to challenge them, we will disallow the proposed additional adjustment. It should be pointed out that we have allowed an attrition factor of 0.2 per cent. This attrition factor coupled with the reduction in federal income taxes should more than compensate the company for these expenses when tax-effected.

After consideration of the aforementioned adjustments, the test-year net operating income is calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Net Utility Operating Income per Books:		$557,939
Pro Forma Adjustments:		
Billing Adjustment	$ (2,390)	
Rate Case Expense	(13,879)	
Additional Lease Costs	(10,978)	
Liability Insurance	(13,650)	
Workmen's Compensation Increase	(3,057)	
Clearing Account Adjustment	(5,730)	
Postage Cost Increase	(4,320)	
Office Maintenance Cost Increase	(1,730)	
Security Service Increase	(3,614)	
Electricity Cost Increase	(972)	
Retail LP Allocation	10,664	
Salaries and Wages Increase	(81,896)	
Pension Costs Increase	(2,571)	
Depreciation Expense	(203)	
Property Tax Increase	(24,163)	
Promotional Allowances	994	
Gas Supply East Allocation	4,000	
Insurance Premium Tax	(2,403)	
Net Decrease in Taxable Income	$ 155,898	
Decrease in Income Tax (52.16 per cent)	81,316	
Retail LP Tax Allocation	10,044	
Income Tax Adjustment	91,360	

Net Income Adjustment	64,538	
Pro Forma Net Utility Operating Income		$493,401

Revenue Requirements

The required increase in rates is computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Accepted Cost of Capital	10.28%	
Plus: Allowance for Attrition	.2	
Allowed Rate of Return	10.48%	
Times: Rate Base		$6,678,524
Required Net Operating Income		699,909
Less: Adjusted Test Year Net Operating Income		493,401
Required Increase in Net Operating Income		206,508
Plus: Tax Adjustment		225,156
Required Revenue Increase		$ 431,664

The revenue deficiency ($206,508) is adjusted for income taxes to yield the additional amount of revenue the company must be allowed to collect on an annual basis going forward. We conclude, therefore, that an increase in revenues in the annual amount of $431,664 is the increase in basic rates to which the company is entitled.

Temporary Rates

Temporary rates went into effect December 18, 1978, in accordance with Order No. 13,439. Upon receipt of this decision, the company shall submit a calculation of either a required refund or surcharge to conform to this report.

The rates proposed in the filed tariffs are based on an increase in rates of $557,752. We will direct the company to submit new tariff pages providing for the commission's authorized increase of $431,664. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing supplemental report, which is made a part hereof; it is

Ordered, that the amount of the increase in revenues allowed by Order No. 13,590 dated April 18, 1979, be, and hereby is, increased to $431,664, such increase to be distributed in the manner previously specified; and it is

Further ordered, that the revised tariff pages filed as a result of this and previous orders become effective with all billings issued on or after June 15, 1979, such change necessitated by the extensive preparation time required by the company; and it is

Further ordered, that the plan for adjustment of revenues directed by Order No. 13,590 be prepared for the period between the effective date of temporary rates (December 18, 1978) and

June 14, 1979, such plan to be filed with the commission no later than June 15, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of May, 1979.

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NH.PUC*05/22/79*[78295]*64 NH PUC 145*New Hampshire Electric Cooperative, Inc.

[Go to End of 78295]

Re New Hampshire Electric Cooperative, Inc.

I-R14,835, Order No. 13,632

64 NH PUC 145

New Hampshire Public Utilities Commission

May 22, 1979

PETITION seeking electric rate change; granted.

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 61 with Recreational Development Company, Inc., effective whenever service is made available, for electric service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of May, 1979.

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NH.PUC*05/23/79*[78296]*64 NH PUC 145*Public Service Company of New Hampshire

[Go to End of 78296]

Re Public Service Company of New Hampshire

DR 76-46, Supplemental Order No. 13,633

64 NH PUC 145

New Hampshire Public Utilities Commission

May 23, 1979

PETTTION seeking rehearing of commission's fuel adjustment clause decision; denied.

BY THE COMMISSION:

Supplemental Order

The Commission having before it a motion for rehearing filed May 21, 1979, for and on behalf of the Community Action Program and the Legislative Utility Consumers' Council for a rehearing on the commission decision rendered in Report and Order No. 13,604 dated April 30, 1979, and as supplemented by the commission's supplemental report of May 1, 1979, relative to the fuel adjustment clause for effect May 1, 1979; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of

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the opinion and the order is, that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of May, 1979.

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NH.PUC*05/23/79*[78297]*64 NH PUC 146*Public Service Company of New Hampshire

[Go to End of 78297]

Re Public Service Company of New Hampshire

DR 76-46, 40th Supplemental Order No. 13,635

64 NH PUC 146

New Hampshire Public Utilities Commission

May 23, 1979

PETITION of a utility for authority to apply a fuel adjustment charge to its regular monthly billing; granted.

RATES, § 303 — Fuel adjustment clauses — Passthrough of costs.

[N.H.] The commission permitted a utility to pass through increased fuel costs pursuant to its fuel adjustment clause.

APPEARANCES: Eaton W. Tarbell, Jr. and Philip Ayers for Public Service Company of New Hampshire; Harold T. Judd for the Legislative Utility Consumers' Council; Gerald Eaton for the

Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission on May 22, 1979, held a hearing on the petition of Public Service Company of New Hampshire for authority to apply a fuel adjustment charge to regular June, 1979, monthly billings to its customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire on May 18, 1979, filed with this commission 15th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect June 1, 1979.

The company reported a fuel cost above base of $8,974,993 and total kilowatt-hours subject to the fuel adjustment of 472,719,000 resulting in a per kilowatt-hour charge of $0.01548633. The fuel adjustment charge rounded to $1.55 per hundred kilowatt-hours is proposed to go into effect in the month of June, 1979.

Witnesses testified that the proposed surcharge increased by six cents per hundred kilowatt-hours over that incurred during the month of April. The increase was caused by a combination of factors. Contributing factors to increase over the preceding month were increases in fuel oil costs, a greater volume of purchases from NEPEX at a higher cost

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per kilowatt, and the shutdown of Newington station for scheduled and unscheduled maintenance for the entire data month. Factors partially offsetting these increases were increased hydro and nuclear generation over the prior month, a significant decrease in lost and unaccounted for, and a decreased load from the prior month.

The company submitted an exhibit consisting of a letter from the Maine Yankee Atomic Power Company which expressed hope for an early resumption of power production upon settlement of the recent shutdown of the plant which was ordered by the Nuclear Regulatory Commission. An attached memo, by the NRC staff updated the status of the investigations.

Based upon all of the pleading's testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charge for the month of June, 1979, is just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 15th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of $1.55 per

hundred kilowatt-hours for the month of June, 1979, be, and hereby are, permitted to become effective June 1, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of May, 1979.

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NH.PUC*05/24/79*[78298]*64 NH PUC 147*Public Service Company of New Hampshire

[Go to End of 78298]

Re Public Service Company of New Hampshire

DE 78-106, Supplemental Order No. 13,636

64 NH PUC 147

New Hampshire Public Utilities Commission

May 24, 1979

PETITION to establish service territories; granted.

MONOPOLY AND COMPETITION, § 28 — Division of service territories — Generally.

[N.H.] The commission established exclusive service areas for a utility where it found that the company held an exclusive franchise to provide service and/or that the company was in agreement with other utilities holding franchises to serve the remaining portions.

APPEARANCES: Pierre Caron for the petitioner.

BY THE COMMISSION:

Report

These petitions have been filed pursuant to Chap 304 of the 1977 Session Laws, amending RSA 374 effective

August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same

franchise area.

In the case at hand, Public Service Company of New Hampshire (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed two petitions consisting of numbered town maps showing service territories for which commission authorization is being sought. The dates of filing and the towns involved are as follows:

1. January 4, 1977 — Alstead (5), Marlow (151), Pelham (187), Surrey (230), and Windham (256); and

2. January 29, 1979 — Atkinson (11), Danville (59), Exeter (81), Greenland (99), Hampstead (104), Hampton (105), North Hampton (179), and Stratham (225).

A duly noticed public hearing was held on May 2, 1979, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing.

At the hearing the petitioner represented that it held exclusive franchises to provide service to the public in portions of the towns listed above, and that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

The petitioner did, however, file an amendment to its petition of January 4, 1979, requesting that the town of Marlow be deleted from said petition because the final determination of the service territory had overlooked the fact that New Hampshire Electric Cooperative, Inc. was also providing service within the portion of the town served by the petitioner. This request is granted.

Earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in the limited areas, substantially as outlined on the town maps filed with the petitions. To the extent that minor discrepancies may have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

These applications have been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth on the numbered service territory town maps filed with the applications are established as exclusive service territories

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of the petitioner as of the date of this report.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service

territory maps of cities, towns, and unincorporated places filed with the applications are established as the exclusive service territories of Public Service Company of New Hampshire, as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Alstead (5) Exeter (81)
Pelham (187) Greenland (99)
Surrey (230) Hampstead (104)
Windham (256) Hampton (105)
Atkinson (11) North Hampton (197)
Danville (59) Stratham (225);

and it is

Further ordered, that this authorization supersedes all previous authorizations granted the petitioner by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of May, 1979.

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NH.PUC*05/24/79*[78299]*64 NH PUC 149*New Hampshire Electric Cooperative, Inc.

[Go to End of 78299]

Re New Hampshire Electric Cooperative, Inc.

DE 78-105, Supplemental Order No. 13,637

64 NH PUC 149

New Hampshire Public Utilities Commission

May 24, 1979

PETITIONS to establish service territories; granted.

MONOPOLY AND COMPETITION, § 28 — Division of service territories — Generally.

[N.H.] The commission established exclusive service areas for a utility where it found that the company held an exclusive franchise to provide service and/or that the company was in agreement with other utilities holding franchises to serve the remaining portions.

APPEARANCES: Thomas W. Morse for the petitioner.

BY THE COMMISSION:

Report

These petitions have been filed pursuant to Chap 304 of the 1977 Session Laws, amending

RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas, not presently

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served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. RSA 374:22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, New Hampshire Electric Cooperative, Inc. (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed five petitions consisting of numbered town maps showing service territories for which commission authorization is being sought. The date of filing and the towns involved are as follows:

1. October 5, 1978 — Dixville (64), Lincoln (136), Monroe (161), Salisbury (208), Washington (245), and Waterville (264);

2. February 1, 1979 — Andover (8), Enfield (76), Hanover (108), Hill (114), Langdon (132), and Lebanon (133);

3. February 2, 1979 — Conway (52), Danville (59), and Kingston (128);

4. February 26, 1979 — Ashland (10), Littleton (139), and Wolfeboro (258);

5. April 30, 1979 — Acworth (1).

A duly noticed hearing was held on May 2, 1979, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing.

At the hearing, the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps; with one exception, namely, the town of Conway.

Further inquiry into the circumstances involving the town of Conway disclosed that the petitioner has set forth its territorial boundary as it interprets a previous commission order establishing its limited service area in the town of Conway. Public Service Company of New Hampshire, which serves the remaining portion of the town of Conway, is unable to agree at this time as to the location of this common boundary separating the two companies' service

territories. The possible location of a shopping mall in the immediate vicinity which might straddle the boundary line, further complicates the situation. The petitioner agreed to the suggestion by the hearing examiner that a decision involving the town of Conway be delayed until further attention be given this matter by both companies. The commission concurs with this approach and no order will be issued on Conway at this time.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently

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extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate but without precise territorial boundaries, the proposed service territories have been established on the maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a. The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

These applications have been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the applications are established as the exclusive service territories as of the date of this report. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories of New Hampshire Electric Cooperative, Inc., as follows:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Dixville (64)    Andover (8)   Danville (59)
Lincoln (136)    Enfield (76)  Kingston (128)
Monroe (161)     Hanover (108) Ashland (10)
Salisbury (208)  Hill (114)    Littleton (139)
Washington (245) Langdon (132) Wolfeboro (258)
Waterville (264) Lebanon (133) Acworth (1);
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and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the

commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of May, 1979.

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NH.PUC*05/24/79*[78300]*64 NH PUC 151*Gas Service, Inc. et al.

[Go to End of 78300]

Re Gas Service, Inc. et al.

DE 79-13, Supplemental Order No. 13,638

64 NH PUC 151

New Hampshire Public Utilities Commission

May 24, 1979

MOTION for rehearing of petition for approval of sale of gas company's assets; granted.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed May 15, 1979, for and on behalf of the Legislative Utility Consumers' Council in the above entitled proceeding, for a rehearing on the commission decision rendered in Report and Order No. 13,600 dated April 24, 1979; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is, that said motion for rehearing be, and hereby is, granted.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of May, 1979.

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NH.PUC*05/24/79*[78301]*64 NH PUC 152*Exeter and Hampton Electric Company

[Go to End of 78301]

Re Exeter and Hampton Electric Company

DE 78-112, Supplemental Order No. 13,639

64 NH PUC 152

New Hampshire Public Utilities Commission

May 24, 1979

PETITION to establish service territory; granted.

MONOPOLY AND COMPETITION, § 28 — Division of service territories — Generally.

[N.H] The commission established exclusive service areas for a utility where it found that the company held an exclusive franchise to provide service and/or that the company was in agreement with other utilities holding franchises to serve the remaining portions.

APPEARANCES: Stewart E. Aither for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of the 1977 Session Laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area, RSA 374:22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, Exeter and

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Hampton Electric Company (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electric energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition consisting of numbered town maps showing service territories for which commission authorization is being sought. The date of filing and the towns involved are as follows:

May 1, 1979 — Atkinson (11), Danville (59), Exeter (81), Greenland (99), Hampstead (104), Hampton (105), Kingston (128), North Hampton (179), Stratham (225).

No notice was given concerning this filing, but all other utilities operating in the towns subject to this hearing were present at the hearing by virtue of their attendance at companion-type hearings being conducted consecutively at the same time and date. Attention was called to the commission's decision to waive publication of a notice in this case, and no

objection was voiced to proceeding with the hearing.

At the hearing the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate, along with other New Hampshire electric utilities whose territorial boundaries may not be precisely defined, the proposed service territories have been established on the maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a. The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers, and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

These applications have been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the applications are established as the exclusive service territories as of the date of this report.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of

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cities, towns, and unincorporated places filed with the application are established as the exclusive service territories of Exeter and Hampton Electric Company as follows:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Atkinson (11) Greenland (99)  Kingston (128)
Danville (59) Hampstead (104) North Hampton (179)
Exeter (81)   Hampton (105)   Stratham (225);
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and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of

this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of May, 1979.

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NH.PUC*05/24/79*[78302]*64 NH PUC 154*Granite State Electric Company

[Go to End of 78302]

Re Granite State Electric Company

DE 78-111, Supplemental Order No. 13,640

64 NH PUC 154

New Hampshire Public Utilities Commission

May 24, 1979

PETITION to establish service territories; granted.

MONOPOLY AND COMPETITION, § 28 — Division of service territories — Generally.

[N.H.] The commission established exclusive service areas for a utility where it found that the company held an exclusive franchise to provide service and/or that the company was in agreement with other utilities holding franchises to serve the remaining portions.

APPEARANCES: Philip H. Cahill for the petitioner.

BY THE COMMISSION:

Report

These petitions have been filed pursuant to Chap 304 of the 1977 Session Laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. RSA 374:22-a and -b further provide that where two or more utilities are

engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, Granite State Electric Company (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed two petitions consisting of numbered town maps showing service territories for which commission authorization is being sought. The dates of filing and the towns involved are as follows:

1. January 18, 1979 — Alstead (5), Atkinson (11), Bath (17), Cornish (53), Derry (62), Enfield (76), Hanover (108), Langdon (132), Lebanon (133), Marlow (151), Monroe (161), Orange (184), Pelham (187), Plainfield (194), Surry (230), and Windham (256);

2. April 2, 1979 — Acworth (1), Grafton (95), and Lyme (145).

A duly noticed public hearing was held on May 2, 1979, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing.

At the hearing, the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate along with other New Hampshire electric utilities whose territorial boundaries may not be precisely defined, the proposed service territories have been established on maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a. The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers, and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

These applications have been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the applications are established as the exclusive service territories as of this report. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is Ordered, that the limited areas outlined

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and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories of Granite State Electric Company as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Alstead (5)	Hanover (108)	Pelham (187)
Atkinson (11)	Langdon (132)	Plainfield (194)
Bath (17)	Lebanon (133)	Surry (230)
Cornish (53)	Marlow (151)	Windham (256)
Derry (62)	Monroe (161)	Acworth (1)
Enfield (76)	Orange (184)	Grafton (95)
		Lyme (145);

and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of May, 1979.

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NH.PUC*05/24/79*[78304]*64 NH PUC 158*Wolfeboro Municipal Electric Department

[Go to End of 78304]

Re Wolfeboro Municipal Electric Department

DE 79-70, Order No. 13,642

64 NH PUC 158

New Hampshire Public Utilities Commission

May 24, 1979

PETITION to establish service territories; granted.

MONOPOLY AND COMPETITION, § 28 — Division of service territories — Generally.

[N.H.] The commission established exclusive service areas for a utility where it found that the company held an exclusive franchise to provide service and/or that the company was in agreement with other utilities holding franchises to serve the remaining portions.

APPEARANCES: Dennis Bean for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of the 1977 Session Laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other times as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area.

In the case at hand, Wolfeboro Municipal Electric Department (hereinafter called the petitioner), a municipal department duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy outside its own municipal limits, in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition on March 9, 1979, consisting of numbered town maps outlining its service territories, as follows: Alton (6), Brookfield (32), Ossipee (126), and Tuftonboro (239).

A duly noticed public hearing was held on May 2, 1979, at Concord, New Hampshire at which time no one appeared in opposition to the petitioner's filing.

At the hearing the petitioner represented that it held exclusive franchises to provide service to the public in portions of the towns listed above, and that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

Earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in the limited

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areas, substantially as outlined on the town maps filed with the petition. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in. RSA 374:22-a and -b.

The application has been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the application

are established as the exclusive service territories as of the date of this report. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories of Wolfeboro Municipal Electric Department, as follows: Alton (6), Brookfield (32), Ossipee (186), and Tuftonboro (239); and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of May, 1979.

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NH.PUC*05/25/79*[78303]*64 NH PUC 156*Woodsville Water and Light Department

[Go to End of 78303]

Re Woodsville Water and Light Department

DE 79-58, Order No. 13,641

64 NH PUC 156

New Hampshire Public Utilities Commission

May 25, 1979

PETITION to establish service territories; granted.

MONOPOLY AND COMPETITION, § 28 — Division of service territories — Generally.

[N.H.] The commission established exclusive service areas for a utility where it found that the company held an exclusive franchise to provide service in the area.

APPEARANCES: I. Merle Burke for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of the 1977 Session Laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in

the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized

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to engage in the distribution of electrical energy within the same franchise area.

In the case at hand, Woodsville Water and Light Department (hereinafter called the petitioner), a municipal department duly organized and existing under the laws of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy outside its own municipal limits, in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition on March 7, 1979, consisting of numbered town maps outlining its service territories, as follows: Bath (17) and Haverhill (111).

A duly noticed public hearing was held on May 2, 1979, at Concord, New Hampshire. At the opening of the hearing no representative of the petitioner was in attendance; however, I. Merle Burke, service territory representative of New Hampshire Electric Cooperative, Inc., an electric utility operating adjacent to the petitioner, offered to testify on behalf of the petitioner, to the effect that he had been asked by the petitioner to assist in the preparation of the maps filed by the petitioner, and had done so, and that the limited territories for which authority was requested were exactly the same as had been granted by earlier commission orders. Mr. Burke's testimony was admitted subject to written confirmation by the petitioner and approval of the commission.

On May 4, 1979, a letter was received from the petitioner asking that Mr. Burke's testimony be accepted by the commission. No one appeared at the hearing in opposition to the petitioner's filing, and the commission will accept Mr. Burke's testimony in the matter.

The application has been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the application are established as the exclusive service territories as of the date of this report.

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories of Woodsville Water and Light Department, as follows: Bath (17) and Haverhill (111); and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of May, 1979.

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NH.PUC*05/28/79*[78305]*64 NH PUC 159*Dunbarton Telephone Company

[Go to End of 78305]

Re Dunbarton Telephone Company

IE 14,838, Order No. 13,644

64 NH PUC 159

New Hampshire Public Utilities Commission

May 28, 1979

ORDER requiring a reduction in rates.

RATES, § 541 — Mileage charges — Elimination.

[N.H.] The commission ordered a telephone company to submit a revised tariff providing for the elimination of all mileage charges for one- and two-party lines.

BY THE COMMISSION:

Order

Whereas, the Dunbarton Telephone Company, a public utility authorized to provide telephone service in New Hampshire has currently a filed tariff NHPUC No. 5 with effective date of April 30, 1972, including miscellaneous revisions since this date; and

Whereas, included in the filed tariff

there is contained a section (Section 3, First Revised Sheet D-1) local exchange service mileage providing for specific additional monthly rates to customers living outside the base exchange area; and

Whereas, the elimination of service mileage charges will be a positive opportunity for the company to provide continued service to its customers outside the base exchange at reduced rates; it is

Ordered, that Dunbarton Telephone Company submit revised pages to replace its tariff NHPUC No. 5, Section 3, First Revised Sheet D-a, Section 6, Sheet 1 (February 23, 1973) MAP — Local Exchange and Mileage Area, which will eliminate all mileage charges for all one- and two-party lines and thereby reduce rates; and it is

Further ordered, that these tariff pages be submitted to become effective with all bills rendered on or after June 1, 1979; and it its

Further ordered, that public notice of this filing be made by such convenient method as will assure that all affected customers will receive proper notice of this offering.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of May, 1979.

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NH.PUC*05/28/79*[78306]*64 NH PUC 160*Manchester Gas Company

[Go to End of 78306]

Re Manchester Gas Company

DR 78-100, Fifth Supplemental Order No. 13,645

64 NH PUC 160

New Hampshire Public Utilities Commission

May 28, 1979

MOTION for rehearing of petition for gas rate increase; granted.

BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed on May 21, 1979, for and on behalf of Manchester Gas Company, for a rehearing on the commission decision rendered in Report and Third Supplemental Order No. 13,590 dated April 18, 1979; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is, that said motion for rehearing be, and hereby is, granted.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of May, 1979.

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NH.PUC*05/28/79*[78307]*64 NH PUC 161*Pennichuck Water Works

[Go to End of 78307]

Re Pennichuck Water Works

DR 79-3, Third Supplemental Order No. 13,646

64 NH PUC 161

New Hampshire Public Utilities Commission

May 28, 1979

MOTION for rehearing of water company rate increase request; denied.

BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed May 18, 1979, for, and on behalf of, Pennichuck Water Works for a rehearing on the commission decision rendered in Order No. 13,603 issued on April 30, 1979; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is, that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth, day of May, 1979.

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NH.PUC*05/29/79*[78308]*64 NH PUC 161*Manchester Water Works

[Go to End of 78308]

Re Manchester Water Works

79-52, Supplemental Order No. 13,649

64 NH PUC 161

New Hampshire Public Utilities Commission

May 29, 1979

PETITION for a rate increase; granted.

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1. RATES, § 83 — Suspension of proposed rates — Investigation.

[N.H.] The commission suspended a proposed increase pending an investigation and a public hearing. p. 162.

2. VALUATION, § 25 — Average or year-end valuation — Variance.

[N.H.] The commission utilized year-end figures to determine a water company's rate base where the difference between the value derived using that approach and one using average data was less than one per cent. p. 163.

3. RATES, § 143 — Allocation of cost of service — Studies.

[N.H.] The commission accepted a cost-of-service study performed in accordance with the "base-extra capacity method" as evidence of just and reasonable rates for each class of service. p. 164.

4. RATES, § 621 — Municipal fire service — Hydrant charges.

[N.H.] The commission revised a water utility's rate structure, which provided for a set charge for each hydrant, by authorizing a rate which includes a charge per hydrant based on the fixed and operating costs per hydrant and an inch-foot charge based on the fixed and operating costs of the joint plant allocated to fire protection service. p. 164.

5. RATES, § 596 — Cost of service — Declining block rates.

[N.H.] A water utility's metered rates were redesigned by flattening of the declining block rate schedule in conformance with the findings of a cost-of-service study. p. 164.

6. SERVICE, § 210 — Extensions of service — Connection charges.

[N.H.] The commission approved a service connection charge to be applied to new service

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connections, and required that the customer be responsible for the costs of the service connection from the main to the premises served. p. 164.

APPEARANCES: Charles A. DeGrandpre and Robert Wells for the petitioner; Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Background

Manchester Water Works is a municipal corporation which services the towns of Auburn, Bedford, Goffstown, Hooksett, and Londonderry, which are outside the corporate limits of Manchester and is subject to the jurisdiction of this commission.

The Water Works filed certain revisions to its tariff NHPUC No. 3 — Water, calling for higher annual rates to its non-Manchester customers of approximately $54,000 or 14.9 per cent and certain other revisions to the terms and conditions of service. These proposed changes provided for an overall increase in general service metered rates of 6.5 per cent, municipal fire protection of 82.6 per cent, and private fire protection of 41.1 per cent.

[1] Pursuant to the authority vested in this commission by RSA 378:6, on March 20, 1979, by Order No. 13,523, the commission suspended the proposed increase pending an investigation and public hearing on the reasonableness of the proposed rates and charges, as authorized by the provisions of RSA 378:5. A hearing was held at the office of the commission in Concord on May 10, 1979.

Test-year Expenses

The petitioner submitted Exh J, a cost-of-service study and rate determination performed by the management consultants, Camp, Dresser, and McKee, Inc.

Under CDM No. 1, pro formed operation and maintenance expenses for the petitioner were shown as $2,504,625. This figure was the 1979 budgeted amount for operation and maintenance expense. Depreciation expense of $710,218 was requested. Taxes, or payments made in lieu of taxes, pro formed for 1979 were $215,500. This figure was also taken directly from the 1979 budget.

Completing the submitted operation expenses were $233,625 for services provided free of charge by the city of Manchester. These services were further broken down and explained in the petitioner's Exh J, CDM Exh 3, p. 1 of 3. The same exhibit detailed the services provided by the petitioner to the city without charge. They amounted to $246,123 and were considered as revenue in determining the proper level of rates.

Cross-examination of the petitioner's witnesses was conducted by the LUCC and staff. Most of the questioning on pro formed expenses revolved around the valuation of services provided free of charge by the city of Manchester and the results of a management audit of the Water Works conducted by Camp, Dresser, and McKee, Inc.

Recognizing that the vast majority of the Water Works' actions are not under commission jurisdiction, it does not seem that any of the pro formed operation expenses submitted by the petitioner, are questionable to the point where they should be disallowed.

In summation the commission accepts

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the petitioner's pro forma operating expenses of $3,663,968.

Rate Base

[2] The petitioner in response to staff data request No. 2, Schedule 1, showed the derivation of its rate base of $17,316,196. This figure was computed using year-end rate base, with which in principle staff disagrees.

Using the same formula as submitted by the Water Works, but adapting it to average rate base, the resultant rate base is computed as follows from the petitioner's 1978 annual report to the commission:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	December 31, 1977	*December 31, 1978*	*Average*
Gross Plant	$29,780,247	$30,856,391	
Less: Depreciation	6,406,118	7,017,451	
Net Plant	23,374,129	23,838,940	
Less: Construction Contribution	7,176,689	7,983,585	
Plus: Material and Supply	693,226	768,834	
Plus: Four Months Operation and Maintenance		693,200	
	$7,583,866	$17,317,389	$17,450,627

As these two figures for rate base fall within one per cent of each other, we will accept the

figure, $17,316,196, as submitted by the petitioner.

Rate of Return

The petitioner requested a 6 per cent rate of return on rate base. This figure was computed as follows as of December 31, 1978:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Amount	*Cost Rate*	*Weighted Cost Rate*
Long-term Bonded Debt	$ 7,050,000	5.64%	3.9%
Municipal Investment	3,149,554	6.00%	1.9%
	10,199,554		5.8%

The 5.8 per cent was rounded to 6 per cent.

The commission accepts the 6 per cent requested for two reasons. First, we believe that if the towns under commission jurisdiction were served by a profit-making water company, the required rate of return would be considerably higher.

Secondly, as the petitioner testified, the rate of return analysis applies only to customers falling under commission jurisdiction. The rates being established for Manchester customers does not include a rate of return on municipal investment. Therefore, the revenue requirement outlined below presents the total system requirement only for the purposes of determining the cost of service for customers outside the corporate limits of Manchester.

Revenue Requirement

The total revenue required to give the water works the opportunity to earn 6 per cent on its rate base is determined in the following computation:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Rate Base	$17,316,196
Allowed Rate of Return	.06
	$1,038,972
Allowed Operating Expense	3,663,968
	$4,702,940

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From this amount miscellaneous other revenues of $135,500 are deducted to arrive at a utility revenue requirement of $4,567,440.

Rates and Service

[3] In support of its petition for a rate revision and other tariff changes, Manchester Water Works submitted a cost-of-service study which proposed changes to the structure of the Water Works' existing rates and charges. We accept this study which was done in accordance with the "base-extra capacity method," a method endorsed by the American Water Works Association and one which was used in another rate case recently brought before this commission by a large public water utility. We also recognize that no cost-of-service study will produce results that are

completely exact and that will not be without disagreement in some phase of the engineering judgement involved; however, we believe in this case the results are just and reasonable rates for each class of service.

[4] The present rate structure for municipal fire service is on the basis of a set charge for each hydrant. Such a rate has been criticized in the water industry as one that discourages the installation of additional hydrants on existing mains that could accommodate them and thereby reduces the fire protection available to property owners.

The proposed rate for this service includes a charge per hydrant based on the fixed and operating costs associated with the hydrant and an inch-foot charge based on the fixed and operating costs of the joint plant allocated to fire protection service. All mains six inches and larger are considered and the total inch-feet are computed by multiplying the diameter in inches of the various mains by their respective footage. This method gives recognition to costs associated with plant and facilities in addition to hydrants that are built into the water system and required to meet the potential fire service demand.

[5] The general metered and the wholesale metered rates have been redesigned as a result of the cost study which produced a flattening of the declining block rate schedule. We concur in this trend in the design of the rate especially in these times of rapidly rising costs of financial and energy resources and aside from being equitable as proven by the cost-of-service study, may produce a more efficient use of the utility resources.

[6] We also accept the proposed service connection charge to be applied to all new service connections and the proposal that in such new connections, the customer will be responsible for the costs of the service connection from the main to the premises served. These proposals give recognition to the fact that to provide service to a new customer today requires a greater investment than is the historical average of existing customers. We have endorsed this concept in other recent water utility decisions through modification of extension plans.

The company is also placed on notice that the commission will review all situations where service is provided by Manchester Water free of charge. The company will have a burden to overcome to continue this procedure.

Conclusion

Commission analysis in the preceding calculations are based on the makeup of the total water system operation both in

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the city of Manchester and in the limited areas served in surrounding communities.

It is our considered judgment that the increase in revenues requested by the Water Works for its out-of-town customers is reasonable, and will allow the Water Works to earn a return on its municipal investment. For those customers under the jurisdiction of the commission we will allow the following annual increases in the Water Works rate schedule:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Per Cent IncreaseAmount

General Service Metered	6.5	$20,645
Fire Protection Municipal	82.6	29,099
Fire Protection — P	41.1	4,379

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions to its tariff NHPUC No. 3 filed by Manchester Water Works on March 13, 1979, for effect June 1, 1979, which revisions were suspended by commission Order No. 13,523 dated March 20, 1979, shall be allowed to become effective with all bills rendered on or after June 1, 1979; and it is

Further ordered, that Manchester shall file affected tariff pages bearing the effective date of June 1, 1979, and carrying the notation: "Issued in compliance with Order No. 13,649 in docket DR 79-52."

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of May, 1979.

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NH.PUC*06/02/79*[78318]*64 NH PUC 177*Legislative Utility Consumers' Council v Granite State Electric Company

[Go to End of 78318]

Legislative Utility Consumers' Council v Granite State Electric Company

DR 77-63, Third Supplemental Order No. 13,680

64 NH PUC 177

New Hampshire Public Utilities Commission

June 2, 1979

ORDER implementing decision requiring customer deposits and advances to be deducted from rate base.

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1. VALUATION, § 251 — Customer advances and deposits — Rate base treatment.

[N.H.] The commission implemented a New Hampshire supreme court decision which required the deduction of customer deposits and advances from a utility's rate base. p. 177.

2. REPARATION, § 11 — Customer deposits — Refunds.

[N.H.] Where the New Hampshire supreme court required that customer deposits and advances be excluded from a utility's rate base, the commission required that the utility file a plan for the refund of related revenues received while those rates were in effect. p. 178.

BY THE COMMISSION:

Supplemental Order

[1] On May 17, 1979, the New Hampshire supreme court issued its opinion in Legislative Utility Consumers' Council v Granite State Electric Co. (1979) 119 NH — . The ruling by the court requires the commission to establish a new rate order reflecting the deduction of customer deposits and customer advances from rate base. The opinion further states that it will serve the purpose of clearly establishing the rate-making principle that those items are not includable in a public utility's rate base.

Commission Report and Order No. 13,159, dated May 23, 1978, authorized an increase in annual revenues of $913,912, this amount being partially based upon the inclusion of customer deposits and advances in the rate base. This fact was challenged by the Legislative Utility Consumers' Council in the supreme court of the state of New Hampshire in Case 78-174. The case was remanded to the commission for the limited purpose of deducting the customer deposits and customer advances from the rate base.

Based upon such decision and remanding to this commission, it has been determined that the exclusion of these items results in an annual decrease in revenues of $30,500. To effect this reduction, Granite State Electric Company has filed with the commission its Fourth Revised Pages 17 and 23 to its tariff, NHPUC No. 8 — Electricity, said pages reflecting the required reduction in the domestic and off-peak water heating classes.

Upon consideration of the foregoing; it is

Ordered, that Third Revised Pages 17, 19, and 23 of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, be, and hereby are, cancelled; and it is

Further ordered, that Fourth Revised Pages 17, 19, and 23 of said tariff be, and hereby are, approved; and it is

Further ordered, that the effective date of both of the above orders is July 1, 1979; and it is

Further ordered, that Granite State Electric Company give public notice of these actions by one-time publication of this report and order in a newspaper having general circulation in the area served; and it is

[2] Further ordered, that Granite State Electric Company is also ordered to file a plan for the refund of those related revenues, including interest at 8 per cent collected from the time temporary rates were put into effect.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of June, 1979.

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[Go to End of 78309]

Re Union Telephone Company

DR 79-120, Order No. 13,657

64 NH PUC 165

New Hampshire Public Utilities Commission

June 4, 1979

PETITION for increase in telephone rates; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, Union Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on May 25, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Telephone, providing for increased rates in the amount of $113,947.80 (43.83 per cent) effective June 25, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date

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thereof be suspended pending investigation and decision thereon; it is

Ordered, that Section 2, Second Revised Sheet 1A and Tenth Revised Sheet 1 and Section 3 Third Revised Sheet 4 of plaintiff NHPUC No. 6 — Telephone, of Union Telephone Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this fourth day of June, 1979.

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NH.PUC*06/07/79*[78310]*64 NH PUC 166*Crystal Laundry and Dry Cleaners, Inc.

[Go to End of 78310]

Re Crystal Laundry and Dry Cleaners, Inc.

DT 78-28, Third Supplemental Order No. 13,663

64 NH PUC 166

New Hampshire Public Utilities Commission

June 7, 1979

MOTION for rehearing of petition seeking private grade crossing; denied.

BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed on. June 4, 1979, for and on behalf of the Boston and Maine Corporation for a rehearing on the commission Order No. 13,628 dated May 17, 1979; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this seventh day of June, 1979.

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NH.PUC*06/07/79*[78311]*64 NH PUC 166*New Hampshire Electric Cooperative, Inc.

[Go to End of 78311]

Re New Hampshire Electric Cooperative, Inc.

IR 14,839, Order No. 13,664

64 NH PUC 166

New Hampshire Public Utilities Commission

June 7, 1979

PETITION seeking approval of special contracts providing for electric service; granted.

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 62 with King's Sawmill, effective when service is made available, for electric service at rates other than those fixed by its schedule of general application; and

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Whereas, upon investigation and consideration., this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this seventh day of June, 1979.

Re Mary Jane Komisarek et al.

DE 79-49, DE 79-50, Supplemental Order No. 13,665

64 NH PUC 167

New Hampshire Public Utilities Commission

June 7, 1979

ORDER ruling on procedural matters.

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1. PROCEDURE, § 17 — Subpoena duces tecum — Relevancy.

[N.H.] A party's request for a subpoena duces tecum was denied where the commission found that the request concerned matters not relevant to the proceeding before it. p. 167.

2. PROCEDURE, § 26 — Conduct of hearings — Tape-recording.

[N.H.] A party was permitted to tape-record proceedings before the commission. p. 167.

3. PROCEDURE, § 4 — Vacated order — Number of commissioners.

[N.H.] Where a hearing took place before only one commissioner and a party alleged that he did not receive a fair hearing, the commission vacated the order and set the matter for hearing before a majority of the commission. p. 168.

4. PROCEDURE, § 17 — Depositions — Enabling authority.

[N.H.] There is no authority to enable parties to engage in prehearing discovery, since the statute provides that discovery is only available in action known to the common law. p. 168.

BY THE COMMISSION:

Supplemental Order

The petitioner, Mr. Komisarek, has filed numerous motions before the commission in the aforementioned proceedings. The commission's rulings are as follows:

I.

[1] Motion to bring forth Pierre O. Caron, corporate counsel for the Public Service Company of New Hampshire and Vol III of the New Hampshire Reports that he now holds. Denied.

The motion concerns matters not relevant to this proceeding. The Vol III of the New Hampshire Reports will not be discussed, mentioned, or allowed into evidence in this

proceeding.

II.

[2] Motion to tape-record all proceedings before the Public Utilities Commission of the state of New Hampshire. Granted.

The commission has allowed radio and newspaper reporters to tape its hearings and finds no justifiable reason to deny Mr. Komisarek the same right. However, this ruling is not to be interpreted to relieve either of the parties from their appropriate transcript costs.

III.

[3] Motion to set aside and vacate completely the order of the commission which was handed down at a hearing before Chairman Love only on May 24, 1979, and to vacate said hearing as if it never took place for some of the following reasons. Plus amendment filed May 28, 1979. Granted.

The petitioner believes that he did not receive a fair hearing with only one commissioner sitting. Therefore, pursuant to RSA 363:17 the commission will provide a majority of the commission for the hearing on June 13, 1979.

IV.

[4] Motion to allow for prehearing depositions of Public Service Company of New Hampshire personnel and for petitioner to preside over such depositions. Denied.

The commission has sought the advice of the attorney general's office on this question. The memo received from the attorney general's office finds that the rules of the public utilities commission makes no provision for prehearing discovery. The memo proceeds from this point to find that if the petitioner has a right to require respondent to submit to pretrial discovery, the right must be in either the New Hampshire statutes or case law. The office of the attorney general finds that there is nothing in the statutes or the case law that will allow the petitioner to use the discovery method of pretrial depositions. The relevant portions of the memo are as follows:

"RSA 517:1 provides: 'Taking Use. The deposition of any witness in a civil cause may be taken and used at the trial unless the adverse party procures him to attend so he may be called to testify when the deposition is offered.'

"The phrase 'civil cause' as used in RSA 517:1 means only those actions at law known to the common law. The section does not apply to any proceeding unknown to the common law. Clough v Clough (1922) 80 NH 462; Accord, Vasoli v Vasoli (1956) 100 NH 200; Calderwood v Calderwood (1972) 112 NH 355. Since proceedings before the public utilities commission were not known to the common law, but are wholly of statutory origin, RSA 517:1 has no application to those proceedings.

"RSA 516:9 provides for the taking of the depositions of nonresident directors, officers, and agents of a domestic corporation which is party to any legal proceeding before, among other things, a lawful tribunal of this state. That section has no applicability to the instant case because

the persons whom the complainant desires to depose are residents of New Hampshire. In any event, such a deposition must be taken before a special commissioner appointed by the superior court. RSA 516:10, 12 and RSA 517:15-18.

"Of similar infirmity is RSA 516:4. That section merely identifies who may issue a subpoena for a deposition when a deposition is *otherwise* authorized. The section confers no right to take a deposition."

The commission concurs with the office of the attorney general and denies the motion. Furthermore, even if the petitioner had a right to a deposition, the

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case before us does not present the complexity of issues that would be lessened by use of depositions. Finally, since RSA 517:3 disqualifies anyone from presiding over a deposition who would be disqualified to sit as a juror on the trial of that case. Neither a juror or by analogy the person who presides over a deposition can have an interest in the proceeding. To allow this petitioner to preside over a deposition involving his rights would destroy the necessary impartiality. Therefore, the motion of the petitioner is denied.

Public Service Company of New Hampshire is ordered to present witnesses, John Duffett and Frederick Bishop, for testimony and cross-examination on June 13, 1979.

By order of the Public Utilities Commission of New Hampshire this seventh day of June, 1979.

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NH.PUC*06/11/79*[78313]*64 NH PUC 169*Nelson v Public Service Company of New Hampshire

[Go to End of 78313]

Nelson v Public Service Company of New Hampshire

DR 79-132, Order No. 13,667

64 NH PUC 169

New Hampshire Public Utilities Commission

June 11, 1979

ORDER providing for refunds to customers.

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1. REPARATION, § 42 — Refund plan — Interest.

[N.H.] A utility was required to add 6 per cent interest to the amount of court-ordered refunds due customers. p. 169.

2. REPARATION, § 39 — Refund plan — Electric company.

[N.H.] A utility was ordered to return payments to customers for charges improperly collected by prorating bills in question on the assumption that customers use electricity at a uniform rate through their billing cycle. p. 169.

BY THE COMMISSION:

Order

[1,2] On May 17, 1979, the New Hampshire supreme court issued its opinion in Nelson v Public Service Co. of New Hampshire (1979) 119 NH — . The ruling by the court requires the commission to set forth a method to return payments to consumers for charges improperly collected prior to December 3, 1977. The commission requested input from the Public Service Company of New Hampshire (PSNH) and the Legislative Utility Consumers' Council (LUCC). Upon reviewing those comments as well as those provided by staff, the commission orders the following:

1. Public Service Company of New Hampshire is to prorate the bills in question by charging for service taken before December 3, 1977, at the level of tariff NHPUC No. 20 and for service taken on or after December 3, 1977, at the level of tariff NHPUC No. 21.

2. The aforementioned prorating is to conform to the assumption that customers use electricity at a uniform rate through their billing cycles.

3. Public Service Company of New Hampshire will add to these refunds an interest amount of 6 per cent from the date each customer's meter was first read after December 2, 1977, to the beginning of the month in which refunds are sent out.

4. The aforementioned refunds plus interest are to be returned to the customer by check before the end of September, 1979.

5. For those customers who have changed their service address since the period in question, the company is ordered to attempt to identify if these customers are still taking service from another service address within the state and send the appropriate refunds plus interest by check to the new address.

6. For those customers the company can not locate the company will establish a refund procedure and advertise its existence so that those customers can with proper evidence receive the refunds for which they are entitled.

7. Public Service Company of New Hampshire is further ordered to provide a small insert describing the refund which will include how it is calculated as well as its origin.

By order of the Public Utilities Commission of New Hampshire this eleventh day of June, 1979.

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[Go to End of 78315]

Re Northern Railroad

DT 78-215, Order No. 13,673

64 NH PUC 171

New Hampshire Public Utilities Commission

June 14, 1979

PETITION for approval of a railroad lease; granted.

LEASES, § 3 — In general — Grounds for approval or disapproval.

[N.H.] The commission authorized a railroad to enter into a lease with the trustees of a bankrupt railroad after finding that the transaction was in the public interest.

APPEARANCES: Robert D. Field, Jr., of Hamblett and Kerrigan for the petitioner; Charles W. Mulcahy, Jr., for the trustees of the Boston and Maine Corporation.

BY THE COMMISSION:

Report

By petition filed November 22, 1978, the Northern Railroad seeks the approval of a proposed lease with the trustees of the Boston and Maine Corporation. Hearing thereon was held at Concord on February 6, 1979.

Petitioner submits that in November, 1978, the Northern Railroad and the trustees of the Boston and Maine Corporation entered into an agreement to settle claims which it had against the Boston and Maine Corporation. Subsequently the agreement was filed in the federal district court and on December 19, 1978, Justice Frank J. Murray approved the agreement by Order No. 445. A special application for approval was filed with the Interstate Commerce Commission on January 11, 1979, by counsel for the Boston and Maine trustees and is pending with that commission. The original lease was executed in 1889, but no payments on the same have been paid by the Boston and Maine since March 12, 1970, when the Boston and Maine became involuntarily bankrupt.

The Northern has accumulated what it felt was upwards of $35 million in

claims against the estate of the Boston and Maine. These would be settled by the payment of $1.2 million as there is serious question as to what priority, if any, will provide for any payment under the bankruptcy proceedings relative to the original claims.

The Northern Railroad at the time of the original lease consisted of the Peterboro-Hillsboro branch, 32.5 miles; the Concord-Claremont branch, 57 miles; and the Franklin-Bristol branch, 13 miles, or a total of approximately 102 miles. These branches have either been abandoned or disposed of so that at present the rail property of the Northern consists of only 69.5 miles which is approximately 40 per cent of that which was included in the original lease in 1889.

The new lease will, if approved, be a contract with the trustees instead of a contract that resulted from bankruptcy. All payments would become an operating expense and payments will go to the Northern shareholders. Certain standards for maintenance are set forth to require the Boston and Maine to maintain the Northern in its present condition, part of which is Class III under the federal Department of Transportation, with no portion to be maintained at less than Class I standards. The proposed lease also provides that the right of way is the property of Northern together with the ballast, tracks, and ties and will not be removed, but will be returned to Northern upon the expiration of the lease. Terms of the lease call for payment of $80,000 per year with quarterly payments of $20,000 each. This is a reduction from the $186,000 per year required by the present lease.

The proposed lease would run only as long as the Boston and Maine trustees exist. It would terminate at such time as the trustees liquidate the property of the Boston and Maine or if and when the Boston and Maine is reorganized which is hoped to be accomplished by 1988.

When the proposed lease was originally filed with this commission certain tax matters which had not been at that time settled with certain cities and towns and the New Hampshire tax commission had apparently been the subject of negotiations. At the time of the hearing there was no objection to the granting of the petition from those sources.

Two directors of the Northern Railroad were present and indicated that tax matters have been settled and a release from the city of Lebanon has been obtained. Information was also submitted indicating that the trustees are prepared to settle taxes with cities and towns as they may demand.

The testimony indicates that a release from the state of New Hampshire has been obtained. The claims of the city of Lebanon and the town of Orange has been settled and offers have been made to all other cities and towns along the right of way of the Northern.

Exhibits were introduced, one of which is a copy of the petition filed with the district court of Massachusetts; another an indenture of the lease as proposed; and a copy of Order No. 445 of the district court of Massachusetts which approves the terms of the lease.

Exhibit 3 contains a certificate of vote to ratify and affirm several provisions, among which is the settlement of claims for use and occupancy for the period January 1, 1970, through December 31, 1978, in the amount of $880,425 and the termination of claims for rolling stock and other tangible personal property for restoration of improvement to real property of $319,557.

Coincidental with the closing of the settlement and new lease agreement

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there will be distributed to all of the shareholders of the Northern Railroad amounts prorated to each individual shareholder's holdings. The total settlement paid in the amount of $1,220,000

less the amount of $120,000 which will be held on account in order to have funds available from said settlement to meet its obligations relative to professional services and to maintain a reserve fund for contingent tax liabilities for future needs.

Exhibit 4 which is Order No. 445 from the district court of United States for the district of Massachusetts authorizes the trustees to settle the claims of the Northern Railroad against the estate on terms set forth in the settlement agreement and to authorize the trustees of the Boston and Maine to execute a new lease with the Northern Railroad subject to the approval of the Interstate Commerce Commission and the Public Utilities Commission of New Hampshire for the rental of the Northern property in accordance with the basic requirements and principals set forth herein. This order also authorized the trustees to draw from the restricted funds in the amount of $1.2 million to effect the cash settlement to the Northern-Railroad and also to draw from the said restricted funds, if necessary, sufficient money to ratify the trustees' obligation to satisfy the obligations with respect to unpaid real estate or franchise taxes assessed on the property of Northern to the date of the closing of the settlement agreement.

Exhibit 5 contains the affirmative action of the directors of the Northern Railroad with respect to the terms of the proposed settlement.

Freight traffic over the Northern Railroad is estimated at 650 loads based on an extension from ten months actual to one year, 90 per cent of which are originated or destined to points on the line within six miles of its termini; namely at its southerly portion at Concord known as Penacook and its northern portion at Lebanon. An estimated 25 or 26 carloads are handled to and from Potter Place which is approximately 30 miles from Concord.

The present method of handling this traffic is by switching service which normally does not exceed speeds of ten miles per hour. There are occasions, however, when through train movements are operated whenever the Connecticut river is blocked and some times when special movements are required.

The terms of the lease as above indicated require maintenance of conditions at the present levels meaning that there should be no deterioration of maintenance from present conditions. No detailed information is submitted, however, to indicate the present conditions of track other than that there may be sections which are classified as Class I, Class II, or Class III as set forth in the Federal Railroad Administration Classification. Under these circumstances it is necessary to make an inspection sufficient to record its present condition for whatever future reference may be required between the involved parties and the state.

It is apparent that substantial changes have resulted during the years since the original lease was executed in 1889, which was to run for a period of one hundred years. Through service has been virtually discontinued on a line which until the last several years has been considered a main line. Approximately 39 miles of the line has been built on stone ballast and maintained to standards which authorize a maximum of 70 miles per hour passenger service, while the balance of 30 miles was maintained for speeds of 60 miles per hour.

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No one appeared in opposition to the granting of the petition at the hearing, although a letter from the local chairman of the Brotherhood of Locomotive Engineers was received objecting to

the provisions in the lease that requires $20,000 a year to be spent on maintenance of this line. This opposition is based upon a claim that $20,000 a year is much too low for this purpose.

The fact that payments have not been made on its present lease by the bankrupt Boston and Maine Corporation has left the owners of the Northern without any compensation for the use of the line. Under the new lease, however, approval has been received from the U. S. district court and if the approval of the Interstate Commerce Commission is also received the Northern will obtain a settlement of its claims and will receive annually a sum of $100,000.

Upon consideration of all the facts the commission is of the opinion that its approval should be given to the proposed lease. Our order will issue accordingly.

However, as soon as a detailed inspection can be arranged by the interested parties and the commission a copy of the results in the greatest detail reasonably possible will be made available and will be considered a part of the report in this proceeding.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the Northern Railroad and the trustees of the estate of the Boston and Maine Corporation be, and hereby are, authorized to execute the lease as described herein, marked DT 78-215; and it is

Further ordered, that the provisions of this order shall become effective coincidental with similar authorization if and when granted by the Interstate Commerce Commission.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of June, 1979.

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NH.PUC*06/15/79*[78314]*64 NH PUC 170*Louis Mann v Exeter and Hampton Electric Company

[Go to End of 78314]

Louis Mann v Exeter and Hampton Electric Company

DE 79-122, Order No. 13,670

64 NH PUC 170

New Hampshire Public Utilities Commission

June 15, 1979

APPEAL of deposit request; denied.

PROCEDURE, § 29 — Deposit request — Appeal.

[N.H.] Where a petitioner contested the propriety of a deposit imposed by the company but failed to appear at a scheduled hearing or to notify the commission of his inability to appear, the

commission considered the pleadings filed and the testimony and evidence presented and found the imposition of the deposit justified.

BY THE COMMISSION:

Order

This matter being initiated by Dr. Louis Mann, P.O. Box 460, Seabrook, New Hampshire, a customer of the Exeter and Hampton Electric Company to investigate the propriety of a deposit imposed by the company, a hearing was scheduled for June 14, 1979, at 9:30 A.M.

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Notice of hearing was sent to Dr. Louis Mann and the company on May 29, 1979. Dr. Louis Mann failed to appear at said hearing or notify this commission of his inability to appear.

The commission has considered the pleadings filed, the testimony and evidence presented and for good cause shown hereby

Orders, that the company is authorized to pursue its deposit requirement and to initiate immediate disconnection of electric service if the deposit is not immediately paid in full by 3 P.M. on June 15, 1979; and it is

Further ordered, that electric service shall be promptly restored to Dr. Mann upon payment of a deposit of $275.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of June, 1979.

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NH.PUC*06/15/79*[78316]*64 NH PUC 174*New Hampshire Department of Public Works and Highways

[Go to End of 78316]

Re New Hampshire Department of Public Works and Highways

DT 78-231, Supplemental Order No. 13,676

64 NH PUC 174

New Hampshire Public Utilities Commission

June 15, 1979

PETITION of state Department of Public Works and Highways for the rehabilitation of a highway crossing; granted.

CROSSINGS, § 61 — Highway bridge — Modification.

[N.H.] The commission authorized the rebuilding of an interstate highway bridge over the tracks of a railroad and ordered that the required clearance be modified as per the parties' agreement.

BY THE COMMISSION:

Page 174

Supplemental Order

Whereas, upon petition of the New Hampshire Department of Public Works and Highways for authority to rehabilitate the overhead highway structure which carries the northbound and southbound lanes of I-93 in the town of Tilton, Order No. 13,447, dated December 26, 1978, authorized certain overhead clearances; and

Whereas, an agreement between the said New Hampshire Department of Public Works and Highways and the New Hampshire Transportation Authority, owners of the involved railroad line, has been reached to eliminate the necessity of lowering the tracks one foot six inches until such time as this clearance becomes necessary, authority is requested for an overhead clearance of 20 feet ten inches rather than 21 feet five and one-half inches; and

Whereas, the present request is in excess of the ruling clearance on this line of railroad; it is

Ordered, that Order No. 13,447 be, and hereby is, amended to provide for the rebuilding of the overhead structures, both northbound bridge No. 118/158 and southbound bridge No. 117/157, which carries Interstate Highway 93 over the tracks of the New Hampshire-owned Concord-Lincoln railroad line in the town of Tilton to provide a minimum overhead clearance of 20 feet ten inches above the top of the rail; and it is

Further ordered, that the provisions of said Order No. 13,447 relating to the regrading of the railroad track for a distance of 1,800 feet to provide for the lowering of same for one foot six inches be, and hereby is, deleted.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of June, 1979.

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NH.PUC*06/19/79*[78317]*64 NH PUC 175*Manchester Gas Company

[Go to End of 78317]

Re Manchester Gas Company

DF 79-112, Order No. 13,677

64 NH PUC 175

New Hampshire Public Utilities Commission

June 19, 1979

PETITION for authority to pay a stock dividend; granted.

SECURITY ISSUES, § 101 — Stock dividend — Authorization.

[N.H.] The commission found that a gas utility's plan to issue a 3 per cent stock dividend was consistent with the public good, and authorized the company to pay the dividend.

APPEARANCES: J. Christopher Marshall and John R. McLane for the petitioner.

BY THE COMMISSION:

Report

On May 14, 1979, the Manchester Gas Company, a duly organized New Hampshire corporation operating as a gas public utility under the jurisdiction of this commission, filed for authorization to pay a 3 per cent dividend on 235,602 shares presently outstanding.

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A hearing on the case was held on Wednesday, June 13, 1979, at 10:00 A.M. at the commission offices pursuant to the order of notice issued May 14, 1979.

In its petition for authority the company represented that as of March 31, 1979, the common stockholders' equity in the company was as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

400,000 shares $5 par value authorized	
235,602 shares $5 par value issued	1,178,010
Capital Surplus	401,065
Retained Earnings	2,024,339
	3,603,414

The company proposes to issue no more than 7,068 shares identical to the present common stock issued and outstanding to present shareholders at a rate of three additional shares for each one hundred shares presently held. For those shareholders entitled to fractional shares the company intends to pay in cash, on a basis of a value of $8.50 per share the quoted bid price as of the date of declaration, March 28, 1979.

The company also asserted that it will be able to continue to pay dividends at the current annual rate of 70 cents per share on both the presently outstanding and new shares to be issued.

The company in its testimony presented three exhibits in support of their petition, consisting of a current balance sheet as of March 31, 1979, with adjustments for the proposed effect of the 3 per cent stock dividend, a current income statement also dated March 31, 1979, showing the changes in earnings per share both before and after the stock dividend. It also filed a copy of the vote of the directors of the company authorizing the payment of the 3 per cent stock dividend.

Said meeting was held on March 28, 1979.

After considering the testimony and the facts presented we find that it is consistent with the public good and in conformity with the provisions of RSA 369:1 that the company be authorized to declare and pay this stock dividend.

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the Manchester Gas Company be, and hereby is, authorized to declare and issue a stock dividend of three shares of $5 par value common stock for each one hundred shares presently outstanding; and it is

Further ordered, that Manchester Gas be, and hereby is, authorized to pay in cash to the stockholders entitled to fractional shares an amount based upon a value of $8.50 per common share; and it is

Further ordered, that the record date of this stock dividend be ten days subsequent to the date of this order and that the payment date be twenty-four days subsequent to the date of this order; and it is

Further ordered, that within thirty days after the date of payment of this stock dividend, said Manchester Gas Company shall file with this commission a financial statement, duly sworn to by its treasurer, indicating appropriate entries on the company's balance sheet.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of June, 1979.

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NH.PUC*06/25/79*[78319]*64 NH PUC 178*James Miglionico, d/b/a Jim-Bo's Auto Body

[Go to End of 78319]

Re James Miglionico, d/b/a Jim-Bo's Auto Body

DT 79-35, Order No. 13,681

64 NH PUC 178

New Hampshire Public Utilities Commission

June 25, 1979

APPLICATION for authority to operate as an irregular route common carrier; granted as modified.

MONOPOLY AND COMPETITION, § 62 — Motor carriers — Authorization of service.

[N.H.] Consideration of the competition effects of authorization to act as a common carrier is

the primary consideration when the commission weighs the evidence as to public convenience and necessity.

APPEARANCES: James Miglionico, pro se; and Bernard W. Pelech for the protestants.

BY THE COMMISSION:

Report

By application filed February 14, 1979, James Miglionico, d/b/a Jim-Bo's Auto Body of Dover, New Hampshire seeks the issuance of a property carrier certificate of public convenience and necessity to operate as a common carrier of property by motor vehicle in the transportation of wrecked, disabled, repossessed, and stolen motor vehicles between points and places within a 50-mile radius from the point of origin which in this proceeding is Dover, New Hampshire. Hearing thereon was held in Concord on March 27, 1979, at which time opposition appeared to the granting of this application.

Applicant demonstrated that he was fit, willing, and able to operate as an irregular route common carrier. The opposition to the application did not challenge either Mr. Miglionico's ability or

the quality of his equipment. Therefore, the commission finds that Mr. Miglionico has demonstrated that he meets the standard necessary to become an irregular route common carrier.

The next issues to be resolved are the extent of the territory to be granted and the claims by those opposing the application which focus on the allegation that present, carriers have already over-saturated the area. The leading case in this area is New England Household Moving & Storage, Inc. v New Hampshire Public Utilities Commission (1977) 117 NH 1038. In that case, Justice Douglas specifically rejected the commission's action whereby the applicant had to prove the inadequacy of existing carrier service as a prerequisite to meeting the burden of proof on the question of public convenience and necessity. See New England Household, 117 NH at p. 1041. Justice Douglas clearly elevated the consideration of competition above other factors when the commission is weighing the evidence as to public convenience and necessity. The following passage is indicative of the court's ruling.

"Other factors, including the desirability of additional competition, may warrant a finding that the additional service is required by the public convenience and necessity although existing carriers can adequately fulfill present and future needs." 117 NH at p. 1041.

The supreme court has also noted the unique provisions of the New Hampshire constitution where competition is an inherent and essential right of the people. NH Constitution, pt. II, Art 83. This commission can ill afford to be the protector of only existing carriers without recognizing the advantages of heightened competition.

The area requested by the applicant has been shown to be one of steady growth. While the numbers submitted by the applicant are estimates the pattern of growth is well established

through state population records of which the commission takes administrative notice. The commission has attempted to match this growth with common carriers to service the increasing population's needs.

The applicant while establishing the growth in the area focused his efforts on public convenience and necessity primarily in the Dover, Somersworth, and Strafford areas. No letters of need or other forms of evidence were presented by the applicant for any areas south of Dover. Therefore, the granting of an irregular route common carrier certificate for an area within a 50-mile radius of Dover has not been established. Rather the applicant has established the need for his services only in the areas of Dover, Somersworth, and Strafford as well as all areas between these communities. Consequently, the application is granted only to the extent that the applicant operates between Dover, Somersworth, and Strafford. Our order will issue accordingly.

Order

Property Carrier Certificate of Public Convenience and Necessity No. 518

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that James Miglionico, d/b/a Jim-Bo's Auto Body be, and hereby is, authorized to operate as a common carrier of property by motor vehicle as follows:

Transportation of wrecked, disabled, repossessed, and stolen motor vehicles between all points and places in the cities

of Dover, Somersworth, and the contiguous communities of Madbury, Barrington, Strafford, and Rollingsford; and it is

Further ordered, that said operations shall comply with the provisions of RSA 375-B and the rules and regulations prescribed by the Public Utilities Commission pursuant thereto.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of June, 1979.

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NH.PUC*06/25/79*[78320]*64 NH PUC 180*Gas Service, Inc.

[Go to End of 78320]

Re Gas Service, Inc.

I-R14,846, Order No. 13,682

64 NH PUC 180

New Hampshire Public Utilities Commission

June 25, 1979

PETITION seeking special contract for providing gas service; granted.

BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., a gas utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 23 with St. Joseph's Hospital, effective June 15, 1979, for gas service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of June, 1979.

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NH.PUC*06/25/79*[78321]*64 NH PUC 180*Public Service Company of New Hampshire et al.

[Go to End of 78321]

Re Public Service Company of New Hampshire et al.

DR 76-46, 37th Supplemental Order No. 13,683

64 NH PUC 180

New Hampshire Public Utilities Commission

June 25, 1979

PETITIONS for authority to apply a fuel adjustment charge to regular monthly billings; granted.

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RATES, § 303 — Fuel adjustment clauses — Passthrough of costs.

[N.H.] The commission permitted utilities to pass on increased fuel costs through their fuel adjustment clauses.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Rocco Pelillo for Concord Electric Company; Kenneth Dearden for Exeter and Hampton Electric Company; Mayland H. Morse, Jr., for New Hampshire Electric Cooperative, Inc.; Philip H. Cahill for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; Gerald Cook for the Connecticut Valley Electric Company,

Inc.; Harold T. Judd and Gerald Lynch for the Legislative Utility Consumers' Council; and Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission on dune 21, 1979, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular July, 1979, monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

All companies were involved in this hearing due to the large increases in the cost of fossil fuel recently.

Woodsville Water and Light Department

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire on June 15, 1979, filed with this commission 32nd Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1979. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of May, 1979, the total fuel cost billed by Central Vermont was $3,998.42. During this same period the total kilowatt-hours sold by Woodsville were 791,313. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of July, 1979, is 51 per hundred kilowatt-hours.

The company was not represented at our hearing.

Littleton Water and Light Department

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 7, 1979, filed with this commission 66th Revised Page 6 of its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1979. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of May, 1979, was $15,709.25. During this same period the total kilowatt-hours sold by Littleton were 2,856,781. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of July, 1979, is 55 cents per hundred kilowatt-hours.

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The company was not represented at our hearing.

Municipal Electric Department of Wolfeboro

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 8, 1979, filed with this commission Tenth Revised Page 11 to its tariff, NHPUC No. 5 — Electricity, comprising the

monthly calculation of the fuel adjustment charge for effect July 1, 1979. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of May, 1979, the total fuel cost billed by Public Service was $26,438.40. During the same period the total kilowatt-hours sold by Wolfeboro were 1,835,083. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of July, 1979, is $1.44 per hundred kilowatt-hours.

Granite State Electric Company

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 18, 1979, filed with this commission 58th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect July 1, 1979. Granite State purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was $158,843.87. Total sales to Granite State customers during the same period were 28,893,651 kilowatt-hours. By simple division this yields $0.0055 per kilowatt-hour which is added to the fixed fuel portion of $0.0124 per kilowatt-hour. Thus, the fuel adjustment charge applicable to bills rendered in the month of July, 1979, is proposed to be $1.79 per hundred kilowatt-hours.

The fuel adjustment clause is high this month due to a below normal generation of hydroelectric power by Nepco and the substantial price rise in oil, where oil accounts for approximately 70 per cent of Nepco's generation.

New Hampshire Electric Cooperative, Inc.

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on dune 19, 1979, filed with this commission 16th Revised Page 17 to its tariff, NHPUC No. 8 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1979. The company reported that the total fuel cost billed by its several power suppliers for power during the month of May, 1979, was $308,378. Total sales by the Co-op during the same month was 22,301,055 kilowatt-hours. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of July, 1979, is $1.38 per hundred kilowatt-hours.

Connecticut Valley Electric Company, Inc.

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 20, 1979, filed with this commission 27th Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1979. Connecticut

Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley Electric Company, Inc., reported that during the month of May, 1979, the total fuel cost billed by Central Vermont was $60,789. During this same period the total kilowatt-hours sold by Connecticut Valley Electric Company were 12,022,631. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month

of July, 1979, is 51 cents per hundred kilowatt-hours. The company's fuel adjustment clause has not risen with the cost of oil, as only 20 per cent of Central Vermont Public Service Corporation's generation is from oil.

Exeter and Hampton Electric Company

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire on June 13, 1979, filed with this commission 48th Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1979. Exeter and Hampton Electric Company purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the month of May, 1979, was $367,732.17. Total sales by Exeter and Hampton during the same period were 23,714,968 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of July, 1979, is $1.55 per hundred kilowatt-hours.

Concord Electric Company

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire on June 7, 1979, filed with this commission 53rd Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1979. Concord Electric Company reported that the total fuel cost billed by Public Service Company during the month of May, 1979, was $339,847.20. Total sales during the same period were 22,882,767 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of July, 1979, is $1.49 per hundred kilowatt-hours.

Public Service Company of New Hampshire

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire on June 20, 1979, filed with this commission 16th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1979.

The company reported a fuel cost above base of $8,720,717 and total kilowatt-hours subject to the fuel adjustment of 374,516,000 resulting in a per kilowatt-hour charge of $0.01692450. This amount was then reduced by $0.000128761 per kilowatt-hour which corresponded to a leasing and maintenance cost adjustment related to the rate per ton charged for coal on unit trains for the contract year ended March 31, 1979. justed rounded to $1.68 per hundred kilowatt-hours is proposed to go into effect in the month of July, 1979.

This month's proposed rate is 13 cents per hundred kilowatt higher than last

month's for several reasons. Merrimack Unit No. 2 was down for a considerable period for unscheduled maintenance, while Merrimack Unit 1 was down for scheduled maintenance. The lost and unaccounted for electricity was up. The average cost per ton of coal was up 67 cents and the average cost of oil was up 26 cents per barrel.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of July, 1979, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 16th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of $1.68 per hundred kilowatt-hours for the month of July, 1979, be, and hereby is, permitted to become effective July 1, 1979; and it is

Further ordered, that 53rd Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of $1.49 per hundred kilowatt-hours for the month of July, 1979, be, and hereby is, permitted to become effective July 1, 1979; and it is

Further ordered, that 48th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of $1.55 per hundred kilowatt-hours for the month of July, 1979, be, and hereby is, permitted to become effective July 1, 1979; and it is

Further ordered, that 27th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 51 cents per hundred kilowatt-hours for the month of July, 1979, be, and hereby is, permitted to become effective July 1, 1979; and it is

Further ordered, that 16th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.38 per hundred kilowatt-hours for the month of July, 1979, be, and hereby is, permitted to become effective July 1, 1979; and it is

Further ordered, that 58th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.79 per hundred kilowatt-hours for the month of July, 1979, be, and hereby is, permitted to become effective July 1, 1979; and it is

Further ordered, that Tenth Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of $1.44 per hundred kilowatt-hours for the month of July, 1979, be, and hereby is, permitted to become effective July 1, 1979; and it is

Further ordered, that 66th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 55 cents per hundred kilowatt-hours for the month of July, 1979, be, and hereby is, permitted to become effective July 1, 1979; and it is

Further ordered, that 32nd Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 51 cents per

hundred

kilowatt-hours for the month of July, 1979, be, and hereby is, permitted to become effective July 1, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of June, 1979.

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NH.PUC*06/26/79*[78322]*64 NH PUC 185*Mary Jane Komisarek et al.

[Go to End of 78322]

Re Mary Jane Komisarek et al.

DE 79-49, DE 79-50, Second Supplemental Order No. 13,684

64 NH PUC 185

New Hampshire Public Utilities Commission

June 26, 1979

ORDER requiring the preparation of a schedule of payments by the commission.

PAYMENT, § 6 — Payment schedule — Commission determination.

[N.H.] Where a utility's customer did not dispute the amount due, but claimed that due to sickness and infirmities they were unable to pay the bills and unable to enter into a reasonable payment arrangement with the company, the commission determined that it should prepare a schedule of payments.

APPEARANCES: Walter J. Komisarek, Jr., pro se and for Mary Jane Komisarek.

BY THE COMMISSION:

Report

On February 22, 1979, a petition was filed with this commission on behalf of Mary Jane Komisarek requesting a hearing and order to prohibit the Public Service Company of New Hampshire from disconnecting electric service of the petitioner.

On February 27, 1979, a similar petition was filed by Walter Komisarek, Jr., requesting a hearing and order to prohibit the same company from disconnecting electric service to him. The petitions were consolidated for hearing.

Both petitioners admit receiving the electric service and do not dispute the bills rendered.

Their petition claims that due to sickness and infirmities they were unable to pay the bills and were unable to enter into a reasonable payment arrangement with the company.

Various motions and an order to show cause were filed and disposed of prior to a full hearing on the merits in this matter.

On June 13, 1979, a public hearing was held pursuant to the commission's Supplemental Order No. 13,665 issued June 7, 1979.

The commission, having considered the pleading filed, the testimony submitted and evidence presented, and for good cause shown, finds that a schedule of payments shall be prepared by this commission and incorporated in an order.

Our order will issue accordingly.

Supplemental Order

Ordered, that the electric service account of Mary Jane Komisarek which is now in arrears by the amount of $156.70, shall be continued in service; provided that payment of current bills starting

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with the June, 1979, bill, and partial monthly payments on the amount in arrears, are made in accordance with the following provisions:

(1) The current bill, starting with the June, 1979, billing for the monthly period ending on or about the 8th of the month, shall be paid in full by submission to the company's Manchester business office on the last day of the next following month (in the case of the June billing by July 31, 1979) either in person or by certified mail — return receipt requested;

(2) Starting with the month of July, 1979, an amount of $15 shall be paid monthly towards payment in full of the $156.70 in arrears, such payment to be made by submission to the company's Manchester business office on the last day of the month either in person or by certified mail — return receipt requested, addressed to the attention of F. W. Bishop;

(3) This commission's order shall constitute full notice to the customer that failure to abide by the terms of the agreement set forth in Nos. 1 and 2 above shall leave the company free to terminate the customer's electric service on or after the tenth day of the month following the month in which payment was due; the disconnection to be made only between 8 A.M. and 3 P.M. on any authorized business day, except on any day preceding a day on which the business office is closed;

(4) If service is terminated because of the customer's failure to abide by the agreement set forth above, this agreement shall also be considered as terminated, and restoration of service may be conditioned on full payment of the amount in arrears plus a reasonable deposit; and it is

Further ordered, that the electric service account of Walter J. Komisarek, Jr., which is now in arrears by the amount of $397.56 shall be continued in service; provided that payment of current bills starting with the June, 1979, bill, and partial monthly payments on the amount in arrears, are made in accordance with the following provisions:

(1) The current bill, starting with the June, 1979, billing for the monthly period ending on or about the 8th of the month, shall be paid in full by submission to the company's Manchester business office on the last day of the next following month (in the case of the June billing July 31, 1979) either in person or by certified mail — return receipt requested;

(2) Starting with the month of July, 1979, an amount of $25 shall be paid monthly towards payment in full of the $397.56 in arrears, such payment to be made by submission to the company's Manchester business office on the last day of the month either in person or by certified mail — return receipt requested;

(3) This commission's order shall constitute full notice to the customer that failure to abide by the terms of the agreement set forth in Nos. 1 and 2 above shall leave the company free to terminate the customer's electric service on or after the tenth day of the month following the month in which payment was due; the disconnection to be made only between 8 A.M. and 3 P.M. on any authorized business day, except on any day preceding a day on which the business office is closed.

(4) If service is terminated because of the customer's failure to abide by the agreement set forth above, this agreement shall also be considered as terminated and restoration of service may be conditioned on full payment of the

amount in arrears, plus a reasonable deposit; and it is

Further ordered, that because of the circumstances involving the payment procedures in the above two instances concerning Mary Jane Komisarek and Walter J. Komisarek, Jr., that where any conflict between this order and the commission's rules covering "discontinuance of service" (Rule 8 — Rules and Regulations Prescribing Standards for Electric Utilities) exists, this order shall take precedence as it relates to these two specific cases.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of June, 1979.

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NH.PUC*06/27/79*[78323]*64 NH PUC 187*Chester Telephone Company d/b/a Granite State Telephone

[Go to End of 78323]

Re Chester Telephone Company d/b/a Granite State Telephone

DF 79-116, Order No. 13,688

64 NH PUC 187

New Hampshire Public Utilities Commission

June 27, 1979

PETITION for approval of telephone loan contract amendments (to issue and sell mortgage

notes); granted.

SECURITY ISSUES, § 58 — Mortgage notes — Authorization.

[N.H.] The commission authorized a telephone company to issue and sell mortgage notes when it found the sale to be consistent with the public good since the proceeds were to be used to improve the quality of telephone service and meet anticipated demands for the company's service.

APPEARANCES: John S. Holland for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed May 18, 1979, Chester Telephone Company d/b/a Granite State Telephone, a telephone public utility operating under the jurisdiction of this commission, seeks authority, pursuant to provisions of RSA 369, and any amendments thereto, to issue and sell its mortgage notes in the aggregate amount of $2,220,000 to the Rural Electrification Administration.

The petitioner alleges in its petition and represented at the public hearing in Concord on June 26, 1979, that it has outstanding 124 shares at $10 par value common stock; 100 shares of $100 par value preferred stock; and 35-year mortgage notes due to the United States of America Rural Electrification Administration an aggregate amount of $4,030,000, these mortgage notes bearing various dates from 1957 through 1976, and to the Rural Telephone Bank, a corporation existing under the laws of the government, in the aggregate amount of $1,102,500 dated February 23, 1973. Petitioner has no outstanding short-term notes.

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Petitioner has entered into a telephone loan contract with the Rural Electrification Administration of the United States of America and the Rural Telephone Bank to issue to it an additional $2,220,000 in mortgage notes, payable in equal quarterly payments over a 35-year period with interest at 5 per cent per annum included in the payments. Petitioner proposes to use the proceeds of this loan to provide for growth from present and future establishments in all exchanges, (2) purchase new digital electronic Central Dial Office switching equipment for the Weare exchange, (3) purchase land to expand the Hillsboro Upper Village Central Dial Office parking area, (4) build garage and plant offices at Chester and Hillsboro Upper Village, and build an addition to Weare headquarters facilities to house an emergency generator, and (5) make related system improvements.

The petitioner filed the required resolution of the stockholders adopted at a special meeting of stockholders authorizing the proposed financing. Also filed as exhibits at the hearing were the company's contemplated construction, estimated cost of financing, balance sheets, pro forma income statements, capitalization ratios on year-end balances, resolution of stockholders

authorizing the financing, letter of commitment from the Rural Electrification Administration, mortgage note, and telephone loan contract amendment.

At the hearing, petitioner submitted the balance sheet as of December 31, 1978, as per books and pro formed to reflect the proposed financing. No increases in rates are necessary to support the construction for which this money is being obtained.

Upon consideration and investigation of the evidence and exhibits submitted, the commission finds that the authorization sought herein will result in an improvement of the quality of telephone service in the area served by the company. The commission is further of the opinion that the proposed issuance of these notes, upon the terms and for the purposes outlined in the hearing, is consistent with the public good since the projected expenditures will serve to satisfy anticipated demands for the company's services; and that this result is contingent upon the financing proposals herein; all of which this commission finds to be consistent with the public good. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Chester Telephone Company d/b/a Granite State Telephone be, and hereby is, authorized to issue and sell its mortgage notes in a principal amount not exceeding $2,220,000 to the Rural Electrification Administration and the Rural Telephone Bank, said notes to bear interest at the rate of 5 per cent per annum, and to be payable over a term of thirty-five years from the date of issuance; and it is

Further ordered, that on January 1st and July 1st in each year, Chester Telephone Company d/b/a Granite State Telephone shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of said notes, until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of June, 1979.

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NH.PUC*06/27/79*[78324]*64 NH PUC 189*Bedford Water Corporation

[Go to End of 78324]

Re Bedford Water Corporation

I-E14,847, Order No. 13,690

64 NH PUC 189

New Hampshire Public Utilities Commission

June 27, 1979

ORDER requiring a water company to remedy insufficient water pressure.

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1. SERVICE, § 479 — Water pressure — Inadequacy.

[N.H.] The commission determined that a water company was maintaining less than the minimum pressure required by commission standards of service, based on report of a pump test made on the company's supply well and a chart made by a recording pressure gauge installed on a customer's premises. p. 189.

2. SERVICE, § 47 — Service obligation — Water supply.

[N.H.] Finding that a water company was maintaining less than the required minimum pressure and that the service deficiency resulted from inadequate supply, the commission ordered the utility to develop a new source of supply or to take another course of action to remedy the problem. p. 189.

APPEARANCES: H. Robert Bieque, president, for the Bedford Water Corporation.

BY THE COMMISSION:

Report

[1] On June 18, 1979, the commission first received complaints of low pressure, or no water supply at all, from customers of the Bedford Water Corporation, a franchised public utility operating in a limited area in Bedford, New Hampshire.

The water company indicated that heavy demands by its customers had resulted in the loss of storage capacity and, therefore, pressure in the distribution mains was lowered in an attempt to reestablish storage and maintain some flow in the mains. The commission's recording pressure gauge was installed at a customer's residence on Southgate drive on June 18th and a chart was made for the period through June 25th. The chart clearly indicated that the water company was maintaining less than the minimum pressure required by our standards of service for water utilities, which requirement is for a minimum of 20 PSIG at each customers' service entrance.

Pursuant to RSA 374:1 and RSA 374:7 an order was issued to Bedford Water Corporation that a hearing would take place on June 26, 1979, at the commission office and that representatives of the corporation should appear and explain the system, operation, and experiences relating to water pressure.

A copy of the recording chart indicating system pressure during the period of June 19-25, and a report of a pump test made on the company's supply well in February, 1979, by the firm of Bellantone, Foote, Howard, Inc., of Concord, New Hampshire were entered as evidence. Approximately forty customers of the system appeared and testified as to the lack of sufficient pressure and that this situation had existed for at least three years.

[2] The evidence heard and submitted in this case, indicate that the water company's existing source of supply is inadequate

to furnish minimum service to its customers and, therefore, a violation of RSA 374:1.

It is our judgment that Bedford Water Corporation must take immediate action to avail itself of sufficient water capacity and supply to provide its customers with good water service that exceeds the minimum standards of this commission's requirements. This can only be accomplished through an addition to capacity. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that on or before July 6, 1979, Bedford Water Corporation provide this commission with the name of its contractor hired for the production of a new source of supply or such other course of action that will produce positive results; and it is

Further ordered, that Bedford Water Corporation provide this commission with daily reports thereafter of progress made; and it is

Further ordered, that Bedford Water Corporation shall henceforth maintain its water system such as to provide its customers with service that exceeds the minimum requirements as detailed in this commission's rules and regulations prescribing standards for water utilities; and it is

Further ordered, that the Bedford Water Corporation is prohibited from adding any additional services above its present level of 60.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of June, 1979.

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NH.PUC*06/28/79*[78325]*64 NH PUC 190*Continental Telephone Company of New Hampshire

[Go to End of 78325]

Re Continental Telephone Company of New Hampshire

IE14,850, Order No. 13,692

64 NH PUC 190

New Hampshire Public Utilities Commission

June 28, 1979

ORDER providing for the elimination of a telephone utility's mileage charges.

RATES, § 541 — Mileage charges — Elimination.

[N.H.] Where a telephone utility earned a return in excess of its authorized rate of return and the company expressed a desire to eliminate mileage charges, the commission ordered that it file revised tariffs providing for the elimination of all mileage charges for all subscribers.

BY THE COMMISSION:

Order

Whereas, the Continental Telephone Company of New Hampshire, a public utility authorized to provide telephone service in New Hampshire, has currently a filed tariff NHPUC No. 11 with effective date of June 28, 1976; and

Whereas, included in the filed tariff there is contained Section 3, Second Revised Sheet 1; Section 8, Contents; Second Revised Sheet 1; Original Sheet 2, First Revised Sheet 3, 4; Original Sheet 5 all relating to charges and mileage charges; and

Whereas, as a result of a review of the company's 1978 annual report indicating a rate of return of 4.38 per cent over the authorized return, and

Whereas, the company has expressed a desire to eliminate all mileage charges; and

Whereas, the elimination of mileage charges will be a positive opportunity for the company to provide continued service to its customers outside the base exchange at reduced rates; it is

Ordered, that Continental Telephone Company of New Hampshire submit revised pages to replace its tariff NHPUC No. 11, Section 3, Sheet 1; Section 8, Contents, Sheets 1, 2, 3, 4, and 5; NHPUC No. 8, Section 8, First Revised 1 (MAP) effective October 4, 1968; which will eliminate all mileage charges for all subscribers; and it is

Further ordered, that these tariff pages be submitted to become effective with all bills rendered on or after July 1, 1979; and it is

Further ordered, that public notice of this filing be made by such convenient method as will assure that all affected customers will receive proper notice of this offering.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of June, 1979.

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NH.PUC*06/29/79*[78326]*64 NH PUC 191*Gas Service, Inc.

[Go to End of 78326]

Re Gas Service, Inc.

DR 79-129, Order No. 13,697

64 NH PUC 191

New Hampshire Public Utilities Commission

June 29, 1979

PETITION seeking increase in gas rates; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., a public utility engaged in the business of supplying gas service in the state of New Hampshire, on June 1, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 5 — Gas, providing for increased rates designed to provide additional annual revenues of $727,299 (7.4 per cent) effective July 1, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Section 2, Eighth Revised Pages 4-7 and Ninth Revised Page 8; and Section 4, Seventh Revised Pages 4-7 of tariff, NHPUC No. 5 — Gas, of Gas Service, Inc., be, and hereby

are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of June, 1979.

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NH.PUC*06/29/79*[78327]*64 NH PUC 192*Public Service Company of New Hampshire

[Go to End of 78327]

Re Public Service Company of New Hampshire

DF 79-133, Order No. 13,698

64 NH PUC 192

New Hampshire Public Utilities Commission

June 29, 1979

PETITION for authority to issue and sell common stock; granted.

SECURITY ISSUES, § 58 — Common stock sale — Authorization.

[N.H.] The commission granted a utility authority to issue and sell shares of common stock where it found that the proceeds would be used for valid purposes and the issue and sale would be consistent with the public good.

SECURITY ISSUES, § 112 — Common stock issuance — Negotiated public offering.

[N.H.] Statement, in an order approving the issuance and sale of common stock through a negotiated public offering, that in the future the utility should give considerable thought to a competitive sale. p. 193.

APPEARANCES: Ralph H. Wood for the petitioner; and Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this petition filed June 13, 1979, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire, and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash not exceeding 2 million shares of common stock $5 par value. A duly noticed hearing was held in Concord on June 27, 1979.

Company witness Harrison testified that the proceeds of the sale of the common stock will be used (a) to pay off a portion of the short-term notes outstanding at the time of the sale (estimated to be about $114,350,000 on July 18, 1979), the proceeds of which will have been expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the company's business; (b) to finance the purchase and construction of additional such property; and (c) for other corporate purposes. All expenses incurred in accomplishing the financing will be paid from the general funds of the company.

The common stock will be sold through a negotiated public offering. The company asserted its belief that the difficulty of raising capital in today's

money markets continued to justify a negotiated public offering of the common stock and that a negotiated sale would result in terms at least as favorable as those that might be obtained through a competitive sale. The commission recommends that in the future the company give considerable thought to a competitive sale.

The company submitted a balance sheet as of April 30, 1979, actual and pro formed to reflect the sale of $30 minion of preferred stock and the proposed sale of the common stock. Exhibits were also submitted showing: the disposition of proceeds; estimated expenses of the issue and capital structure as of April 30, 1979, actual and pro formed to reflect the sale of $30 million of preferred stock; and the proposed sale of the common stock. Projected financing requirements were outlined in testimony. A certified copy of authorizing votes of the company's board of directors and a copy of the registration statement were put in evidence at the hearing.

Based upon all of the evidence, the commission finds that the proceeds from the proposed financing will be expended to pay off a portion of the short-term notes outstanding at the time of the sale, the proceeds of which will have been expended in the purchase and construction of property reasonably requisit for present and future use in the conduct of the petitioner's business, and for other proper corporate purposes, and further finds that the issue and sale of the common stock will be consistent with the public good. Our order will issue accordingly.

Order

Based upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell not exceeding 2 million shares of common stock, $5 par value, for cash in accordance with the foregoing report and as set forth in its petition; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this commission the number of shares of said common stock to be sold and the purchase price thereof, after which a supplemental order will issue approving the number of shares of said common stock to be sold and the purchase price thereof; and it is

Further ordered, that the proceeds from the sale of said common stock shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of said company and the other purposes stated in the report; and it is

Further ordered, that on January 1st and July 1st in each year, Public Service Company of New Hampshire shall file with this commission a detailed statement, duly sworn to by its treasurer or assistant treasurer showing the disposition of the proceeds of said securities being authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order the Public Utilities Commission of New Hampshire this twenty-ninth day of June, 1979.

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NH.PUC*06/29/79*[78328]*64 NH PUC 194*Hillsboro Equipment, Inc.

[Go to End of 78328]

Re Hillsboro Equipment, Inc.

DT 78-181, Order No. 13,699

64 NH PUC 194

New Hampshire Public Utilities Commission

June 29, 1979

APPLICATION for authority to operate as a contract carrier; granted.

CERTIFICATES, § 118 — Motor carrier authorization — Factors.

[N.H.] The commission granted authority to a corporation to act as a contract carrier of property by motor vehicle where the commission found that the applicant was fit, willing, and able to perform the service and that no business in the service area offered the type of service for which the applicant sought authorization.

APPEARANCES: Leonard Rush, pro se for the applicant.

BY THE COMMISSION:

Report

By application filed September 22, 1979, Hillsboro Equipment, Inc., of Pelham, New Hampshire seeks authority to operate as a contract carrier of property by motor vehicle in the transportation of construction equipment which, because of size or weight, requires low bed transportation, between all points and places in New Hampshire, except Coos, Grafton, and Carroll counties. Hearing thereon was held on November 16, 1978, at which time no one appeared in opposition to the granting of the application.

The president, representing applicant, testified that applicant corporation has been engaged for the last seven years in demolition and salvage work and has recently gone into the trucking business, employing a total of five commercially licensed drivers who operate equipment under the corporation's Public Interest Permit No. 1,182 which authorizes transportation of dump truck commodities used for general construction and highway construction and maintenance between all points and places in New Hampshire. The corporation is on a five and one-half acre plot of land, has ample outdoor storage area for the parking of corporation-owned equipment, including four 1978 Mack tractors, two dump trailers, two low beds, and shovel dozers.

The applicant stated that no one in the area embraced by the application offers low bed service, and that the closest competition is between two to three hours' traveling distance away. The applicant introduced two letters into the record from local construction businessmen requesting authority from the commission in order to provide more convenient handling of their heavy construction equipment.

The commission has studied the facts and considers the necessity of creating an environment conducive to assisting the expeditious handling of heavy construction equipment, in order to provide the service requested by the construction industry in the areas as shown in instant application.

Upon consideration of all the facts, the commission is of the opinion that the applicant is fit, willing, and able properly to perform the service and that the public

interest requires the granting of the application. Our order will issue accordingly.

Order

Property Carrier Public Interest Permit No. 1,245

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Hillsboro Equipment, Inc., of Pelham, New Hampshire, be, and hereby is, authorized to engage in operations as a contract carrier of property for hire by motor vehicle as follows:

Transportation of construction equipment which, because of size or weight, requires low bed

transportation, between all points and places in New Hampshire, except Coos, Grafton, and Carroll counties; and it is

Further ordered, that said operations shall comply with the provisions of RSA 375-B and the rules and regulations prescribed by the Public Utilities Commission pursuant thereto.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of June, 1979.

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NH.PUC*07/02/79*[78329]*64 NH PUC 195*Conversion of Schiller Station

[Go to End of 78329]

Re Conversion of Schiller Station

DE 79-141, Order No. 13,711

64 NH PUC 195

New Hampshire Public Utilities Commission

July 2, 1979

ORDER providing for an investigation relating to oil conversion.

PROCEDURE, § 5 — Oil conversion — Hearings.

[N.H.] Based on its statutory mandate to assure just and reasonable rates and to investigate operating practices, the commission ordered hearings relating to the conversion of oil-fired generating capacity.

RSEARCH, DEVELOPMENT, AND DEMONSTRATION — Alternative fuels — Electrical generation.

[N.H.] Statement that it has been commission policy, over the years, to encourage the development of electrical energy sources that are not oil fired. p. 196.

GAS, § 1 — Natural gas use — Economics.

[N.H.] Statement that there is significant economic justification to explore the use of natural gas or its substitutes in peaking and intermediate electrical generating stations. p. 196.

BY THE COMMISSION:

Order

Pursuant to RSA 378:7 the commission has the authority upon its own motion to begin hearings whenever it shall be of the opinion that the rates, fares, or charges demanded by any public utility for service rendered or to be rendered are unjust or unreasonable or that the

regulations or practices of any such

public utility affecting such rates are unjust and unreasonable. In addition, pursuant to RSA 374:4 the commission has the express duty to be kept informed as to how public utilities operate and manage their property as to safety and adequacy. Finally, the commission has the power pursuant to RSA 374:7 to investigate the methods employed by electric utilities in manufacturing electricity. After an investigation which includes hearings, the commission may order reasonable and just improvements.

The commission upon its own motion and pursuant to the aforementioned statutes will begin hearings on the question of whether or not it is the best interest of the public to have the generating units at Schiller station converted from oil to natural gas and/or its substitutes and/or coal.

The commission has attempted over the years to encourage the development of electrical energy sources that are not oil fired. The commission approved the construction of the Seabrook nuclear plant. Re Public Service Co. of New Hampshire (1975) DSF 6205. Recently the commission rendered an opinion whereby it set rates designed to encourage the development of alternate energy sources including hydro, wood, wind, and solar. Re Public Service Co. of New Hampshire (1979) DE 78-232, DE 78-233.

While both of these decisions will cause substantial reductions in the amount of oil used for electrical generation, their impact will be minimal until the early 1980's.

During the interim the company's generation mix if not altered would steadily increase in terms of oil usage from its present 53.46 per cent. (DR 76-46, Exh P-1-D.) The result of increased oil usage together with ever-increasing oil prices represents a legitimate concern for this commission. The Public Service Company has both oil and coal generation. Since 1973, the cost of both fuels has risen; however, to accurately compare the two sources of electricity it is necessary to convert cost per ton and cost per barrel into equivalent units of heat or cents per million Btu's. Whereas, in 1973, oil and coal were exactly equal in terms of cents per million Btu's, a significant difference has arisen over the past six years. Prior to the most recent oil price increases, the cost for oil as opposed to coal was almost double. With the most recent increases in the price of oil, the differential balloons oil costs to nearly three times the cost of coal (cents per million Btu's). Economic analysts predict that this differential will continue to increase over the span of the next decade.

Natural gas as a source of supply has been improving since the mid-1970's. The Department of Energy has been reversing its position on the usage of natural gas by encouraging the use of natural gas in lieu of oil. Articles are being written which discuss the possibility of natural gas usage in base load electrical generating units. While that time may still be a few years away, there is significant economic justification to explore the usage of natural gas or its substitutes in peaking and intermediate electrical generating stations.

The commission's order to explore the area of conversion is not unusual. Numerous utilities are in the process of conversion from oil generation to coal or natural gas. At present the Atlantic Electric Company, Central Louisiana Electric Company. Inc., Long Island Lighting Company,

and Public Service Electric and Gas Company are either requesting permission to convert to natural

gas or are undertaking that conversion. As to coal, Savanah Electric Light and Power Company has already completed a conversion from oil to coal. In New England, the New England Electric Company is in the process of converting three oil generating stations to coal.

Therefore, the commission concludes that an investigation is necessary to determine whether or not a conversion of the oil generating stations located at Schiller should be ordered. The company is instructed to answer the following questions in its testimony:

1. What are the capital costs involved in converting from oil to coal? Natural gas?

2. What are the company's estimates as to cost in terms of cents per million Btu for coal, natural gas, and oil over the next ten years?

3. What environmental rules, regulations, or laws are of consequence in a conversion to coal? Natural gas?

4. If an order were issued in the fall of this year requiring a conversion to coal or natural gas, how lengthy would the conversion process be?

5. What are the company's estimates for the next twenty years as to the cost of Schiller generation in mills, using (a) oil, (b) coal, (c) natural gas?

Hearings will be scheduled for September 4, 1979, and September 5, 1979, with prepared testimony due from the company by August 17, 1979.

By order of the Public Utilities Commission of New Hampshire this second day of July, 1979.

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NH.PUC*07/02/79*[78330]*64 NH PUC 197*E. A. Sirles Construction Company

[Go to End of 78330]

Re E. A. Sirles Construction Company

DE 79-124, Order No. 13,712

64 NH PUC 197

New Hampshire Public Utilities Commission

July 2, 1979

PETITION for authority to install electrical cables; granted.

ELECTRICITY, § 7 — Submarine electric cables — Authorization.

[N.H.] The commission authorized the installation of submarine electrical cables where the utility had previously obtained dredge and fill permits and no intervenors appeared to contest the proposal.

APPEARANCES: E. A. Sirles, pro se.

BY THE COMMISSION:

Report

On May 31, 1979, the E. A. Sirles Construction Company filed with the commission two petitions for authority to lay submarine cables in Big Squam Lake. The first cable of approximately 1,300 feet was to be run between Center Harbor Neck and Kimball Island in Center Harbor, New Hampshire; the second cable to run approximately 360 feet between the Webster property off Route

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113 and Carns Island in Holderness, New Hampshire.

Both submarine cables are being laid to serve electricity to future customers of the New Hampshire Electric Cooperative and said lines will be owned and maintained by these parties under agreement with the Cooperative.

An order of notice was issued on June 4, 1979, announcing a hearing at the commission offices in Concord at 9:30 A.M. on June 29, 1979. One-time public notice was directed.

Said hearing was conducted on June 29, 1979, with no intervenors present. E. A. Sirles presented testimony and exhibits in support of the crossings. He indicated that he had lengthy experience in the installation of such submarine cables and that such cables would be installed according to required safety criteria. He presented copies of the dredge and fill permits which had been approved for both installations by appropriate state and local authorities.

With no intervention in this case and approval for the dredge and fill, the commission feels that such submarine cable installations are in the public good and our order will issue accordingly.

Order

Based upon the foregoing report, which is incorporated herein; it is

Ordered, that licenses for submarine water crossings in Big Squam Lake under RSA 371:17-23 are issued for the following:

Center Harbor Neck to Kimball Island, Center Harbor, New Hampshire;

Webster Property, Route 113, to Carns Island, Holderness, New Hampshire; and it is

Further ordered, that such crossings be made according to the Dredge and Fill Permits P-612 and G-467.

By order of the Public Utilities Commission of New Hampshire this second day of July,

1979.

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[Go to End of 78331]

Re Gas Service, Inc. et al.

DE 79-13, Second Supplemental Order No. 13,715

64 NH PUC 198

New Hampshire Public Utilities Commission

July 3, 1979

PETITION for approval of the sale and transfer of business assets; order affirming, in part, prior decision.

ACCOUNTING, § 6 — Uniform Classification of Accounts — Depreciation expenses.

[N.H.] The commission rejected the contention of its staff and the consumer's council that it should stay within the narrow confines of the Uniform Classification of Accounts, and found that it had the discretion to go beyond the standard rate-making methodology and deviate from the uniform system in its treatment of a financially troubled utility's depreciation expense.

BY THE COMMISSION:

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Report

On June 27, 1979, the commission heard oral arguments by the Legislative Utility Consumers' Council on its motion for rehearing. Counterarguments were put forth by Gas Service, Inc., and Keene Gas Corporation. There are basically two areas which the Legislative Utility Consumers' Council's motion addresses. First, is the assignment by the commission of 13 per cent return on common equity. Second, is the deviation by the commission from the uniform classification of accounts as to depreciation expenses.

The commission upon review of the record finds no need to address the question of what is a proper return on common equity and to the extent that our opinion refers to return on common equity it becomes null and void.

In addressing the depreciation expense question, both the Legislative Utility Consumers' Council and staff believe that continuance of the said depreciation expense for Keene Gas is a windfall. Furthermore, both argue that the commission should stay within the narrow confines of

the uniform classification of accounts.

Pursuant to Legislative Utility Consumers' Council v New Hampshire Public Utilities Commission (1979) 119 NH —, the supreme court recognized that the commission has the discretion to go beyond standard rate-making methodology. The supreme court noted that rate making is a flexible door and that the true guide which the commission must follow is just and reasonable rates. While the commission believes strongly in upholding the Uniform Classification of Accounts it also believes that from time to time deviation is necessary to realize just and reasonable rates. The history of this gas distribution system which is marked by financial losses, certainly is solid evidence that the commissions decision, given all the evidence, is neither unjust nor unreasonable. Furthermore, since the system was running at a financial loss at the time of transfer, it is hard to imagine that the commission's determination will result in any windfall profit to Keene Gas. Therefore, the commission rejects the Legislative Utility Consumers' Council's contention that the treatment of depreciation expenses be changed. Our order will issue accordingly.

Supplemental Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that any reference made in Order No. 13,600 to return on common equity is stricken; and it is

Further ordered, that the opinion in all other aspects remains unchanged.

By order of the Public Utilities Commission of New Hampshire this third day of July, 1979.

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NH.PUC*07/06/79*[78332]*64 NH PUC 200*Central Maine Power Company et al.

[Go to End of 78332]

Re Central Maine Power Company et al.

DF 79-104-6205, Order No. 13,716

64 NH PUC 200

New Hampshire Public Utilities Commission

July 6, 1979

APPLICATION for authorization to transfer interests in a nuclear power plant; granted.

CONSOLIDATION, MERGER, AND SALE, § 19 — Nuclear power plant — Transfer of undivided interests.

[N.H.] The commission found that the plan of several utilities to transfer their interests in a nuclear power plant under construction was just and reasonable, and permitted the transfer as in the public interest.

APPEARANCES: Sulloway, Hollis, Godfrey, and Soden, Franklin Hollis for the petitioners.

BY THE COMMISSION:

Report

By this unopposed petition filed with the commission on March 23, 1979, Central Maine Power Company, Central Vermont Public Service Corporation, Fitchburg Gas and Electric Light Company, Montaup Electric Company, New Bedford Gas and Edison Light Company, and Vermont Electric Power Company, made application for authorization to transfer portions of their ownership interests in Seabrook station in varying amounts to Massachusetts Municipal Wholesale Electric Company, a political subdivision of the commonwealth of Massachusetts, the town of Hudson, Massachusetts Light and Power Department, a Massachusetts municipal corporation, and the Vermont Electric Cooperative, Inc. Pursuant to notice duly given in accordance with the commission's order dated May 7, 1979, a hearing was held on the matter at the offices of the commission on June 12, 1979. The petitioners will hereafter be referred to collectively as the "transferors" and those to whom the transfers will be made as the "transferees."

The Seabrook Station project is a nuclear generating station which is being and will be constructed at Seabrook, New Hampshire, by Public Service Company of New Hampshire as a domestic electric utility company in association with a number of nonresident electric utilities, including the transferors and the transferees, pursuant to RSA 374A. The transferors seek authority for the transfer of portions of their participations pursuant to the provisions of RSA 374:30.

The Seabrook project is being constructed pursuant to an "agreement for joint ownership, construction, and operation of New Hampshire nuclear units," dated May 1, 1973, as amended, among the various participants in the project (the Seabrook agreement). A copy of the Seabrook agreement was duly entered into the record. Witnesses for each of the transferors testified as to the percentage interests each desired to transfer, which are summarized in the following Table I.

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

TABLE I

TRANSFERS FROM THE PETITIONERS TO MASSACHUSETTS MUNICIPAL WHOLESALE ELECTRIC COMPANY (MMWEC), THE TOWN OF HUDSON, MASSACHUSETTS, LIGHT AND POWER DEPARTMENT (HUDSON), AND VERMONT ELECTRIC COOPERATIVE, INC. (VEC)

Participant
Central Maine Power Company
Central Vermont Public Service Corporation
Fitchburg Gas and Electric Company
Montaup Electric Company
New Bedford Gas and Edison

Light Company
Vermont Electric Power Company

Total

It appeared that the transferors had complied with all applicable conditions precedent of the Seabrook agreement.

Witnesses for Central Vermont Public Service Corporation and Vermont Electric Power Company entered in evidence the contracts under which their respective transfers to Vermont Electric Cooperative, Inc., shown in Table I would be made. Witnesses for each of the petitioners testified that all remaining transfers shown on Table I would be made pursuant to the Seabrook agreement and so-called Escrow agreements which were duly entered in evidence. It appeared that the purchase price for each transfer would be based upon the investment of the transferor in the fractional interest being transferred as of the date of the transfer, plus an allowance for funds used during construction and/or interest in accordance with Exh P-5, Par 1d, associated with such investment.

There was entered in evidence copies of Amendment Nos. 1 and 2 to the construction permits issued by the Nuclear Regulatory Commission (NRC) to the construction permits issued by NRC to Public Service Company of New Hampshire. Said amendments show that the transfers in question have been approved by NRC and that NRC found each transferee financially qualified to assume the financial burdens associated with the fractional interests each would receive in accordance with Table I.

The commission takes notice that each of the transferees of the fractional interests in the Seabrook station, as shown on Table I, has duly heretofore filed with the commission the required notification pursuant to RSA 374-A:7I of its intention to become a Seabrook participant and has qualified as a foreign corporation doing business in New Hampshire pursuant to RSA 300 in compliance with the requirements of RSA 374-A:7 II (a).

Based upon the foregoing, as well as the entire record in this proceeding, including the exhibits submitted in support of the application, the commission finds that the proposed transfers of fractional interests in the Seabrook Station project from the several transferors to the several proposed transferees, upon the terms proposed for the said transfers will be for the public good, and that it is just and reasonable and in accordance with the provisions of RSA 374:30, as well as all other applicable provisions of New Hampshire law, that the said transfers and sales, upon the terms proposed, as

well as the acquisition of such transfers by the several transferees should be approved. Our order will, therefore, issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the application of Central Maine Power Company, Central Vermont Public Service Corporation, Fitchburg Gas and Electric Light Company, Montaup Electric Company, New Bedford Gas and Edison Light Company, and Vermont Electric Power Company to sell and

transfer certain undivided ownership interests in the so-called Seabrook Station project, including all associated property and contract rights of every sort, to Massachusetts Municipal Wholesale Electric Company, town of Hudson, Massachusetts, Light and Power Department, and Vermont Electric Cooperative, Inc., all being nonresident electric utility entities, in varying amounts and proportions as between them as set forth in the various agreements filed in this docket and shown on Table I in the report, and the terms therein stated are hereby approved; and it is

Further ordered, that the said transfers and sales by the transferors to the several said transferees as well as the purchase and acquisition of the said participations by the transferees in the shares and proportions stated as between them upon the terms proposed are hereby authorized in accordance with the authority vested in this commission under RSA 374:30.

By order of the Public Utilities Commission of New Hampshire this sixth day of July, 1979.

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NH.PUC*07/09/79*[78333]*64 NH PUC 202*Gas Service, Inc. et al.

[Go to End of 78333]

Re Gas Service, Inc. et al.

DE 79-13, Third Supplemental Order No. 13,718

64 NH PUC 202

New Hampshire Public Utilities Commission

July 9, 1979

PETITION seeking to transfer gas company assets and continue operation as a public utility; granted.

BY THE COMMISSION:

Supplemental Order

Ordered, that Gas Service, Inc., be, and hereby is, authorized to transfer its Keene division to Keene Gas Corporation and to discontinue operations thereunder; and it is

Further ordered, that Keene Gas Corporation, be and hereby is, authorized to receive said authority as a gas public utility in the city of Keene and to continue operations.

By order of the Public Utilities Commission of New Hampshire this ninth day of July, 1979.

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NH.PUC*07/09/79*[78334]*64 NH PUC 203*New Hampshire Electric Cooperative, Inc.

[Go to End of 78334]

Re New Hampshire Electric Cooperative, Inc.

I-R14,834, Supplemental Order No. 13,719

64 NH PUC 203

New Hampshire Public Utilities Commission

July 9, 1979

ORDER allowing replacement power costs to be recovered through a surcharge.

RATES, § 260 — Replacement power costs — Recovery by surcharge.

[N.H.] The commission permitted an electric cooperative to recover replacement power costs through a one-time surcharge during the summer months when electric bills are reasonably low, so as not to impose an additional burden on consumers.

APPEARANCES: Mayland Morse for the petitioner.

BY THE COMMISSION:

Report

On April 6, 1979, New Hampshire Electric Cooperative, Inc., submitted tariff pages, NHPUC No. 8 Electricity, Original Pages 14A and 14B, providing for a "replacement power cost adjustment" for recovery of replacement power costs incurred in excess of $75,000, after fuel charge deductions, in any calendar year as a result of interruptions of the Cooperative's entitlement to the Maine Yankee Atomic Plant kilowatt-hour output at Wiscasset, Maine.

The filing was suspended by this commission on May 2, 1979. On May 16, 1979, an order of notice was issued providing for a hearing on May 25, 1979, at 1:30 P.M. at the commissions offices in Concord, New Hampshire.

The company submitted testimony showing that it receives approximately 10 per cent of its annual wholesale power requirements from its Maine Yankee entitlement. During any 12-month period, the company expects scheduled interruptions of Maine Yankee for periods of up to six weeks. During that period the company must obtain replacement power. Accordingly, the company's rate base includes an amount anticipated to compensate the company for those replacement costs. During the most recent calendar year (1978) those replacement power costs totaled approximately $75,000.

During March, 1979, Maine Yankee was shut down by federal order of the Nuclear Regulatory Commission for an indeterminate length of time during which an engineering study was mandated to determine whether construction specifications had been followed to maintain safety standards. The plant was down for a period of approximately two months. The company testified that it incurred costs in excess of $175,000 during the period. They submitted exhibits proposing to levy a surcharge on all customers during the month of June, 1979, to recover those extra costs. They proposed to subtract from the total costs an amount of $75,000 which amount

they showed to be the estimated 1978 rate base amount for scheduled maintenance. The replacement power cost adjustment for the month of June

was to be $0.00123. A tariff page, Original Page 14A would also provide the company an opportunity to levy surcharges at any other time that replacement power exceeded $75,000 in any calendar year because of interruptions of Maine Yankee. Accordingly, since the $75,000 anticipated to be used during fall scheduled maintenance have been already committed to the unscheduled maintenance, then another surcharge would be imposed during the late months of 1979 to recover actual scheduled maintenance costs.

The company submitted Exh 4 which displayed, among other things, the costs of kilowatt-hours purchased excluding fuel charges as follows:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

1976 $47,575
1977 92,787
1978 74,626
1979 108,503 (four months only)
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Upon cross-examination by staff, witness Muzzey testified that the $75,000 quoted as annual anticipated replacement costs was not based on a rate base calculation but was an approximation of actual 1978 costs. Subsequent to the hearing the company submitted a letter verifying that the actual rate base calculation was $92,500.

The commission recognizes and accepts the company's unique situation regarding the need for revenues for replacement power. It concurs in the company's proposal to surcharge an appropriate amount to its customers.

It does not find a need, however, for establishing a tariff page which will give the company an opportunity to recover replacement power costs "whenever the Cooperative is forced to purchase replacement power." We view the Maine Yankee situation to be unique. The commission will treat the revenue requirement on a one time basis. The commission will not deduct the $75,000 (corrected to $92,500) against the past out-age, but will let it stand in anticipation of the scheduled outage during the fall months.

The commission finds it proper that the revenue deficiency to be collected during the remaining summer months when electric bills are reasonably low so as not to impose an additional burden on customers whose bills normally increase dramatically during the winter. The commission will direct the company to make a precise calculation of actual costs of replacement power incurred during the period that Maine Yankee was down as a result of the NRC dictate. The commission will allow a surcharge to be imposed upon all customers' bills after July 15, 1979, through November 14, 1979. Any overcollection or undercollection will be rectified in the December billing cycle. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 —

Electricity, Original Pages 14A and 14B be, and hereby are, rejected; and it is

Further ordered, that the company submit a new tariff page outlining the actual replacement power costs incurred as a result of the Maine Yankee shutdown during the period March through May, 1979, and calculating a surcharge to be imposed upon customers' bills effective with all bills rendered on or after July 15, 1979; and it is

Further ordered, that the company make public notice of this order in a newspaper having general circulation in the area served; and it is

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Further ordered, that a final accounting of the revenues collected shall be made at the end of the surcharge period and that overages or underages shall be properly corrected during the December bill.

By order of the Public Utilities Commission of New Hampshire this ninth day of July, 1979.

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NH.PUC*07/11/79*[78335]*64 NH PUC 205*Public Service Company of New Hampshire

[Go to End of 78335]

Re Public Service Company of New Hampshire

DF 79-133, Supplemental Order No. 13,726

64 NH PUC 205

New Hampshire Public Utilities Commission

July 11, 1979

PETITION for authority to issue and sell common stock; granted.

SECURITY ISSUES, § 29 — Common stock sale — Authorization.

[N.H.] The commission issued an order authorizing the issuance and sale of common stock where the utility submitted information previously requested by the commission.

BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 13,698 dated June 29, 1979, issued in the above entitled proceeding, authorized Public Service Company of New Hampshire, inter alia, to issue and sell not exceeding 2 million shares of common stock, $5 par value, subject to further order of this commission; and

Whereas, in compliance with said Order No. 13,698, following negotiations with underwriters, the company has submitted to this commission the details concerning the sale of said common stock which contemplate the issue and sale of 2 million shares of said common stock by the company to underwriters who will make a public offering thereof, as set forth in the underwriting agreement between the company and the underwriters, a copy of which is to be filed with the commission, said common stock, to be sold at a price to the company of $18.87 per share; and

Whereas, after due consideration, it appears that the issue and sale of said common stock upon the terms, including the price, hereinabove set forth or referred to, is consistent with the public good; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell at a price of $18.87 per share in cash 2 million shares of its common stock, $5 par value, said stock to be sold at said price of $18.87 per share to underwriters who will make a public offering thereof, as set forth in the underwriting agreement between the company and the underwriters; and it is

Further ordered, that all other provisions

of said Order No. 13,698 of this commission relating to the sale of common stock are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this eleventh day of July, 1979.

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NH.PUC*07/12/79*[78336]*64 NH PUC 206*Pennichuck Water Works

[Go to End of 78336]

Re Pennichuck Water Works

DR 79-3, Fourth Supplemental Order No. 13,727

64 NH PUC 206

New Hampshire Public Utilities Commission

July 12, 1979

PETITION of a water utility for an increase in rates; granted as modified.

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1. RETURN, § 16 — Fair return — Standards.

[N.H.] The commission found that its decision regarding the fair rate of return to be earned by a utility was to be guided by the United States Supreme Court decisions in the Bluefield and

Hope cases. p. 210.

2. RETURN, § 66 — Water company — Risks, comparisons.

[N.H.] The commission found a utilitys rate of return presentation lacking where the company failed to establish a comparison with other companies and failed to establish risks associated with the operation of the company as compared to other enterprises. p. 211.

3. RETURN, § 115 — Water company — Factors.

[N.H.] Where the commission found insufficient evidence in the record to enable it to determine a fair rate of return, it developed a rate base on its experience and judgment, relying principally on equity ratios and interest coverage ratios. p. 211.

4. RETURN, § 10 — Price and book value — Comparison.

[N.H.] Where there is insignificant trading in a company's stock, a comparison of price and book value is not probative of a fair return. p. xxx

5. RETURN, § 44 — Risk — Construction programs.

[N.H.] An extraordinary construction program, required by the Safe Drinking Water Act, was found to make a water utility riskier than other water utilities regulated by the commission. p. 212.

6. RETURN, § 35 — Attrition — Construction programs.

[N.H.] Even though the large amounts of pro forma adjustments allowed in a case were found to mitigate the effects of attrition, the commission granted an attrition allowance of 0.5 per cent, noting that attrition occurs more rapidly during periods of extraordinary construction. p. 213.

7. VALUATION, § 134 — Engineering and design studies — Inclusion in rate base.

[N.H.] Engineering and design studies and plans relating to construction work in progress were excluded from a utility's rate base on the theory that the Uniform Classification of Accounts requires that the cost of these studies not be allowed into rate base until the project for which the studies were used is completed, and that the state's statute requires all costs related to the construction of construction work in progress be excluded from the rate base. p. 214.

8. VALUATION, § 251 — Customer advances — Rate base treatment.

[N.H.] Deposits applied to the actual cost of service installed from the property line into the house and run through the jobbing accounts were found to be customer advances and excluded from a utility's rate base as interest-free capital supplied by ratepayers. p. 214.

9. VALUATION, § 319 — Working capital — Compensating balances.

[N.H.] An allowance for compensating balances

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was deleted from a utility's working capital computation. p. 215.

10. REVENUES, § 15 — Sale of property — Rate base treatment.

[N.H.] Proceeds from the sale of property purchased with rights of way or other land shall be credited to the land account and not treated as nonutility income. p. 215.

11. ACCOUNTING, § 10 — Scrap sales — Accounting treatment.

[N.H.] Sales of scrap should be credited to the depreciation reserve account and not treated as below-the-line income. p. 215.

12. VALUATION, § 25 — Date of valuation — Average balance.

[N.H.] The commission utilized an average balance in valuing a utility's rate base. p. 216.

13. REVENUES, § 2 — Revenue recoupment — Adjustments.

[N.H.] A utility's revenues were pro formed downward to reflect the cessation of a revenue recoupment allowed in a prior case. p. 218.

14. EXPENSES, § 95 — Wages and salaries (expense) — Capitalization.

[N.H.] The commission required that a portion of a utility's wage and salary expense be capitalized based on the relationship that existed in the test year between wages and construction. p. 218.

15. EXPENSES, § 81 — Postage expense — Pro formed amount.

[N.H.] Increased postage expense was allowed where the commission found the expense adjustment to be known, measurable, and conservative. p. 219.

16. EXPENSES, § 89 — Rate case expense — Nonrecurring nature.

[N.H.] Expenses associated with a previous rate case were found to be nonrecurring and thus were excluded from the test-year estimate. .Pg p. 219.

17. EXPENSES, § 28 — Auditing expense — Increases.

[N.H.] Increased auditing expense was allowed for test-year purposes, since the amount was a known and measurable expense. p. 219.

18. EXPENSES, § 19 — Test-year expenses — Nonrecurring items.

[N.H.] Several nonrecurring items were excluded from a utilitys estimate of test-year expenses. p. 219.

19. EXPENSES, § 69 — Maintenance expense — Painting.

[N.H.] The commission required a utility to amortize its hydrant painting expenses over a five-year period. p. 221.

20. EXPENSES, § 69 — Dam repairs — Capitalization.

[N.H.] The commission denied a request to adjust test-year expenses for dam and office building repairs, finding that those expenses should be capitalized, since they are not expenses of ordinary maintenance but rather prolong the service life of the facility. p. 222.

21. Rates, § 598 — Conservation — Water utility.

[N.H.] Since the commission found it increasingly necessary for a water company's rates to reflect the encouragement of conservation, it noted that the company should adopt a policy that

would allow summer lawn watering only during offpeak periods. p. 225.

22. RATES, § 120.1 — Test year — Modification.

[N.H.] Discussion of the test-year concept. p. 217.

APPEARANCES: John Pendleton for the petitioner; Harold T. Judd for the Legislative Utility Consumers' Council; and Philip Howorth for the city of Nashua.

BY THE COMMISSION:

Report

On December 29, 1978, Pennichuck Water Works, a New Hampshire corporation engaged in the supply and distribution of water in Nashua and Merrimack, New Hampshire, filed certain revisions of its tariff, NHPUC No. 4 — Water, providing for an increase in rates for all classes of service in the amount of $596,017 which represented a 23 per cent increase effective for January 31, 1979.

On January 8, 1979, the commission

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issued Order No. 13,459 pursuant to RSA 378:6 suspending the proposed effective date of said increase pending full investigation and decision thereon. A duly noticed hearing was held on February 22, 1979, to set forth procedural guidelines.

On February 12, 1979, Pennichuck (hereinafter referred to as the company) filed a petition for temporary rates to be effective as to all bills rendered on and after January 31, 1979, for service theretofore and thereafter rendered. Hearings on the merits of temporary rates and permanent rates were held on April 25 and 26, 1979. In addition a public hearing was held in Nashua on April 9, 1979, and one additional day of hearings on the merits of permanent rates was held on May 3, 1979.

The commission by Order No. 13,603 dated April 30, 1979, ordered that the company be allowed as temporary rates $117,000 on an annual basis, such temporary rates to become effective as to all bills rendered on or after April 30, 1979. On May 18, 1979, the company filed its motion for rehearing as to the beginning date of temporary rates. The company's motion was denied.

The company during the time period between filing and the first day of hearings, updated its test year which resulted in the increase request being $777,023 or a 29.5 per cent increase.

No member of the public appeared at the public hearing in Nashua. Parties to the proceeding filed briefs and/or memorandum of law.

Rate of Return

The company submitted testimony and other evidence attempting to show the need for an 11.747 per cent cost of capital. In arriving at the cost of capital, the company used: 7.8 per cent of long-term debt; 11 per cent of short-term debt; and a 15 per cent rate of return on common

equity. The capital structure as of December 31, 1978, was used to determine the overall cost of capital. The company filed for an attrition allowance of 1.3 per cent to arrive at the requested 13.05 per cent rate of return.

Company witness Gorman testified to the cost of capital. The thrust of his testimony was that a 15 per cent rate of return on common equity was reasonable considering the company's construction program, its obligations, and unique financial condition. The witness testified that he did not use any of the traditional approaches to determine the cost of equity because they, either placed too much emphasis on market price or that other companies are not comparable to Pennichuck. As a starting point, the witness made the assumption that the stock of the company should sell for 110 per cent of book value in order to offset the costs of issuance and market pressure. He reaches the conclusion that a reasonable dividend yield is 9 per cent. By applying the 9 per cent dividend yield to 110 per cent book value he arrives at a dividend of $3.13 per share. The dividend is then divided by a payout ratio of 55 per cent to arrive at a required net earnings per share of $5.69, which would require an 18 per cent return on common equity. The witness then takes the position that the 15 per cent requested is reasonable.

The LUCC contends that in support of his position the company witness refers to the relationship between the book value and the market price of the most recent stock issue, although he admitted that there was no public offering of the stock and the company made no attempt to sell its stock at a higher price.

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They further claim that no studies or research were done to arrive at a stock price other than the actual selling price and that witness Gorman failed to compare Pennichuck with other water utilities although he stated that statistics were available. They further contend that while the witness stated that the cost of equity had to be at a level to yield competitive dividends he failed to compare Pennichuck to other water utilities. The LUCC states that although the witness used 10 per cent market pressure he testified that the cost of issuance of the last offering was very low compared to 10 per cent, and although he employed a 55 per cent payout ratio that the average water utility payout ratio per staff Exh 4 was 66 per cent.

The staff disagrees with the company's testimony in many respects. Their first disagreement is with the fact that the company witness made no attempt to compare alternative investment opportunities in order to determine the comparable risk for Pennichuck. Comparable data was available in a staff exhibit published by the National Association of Water Companies and in the Financial and Operating Data of Water Companies for 1977 published by the same organization. Secondly, they consider it erroneous to use a market pressure and cost of issuance factor of 10 per cent when the company admits there is no active market for the stock. The staff further points out that the cost of the 1978 common stock issue has been capitalized under organization expense and has been included in the fixed capital accounts on which the company would apply a rate of return, therefore, there would be no market pressure caused by that expense. Thirdly, the staff disagrees with the methodology of applying the 55 per cent payout ratio to the dividend rate to arrive at the return required on common equity. The higher or lower that the payout ratio is would be one factor to use in measuring risk. For instance, the December issue of Financial Data for Selected Investor Owned Water Utilities points out that the average dividend payout

ratio is 66 per cent with a dividend yield of 7.9 per cent. The Turner report for March, 1979, shows the following data for various utility groups:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Utility Type	*Payout Ratio*	*Per Cent Yield*
Electric	75%	9.4
Electric and Gas Holding Companies	74	9.8
Gas Companies — Distribution	63	8.4
Gas Companies — Wholesale	44	6.1

The lower the average payout ratio the lower is the risk and the subsequent yield required by stockholders. Staff further points out that on an equity basis the company witness has calculated Pennichuck return on equity as 8.9 per cent by dividing the year-end book value per share ($31.64) into the earnings per share available to common stock (53.55). Using the year-end figures the return per share is actually 11.2 per cent, and using the average book value per share for 1978 ($31.15) the return per share is 11.4 per cent. Staff contends, and is supported by the company's argument against circularity, that the use of composites of well-known companies precludes exercising analytical prejudice in selecting companies for comparison of earnings and relative risk. Staff further contends that because the stock of Pennichuck is closely held by families who have owned

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the stock for many years; they should be well aware that the book value of the stock is understated by the appreciated value of the land held by the company which is not stated in the annual reports. This appreciation could well be realized by present stockholders if the company chooses to sell some of its holdings to provide equity capital for its construction program. Staff also contends that the book value used to value its last common issue was an artificial price which was not based on any market indications.

Staff further disagrees with the methodology used by the company of using a desired payout ratio of 55 per cent as the determining factor to arrive at the cost of common equity. By using that method the cost of equity can vary substantially. For instance, the payout ratio of the 78 water companies included in the company's exhibit entitled "Financial and Operating Data — 1977" for investor-owned water utilities averaged 69.8 per cent. Staff Exh 4 for selected water companies averages 66 per cent. As previously stated the payout ratios of various utility groups vary considerably. Using that basic factor alone does not consider all of the elements involved in weighing risk.

[1] This commission in evaluating the arguments put forth by the company, the LUCC, and the staff is governed by the criteria set forth by the United States Supreme Court. In the case of Bluefield Water Works & Improv. Co. v West Virginia Pub. Service Commission, 262 US 679, 692, 693, PUR1923D 11, 67 L Ed 1176, 43 S Ct 675, the court ruled that:

"A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertaking which are attended by corresponding risks and uncertainties; but it has no

constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally."

The court elaborated further in Federal Power Commission v Hope Nat. Gas Co. (1944) 320 US 591, 603,51 PUR NS 193, 88 L Ed 333, 64 S Ct 281:

"The rate-making process under the (Natural Gas) Act — i.e., the fixing of 'just and reasonable' ratesinvolves a balancing of the investor and the consumer interests. Thus we stated in the Natural Gas Pipeline Company of America case that 'regulation does not insure that the business shall produce net revenues.' (315 US 575, 590, 42 PUR NS 129.) But such considerations aside, the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view, it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock ... . By that standard the return to the equity owner should be commensurate with

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returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital ... ."

[2] In applying these guidelines to the presentation by Pennichuck, the commission finds the company's presentation lacking in two important aspects. First, the company has failed to establish a comparison with other companies. Second, the company has failed to establish the risks associated with Pennichuck as compared to other companies. Consequently, it is impossible for the commission to arrive at a return commensurate with returns on investments in other enterprises having corresponding risks.

While the commission is not persuaded that the company's presentation satisfies the criteria of Bluefield and Hope, it does not accept the assertion by the LUCC that Mr. Gorman is not qualified. Nor does the commission believe that every case requires an expert of the stature referred to in petitioner's brief. Rather the commission must have competent evidence that corresponds to the *criteria* set forth in Bluefield and Hope cases.

[3] The commission's rejection of the company's evidence parallels the commission's finding in Re Pennichuck Water Works (1969) 54 NH PUC 22. There the commission found that sufficient documentary evidence was not submitted to "substantiate the company's opinions as to return on common equity." 54 NH PUC at p. 27. The commission went on to state:

"Furthermore, he failed to establish a sufficient comparison of Pennichuck's salient characteristics with those of other utilities." 54 NH PUC at p. 27.

This same necessary comparison is lacking in this proceeding. However, this finding does

not mean, as the LUCC suggests, that the commission must maintain the company's previous allowed return on common equity of 13.5 per cent. Such a finding would ignore the commission's responsibilities to set just and reasonable rates. RSA 378:7. The 13.5 per cent figure was reasonable when set and under today's situation may be artificially high or low. Furthermore, the criteria of Bluefield and Hope must still be satisfied by any order issued by this commission. Thus, the determination of a proper return on common equity must be developed through use of our experience and judgment.

Two of the risk factors which this commission has found reliable are (1) equity ratios and (2) interest coverage ratios. Re Public Service Co. of New Hampshire (1978) DR 77-49. In that case the commission referred to equity ratios:

"This measure indicated that the company has used less common equity to finance assets thereby assuming greater financial risk than other industry composites." DR 77-49 p. 53.

In contrast to that case, Pennichuck has a substantial amount of equity in its capital structure. Furthermore, the percentage of common equity has actually increased from 45.7 per cent to 53.9 per cent. In comparing this equity ratio to that of other industry composites in the commission records, Pennichuck has a greater percentage of equity and at least as to this measure of risk, less risky. Staff Exh 4 indicates that of the 22 water companies monitored by the National Association of Water Companies (NAWC). Pennichuck has the third highest equity ratio as well as being substantially above the average. The more recent NAWC publication of which the

commission takes administrative notice, indicates that Pennichuck now has the second highest level of common equity of the companies surveyed. Therefore, as to this measurement of risk the company is less risky both as to comparisons with other utilities as well as its position in the last rate case.

The commission has also relied upon interest coverage ratios as a measurement of risk. In April, 1977, Pennichuck had an interest coverage ratio after taxes of 2.83. Company Exh 18, Exh 6 in Re Pennichuck Water Works (1979) DF 79-46 indicates that the actual interest coverage ratio after taxes has dropped to 2.59. Therefore, as to this element of risk the commission finds that Pennichuck is marginally more risky than it was at the time of its last rate case.

[4] The commission has recognized three other elements of risk in previous cases. Market-to-book ratios was recognized in Re Public Service Co. of New Hampshire (1978) DR 77-49. In addition the commission also recognized in the aforementioned proceeding that the extent of the company's construction program is also an accurate bellwether for risk. Finally, the overall size of the company was recognized as a factor to be considered in Re Concord Electric Co. (1978) DR 77-142.

Applying these three factors to Pennichuck it must be noted that Pennichuck stock is traded within a very small group of stockholders Testimony in this proceeding indicates that insignificant trading occurs in the company's stock during the course of a year, if at all. Any comparison of price and book value is not of substance. Re Manchester Gas Co. (1979) DR 78-100.

[5] The other elements however do have relevance in our consideration. Because of the Safe Drinking Water Act this company is forced to embark on an extraordinary construction program. In addition, the sources of water supply must also be increased. Exhibits 1 and 2 when compared to the company's existing rate base provide support to the magnitude of the venture undertaken by Pennichuck. The differential between present rate base and the future rate base two years from now is greater than this commission has found for any other water company. Consequently, as to this element of risk, Pennichuck is riskier than other water utilities governed by this commission.

The company, while the largest in New Hampshire, is the smallest of the companies shown on staff Exh 4. Consequently, the impact of size does not need to be analyzed separately since it has been recognized in the differential between existing rate base and future construction.

In comparing other New Hampshire water utilities to Pennichuck the commission is mindful of its findings in other proceedings. In the recently concluded Hudson Water Company case (DR 78-135 [1979]), the commission found 13.5 per cent as a reasonable rate of return. In Re Tilton — Northfield Aqueduct Co. (1979) DR 76-102, this commission found a 13 per cent return on common equity to be reasonable. The commission has traditionally found water companies to be less risky than electrics. However, against this general finding there is the magnitude of the company's construction program. Accordingly, the commission finds that a return in excess of 13.5 per cent is necessary.

After an analysis of all the evidence in this proceeding together with an examination of the risk factors available for consideration, this commission finds that 13.9 per cent is a fair return to be allowed

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on common equity at this time. This rate of return on common equity should provide the company sufficient earnings to assure its financial integrity and permit it to attract the necessary capital.

Using the capital structure as of December 31, 1978, the commission finds the fair rate of return to be 11.21 per cent computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Per Cent of Total	*Rate*	*Weighted Rate of Return*
Debt:			
Long term	43.9	7.8%	3.42%
Short term	2.2	11.0	.24
Total	46.1		
Equity	53.9	13.9	7.49
Total	100.0		11.15%

Attrition

[6] The company submitted testimony that an attrition allowance of 1.3 per cent annually is needed. Witness Gorman's Exh 12 measures the actual return against the rate of return of 10.34 per cent which was allowed by this commission in its last rate case (DR 78-135). That exhibit

purports to show that for the seven consecutive quarters from March 31, 1977, through December 31, 1978, the average rate of return was 9.04 per cent or 1.3 per cent below the found rate of return.

In each of the periods discussed above, a 0.5 per cent attrition allowance was in effect. In the last case before this commission (DR 76-163) a recoupment of $234,000 for the period between December 31, 1976, and April 30, 1977, was allowed. In the calculation of the actual rate of return on Exh 12 the witness has eliminated the effect of that recoupment. The company in its brief argues that even taking into account the recoupment, the rate of return would be 10.65 per cent. That position is based upon $55,000 of the $220,000 recoupment other than rate case expense being attributable to December, 1976.

The LUCC argues that it is erroneous not to take the recoupment into account in the calculation of attrition, and if recoupment is included the attrition factor would be much smaller. They further argue that to the extent that pro forma expenses are allowed the attrition factor should be decreased because the company is "already accounting for future expected expenses." They point out that the removal of several nonrecurring expenses would have the effect of increasing the actual rate of return and decrease the experienced attrition rate.

The staff has analyzed the actual rates of return earned by the company in the two years since its last rate increase. By adjusting the net operating income for 1977 to include $165,000 of recoupment revenues tax effected, they calculate the actual rate of return to be 10.66 per cent or 0.32 per cent higher than the rate actually allowed. For 1978, using the average rate base in this spot, the actual rate of return is 9 per cent. By combining the actual attrition for the two-year period, the staff arrives at a net attrition factor of 1.02 per cent. Dividing that amount by two, they arrive at an actual attrition factor of 0.51 per cent.

The commission while recognizing that the large amount of pro forma adjustments allowed in this proceeding will assist in mitigating the effects of attrition, experience has shown that attrition

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occurs more rapidly during time periods of extraordinary construction. Therefore, the commission will allow a factor of 0.5 per cent for attrition.

Rate Base

The company submitted computations showing an average rate base of $7,508,225 as of December 31, 1978. Adjustments were made to pro form the rate base for nonrevenue producing items added during the test year. The adjustments amount to $365,548 to arrive at a pro formed rate base of $7,873,773. The cost of transmission mains added in September and December in the amount of $108,655 were pro formed by $80,450 to include those costs for a full year. The costs of engineering-design studies and plans in the amount: of $379,212 were pro formed in a like manner by $284,409.

[7] This case has produced several issues regarding the development of rate base. One major disagreement is the inclusion of engineering-design studies and plans in rate base. The company argues that these plans and studies are considered as a separate asset for accounting purposes and

are considered "used and useful" because the company started using them "the day we began construction." They contend that "they are currently in use for benefit of both company and consumer." In the company brief it is further argued that Chap 101 of the 1979 New Hampshire laws does not affect this issue in this case. They question whether this new law has any effect on the studies and plans issue in this case because it became effective on May 7, 1979. The brief goes on to say that Chap 101 precludes from inclusion in rate base "all costs of construction work in progress ... any costs associated with constructing, owning, maintaining, or financing construction work in progress" until the construction project is actually providing service to consumers. Their contention is that the subject plans and studies are a separate asset and do not come within the scope of that statute. The LUCC disagrees with the company's contention, because of the recently passed RSA 378:30-a which states that public utility rates shall not in any manner be based on construction work in progress, and, secondly, because these studies and plans are not a separate asset and according to the chart of accounts and generally accepted accounting principles should be includable in the final construction costs. Staff contends that the "Uniform Classification of Accounts for water utilities" at p. 47, describes that, "engineering and supervision" includes the portion of the pay and expenses of general offices, engineers, surveyors, draftsmen, and superintendents and their assistants, applicable to construction work, or preliminary to construction if in fact the proposed construction was carried to completion. Staff further contends that in the Utility Plant Instruction of the recommended NARUC Uniform System of Accounts, 1973, on p. 29, item H.1 clearly states that " 'architects' plans and specifications including supervision" should be included in the accounts for structures. The commission finds that the Uniform Classification of Accounts for water utilities requires that the cost of these studies cannot be allowed into rate base until the project for which the studies were used is completed. In addition, RSA 378:30-a supports this finding.

[8] Another item on which the parties to this case disagree is regarding customer deposits. The company has not excluded customer deposits because the amounts which appear in that account

are not security deposits but deposits applied to the actual cost of service installed from the property line into the house and are run through the jobbing accounts. They argue that the staff is mistaken in its premise that these customer deposits should be deducted from rate base. The LUCC takes the position that pursuant to the decision of the New Hampshire supreme court in Legislative Utility Consumers' Council v Granite State Electric Co. — NH — , — A2d — , customer deposits cannot be included in rate base. Staff contends that although these deposits may not meet the criteria of security deposits they would, however, fall into the category of customer advances which the court stated in the above mentioned decision would also be excluded from rate base. The commission agrees that these customer advances in the average amount of $45,946 will be excluded from rate base. The company does carry an outstanding amount on its books at all times and this is a source of interest-free capital supplied by its ratepayers.

[9] The company has included $137,500 in its working capital computation for compensating balances. Both the LUCC and the staff disagree with its inclusion in rate base. The LUCC argues

that it is improper to include these balances because their effect is to increase the cost of money borrowed and it is more appropriate to consider in the rate of return. They further state that there are substantial periods when there is no borrowing and that the company has done no studies to indicate what the cost would be without compensating balances. Staff contends that by allowing the normal allowance for operation and maintenance the company has been compensated for compensating balances. The company argues that it has averaged about $300,000 of cash in banks over the past seven or eight years. They concede that at least a portion of the $162,500 difference between its $309,641 allowance for operation and maintenance and the claimed $137,500 is attributable to cash required for compensating balances. The staff further argues that the cost of compensating balances should be a charge to the allowance for funds under construction and that the company witness testified that the rate which he used for those purposes was the cost of short-term debt. After reviewing the record in this case and considering the staff's position as to AFUDC, we will disallow compensating balances in the working capital computation. Compensating balances for new plant construction borrowing must follow the treatment of construction work in progress to which they relate.

[10, 11] The LUCC raises the two additional issues of the company's income from forestry operations and scrap sales, which were included in nonutility income. They argue that the Uniform Classification of Accounts clearly states that the net proceeds from the sale of timber, wood, or other property purchased with rights of way or other land shall be credited to the land account. The staff agrees with that position. The company has also included scrap sales as income below the line. The LUCC and staff disagree with that treatment, as the Uniform Classification of Accounts clearly states on p. 51, that salvage should be credited to Account 250 — depreciation reserve. The company witness clearly stated on the record that he could not find that reference in the chart of accounts and told his outside auditors that he could not find a good explanation as to why they had historically handled this item as a credit to the

depreciation reserve. The commission will, therefore, make adjustments to the land account for the net income from forestry operations and will credit the depreciation reserve for the salvage income. The commission further cautioned the company to adhere to the Uniform Classification of Accounts in the future.

[12] In the development of rate base, the company has used figures based on the average of the balance sheet amounts at the end of March, June, September, and December, 1978. The staff and the LUCC take the position that the beginning balances as of January 1, 1978, should also be used in order to arrive at a true average rate base. The staff recommends the use of the figures for five points in time, and the LUCC suggests that the average rate base calculation use beginning and ending of the year figures only. The company argues that it would be regressive to use quarterly averages for five quarters. The commission in recent rate cases has used 13-month averages where monthly figures were available in order to arrive at an average rate base. While an income statement would measure the results for a period of time, such as a quarter, the balance sheet depicts the financial status of a company at a point in time. The commission finds that in order to continue our traditional average rate base methodology the calculation should also include the beginning balance. By using the beginning balance the commission believes it

arrives at a more reasonable rate base than by adopting the approach of either the LUCC or the company.

The commission finds the average rate base in the amount of $7,285,333 (see following table) is a reasonable and proper basis upon which to establish just and reasonable rates.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

AVERAGE RATE BASE
YEAR ENDED DECEMBER 31, 1978
Gross Plant in Service
Less: Filtration Plant Studies and Design
Unfinished Construction
Depreciation Reserve
Contributions and Advances
Plus: Transmission Main Adjustment

Net Plant in Service
Working Capital:
Materials and Supplies
Four Months Operation and Maintenance
Customer Deposits
Investment Tax Credits

Total Working Capital

Additional Rate Base Considerations

The commission is extremely concerned about (1) the harmful effects that major construction programs have on the interests of investors where they must await the completion of these projects before receiving a return on their investment; and (2) the harmful economic and inflationary consequences that occur to ratepayers when major additions to plant necessitate major increases in rates.

The commission normally forces a

company to wait two years before allowing it to argue for an additional rate increase pursuant to RSA 378:7. However, where as here the construction program in effect nearly doubles the company's rate base in a relatively short time, the commission is bound to use its discretion pursuant to RSA 378:7 to allow some recognition of finished plant when it becomes used and useful to the consumer.

By allowing the inclusion of completed plant sooner than two years from the date of this order, the commission is complying with RSA 378:30-a by only allowing a return on completed plant while at the same time giving greater protection to the integrity of the stockholders investment.

The advantages of this method to the consumer are three: (1) A stepped increase as opposed to large increases every two years will allow their income to be more properly matched with their expenses associated with water usage; (2) A stepped increase has lesser inflationary impact — utility rate increases affect everyone immediately and large increases only fuel the fires of inflation; (3) the considerations of the wage and price guidelines presently in effect by their nature required consideration of stepped increases rather than major increases affecting the

consumers pocketbook at a time when wages are being held to a set rate significantly below the granted increased rate percentage.

As a consequence pursuant to Exh 1, the commission will allow $436,680 to be included in rate base as of September 30, 1980. This amount reflects all items on Exh 1 with the exception of the water treatment facility which will not be completed by that time. Such an allowance conforms to RSA 378-30-a by not allowing any construction work in progress. Prior to September 30, 1980, the commission staff will investigate this addition to be sure that all plant contemplated by this order is both completed and used and useful. The company will then be allowed to increase their rates on or after September 30, 1980, to reflect this inclusion. The commission calculates the effect of this inclusion at the end of this opinion. All parties to this proceeding will receive copies of the commission staff's findings and will be provided an opportunity to challenge any plant included on the grounds of either (1) not completed or (2) not used and useful.

Adjustments to Revenue and Expenses

The commission in reviewing a rate case as to the appropriateness of a test year and adjustments thereto has traditionally used the following formula:

"A recently past test year serves as a guide for the establishment of rates for the future. Where the test-year experience is not an accurate guide to the future because of known and certain changes which will occur, a conservative adjustment should be made. These modifications or adjustments are applied to modify the test-year earnings by changes occurring after the test year so that the test period earnings will be normalized and also, thereby, more reasonable rates will be set for a future period." Re Public Service Co. of New Hampshire (1972) 95 PUR3d 401, 437.

The supreme court has supported this concept as shown from the following:

"The test year is designed to produce an index to the deficiencies in earnings which the companies will probably encounter in the immediate future as indicated by actual operations in the

known and recent past. To the extent that test-year figures can be accurately pro formed to reflect established and current changes in *revenues* or *expenses*, modification of test-year figures is considered appropriate." (Emphasis added.) Public Service Co. of New Hampshire v New Hampshire (1959) 102 NH 150, 30 PUR3d 61, 72, 153 A2d 80.

The commission has not been presented with any suggestion to change its formula and, therefore, will adhere to this formula in evaluating the presentations in this proceeding.

Revenue Recoupment

[13] The company proposes a downward adjustment to revenues of $117,000 which is designed to reflect the fact that the revenue recoupment allowed in Re Pennichuck Water Works DR 76 — 163 will cease after April 30, 1979. The commission has traditionally allowed both upward adjustments, Re Hudson Water Co. DR 78-135 and downward adjustments in revenue,

Re Manchester Gas Co. DR 78-100. The supreme court has endorsed this concept in Public Service Co. of New Hampshire v New Hampshire (1959) 102 NH 150, 30 PUR3d 61, 72, 153 A2d 80.

No objection has been raised concerning this adjustment and where further this adjustment is in keeping with commission precedent, the downward adjustment to revenues of $117,000 is allowed.

Wages and Salaries Expense Adjustment

[14] The company seeks to make an adjustment to its test-year expenses as they relate to wages and salaries in the amount of $38,303. The company chose not to capitalize any of these expenses although it admitted that they had not allocated any of the salary expenses to construction projects. The company supported its failure to adjust for capital expenses on the grounds that the company was not aware of their actual construction for the coming year (Transcripts p. 2-145 and 3-41).

The commission staff takes the position that an adjustment should be made to lower the pro forma adjustment by a factor based on previous experience as to the percentage of wages paid to employees involved in construction. The LUCC concurs with the staff as to this adjustment.

The commission for this issue in prior proceedings: Re Concord Nat. Gas Corp. DR 78-96; Re Concord Electric Co. DR 77-142; Re Gas Service, Inc. DR 77-87; and Re Manchester Gas Co. DR 78-100. In each instance the commission accepted the position put forth by staff that a portion of wage and salary expense should be capitalized based on the relationship that existed in the test year between wages and construction. In this proceeding that relationship requires that the pro forma adjustment proposed by the company be reduced by 13.6 per cent for union employees and 15 per cent for salary employees. These percentages translate into a downward adjustment of $2,999 for wage expenses for union employees and a downward adjustment of $2,444 for wage expenses for nonunion employees.

The contention by the company that such adjustments are conjectured is not supported by the record.

The company's 1978 annual report to the commission reveals that the construction program for 1978 is comparable if not lower than that projected by the company for 1979 and 1980 (Exhs

1 and 2). Therefore, the downward adjustment is conservative and in keeping with the criteria set forth by the commission in Re Public Service Co. of New Hampshire (1972) 95 PUR3d 401, 437.

The commission will allow an adjustment to test-year expenses for wages and salaries of $32,900 or $5,443 less than that requested by the company based on the fact that adjustments to test-year wages and salary expenses should reflect the amount attributable to construction.

Postage Adjustment

[15] The company request of a $365 increase to reflect increased postage costs pursuant to revised U. S. Post Office rates is reasonable. This expense adjustment is measurable and has

been traditionally allowed by the commission. Re Manchester Gas Co. (1979) DR 78-100. The commission finds that the adjustment proposed by the company is known, measurable, and conservative and therefore allowable.

Chemicals

The company proposes to increase test-year expenses by $1,428 for increases in the price of aluminum sulfate. The company has received notice of the increase effective as of January 1, 1979. The commission accepts similar increases on a monthly basis for electric utilities in the fuel adjustment hearings and no reason exists not to recognize the same factors for water companies. Therefore, the pro forma adjustment of $1,428 is allowed.

Regulatory Commission Expense

[16] The company proposes to remove expenses associated with a previous rate case, DR 76-163. These expenses are nonrecurring and as such the commission has traditionally excluded such expenses Re Granite State Teleph. Co. DR 77-116. Accordingly, test-year expenses are reduced by $8,639.

Auditor's Fees

[17] The company proposes to increase test-year expenses by $8,000 to reflect increased expenses for auditing. This is a known and measurable expense and is therefore allowed as an adjustment to the test year.

Miscellaneous Amortization Expenses

As a result of staff data requests it was discovered that the company had an amortization expense of $1,003 which will no longer recur. The LUCC claims that test-year expenses should be reduced by this amount. The company points out that the amortization expense was a below-the-line item and is a negligible factor for rate-making purposes. Staff agrees after further study that the amortization expense was expensed in Account 2535, a below-the-line expense. Therefore, we will not make an adjustment as requested by the LUCC.

Maintenance of Mains and Services

[18] The company in its letter to the commission submitted an explanation of all charges which were 10 per cent or at least $1,000 more than the previous year. This letter was put into evidence as staff Exh 1. The document clearly indicates that the company expensed $2,432 during the test year for cold patch which was used in 1977. The company witness testified that this would not be a recurring item. Furthermore, this expense

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relates to a time period before the test year. Consequently, an amount of $2,432 will be removed from test-year expenses.

Pilot Filtration Plant Expenses

Test-year expenses included an amount of $4,960 for a pilot filtration plant which was obtained by the company in the fall of 1977. The company witness testified that this would be a nonrecurring expense. Therefore, the commission will make an adjustment for that amount.

Historic Landmark Award Expenses

During 1978, the company was presented with the first Civil Engineering Historic Landmark Award by the New Hampshire chapter of the American Society of Civil Engineers. Expenses were incurred in the amount of $1,548 for this event. As this item will no longer be a recurring cost, the commission will make an adjustment for that item. The company's claim to allow this as promotional expenses is not a reason to substantiate the allowance of this expense. In fact it is an additional reason why not to allow the expense. A review of past cases indicates that in the majority of instances this commission has excluded promotional advertising. Accordingly, the commission disallows this expense as nonrecurring, promotional, and an expense attributable to below, not above the line.

Petroleum Products

The company seeks to make test pro forma adjustments for gasoline and diesel fuel increases that have occurred after the test year. These have been demonstrated to be known and measurable. Since the price of these products has steadily risen even after the conclusion of these hearings, the adjustment is a conservative one. Consequently, the adjustment of $1,396 to test-year expense is allowed.

Electricity

The company has experienced increases in the cost of electricity to operate its two main electric pumps. The company's request is not unusual and similar requests have previously been allowed by this commission. Re Manchester Gas Co. DR 78-100. The evidence presented (Exh 19) clearly indicates that the first quarter of 1979 provides support for the fact that the adjustment is conservative in nature. The proposed adjustment of $9,686 is allowed.

Fence Repairs

The company proposes an adjustment of $3,116 to test-year expenses for fence repairs. The expenses are the result of car accidents as well as isolated acts of vandalism with the former being of greater significance than the latter. The items of cost are $1,438 expended to date and estimates of $1,678 (Exh 19). Exhibits are not by their nature known nor are they measurable with any certainty. Consequently, the $1,678 portion of the proposed adjustment is disallowed.

The company's witness indicated that test-year expenses reflect fence repair expenses of approximately $200. Furthermore, the company witness also recognized that the car accidents were of an unusual nature and not an expense that occurred every year. Such expenses have traditionally been disallowed. The company has not presented sufficient

evidence to depart from this standard. Therefore, this commission will not allow the proposed pro forma adjustment for fence repairs.

Will Street Garage Repairs

The company proposes an adjustment to test-year expenses of $1,402 for repairs to the garage on Will street. The company's proposal totals $1,402 of which $802 is attributable to labor, $100 for paint, and $500 for repair. Company witness Densberger testified that these

figures were based on an estimate by the company's superintendent as to the cost of doing the proposed repairs. The superintendent further indicated that the company's own employees would do the work.

This company's proposal suffers from the same infirmity as the previous expense adjustment in that it is an estimate. This estimate is even more speculative in that there is no description as to what the $500 represents. Furthermore, if company employees are to be used any adjustment for labor expense is duplicative of other expense adjustments. Finally, the company indicated that paint is a traditional expense but failed to show that this expense was not already included in the test-year expenses. This proposed adjustment for repairs to the Will Street garage is disallowed.

Booster Pump Expense

The company proposes an adjustment of $3,575 for electricity costs associated with its new 60-horsepower electric motor which goes into service this month. The adjustment is conservative in that its basis is electricity costs prior to the recent rapid increase in fuel adjustment charges. Since electricity usage is fairly proportioned to the horsepower of the motor, the commission will allow this adjustment.

Insurance Premiums

Insurance premiums adjustments have traditionally been recognized by this commission. Re Manchester Gas Co. (1979) DR 78-100; Re Concord Electric Co. (1978) DR 77-142. The adjustment to test-year expenses of $3,728 will be allowed. However, the company is put on notice that any further adjustments of this nature should be supported by notices or bills from the insurance companies involved.

Hydrant Painting

[19] The company proposed an adjustment of $8,415 for the painting of over 1,400 hydrants. Cross-examination revealed that this expense is nonrecurring. However, painting of facilities has also been recognized as legitimate expense. Re Concord Nat. Gas Corp. (1978) DR78-96. The commission's policy has been to amortize this expense over five years. Consequently, an adjustment of $1,683 will be allowed with the remaining expenses to be allocated over the next four years.

Gate Valves

The company proposes that an adjustment of 512,817 be allowed for inspection, improving, servicing, and verifying locations of the 3,700 valves. The company's evidence and testimony is lacking as to whether the major costs of labor, equipment, and materials are increases over test-year expenses or simply different tasks performed by the same

employees using the same equipment and materials.

Such an undertaking by the company should require additional equipment and materials over previous expenditures. The labor expenses cannot be so presumed since the company has failed to provide any additional evidence as to overtime expenses, Re Concord Electric Co. (1978)

DR77-142, nor has the company demonstrated that this work is to be done by independent contractors as opposed to company employees. As a consequence, the commission will only consider the $2,400 associated with equipment and the $4,350 associated with materials. The proper regulatory treatment of the $6,750 expenses associated with gate valves is to amortize the expense. The commission has in the past used a five-year period and will continue to use this practice. Consequently, $1,350 adjustment will be allowed.

FICA Taxes

The company proposes an adjustment to FICA taxes of $2,753. It has been the traditional practice of this commission to allow such an adjustment when as here an adjustment is made to test-year wages and salaries. Re Manchester Gas Co. (1979) DR 78-100; Re Concord Nat. Gas Corp. (1978) DR 78-96. The $2,753 adjustment is, therefore, allowed.

Employee Benefits

The company proposes a $1,516 adjustment for employee benefits which relates to additional life insurance and Blue Cross-Blue Shield expenses. Again, this adjustment has been allowed where an adjustment to test-year wages and salaries is allowed. Re Concord Nat. Gas Corp. (1978) DR 78-96. The company's request, therefore, is granted.

Dam Repairs

[20] The company requests that an adjustment of 58,200 be made to test-year expenses for dam repairs. The LUCC argues that these expenses are nonrecurring and should be viewed as a capital expenditures. Staff feels that these expenses should be capitalized because they are not expenses of ordinary maintenance but rather prolong the service life of the facility.

The commission finds that such expenditures are capital in nature and therefore disallows these expenses.

West Hollis Street Relocation

The company proposes to adjust test-year expenses by $14,610 to cover the costs of relocations on West Hollis street. The LUCC argues that such expenses are nonrecurring. The city of Nashua sets forth the proposition that the company should seek a judicial determination as to whether or not a governmental entity is liable for these costs. Staff contends that the city of Nashua is liable for these costs and not Pennichuck's ratepayers.

The commission would note that while the company's estimate is detailed it carries caveats that certain expenditures will be determined by the resident engineer on the project. Furthermore, there has been no proof as to whether the labor will be provided by the company employees or independent contractors. Nor has there been a showing that such expenditures are not recoverable from either the city or the state.

Therefore, the commission denies the pro forma adjustment until such time that the company can demonstrate (1) that it has pursued all remedies against government entities; and (2) has

evidence of known expenses that are above test-year expenses as opposed to estimates.

Office Building Repairs

The company proposes an adjustment for galvanized trim to the face of its company's office building. This is necessitated because of the failure of the company's paint project. Such expenditures are capital in nature and, therefore, are denied as an adjustment to operation and maintenance expenses.

Summary

While the company in its brief offered the last 12 adjustments merely to justify its test-year expenses and pro formas thereto, the commission believes that whenever more recent information is available it should be relied upon. In this way the problems of regulatory lag are minimized and the commission has a more accurate picture of a company's revenues, expenses, and rate base.

After consideration of the aforementioned items, the test-year net operating income is calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Net Utility Operating Income Per Books		$ 706,677
Revenue Recoupment	$(117,000)	
Wages and Salaries Adjustment	(32,900)	
Postage Adjustment	(365)	
Chemical Adjustment	(1,428)	
Regulatory Commission Expense	8,639	
Auditor's Fees	(8,000)	
Amortization	18,798	
Maintenance of Mains and Services	2,432	
Pilot Filtration Plant Expenses	4,960	
Historic Landmark Award Expenses	1,548	
Increased Petroleum Products	(1,396)	
Increased Electricity Costs	(9,686)	
Booster Pump Expense	(3,575)	
Insurance Premium Increase	(3,728)	
Hydrant Painting	(1,683)	
Gate Valves	(1,350)	
Increased FICA Taxes	(2,753)	
Employee Benefits	(1,516)	
Net Decrease in Taxable Income	$149,003	
Decrease in Income Tax	(78,212)	
Net Income Deduction	70,791	
Pro Forma Net Utility Operating Income		$ 635,886

Revenue Requirements

The required increase in rates is computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Accepted Cost of Capital		11.15%
Plus: Allowance for Attrition		.5%
Allowed Rate of Return	11.65%	
Times: Rate Base		$7,285,333
Required Net Operating Income		848,741
Less: Adjusted Test-year Net Operating Income		635,886
Required Increase in Net Operating Income		212,855
Plus: Tax Adjustment		215,595

Required Revenue Increase	$ 428,450

The revenue deficiency ($212,855) is adjusted for income taxes at the new corporate tax rates to yield the additional amount of revenue the company must collect on an annual basis going forward. The commission concludes that an increase in revenues in the annual amount of $428,450 is the increase in basic rates to which the company is entitled on this record.

Revenue Requirements — Secondary Phase

The inclusion of $436,680 in rate base results in the following increase on all bills rendered on or after September 30, 1980:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Rate Base	$436,680	
Cost of Capital	x 11.65	
Required NOI	50,873	
Tax Adjustment	51,527	(÷ 49.68%)
Total Increase	$102,400	

Therefore, in addition to the $428,450 allowed as of the date of this order, Pennichuck is entitled to an additional increase on all bills rendered on or after September 30, 1980, of $102,400.

Service

The company testified as to growth on the system in support of its request for increased revenues and increased construction budget over the next few years. The last three years' increase in new services were cited as indicative of this growth. The commission does not argue that growth has not occurred only that such growth as is shown by the annual report to this commission was 2.4 per cent, 2.9 per cent, and 2.3 per cent for the years 1976, 1977, and 1978. The commission would not classify this as extraordinary; however, in recognition of this growth, the commission recently approved revisions to Pennichuck's main extension plan which allow for a greater participation by the customer requiring the extension and also those extensions requiring special equipment. The commission believes that recognition must be given to the company's own forecasts which anticipate a decline in new services through 1980 and its testimony that average consumption per customer declined in 1978.

The future plans of Pennichuck include the diversion of Merrimack river water into its supply system. In conjunction with this plan, a study was made, entitled, "Preliminary Report on the Auxiliary Water Supply from the Merrimack River to Bowers Pond," by Anderson-Nichols & Co., Inc. This study states " ... Pennichuck officials had determined that the auxiliary water supply from the Merrimack river should be sized to meet their projected demand of 24 million gallons per day (MGD). Anderson-Nichols has agreed that the proposed force main follow a similar route chosen by the previous consultants, except that the 24-inch force main be increased to 30 inches in diameter to facilitate adaptability to regional requirements. When inquiry was made relative to regional plans that might exist, the company stated that there were no such

plans, and its concurrence in the building of the 30-inch force main was to accommodate its own future needs and peak flows." (2-40)

It is our judgment that the company should restudy its plans regarding the Merrimack river diversion project to fully evaluate its existing investment in plant and capacity at the Souhegan river. This source is presently contributing 8 million gallons per day (MOD) and, in fact, a considerable investment was made in 1978 to increase this pumping capacity. The investment in pumps and

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mains in the Souhegan facility should not be abandoned with the requirement of a new investment in the Merrimack river to make up this capacity.

Pennichuck's annual report (1978) shows a considerable difference between the year-end summary of water pumped and the metered billing for which a major reason given was the lag in reading of meters for year-end use. The totals in each case, however, represent twelve months' activities and the end result is a significant volume as possibly unaccounted-for water. Unaccounted-for water represents pumping and chemical costs and Pennichuck has testified (2-121) that it plans to review this matter and we shall expect a copy of its report within six months of the date of this order.

Conservation and Rate Design

[21] While this company is in the process of adding additional sources of supply, it becomes increasingly necessary for the company's rates to reflect encouragement of conservation. Testimony in this proceeding provides insight into the already existing problems as to summer usage. Therefore, the company should adopt a policy that would only allow summer lawn watering during off-peak periods. Such a plan is better than outright prohibition on lawn watering and also allows for more efficient usage of existing plant. In addition, such a plan would result in a reduction in peak demands.

The company in complying with the commission's order should file rates that increase each customer classification by the exact same percentage. Furthermore, rate blocks within the classes should all be increased by the same percentage. In complying with the second revenue allowance, the company is to increase all rate blocks by the same percentage in all customer classifications. However, the increase in the minimum charge in terms of percentage should only increase half the percentage used throughout the remaining rate blocks.

Land

While there was a tremendous amount of inquiry into the land ownership of Pennichuck, very little time was allotted this subject in the filed briefs. The commission will closely follow the company's land transactions and will require the company to file testimony in its next rate petition as to their reasons for maintaining such a large amount of land. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions of the Pennichuck Water Works tariff, NHPUC No. 4 — Water, Seventh Revised Pages 21, 22, 23, and 24, which were suspended by commission Order No. 13,459 dated January 8, 1979, be, and hereby are, rejected; and it is

Further ordered, that in accordance with the increase in rates authorized by this report and order, Pennichuck Water Works shall file new tariff pages designated in accordance with this commission's tariff filing rules (Rule 25), setting forth therein rates designed to produce an annual increase in gross revenues of $428,450; such rates shall be derived by a 16.3 per cent increase in each block of the rate schedules; and it is

Further ordered, that said tariff pages be filed to become effective with all current bills rendered on or after the date of

this order, such pages to carry the notation "Issued in compliance with Fourth Supplemental Order No. 13,737 in case DR 79-3"; and it is

Further ordered, that by August 30, 1980, Pennichuck Water Works shall file new tariff pages setting forth therein, rates designed to produce additional revenues of $102,400; such rates shall be derived by an equal percentage increase in each block of the rate schedules except that the per cent increase applied to the minimum charge in the general service rate schedules shall be at one-half that per cent applied to the other blocks of all rates; and it is

Further ordered, that Pennichuck Water Works file with this commission a computation of revenues collected under temporary rates since April 30, 1979 (Order No. 13,603) and its plan to surcharge customers for the difference between such revenue and that authorized by this order, said plan to be filed as Supplement No. 1 to its tariff, NHPUC No. 4; and it is

Further ordered, that Pennichuck Water Works give public notice of these new rates by publishing the same in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twelfth day of July, 1979.

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NH.PUC*07/13/79*[78337]*64 NH PUC 226*Manchester Gas Company

[Go to End of 78337]

Re Manchester Gas Company

DR 78-100, Sixth Supplemental Order No. 13,730

64 NH PUC 226

New Hampshire Public Utilities Commission

July 13, 1979

REHEARING on a petition for a rate increase.

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1. EXPENSES, § 89 — Rate case expense — Adjustments.

[N.H.] On rehearing, the commission revised its estimate of a utility's rate case expense to include actual amounts which had become known. p. 226.

2. EVIDENCE, § 11 — Orders — Burden of proof..Hn **[N.H.]** Where a utility objected to the commission's modification of the terms of late payment charges, the commission stayed the implementation of the change where there was insufficient data in the record to challenge the utility's assertions. p. 227.

APPEARANCES: Peter Guenther for the petitioner; and Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Supplemental Report

This report supplements and amends Supplemental Report and Order No. 13,631. Subsequent to the aforementioned order, this commission received a motion for rehearing filed by the petitioner which motion was granted by Fifth Supplemental Order No. 13,645.

Upon consideration of the testimony and evidence presented, the commission finds as follows:

Rate Case Expenses

[1] At the rehearing the company submitted

a revised adjustment for rate case expenses in the amount of $47,621, or $23,810 to be amortized annually. The original estimate for this expense was $30,000, with $15,000 of annual amortization. The commission adjusted the original estimate to exclude $1,121 of rate case expense which was included in test-year expenses. As the actual costs for rate case expenses are now known the commission will revise the pro forma adjustment to include the new amount. By adjusting the revised test-year expense of $23,810 by the expense included in the test year of $1,121 the annual amortization is revised to $22,689. Therefore, the commission will allow an additional adjustment of $8,810 in pro forma expense for the test year.

Late-payment Charges

[2] In its motion for rehearing, Manchester Gas Company claims that the commission order to revise the terms for late-payment charges is " ... unlawful and unreasonable." It further stated that the change was made without notice or hearing, and alleged that it constituted administrative rule making disregarding statutory requirements.

The commission rejects such allegations. The record shows cross-examination of witness Giordano on this subject. There is no rule making involved, merely the aligning of definition of

an existing tariff term with that of a commission rule for the sale of consistency. There is no commission rule relating to late-payment charges; none is planned because of the limited application of such charge among the state's utilities.

The company alleges that a change from twenty-five days to thirty days in its criterion for late-payment charge results in not only the loss of over $17,000 in revenue, but also added administrative expense to effect the procedures for compliance. The commission requestions the degree of this revenue loss and added expense. However, the commission acknowledges the lack of substantive testimony which would refute the amount of the claimed loss and the commission will waive implementation of the 30-day criterion pending future study and audit of company records and procedures.

Attrition

The company at the rehearing argued that the commission's finding of a 0.2 per cent attrition allowance was erroneous. They argue that it was wrong to rely on the effect of the new corporate income tax rate because those rates did not take effect until January 1, 1979, therefore, making a pro forma adjustment for changes beginning eleven months after the test year. The company further argues that the decision is contrary to the evidence in the proceeding, that the conclusion did not take into effect weather considerations, and that the conclusion is not supported by findings or other evidence supporting the rationale by which the commission arrived at the attrition allowance.

The Legislative Utility Consumers' Council argues that the company has failed to provide any evidence which addresses the causes of attrition. They argue that the original findings of the commission were correct and should not be altered.

The commission finds that its original treatment was correct in regards to the use of the effect of the new corporate income tax rates. In reviewing attrition the commission must take a prospective

view, not only regarding the test year but in using its judgment to determine the effect that attrition will have beyond the actual pro forma test year. In fact, allowing pro forma changes compensates for attrition in the first year in which rates are in effect. In addition, the commission confirms that it was proper to adjust the calculation of attrition by known adjustments to below-the-line accounts. As in our previous decision, it is our judgment that the company's calculation of the actual rate of return needs to be adjusted. The commission finds that the actual return earned for the test year was 8.5 per cent.

In reconsideration of our previous decision, the commission has considered the effect of the variation in the cost of capital. As of January 31, 1978, the cost of capital has increased to 10.2 per cent, compared to the 9.7 per cent allowed in the previous rate case. We also find that by applying the proper rate base to the adjusted net utility operating income that the company experienced no attrition in the 12-month periods ending September 30, 1976 and 1977. Erosion in the rate of return has occurred only in the test year. Therefore, attrition of 1.7 per cent has occurred in the test year (10.2-8.5 per cent). By dividing that deficiency by the two years that the rates were in effect, the commission arrives at an annual attrition rate of 0.85 per cent. That rate

must be adjusted by the effect of the new corporate tax rates (0.4 per cent), as the commission has previously found.

The commission will, therefore, adjust its previously found attrition rate from 0.2 per cent to 0.45 per cent. In our judgment that factor will help to ameliorate the effects of attrition on earnings.

In consideration of the revised attrition allowance the rate of return is adjusted from 10.48 per cent to 10.73 per cent.

Revenue Requirements

The required increase in rates is computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Rate Base	$6,678,524
Times: Allowed Rate of Return	10.73
Required Net Operating Income	716,606
Less: Adjusted Test Year Net Operating Income	484,591
Required Increase in Net Operating Income	232,508
Tax Adjustment (÷ 47.84%)	253,504
Required Revenue Increase	$486,012

The commission concludes, therefore, that an increase in revenues in the annual amount of $486,012 is the increase in basic rates to which the company is entitled.

Temporary Rates

Temporary rates went into effect December 18, 1978, in accordance with Order No. 13,439. Upon receipt of this decision, the company shall submit a calculation of either a required refund or surcharge to conform to this report.

The rates proposed in the filed tariffs are based on an increase in rates of $557,752. We will direct the company to submit new tariff pages providing for the commission's authorized increase of $486,012. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report which is made a part hereof; it is

Ordered, that those sections of commission Order No. 13,590 as amended

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by Order No. 13,631 except as modified herein, be, and hereby are, adopted; and it is

Further ordered, that Manchester Gas Company file with this commission revised tariff pages in lieu of those rejected by Order No. 13,590, such revisions to reflect an increase in revenues of $486,012, said increase to spread by equal percentage among the rate blocks for all classes; and it is

Further ordered, that said revisions become effective with all billings issued on or after August 1, 1979; and it is

Further ordered, that earlier requirements to revise late payment provisions be, and hereby is, waived; and it is

Further ordered, that the plan for adjustment cited in Order No. 13,631 be prepared for the period between the effective date of temporary rates (December 18, 1978) and July 31, 1979, said plan to be filed with the commission no later than July 31, 1979.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of July, 1979.

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NH.PUC*07/17/79*[78338]*64 NH PUC 229*Gas Service, Inc. et al.

[Go to End of 78338]

Re Gas Service, Inc. et al.

DE 79-13, Fourth Supplemental Order No. 13,737

64 NH PUC 229

New Hampshire Public Utilities Commission

July 17, 1979

ORDER providing for service after the sale of a utility.

CONSOLIDATION, MERGER AND SALE, § 56.1 — Sale of utility — Provision for service.

[N.H.] The commission ordered that upon the sale of a gas utility the purchaser would be authorized to engage in business as a gas public utility and that the seller would be authorized to permanently discontinue all public utility service.

BY THE COMMISSION:

Supplemental Order

Based upon the commission's report dated April 18, 1979, as modified by its report dated July 3, 1979; it is

Ordered, that upon the sale and transfer by Gas Service, Inc., of its franchise, works, and system exercised or located in the city of Keene and the town of Troy (the "Keene area"), to Keene Gas Corporation, which sale and transfer will be for the public good and is assented to on the terms proposed, Keene Gas Corporation is authorized to engage in business as a gas public utility in the Keene area and Gas Service, Inc., is authorized permanently to discontinue all

service as a gas public utility in the Keene area, the continuance of such service being no longer required by the public good following such sale and transfer; and it is

Further ordered, that Third Supplemental Order No. 13,718 be, and it hereby is, superseded hereby.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of July, 1979.

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NH.PUC*07/18/79*[78339]*64 NH PUC 230*Northern Utilities, Inc. et al.

[Go to End of 78339]

Re Northern Utilities, Inc. et al.

DF 79-34, Order No. 13,739

64 NH PUC 230

New Hampshire Public Utilities Commission

July 18, 1979

PETITION for authority to allow a merger; granted.

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1. COMMISSIONS, § 46.1 — Hearings — Joint session.

[N.H.] The commission conducted a joint hearing with agencies from other states in order to minimize regulatory lag and conserve expenses in its consideration of the propriety of a merger. p. 230.

2. Consolidated, merger and sale, § 19 — Merger approval — Public benefit.

[N.H.] The commission approved a proposed merger where the utility demonstrated that actual and measurable benefits would flow to the public. p. 230.

3. CONSOLIDATION, MERGER AND SALE, § 41 — Consent of stockholders — Effect on approval.

[N.H.] The commission noted, in granting approval of a proposed merger, that the vote of stockholders provided overwhelming support for the transaction. p. 231.

4. ACCOUNTING, § 43 — Merger — Accounting method.

[N.H.] The commission, in authorizing a merger, stated that although it would allow the pooling-of-interests method for both accounting and rate-making purposes, it reserved its right to exclude any rate base inclusion from rate base. p. 231.

APPEARANCES: Franklin Hollis and John G. Feehan for Northern Utilities, Inc.; Richard L.

Brickley and Gerald A. Maher for Bay State Gas Company; Harold Judd and Michele Straube for the Legislative Utility Consumers' Council; William Furber and Cushing W. Pagon for the Maine Public Utilities Commission.

BY THE COMMISSION:

Report

[1] This proceeding was initiated by Northern Utilities, Inc. (hereinafter referred to as Northern) and Bay State Gas Company (hereinafter referred to as Bay State) and is a petition to allow the merger of Northern into Bay State of New Hampshire. The petition was filed on February 16, 1979, and the commission issued an order of notice on February 20, 1979, providing for a hearing on March 20, 1979, at 2:00 P.M. together with publication. On March 20, 1979, the hearing commenced; opening statements and prefiled testimony were received. A second hearing day was set for April 27, 1979, which eventually was changed to May 24, 1979, so as to allow the three commissions from Maine, Massachusetts, and New Hampshire to sit in joint session.

The rationale behind the three commissions sitting together rather than separately was as follows: (1) such a procedure minimizes the overall effect of regulatory lag; (2) time and money are saved in that the utilities as well as their ratepayers are saved the added expenditures for experts, lawyers, and transportation which result when identical testimony is given in three jurisdictions; (3) by sitting together each of the commissions as well as their staffs have the opportunity to learn from each other.

[2] The hearings conducted on May 24th and 25th resulted in extensive exploration

into vital areas of concern in a merger proceeding namely continuance of supply, financial integrity, and operation economies. These areas draw their significance because of the emphasis placed in these areas by New Hampshire statutes RSA 374:1 which requires the commission to insure the adequacy of supply. RSA 378:7 coupled with supreme court interpretations of utility rate statutes provide a clear requirement that the financial integrity of a utility must be preserved; however while assuring consumers that they will not be charged for inefficient, unnecessary, or extravagant expenses. See Legislative Utility Consumers' Council v Public Service Co. of New Hampshire (1979) 119 NH — , New England Teleph. & Teleg. Co. v New Hampshire (1949) 95 NH 353, 64 A2d 9.

Finally, RSA 378:8 requires that the utility seeking approval of the merger must affirmatively demonstrate that actual and measurable benefits will flow to the public. Re New Jersey Nat. Gas Co. (NJ 1969) 80 PUR3d 337.

In its attempt to carry its burden, Bay State presents the following contentions. First, as to the cost of gas, Bay State Gas presented evidence that under normal weather conditions, present Northern customers will receive greater amounts of pipeline natural gas than would be the case absent any merger. Obviously, the extent that this additional pipeline natural gas replaces more expensive supplemental gas depends on the weather, the number of customers, and their respective usage. Furthermore, with the additional influx of customers switching from oil to gas

heat, the average pipeline natural gas usage per customer will no doubt remain relatively the same as compared to last year. However, the company has demonstrated that but for the merger the percentage of pipeline natural gas usage will be measurably less than prior years.

Second, Bay State represented that if the necessary regulatory approvals were received, that Bay State's merged contract with Tennessee Gas Transmission Company (hereinafter referred to as Tennessee) would also result in additional benefits relating to the availability of a preferential transportation service for the transport of gas which is stored off system. The company's testimony and evidence indicated a perfect match between Granite State's access to a preferential transportation rate and Bay State's substantial off-system storage service. Such differences which standing alone present problems as to efficiency and usefulness, which are resolved through combination, have been recognized by this commission as persuasive in terms of merger approval, Re Merrimack County Teleph. Co. (1977) DF 77-81.

Bay State's third contention is that administrative functions which at present are performed separately will provide economic savings by their performance on a centralized basis. These savings are alleged to be achievable in the areas of customer accounting, general accounting, data processing, employee relations, and services of financial, rate, and engineering planning departments. The commission would expect that such savings would occur. However, the company's proofs as well as its caveat that these savings may take a few years to reach fruition removes a substantial portion of the force that this contention otherwise would have carried. The commission will, however, expect that with the approval of this merger these cost savings will occur.

Bay State's final contention is that the

merger will result in a reduction in its cost of common equity. Further Bay State's book value will be increased. Bay State and Northern both indicate that Northern could not sell common equity capital at any price. Northern at this time is in fact precluded from the equity markets. Northern's situation in its own could only worsen over the short term due to the rapidly changing natural gas economic picture. In this situation Northern is not unique. Concord Natural Gas Corporation, Gas Service, Inc., and Manchester Gas Company are all excluded from the effective sale of common equity. While this unfortunate situation could be tolerated in prior decades, it is naive and inefficient for a gas company to enter the 1980's with its only source of capital being debt. The officers and directors of Northern Utilities, Inc. are to be commended for their actions in initiating this merger. By doing so they have made a substantial step in assuring not only gas supply for the seacoast areas but also gas that has a greater likelihood of being less expensive than in other parts of New Hampshire. The commission would only hope that other gas utilities in the state would be moved towards consolidation either with themselves or with others.

[3] The proposed merger was approved by a common stock vote which can only be viewed as one of overwhelming support. The preferred stock vote is a comparable level of support. The record reveals substantial benefits for the stockholders of Northern as well as those previously discussed which relate to Northern's consumers. Dividend growth should be more stabilized with Bay State common stock as opposed to Northern. Furthermore, the advantages of having a stock

openly traded provides stockholders with greater liquidity options as well as a greater potential for market growth.

The commission finds that the merger of Northern into Bay State is in the best interests of both Northern's stockholders and its consumers.

Pooling of Interests Accounting

[4] For the purposes of this merger the commission will allow the pooling-of-interests method both for accounting and rate-making purposes. However, in doing so it is recognized that the commission reserves its statutory and inherent right to exclude any rate base inclusion from either Northern's or Bay State's rate base.

Costs of the Acquisition

Any costs of this acquisition incurred by either Northern or Bay State Gas are to be amortized over a period of ten years. These costs are to be recorded in Account 186, miscellaneous deferred debits in compliance with the commission's chart of accounts.

Stock Exchange

Because the commission finds the merger to be in the best interests of both stockholders and consumers of Northern, the following exchanges are approved:

1. The exchange of a Bay State 5 per cent, $100 par value preferred stock for Northern's outstanding 5 per cent, $100 par value preferred stock.

2. The exchange of a Bay State 7.2 per cent, $50 par value, preferred stock, for Northern's outstanding 7.2 per cent, $10 par value preferred stock on a one-for-five basis.

3. The exchange of 0.4 per cent of a share of Bay State's common stock for

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each share of Northern's common stock outstanding or to become outstanding.

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the merger of Northern Utilities, Inc., a New Hampshire corporation engaged in business as a gas public utility in southeastern New Hampshire under authority from the commission, as well as in Maine, with and into Bay State Gas Company, a Massachusetts gas public utility, through Bay State of New Hampshire, Inc., a newly formed New Hampshire corporation formed to accomplish the merger, with the surviving corporation to be renamed Northern Utilities, Inc. upon the terms and conditions provided in the filing dated as of February 16, 1979, is consistent with the public good; and it is

Further ordered, that the exchange of a Bay State 5 per cent, $100 par value preferred stock, for Northern's outstanding 5 per cent, $100 par value preferred stock, is hereby approved; and it is

Further ordered, that the exchange of a Bay State 7.2 per cent, $50 par value preferred stock,

for Northern's outstanding 7.2 per cent, $10 par value preferred stock on a one-for-five basis, is hereby approved; and it is

Further ordered, that the exchange of 0.4 per cent of a share of Bay State's common stock for each share of Northern's common stock outstanding or to become outstanding, is hereby approved; and it is

Further ordered, that for purposes of this merger the pooling-of-interests method, is hereby approved; and it is

Further ordered, that all accounting entries, made upon the books of all surviving corporations, in relation to the merger, will be reported to this commission; and it is

Further ordered, that copies of all agreements between petitioners in this case will be filed with this commission; and it is

Further ordered, that when the merger is consummated, Northern Utilities, Inc., the continuing corporation, will file with this commission in accordance with Rule 30(a)(3) of the commission's tariff filing rules, a tariff supplement covering the adoption of the tariff now on file.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of July, 1979.

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NH.PUC*07/19/79*[78340]*64 NH PUC 233*Public Service Company of New Hampshire

[Go to End of 78340]

Re Public Service Company of New Hampshire

DR 76-124

64 NH PUC 233

New Hampshire Public Utilities Commission

July 19, 1979

INQUIRY into matters associated with an electric company's fuel adjustment clause.

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RATES, § 303 — Kinds and forms of rates and charges — Variable rates based on cost — Fuel clauses.

[N.H.] After an investigation of an electric company's fuel adjustment clause, the commission was satisfied that all related matters had been exhaustively explored, that the company's approach toward fuel purchase and use had been sharpened, that the intervenors and the commission had been given a greater understanding of the complexities of the market, and

that many of the misconceptions in the public mind had been removed; further, the commission believed that any other problems which might arise could be ameliorated in a timely manner through use of the monthly fuel adjustment charge hearings.

APPEARANCES: Martin Gross for Public Service Company of New Hampshire; David Brock for Governor Meldrin Thomson; Eugene S. Daniell for the city of Franklin; Arthur Ferland, pro se; and Samuel M. King, pro se.

Report

On September 1, 1976, the commission on its own motion issued Order No. 12,384 requiring Public Service Company of New Hampshire to appear at a hearing for the purpose of initiating a general and comprehensive inquiry into all matters pertaining to and associated with the Fuel Adjustment Clause and to prepare to present testimony at public hearings to be scheduled in October, 1976.

On October 5, 1976, the city of Franklin through its attorney, Eugene S. Daniell, entered a motion to the effect that Public Service Company of New Hampshire produce all records and materials relating to the company's negotiations and contracts with Consolidation Coal Company and Conoco Oil Company at the October 12th hearing.

On October 8, 1976, Public Service Company of New Hampshire filed objection to the motion of the city of Franklin and requested hearing thereon.

On October 8, 1976, Public Service Company of New Hampshire filed a motion to delineate procedures in the forthcoming hearing as to order of examination and limiting cross-examination to lead counsel representing intervenors.

On October 8, 1976, a letter of inquiry received from intervening parties requesting that a prehearing conference be held at commencement of the hearing schedule for October 12, 1976. On October 12, 1976, a prehearing conference was held on DR 76-124.

Intervenors were requested to submit motions and requests in writing concerning all matters as well as hearing dates and procedure.

On October 15, 1976, a motion to join parties was submitted requesting that attorneys David A. Brock and Peter W. Brown act as lead counsel on behalf of intervenors.

On October 16, 1976, motion filed by designated lead counsel for intervenors requesting that Concord Electric Company; town of Ashland, New Hampshire; New Hampton Village precinct; Exeter and Hampton Electric Company; New Hampshire Electric Cooperative and the town of Wolfeboro, New Hampshire be incorporated in these proceedings.

On October 18, 1976, stipulations of the parties were received as to prehearing discovery and scheduling of hearings with the following further action on pending motions and requests: (1) Motion of city of Franklin dated October 4, 1976, withdrawn; (2) Letter of city of

Nashua dated October 8, 1976, withdrawn for review and resubmittal as part of this

agreement; (3) Public Service Company of New Hampshire motion by letter dated October 7, 1976, withdrawn pending attempts to agree on hearing procedure reserving the rights to renew if parties are unable to agree; (4) Motion by letter of intervenors dated October 8, 1976, withdrawn pending efforts by parties to agree on subject matter and scheduling of particular hearings, reserving the right to renew if agreement can not be reached.

On October 19, 1976, motion by lead counsel requesting that staff participate fully in this proceeding by investigation, preparation of evidence, and giving of testimony and further that staff be authorized to engage in special counsel and such other experts as they may deem necessary.

On October 20, 1976, motion by Public Service Company of New Hampshire objecting to motion by counsel for intervenors requesting that wholesale electric purchasing companies a party to this proceeding.

On October 29, 1976, the commission issued Report and Order No. 12,483 accepting in part, modifying in part, and supplementing the filed stipulation of parties as to prehearing discovery and scheduling of hearing.

In Report and Order No. 12,483, the commission denied motion to join parties as requested by attorneys Brown and Brock relative to incorporating wholesale purchasers into DR 76-124.

The commission denied motion by attorneys Brown and Brock for staff participation in the manner requested and noted that staff will continue to function in a manner consistent with past practices and current rules of practice and procedure (Rule 16c).

By request of both parties motion of city of Franklin of October 4, 1976, requesting the company to produce certain documents, and letter request of city of Nashua of October 8, 1976, for company to produce certain information was withdrawn.

By further request of both parties, Public Service Company of New Hampshire motion dated October 7, 1976, to delineate procedure and voice letter motion dated October 8, 1976, regarding procedure are to be considered withdrawn but reserving to both parties the right to renew in the event agreement cannot be reached.

The city of Keene, represented by Charles S. Morang, Esquire and Albert Therrieault, pro se were recognized as intervenors, not represented by lead counsel.

The matter of the appearance of Martin Gross, Esquire on behalf of Public Service Company of New Hampshire in this case was not further pursued by any written objection as requested by the commission at the prehearing conference and was therefore ruled as closed.

An appendix added to Order No. 12,483 setting rules for: (1) Exchange of information between Public Service Company of New Hampshire and intervenors; (2) Use of information obtained through discovery; (3) Disposition of independent experts; (4) Time schedules; (5) Information sought from third persons; (6) Updating information.

Notices to interested parties was issued on January 12, 1977, indicating that the hearing would commence on March 15th, 16th, and 17th at the office of the commission.

A motion for continuance by attorney Ruback until April 5th, 6th, and 7th was granted.

On April 5, 1977, at 10 A.M. the hearing on DR 76-124 commenced. Full hearings were also held on April 6, September 20, November 30, and December 1, 1977.

The case was adjourned sine die at the close of hearings on December 1, 1977, to await a decision by Legislative Utilities Consumers' counsel as to the possibility of pursuing the matter further. Since nothing has been forthcoming, notice was sent to the interested parties on April 7, 1979, with notification of the commission's intention to close the hearing on July 10, 1979.

Response received was a letter from Public Service Company of New Hampshire requesting identification markings of exhibits be stricken and entered as full exhibits. Granted.

The commission is satisfied that during the course of these hearings all matters relating to the companies' fuel purchase and use were extensively and exhaustively explored. Cross-examination by intervenors was thorough, leaving no stone unturned.

In the minds of all connected with DR 76-124, these hearings have sharpened the approach of the company toward fuel purchase and use, have given to intervenors and the commission a deeper and wider understanding of the many complexities involved in today's changing markets and removed many of the misconceptions in the public mind.

The commission feels that as further problems may arise they can be ameliorated in a timely manner through use of the monthly Fuel Adjustment Charge hearings.

Case closed.

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NH.PUC*07/19/79*[78341]*64 NH PUC 236*Granite State Electric Company

[Go to End of 78341]

Re Granite State Electric Company

DR 77-63, Fourth Supplemental Order No. 13,740

64 NH PUC 236

New Hampshire Public Utilities Commission

July 19, 1979

MOTION for rehearing of petition seeking electric rate increase; suspended pending further consideration.

BY THE COMMISSION:

Supplemental Order

Whereas, upon consideration of a motion for rehearing filed on July 12, 1979, for and on behalf of Granite State Electric Company; it is

Ordered, that Third Supplemental Order No. 13,680 issued on June 22, 1979, be, and hereby

is, suspended pending further consideration of the issues presented in said motion; and it is

Further ordered, that a hearing will be held on August 7, 1979, at 9:30 A.M. at the commission offices for the parties to present their arguments pertaining to the validity of Third Supplemental Order No. 13,680.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of July, 1979.

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NH.PUC*07/19/79*[78342]*64 NH PUC 237*Walnut Ridge Water Company, Inc.

[Go to End of 78342]

Re Walnut Ridge Water Company, Inc.

DR 79-2, Second Supplemental Order No. 13,742

64 NH PUC 237

New Hampshire Public Utilities Commission

July 19, 1979

PETITION for an amendment of service territory, tariff revisions, and a rate increase; order in accordance with opinion.

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1. VALUATION, § 215 — Used and useful plant — Adjustments.

[N.H.] After a comparison of comparable companies' investment per customer and a review of a company's history, the commission concluded that actual plant in service which was used and useful was greater than that reported by the company. p. 237.

2. VALUATION, § 278 — Used and useful property — Water filters.

[N.H.] The commission reduced a water utility's rate base by an amount to reflect retired filters which were found to be no longer used or useful. p. 238.

3. RETURN, § 26.1 — Capital structure — Imputation.

[N.H.] Where a utility altered its capital structure without prior approval, the commission imputed the cost of debt as found in a prior case to the new equity issued by the company. [3] p. 240.

4. CONTRACTS, § 6 — Contracts — Filing.

[N.H.] The commission noticed a statute providing that certain contracts are unenforceable unless filed with the commission. p. 240.

5. EXPENSES, § 95 — Salaries — Filing of contracts.

[N.H.] Where a utility did not file with the commission a copy of its agreements with an employee, the commission allowed 25 per cent of the salary to be capitalized, 35 per cent as a

proper expense, and disallowed the remainder. p. 240.

6. EXPENSES, § 28 — Bookkeeping expense — Factors.

[N.H.] In considering the propriety of a utility's bookkeeping expense, the commission considered its experience with other utilities of comparable size and the fact that the utility charged a flat rate and rendered bills only a few times a year. p. 241.

7. RATES, § 607 — Residential user — Flat rates.

[N.H.] A flat rate was found to be adequate and conversion to a fixture rate was found to be unnecessary for an unmetered, predominantly residential water system. p. 242.

8. SERVICE, § 310 — Water meters — Installation.

[N.H.] The commission found that the installation of water meters would address the problem of inequitable use among customers and ordered a water company to submit an orderly plan for the installation of meters throughout the system. p. 242.

9. SERVICE, § 482 — Water supply — Conservation.

[N.H.] The commission provided that before a utility impose restrictions on the use of water it discuss the plan with the commission staff and issue written notice to its customers. p. 242.

APPEARANCES: Peter A. Lewis, president, and Kenneth E. Hartman, accountant, for the petitioner; Harold T. Judd and Larry S. Eckhaus for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On January 2, 1979, Walnut Ridge Water Company, Inc. (the company), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as a water public utility under the jurisdiction of this commission, filed a proposed

revision to its tariff, NHPUC No. 1 — Water, relative to increased rates and disconnection charges and by supplemental revision requested authority to amend its service territory to include a limited area in the town of Derry.

The proposed tariff revisions were suspended by Order No. 13,464 dated January 10, 1979. On January 15, 1979, an order of notice was issued by the commission providing for a hearing to be held at the offices of the commission on March 1, 1979, at 10:00 A.M. together with publication.

At the public hearing of March 1, 1979, the petitioner submitted testimony on unaudited financial statements for the years ending December 31, 1977, and December 31, 1978. These statements purport to show that the present rates are not sufficient to yield the company a fair rate of return.

The company presented testimony requesting increases in present annual rates from $80 to

$150 per customer, an increase of 87.5 per cent. A reconnection charge of $25 which would follow disconnection as a result of a restricted use violation or for nonpayment of bills rendered following the normal 30-day grace period, and a request for authority to amend its service territory to include a limited area in the town of Derry was withdrawn at the hearing.

On April 10, 1979, a public hearing was held in the town of Atkinson to allow the customers of the company an opportunity to voice their opinions. Approximately 200 people attended the meeting of which thirty-two made their concerns known to the commission.

Rate Base

Rate base can be simply explained as the dollars invested in the water system by all parties other than customers. These dollars would have been used to pay for the fixed plant, the corporation's working capital, etc. The dollars would come from stockholders, banks, etc.

The common approach used to develop the actual dollars of rate base is shown below:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	As of December 31, 1977	As of December 31, 1978	Average
Plant in Service			
Less: Contributions for Construction			
Less: Depreciation Reserve			
Net Plant in Service			
Plus: Working Capital			
Average Rate Base		XXX	

If after analyzing all the imputs received in a case, the company's filed figures are found to be correct, it is a simple matter to plug them into the above formula. Unfortunately that is not the case in this situation for a variety of reasons.

[1] The company's filing fails to indicate any contributions in aid to construction. Yet during the course of the Atkinson hearing, a document entitled, "Water Supply Agreement" (C No. 1) was introduced, executed between Lewis Builders, Inc. (the developer) and Walnut Ridge Water Company, Inc. (the company) on December 1, 1965. The document stated that the developer was "to pay to the company the sum of $500 for the installation of water service to each of said lot owners at the time the said lot is tied into the water system." Since the present number of users on the

system is approximately 265, the contributed capital, according to this document, should be approximately $132,500.

Exhibit P-4 indicates that the company's total assets are only $82,209. The question raised by ratepayers and the LUCC is whether or not any portion of these assets are customer contributed. If any of these assets are customer contributed, recent supreme court decisions require such contributions to be removed from rate base. See Legislative Utility Consumers' Council v Granite State Electric Co. (1977) 119 NH —, Windham Estates Asso. v New Hampshire (1977) 117 NH 419, 374 A2d 645; accord 1 A. Priest, *"Principles of Public Utility Regulation"* 177 (1969).

Upon a review of this company as well as comparisons with other small water utilities results in a finding that the contribution of $500 made by consumers is not part of the total assets of the company. Two comparable companies to Walnut Ridge have an average investment per customer of $1,275 while Walnut Ridge computes to less than $350 per customer.

This comparison lends credence to the company's contention that the $500 contribution per customer was made in the form of fixed assets which were not booked by the water company. Additional support for this finding results from a review of the depreciation study submitted by the company. In that study the company shows its first booked assets as of January, 1973. Since the water company has been in operation for a considerable period of time prior to 1973, there had to be plant in operation.

To conclude, the actual plant in service which is used and useful is greater than that reported by the company. The company's figure is after removal of the $500 contributions made by consumers. Therefore, the commission is convinced that consumers are not being asked to pay a return on their own money.

There are two other areas addressed by the staff and parties to this proceeding. The first area of concern is whether or not a portion of the labor and related employee benefits covering Mr. Caillouette's services should be capitalized. Pursuant to staff inquiry, Mr. Lewis estimated that a capitalization of 25 per cent was a reasonable allocation of the time spent in 1978 for installing approximately $29,000 of new fixed capital during 1978.

[2] The second area that received the focus of the parties is the treatment of replaced filtering equipment. Mr. Hartman testified that the filters that were replaced had not been retired. Since these filters are no longer used and useful to the consumer, it is no longer just and reasonable to include these items in rate base.

Subsequent to the hearing, Mr. Hartman furnished staff with the costs, depreciation to date, and estimated salvage value of these filters. These papers result in the following changes to rate base: (1) The depreciation reserve is reduced by $1,650 representing the accrual on retired filters and it is increased by $ 184 representing the amount of depreciation for one-half year on capitalized labor; (2) Plant in service is reduced by $3,000 the amount of the retired filters. The allocation of Mr. Caillouette's labor and related employee benefits result in an increase of $5,256 to plant in service.

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

	December 31, 1977	*December 31, 1978*	*Average*
Plant in Service	$57,879	$89,309	$72,594
Less: Depreciation Reserve	12,991	18,260	15,626
Net Plant in Service	$44,888	$71,049	$57,968
Working Capital:			
Materials and Supplies	0	0	0
Operating Expenses (78 21,906 — four months)		7,302	
Average Rate Base			$65,271

Rate of Return

[3] Since the company's last rate case, the company's component of cost of capital have undergone a complete reversal of the debt to equity ratios that prevailed at that time without commission approval. This is in direct violation of RSA 369:1. That statute states in part:

"A public utility lawfully engaged in business in this state may, with the approval of the commission *but not otherwise*, issue and sell its stock, bonds, notes, and other evidences of indebtedness payable more than twelve months after the date thereof for lawful corporate purposes."

The commission will, therefore, input the cost of debt found in Walnut Ridge, DE 76-179 to this new equity by the company. The commission can ill afford to allow the circumvention of state law. Nor can the commission allow 8 per cent debt to be transferred for 13 per cent equity without requiring proof by the company as to why.

As a consequence the capital structure of the company is found to be as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

COST OF CAPITAL

Capitalization

Debt
Equity

Total Capital
Cost of Capital

Revenue Requirements

[4, 5] The expenses of this company have increased dramatically over the last two years. The driving force behind this increase is the salary of Mr. Caillouette. The record is ambiguous as to the status of Mr. Caillouette. One witness testified that Mr. Caillouette does not do work for the other companies owned by the owner of the water utility. This despite the fact that he drives a truck owned by one of these other companies. (Transcript, page 46.) The auditor of the company testified that Mr. Caillouette is (1) an employee of Lewis Builders; (2) he drives a truck owned by Lewis Equipment and up to the day of the hearing was understood to be a *part-time* employee of Walnut Ridge. (Transcript, page 81.)

The discrepancy between the testimony is exactly the reason why RSA 366:3 is on the books. That statute states the following:

"366:3 *Filing of Contracts*. The original or a verified copy of any contract or arrangement and of any modification thereof or a verified summary of any unwritten

contract or arrangement the consideration of which exceeds five hundred dollars, hereafter entered into between a public utility and an affiliate providing for the furnishing of managerial, supervisory, construction, engineering, accounting, purchasing, financial, or any other services either to or by a public utility or an affiliate shall be filed by the public utility with the

commission within ten days after the date on which the contract is executed or the arrangement entered into. The commission may also require a public utility to file in such form as the commission may require full information with respect to any purchase from or sale to an affiliate, whether or not made in pursuance of a continuing contract or arrangement."

The commission again finds that Walnut Ridge has failed to comply with state statutes. RSA 366:4 guides the commission in its determination as to how to treat this failure to comply with the law:

"366:4 *Failure to File*. Any contract or arrangement not filed with the commission pursuant to § 3 shall be unenforceable in any court in this state and payments thereunder may be disallowed by the commission unless the later filing thereof is approved in writing by the commission."

The commission could disallow Mr. Caillouette's entire salary. However, the record reveals that Mr. Caillouette has done some work for this water utility. Therefore, the commission will allow 25 per cent of his salary to be capitalized and 35 per cent to be allowed as an expense item. The remainder is disallowed pursuant to state statute and the testimony in this proceeding which reveals Mr. Caillouette to be a part-time employee for three companies of which only one is a utility.

[6] The company requested $3,080 as an expense allowance for the services of a bookkeeper during the test year based on 308 hours at $10 an hour. The LUCC and staff object to the amount requested. The commission's experience with companies this size, together with the fact that a flat rate is charged and bills are rendered only a few times a year, leads to the finding that 156 hours at the 510 rate as appropriate.

With regards to depreciation, the commission allows the amount reflected on the company's submitted depreciation schedule plus an amount for the 1978 capitalized labor, less the 1978 depreciation on the retired filters. The final depreciation figure is $6,619. Depreciation will not be allowed on the unsubstantiated contributed capital.

Approved expenses in the makeup of the revenue requirement are as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Bank Service Charges	$ 18	
Depreciation	6,619	
Freight	53	
Legal and Administrative	948	
Miscellaneous	189	
Office Supplies	466	
Outside Services	8,918	
Real Estate Taxes	2,745	
Repairs and Maintenance	3,545	
Taxes and Licenses	120	
Utilities	4,096	
Income Taxes	(1,269)	$26,448

Applying the cost of capital of 8.4 per cent to the average rate base of $65,271 produces a required net operating income of $5,483 which when tax-effected would equal $6,854. Total expenses as adjusted for additional depreciation and a reduction in outside services is found to be $26,448. Added together these figures produce an entitlement of $33,302. Dividing this figure by the 265 customers, the commission arrives at a yearly charge per customer of $126.

Rates and Service

[7] On a predominately residential water system such as Walnut Ridge, which is presently unmetered, a flat rate is adequate and conversion to a fixture rate on such a system has not been shown to be of significant value to individual consumers. A fixture rate would also permit the unlimited use of water for a fixed charge while not providing any relation to use. However, the commission does believe that a fixture rate is appropriate and should be in effect for commercial customers on such a system.

[8] The issue of inequitable use between different customers would be better addressed by the installation of water meters. It appears that this commission's standards for water utilities address the problem in § 5 as cited below.

"5. Measurement of Service

"a. All water sold by a utility shall be upon the basis of metered volume sales or a fixture rate designed to reflect estimated volume sales.

"b. Where both metered and fixture rate services are provided, the utility shall include in its tariff an orderly program setting forth the basis on which meters will be installed.

"Note: It is the policy of the commission that all nondomestic sales shall be metered, and ultimately domestic sales also."

The company is ordered to submit an orderly plan for the installation of meters throughout the system.

[9] In recent summers during extended dry periods, some New Hampshire water utilities have experienced supply problems necessitating restricted use of the facilities. Generally, the cause of this problem has been excessive simultaneous use for lawn watering and at certain times, the filling of swimming pools. The commission believes that the utilities' best solution to this problem is the scheduling of water use for lawn watering and the filling of pools during the nonpeak periods of each day. The installation of water meters has been proven in the water industry as an effective and judicious way to reduce consumption and should also have a positive effect on the supply problem.

The present requirements by the state of New Hampshire for a residential water system are for the installation of a system based on a water demand of 100 gallons, per capita, per day. This capacity is recognized as adequate to serve all normal domestic requirements such as dish and clothes washing, food preparation, and personal hygiene, but will not sustain simultaneous heavy outside use.

This commission supports reasonable measures taken to encourage water conservation and further believes that an unlimited supply for all customers is unrealistic both from an economic and engineering standpoint. Accordingly, whenever it shall be necessary to impose restrictions on the use of water, and after prior discussion of its plan with the commission staff, the company shall issue *written notice* to its customers detailing such restrictions.

Letters were submitted and testimony given by customers of Walnut Ridge regarding

inadequate pressure and unannounced shutdowns of the water system. Commission standards require that each utility maintain a normal operating pressure at the service entrance of not less than 20 pounds per square inch, and it is commission policy that a utility should notify customers prior to a scheduled interruption. These standards require no further amplification to address this situation. The commission

directs the company's attention to these rules and reminds them that the commission will not accept less than full compliance with these provisions.

In the interim between the hearing on this case and the issuance of this report, the commission ordered water pressure recordings to be taken by the staff at points of highest elevation, to determine the existing pressure situation at Walnut. The pressures recorded over approximately 36 hours at each of two locations, showed a median pressure greater than the minimum allowed by commission standards for water utilities. Recognizing that during periods of heaviest demand the median may be different and the commission is, therefore, prepared to recheck this data within the immediate future. Commission standards allow a minimum of not less than 20 pounds pressure; however, we consider that good operating practice requires the maintenance of a normal operating pressure considerably above this minimum, and one which will permit the normal use of water above the first floor elevation. Commission rules require that each water utility shall have on file, a map showing the location and size of all utility-owned mains and valves including the curb cock at each customers service; therefore, the commission directs Walnut to review its compliance with this requirement and to proceed such as to assure that a map is available and current within six months of the date of this report and order.

Testimony has been received regarding discoloration of plumbing and clothing which has been attributed to a high level of iron concentration in the water supply. The company witness testified that the company had installed filters, prior to 1978 that proved to be inadequate and that in 1978 new iron removal facilities were installed on instructions from the New Hampshire Water Supply and Pollution Control Commission (WSPCC). The record is unclear as to the adequacy of this equipment and the commission will continue to monitor this situation.

This commission's original franchise authority to Walnut provided an opportunity to serve 233 customers based on a documented WSPCC analysis of the capabilities of the water system. Company records indicate they are presently serving 265 customers. New wells recently established have led to informal approval by the WSPCC for service to existing customers; however, this commission will participate in a WSPCC engineering analysis of the water system to be made in the near future in order to assure that the system is adequately serving its customers.

Tariff

The hearing in this case disclosed the fact that Walnut Ridge Water Company tariff includes several terms and conditions that are not applicable to its operation. The tariff should now be revised and submitted to the commission staff for review before reissuing. Revision should address the company's policy on extensions of future water mains and should give consideration to disconnection without notice, as allowed by commission standards, in instances of

unauthorized or fraudulent use of the utility service, tampering with the connections or other equipment of the utility, creating conditions dangerous to the health, safety, or utility service of others, or customer abandonment of the premises. In the matter of late payment, this commission's standards now require that service shall not be terminated unless

the customer has been sent written notice of the company's intention to disconnect at least twelve days in advance of such action.

In its petition, Walnut Ridge Water Company sought approval for a reconnection charge of $25, which we find excessive. However, we will approve a charge of $15 which is more in line with that approved for other water utilities in this state. Our conclusion in this matter is also based on the assumption that one man hour ($10 per hour) and a maximum travel distance of five miles (17 cents per mile) would be entirely adequate in all but the most unusual instances.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions of its tariff, NHPUC No. 1 — Water, as filed by the Walnut Ridge Water Company, Inc. on January 2, 1979, which revisions were suspended by commission Order No. 13,464 dated January 10, 1979, be, and hereby are, rejected; and it is

Further ordered, that in accordance with the increase in rates authorized by this report and order, Walnut Ridge Water Company, Inc. file a new tariff, NHPUC No. 2, specifying an annual charge of $126; and it is

Further ordered, that this revised tariff shall include an orderly program for the installation of meters throughout the water system and only such other terms and conditions as are applicable to its operation and in accordance with this commission's standard for water utilities and such as noted in the accompanying report; and it is

Further ordered, that the revised tariff shall be filed to become effective with all bills rendered on or after July 18, 1979.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of July, 1979.

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NH.PUC*07/23/79*[78343]*64 NH PUC 244*New Hampshire Electric Cooperative, Inc.

[Go to End of 78343]

Re New Hampshire Electric Cooperative, Inc.

DE 78-232, DE 78-233, Supplemental Order No. 13,744

64 NH PUC 244

New Hampshire Public Utilities Commission

July 23, 1979

ORDER setting standards to be met in qualification for sale of electric energy.

RATES, § 321 — Rates and charges of particular utilities — Electric — Generally.

[N.H.] The commission adopted standards which were to be met by electrical energy producers in order to qualify to sell electric energy at the rates set by the commission for a 12-month period; according to the standards, producers must prove the capability to generate their claimed capacity and confirm the ability of their median flow to support that capacity.

BY THE COMMISSION:

Page 244

Supplemental Report

On April 18, 1979, this commission issued Report and Order No. 13,589 in DE 78-232 and DE 78-233 setting forth the price for the next twelve months that franchised utility companies would pay to limited electrical energy producers. The order provided as follows:

"A. From plants which produce energy on a nondependable capacity basis (such as run-of-the-river hydro plants) — four cents per kilowatt-hour (kwh);

"B. From plants which produce energy on a dependable capacity — four and one-half cents per kilowatt-hour (kwh)."

The commission now finds it necessary to issue standards which will provide specific guidelines to both limited power producers and utilities in the determination of eligibility for each of those rates.

Accordingly, the following standards will be adopted:

1. A hydroelectric generating station will undergo an annual audit of its capability to generate its claimed capacity during the period November 1st through February 28th each year. The proof will consist of achieving the claimed capacity for a continuous two-hour interval during the period noted above. The audit will be performed under the direction of this commission.

2. A stream flow analysis for the previous twenty years will be made. Such analysis will be a mathematical computation to confirm that the median flow during that period would support the level needed to produce the capacity achieved during the two-hour test period. Such analysis will be performed under the direction of this commission.

3. Generation output will be recorded at least hourly. Monthly reports indicating each hourly production will be submitted to this commission.

4. Each producer shall implement procedures which will provide immediate notification to the purchaser in the event of a plant shutdown and restart.

All electricity generated during a 24-hour period up to and including the amount proved by the two-hour capacity audit shall be paid by the purchaser at the rate of four and one-half cents per kilowatt-hour.

All electricity generated in excess of that proven during the two-hour capacity test shall be paid at the rate of four cents per kilowatt-hour, subject to annual adjustments to be made by this commission.

This order shall apply to all public electric utilities purchasing electrical energy on and after May 1, 1979, from limited electrical energy producers operating plants in the utility's franchise area not involving the use of nuclear or fossil fuels, with a developed output capacity of not more than five megawatts.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report which is made a part hereof; it is

Ordered, that the following standards shall be met by limited electrical energy producers in consideration of qualification for sale of electric energy:

1. A hydroelectric generating station will undergo an annual audit of its capability to generate its capacity during the period November 1st through February 28th each year. The proof will consist of achieving the claimed capacity for a continuous two-hour interval during

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the period noted above. The audit shall be performed under the direction of this commission.

2. A stream flow analysis for the previous twenty years will be made. Such analysis will be a mathematical computation to confirm that the median flow during that period would support the level needed to produce the capacity achieved during the two-hour test period. Such analysis shall be performed under the direction of this commission.

3. Generation output shall be recorded at least hourly. Monthly reports indicating each hourly production shall be submitted to this commission.

4. Each producer shall implement procedures which will provide immediate notification to the purchaser in the event of plant shutdown and restart.

All electricity generated during a 24-hour period up to and including the amount proved by the two-hour capacity audit shall be paid by the purchaser at the rate of four and one-half cents per kilowatt-hour.

All electricity generated in excess of that proven during the two-hour capacity test shall be paid at the rate of four cents per kilowatt-hour, subject to annual adjustments to be made by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of July,

1979.

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[Go to End of 78344]

Re Hampton Water Works

DR 79-51, Supplemental Order No. 13,751

64 NH PUC 246

New Hampshire Public Utilities Commission

July 25, 1979

PETITION of a water company for a temporary rate increase; granted.

RATES, § 249 — Schedules, formalities, and procedure relating to — Effective date.

[N.H.] Where the commission was under a statutory mandate to set the effective date of a temporary rate increase only after hearing, it found that to allow such an increase granted to a water company to become effective as of the date that the company's petition was filed would violate both that directive and the procedural due process rights of the public to notice and reasonable opportunity to be heard; however, the company was permitted to recoup the difference between permanent and temporary rates from those seasonal customers whose billing dates occurred prior to the effective date of the rate order.

APPEARANCES: Joseph C. Ransmeier for the petitioner; Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

These proceedings were initiated on February 22, 1979, when Hampton Water Works, a New Hampshire corporation operating as a public utility in New Hampshire, filed revisions to its tariff, NH PUC No. 6 — Water, providing for an increase in its annual revenues of $218,867. The commission

suspended the proposed rate increase by Order No. 13,541 dated March 26, 1979. The company published its new rates on March 17, 1979.

On May 1, 1979, the company submitted a petition requesting the commission to prescribe temporary rates to be effective May 1, 1979.

A duly noticed hearing on temporary rates was held at the commission office on May 25, 1979.

Evidence submitted by the company to the commission and sworn to at the hearing held at the commission indicate that the current earnings rate is below the rate of return authorized by this commission in the previous rate case (Re Hampton Water Works [1975] DR 74-220).

The company at the hearing on temporary rates stated its willingness to have an order which would allow the company's existing rates to become temporary rates. Such an order would allow the company to make itself whole by a surcharge to recover the difference between permanent and temporary rates.

While the need for temporary rates has been proven, a question remains as to the effective date for temporary rates. The company requests that temporary rates become effective with all bills rendered on or after May 1, 1979. The company supports its contention with evidence that shows a large group of customers are billed on May 1, 1979. (Memorandum Exh B.) In addition, the company relies on two previous cases dealing with temporary rates, Re Hampton Water Works (1975) DR 74-200, and Pennichuck Water Works v New Hampshire (1960) 103 NH 49.

The company's billing cycle is unusual in that unlike other water companies, it does not bill all customers at four set times during the year. Rather the company has subdivided its customers into a number of categories based on the type of customer and the location of customers. An examination of the first six months of any year is illustrative.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Month Customers Billed

January 1	Public Fire Service customers are billed for six months. Private Fire Service customers are billed quarterly.
February 1	North Hampton, Rye, and Year Round Beach customers are billed on a quarterly rate.
March 1	Hampton customers are billed a quarterly rate.
April 1	Private Fire customers receive a quarterly billing.
May 1	North Hampton, Rye, and Year Round Beach customers receive a quarterly billing. Seasonal customers are billed for four minimum charges prospectively. June 1 quarterly rate.

The statute that provides the company the remedy of temporary rates is RSA 378:27:

"In any proceeding involving the rates of a public utility brought either upon motion of the commission or upon complaint, the commission may, after reasonable notice and hearing, if it be of

the opinion that the public interest so requires, immediately fix, determine, and prescribe for the duration of said proceeding reasonable temporary rates; provided, however, that such

temporary rates shall be sufficient to yield not less than a reasonable return on the cost of property of the utility used and useful in the public service less accrued depreciation or shown by the reports of the utility filed with the commission unless there appears to be reasonable ground for questioning the figures in such reports." (Emphasis supplied.)

This statute has been regarded as a particularization of the comprehensive rate-making powers conferred upon the commission by RSA 378:7 rather than as a latter-day limitation upon those powers. New Hampshire v New England Teleph. & Teleg. Co. (1961) 103 NH 394, 395, 40 PUR3d 525, 173 A2d 728. In the 1961 New England Telephone proceeding the supreme court found that the commission's authority to establish current rates as temporary rates was well within the commission's discretion to determine "just and reasonable rates" pursuant to RSA 378:7 and thereafter set temporary rates "if it be of the opinion that the public interest so requires." 103 NH at p. 396 40 PUR3d 525. By doing so, the commission can foreclose a constitutional issue by guaranteeing the utility a minimum below which such temporary rates should not go and a right of recoupment should the temporary rates ultimately be found too low. Public Service Co. of New Hampshire v New Hampshire (1959) 102 NH 66, 28 PUR3d 404, 150 A2d 810.

RSA 378:27 allows the commission to set forth temporary rates only after "reasonable notice and hearing." Furthermore, if RSA 378:27 is a particularization of RSA 378:7 then the commission in setting temporary just and reasonable rates "after a hearing" which is "thereafter to be observed." Therefore, these two statutes clearly require that the commission can set the effective date of a temporary rate only after a hearing.

The company's citation of Pennichuck Water Works v New Hampshire (1960) 103 NH 49, 36 PUR3d 374, 164 A2d 669 does not alter this finding. Pennichuck does allow for retroactive temporary rate orders and specifically allows this retroactivity to be applied to a water company for a single quarter. 103 NH at p. 55 36 PUR3d 374. However, the supreme court stated that "retroactivity *may be* desirable on occasion." 103 NH at p. 55 36 PUR3d 374. Furthermore, by the commission's allowance of an effective date of May 31, 1979, the commission is allowing the company to collect rates retroactively as to their Hampton customers. These customers who are billed in June receive a bill for actual usage during the months of March, April, and May. Therefore, the commission's decision to allow existing rates to be temporary rates as of May 31, 1979, does comply with the Pennichuck decision without transgressing the considerations imposed upon the commission by RSA 378:7 and 27.

To allow this company to have its effective date be the date upon which the company filed its temporary rate petition would also violate the due process requirements that the commission must also observe. As the United States Supreme Court stated in an analagous situation:

"The vast expansion of the field of administrative regulation in response to the pressure of social needs is made possible under our system by adherence to the basic principles that the legislature shall

appropriately determine the standards of administrative action and that in administrative proceedings of a quasijudicial character the liberty and property of the citizens shall be protected

by the rudimentary requirement of *fair play*. These demand a fair and open hearing essential alike to the legal validity of the administrative regulation and to the maintenance of public confidence in the value and soundness of this important governmental process. Such a hearing has been described as an inexorable safeguard." See Morgan v United States (1938) 304 US 1, 23 PUR NS 339, 341, 82 L Ed 1129, 58 S Ct 773.

To allow an effective date prior to the hearing would in effect make the hearing a sham. Consumers would not have notice as to the effective date nor would they believe that their considerations would have any impact. This is hardly within the scope of fair play or is such a process designed to build confidence in regulation as a whole.

The notice to the public in this proceeding lends support to these concerns. The notice of the hearing on temporary rates which appeared in the May 17, 1979, *Portsmouth Herald* states the following:

"Hampton Water Works Company of Hampton, New Hampshire having filed on May 1, 1979, a petition for authority to place its presently effective rates as temporary rates for the duration of its rate proceeding ... ."

The notice goes on to indicate that the public hearing will be held on May 25, 1979, and that persons will be provided an opportunity to be heard as to the question whether the prayer of the petition should be granted; consistently with the public good. Such a notice does not mention any effective date prior to the hearing and provides the impression that the commission will rule the question after Hampton Water Works consumers have an opportunity to express their thoughts and considerations.

The commission while exercising its quasijudicial capacity must observe the traditional safeguards against arbitrary action. Furthermore, the fundamental requisites of due process of law and procedural due process require that notice and a timely and reasonable opportunity to be heard be given to people whose rights will be affected by the commission's decision. An effective date prior to the hearing would ignore the requirements of notice both as a general proposition as well as specifically applied to the instant case. The right to be heard would also have little value if the effective date occurred before the hearing.

Another reason which justifies the commission's finding of May 31, 1979, is that the company has failed to meet its burden of proof prior to the hearing. It is only at the hearing that the company places its testimony and exhibits into evidence. The company's petition is hardly sufficient in and of itself to justify an effective date before the hearing since it is neither sworn to nor subjected to cross-examination.

The company in addition to its reliance on Pennichuck relies upon the commission's language in Re Hampton Water Works Co. (1975) DR 74-220. The commission there stated:

"The company sought an order for temporary rates, alleging that it was earning at a rate substantially below its cost of capital. At the initial hearing, April 15, 1975, the company presented testimony and other evidence showing that their earnings were inadequate and that the rate of return was decreasing into 1975. The system has a high degree of seasonality and a substantial portion

of its revenues is billed on May 1, 1975, to seasonal customers. In our judgment these seasonal customers should be assessed their allocable portion of this rate decision; unless this is done the company will lose needed revenue and the year-round consumer will bear a disproportionate share of costs.

"We order that the present tariff be established as temporary rates effective for all current billings rendered after April 30, 1975." Re Hampton Water Works Co. (1975) DR 74-220, p. 4.

However, upon closer examination of the record in that proceeding, the company's reliance is found to be misplaced. In that proceeding the company filed its petition for temporary rates as of March 13, 1975, which also was the date the company requested the temporary rates to become effective. A hearing was held on April 15, 1975, and the commission chose the effective date of April 30, 1975. Since the effective date was after the hearing on the merits of the company's petition as well as a rejection by the commission of the company's approach of seeking the filing date as the effective date, it is hardly of precedential value to the company.

Other cases decided since this company's last rate case provide a clear support for the selection of an effective date after the hearing date. Re Manchester Gas Co. (1979) DR 78-100, and Re Pennichuck Water Works (1979) DR 79-3. In summary, the commission has traditionally followed the practice of making the effective date a date which falls after the hearing date.

As to Hampton's concern as to its seasonal customers who receive minimum bills for four quarters as of May 1, 1979, the commission will allow the company to recoup the difference between temporary rates and permanent rates effective May 31, 1979, which is designed to allow the company to receive this prospective recoupment for eleven months rather than twelve months. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report which is made a part hereof; it is

Ordered, that Hampton Water Works be, and hereby is, authorized to implement as temporary rates those rates currently specified in its tariff, NHPUC No. 6 — Water; and it is

Further ordered, that said temporary rates be, and hereby are, effective with all billings rendered after May 31, 1979; and it is

Further ordered, that recoupment of the difference between the minimum charges billed to seasonal customers in May, 1979, and the minimum specified in subsequently authorized permanent rates be, and hereby are, to be prorated for eleven months following the effective date of these temporary rates.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of July, 1979.

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NH.PUC*07/25/79*[78345]*64 NH PUC 251*Union Telephone Company

[Go to End of 78345]

Re Union Telephone Company

DR 79-120, Supplemental Order No. 13,752

64 NH PUC 251

New Hampshire Public Utilities Commission

July 25, 1979

PETITION of telephone company for a temporary rate increase; granted.

RATES, § 120.1 — Reasonableness — In general — Test period.

[N.H.] Where a telephone company which was not earning a fair rate of return requested a temporary rate increase on the basis of a projected test year, the commission, while finding that any change in its policy from use of an historic to a projected test year would be more properly addressed in a permanent rate case, nonetheless granted a portion of the temporary increase which it had calculated on the basis of historic data.

APPEARANCES: Dom S. D'Ambruoso for Union Telephone Company; Harold T. Judd for the Legislative Utility Consumers' Council; Representative Jane Sanders, pro se.

BY THE COMMISSION:

Report

On May 25, 1979, Union Telephone Company filed for an increase in rates of approximately $110,000. On June 4, 1979, the commission suspended the effective date of the said filing pending investigation. The commission, on June 8, 1979, set forth an order of notice providing for a procedural hearing to be held on dune 27, 1979. Subsequently, the commission set forth the dates of August 28-30 for consideration of the permanent rate increase. Union Telephone Company (hereby referred to as the company) filed a petition for temporary rates. This petition requested that the rates filed on May 25, 1979, be made the temporary rates. The commission held a hearing on July 18, 1979, on the matter of temporary rates. The aforementioned hearing was properly noticed to the public.

The company, at the hearing, developed their case through one witness and exhibits. The result of which was an indication that the company was not earning a fair rate of return on property used and useful in the public service.

Staff, while recognizing the company's situation as to rate of return, is hesitant to depart from the commission's policy of not allowing projected test years. Staff argues that by taking the company's actual capital structure as of December 31, 1978, and then computing common equity in a range of 12.5 per cent to 13.5 per cent, yields an overall cost of capital of 9.87 per cent to 10.25 per cent. Since the staff finds the 1978 overall rate of return to be 8.02 per cent, a shortfall is found in net operating income of 1.85 per cent to 2.23 per cent.

By multiplying these percentages by rate base and then tax effecting the results, a range is

developed by staff of $73,609 to $88,729 as the necessary temporary increase.

The commission will allow the halfway point of $81,169 based on a 13 per cent common equity. The commission believes that any alteration in commission's test-year policy is more properly addressed under permanent rates.

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Such an allowance even though temporary should prompt the company to issue the 4,000 common shares approved for sale by the commission in May of 1979.

Staff also has concerns as to the differences in terms of percentages applied by the company to various customer classifications. For purposes of temporary rates the commission will allow the temporary rate increase to be uniform as to customer classes and uses.

Our order will issue accordingly.

Supplemental Order

In consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Section 2, Sheet 1, Tenth Revision; Section 2, Sheet 1A, Second Revision; and Section 3, Revised Sheet 4 previously suspended by commission Order No. 13,657, be, and hereby are, rejected; and it is

Further ordered, that Union Telephone Company file with this commission revised tariff pages in lieu of those rejected, said pages to reflect temporary rates which allow increased revenue in the amount of $81,169; and it is

Further ordered, that said temporary increase be, and hereby is, to be spread uniformly among rate classes, and it is

Further ordered, that said temporary rates be, and hereby are, effective with all billings rendered on or after the thirty-first day of July, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of July, 1979.

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NH.PUC*07/26/79*[78346]*64 NH PUC 252*Manchester Gas Company

[Go to End of 78346]

Re Manchester Gas Company

DR 78-100, Seventh Supplemental Order No. 13,753

64 NH PUC 252

New Hampshire Public Utilities Commission

July 26, 1979

ORDER implementing rate increase.

RATES, § 260 — Kinds and forms of rates and charges — In general — Surcharges.

[N.H.] Where a gas company had been directed to file a revised tariff reflecting a granted revenue increase, the commission permitted the rates to become effective as filed upon a finding that the rates, including a temporary surcharge for recoupment of the revenue difference between bonded and permanent rates, would generate the allowed revenues.

BY THE COMMISSION:

Supplemental Order

The commission Order No. 13,730 directed Manchester Gas Company to file revised tariff pages to reflect an increase in revenues of $486,012.

Such pages have been filed and the commission is satisfied that rates therein will provide the allowed revenues, to include a temporary surcharge of 3.5 cents per therm for recoupment of revenue per

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an adjustment between bonded rates and permanent rates; it is

Ordered, that 11th Revised Page 12 and 10th Revised Page 13 of Manchester Gas Company tariff, NHPUC No. 12 — Gas, be, and hereby are, approved for effect with all billings issued on or after August 1, 1979; and it is

Further ordered, that Manchester Gas Company give public notice of this increase by one-time publication a summary of the changes in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of July, 1979.

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NH.PUC*07/26/79*[78347]*64 NH PUC 253*New England Power Company

[Go to End of 78347]

Re New England Power Company

DF 79-103-6205, Order No. 13,756

64 NH PUC 253

New Hampshire Public Utilities Commission

July 26, 1979

APPLICATION for permission to transfer individual interest in a nuclear power plant; granted.

CONSOLIDATION, MERGER, AND SALE, § 52 — Terms and conditions — Purchase or sale price.

[N.H.] Where an electric company sought to transfer portions of its interest in a nuclear generating station to other participants in the project at a price based upon the transferor's investment in the interest being transferred as of the date of the transfer plus an allowance for funds used during construction or interest, or both, and the transfer had been approved by the Nuclear Regulatory Commission, the commission approved the transactions, finding that they would be for the public good.

APPEARANCES: Frederick E. Greenman for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed with the commission on March 5, 1979, New England Power Company made application for authorization to transfer portions of their ownership interests in Seabrook station in varying amounts to Massachusetts Municipal Wholesale Electric Company, a political subdivision of the Commonwealth of Massachusetts, and the town of Hudson, Massachusetts Light and Power Department, a Massachusetts municipal corporation. Pursuant to notice duly given in accordance with the commission's order dated May 7, 1979, a hearing was held on the matter at the offices of the commission on June 12, 1979. The petitioner will hereafter be referred to collectively as the "transferor" and those to whom the transfers will be made as the "transferees."

The Seabrook Station project is a nuclear generating station which is being and will be constructed at Seabrook, New Hampshire, by Public Service Company of New Hampshire as a domestic

electric utility company in association with a number of nonresident electric utilities, including the transferor and the transferees, pursuant to RSA 374A. The transferor seeks the authority for the transfer of portions of their participations pursuant to the provisions of RSA 374:30.

The Seabrook project is being constructed pursuant to an "Agreement for Joint Ownership, Construction, and Operation of New Hampshire Nuclear Units" dated May 1, 1973, as amended, among the various participants in the project (the "Seabrook agreement"). A copy of the Seabrook agreement was duly entered into the record. Witnesses for the transferor testified as to the percentage interests each desired to transfer, which are summarized in the following Table I.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

TABLE I

TRANSFERS FROM THE PETITIONER TO
MASSACHUSETTS MUNICIPAL WHOLESALE ELECTRIC
COMPANY (MMWEC), AND
THE TOWN OF HUDSON, MASSACHUSETTS, LIGHT AND POWER
DEPARTMENT (HUDSON)

Participant
New England Power Company

It appeared that the transferor had complied with all applicable conditions precedent of the Seabrook agreement.

Witnesses for the petitioner testified that the transfers shown on Table I would be made pursuant to the Seabrook agreement and so-called escrow agreements which were duly entered in evidence. It appeared that the purchase price for each transfer would be based upon the investment of the transferor in the fractional interest being transferred as of the date of the transfer plus an allowance for funds used during construction and/or interest in accordance with Exh P-5, Par Id, associated with such investment.

There was entered in evidence copies of Amendment Nos. 1 and 2 to the construction permits issued by the Nuclear Regulatory Commission (NRC) to the construction permits issued by NRC to Public Service Company of New Hampshire. Said amendments show that the transfers in question have been approved by NRC and that NRC found each transferee financially qualified to assume the financial burdens associated with the fractional interests each would receive in accordance with Table I.

The commission takes notice that the transferees' fractional interests in the Seabrook station, as shown on Table I, has duly heretofore filed with the commission the required notification pursuant to RSA 374-A:7I of its intention to become a Seabrook participant and has qualified as a foreign corporation doing business in New Hampshire pursuant to RSA 300 in compliance with the requirements of RSA 374-A:7 II (a).

Based upon the foregoing, as well as the entire record in this proceeding, including the exhibits submitted in support of the application, the commission finds that the proposed transfers of fractional interests in the Seabrook Station project from the transferor to the proposed transferees, upon the terms proposed for the said transfers will be for

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the public good, and that it is just and reasonable and in accordance with the provisions of RSA 374:30, as well as all other applicable provisions of New Hampshire law, that the said transfers and sales, upon the terms proposed, as well as the acquisition of such transfers by the transferees should be approved. Our order will, therefore, issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the application of New England Power Company to sell and transfer certain undivided ownership interests in the so-called Seabrook Station project, including all associated property and contract rights of every sort, to Massachusetts Municipal Wholesale Electric

Company and the town of Hudson, Massachusetts, Light and Power Department, being nonresident electric utility entities, in varying amounts and proportions as between them as set forth in the various agreements filed in this docket and shown on Table I in the report, and the terms therein stated are hereby approved; and it is

Further ordered, that the said transfers and sales by the transferor to the said transferees as well as the purchase and acquisition of the said participations by the transferees in the shares and proportions stated as between them upon the terms proposed are hereby authorized in accordance with the authority vested in this commission under RSA 374:30.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of July, 1979.

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NH.PUC*07/26/79*[78348]*64 NH PUC 255*Boston and Maine Corporation

[Go to End of 78348]

Re Boston and Maine Corporation

DT 79-114, Order No. 13,757

64 NH PUC 255

New Hampshire Public Utilities Commission

July 26, 1979

INVESTIGATION into the closing of a railroad crossing; installation of protective devices ordered.

CROSSINGS, § 68 — Protection and safety — Flagmen, signs, and protective devices.

[N.H.] As an alternative to the closing of a dangerous railroad crossing, the commission authorized the installation of automatic flashing signals, as soon as appropriate federal funding could be secured, the continued maintenance of warning signs, regrading of the highway surface to provide a level approach for better visibility, the installation of stop signs, and the installation of continuous flashing warning lights at each approach to the track.

APPEARANCES: Lendall Mattice for the Boston and Maine Corporation; and Dana Olden, chairman, board of selectmen, for the town of Charlestown.

BY THE COMMISSION:

Report

The commission, on its own motion, pursuant to RSA 373:22, initiated an investigation on May 16, 1979, to determine if the public safety required the closing of Stuarts or Merrifield grade crossing (also known as Lower Landing road crossing) over the Boston and Maine Corporation railroad tracks in the town of Charlestown. The order of notice was issued May 16, 1979, providing for the investigation and hearing to be held on dune 19, 1979, at 10:00 A.M. at the old town hall in Charlestown. Pursuant to RSA 373:23 sitting in an advisory capacity with the commission, were Paul A. LaFlam, Department of Public Works and Highways; Roderick Cyr, Department of Public Works and Highways; Robert Buckley, Jr., Counsel for the town of Charlestown; and Clayton Osborne, assistant director, Department of Safety, Motor Vehicle Division.

Transportation inspector Walter W. King testified that the Lower Landing road crossing, DOT No. 052785E, is located at railroad mile post 90.76, which is about one-quarter mile south of the former Charlestown railroad station. The track is tangent, both north and south of the crossing, for 800 to 900 feet in either direction. The track is a single line over which trains operate by timetable and centralized traffic control. The operating speed is 50 mph for passenger and 40 mph for freight trains. The track is ascending south to north at 0.6 per cent or less throughout the area. The highway is a town maintained road due west in direction from New Hampshire Route 12 to the east shore of the Connecticut river. The highway crosses the railroad track at nearly a right angle. The highway grade varies from one per cent to 9 per cent throughout the crossing area, 250 feet either side of the track. The actual crossing is level with the east approach, descending toward the rails about one per cent and the west approach, descending away from the rails about 3 per cent for 25 feet.

The highway is intersected by two private ways on the east side of the track, from a single duplex-type dwelling from the south; on the west side of the tracks by Southwest street from the north, and a mobile home park at 120 feet and 235 feet respectively. There is a private drive entering from the south at about 80 feet west of the tracks and Meadow road is about 0.1 miles west, also from the south. Meadow road and Southwest street connect with New Hampshire Route 12 either directly or with connecting routes. Meadow road connects Lower Landing road with New Hampshire Route 12 about 0.1 miles south of the railroad highway overpass. Southwest street connects Lower Landing road to Railroad street on the west side of the tracks which, in turn, intersects New Hampshire Route 12 as does Depot street which intersects Railroad street on the east side of the tracks. None of the mentioned connecting routes are less than 0.25 miles or over 0.5 miles in length. All roads are of an asphalt-type material 18 to 20 feet wide with Meadow road the narrowest, approximately 15 feet wide.

The crossing is warned by the standard four-blast whistle signal, required by regulation, by the approaching trains. There is a single crossbuck located in the northeast quadrant about 30 feet east of the east rail. There are advance warning discs located on each approach to the right of the highway, 60 feet east and 47 feet west of the tracks.

There are stop signs on each approach to the right of the highway, 30 and 15

feet east and west respectively. There is also a stop ahead warning sign 140 feet west of the

crossing.

The views on the northeast and southeast quadrants are good with no obstructions. The northwest quadrant is very limited at 30 feet from the west rail; however, at 20 feet the view distance is much improved. The southwest quadrant is in similar condition with both views being restricted by vegetation; however, at a proper and safe stopping distance, as the sign requires, the view is reasonable.

Transportation inspector King recommended that the crossing be closed. Various citizens appeared and made statements in favor of keeping the crossing open and further supported the fact that in the event the crossing is closed there would be increased congestion on the "Square" area of Main street at the Depot and Railroad streets intersection. The police chief, chairman of the board of selectmen and the many residents stated that the additional traffic that would be forced to use Southwest street and Railroad or Depot streets would definitely add to an already hazardous condition in the center of Main street, which is also New Hampshire Route 12.

It was pointed out that Southwest street is marginal, at best, in the summer or open months. When winter arrives the street is reduced by at least one vehicle width due primarily to the snowbanks and a cemetery abutting the street on one side, and the town highway garage and a factory on the other. Further testimony revealed that the intersection of Lower Landing road and Southwest street is a near impossibility to negotiate during the winter season when traveling from the former to the latter. The Department of Public Works and Highways' Traffic Division has indicated that the traffic count for a week in the latter part of May produced an average daily figure of 350. Accordingly, this figure, even though it may appear high for a street of this type, is, in fact, moderate. Train service consists of two regularly scheduled passenger and four freight movements.

In 1963 a nonfatal accident inspired a hearing to determine if the crossing should be closed and Order No. 8186 was issued requiring stop signs. (See DT 4253, NHPUC 574.) In 1979 a multiple fatality that received much adverse publicity subsequent to which the present investigation began occurred. It would appear that the highway traffic has increased over that of 1963. However, the motor vehicle operators have been extra cautious of this crossing being aware of the dangers involved.

An alternative to closing would be protection with crossing lights activated by approaching trains. The cost of these, which was brought out at the hearing, could be apportioned to the town or railroad, or both. The approximate cost would be by railroad statement $30,000. It was the consensus of the participants that these lights would be acceptable.

The Lower Landing road westerly approach has been altered by the removal of a level area just west of the track. This reasonably level surface made an excellent stopping area before entering the crossing. It was created as such subsequent to the 1963 hearing and order. When the installation of a sewer main was completed, the level was not restored. It was indicated by some participants that this should be returned to the previous condition to enhance the stopping and starting ability of motor vehicles at the crossing. It would also put the vehicle in a better position for visibility purposes.

The evidence presented in this proceeding, both by hearing and investigation makes it very apparent that the conditions at the crossing require extreme care and the lack of accidents reported in the past indicate that those using the crossing are well aware of these conditions. Regardless of this awareness, if the warnings and stop signs are ignored, either intentionally or unintentionally, the results could be and have been fatal.

It is apparent from the facts set forth in this proceeding, that the highway involved is one of the oldest in the state and was in use prior to the construction of the railroad. Considerable discussion involved the improvement of the adjacent roads, one of which leads to the track via a protected crossing just south of the location of the former railroad station and the other a narrow access to Route 12 to the south which involves an overhead highway bridge on this route. It is the position of the town that it has insufficient land on which to improve and widen the Southwest street, which is the access via the protected crossing and there is no desire on the part of the selectmen to provide an alternate route via other means.

In the former case which resulted in a commission order to require stop signs there was less highway traffic but there were more trains passing over the crossing than there are at present. Considerable expansion has been made along the Lower Landing road and its use as a picnic area and boat landing has increased particularly during the summer season.

The use of the stop sign has undoubtedly had a very beneficial effect, but in a recent case involving a very serious accident it is apparent that the stop signs were not obeyed. We have no knowledge as to whether the traveling public generally obey these signs at this location and it is questionable under present circumstances whether all vehicles stop before passing over this crossing with such few train movements, not more than six in any 24-hour period.

While the statute under which this commission obtains its jurisdiction confines the apportionment of costs between the railroad and the town or the railroad and the state depending upon the political subdivision governing the highway adjacent to the crossing, federal funds have been made available for increasing highway safety at railroad crossing. Since the hearing, the town of Charlestown has applied for these federal funds for the use in the installation of the double automatic flashing lights which are the approved type of protection universally accepted for warning the approach of trains. The allocation of these funds depends upon the Department of Transportation working through the New Hampshire Department of Public Works and Highways and it is reasonable to expect that this crossing can be installed within the next two years through this program. Thus through cooperative procedure the installation of signals can be provided without the necessity of the commission's having to apportion the costs between the railroad and the town of Charlestown.

Upon consideration of all the facts the commission is of the opinion that it should authorize the installation of automatic flashing signals to provide a warning upon the approach of trains, the same to be installed as soon as appropriate plans and funding can be arranged; and, that the "stop" and "stop ahead" warning signs set forth in Order No. 8186 issued December 12, 1963,

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should be maintained; and, that the west approach be returned to a similar condition that prevailed prior to the installation of the sewer main by regrading the highway surface to provide

a level area west of the west rail for stopping vehicles before passing over the crossing to allow for better views of the track north and south; and, that a stop line be painted on the highway surface, on the right lane on each approach in line with the stop signs which should be located 15 feet from the nearest rail; and, that a continuous flashing red warning light be installed on masts to the right of the highway at each approach at a distance not less than 12 feet from the center line of the track.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the New Hampshire Department of Public Works and Highways be, and hereby is, authorized to install automatic flashing lights at the Lower Landing road crossing in the town of Charlestown, identified as AAR DOT No. 052785E as soon as funding is available; and it is

Further ordered, that the provisions of Order No. 8186 in DT 4253, dated December 20, 1963, be, and hereby are, affirmed and should continue in effect until further ordered by this commission or until the automatic flashing lights authorized herein are placed in operation; and it is

Further ordered, that the town of Charlestown regrade the highway immediately west of the crossing to provide a reasonable level stop area for vehicles approaching the crossing from the west and paint a white stop line on the highway surface at each approach on the right hand lane in line with the stop signs; and it is

Further ordered, that the town of Charlestown erect continuous flashing red warning lights at the right hand side of the highway at each approach no less than 12 feet from the center line of the track but no greater than the stop signs; and it is

Further, ordered, that at such time as the automatic signals are in operation the provisions of Order No. 8186 be, and hereby will be, revoked.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of July, 1979.

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NH.PUC*07/27/79*[78349]*64 NH PUC 259*Public Service Company of New Hampshire

[Go to End of 78349]

Re Public Service Company of New Hampshire

DR 76-46, 42nd Supplemental Order No. 13,758

64 NH PUC 259

New Hampshire Public Utilities Commission

July 27, 1979

PETITION for authority to apply a fuel adjustment charge to regular monthly billings; granted.

RATES, § 303 — Kinds and forms of rates and charges — Variable rates based on cost — Fuel clauses.

[N.H.] The request of an electric company for permission to apply a fuel adjustment charge to regular monthly billings to customers was granted upon a finding by the commission that the proposed charges were just and

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reasonable and in accordance with all pertinent provisions of law.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Harold T. Judd for the Legislative Utility Consumers' Council; and Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A (II), the commission on July 19, 1979, held a hearing on the petition of Public Service Company of New Hampshire for authority to apply a fuel adjustment charge to regular August, 1979, monthly billings to its customers.

Reference may be made to previous commission decisions in this docket for statements and explanations to the fuel adjustment clause.

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire on July 17, 1979, filed with this commission 17th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect August 1, 1979.

The company reported a fuel cost above base of $5,751,612 and total kilowatt-hours subject to the fuel adjustment of 419,827,000 resulting in a rounded per-kilowatt-hour charge of $0.0137.

The fuel adjustment charge of $1.37 per hundred kilowatt-hours is proposed to go into effect in the month of August, 1979.

This month's proposed rate is 31 cents per hundred kilowatts lower than last month's for several reasons. The generation of electricity from the company's more expensive oil generating plants was down, while the generation by Merrimack Units 1 and 2 and Maine Yankee was up. The lost and unaccounted for electricity was down, and the purchases of secondary power for NEPEX were down, while sales to NEPEX were up.

The company discussed the concept of leveling off the fuel surcharge to its customers by lengthening the filing period to quarterly from monthly.

The following companies: Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative,

Inc., Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, and Woodsville Water and Light Department submitted their fuel adjustment calculations for the subject period, and the commission having reviewed the calculations, accepted said calculations were prepared accurately.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of August, 1979, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 17th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly

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fuel surcharge of $1.37 per hundred kilowatt-hours for the month of August, 1979, be, and hereby is, permitted to become effective August 1, 1979; and it is

Further ordered, that 54th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of $1.29 per hundred kilowatt-hours for the month of August, 1979, be, and hereby is, permitted to become effective August 1, 1979; and it is

Further ordered, that 49th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of $1.40 per hundred kilowatt-hours for the month of August, 1979, be, and hereby is, permitted to become effective August 1, 1979; and it is

Further ordered, that 28th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 45 cents per hundred kilowatt-hours for the month of August, 1979, be, and hereby is, permitted to become effective August 1, 1979; and it is

Further ordered, that 17th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.15 per hundred kilowatt-hours for the month of August, 1979, be, and hereby is permitted to become effective August 1, 1979; and it is

Further ordered, that 59th Revised Page 15A of Granite State Electric Company tariff, NHPUC No.8 — Electricity, providing for the monthly fuel surcharge of $1.86 per hundred kilowatt-hours for the month of August, 1979, be, and hereby is, permitted to become effective August 1, 1979; and it is

Further ordered, that 11th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of $1.41 per hundred kilowatt-hours for the month of August, 1979, be, and hereby is, permitted to become effective August 1, 1979; and it is

Further ordered, that 17th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 60 cents per hundred kilowatt-hours for the month of August, 1979, be, and hereby is, permitted to become effective August 1, 1979; and it is

Further ordered, that 33rd Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 49 cents per hundred kilowatt-hours for the month of August, 1979, be, and hereby is, permitted to become effective August 1, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of July, 1979.

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NH.PUC*07/27/79*[78350]*64 NH PUC 262*Public Service Company of New Hampshire

[Go to End of 78350]

Re Public Service Company of New Hampshire

DF 79-100-6205, Order No. 13,759

64 NH PUC 262

New Hampshire Public Utilities Commission

July 27, 1979

PETITION of an electric utility for authority to transfer a portion of its interest in a nuclear generating plant; granted as modified.

CONSOLIDATION, MERGER, AND SALE, § 52 — Terms and conditions — Purchase or sale price.

[N.H.] Where an electric utility claimed that it was financially unable to retain its entire interest in a nuclear generating plant due to the enactment of a law prohibiting the inclusion of construction work in progress in the rate base and requested authority to transfer a portion of that interest to other participants in the project, the commission, upon examination of the utility's entire financial situation including revenues attributable to operations regulated by neighboring states and the Federal Energy Regulatory Commission, found that in-state customers were subsidizing the utility's out-of-state operations through higher rate schedules, and therefore approved only those proposed transfers in which the entitlements the utility would receive consisted of either the full cost of the interest transferred or other considerations beneficial to in-state operations, such as the right to buy-back power, if in fact the utility was not to receive full cost.

APPEARANCES: Martin Gross and Philip Ayers for Public Service Company of New Hampshire; Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

This case involves the petition by Public Service Company of New Hampshire (hereinafter referred to as PSNH) to divest itself of 22 per cent ownership in Seabrook Units I and II. The petition was filed on May 4, 1979, with the commission, after notice to the public, a hearing was held on the merits on May 22, 1979, pursuant to an order by the commission dated May 4, 1979. An additional hearing was held on May 28, 1979, at which time further inquiry into the merits was conducted. At that time a member of the public, John Harrison, provided his thoughts to the commission.

Public Service Company of New Hampshire states that in filing this petition they are doing so reluctantly. The company states that the petition is a result of the passage of HB 155 which prohibited the inclusion of construction work in progress in the rate base and also prohibited utility rates and charges from being based in any manner on construction work in progress. Public Service Company of New Hampshire states that it has reviewed the financial situation and finds that without CWIP the company can only retain between 25-30 per cent of Seabrook. The company, in its petition, requests that the commission approve transfers in order to bring the company's Seabrook participation down to the 28 per cent level. The company asks that the commission look only at the

financial integrity of the company and ignore the question of need for power and changes in its financial arrangements such as its first mortgage indenture.

The Legislative Utility Consumers' Council, (hereinafter referred to as LUCC) maintains the commission should examine (1) the need for power, (2) the financial instruments of the company such as the first mortgage bond indenture, and (3) the question of whether or not PSNH has received the full cost of the ownership shares which it seeks to transfer. John Harrison asks the commission to be concerned about the (1) need for power and (2) the fact that Seabrook is a valuable asset.

Before addressing the issues presented by the parties to this proceeding a review of Public Service Company's revenue sources is an appropriate step. Public Service Company does not merely serve New Hampshire customers directly rather it is also responsible for generating power to meet the needs of a group of smaller electric utilities, cooperatives and municipals and their customers. In addition PSNH sells electricity directly to customers in Maine and Vermont. The rates charged by PSNH to its wholesale customers are governed by the Federal Energy Regulatory Commission (FERC) and the rates in effect for PSNH customers in Maine and Vermont are governed by the respective public utility commissions in those states.

Public Service Company of New Hampshire recently requested a 24 per cent increase in the basic rates to its New Hampshire retail customers. The commission allowed approximately a 22 per cent increase in the basic rates in its decision. Re Public Service Co. of New Hampshire

(1978) DR 77-49. Public Service Company then applied to the FERC for a two-part increase. The first step was a 7.7 per cent increase in rates and the second step was an increase to reflect the inclusion of CWIP or revenues of an equivalent nature. Re Public Service Co. of New Hampshire EL 78-15, ER 78-339. The second step increase ranged in estimation from 25 per cent to 40 per cent. The last increase sought before the Vermont commission became effective May 1, 1975, and the last increase before the Maine commission became effective on March 2, 1976.

The above review is necessary if the commission is to evaluate the financial situation of PSNH. After all the company's financial situation including revenues, expenses, dividends, and the like is based on the company's entire operation not just the portion regulated by this commission. The projections made as to power needs as well as the construction program embarked upon to meet needs includes the needs of all its customers whether they be retail or wholesale New Hampshire, Maine, or Vermont.

The company in its most recent filing with the Securities and Exchange Commission (SEC) states that the company is intending to file for increased rates before this commission sometime before September 30, 1979. Nowhere does the company provide any indication that it intends to file in Maine or Vermont during 1979.

As to the FERC proceeding, where the commission is a party, the company in a letter from its Washington counsel dated May 29, 1979, states that if the company is successful in its transfers the company will withdraw its application for CWIP (or the equivalent revenues).

The commission in attempting to evaluate the merits of the petition cannot

restrict its evaluation merely to the New Hampshire retail portion of the financial ledger. As the New Hampshire supreme court indicated in New England Teleph. & Teleg. Co. v New Hampshire (1949) 95 NH 353, 78 PUR NS 67, 64 A2d 9:

"While the jurisdiction of the commission is confined to New Hampshire intrastate rates, it is not required to fix them in a vacuum, or to close its eyes to the company's conduct of its affairs in neighboring states where comparable conditions are to be anticipated. This is not to say that rates in New Hampshire may be fixed according to a standard of rates effective elsewhere. New Hampshire rates must reflect the proper and reasonable costs of business here. But a comparison of rates which reveals a differential not reasonably to be expected under conditions commonly regarded as comparable may be thought to make suspect the reasonableness of the various components relied upon to sustain the higher rates. No exposition of factors which might account for the apparent differential was undertaken by the company." 95 NH at pp. 362, 363, 78 PUR NS 67.

A review of the rates being charged New Hampshire retail customers as compared to Maine, Vermont, and wholesale customers reveals a subsidization by New Hampshire retail customers as to all other customers. For example, the following table illustrates the differences between New Hampshire retail residential customers and their counterparts in Maine and Vermont as to basic rates (exclusive of fuel adjustments which are the same):

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Usage	New Hampshire Rates	Maine Rates	Vermont Rates	New Hampshire Excess	Per Cent Excess
250 Kwh	14.70	12.08	12.08	2.62	21.68
500 Kwh	24.55	20.51	20.51	4.04	19.70
750 Kwh	33.43	27.76	27.76	5.67	20.42
1000 Kwh	42.31	35.01	35.01	7.30	20.85

A comparison of the wholesale customers and PSNH is somewhat more difficult in that the basic rates include different cost-of-service studies and the fuel adjustment clauses are based on different time periods. However, by examining the bottom line as to various residential customers' usage blocks the same pattern is revealed. The following table is illustrative:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Kwh* Usage	Public Service Company of New Hampshire Retail	Concord Retail	Exeter and Hampton Retail	Largest Dollar Differential	Largest Per Cent Differential
250	$18.43	$17.61	$16.24	$2.19	13.5
500	32.00	27.98	28.21	4.02	14.4
750	44.60	37.77	38.28	6.83	18.1
1000	57.20	47.55	50.35	9.65	20.3

N. H. Electric Cooperative, Inc. is excluded since it does not buy all its power from PSNH and the effect of the Maine Yankee shutdown distorts their rates upward for May; although their rates are still approximately 8 per cent lower.

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Obviously, the major portion of the difference between the charges to PSNH retail customers and wholesale customers results from the differential between the increase of 22 per cent to the former and the 7.7 per cent to the latter.

The New Hampshire statutes require us to (1) maintain adequate energy for all customers of the state, (RSA 374:1); (2) set just and reasonable rates (RSA 378:7) which requires us to maintain the financial integrity of the company as well as protecting the customers from unreasonable or unjust rates, and (3) finally, to make sure that no public utility gives undue preference to any locality, person, corporation, or description of service. (RSA 378:10.)

On the basis of the evidence before us together with the records of the commission it appears that PSNH may be violating RSA 378:10 by giving preferential treatment to its out-of-state retail customers and its wholesale customers.

Why this factor is of importance to this proceeding is elementary. If the proper levels of revenue were being received by this company from the other portions of its operations, a larger portion of Seabrook could be retained. The company itself admitted that their financial model allowed them to keep between 25-30 per cent of Seabrook without CWIP. The fact that the company has not presented sufficient evidence to prove the gap between 28 per cent and 30 per cent in addition to the aforementioned subsidization results in this commission concluding that some level of Seabrook in excess of 30 per cent can be maintained without CWIP.

Another disturbing factor in the comparison between wholesale and retail rates is the

company's alleged offers to other New Hampshire utilities (its wholesale customers). The company released to the press a statement whereby it maintained it was going to offer a portion of Seabrook to its wholesale customers. Yet at the hearing the company testified that their wholesale customers were going to receive their interests in Seabrook from United illuminating. However, when United Illuminating filed its petition for divestiture with this commission, there was no request for sale or transfer to the wholesale New Hampshire utilities. (See Re United Illum. Co. DF 79-142-6205.)

The result from this situation is the following: (1) Public Service Company of New Hampshire is still obligated to provide the energy needs of its wholesale customers; (2) it has chosen neither to charge them the same percentage level of rates as New Hampshire retail customers; (3) nor has it allowed them to satisfy their own generation needs by owning a portion of the plant. This last point is extremely important given that the New Hampshire Electric Cooperative, Inc. could avail itself of less expensive financing through REA financing than can PSNH and that the wholesale customers particularly the municipals have a chance to avail themselves of HB 881.

The commission cannot be in the situation of allowing the customers it governs to pay higher rates to maintain the financial integrity of the company and to make sure there is adequate energy to serve their needs and then allow wholesale customers and out-of-state customers to continue to place their energy demands on PSNH system without paying their fair share.

The company has the following alternatives; (1) charge its out-of-state and wholesale customers a rate similar to the rates in effect from time to time in its New Hampshire retail jurisdiction; (2)

sell off its equipment and territorial rights which allow PSNH to serve its out-of-state customers; and (3) provide an opportunity to its wholesale customers to buy a portion of Seabrook.

The commission does recognize that if the company availed itself of the above it would not allow the company under its present financial condition to maintain 50 per cent of Seabrook or to be available for customer usage in New Hampshire. However, the commission believes that it can ill afford to be in a position of either approving a 28 per cent ownership or a 50 per cent ownership. Consequently, each transfer will be viewed on its own merits. In doing so the commission will take notice of its records and specifically the following table received by the commission listing the entitlements PSNH has received from other utilities in return for the transfer of its ownership shares in Seabrook. This table also lists the buy-back provisions that are the result of negotiations between PSNH and the other owners of Seabrook in consideration of the transfer. The commission received this information pursuant to its need for power investigation and will allow any party who objects to the consideration of this material to reopen the record for further clarification, or to dispute the taking of administrative notice. A review of the record indicates the concern by the three commissioners as to what PSNH was receiving in return for its transfer. The table is as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
STATUS OF BUY-BACK ARRANGEMENTS RE SEABROOK
AND SEARS ISLAND OWNERSHIP

Seabrook Buy Back

MMWEC
MMWEC (2)
Central Vermont
/s/
Sears Island
Central Maine
Green Mountain
Total

(1)November 1 of one year to October 31 of succeeding year.
(2)PSNH will purchase up to but not exceeding 6 per cent of the capacity
of each of the units and the related energy.

The LUCC concern in all these transfers relates to whether or not the company is receiving the full cost of the interest it transfers. The company argues that it is receiving all that it can under existing situations. The LUCC also concerns itself with whether a lump sum transfer like the one initiated by United Illuminating is more preferable for ratepayers than the transfer proposed by PSNH. Public Service Company of New Hampshire argues that such a transaction would result in capital gains and corresponding taxes and the first mortgage indenture imposes a limitation on the company's ability to realize cash through a lump sum sale.

Both parties raise excellent points.

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While the commission initially believed that the company was transferring the entire interest in exchange for assumption by the transferee of all costs including financing costs, subsequent review of the record and knowledge of the Vermont Commission's decision on the acquisition of Seabrook interests by Vermont utilities has led to doubt as to the validity of that belief. Furthermore, there remains a question as to whether the Seabrook agreement signed by all owners of Seabrook does not require the inclusion of AFUDC in any transfer.

The question what this transfer agreement states as conditions of payment is not clear. If the company has not in fact sought the full cost, a resolution will need to be made by this commission if the company seeks to have New Hampshire ratepayers pay for some other ratepayers' plant. Consumers are only required to pay a return on plant that serves them. Costs associated with plant that does not serve New Hampshire ratepayers can not be charged to those ratepayers since to do so would contravene the principles of just and reasonable rates which is the sole determinant in public utility regulation in New Hampshire. Legislative Utility Consumers' Council v Public Service Co. of New Hampshire —. (1979) 119 NH However, the unreasonableness of such situations can be mitigated if the company proves it received some other considerations in exchange if it in fact has not received full cost.

Central Vermont Public Service

Public Service Company of New Hampshire seeks to transfer one per cent interest (23 mw) to Central Vermont Public Service Co. (CVPS). Public Service Company of New Hampshire has secured from CVPS the use of this capacity for the first seven years that Seabrook is in operation. This will be of benefit to the New Hampshire ratepayers. Consequently, this transfer is approved.

Green Mountain Power Company

Public Service Company of New Hampshire has also sought to transfer one per cent (23 mw) interest to Green Mountain Power Company (GMP). Green Mountain Power Company in return has provided PSNH with a 15 mw entitlement in the Sears Island unit. In addition, the Vermont commission has conditioned the transfer to GMP to include a provision that PSNH buy back any Seabrook power GMP does not need. This will result in certain capacity for PSNH over a yet to be determined time period. This transfer is found to be in the public interest and is, therefore, allowed.

Central Maine Power Company

Public Service Company of New Hampshire seeks to transfer a one per cent (23 mw) interest in Seabrook to Central Maine Power Company (CMP). The company has negotiated a transfer of 15 mw in Sears Island from CMP. While the commission has some reluctance as to this transfer in light of its decision in the Montaup transfer, the commission will approve this transfer of one per cent.

Montaup Electric Company

Public Service Company of New Hampshire seeks to transfer a one per cent (23 mw) interest in Seabrook to Montaup Electric (ME). Montaup

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Electric and Central Maine Power are both before this commission to receive additional shares of Seabrook from United Illuminating. The record reveals that this latter transaction is indeed for full cost. Where the commission is still concerned over the full cost being recovered or some additional consideration if the full cost is not sought by PSNH, the commission will not approve this transfer until (1) the company provides additional evidence as to the terms of this transfer or (2) receives some additional consideration in terms of buy back from Seabrook or entitlements in Sears Island.

Bangor Hydro-electric Company

Public Service Company seeks to transfer a 1.8 per cent interest (41.43 mw) in Seabrook to Bangor Hydroelectric Co. There is enough doubt as to this transfer as to the question of full cost and where further no Seabrook buy back or entitlement in Sears Island has been received, this transfer will be denied until the company presents further testimony or receives additional consideration.

New Bedford Gas and Edison Light Company

Public Service Company of New Hampshire seeks to transfer a 2.1739 per cent interest (50 mw) in Seabrook to New Bedford Gas and Edison Light Company. The considerations expressed in our discussion of Bangor Hydroelectric Company are also relevant here. Therefore, the transfer is not approved until there is further inquiry.

Taunton Municipal Lighting and Hudson Light Power Department

Public Service Company seeks to transfer a 0.01957 per cent interest (0.45 mw) of Seabrook to Hudson Light and a 0.13065 per cent interest (0.3 mw) in Seabrook to Taunton Municipal. The commission will allow these transfers.

MMWEC

Public Service Company of New Hampshire seeks to transfer a 13.87446 per cent (319 mw) interest in Seabrook to MMWEC. The company has received in return buy-back arrangements for 138 mw for four years; 238 mw for three years. While this is certainly a good start, the commission believes additional power buy-back arrangements are necessary. At this time the commission will approve a transfer of 10.87466 per cent and request the company to seek additional arrangements for Seabrook or Sears Island power before ruling on the other 3 per cent divestiture.

The effect of the aforementioned is the allowance by this commission of a transfer of approximately 14.03 per cent of Seabrook. The commission will hold additional hearings on the question of whether the other 7.97 per cent will be allowed to be transferred. At that hearing the company will answer the concerns expressed by the commission elsewhere in this petition and also the following:

1. Why hasn't the company sold its interests in Millstone 3 and Pilgrim 2 which are of a lesser value than proceeding first with its transfer of Seabrook?

2. If the company delayed Seabrook II could the company retain a larger share of the plant?

3. Upon what authority is the company involved in Pilgrim 2 and Millstone 3 and how does RSA 162F impact on the situation?

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4. Will this 14.03 per cent transfer allow the company to obtain a nuclear fuel lease?

5. What have been the company's efforts on obtaining pollution control financing?

6. Can the company received additional revenues from its wholesale customers without CWIP based on its riskier position without CWIP?

Additional hearings on these questions as well as whether or not an additional transfer of 7.97 per cent is necessary will commence on August 16, 1979, at 11:15 and will continue to August 17, 1979.

The commission would like to reiterate once again its belief that Seabrook is necessary for both New Hampshire and New England. Seabrook I and II will both come in at a substantially lower cost than either Pilgrim 2 or Millstone 3. Why other commissions have found Millstone 3 to be of greater value than Seabrook, this commission is at a loss to explain. Our order will issue

accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, granted approval to transfer 14.03 per cent of its interest in Seabrook station to the following transferees:

Central Vermont Public Service — 1 per cent

Green Mountain Power Company — 1 per cent

Central Maine Power Company — 1 per cent

Montaup Electric Company — 0 per cent

Bangor Hydro-electric Company — 0 per cent

New Bedford Gas and Edison Light Company — 0 per cent

Taunton Municipal Lighting and Hudson Light Power Department (Taunton Municipal 0.13065 per cent and to Hudson Light .01957 per cent)

MMWEC — 10.87466 per cent

Further ordered, that the company appear before the commission on August 16 and 17, 1979, to explore the considerations enumerated by the commission in its decision, and it is

Further ordered, that the company's request to transfer an additional 7.97 per cent of Seabrook will be reviewed at the aforementioned hearings.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of July, 1979.

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NH.PUC*07/30/79*[78354]*64 NH PUC 277*Electricity Demand in New Hampshire

[Go to End of 78354]

Re Electricity Demand in New Hampshire

I-SF14,829 et al.

64 NH PUC 277

New Hampshire Public Utilities Commission

July 30, 1979

EXAMINATION of the projections by electric utilities as to growth in peak usage.

SERVICE, § 320 — Service by particular utilities — Electric — In general.

[N.H.] As a result of its statutorily mandated examination of peak usage growth projections

submitted by electric utilities, the commission determined that the state's peak growth rate would be 5 per cent for the next ten-year period.

BY THE COMMISSION:

The Public Utilities Commission pursuant to RSA 162:F;5 is charged with the obligation to examine the projections by New Hampshire electric utilities as to growth in peak usage. Each year for the past seven years the electric utilities in New Hampshire have filed their projections as to peak growth for the next ten-year period. In addition, the commission would receive the projections made by the New England Power Pool for the entire New England region.

As time passed these projections have been gradually revised downward. Changes in the electric utility industry, alterations in the design of rates as well as changes in consumers' patterns have necessitated a more careful analysis of the factors and assumptions that are used in compiling peak forecasts. The electric utility industry to its credit began to recognize that the factors likely to affect usage and peak growth in the late 1970's and the 1980's are markedly different from the factors having an impact in prior to the middle 1970's.

The New England Power Pool (NEPOOL) chose the firm of Battelle to embark upon the development of a demand

forecasting model. Battelle designed a model which examined numerous economic factors and their effect on electrical usage. The basic driving input to the NEPOOL-Battelle model is a long-term economic projection for the nation. This long-term economic projection was developed and prepared by the Wharton Econometric Forecasting Association. The model examines in excess of fifty energy end-use categories in an attempt to capture the many factors currently affecting demand growth.

The model like any forecasting tool relies on certain assumptions and these assumptions together with the data that is used result in the ultimate forecast. This ultimate "bottom line" is done on a state-by-state basis. Individual company forecasts have not been segregated from these state forecasts although the model is capable of such calculations. Furthermore, after state commissions and their staff members attain a technical mastery of the model, different assumptions and data can be used to examine whether the forecast changes and to what degree. Thus, the present model provides insight into the New England peak demand situation which, however, can have increased usefulness through the application of different data sources and assumptions.

The NEPOOL-Battelle model differs from forecasting projections offered by New Hampshire utilities in that it evaluates seven different economic scenarios. These different scenarios are the result of different assumptions as to the price of electricity, population growth, industrial productivity, and the economy.

The New England Conference of Public Utility Commissions (NECPUC) which consists of the twenty commissioners from the six New England states decided that a newly developed

regional energy model should be evaluated on a regional basis. As a consequence the New England commission hired an economic consulting firm.

The firm hired by NECPUC worked together with the representatives from the electric utility industry in charge of preparing the forecasting model. Presentations were made to the commissioners and their staffs by NEPOOL and the economic consulting firm hired by NECPUC, Energy Systems Research Group. Additional presentations were by ESRG at the close of their investigation. Their comments were circulated to each of the New England commissions. New England Power Pool reviewed these comments and submitted their reaction to the assertions made by ESRG. Energy Systems Reseach Group then issued its final report as to their evaluation of the Battelle model.

While this evaluation of the Battelle model was being conducted by ESRG, the Maine commission hired the firm of Arthur D. Little, Inc., to review energy needs in conjunction with the determination as to the feasibility and desirability of Sears Island.

In relating this Battelle model to New Hampshire and evaluating the strength of the model, the commission will rely for the immediate near future on the comments made by ESRG and Arthur D. Little, Inc. Both of these consulting firms were at the time of their employment working for New England public utility commissions; consequently the commission finds their comments of great validity. Both indicated a preference for the Battelle model over previous forecasting methods used by the New England electric utility industry. Arthur D. Little, Inc., in its report found the Battelle model to "be sophisticated and

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very reasonable indeed the project contains many admirable features." Energy Systems Research Group made similar comments as to sophistication and the intricacy of the detail studied which is "necessary to capture the many factors currently affecting demand growth."

The NEPOOL-Battelle model forecasts the following for New Hampshire on a statewide basis as to peak growth:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Letter	*Scenario*	*Per Cent Compound Annual Growth Rate*
G	Strong economic growth with declining real price of electricity	5.9
C	Declining real price of electricity	5.9
B	Constant prices of electricity	5.5
E	Strong economic climate	N.A.
A	Base case	5.0
F	Weaker than base case economic climate	4.6
D	Increasing electricity prices	4.2
H	Weaker economic climate with high electricity prices	3.7

While the two consulting firms believe the model to be an improvement over those used by the individual New England utilities in the past, both believe that the model tends to overestimate the growth rate of peak growth. While ESRG indicated where it believed the model overstated growth it did not attempt to quantify the extent of this alleged overestimation. The Arthur D. Little firms also provided insight into what aspects of the model led to its alleging an

overestimation of peak. However, in its attempt to validate the model — i.e., to check how well it performed over the prior historical period and to calibrate it to the historical data — the Little firm arrived at an overestimation of 0.88 per cent per year.

Upon reading the ESRG and Little reports the commission is convinced of their value. However, the commission is also convinced that the NEPOOL model is a step forward by the electric utility industry to more competent forecasting. Since the model lends itself to being used by public utility commissions, the commission will in the near future initiate computer runs designed to measure some of the concerns and factors raised by ESRG and Arthur D. Little.

In the interim pursuant to RSA 162-F and 374:1, the commission finds the peak growth rate (as opposed to sales growth rate) for the state of New Hampshire to be the base case (A) used by Battelle; namely 5 per cent. The commission reaches this conclusion on the basis of the following:

a. The high economic climate and low electricity price scenarios do not at this time seem rational given the admission by the federal executive branch that the nation is in recession coupled with the major increases in oil prices that translate into higher electric rates in New Hampshire.

b. The largest utility in the state has a five-year average of 4.39 per cent as its growth on peak (compounded basis).

c. Assuming the correctness of the findings by Arthur D. Little the 0.88 per cent lowers the highest growth rate scenario to 5 per cent.

d. New Hampshire is unlikely to be hit as hard by a recession as other parts of the nation because of its offsetting advantages that encourage growth.

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The commission requests that in all future peak projection filings made at this commission that the companies supply not only their projections but also their work papers. In the interim the commission is continuing to receive expert assistance so as to refine its evaluation in sharper detail. However, for the purposes of RSA 162-F the commission will use 5 per cent as a peak projection for the state of New Hampshire as a whole. This finding will stand until the commission completes its evaluation process and has the opportunity to run different scenarios through the Battelle model. In this way the commission can alter its peak projections, from time to time as the economic determinants change.

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NH.PUC*07/31/79*[78351]*64 NH PUC 269*Revision of Overhead Line Extension Policies

[Go to End of 78351]

Re Revision of Overhead Line Extension Policies

DR 79-29, Third Supplemental Order No. 13,760

64 NH PUC 269

New Hampshire Public Utilities Commission

July 31, 1979

INVESTIGATION into modification by electric utilities of their overhead line extension plans.

SERVICE, § 176 — Extensions — In general — Extension rules and regulations.

[N.H.] The tariff revisions filed by electric utilities modifying overhead line extension plans, which increased customer charges for obtaining service where line extensions were involved because of increased costs of construction and other related costs of doing business, were rejected as filed, where the commission found that the evidence did not compel acceptance of the changes proposed by the utilities; the utilities were directed to file revised tariffs reflecting modifications as ordered by the commission.

APPEARANCES: Thomas W. Morse for New Hampshire Electric Cooperative, Inc.; Franklin Hollis for Concord Electric Company and Exeter and Hampton Electric Company; William G. Hayes for Granite State Electric Company; Gerald cook for Connecticut Valley Electric Company, Inc.; Pierre Caron for Public Service Company of New Hampshire; and Roland Ferland, pro se.

BY THE COMMISSION:

Report

On the dates indicated, the following listed electric companies, all duly organized New Hampshire corporations operating as public electric utilities in various parts of New Hampshire, filed related revised tariff pages modifying their overhead line extension plans as set forth in their respective tariffs:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Company	*DateEffective Filed*	*Date*
New Hampshire Electric Cooperative, Inc. (hereinafter called "Cooperative")	1/30/79	3/1/79
Concord Electric Company (hereinafter called "Concord")	3/30/79	5/1/79
Exeter and Hampton Electric Company (hereinafter called "Exeter")	3/30/79	5/1/79
Granite State Electric Company (hereinafter called "Granite")	1/30/79	Left Open
Connecticut Valley Electric Company, Inc. (hereinafter called "Connecticut Valley")	3/23/79	Left Open

Those tariff pages with effective dates were suspended by appropriate commission orders prior to the effective date pending investigation. On May 15, 1979, the commission ordered a

public hearing be held on Wednesday, June 20, 1979, at its office in Concord for the purpose of receiving appropriate testimony and exhibits in support of the above filings to assist the commission in making a proper determination as to an appropriate line extension plan. Public Service Company of New Hampshire (hereinafter called "Public Service") was also included in the commission order of May 15, 1979, as being required to make a submission even though Public Service had not made a tariff filing because, as explained later in this report, it had not completed its study of this matter.

The thrust of these tariff filings has been to propose increased customer charges for obtaining service where line extensions are involved, due to the increased costs of construction and other related costs of doing business.

Five general changes proposed:

1. A major conceptual change is incorporated in the new filings. Presently a minimum guarantee of revenue is called for at the rate of three cents per foot of line extension in excess of a "free" distance

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(300 feet per customer), which permits the use of electricity up to the amount of the guarantee without an additional charge. Under the new concept, a surcharge of five cents per foot of line extension in excess of the "free" distance is called for, in addition to payment for electricity at the regular filed rate;

2. The distance that overhead lines will be extended at no cost to the customer has been reduced from 300 feet to 200 feet per customer;

3. The line extension period to which additional charges are applicable has been increased from sixty months to ninety-six months;

4. Extensions on private property beyond 200 feet will be paid for entirely by the customer prior to his receiving service, rather than as contained in the present policy under which certain costs are shared relating to the first 2,000 feet;

5. The amount which a customer will pay for three-phase line extension costs on public ways which are in excess of single-phase costs has been changed from 1.7 per cent of those excess costs used to set part of the monthly minimum electric service bill to 2 per cent of the excess costs added as a surcharge to the monthly electric service bill, except that the charge proposed by Connecticut Valley and Granite is a 2 per cent surcharge on the investment necessary to provide three-phase service (excluding meters and transformers).

A summary of the data submitted by the companies showing costs involved is set forth in tabular form below:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

TABLE A
DERIVATION OF COST PER FOOT

Company
Cooperative
Concord
Exeter

Granite
Connecticut Valley

Extensions of less than 300 feet included in totals. **Arithmetical Average of 7 Extensions.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

TABLE B
DERIVATION OF ANNUAL CARRYING CHARGES
AS A PER CENT OF PLANT INVESTMENT

Company
Cooperative
Concord
Exeter
Granite
Connecticut Valley

On Net Plant

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

TABLE C
DERIVATION OF MONTHLY SURCHARGE
PER FOOT OF LINE

Company
Cooperative
Concord
Exeter
Granite
Connecticut Valley

Public Service submitted no testimony other than a statement by counsel, who stated that the company did not expect to complete its study on this matter until later in the year; that preliminary studies tend to support the five cents surcharge, but not the change from 300 feet to 200 feet "free" distance allowance, or the extension of the payment period from sixty to ninety-six months. Counsel did indicate that Public Service would be agreeable to filing a revised line extension plan subject to further consideration and possible modification at the completion of its study on this matter.

Mr. Roland Ferland testified on his own behalf that as a builder and developer he was liable for monthly extension payments where he arranged to have service extended to a development and sold a lot on which the new owner delayed building construction. He was of the opinion that the company's rates included provision for expansion.

Upon investigation and consideration of the evidence submitted, the commission makes the following findings on the matters involved in this case:

(1) Reduction of the distance that an overhead line will be extended at no cost to the customer from 300 feet to 200 feet.

The commission heard no compelling evidence to change the existing practice. The present 300-foot allowance is of long standing and is even more logical now with larger lots being required in many areas as a result of zoning. This portion of the plant is supported by the general

rate structure and we find that it should be continued to be so supported.

(2) Increase of the line extension payment period from sixty months to ninety-six months.

Here again no overriding evidence was submitted to support changing the payment period. The 60-month or five-year period comes from the time when the guarantee of revenue was 20 per cent of the cost — thus the cost of the line would be returned in five years.

Under the surcharge concept more of the total monthly payment by the customer will be available to support the investment than under the guarantee of minimum revenue; thus we find that the 60-month or five-year period, is an adequate period to require payment of the surcharge.

(3) Extension on private property beyond 200 feet to be paid for entirely by the customer, instead of beyond 2,000 feet.

We find there is merit for a slight change in the existing plan. Extensions on private property are generally for the benefit of one customer, and by virtue of being on private property offer little opportunity of improving customer density on the line. We found insufficient evidence in the record to authorize the

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2,000-foot figure; however, and we will set a figure of 300 feet in order to maintain a standard of consistency and ease of customer understanding, due to the use of the 300-foot figure on public rights of way.

(4) Increase of minimum guarantee of 1.7 per cent to a surcharge of 2 per cent for excess costs of three-phase service.

Extensions of three-phase service under an extension plan are relatively infrequent; and then generally involve commercial enterprise. We find the increase from 1.7 per cent and 2 per cent to be within reasonable limits for this type customer service, and approve the tariffs as filed. We note that Connecticut Valley's and Granite's three-phase extension plan differs somewhat from the other filed tariffs, but the end result is not dissimilar and the frequency of use is not sufficient to require complete uniformity in this tariff area.

(5) Change in customer charges for extensions in excess of "free" distance from an additional monthly minimum of three cents per foot to a surcharge of five cents per foot.

Data set forth in Table C above indicates support for a monthly surcharge ranging from 4.04 cents to 6.29 cents per foot, with an adjusted figure of five cents per foot to reflect the commission's desire for a uniform figure so as to maintain a long-standing practice. The Cooperative, with its lower cost of capital, derives a figure of 4.04 cents, but makes no allowance for the declining value of the line extension over its useful life. Allowing for the declining value of the extension over its useful life, and the corresponding decline in the average annual carrying charges, would reduce this figure by approximately one cent per foot.

Connecticut Valley also makes no allowance for declining value, and the other three companies make only a limited allowance for this factor. Making corresponding adjustments would reduce these figures also by approximately one cent per foot. As we indicated above, the changes in concept from a minimum guarantee of revenue to a surcharge over and above the

regular bill for service results in a substantial customer increase. In view of this and the adjustment noted for the declining net investment, it is our judgement that a four cents per foot monthly surcharge represents a fair and reasonable change at this time.

With respect to Mr. Ferland, the evidence shows that only a relatively short "free" distance is initially supported by the general rate structure, and where extensions to outlying areas or new developments are made, the additional costs must be supported, for the most part, by the customers involved. If Mr. Ferland sells a parcel of land, the value of which is enhanced by the availability of electric service paid for by Mr. Ferland, it would seem that he must look for his reimbursement from the land sale price. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the tariff pages set forth below, filed by the various companies, some with an effective date and some undated, be, and hereby are, rejected:

(1) *New Hampshire Electric Cooperative, Inc.*

First Revised Pages 9 through 13 — NHPUC No. 8 — Electricity.

(2) *Concord Electric Company*

First Revised Page 11B, Second Revised Pages 12 and 13, and Fourth

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Revised Page 1 — NHPUC No. 6 — Electricity.

(3) *Exeter and Hampton Electric Company*

First Revised Pages 13 and 14 and Second Revised Page 12 — NHPUC No. 11 — Electricity.

(4) *Granite State Electric Company*

First Revised Pages 11 and 12 — NHPUC No. 8 — Electricity.

(5) *Connecticut Valley Electric Company, Inc.*

First Revised Pages 10 through 15 — NHPUC No. 4 — Electricity; and it is

Further ordered, that all of the above listed companies and Public Service Company of New Hampshire file new tariff pages setting forth line extension conditions and charges to reflect the commission's findings expressed in the foregoing report, for effect as of the date of this order; and it is

Further ordered, that customers presently being served under existing line extension plans or added to existing line extensions within the guarantee period which requires a reapportionment of charges, or for whom a company has received an application for service prior to the date of this order, shall be served under line extension plans in effect immediately prior to the date of this order.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of July, 1979.

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[Go to End of 78352]

Re Public Service Company of New Hampshire

DF 79-100-6205, Supplemental Order No. 13,763

64 NH PUC 274

New Hampshire Public Utilities Commission

July 31, 1979

ORDER changing hearing date of Seabrook transfer.

BY THE COMMISSION:

Supplemental Order

This commission by Report and Order No. 13,759 dated July 27, 1979, set August 16, 1979, and August 17, 1979, for further consideration of its views expressed in said decision; it is

Ordered, that said August 16, 1979, and August 17, 1979, as previously set by said order are hereby changed to *August 20, 1979, at 9:30* A.M. and *August 21, 1979, at 11:00* A.M. at said hearings the company's request for transfer of an additional 7.97 per cent of Seabrook will be reviewed.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of July, 1979.

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[Go to End of 78353]

New Hampshire Electric Cooperative, Inc. v David L. Bashaw

IE14,855, Order No. 13,765

64 NH PUC 275

New Hampshire Public Utilities Commission

July 31, 1979

APPLICATION for extension of electric service; granted.

SERVICE, § 181 — Extensions — Factors affecting duty to extend — Expense and difficulty.

[N.H.] Where an electric company appealed a directive to provide service under the terms of its present line extension tariff claiming that the extension was uneconomical, would require subsidization by other ratepayers, there was no prospect of other new customers on the extension, and the cost of construction would exceed anticipated return, the commission rejected the company's offer of alternate methods of service and ordered extension under the existing tariff terms, finding that the request was within the scope of the company's line extension policy and that no extraordinary construction costs would be incurred.

APPEARANCES: Thomas W. Morse for New Hampshire Electric Cooperative, Inc.; David L. Bashaw, pro se.

BY THE COMMISSION:

Report

By letter of May 10, 1979, the New Hampshire Electric Cooperative, Inc. requested that this commission schedule a public hearing in a matter involving an application by David L. Bashaw for electric service in East Andover, New Hampshire.

The request was in effect, an appeal of a commission staff directive dated May 7, 1979, for the company to provide the requested service under the terms and conditions of the company's present line extension tariff.

The parties were notified by commission letter of July 13, 1979, of a hearing to be held on the matter at the office of the commission on duly 24, 1979, at 9:30 A.M. Appearances were noted by Thomas W. Morse for the Cooperative and David L. Bashaw, pro se.

John Pillsbury, manager, New Hampshire Electric Cooperative, Inc., testified that the company denied service to Mr. Bashaw under the filed extension rate on the basis that such extension was of an unusual character, that it was uneconomic, and would require subsidization on the part of the other ratepayers. He observed that there was no prospect of any additional new customers on the extension and that the present cost of construction, at $3.30 per foot, so much exceeded the anticipated return which would result from the revenues authorized by the line extension plan as to cause the company to conclude that they could provide the service only on other bases. The company submitted an exhibit comprising a letter dated April 4, 1979, in which the company offered service under two alternate methods:

1. The provisions of a new proposed line extension rate currently before this

commission for consideration providing for, in this case, monthly minimum payments of $88.30 for a period of ninety-six months and

2. A special contract with terms providing for a 20 per cent contribution of the total estimated construction costs equaling $6,200 payable prior to construction and, thereafter, annual payments of an additional 20 per cent from which the New Hampshire Electric Cooperative, Inc., would deduct an amount equal to revenues exclusive of fuel charges derived by the New

Hampshire Electric Cooperative, Inc., from any and all other customers on the installed line.

Mr. Bashaw submitted an exhibit identifying a letter of April 16, 1979, which he had submitted to the commission requesting our intervention in the matter. He summarized that he had first requested information regarding the new service in March, 1978, and that since that time he had received many delays from the New Hampshire Electric Cooperative, Inc., in regard to the estimated costs and technicalities involved. He requested an explanation of his situation and advice as to any recourse that he had other than to accept the contract as prescribed by the New Hampshire Electric Cooperative, Inc.

Cross-examination of another exhibit submitted by the New Hampshire Electric Cooperative, Inc., disclosed that the commission staff had made its investigation and response to the request of Mr. Bashaw and had determined that his request was within the scope of the line extension policy currently on file with the commission with no unusual or extraordinary costs associated in the construction of the proposed line, and that they had directed the New Hampshire Electric Cooperative, Inc., to offer service under those terms and conditions. The commission takes notice that the provisions of that line extension policy based on the proposed route of 1,870 feet, would result in a monthly payment requirement of $51.90.

Additional testimony at the hearing revealed an alternate route which was agreed to by both parties and which required the installation of a 1,070-foot extension instead of the previously determined 1,870-foot extension. Mr. Pillsbury estimated the faxed charges on the new proposal to be approximately $2,500 and offered a payment plan of a $500 initial down payment with a guaranteed revenue of $500 per year for five years. The commission takes notice of the fact that the monthly revenue requirement of the new proposed extension under the current line extension plan would be $27.90 per month and that such monthly charge would result in a total revenue of $1,674 over a 60-month period. We also take notice to staff's position in regard to the original submission that the 1,870-foot extension was well within the limits of the line extension plan currently in effect which provides service: "To customers who can be served from overhead single-phase extensions along public highways except for normal service loops of existing distribution lines which average more than 300 feet per customer but less than 5,280 feet per customer."

The commission concurs with the staff position. The commission would be prepared to accept the staff's position requiring the strict following of the line extension plan in the matter of 1,870-foot extension. We commend both parties, however, for identifying an alternate route which will both provide the requested service and reduce the revenue loss impact upon the company. We find

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that the installation of a 1,070-foot extension should be provided Mr. Bashaw according to the terms of the company's currently effective line extension plan. Our order will issue accordingly.

Order

Upon consideration of the foregoing report which is made a part hereof; it is

Ordered, that the New Hampshire Electric Cooperative, Inc., install the necessary line extension to the property of David L. Bashaw of East Andover, New Hampshire; and it is

Further ordered, that the rates charged Mr. Bashaw by the cooperative shall be the filed rates of the currently effective line extension plan of the cooperative.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of July, 1979.

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NH.PUC*08/03/79*[78355]*64 NH PUC 280*Pennichuck Water Works

[Go to End of 78355]

Re Pennichuck Water Works

DR 79-3, Fifth Supplemental Order No. 13,768

64 NH PUC 280

New Hampshire Public Utilities Commission

August 3, 1979

PETITION of a water company for an increase in rates; granted.

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1. EXPENSES, § 92 — Treatment of particular kinds of expenses — Amortization of rate case expenses.

[N.H.] A water company was permitted to make an appropriate adjustment to its rate schedules to provide for the recovery of its rate case expense, which it had neglected to include in its original filing. p. 280.

2. RATES, § 260 — Kinds and forms of rates and charges — In general — Surcharges.

[N.H.] The commission permitted a water company to recoup the revenue difference between temporary rates and permanent rates by appropriate adjustments to its rate schedules. p. 280.

BY THE COMMISSION:

Supplemental Order

Whereas, Pennichuck Water Works omitted pro formed rate case expense in this docket, resulting in allowance for same being overlooked in the commission's finding; and

Whereas, Pennichuck Water Works reports that revenue differences between temporary rates allowed under commission Order No. 13,603 effective April 30, 1979, and those permanent rates allowed by order No. 13,727 effective July 12, 1979, are $74,585; and

Whereas, said revenues are subject to recoupment; it is

[1, 2] Ordered, that revenue differences ($74,585) plus rate case expense ($18,001) be recovered during the period between July 12, 1979, and September 29, 1980, by appropriate adjustment of the rate schedules; and it is

Further ordered, that so much of commission Order No. 13,727 as pertains to computation of revenues and submission of a recovery plan be, and hereby is, vacated.

By order of the Public Utilities Commission of New Hampshire this third day of August, 1979.

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NH.PUC*08/03/79*[78356]*64 NH PUC 281*Dr. Lewis Mann v New England Telephone Company

[Go to End of 78356]

Dr. Lewis Mann v New England Telephone Company

DE 79-150, Order No. 13,770

64 NH PUC 281

New Hampshire Public Utilities Commission

August 3, 1979

PETITION to prohibit telephone company from disconnecting service for non-payment of outstanding bill; denied.

PAYMENT, § 35 — Methods of enforcing payment — Denial of service — Arrearages of property owner.

[N.H.] The commission found no irregularities in the procedures used by a telephone company in implementing its tariff with regard to the disconnection of a customer's service for nonpayment of an outstanding bill where the customer had submitted numerous uncashable checks to the company.

APPEARANCES: None for the petitioner; Peter Guenther for the New England Telephone Company.

BY THE COMMISSION:

Report

On July 26, 1979, a petition of complaint filed by Dr. Lewis Mann, P. O. Box 460, Seabrook, New Hampshire requesting a hearing concerning alleged unfair treatment by the New England Telephone Company. His main concern is to prohibit the New England Telephone Company

from disconnecting his service for nonpayment of his outstanding bill.

Notice of the hearing was sent to Dr. Mann by certified and registered mail, return receipt requested, on July 30, 1979, setting August 3, 1979, at 10:00 A.M. in the hearing room of the Public Utilities Commission in Concord as the time and place designated for such hearing. Notice was also sent to the New England Telephone Company.

On August 3, 1979, at 10:00 A.M. the hearing was duly commenced though Dr. Mann did not show nor contact the commission. Company attorney Guenther called as a witness William J. Meagher, commercial manager, residence of the Dover area business office. Mr. Meagher gave a detailed report of the unhappy record of this customer from May 24, 1978, to July 25, 1979, including documentation of numerous uncashable checks that were sent to pay telephone bills.

The investigatory staff of the commission has found no irregularities in the procedures used by the company implementing the provisions of the tariff.

The commission concurs with the staff findings. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the New England Telephone Company take immediate steps to implement the provisions of the

disconnect notice that is presently being held in abeyance; and it is

Further ordered, that telephone service be restored to Dr. Mann upon the payment by him in cash or by certified check of the entire amount owing to the date of this order, including reconnection fees and any additional security deposit necessary to bring said security deposit to the amount allowable under the present tariff.

By order of the Public Utilities Commission of New Hampshire this third day of August, 1979.

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NH.PUC*08/06/79*[78357]*64 NH PUC 282*New Hampshire Electric Cooperative, Inc.

[Go to End of 78357]

Re New Hampshire Electric Cooperative, Inc.

IR14,861, Order No. 13,772

64 NH PUC 282

New Hampshire Public Utilities Commission

August 6, 1979

PETITION seeking special contract for providing electric service; granted.

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 65 with Cold Springs Properties, Inc., effective whenever service is made available, for service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this sixth day of August, 1979.

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NH.PUC*08/06/79*[78358]*64 NH PUC 282*New Hampshire Electric Cooperative, Inc.

[Go to End of 78358]

Re New Hampshire Electric Cooperative, Inc.

IR14,860, Order No. 13,773

64 NH PUC 282

New Hampshire Public Utilities Commission

August 6, 1979

PETITION seeking special contract to provide electric service; granted.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 64 with Myron Marks, effective whenever service is made available, for service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this sixth day of August, 1979.

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[Go to End of 78359]

New Hampshire Electric Cooperative, Inc. v Trexler's Marina

IE14,856, Order No. 13,779

64 NH PUC 283

New Hampshire Public Utilities Commission

August 9, 1979

PETITION relating to service deficiencies; utility ordered to provide service.

SERVICE, § 326 — Electric service — Safety hazards.

[N.H.] Where a marina requested electric service through a larger line and the utility refused to increase the power since electricity was delivered through overhead cables and there was a danger that the marina's boats would come in contact with the power line, the commission ordered that the service be provided through a buried distribution system and that the marina pay for digging and filling the required trench.

APPEARANCES: Thomas W. Morse for the petitioner; Walter L. Mitchell Trexler's Marina; and Wayne Snow for New England Telephone and Telegraph Company.

BY THE COMMISSION:

Report

By letter of July 2, 1979, the New Hampshire Electric Cooperative, Inc., requested a commission hearing to review a matter relative to safe clearance of their overhead distribution line along Long Island road which bisects Trexler's Marina in Moultonboro Neck, New Hampshire, before being required to fulfill a recent commission staff order to provide further service to a newly constructed building at the Marina.

While the company did not directly state it, the request was considered as an

appeal of the commission staff order dated June 29, 1979, for the company to contact Mr. Trexler of Trexler's Marina and to provide the requested service. The staff order resulted from a

request to the commission from Walter L. Mitchell for assistance in obtaining electric service to the new marina building, which was being denied by the company.

The parties were notified by commission letter of July 6, 1979, of a hearing to be held on the matter at the office of the commission on July 24, 1979, at 11:00 A.M.

Richard Trexler, president of Trexler's Marina, Inc., testified that his request for a new service drop for his newly constructed showroom and office building was refused by the company. He related that this service request had been made near the beginning of June with the belief that everything would be complete for his July 4th grand opening. However, this service has been denied, and the opening has been indefinitely delayed. Presently, this $150,000 construction investment has an overhead service entrance supplying an inadequate 60-amp panel. The new service would be underground to the building and supply power to a 200-amp panel. The labor and material costs for the 75-foot underground service has already been paid. In addition, he understood that the underground construction might have to be modified later to accomodate a final solution to the overall problem. Mr. Trexler explained his seasonal boat business to point out the importance of time, and submitted that without proper lighting in the showroom, it cannot be fully utilized. This has resulted in a loss of business. Mr. Trexler observed that the Cooperative's refusal to furnish the new electric service was linked to the company's concern of an unsafe condition along Long Island road in the area of the marina and caused by the marina. He explained the possibility of an unsafe condition whereby under certain conditions a sailboat being transported across the road could conceivably have its mast come in contact with the powerline. He estimated that seven masts have hit the telephone cables which have a clearance of approximately 19 feet. It was noted that the 12.5 kv powerline has a 30-foot clearance, and Mr. Trexler was not aware of any one contacting the high voltage while stepping the mast or transporting the sailboat at the marina. He understood the company's position to be that the new service was being denied until the possible hazardous condition was resolved to the company's satisfaction.

Mr. Trexler submitted an exhibit comprising a letter to the company dated April 21, 1979, in which he requested the company to place distribution line underground in the marina area to remedy the situation. He further stated that he had agreed to pay $3,500 for the trenching and back filling. A topographical map was submitted as an exhibit to help describe the areas in question. This map showed the layout of a proposed condominium project which would, in effect, make use of the land directly in back of the marina. Mr. Trexler detailed his plans for the area to show why this land could not be easily used for an alternate overhead route. He related that if the existing route was used with the only change being an increase in vertical clearance, then a 34-foot minimum clearance would be required for the mast of a 25-foot sailboat to clear the lowest conductor. A 25-foot sailboat was chosen as the maximum probable size for his facilities. One of the parties which concerned the company was that of stacking

boats in the right-of-way area under the power line. Mr. Trexler explained that the location of the new showroom prevented the practice from continuing.

John Pillsbury, manager, New Hampshire Electric Cooperative, Inc., testified that Trexler's

Marina on Moultonboro Neck has created a dangerous situation involving the company's four-wire, 12.5 kv, three-phase distribution line along Long Island road which goes through the marina property to serve the residents of Long Island. The company has been trying to resolve the problem since 1975 through negotiations with Mr. Trexler. He stated that the recent request for service was denied because it would require increased investment and extend what he considered to be an unsafe operation. Moreover, the existing 60-amp service to the new building could be readily upgraded to 200 amps. Mr. Pillsbury stated that he believed the company had an agreement to go underground several years ago, but nothing was finalized. However, today the company's first option would be to go overhead in back of the marina because they believe going underground would decrease system reliability due to possible lightning damage to the underground section of line. The company explained that it was still possible to bury the system and provide lightning protection. An exhibit comprising a letter dated June 29, 1979, was submitted in which the commission staff reflected upon the situation at the marina. Mr. Pillsbury expressed consternation in that he felt the staff did not share his concern relating to the hazardous condition; however, he admitted that he had no personal knowledge of anyone with a sailboat being injured or killed, or any boat being damaged by the overhead power line. He requested a solution, however, before an accident does occur.

Wayne Snow stated that his investigation on behalf of his company discloses that the road which bisects Trexler's Marina is a Class II, state road with public way status, and that the marina is in a telephone company maintenance area. Along Long Island road, the telephone facilities consist of 300-pair and 50-pair cables with 19-foot vertical ground clearance on 35-foot poles. The power conductors are approximately ten feet above the telephone lines. To help correct the overhead line situation, the telephone company agreed to bury their cables at no cost, if Mr. Trexler would provide trenching. A second alternative would be to replace the existing poles with 45- and 50-foot poles. A third option would be to build a new pole line behind the marina buildings, place new aerial cable and remove existing aerial plant. A fourth option is to reroute facilities from Long Island road up Moultonboro Neck road and cross back to Long Island road east of the marina.

Relative to commission staff order of June 29, 1979, the commission maintains that the commission staff had made its investigation and proper response to Mr. Trexler's request for intervention in the matter of obtaining electric service. Mr. Trexler is requesting underground service to his new building, with no additional overhead lines, and with minimal expense to the company. He is entitled to service. The commission concurs with the staff position.

By letter dated July 2, 1979, the company requested commission review of the total complex situation before it was further ordered to extend service to the newly constructed marina building. In reviewing the data, the commission recognizes that a condition exists whereby a member of the public could be in

jured by high voltage or by the collapse of a mast because of the situation at the marina. A public safety problem involving the two public utilities is unquestioned, and it appears that commission intervention is required for a timely resolution.

The most reasonable action would be to remove the overhead telephone and power lines from the sailboat rigging and marina work area, that is, to remove the lines from the general area of the marina.

In analyzing the four alternative methods which were presented, the commission finds that it would be economically prohibitive to reroute from Long Island road up to Moultonboro Neck road and cross back east of the marina. Moreover, it is evident that building a new pole line behind the marina buildings would interfere with expansion plans for that area. The commission does not recommend the option to replace existing poles with taller poles because special maintenance equipment would be required and because the original hazards would not be completely eliminated. The option which the commission recommends, and which has consensus among the parties involved, is to bury the telephone and power cables in a common trench in the right-of-way area where the aerial plant now exists. Our order will issue accordingly.

Order

Upon consideration of the foregoing report which is made a part hereof; it is

Ordered, that the New Hampshire Electric Cooperative, Inc., and the New England Telephone and Telegraph Company remove their aerial conductors, cables, and poles in the vicinity of Trexler's Marina, thereby, removing a hazardous situation, and burying the replacement distribution system and cable at their own expense in a common trench which is dug, back-filled and restored to existing conditions at the expense of Trexler's Marina; and it is

Further ordered, that the two utility companies submit the scheduling of the work and construction plans for approval no later than October 1, 1979; and it is

Further ordered, that the New Hampshire Electric Cooperative, Inc., proceed with the original commission staff order of June 29, 1979, relative to the matter of electric service.

By order of the Public Utilities Commission of New Hampshire this ninth day of August, 1979.

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NH.PUC*08/10/79*[78360]*64 NH PUC 286*Public Service Company of New Hampshire

[Go to End of 78360]

Re Public Service Company of New Hampshire

DF 79-100-6205, Supplemental Order No. 13,780

64 NH PUC 286

New Hampshire Public Utilities Commission

August 10, 1979

PETITION of an electric company for authority to transfer a portion of its interest in a nuclear generating plant; granted.

CONSOLIDATION, MERGER, AND SALE, § 56.1 — Terms and conditions — Service requirements.

[N.H.] Where the commission had previously permitted an electric company which proposed to transfer a portion of its interest in a nuclear generating plant to other project participants to enter into only those transactions which would benefit its in-state operations, the commission determined, at a reconvened hearing, that the earlier negotiated power buy-back agreements, found to be in the public interest, sufficiently mitigated the possibility of future power shortages as to allow authority for the remainder of the transfers to be granted.

BY THE COMMISSION.

Supplemental Report

In the matter of DF 79-100-6205, at reconvened hearing held at the offices of the commission on August 6, 1979, further testimony and exhibits on the part of the Public Service Company of New Hampshire, in answer to previous uncertainties and concerns as expressed by the commission in Order No. 13,759, removed all doubt relative to the ability of Public Service Company of New Hampshire to finance more than 28 per cent of the Seabrook Unit Nos. 1 and 2.

The commission concurs that the buy-back arrangements as negotiated in the sales to Massachusetts Municipal Wholesale Electric Company, Central Vermont Public Service Company, Central Maine Power Company, and Green Mountain Power Company are in the public interest and strongly mitigates the possibility of any power shortage in the reasonable future.

Based upon the updated record the following report is issued:

Public Service Company of New Hampshire is granted authority to transfer a one per cent interest (23 mw) in Seabrook to Montaup Electric Company.

Public Service Company of New Hampshire is granted authority to transfer 1.8 per cent interest (41.43 mw) in Seabrook to Bangor Hydro-Electric Company.

Public Service Company of New Hampshire is authorized to transfer 2.1739 per cent interest (50 mw) in Seabrook to New Bedford Gas and Edison Light Company.

Furthermore, in addition to the 10.87466 per cent interest which Order No. 13,759 authorized Public Service Company of New Hampshire to transfer to Massachusetts Municipal Wholesale Electric Company, another 3 per cent will be allowed bringing the total allowable transfer to Massachusetts Municipal Wholesale Electric Company to 13.87466 per cent interest (319 nw) in Seabrook.

By this report, Public Service Company of New Hampshire is permitted to achieve a divestiture of 22 per cent of its Seabrook interest, retaining as its share 28 per cent, which, based

upon the record, is consistent with their ability to finance. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to transfer an additional 7.9739 per cent of its interest in Seabrook station as follows: Massachusetts Municipal Wholesale Electric Company — 3 per cent Montaup Electric Company — 1 per cent

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Bangor Hydro-electric Company — 1.8 per cent New Bedford Gas and Edison Light Company — 2.1739 per cent

By order of the Public Utilities Commission of New Hampshire this tenth day of August, 1979.

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NH.PUC*08/13/79*[78361]*64 NH PUC 288*Williamsburg Water Company

[Go to End of 78361]

Re Williamsburg Water Company

DE 78-235, DE 79-134, Supplemental Order No. 13,781

64 NH PUC 288

New Hampshire Public Utilities Commission

August 13, 1979

PETITION for permanent authority to take over a water utility franchise; granted.

CERTIFICATES, § 137 — Transfer — Generally.

[N.H.] Where a water company demonstrated that it was willing and capable of assuming the ownership and operation of another company which intended to discontinue service as a public utility, the company was granted permanent authority to operate the utility under existing rates, terms, and conditions.

BY THE COMMISSION:

Supplemental Order

Whereas, on May 16, 1979, this commission issued Order No. 13,624 in the matter of temporary authority to establish a water utility in a limited area in the town of Pelham; and

Whereas, that order directed that Hudson Water Company file a petition for permanent authority to own and operate such utility; and

Whereas, such a petition filed with this commission on June 13, 1979, by the Hudson Water Company; and

Whereas, on July 5, 1979, a public hearing was held on the matter at the commission offices in Concord, New Hampshire; and

Whereas, testimony and evidence presented to the commission at that hearing disclosed that Hudson Water Company is willing and capable of operating the Williamsburg Water Company, and that such a transfer is in the public interest; and

Whereas, by letter of June 27, 1979, the board of selectmen of Pelham, New Hampshire, indicate their strong support for the Hudson Water Company to assume permanent authority to supply water to Williamsburg estates; and

Whereas, by letter of June 29, 1979, counsel for Williamsburg Water Company indicates its continued intent to discontinue as a public utility and supports Hudson Water Company's petition for permanent authority to operate Williamsburg Water Company; and

Whereas, Beaver Brook Water Company has withdrawn its petition to take over the franchise of the Williamsburg Water Company; it is

Ordered, that the Hudson Water Company is granted permanent authority to operate the water system previously operated by the Williamsburg Water Company; and it is

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Further ordered, that the existing rates, terms, and conditions of the Williamsburg Water Company shall, for the purposes of this proceeding, remain unchanged and in effect; and it is

Further ordered, that a subsequent report and order will be issued in DE 79-134 addressing the financial and tariff considerations in this matter; and it is

Further ordered, that the Hudson Water Company notify the customers of Williamsburg Water Company of the permanent change by public notice in a manner which will assure adequate notification by customers.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of August, 1979.

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NH.PUC*08/20/79*[78362]*64 NH PUC 289*Manchester Water Works

[Go to End of 78362]

Re Manchester Water Works

DE 79-174, Order No. 13,783

64 NH PUC 289

New Hampshire Public Utilities Commission

August 20, 1979

PETITION of a water company for authority to extend its mains and service; granted.

SERVICE, § 210 — Extensions by particular utilities — Water.

[N.H.] Where a water company petitioned for an extension of its mains and service into an area in which no other water utility possessed franchise rights and the municipality was in accord with the extension, the commission found that granting the petition would be for the public good.

BY THE COMMISSION:

Order

Whereas, Manchester Water Works, a water public utility operating under the jurisdiction of this commission, by a petition filed July 2, 1979, seeks authority under RSA 374:22 and 26 as amended, to extend its mains and service further into the town of Bedford; and

Whereas, no other water utility has franchise rights in the area sought, and the petitioner submits that the area will be served under its regularly filed tariff; and

Whereas, the board of selectmen, town of Bedford, has stated that it is in accord with the petition; and

Whereas, after investigation and consideration, this commission is satisfied that the granting of the petition will be for the public good; it is

Ordered, that Manchester Water Works be, and hereby is, authorized to extend its mains and service further into the town of Bedford in the area herein described and as set forth on a map on file in the commission office, as follows:

Beginning at the point where the westerly most line of the F.E. Everett Turnpike (Route 293 South) intersects with the Manchester-Bedford town line; from this point westerly along said town line to the point where its course changes to a north-south direction; from this point northerly along said town line to the point where it intersects with the

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center line of Donald street; thence westerly along the path and contour of the center line of said Donald street to the point where said street intersects with Donald street extension (formally Pulpit Farm road); thence westerly along the path and contour of said Donald street extension 1,100 feet to the now existing franchise limit for said street; thence continuing westerly from a point 200 feet northerly of the center line of Donald street extension, following a parallel line to the path and contour of the center line of said street to the easterly most line of Route 114; thence southerly and easterly along the easterly and northerly most line of Route 114 to its intersection with Route 101; thence southerly and easterly along the easterly and northerly most

line of Route 101 to the point where said line intersects with the center line of South River road; thence continuing in an easterly direction along the northerly most line of the F.E. Everett Turnpike southbound off ramp to Route 101, continuing to the point where said line intersects with the westerly most line of F.E. Everett Turnpike (Route 293 South); thence northerly along the westerly most line of said turnpike to the Manchester-Bedford town line and the point of beginning; such total area here described includes parts of other franchises granted in earlier commission orders; and for those purposes to construct and maintain the necessary lines and apparatus.

By order of the Public Utilities Commission of New Hampshire this twentieth day of August, 1979.

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NH.PUC*08/22/79*[78363]*64 NH PUC 290*Public Service Company of New Hampshire

[Go to End of 78363]

Re Public Service Company of New Hampshire

DR 79-166, Order No. 13,790

64 NH PUC 290

New Hampshire Public Utilities Commission

August 22, 1979

PETITION for interim rate adjustment; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 6, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 22 — Electricity, providing for an interim rate adjustment, effective September 6, 1979, pending the anticipated filing of a new tariff, NHPUC No. 23, proposed for effect October 1, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Original Pages 1A and 9A, and First Revised Page 1 of tariff, NHPUC No. 22 — Electricity, of Public Service Company of New Hampshire be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of

August, 1979.

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NH.PUC*08/23/79*[78364]*64 NH PUC 291*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 78364]

Re Continental Telephone Company of New Hampshire, Inc.

DF 79-128, Order No. 13,793

64 NH PUC 291

New Hampshire Public Utilities Commission

August 23, 1979

PETITION for approval of the issuance of unsecured promissory notes; granted.

SECURITY ISSUES, § 58 — Purposes and subjects of capitalization — Additions and betterments.

[N.H.] A telephone company received commission approval for the sale of certain of its unsecured promissory notes at an interest rate and on terms that were found to be competitive and reasonable with provisions for amortization prior to maturity of 96 per cent of the original principal, where the proceeds were to be used to pay off short-term indebtedness incurred for money borrowed to finance telephone plant construction and for other general purposes of the company.

APPEARANCES: Charles H. Toll, Jr., for the petitioner.

BY THE COMMISSION:

Report

By this petition filed May 31, 1979, Continental Telephone Company of New Hampshire, Inc., a corporation duly organized and existing under the laws of the state of New Hampshire, operating as a telephone public utility in certain towns in the state of New Hampshire, seeks authority, pursuant to RSA 369, to sell unsecured promissory notes.

At a hearing held, following due notice, in Concord on June 29, 1979; the company presented testimony and other evidence showing the need for new financing.

The company has negotiated to issue and sell for cash $1 million of its 10 per cent promissory notes due August 1, 2004, to certain note purchasers with provisions for amortization prior to maturity of 96 per cent of the original principal amount. The company used the services of an independent agent to assist in placing these notes and in securing the best terms available. Evidence and testimony was presented to show that the interest rate and the terms were competitive and reasonable. The company will apply the proceeds of these promissory notes toward payment of short-term indebtedness incurred for

borrowed money used for telephone plant construction, and for the applicant's general purposes.

The company submitted financial data justifying the terms and amounts of the proposed financing. Resolutions authorizing the financing and copies of various documents were submitted. The exhibits submitted included actual and pro formed capitalization ratios; income statement, balance sheet, and the expenses of financing.

Upon consideration of the evidence submitted, this commission is satisfied that the issue and sale of the promissory notes proposed herein will be consistent with the public good. Our order granting the authorization herein sought will issue accordingly, contingent upon adoption of the terms and conditions of the notes by the company's board of directors. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the applicant, Continental Telephone Company of New Hampshire, Inc., be and hereby is, authorized to issue and sell at private sale for cash equal to the aggregate principal amount thereof 10 per cent promissory notes due August 1, 2004, in the aggregate principal amount of $1 million said notes to be dated the date of issue, to mature August 1, 2004, to bear interest at the rate of 10 per cent per annum payable on February 1st and August 1st of each year commencing February 1, 1980, to be amortized prior to maturity to the extent of 96 per cent of the original principal amount thereof by payments of $40,000 per year payable without premium on August 1, 1980, and on August 1st of each year thereafter to and including August 1, 2003, and to be in the form attached as Exh A to, and to be issued pursuant to, note agreements dated as of June 1, 1979, between the applicant and Unionmutual Stock Life Insurance Co. of America and Shenandoah Life Insurance Co. the note purchasers; and it is

Further ordered, that Continental Telephone Company of New Hampshire, Inc., be, and hereby is, authorized to apply the proceeds of the issuance and sale of said notes toward payment of the applicant's short-term indebtedness incurred for telephone plant construction, and for the applicant's general purposes; and it is

Further ordered, that on January 1st and July 1st of each year, Continental Telephone Company of New Hampshire, Inc., shall file with this commission a detailed statement, duly sworn to by its treasurer or assistant treasurer, showing the disposition of the proceeds of the notes hereby authorized and to be issued, until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire effective the day the commission receives certification of adoption of the notes, terms, and conditions, by the company's board of directors.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of August, 1979.

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NH.PUC*08/24/79*[78365]*64 NH PUC 293*Public Service Company of New Hampshire

[Go to End of 78365]

Re Public Service Company of New Hampshire

DR 76-46, 43rd Supplemental Order No. 13,794

64 NH PUC 293

New Hampshire Public Utilities Commission

August 24, 1979

PETITION of an electric company for authority to apply a fuel adjustment charge to regular monthly billings to its customers; granted.

RATES, § 303 — Kinds and forms of rates and charges — Variable rates based on cost — Fuel clauses.

[N.H.] Where an electric utility had filed revisions to its tariff comprising the monthly calculation of its fuel adjustment charges, the commission found that the filings were in accordance with the applicable provisions of law and that the proposed charges were just and reasonable, and approved the rate increases.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission on August 16, 1979, held hearings on the petitions of Public Service Company of New Hampshire for authority to apply a fuel adjustment charge to regular September, 1979, monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire on August 16, 1979, filed with this commission 18th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect September 1, 1979.

The company reported a fuel cost above base of $8,350,351 and total kilowatt-hours subject to the fuel adjustment of 432,347,000 resulting in a per-kilowatt-hour charge of $0.01972460.

The fuel adjustment charge thus adjusted rounded to $1.97 per hundred kilowatt-hours is proposed to go into effect in the month of September, 1979.

This month's proposed rate is 60 cents per hundred kilowatt-hours higher than last month's for several reasons. Merrimack Unit No. 2 was down for a considerable period for scheduled maintenance. The lost and unaccounted for electricity was up. The average cost of oil was up $2.15 per barrel, and oil generation made up a larger per cent of total generation.

The Legislative Utility Consumers' Council brought up the status of the legal proceedings regarding the Maine Yankee shutdown. Next month the company will make a full presentation on the status of such.

The following companies: Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley

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Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, and Woodsville Water and Light Department submitted their fuel adjustment calculations for the subject period, and the commission having reviewed the calculations, accepted said calculations were prepared accurately.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of September, 1979, are just and reasonable in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 18th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of $1.97 per hundred kilowatt-hours for the month of September, 1979, be, and hereby is, permitted to become effective September 1, 1979; and it is

Further ordered, that 55th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of $2.09 per hundred kilowatt-hours for the month of September, 1979, be, and hereby is, permitted to become effective September 1, 1979; and it is

Further ordered, that 50th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of $2.19 per hundred kilowatt-hours for the month of September, 1979, be, and hereby is, permitted to become effective September 1, 1979; and it is

Further ordered, that 29th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 26 cents per hundred kilowatt-hours for the month of September, 1979, be, and hereby is, permitted to become effective September 1, 1979; and it is

Further ordered, that 18th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.81 per hundred kilowatt-hours for the month of September, 1979, be, and hereby is, permitted to become effective September 1, 1979; and it is

Further ordered, that 60th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $2.29 per hundred kilowatt-hours for the month of September, 1979, be, and hereby is, permitted to become effective September 1, 1979; and it is

Further ordered, that 12th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of $2.21 per hundred kilowatt-hours for the month of September, 1979, be, and hereby is, permitted to become effective September 1, 1979; and it is

Further ordered, that 68th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of $1.16 per hundred kilowatt-hours for the month of September, 1979, be, and hereby is, permitted

to become effective September 1, 1979; and it is

Further ordered, that 34th Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 32 cents per hundred kilowatt-hours for the month of September, 1979, be, and hereby is, permitted to become effective September 1, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of August, 1979.

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NH.PUC*08/29/79*[78366]*64 NH PUC 295*Public Service Company of New Hampshire

[Go to End of 78366]

Re Public Service Company of New Hampshire

DR 79-107, Order No. 13,799

64 NH PUC 295

New Hampshire Public Utilities Commission

August 29, 1979

ORDER relating to the exclusion of construction work in progress from a utility's rate base.

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1. RATES, § 649 — Rate modification — Necessity for a hearing.

[N.H.] Even where a recently enacted statute unambiguously required that the commission take action to exclude construction work in progress from utilities' rate bases, the commission found that the state public utility law permitted it to act only after a hearing. .Pg p. 296.

2. RATES, § 641 — Parties — Public interest groups.

[N.H.] Where a public interest group failed to sufficiently notify the commission of its desire to actively participate and failed to state why its interests were affected by the proceeding, the commission determined that the group was a limited participant and not a party. p. 298.

3. STATUTES, § 11 — Statutory construction — Plain meaning.

[N.H.] The language of the statute itself is the prime factor in its interpretation. p. 299.

4. STATUTES, § 17 — Statutory construction — Whole statute.

[N.H.] Significant words of a statute are not to be rejected or rendered ineffectual by construction, and the statute is to be so read as to give every part its due weight. p. 300.

5. RATES, § 250 — Retroactive rates — Electric company.

[N.H.] Where a state statute required the exclusion of construction work in progress from utilities' rate bases and the commission ordered such an exclusion after the effective date of the statute, the order was held to be prospective and not retroactive rate making. p. 301.

6. STATUTES, § 13 — Statutory construction — Legislative history.

[N.H.] Where a statute was unambiguous, the commission found it unnecessary to examine materials outside the four corners of the statute. p. 302.

7. RATES, § 645 — Scope of proceedings — Consolidation.

[N.H.] The commission, on its own motion, consolidated two related rate cases. p. 306.

RATES, § 32 — Rate making — Factors considered by commission.

[N.H.] Discussion of the formula employed by the commission in setting rates. p. 303.

RETURN, § 22 — Fair return — Factors considered by commission.

[N.H.] Discussion of criteria employed by the

commission in determining a utility's fair rate of return. p. 305.

APPEARANCES: Martin Gross for Public Service Company of New Hampshire; Harold T. Judd for the Legislative Utility Consumers' Council; and Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

On May 7, 1979, the governor of the state of New Hampshire signed into law House Bill 155

amending RSA 378:30. This law precludes the inclusion of construction work in progress (CWIP) into rate base and thereby ultimately in rates and charges paid by consumers. The law became effective as of May 7, 1979.

In Re Public Service Co. of New Hampshire (1978) DR 77-49, this commission found in favor of the inclusion of CWIP in rate base. The commission's decision was upheld on appeal by the New Hampshire supreme court Legislative Utility Consumers' Council v Public Service Co. of New Hampshire (1979) 119 NH — . Therefore, as of May 7, 1979, rates and charges collected from ratepayers in Public Service Company's (hereinafter referred to as PSC) service territory reflected the inclusion of CWIP in the rate base.

The commission pursuant to RSA 378, §§ 1 through 31, was compelled to initiate a formal docket as to the question whether the new statute required the immediate removal of CWIP from existing rates as of May 7, 1979. If the new statute was found not to apply to existing rates, then the aforementioned commission decision would continue to be the law the commission would be bound to uphold. No further inquiry would be necessary. If, however, the new statute was found to supercede our order as of May 7, 1979, then the commission would have to embark upon an investigation as to what were just and reasonable rates for both PSC and its consumers.

Consequently, the commission in its Order No. 13,617 specifically limited the scope of the initial stage of this docket to the legal question of whether or not RSA 378:30-a required the removal of CWIP from existing rates. The commission refused to allow the inclusion of testimony presented by the company as to the various economic factors affecting the company. It was the commission's position that such inquiry would lead to a full rate investigation which would be unnecessary if the law did not change the existing rates. While RSA 378: 7 allows for a rate investigation prior to the expiration of a two-year period following a previous decision, the commission attempts to adhere to the general rule of waiting the two years unless there are unusual circumstances or a possible confiscation of property. It was these aforementioned concerns that were of consequence to the commission when it embarked on formal hearings on June 5, 1979. The commission later requested memorandum from all parties which were received by the commission on June 12, 1979.

[1] Before reaching the merits of the proceeding, the commission must address the procedural question raised by the Granite State Alliance (hereinafter referred to as the "alliance"). The alliance contends that the newly passed statute is clear as to its intention to remove CWIP from electric rates as of May 7, 1979. The alliance further contends that the statute is unambiguous

and, therefore, no hearing is required. The alliance concludes its arguments with a request that ratepayers be spared any expenses incurred by the company of the commission because of the alleged unnecessary hearing.

The alliance's contentions, however, flounder when placed on the shoals of New Hampshire statutes which govern the operation of the commission.

New Hampshire RSA 378:7 was used by the commission to initiate these proceedings because the commission was concerned with the possibility that the continued billing of rates

based on the inclusion of CWIP in rate base after May 7, 1979, was contrary to the provisions of RSA 378:30-a. New Hampshire RSA 378:7 states:

"Whenever the commission shall be of the opinion, *after a hearing*, had upon its own motion or upon complaint that the rates, charges demanded or collected or proposed to be demanded or collected by any public utility in service rendered or to be rendered are ... in any wise in violation of any provision of law ... the commission shall determine the just and reasonable or lawful rates, fares, and charges to be thereafter observed and in force as the maximum to be charged for the service to be performed and shall fix the same by order to be served on all public utilities by which such rates, fares, and charges thereafter to be observed." (Emphasis supplied.)

The West Virginia Public Service Commission recently was confronted with a similar problem where the West Virginia legislature amended its statutes and thereby decreased the state business and occupation tax on domestic sales of electricity, Virginia Electric & Power Co. v West Virginia Pub. Service Commission (1978) — W Va — , 28 PUR4th 12, 248 SE2d 322. The West Virginia commission's response to the legislative initiative was to order VEPCO to immediately reduce rates and provide refunds so as to pass through to the utility's customers this reduction in the utility's cost of doing business. The commission in that proceeding chose not to have a hearing.

The West Virginia supreme court reversed the commission's decision because of the failure of the commission to conduct a hearing. The West Virginia Statute 24-2-3 (1923) is very similar to RSA 378:7 both as to language and intent. Both clearly delineate that the commission can only act "after hearing." As the West Virginia supreme court stated:

"Laudable as the commission's goals may be in attempting to reduce the burden on utility consumers in this age of inflation, there is no question that a significant reduction in a utility's tariff is a taking of property which must be accompanied by some fair procedure to preclude an unlawful taking. The business and occupation tax is but one element of a utility's cost and before the commission can pass through a reduction in that cost to consumers by changing the effective tariff, it must permit the utility to demonstrate that on its side overall costs have increased which would imply that a timely tariff reduction will effectively reduce the utility's rate of return below the constitutionally mandated fair rate of return." 28 PUR4th at p. 15.

The New Hampshire supreme court has likewise found the necessity of a hearing in any proceeding in which the commission is involved in an investigation of rates. New England Teleph. and Teleg. Co. v New Hampshire (1949) 95 NH 353, 78 PUR NS 67, 64 A2d 9.

The recently passed Administrative Procedure Act, RSA 91-A also, requires

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that meetings or hearings be open to the public. The spirit of this law, as well as the statutes governing the operations of this commission, are designed to encourage rather than discourage the hearing process. These considerations have recently been part of the rationale behind the commission's rejection of attempts by certain New Hampshire utilities to negate the procedural due process afforded in a hearing on temporary rates. Re Manchester Gas (1979) DR 78-100; Re Pennichuck Water Co. (1979) DR 79-3; and Re Hampton Water Works (1979) DR 79-51. As the commission stated in the latter proceeding:

"The commission while exercising its quasi-judicial capacity must observe the traditional safeguards against arbitrary action. Furthermore, the fundamental requisites of due process of law and procedural due process require that notice and a timely and reasonable opportunity to be heard be given to people whose rights will be affected by the commission's decision."

Those people whose rights will be affected by a commission decision can be either shareholders or consumers, and neither will be denied due process by arbitrary action.

[2] The alliance also raises the question of whether or not it is a party to this proceeding. At the public hearings this issue was addressed from the bench. In that ruling the commission stated that the alliance's status was one of a limited appearance and not a party. The rationale for this ruling is the failure by the alliance to sufficiently notify the commission of the desire to actively participate or to state why its interests are affected by the overall proceeding, or that its interests were necessary for a fair evaluation of the issues and that their interests were not represented by other parties to the proceeding.

Support for these requirements can be found in a recently rendered decision by the Ohio supreme court. Office of Consumers' Counsel v Ohio Pub. Utilities Commission (1978) 56 Ohio St 2d 220, 383 NE2d 593. In that proceeding, the Ohio supreme court upheld the commission's decision to restrict intervention of a participant when that participant: (1) filed its appearance that day; (2) failed to file objections prior to the hearing; or (3) failed to seek prior approval of its leave to intervene. To do otherwise fails to give adequate notice of the parameters of the proceeding to those parties who respect the rules and regulations of the commission as well as fair play by filing appearances and objections sufficiently in advance of the initiation of the proceedings.

The commission, therefore, continues to uphold its decision that the alliance is a limited participant rather than a party to this proceeding.

Public Service Company of New Hampshire's Position

Public Service Company of New Hampshire's position is that nothing in RSA 378:30-a either expressly or impliedly voids the commission's rate order of May 25, 1978, nor requires the commission to disturb the order. Public Service Company of New Hampshire provides an additional argument that the legislative history of the debate on this statute supports PSNH's contention that existing rates can continue to be based on the inclusion of CWIP in rate base.

In addition, PSNH argues that if RSA 378:30-a is used to exclude existing CWIP from rate base, such a result would be a retroactive application of a

statute, and thereby void. Finally, PSNH argues that even if RSA 378:30-a requires the removal of existing CWIP from the rate base, there is no factual basis on the record for revising the rate order of May 25, 1978, or Tariff No. 22.

Community Action Program Position

The Community Action Program (CAP) supports the commission's Order No. 13,617 that existing rates must be based on a rate base exclusive of CWIP. Community Action Program

asserts that the commission is a delegation of the legislature and is thereby bound to comply with its direction, which CAP argues is embodied in RSA 378-30-a. Community Action Program contends that while previous statutes governing the operation of the commission were devoid of any prescribed methodologies, RSA 378:30-a specifically prescribes such a methodology.

As to statutory construction, CAP relies on prior supreme court decisions for the proposition that RSA 378:30-a is plain and unambiguous and that its plain meaning must be upheld. Community Action Program asserts that compliance with the statute's plain meaning requires existing rates to be based on a rate base absent any inclusion of CWIP.

Legislative Utility Consumers' Counsel's Position

The LUCC's position is that RSA 378:30-a does not provide any discretion to the commission as to compliance with the statute. Legislative Utility Consumers' Council argues that the statute is clear on its face and absolutely prohibits any continued inclusion of CWIP in the rate base. Consequently, the LUCC contends that the passage of the statute requires the commission to alter the rates presently in effect.

The LUCC also contends that the commission is a delegation of the legislature's power to regulate and that the legislature can impose conditions upon exercise of such delegated authority.

As to the recent case of Legislative Utility Consumers' Council v Public Service Co. of New Hampshire (1979) 119 NH — , the LUCC argues that it should be given a very minor role in our decision process due to the focus of the opinion being prior to the passage of the statute.

Ambiguity Question

[3] The first question to be addressed is whether or not RSA 378:30-a is unclear or subject to more than one interpretation. In performing that analysis, the commission must attempt to apply the hierarchy established by decisions of our supreme court to statutory interpretation.

At the pinnacle of this hierarchy is the language of the statute itself. Plymouth School Dist. v State Board of Education (1972) 112 NH 74, 289 A2d 73; Ahern v Laconia Country Club Inc. (1978) 118 NH — , 392 A2d 587. The New Hampshire supreme court placed the rule in the following context in its Ahern decision.

"Thus we must look to the language of the statute itself as the prime determining factor in its interpretation. Where the language of the statute is plain and unambiguous the statute must be given effect according to its plain and obvious meaning. 82 CJS, Statutes § 322 (1953). The legislature must be presumed to know the meaning of words, and to have used the words of a statute advisedly. 73

Am Jur 2d Statutes § 196 (1974)." 119 NH at — .

While the legislative intent of a section in question is to be determined from its language as a whole and not from a particular word or phrase, Costoras v Noel (1956) 100 NH 81, 83, 119 A2d 705, 706, the statute will not be construed unless the meaning of the statute words contained therein are unclear. New Hampshire v Wilton R. Co. (1937) 89 NH 59, 21 PUR NS 458, 192 Atl 623.

[4] In examining the language of a statute, significant words are not to be rejected or rendered ineffectual by construction, but the statute is to be so read "as to give every part its due weight." Jewell v Wainer, 35 NH 176, 186. Furthermore, a statute should be construed so that "no clause, sentence, or words shall be superfluous, void, or insignificant." Tilton v Tilton, 35 NH 430, 432.

RSA 378:30-a states the following:

"378:30-a Public Utility Rate Base; Exclusions. Public utility rates or charges shall not in any manner be based on the cost of construction work in progress. At no time shall any rates or charges be based upon any costs associated with construction work if said construction work in progress, including but not limited to any costs associated with constructing, owning, maintaining, or financing construction work in progress, shall not be included in a utility's rate base nor be allowed as an expense for rate-making purposes until, and not before, said construction project is actually providing service to consumers.

"2. Effective Date. This act shall take effect upon passage."

This statute does not lend itself to ambiguity. Language such as "shall not in any manner," "at no time," and "all costs" are clearly terms which any legislator has a full understanding. These terms are not subject to two different interpretations. Furthermore, there are no exceptions, exemptions, or modifications as to either the effective date, the companies involved or the mandate.

Public Service Company of New Hampshire contends that nowhere in the statute does there appear language which requires the commission to void its order of May 25, 1978. Public Service Company of New Hampshire then sets forth three alternate sets of language that were never discussed in the legislative history, proceeds to discuss them, and then arrives at a conclusion that there is no express language in the statute requiring the commission to void its order.

The commission cannot find value in speculating as to what additional terms the legislature could have added. If the question could be resolved by this imaginative approach, the commission would have to consider arguments from the other parties such as "since the statute fails to state terms like 'this statute applies to all further CWIP increases,' the existing CWIP charges should be removed." Such imaginative arguments, as well as those proposed by PSNH, fail to address the actual language of the statute. It simply is not our function to speculate upon any supposed intention not appropriately addressed in the act itself. Ahern v Laconia Country Club Inc. (1978) 119 NH — .

Public Service Company of New Hampshire miscasts the issue when it argues that the legislature did not intend to "void" the commission's order of May 25, 1978. The true question presented is whether the legislature has so changed the law that the commission must change its rate order.

While PSNH claims there is no express requirement in the statute to change or void the order, this interpretation becomes a victim of the plain language of the statute. Each sentence

clearly states that rates can neither be based on, nor charged to, customers if they are based on CWIP. The final sentence also states when and only when such charges can be made to consumers; namely, after the plant is completed. Since the commission has the statutory authority to supervise utility practices (RSA 374:3) and set just and reasonable rates (RSA 378:7) it is clear that this language is a directive for which the legislature expects compliance. When the legislature enacts a statute involving a public utility rate-making methodology, it is fair to assume that they know which agency they have entrusted with that power.

If this commission failed to respond to this clear legislative mandate, the commission would be in direct violation of RSA 374:2, which states the following:

"Charges. All charges made or demanded by any public utility for any service rendered by it, or to be rendered in connection therewith, shall be just and reasonable and not more than is allowed by law or by order of the public utilities commission. Every charge that is unjust or unreasonable, or in excess of that allowed by law or by order of the commission, is prohibited."

Consequently, the commission finds that rates or charges based on the inclusion of CWIP in rate base are no longer allowed by state law.

Retroactivity Question

[5] The next question to be addressed is one of retroactivity. If the statute has retroactive application, there becomes an additional consideration of constitutionality under Part I, Art 23 of the New Hampshire Constitution. Before proceeding to answer this question, it is necessary to note that all parties agree that RSA 378:30-a has no impact prior to May 7, 1979. The application of the statute to existing rates beginning on May 7, 1979, is where the divergence in position appears. The question to be answered is whether application of RSA 378:30-a to existing rates is retrospective as maintained by PSNH or prospective as maintained by LUCC and CAP.

The first principle to be applied in determining the retrospective or prospective application of a statute is that all statutes affecting substantive rights are to have prospective effect only unless there is a clear legislative statement that the statute is to have retrospective effect. Lessard v Manchester Fire Dept. (1978) 118 NH 43, 47. "The presumption that a statute applies prospectively only is reversed when its purpose is remedial or a contrary intent is shown." Pepin v Beaulieu (1959) 102 NH 84, 89, citing 82 CJS § 993, 50 Am Jur § 505.

Public Service Company of New Hampshire relies on Pepin decision in stating that if the commission removes CWIP from the rate base that supports existing rates, the commission would be applying the statute retrospectively. Public Service Company of New Hampshire argues that to apply the statute in this fashion "will take away or impair vested right acquired under existing laws." Also that such an application would "create a new obligation, imposes a new duty, or attach a new disability in respect to transactions or considerations already past," (Pepin 102 NH at p. 89), and thereby must be deemed retrospective and in violation of the New Hampshire Constitution, Art I,

§ 23. Public Service Company of New Hampshire alleges that the award of a rate increase which was based in part on the inclusion of CWIP in rate base has become a vested right and that

as such neither the legislature nor the commission can tamper with this alleged vested right.

The New Hampshire supreme court has been reluctant to find vested rights in any instance and has noted that success on these grounds have been infrequent in this state and most other jurisdictions. Vachon & Sons, Inc., v Concord (1972) 112 NH 107, 110, citing Dumais v Somersworth, 101 NH 111, 115; Annot., 6 ALR2d 960 as cited in Arsenault v Keene (1962) 104 NH 356, 358, 18 A2d 60, 61.

The question of whether or not a public utility rate or level of rates are vested rights for all practical purposes were resolved in New England Teleph. & Teleg. Co. v New Hampshire (1962) 104 NH 229, 44 PUR3d 498, 183 A2d 237. There the commission found that existing rates were allowing a return on rate base in excess of that found to be a just and reasonable rate of return and ordered a reduction in rates. New England, 104 NH at p. 232, 44 PUR3d 498. There the supreme court upheld the commission findings "that there is more than one rate that may be a just and reasonable rate of return. The area between the lowest rate that is not excessive and extortionate has been referred to as a zone of reasonableness." 104 NH at p. 232, 233, 44 PUR3d 498, citing Banton v Belt Line R. Corp. (1925) 268 US 413, 423, PUR1926A 317, 69 L Ed 1020, 45 S Ct 534; Atlantic Coast Line v Florida, 295 US 301, 317.

The supreme court went on to state that rates must be just and reasonable and that the "commission will make adjustments in the rates of utilities to maintain them at a just and reasonable level. RSA 378:7. This standard is to prevail whether rates are reduced or increased. RSA 378:27, 28." 104 NH at p. 240, 44 PUR3d 498. If the commission is to make adjustments into rates to maintain them at a just and reasonable level and that further these adjustments can either raise or lower rates, it is impossible to conclude that a level of rates, let alone a rate-making methodology, is a vested right.

What PSNH is entitled to is "a just and reasonable rate base and a just and reasonable rate of return thereon." RSA 378:28. Public Service Co. of New Hampshire v New Hampshire (1973) 113 NH 497, 508, 2 PUR4th 59, 311 A2d 513, 520. Nothing in this report deviates from that statutory mandate. As a consequence, PSNH is not prejudiced by this decision.

Nor can the commission find that our action in this order creates a new obligation, duty, or disability in respect to transactions or considerations in the past. The commission is still obligated to set just and reasonable rates, albeit with due respect to RSA 378:30-a. That mandate has not changed. Furthermore, since the commission is not applying RSA 378:30-a to any rate or charge rendered to consumers prior to May 7, 1979, the commission is not altering any events prior to May 7, 1979. The commission is thus applying RSA 378:30-a to events or rates after May 7, 1979, and thereby prospectively.

Legislative Debate

[6] Public Service Company of New Hampshire introduced the House debate on the bill that led to RSA 378:30-a. Public Service Company of New

Hampshire relies upon various passages of the debate to support its contention that RSA 378:30-a does not apply to rates being rendered daily to consumers after May 7, 1979.

While the commission finds the statute unambiguous, and therefore finds it unnecessary to examine materials outside the four corners of the statute, the House debate does not disturb the plain meaning of the statute.

To begin with the statute was not changed from its inception. It was filed and passed with the exact same language. As to the legislators who spoke during the debate, only eight legislators can reasonably be determined to have addressed the application of the statute to existing rates.

Those legislators are Representatives Quimby, Morgan, Wight, Wiggins, Snell, Lamy, Chambers, and Spirou. Of these eight only the latter two actually spoke in favor of the bill. As a consequence it is these legislators that have any relevance.

Representative Spirou indicated on p. 61 of Exh 2 the following:

"CWIP charges are not going to be a vehicle for them to conduct their business. It is all over." Representative Chambers, who the company cites, addressed the issue on pp. 15-16 of Exh 2. While her comments are lengthy a key passage is as follows:

"From the time of passage of this bill CWIP is not a viable way to raise capital." Page 15.

These passages together with the plain language of the statute support the decision arrived at by the commission in this order. Representative Chambers' comments about fair hearings, rebates, and present CWIP must be read in conjunction with her early statement that from the day of passage CWIP is no longer a viable way to raise capital. If the commission were to hold otherwise, the commission would not be honoring either the specific language of the statute or comments by these two legislators.

The commission cannot possibly know or understand the motivations of all the legislators that voted either in favor or against the creation of the new statute. Here lies the logic of applying the plain language of the statute and not construing the statute unless the words contained therein are unclear. The commission finds the words to be clear as to their meaning. For this reason the commission must now review what factors go into the consideration process of determining just and reasonable rates and thereby the revenue requirement.

As will become evident, the commission finds the decision by the West Virginia supreme court persuasive not only as to the requirement of a hearing but also as to requiring a full investigation as to the present financial needs of the company balanced against the rights of the public. Virginia Electric & Power Co. v West Virginia Pub. Service Commission (1978) — W Va — , 28 PUR4th 12, 248 SE2d 332.

Revenue Involved

The most disturbing aspect of this case is the misstatement by both the LUCC and PSNH as to the revenue involved in this docket. Contrary to the assertions made by both these parties, the amount in controversy is not $18 million. Both of these parties focus their attention solely on the question of the inclusion of CWIP in rate base. In doing so, both ignore the standard rate-making practice where rate base is only one factor in determining overall revenue requirements. Although in fairness PSNH at best tried

to focus on other aspects through the testimony of witnesses Frain and Harrison. Therefore, the commission believes it necessary to reexamine the entire revenue question for this company.

To do so, it is necessary that the parties, as well as others who read this opinion, understand the rate-making considerations that have an impact on the revenue requirement for a particular utility. The overall revenue requirement is determined by applying the following formula:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

R = E + (v-d)r where:
R = Operating revenues
E = Operating expenses (such as
  salaries and taxes)
V = Value of rate base (which
  includes plant in service, working
  capital, plus intangibles)
d = Accrued or accumulated
  depreciation
r = Rate of return
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Prior to the passage of RSA 378:30-a, the commission was not bound by any narrow or rigid concepts of rate making. Legislative Utility Consumers' Council v Public Service Co. of New Hampshire (1979) 119 NH — at slip opinion pp. 7, 19. The statutory scheme dictated that this commission's rate-making power was "plenary save in a few specifically excepted instances." New Hampshire v New England Teleph. & Teleg. Co. (1961) 103 NH 394, 397, 40 PUR3d 525, 173 A2d 728, 730, citing Lorenz v Stearns (1932) 85 NH 494, 506, PUR1933A 322, 161 Atl 205, 212. As of May 6, 1979, the statutory scheme for public utility regulations mandated by the legislature in RSA Chap 378 clearly expresses an intent that the commission be afforded wide parameters within which to exercise its judgment. RSA Chap 378 was conspicuously devoid of any prescribed methodologies. Legislative Utility Consumers' Council v Public Service Co. of New Hampshire, 119 NH at slip opinion p. 19. However, as of May 7, 1979, this situation has changed. The legislature by its action has mandated a specific rate-making methodology on the commission through its amendment to RSA Chap 378. The plenary power of the commission while still strong now has one additional specifically excepted practice. Thus when the commission calculates the "R" it now must be mindful that when a value for the rate base is found ("V") that such value must be absent any inclusion of CWIP.

While this limitation on rate base must be complied with in both existing and future deliberations, the commission still has the duty to balance the interests of the investor and the consumer through the establishment of just and reasonable rates, the "touchstone" for utility regulation. Therefore, the commission must embark upon a rate-making proceeding to determine just and reasonable rates given the above formula.

This task, while always complicated and extremely technical, has increased complexity because of the major changes that have occurred since our May, 1978, order. These changes can be better understood by an application of the aforementioned formula to the PSNH situation.

Expenses or "E" have changed but these changes, contrary to the usual situation, have been both upward and downward. For example, while expense items such as salaries and property taxes have increased due to inflation, federal income taxes have decreased due to the lowering of the effective tax rate from 48 to 46 per cent. What the net effect as to expenses is in a comparison between May, 1978, and August, 1979, is not apparent from the record. However,

records filed with the commission tend to indicate a slight increase but hardly conclusive given the lack of a complete investigation.

The next factor, "V — value of rate base" also has changed. The commission included $111,258,428 of CWIP in rate base in its May of 1978 opinion. RSA 378:30-a only requires that portion that remains unfinished to be removed. A portion of this CWIP inclusion is related to the Wyman No. 4 plant, which is now operational and serving the public. Furthermore, the company's investment in that particular plant has increased over what was allowed into rate base as of May, 1978. Consequently, even as to CWIP the entire amount included in May of 1978 is not excluded by operation of RSA 378:30-a. In addition, new investment in completed transmission and distribution facilities prudently incurred and operational would be included in rate base now whereas they were not even started during the pendency of the last proceeding.

Another element of "V," or the value of rate base, is working capital. The commission has opted for the balance sheet approach to working capital since the last PSNH proceeding. This approach has been applied in Re Granite State Electric Co. (1978) DR 77-63, Re Concord Electric Co. (1978) DR 77-142, and Re Hudson Water Co. (1979) DR 78-135. The balance sheet approach as opposed to the previous 45-day allowance has resulted in a lower working capital allowance for Granite State Electric and Concord Electric and a higher allowance for Hudson Water Company. The effect on PSNH, which had its previous working capital allowance arrived at via the 45-day procedure, is unclear at this time.

With changes in plant, as well as technology, come changes in depreciation or "d." This factor is usually determined by a study which focuses on considerations of useful life salvage value and the like, and cannot be predicted. However, again it is logical to assume that existing depreciation charges would be higher than those found in DR 77-49, the previous PSNH proceeding, because of increased completed plant.

The most difficult factor as far as evaluation and the one with the greatest impact is the "r," or rate of return. This calculation is the product of the weighted averages of debt, preferred stock, common stock, multiplied by their cost rate. The cost rate of debt and preferred stock are generally agreed upon by all experts to a proceeding as they are readily ascertainable. Applying this consideration to PSNH, the debt and preferred costs are more costly than at the time of our last proceeding. All other things being equal, this would increase the required overall rate of return.

However, all things are not equal, and a large factor in any new evaluation as to overall rate of return is the return allowed on common equity. The commission has developed methods to evaluate what this return would be for any given utility. This commission, as well as the New Hampshire supreme court, has applied the test set forth in Federal Power Commission v Hope Nat. Gas Co. (1944) 320 US 591, 51 PUR NS 193, 88 L Ed 333, 64 S Ct 281, and Bluefield Water Works & Improv. Co. v West Virginia Pub. Service Commission, 262 US 679, PUR1923D 11, 67 L Ed 1176, 43 S Ct 675.

These cases require the commission to set rates that will:

" ... permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same

time and in the same undertakings which are attended by corresponding risks and uncertainties"; 262 US at pp. 692, 693, PUR1923D 11

"be commensurate with returns to the equity owner in other enterprises having corresponding risks." 320 US at p. 603, 51 PUR NS 193.

To measure these risks, the commission has developed criteria (Re Public Service Co. of New Hampshire [1978] DR 77-49, Re Pennichuck Water Works [1979] DR 79-3), of which the following are the most important: market-to-book ratio, construction program compared to existing rate base, percentage of AFUDC, yield, average ratios, debt-equity ratios, dividends per share, and earnings per share. As to the first three of these criteria, PSNH is riskier than it was in May of 1978, whereas as to the last five, they are less risky. However, before reaching any conclusion as to a reasonable return on common equity, a comparison would have to be made to other companies and industry composites. Furthermore, the fact that PSNH may no longer include CWIP in rate base may increase their overall risk to investors substantially. It is sufficient to state that at this early stage of investigation that based on information routinely filed with the commission, PSNH is entitled to an overall rate of return higher than what was allowed in the last proceeding.

This overall revenue situation is complicated by many factors, not the least of which is what percentage of the company's construction program (as of the last proceeding) is the company still committed to building. The proposed divestiture of a partial interest in Seabrook and the emergence of RSA 378:30-a, together with other factors such as inflation and the reduced corporate tax level, require this commission to reevaluate the entire revenue level of the Public Service Company so as to comply with the statutory mandate of just and reasonable rates.

Further support for this action stems from passage of the *Public Utility Regulatory Policies Act of 1978,* which requires commissions like this one to develop rates among the various customer classes as well as the usage levels within those classes that will encourage conservation, efficiency, and equity.

Consolidation

[7] The commission would be inefficient if it continued to pursue a revenue level pursuant to DR 79-107 and conducted the same investigation pursuant to DR 79-166, the new rate request by PSNH. As a consequence, the commission on its own initiative consolidates these two proceedings. This will allow all parties to present their financial evidence as to why rates should be higher than those presently in effect (PSNH) or lower (LUCC & CAP).

It is impossible to perform this evaluation with the record as presently compiled. Only through a careful reexamination of all factors can the observations made by this commission in the previous section of the opinion be tested and just and reasonable rates be found. See (1978) — W Va — , 28 PUR4th 12, 248 SE2d 322.

Time Period

The commission has set September 7, 1979, for a hearing in DR 79-166. That hearing will now be the focus of the consolidation of dockets DR 79-107 and DR 79-166. Any final order eventually

rendered will date back to May 7, 1979. Since in our original order the commission placed the company and the public on notice that as of May 7, 1979, rates were subject to alteration, the commission pursuant to RSA 378:3, 7, and 27 designate the company's rates as of May 7, 1979, as temporary rates.

Revenue From Other Jurisdictions

The commission also strongly suggests that PSNH continue to pursue the appropriate level of rates in other jurisdictions where it serves. Records of the company filed with the commission show the following rates of return as of March 31, 1979:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NH Retail	11.77%
ME Retail	6.71
VT Retail	3.84
NH Wholesale	8.89
Unit Sales	8.12

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the rates of the Public Service Company of New Hampshire as of May 7, 1979, shall no longer include an amount for CWIP in the rate base; and it is

Further ordered, that there will be an extensive investigation into revenue requirements to establish a just and reasonable rate of return for PSNH and for a fair and reasonable rate for its consumers; and it as

Further ordered, that the dockets DR 79-107 and DR 79-166 are hereby consolidated with a hearing scheduled for September 7, 1979, at 9:30 A.M.; and it is

Further ordered, that the rates of PSNH are made temporary as of May 7, 1979; and it is

Further ordered, that the elderly discount presently provided for in the existing tariffs shall be considered in a future supplemental order.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of August, 1979.

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NH.PUC*08/31/79*[78367]*64 NH PUC 307*Public Service Company of New Hampshire

[Go to End of 78367]

Re Public Service Company of New Hampshire

DF 78-108-6205, Order No. 13,804

64 NH PUC 307

New Hampshire Public Utilities Commission

August 31, 1979

PETITION for authority to transfer certain property and rights relating to a nuclear power plant; granted.

CONSOLIDATION, MERGER, AND SALE, § 19 — Transfer of interests — Nuclear power plant.

[N.H.] The commission found that the transfer of interests in land relating to a nuclear power plant, as provided for in the initial agreement among the construction utilities, was in the public good and authorized the transaction.

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APPEARANCES: Martin L. Gross, Philip Ayers, and Fedrick J. Coolbroth for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed May 4, 1979, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire, and operating as a public utility under the jurisdiction of this commission, seeks authority pursuant to RSA 374:30 to transfer certain property and rights associated with Seabrook station. A duly noticed hearing was held in Concord on June 12, 1979.

The company and several other New England electric utilities are parties to an agreement for joint ownership, construction, and operation of New Hampshire nuclear units, dated May 1, 1973, as amended (the "Seabrook agreement") with respect to the Seabrook nuclear generating station (the "Seabrook station"). Seabrook station was authorized by a certificate of site and facility under Order No. 11,267 of this commission entered January 29, 1974, in docket D-SF6205, as amended.

The major construction effort at the Seabrook station site commenced pursuant to said certificate of site and facility in July, 1976. The company states that both prior and subsequent to that time the utilities participating in the Seabrook agreement (the "participants") have paid, in accordance with the Seabrook agreement, their proportionate ownership shares of all Seabrook station costs (which at February 28, 1979, aggregated nearly $600 million), except that the other participants have not yet paid for their respective interests in to the Seabrook station site and related easements and other property interests.

The Seabrook agreement provides, among other things, for the company to arrange for conveyance and to convey in fee simple to the participants undivided interests in common to the land underlying the first and second unit site, together with such easements, rights, and permissions as may be reasonably required for the construction and operation of the units, in one or more deeds, in shares proportional to the respective ownership shares of the participants. Company witness David N. Merrill testified that the company has designated a portion of the land associated with Seabrook station as the first and second unit site, the portion so designated being depicted on Exh P-1.

The company states that in order to fulfill the obligations contained in the Seabrook agreement, it must convey and join with Properties, Inc., in conveying undivided interests in common in fee simple to the participants so that the ownership interests of the participants in the entire first and second unit site will upon the transfer of title herein set forth be as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Participant	*Ownership Share*
Public Service Company of New Hampshire	50.00000%
The United Illuminating Company	20.00000
Bangor Hydro-Electric Company	0.37249
Central Maine Power Company	2.54178
Central Vermont Public Service Corporation	1.59096
Fitchburg Gas and Electric Light Company	0.60432

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Participant	*Ownership Share*
Maine Public Service Company	1.46056
Massachusetts Municipal Wholesale Electric Company	5.59249
Montaup Electric Company	2.93531
New Bedford Gas & Edison Light Company	4.37370
New England Power Company	9.95766
Taunton Municipal Lighting Plant Commission	0.10034
Town of Hudson, Massachusetts, Light and Power Dept.	0.05780
Vermont Electric Cooperative, Inc.	0.41259
	100.00000%

Further, in accordance with the Seabrook agreement, the company proposes to convey and to join with Properties, Inc., in conveying appropriate easements, rights, and permissions to the participants for appurtenant buildings including the education center and for other facilities such as the cooling water tunnels and the south access road.

In consideration for the conveyances by PSNH and Properties, Inc., of real estate interests as set forth above, each participant will pay, in accordance with the Seabrook agreement, such participant's ownership share of the site acquisition costs to the date of conveyance, including an allowance for funds used during construction and property taxes, allocable to the first and second unit site.

In further performance of its obligations under the Seabrook agreement, PSNH proposes to

convey to the participants appropriate proportions of interests in common to certain personally that the participants have paid for and have an equitable interest in, but to which they do not as yet have legal title.

The action sought in this petition does not involve in any way the contemplated reduction of PSNH's ownership interest in Seabrook station, but relates instead only to obligations heretofore arising under the Seabrook agreement. Approval for the reduction is governed by this commission's orders in Re Public Service Co. of New Hampshire, DF 79-100-6205.

The foregoing list of ownership shares assumes the completion of certain transfers among participants as previously authorized by this commission. (Cf. Re Central Maine Power Co. et al. DF 79-104-6205; Re New England Power Co. DF 79-103-6205; and the Re Connecticut Light & P. Co. DSF 6205.) The company has notified the commission that certain of the transfers may not have been completed as of the date or dates of the closings for the conveyance of the property interests, expected to be in September, 1979. It is the intent of the authorization granted herein that the company be permitted to transfer property interests to the participants in shares corresponding to their respective ownership interests in Seabrook station as of the date or dates of the closings.

The commission finds that the transfer to the participants of undivided interests in the land underlying the first and second unit site, as shown on Exh P-1, in fee simple, together with appropriate easements, rights, and permission by one or more deeds and the transfer of personal property as set forth above, in common and in the proportions set forth or referred to herein will be for the public good. Our order will issue accordingly.

Order

Based upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company

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of New Hampshire be, and hereby is, authorized to convey, and to join with Properties, Inc., in conveying, to the participants undivided interests in the land in Seabrook, New Hampshire underlying the first and second unit site at Seabrook station, as depicted on Exh P-1, in fee simple, in common and in the proportions set forth or referred to in the report; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to convey, and to join with Properties, Inc., in conveying, to the participants appropriate easements, rights, and permissions as called for in the Seabrook agreement; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to convey to the participants undivided interests in personal property associated with Seabrook station, in common and in the proportions set forth or referred to in the report; and it is

Further ordered, that the consideration to be received by Public Service Company of New Hampshire shall be in an amount equal to each such participant's ownership share of the site acquisition costs incurred by Public Service Company of New Hampshire as of the date of the conveyance, including an allowance for funds used during construction and property taxes,

allocable to the first and second unit site, all as set forth in the Seabrook agreement; and it is

Further ordered, that Public Service Company of New Hampshire shall, within a reasonable time after the completion of any of the transfers authorized herein, file with this commission a statement, duly sworn to by its treasurer or assistant treasurer, showing the consideration received.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of August, 1979.

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NH.PUC*09/04/79*[78368]*64 NH PUC 310*Public Service Company of New Hampshire

[Go to End of 78368]

Re Public Service Company of New Hampshire

DF 79-152, Order No. 13,808

64 NH PUC 310

New Hampshire Public Utilities Commission

September 4, 1979

PETITION of an electric company for authority to increase its capital stock; granted.

SECURITY ISSUES, § 58 — Purposes and subjects of capitalization — Additions and betterments.

[N.H.] An electric company was authorized to increase its capital stock beyond the amount fixed by its articles of agreement where the stockholders agreed to the increase and the commission found that the increase was necessary for proper corporate purposes, including the financing of the company's construction program over the next several years.

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APPEARANCES: Frederick J. Coolbroth for the petitioner.

BY THE COMMISSION:

By this unopposed petition, filed July 27, 1979, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority pursuant to RSA 369:14 to increase its capital stock beyond the amount fixed and limited by its articles of agreement by increasing its authorized preferred stock, $25 par value, from 2 million to 5 million shares.

At the duly noticed hearing on the petition, held in Concord on August 27, 1979, the company submitted that at an adjourned session of the annual meeting of stockholders held on May 10, 1979, said adjourned session being held on June 21, 1979, the preferred and common stockholders voted to amend the articles of agreement of the company to increase its authorized preferred stock, $25 par value, to the higher amount set forth in the company's petition, and a certified copy of the authorizing votes was submitted.

Company witness Lampron testified that the increase in the authorized capital stock was necessary for proper corporate purposes, including the financing of the company's construction program over the next several years.

Based upon all the evidence, the commission finds that the increase in the company's capital stock in the amount requested in the petition for proper corporate purposes, including the financing of the company's construction program, will be consistent with the public good and should be approved and authorized. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to increase its authorized preferred stock, $25 par value, from 2 million to 5 million shares.

By order of the Public Utilities Commission of New Hampshire this fourth day of September, 1979.

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NH.PUC*09/05/79*[78369]*64 NH PUC 311*Northern Utilities, Inc

[Go to End of 78369]

Re Northern Utilities, Inc

IR14,871, Order No. 13,809

64 NH PUC 311

New Hampshire Public Utilities Commission

September 5, 1979

PETITION seeking special contract rates for gas.service; granted.

BY THE COMMISSION:

Order

Whereas, Northern Utilities, Inc., a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 37 with Elliott Rose Company

of Dover, Inc., effective on the date service first taken, for gas service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this fifth day of September, 1979.

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NH.PUC*09/05/79*[78370]*64 NH PUC 312*Public Service Company of New Hampshire

[Go to End of 78370]

Re Public Service Company of New Hampshire

DR 79-107 et al. Order No. 13,810

64 NH PUC 312

New Hampshire Public Utilities Commission

September 5, 1979

ORDER consolidating cases and providing for a preliminary hearing.

RATES, § 649 — Hearing and notice.

[N.H.] The commission has scheduled a hearing on a water company's application for authority to increase rates.

BY THE COMMISSION:

Order

The Public Service Company of New Hampshire having filed proposed NHPUC Tariff No. 22 (docket DR 79-166) providing for an interim rate increase in the amount of 8.8 million effective September 6, 1979; and proposed NHPUC Tariff No. 23 providing for a revenue increase from all retail customers of the company of 18.4 per cent or $18,456,225 which tariff includes a new fuel adjustment provision; and the New Hampshire Public Utilities Commission having initiated on its own motion an investigation as to why the company should not remove from its rate any costs associated with construction work in progress (docket 79-107); it is

Ordered, that all of the above matters be and are incorporated into one docket to be known as

docket DR 79-187; and it is

Further ordered, that all interested persons shall appear at the office of the New Hampshire Public Utilities Commission, 8 Old Suncook Road, at 9:30 A.M. on September 7, 1979, for the purposes of determining proper parties to the proceeding, times and places of public hearings, discovery procedures, schedules, and other procedural matters.

By order of the Public Utilities Commission of New Hampshire this fifth day of September, 1979.

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NH.PUC*09/05/79*[78371]*64 NH PUC 313*Public Service Company of New Hampshire

[Go to End of 78371]

Re Public Service Company of New Hampshire

DR 79-187, Supplemental Order No. 13,811

64 NH PUC 313

New Hampshire Public Utilities Commission

September 5, 1979

PETITION seeking electric rate increase; suspended pending further investigations.

BY THE COMMISSION:

Supplemental Order

Whereas, Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 31, 1979, filed with this commission its tariff, NHPUC No. 23 — Electricity, providing for increased annual revenues of 818,456,225 (8.4 per cent); and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that tariff, NHPUC No. 23 — Electricity, of Public Service Company of New Hampshire be, and hereby — is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this fifth day of September, 1979.

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NH.PUC*09/06/79*[78372]*64 NH PUC 313*Hanover Water Works Company

[Go to End of 78372]

Re Hanover Water Works Company

DR 79-173, Order No. 13,812

64 NH PUC 313

New Hampshire Public Utilities Commission

September 6, 1979

PETITION seeking water rate increase; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, Hanover Water Works Company, a public utility engaged in the business of supplying water service in the state of New Hampshire, on August 17, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 4 — Water, providing for increased annual revenues in the amount of 561,470 (16.4 per cent), effective October 1, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date

thereof be suspended pending investigation and decision thereon; it is

Ordered, that Original Page 11A, Fifth Revised Pages 12 and 13 and Sixth Revised Pages 11, 14, 15, and 16 of tariff, NHPUC No. 4 — Water, be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this sixth day of September, 1979.

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NH.PUC*09/10/79*[78374]*64 NH PUC 315*Public Service Company of New Hampshire

[Go to End of 78374]

Re Public Service Company of New Hampshire

DF 79-100-6205, Third Supplemental Order No. 13,817

64 NH PUC 315

New Hampshire Public Utilities Commission

September 10, 1979

MOTION for rehearing of order relating to the transfer of interest in a nuclear power plant; denied.

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1. CONSOLIDATION, MERGER, AND SALE, § 65 — Motions for rehearing — Parties.

[N.H.] Motions for rehearing were denied where neither of the two movants had standing in the case at issue and, additionally, the motions were duplicative of a motion submitted by a party. p. 315.

2. CONSOLIDATION, MERGER, AND SALE, § 67 — Motion for rehearing — Grounds.

[N.H.] The commission denied a motion for rehearing of its order relating to the transfer of interest in a nuclear plant where the moving party (1) failed to demonstrate that one of its contentions was relevant and (2) made other arguments which were premature. p. 315.

BY THE COMMISSION:

Motion for Rehearing

These proceedings were initiated by Public Service Company of New Hampshire (PSNH) for the purpose of implementing a 22 per cent transfer of its interest in Seabrook to various entities in New England. The commission conducted three days of hearings into this matter, which culminated in Report and Order Nos. 13,759 and 13,780. The latter report and order being the subject of three motions for rehearing which were submitted by the following: Seacoast Anti-Pollution League (SAPL), the Community Action Program (CAP), and the Legislative Utility Consumers' Council (LUCC).

Community Action Program and Seacoast Anti-Pollution League Motions

[1] The motions submitted by SAPL and CAP are denied on the basis that neither group has standing in this proceeding and where, furthermore, their motions are duplicative of the motion submitted by the LUCC. The regulatory process needs to be conducted in an orderly fashion. Efficient regulation is ill served by groups, who are not recognized parties to a proceeding attempting to reach party status by motions for rehearing at the close of a proceeding.

Legislative Utility Consumers' Council Motion

[2] The LUCC focuses on three main areas in its motion for rehearing: (1) need for power, (2) treatment of AFUDC, and (3) the failure of the commission to address PSNH's first mortgage indenture. The LUCC is also concerned that the commission has not given RSA 363:17-b) proper treatment in its Supplemental Report and Order No. 13,780.

Public Service Company of New Hampshire Position

The Public Service Company of New Hampshire responds to the LUCC contentions

with the following arguments: (1) The need for power is not a proper issue to be resolved in this proceeding. In the alternative, PSNH also argues that even granting the relevancy of the need for power question, it is unclear if the LUCC is contending that the commission's projection is too low thereby suggesting that PSNH should be required to retain more than 28 per cent

ownership, or that the commission's projection is unduly high thereby suggesting that PSNH should be required to reduce its ownership interest below 28 per cent. (2) Reiterates PSNH's position as to the question of AFUDC. (3) The question of any amendment to the first mortgage indenture is outside the scope of this proceeding.

Need for Power

The commission's decision, I-SF14,829 — 14,831, involved a determination of the need for power in New Hampshire. The LUCC attacks this investigation in a lengthy and ambiguous fashion. The LUCC never reveals whether it is attacking the commission's investigation because it believes the finding too low or too high. Furthermore, its disparaging comments as to the quality of the investigation have little, if any, substance upon closer scrutiny.

First, the LUCC contends that RSA 162-F does not provide for a commission evaluation of demand forecasts by PSNH. On the contrary, RSA 162-F specifically requires the commission to *review and comment* on PSNH's long-range forecasts. The LUCC's second contention is that if the commission's investigation was lawful under RSA 162-F, then its order pursuant to that statute should have preceded its initial order in this docket. Both orders were rendered within one working day of each other. The commission made its decision as to both matters prior to the rendering of any order in either proceeding. The time differential was the result of a malfunction in the commission's copying machine, which the LUCC was so informed.

The next LUCC contention involves a quote from p. 7 of the commission's initial report in this proceeding. The commission took administrative notice of its files and provided in the report the exact portion of its files administratively noticed. The LUCC did not contest the administrative notice materials in the hearing held subsequent to the commission's initial report, and consequently it has waived any right to challenge this evidence at this late date.

The LUCC then proceeds to offer various criticisms as to the 5 per cent peak growth projection, which appeared in the commission's decision in I-SF14,829 — 14,831. These findings were made subject to another proceeding and it is improper to use this proceeding to attack another commission order.

Although the commission finds it unnecessary to comment further on its findings in another proceeding, a reading of our report in the "Need For Power Investigation" (I-SF14,829 — 14,831) provides no substantiation for the claims by the LUCC. Initially, it should be noted that other studies were examined by both ESRG and Arthur D. Little. In addition, some of these studies were also evaluated by the commission in its investigation. In this report the commission indicated that the 5 per cent level was the "highest growth rate scenario." (Page 5.) The commission indicated that for the present it rejected the 5.9 per cent, 5.5 per cent, and 3.7 per cent scenarios of the Battele model. The commission

indicated that it would continue to monitor the situation and would test the 4.2 per cent and 4.6 per cent scenarios as it obtained access to a computer. However, the rationale for the LUCC allegations escapes the commission given that the LUCC has failed to state whether it finds the commission finding unduly high or unduly low.

For purposes of this proceeding, the 5 per cent scenario was used. At a 5 per cent peak growth rate PSNH will have more than adequate capacity through 1990. If the peak growth rate is a lower figure, this adequate capacity period is extended even further into the future. (See Exh P-10.) Furthermore, if the New Hampshire Electric Cooperative is successful in obtaining a share of Seabrook, the situation is further improved. The only critical time period in the near future occurs one year prior to the completion of Seabrook. Obviously, the percentage of ownership by PSNH is inconsequential to that time period. Therefore, the entire question for need for power can be summarized in two brief sentences: (1) There will be adequate capacity at least until 1990 with a 22 per cent divestiture, and (2) Whatever the LUCC's position is as to need for power, they have failed to demonstrate its relevancy or its content.

Treatment of AFUDC

The proper time to address the treatment of AFUDC is when the Seabrook station becomes operational. It is at that time that PSNH will seek to include its investment in Seabrook in rate base. The AFUDC portion of those costs will be an issue in that proceeding because only then will it have a possibility of impact on the consumer. If the company has not received full cost for the portion of interest sought to be transferred in this proceeding, then these costs can fall: only on stockholders, only on ratepayers, or some portion upon each group. In its initial order, the commission indicated the following:

"If the company has not in fact sought the full cost, a resolution will need to be made by this commission if the company seeks to have New Hampshire ratepayers pay for some other ratepayers' plant. Consumers are only required to pay a return on plant that serves them. Costs associated with plant that does not serve New Hampshire ratepayers cannot be charged to those ratepayers since to do so would contravene the principle of just and reasonable rates which is the sole determinant in public utility regulation in New Hampshire. Legislative Utility Consumers' Council v Public Service Co. of New Hampshire (1979) 119 NH — . However, the unreasonableness of such situations can be mitigated if the company proves it received full cost." (Page 9)

The commission's aforementioned language sets up the presumption that ratepayers will not be forced to pay costs associated with plant dedicated to serving the needs of others outside the New Hampshire retail area. However, consistent with the goal of fair play, it provides the company an opportunity to overcome the unreasonableness of this situation by citing other considerations it has received for the benefit of ratepayers. The commission finds no compelling reason to state any further guidance to resolution of this issue.

First Mortgage Indenture

The LUCC contention that the commission should order a change in PSNH's first mortgage indenture is

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beyond the scope of this hearing. An examination of this record, together with the commission's knowledge gleaned from other proceedings, certainly suggest that PSNH should seek independent financial and legal advice as to the tradeoffs in altering this restriction on the

company's financial operations. The commission recognizes that the indenture has both positive and negative effects on the company's operations. The company would be wise to examine this situation in closer detail. However, nothing in the record compels the commission to delay its approval of the divestiture because of a party's speculation on what might be the case if reality was somewhat different.

Conclusion

The commission, upon consideration of all the LUCC allegations, reaches the conclusion that the motion for rehearing must be denied. As a consequence of this decision to deny all three motions, this case is closed. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report which is made a part hereof; it is

Ordered, that the motions for rehearing filed by the Legislative Utility Consumers' Council, the Seacoast Anti-Pollution League, and the Community Action Program are hereby denied.

By order of the Public Utilities Commission of New Hampshire this tenth day of September, 1979.

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NH.PUC*09/11/79*[78373]*64 NH PUC 314*Nelson v Public Service Company of New Hampshire

[Go to End of 78373]

Nelson v Public Service Company of New Hampshire

DR 79-132, Supplemental Order No. 13,816

64 NH PUC 314

New Hampshire Public Utilities Commission

September 11, 1979

ORDER extending period in which an electric company was required to make refunds to customers.

REPARATION, § 41 — Award of reparation; method of payment — Period of reparation.

[N.H.] Where it was evident that an electric company would be delayed in complying with a state supreme court order directing that refunds to customers be made by a certain date, the commission granted the company an extension of the time period.

Supplemental Order

Whereas, in response to the New Hampshire supreme court decision rendered in Nelson v

Public Service Co. of New Hampshire on May 17,1979 (402 A2d 644), this commission issued Order No. 13,667, directing that the Public Service Company of New Hampshire refund to its customers on or before September 1, 1979; and

Whereas, it appears that a preliminary program matching customers of name and location to December, 1977, billing has determined that 100,000 bills and customers do not match. This mismatch of customers and bills will facilitate each customer's bill to be handled manually; and

Whereas, it further appears that a large number of customers would be entitled to refund of less than one dollar; and

Whereas, the aforementioned facts will cause a delay in solving the ordered refunds; it is hereby

Ordered, that Order No. 13,667 is amended by extending the date for said refunds to be made from the end of September, 1979, to October 30, 1979.

By order of the Public Utilities Commission of New Hampshire this eleventh day of September, 1979.

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NH.PUC*09/12/79*[78375]*64 NH PUC 318*New Hampshire Electric Cooperative, Inc.

[Go to End of 78375]

Re New Hampshire Electric Cooperative, Inc.

DR 79-178, Order No. 13,818

64 NH PUC 318

New Hampshire Public Utilities Commission

September 12, 1979

PETITION seeking electric rate increase; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 17, 1979, filed with this commission its tariff, NHPUC No. 9 — Electricity, providing for increased annual revenues of $534,276 (3.1 per cent), filed for effect September 20, 1979; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date

thereof be suspended pending investigation and decision thereon; it is

Ordered, that tariff, NHPUC No. 9 — Electricity, of New Hampshire Electric Cooperative, Inc., be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twelfth day of September, 1979.

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NH.PUC*09/13/79*[78376]*64 NH PUC 319*Gas Service, Inc.

[Go to End of 78376]

Re Gas Service, Inc.

IR14,868, Order No. 13,821

64 NH PUC 319

New Hampshire Public Utilities Commission

September 13, 1979

PETITION seeking special contract for gas service; granted.

BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 25 with the town of Merrimack, effective August 9, 1979, for service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of September, 1979.

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NH.PUC*09/14/79*[78377]*64 NH PUC 319*New Hampshire Electric Cooperative, Inc.

[Go to End of 78377]

Re New Hampshire Electric Cooperative, Inc.

DE 79-162, Order No. 13.822

64 NH PUC 319

New Hampshire Public Utilities Commission

September 14, 1979

PETITION of an electric utility for a license to cross public waters; granted.

ELECTRICITY, § 7 — Wires and cables — Authorization for transmission lines.

[N.H.] The commission granted a license for the installation and maintenance of a power cable across public waters to an electric cooperative where no objections to the crossing

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had been filed and the proposed clearances were within the guidelines of the national electrical safety code.

APPEARANCES: Thomas W. Morse for the petitioner.

BY THE COMMISSION:

Report

On August 13, 1979, the New Hampshire Electric Cooperative, Inc., filed with this commission a petition seeking authority to install and maintain a power cable across the public waters of Shellcamp Lake in the town of Gilmanton, New Hampshire.

The commission issued an order of notice on August 16, 1979, directing all interested parties to appear at public hearing at 10 A.M. on September 27, 1979, at the commission's Concord offices. In addition to publication of said notice, copies were directed to the Legislative Utility Consumers' Council, the Gilmanton Conservation Commission, the office of attorney general, the Division of Safety Services, the Department of Resources and Economic Development, the Aeronautics Commission and the Transportation Authority. On September 7, 1979, a letter was issued to all parties rescheduling said hearing for 9:30 A.M. on September 13, 1979.

Counsel for the petitioner presented one witness, Ellsworth Cotton, operating superintendent for the petitioner, who described the line extension involving the water crossing. Introduced as exhibits were staking sheets for the extension, a plan and profile sketch showing the detail of the crossing and a geodetic map. Testimony revealed that clearances were within the guidelines directed by the National Electrical Safety Code.

The commission noted that letters were on file from the Department of Resources and Economic Development, the Division of Safety Services, and the Aeronautical Commission each expressing no objection to the proposed crossing.

With the absence of objection to this water crossing, the commission feels said crossing would be in the public interest. Our order will issue accordingly.

Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that the license for aerial water crossing of power cables across public waters of Shellcamp Lake be granted for the New Hampshire Electric Cooperative, Inc., said crossing to be between Poles 14/124/L and 14/124/M, to be installed and maintained according to the National Electrical Safety Code.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of September, 1979.

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NH.PUC*09/18/79*[78378]*64 NH PUC 321*Public Service Company of New Hampshire

[Go to End of 78378]

Re Public Service Company of New Hampshire

DF 79-181, Order No. 13,824

64 NH PUC 321

New Hampshire Public Utilities Commission

September 18, 1979

PETITION for authority to issue and sell notes and bonds; granted.

SECURITY ISSUES, § 58 — Authorization — Additions and betterments.

[N.H.] The commission authorized the sale of securities where the proceeds were to be used to obtain the release of pledged nuclear fuel to pay off a portion of short-term notes outstanding and to finance the purchase and construction of additional property.

APPEARANCES: Ralph H. Wood for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed August 24, 1979, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire, and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell from time to time its secured term notes not exceeding an aggregate of $32 million (the "secured notes") and to pledge nuclear fuel as security for the secured notes; to issue and sell for cash not exceeding $75 million of general and refunding mortgage bonds, Series B (the "Series B G&R bonds"); to issue first mortgage bonds, Series X (the "Series X first mortgage bonds"), to be pledged as additional security for the general and refunding mortgage bonds of all series (the

"G&R bonds"); and to mortgage its present and future property, tangible and intangible including franchises, as security for the G&R bonds and first mortgage bonds. A duly noticed hearing was held in Concord on September 7, 1979.

Company witness Harrison testified that $10.6 million of the proceeds of the sale of the secured notes will be used to obtain the release of nuclear fuel pledged by the company in connection with advance construction payments by Seabrook participants to the company in July, 1979, and that the balance of the proceeds of the sale of the secured notes and Series B G&R bonds will be used (a) to pay off a portion of the short-term notes outstanding at the time of sale (estimated to be $ 112 million on September 27, 1979), the proceeds of which will have been expended in the purchase and construction of property located in New Hampshire reasonably requisite for present and future use in the conduct of the company's business; (b) to finance the purchase and construction of additional such property: No proceeds will be separately received, apart from the proceeds of the sale of the Series B G&R bonds, from the issuance of the Series X first mortgage bonds which will be pledged as security for the G&R bonds. All expenses incurred in accomplishing

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the financing will be paid from the general funds of the company.

The secured notes will be issued by the company from time to time in amounts not exceeding an aggregate of $32 million to a group of commercial banks led by Marine Midland Bank and will be secured by a first lien on the company's interest as tenant-in-common in the nuclear fuel for Seabrook Unit Nos. 1 and 2.

The Series B G&R bonds will be sold through a negotiated public offering. Mr. Harrison described in detail the major terms of the proposed Series B G& R bonds and explained the proposed issue and pledge of $9,302,000 of the Series X first mortgage bonds. He also explained why the company again proposed a negotiated rather than a competitive sale. In that connection, the company put in evidence a letter from the firm of Duff & Phelps recommending a negotiated offering.

The company submitted a balance sheet as at July 31, 1979, actual and pro formed for the sale of these securities and pointed out that the proposed issue and pledge of Series X first mortgage bonds would not affect the company's capitalization. Exhibits were also submitted showing: disposition of proceeds, estimated expenses of the issue, and capital structure as at July 31, 1979, and pro formed for the sale of these securities. Projected financing requirements and estimated construction expenditures were outlined in testimony. Certified copies of authorizing votes of the company's board of directors were put in evidence at the hearing.

Based upon all of the evidence, the commission finds that approximately $10.6 million of the proceeds from the proposed financing will be used to obtain the release of pledged nuclear fuel and the balance will be expended (1) to pay off a portion of the short-term notes outstanding at the time of the sale, the proceeds of which will have been expended in the purchase and construction of property located in New Hampshire reasonably requisite for present and future use in the conduct of the petitioner's business; (2) to finance the purchase and construction of additional such property, and further finds that the issue and sale of the secured notes and the

pledging of nuclear fuel as security therefor, the issue and sale of Series B G&R bonds, and the issue of Series X first mortgage bonds, for the purposes described will be consistent with the public good. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell not exceeding $32 million of secured notes for cash to a group of commercial banks and to pledge nuclear fuel as security therefor in accordance with the foregoing report and as set forth in its petition; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell not exceeding $75 million of its general and refunding mortgage bonds, Series B, for cash in accordance with the foregoing report and as set forth in its petition; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue $9,302,000 of first mortgage bonds, Series X, to be pledged as additional security for its general and refunding mortgage bonds,

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in accordance with the foregoing report and as set forth in its petition; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to mortgage its present and future property, tangible and intangible including franchises, as security for its general and refunding mortgage bonds and its first mortgage bonds; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this commission the principal amount, term, purchase price, and rate of interest of said Series B general and refunding mortgage bonds and said Series X first mortgage bonds. Following this required submission, a supplemental order will issue approving the terms of the issue and sale of the securities, including the principal amount, term, purchase price, and rate of interest thereof; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this commission the principal amount and rate of interest of the secured notes. Following this required submission, a supplemental order will issue approving the terms of the issue and sale of the secured notes, including the principal amount and rate of interest thereof; and it is

Further ordered, that the proceeds from the sale of the secured notes and the Series B G&R bonds shall be used to obtain the release of nuclear fuel as set forth in the report and for the purpose of discharging and repaying a portion of the outstanding short-term notes of the company and for the other purposes stated in the report; and it is

Further ordered, that on January 1st and July 1st in each year, Public Service Company of New Hampshire shall file with this commission a detailed statement, duly sworn to by its treasurer or assistant treasurer, showing the disposition of the proceeds of the secured notes and

Series B general and refunding mortgage bonds being authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of September, 1979.

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NH.PUC*09/18/79*[78379]*64 NH PUC 323*Gas Service, Inc.

[Go to End of 78379]

Re Gas Service, Inc.

IR14,865, Order No. 13,826

64 NH PUC 323

New Hampshire Public Utilities Commission

September 18, 1979

PETITION seeking special contract for gas service; granted.

BY THE COMMISSION:

Order

Whereas, Gas Services, Inc., a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 24 with Anheuser-Busch, Inc., effective July 31, 1979, for service at rates other than

those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of September, 1979.

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NH.PUC*09/19/79*[78380]*64 NH PUC 324*Public Service Company of New Hampshire

[Go to End of 78380]

Re Public Service Company of New Hampshire

DF 79-181, Supplemental Order No. 13,827

64 NH PUC 324

New Hampshire Public Utilities Commission

September 19, 1979

PETITION for authority to issue and sell securities.

SECURITY ISSUES, § 44 — Securities sales — Authorization.

[N.H.] The commission authorized the issuance and sale of secured notes and mortgage bonds where the utility submitted to the commission the principal amount, term, purchase price, and interest on the securities and where the sale was found to be in the public interest.

BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 13,824 dated September 18, 1979, issued in the above entitled proceeding authorized Public Service Company of New Hampshire, inter alia, to issue its general and refunding mortgage bonds Series B (the "Series B bonds"), in a principal amount not exceeding $75 million and its first mortgage bonds, Series X (the "Series X first mortgage bonds"), in the principal amount of $9,302,000; and

Whereas, in compliance with said Order No. 13,824, the company has submitted to this commission details concerning the sale of the Series B G&R bonds and Series X first mortgage bonds, including the principal amount, the term and purchase price thereof, and the interest rate thereon (said provisions being the same for both issues except for the principal amount and purchase price), the principal amount of the Series B G&R bonds being $60 million and of the Series X first mortgage bonds being $9,302,000 said term being twenty years from September 15, 1979, said price of the Series B G&R bonds being 97.80 per cent of the principal amount, and said interest rate being 12 per cent per annum, all in accordance with the underwriting agreement, a copy of which is to be filed with the commission; and

Whereas, after due consideration, it appears that the issue and sale of $60 million of the Series B G&R bonds

hereinabove described under the terms and conditions of the general and refunding mortgage indenture, dated as of August 15, 1978, together with the first supplemental indenture thereto to be dated as of September 15, 1979, upon the terms presented to this commission, including the term, purchase price, and interest rate hereinabove set forth or referred to, is consistent with the public good, and it further appears that the issue of $9,302,000 of Series X first mortgage bonds under the terms and conditions of the company's first mortgage, dated as of January 1, 1943,

together with all indentures supplemental thereto, including the 29th supplemental indenture to be dated as of September 15, 1979, upon the terms presented to this commission, including the terms and interest rate hereinabove set forth or referred to, to be pledged as security for the G&R bonds, is consistent with the public good; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell for cash its general and refunding mortgage bonds, Series B 12 per cent due 1999, in the principal amount of $60 million at a price of 97.80 per cent of the principal amount, said Series B bonds to bear interest at the rate of 12 per cent per annum; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue its first mortgage bonds, Series X 12 per cent due 1999, in the principal amount of $9,302,000 to be pledged with the general and refunding mortgage indenture trustee to be held by said trustee under the terms of the general and refunding mortgage indenture as additional security for the G&R bonds, said Series X first mortgage bonds to bear interest at the rate of 12 per cent per annum; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to mortgage its present and future property, tangible and intangible including franchises, as security for the Series B general and refunding mortgage bonds and Series X first mortgage bonds hereinabove authorized; and it is

Further ordered, that all other provisions of said Order No. 13,824 of this commission are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of September, 1979.

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NH.PUC*09/20/79*[78381]*64 NH PUC 325*Municipal Calling

[Go to End of 78381]

Re Municipal Calling

IE14,873, Order No. 13,828

64 NH PUC 325

New Hampshire Public Utilities Commission

September 20, 1979

PETITION to change tariffs regarding telephone municipal calling service; granted.

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BY THE COMMISSION:

Order

Whereas, the following telephone companies, being public utilities engaged in the business of supplying telephone service in the state of New Hampshire; and

Whereas, all of these companies filed with this commission certain additions to their filed tariffs, to offer municipal calling in their franchised areas, to be effective September 30, 1979; and

Whereas, the following tariff pages have been submitted:

Chichester Telephone Company, Section 2, Original Sheet 2 Section 2, Original Sheet 3 to NHPUC No. 3;

Dunbarton Telephone Company, Section 2, First Revised Sheet 1 Section 2, Original Sheet 2 to NHPUC No. 5;

Granite State Telephone Company, Section 2, Original Sheets 3 and 4 to NHPUC No. 6;

Kearsarge Telephone Company, Section 2, Original Sheets 2 and 2B to NHPUC No. 5;

Meriden Telephone Company, Section 2, Original Sheet 1A to NHPUC No. 4;

Merrimack County Telephone Company, Section 2, Original Sheets 1B and 1C Supplemental No. 1, Section 2, Original Sheets 1B and 1C to NHPUC No. 6;

New England Telephone and Telegraph Company, Definitions, Eighth Revised, Page 6, Part I General Regulations, Ninth Revised, Page 5, Part II Section 1, Second Revised Page 10, Eighth Revised Page 11, 16th Revised Page 9, 17th Revised Page 1, 44th Revised Page 8, 65th Revised Page 2 and Original Pages 12-16; Part III, Section 10, Tenth Revised Page 1; and Part V Section 1, Tenth Revised Page 3 to NHPUC No. 70;

Union Telephone Company, Section 2, Original Sheets 3 and 4 to NHPUC No. 6;

Wilton Telephone Company, Section 2, Original Pages 1B and 1C to NHPUC No. 4; and

Whereas, it appears to the commission that the rights and interests of the public are benefited by this filing, it is

Ordered, that municipal calling be placed into operation effective September 30, 1979; and it is

Further ordered, that all tariff pages listed are hereby accepted as submitted.

By order of the Public Utilities Commission of New Hampshire this twentieth day of September, 1979.

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NH.PUC*09/20/79*[78382]*64 NH PUC 326*Public Service Company of New Hampshire

[Go to End of 78382]

Re Public Service Company of New Hampshire

DF 79-100-6205, Fourth Supplemental Order No. 13,829

64 NH PUC 326

New Hampshire Public Utilities Commission

September 20, 1979

ORDER relating to the sale and transfer of interest in a nuclear power plant.

Page 326

1. CONSOLIDATION, MERGER, AND SALE, § 61 — Reopening of proceedings — Changed circumstances.

[N.H.] The commission reopened a proceeding relating to the transfer of interests in a nuclear power plant to take changed circumstances into account. p. 327

2. CONSOLIDATION, MERGER, AND SALE, § 6 — Authorization — Suspension.

[N.H.] The commission suspended previously granted authorization for the transfer of interests in a nuclear power plant. p. 328

BY THE COMMISSION:

Report

The commission on September 20, 1979, issued an order reopening docket DF 79-100-6205, the Seabrook transfer. The commission did so for two basic reasons. First, it desired to set up a procedure whereby the commission would receive any additional relevant information as to changed circumstances as they occur. Second, to conform our order to the recent rejection by Central Vermont Public Service Company to receive an additional one per cent of Seabrook.

The commission, which has historically supported the construction of Seabrook, recognizes that if Public Service Company is unable to complete the transfer of 22 per cent of Seabrook and is faced with holding an interest slightly larger than 28 per cent, then projections as to needed revenue become increasingly a matter of concern in the forthcoming rate case.

Nothing in our order dated September 20, 1979, should be construed as reopening the record as to the transfer of 21 per cent interest in Seabrook to various New England companies. Rather our order is limited to a clarification of the one per cent transfer to Central Vermont Public Service Company and to set up a procedure whereby the commission can comply with its statutory mandate, namely, to keep informed.

This report is to be incorporated with our order dated September 20, 1979.

Supplemental Order

Whereas, the commission is aware of statements in the media that the Central Vermont Public Service Company is not going to increase its percentage ownership in Seabrook by one per cent; and

Whereas, the commission approved such a transfer in its order No. 13,759 dated July 27, 1979; and

Whereas, the commission also is aware of statements in the print media that MMWEC is not able to satisfy 13.87466 per cent interest approved in the commission's Order Nos. 13,759, 13,780; and

[1] Whereas, the commission has a statutory duty to keep informed pursuant to RSA 374:4; and

Whereas, the commission also has the right after notice and hearing to alter, amend, suspend, annul, or set aside or otherwise modify any order made by it; and

Whereas, the record in this proceeding and the orders based on that record may no longer reflect reality; it is hereby

Ordered, that docket DF 79-100-6205 is reopened for further evidence as to any and all changed circumstances involving the Seabrook transfer; and it is

Further ordered, that the Public Service Company appear before the commission at ten o'clock in the forenoon on the eighteenth day of October, 1979, to update the commission as to any new factors affecting the transfer of the 22 per cent interest in Seabrook; and it is

[2] Further ordered, that the permission to transfer the one per cent interest in Seabrook to Central Vermont Public Service Company is hereby suspended.

By order of the Public Utilities Commission of New Hampshire this twentieth day of September, 1979.

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NH.PUC*09/26/79*[78383]*64 NH PUC 328*Public Service Company of New Hampshire

[Go to End of 78383]

Re Public Service Company of New Hampshire

DR 79-46, 44th Supplemental Order No. 13,834

64 NH PUC 328

New Hampshire Public Utilities Commission

September 26, 1979

PETITION of an electric company for authority to apply a fuel adjustment charge to regular monthly billings to its customers; granted.

RATES, § 303 — Kinds and forms of rates and charges — Variable rates based on cost — Fuel

clauses.

[N.H.] Where an electric utility had filed revisions to its tariff comprising the monthly calculation of its fuel adjustment charges, the commission found that the filings were in accordance with the applicable provisions of law and that the proposed charges were just and reasonable, and approved the rate increases.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission on September 20, 1979, held hearings on the petition of Public Service Company of New Hampshire for authority to apply a fuel adjustment charge to regular October, 1979, monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire on September 18, 1979, filed with this commission 19th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect October 1, 1979.

The company reported a fuel cost above base of $8,459,316 and total kilowatt-hours subject to the fuel adjustment of 466,092,000 resulting in a per-kilowatt-hour charge of $0.01814946.

The fuel adjustment charge thus adjusted rounded to $1.81 per hundred kilowatt-hours is proposed to go into effect in the month of October, 1979.

The month's proposed rate is 16 cents per hundred kilowatt lower than last month's for two major reasons. Merrimack Unit 2 was returned to service

after being down for a considerable period for scheduled maintenance. The lost and unaccounted for electricity was down.

The company reported on the status of the legal proceedings regarding the Maine Yankee shutdown, as requested the previous month by the Legislative Utility Consumers' Council. To date, the possibility of a lawsuit is under investigation, and the company will keep the commission informed on the status of such lawsuit.

The following companies: Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, and Woodsville Water and Light Department submitted their fuel adjustment calculations for the subject period, and the commission having reviewed the

calculations, accepted said calculations were prepared accurately.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of October, 1979, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 19th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of $1.81 per hundred kilowatt-hours for the month of October, 1979, be, and hereby is, permitted to become effective October 1, 1979; and it is

Further ordered, that 56th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of $2.16 per hundred kilowatt-hours for the month of October, 1979, be, and hereby is, permitted to become effective October 1, 1979; and it is

Further ordered, that 51st Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of $2.12 per hundred kilowatt-hours for the month of October, 1979, be, and hereby is permitted to become effective October 1, 1979; and it is

Further ordered, that 29th Revised Page 18 of Connecticut Valley Electric Company, Inc. tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 83 cents per hundred kilowatt-hours for the month of October, 1979, be, and hereby is, permitted to become effective October 1, 1979; and it is

Further ordered, that 19th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $2.03 per hundred kilowatt-hours for the month of October, 1979, be, and hereby is, permitted to become effective October 1, 1979; and it is

Further ordered, that 61st Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $2.30 per hundred kilowatt-hours for the month of October, 1979, be, and hereby is, permitted to become effective October 1, 1979; and it is

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Further ordered, that 13th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of $2.20 per hundred kilowatt-hours for the month of October, 1979, be, and hereby is, permitted to become effective October 1, 1979; and it is

Further ordered, that 69th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of $1.08 per hundred kilowatt-hours for the month of October, 1979, be, and hereby is, permitted to become effective

October 1, 1979; and it is

Further ordered, that 35th Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 84 cents per hundred kilowatt-hours for the month of October, 1979, be, and hereby is, permitted to become effective October 1, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of September, 1979.

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NH.PUC*09/27/79*[78384]*64 NH PUC 330*New Hampshire Electric Cooperative, Inc.

[Go to End of 78384]

Re New Hampshire Electric Cooperative, Inc.

IR14,874, Order No. 13,836

64 NH PUC 330

New Hampshire Public Utilities Commission

September 27, 1979

PETITION seeking special contract to provide electric service; granted.

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 66 with Cersosimo Lumber, Inc., effective whenever service is made available, for electric service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of September, 1979.

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NH.PUC*09/27/79*[78385]*64 NH PUC 331*Pennichuck Water Works

[Go to End of 78385]

Re Pennichuck Water Works

DF 79-158, Order No. 13,837

64 NH PUC 331

New Hampshire Public Utilities Commission

September 27, 1979

PETITION for authority to issue and sell preferred stock and to increase capital stock; granted.

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1. SECURITY ISSUES, § 50.1 — Authorization of securities sale — Capitalization ratios.

[N.H.] In granting authority for sale of securities the commission examined the utility's capital structure. p. 332

2. SECURITY ISSUES, § 58 — Authorization of securities sale — Additions and betterments.

[N.H.] The commission authorized a sale of securities where it found that the proceeds of the issue would be used to reduce loan borrowings for the construction of a water treatment facility and that the sale was consistent with the public good. p. 333

APPEARANCES: John B. Pendleton for the petitioner; Gerald Lynch for the Legislative Utility Consumers' Council; and H. Philip Howorth for the city of Nashua.

BY THE COMMISSION:

Report

By this petition, filed August 14, 1979, as amended by amendment to petition filed September 13, 1979, Pennichuck Water Works (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire, and operating therein as a water public utility under the jurisdiction of this commission, seeks (i) authority pursuant to the provisions of RSA 369:1, 369:3, and 369:4 to issue and sell for $1.5 million cash 15,000 shares of 10.25 per cent $100 par preferred stock due 1999 and (ii) authority pursuant to the provisions of RSA 369:14 to increase its capital stock by 15,000 shares of 10.25 per cent $100 par preferred stock.

A duly noticed hearing was held in Concord on September 25, 1979. The company submitted nine exhibits including the prefiled testimony of Stephen E. Gorman, its vice-president.

The company has obtained a commitment from New England Mutual Life Insurance Company to purchase at par the 15,000 shares of company's 10.25 per cent $100 par preferred stock due 1999.

The company submitted a statement of its actual costs incurred for the construction of the water treatment facility which showed that as of August 31,1979, Provident National Bank had disbursed construction loan funds in the total amount of $1,725,621. The proceeds from the issue and sale of the preferred stock will be used to pay off a portion of the indebtedness created pursuant to this loan.

The company presently has authorized 180,000 shares of $20 par value common stock of which 137,200 shares were issued and outstanding as of June 30, 1979, yielding a common capital stock account of $2,744,000. No preferred stock was authorized as of June 30, 1979, and therefore, the company seeks authority to issue the subject preferred stock.

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[1] The company filed a statement of capitalization ratios, both as of June 30, 1979, and after giving effect to the proposed issue. Its total debt account as of June 30, 1979, was in the amount of $4,650,882 which was 51.3 per cent of its total capitalization of $9,064,833. Mr. Gorman testified that additional disbursements under the Provident National Bank construction loan are expected to cause the company's debt ratio to approach 60 per cent on or about October 31st of this year, unless additional equity financing is added to the company's capitalization prior to that time. The terms of the company's existing 20-year senior and serial note agreements require that the company's long-term debt not exceed 60 per cent of its capitalization.

The major terms of the issue call for cumulative dividends at an annual rate of 10.25 per cent, paid quarterly to maturity in 1999 and require, beginning in 1981, redemption of 630 shares per year ($63,000) to retire approximately 80 per cent of the issue with the remaining shares to be redeemed in 1999. Beginning in the eleventh year, the company has the option of redeeming additional portions or all of the shares then outstanding, at the redemption prices set forth in the summary of major terms submitted by the company with the commitment letter of New England Mutual Life Insurance Company dated duly 13,1979. The issue affords no voting rights except upon arrearage or default in payment of dividends or in mandatory redemption payments. The major terms include a limitation of the issuance of additional shares of preferred stock and a limitation upon the creation of short-term debt.

H. Philip Howorth, corporation counsel for the city of Nashua, challenged the term which would preclude optional redemption for ten years. Mr. Gorman testified that in his negotiations with New England Mutual Life Insurance Company he had unsuccessfully attempted to obtain a five-year call provision This was supported by a letter dated September 24, 1979, from New England Mutual Life Insurance Company indicating that it would not be interested in the issue unless the terms include redemption protection of at least ten years.

Mr. Gorman's testimony indicated that the terms of the proposed issue negotiated by the company were the most favorable terms available at the time of negotiation and that these terms are even more favorable when viewed in light of subsequent developments in the capital markets. This was also supported by the September 24, 1979 letter of New England Mutual Life Insurance Company.

The company submitted additional exhibits consisting of a statement showing the estimated cost of financing, its balance sheet as of June 30, 1979, actual and pro formed to reflect the effect of the proposed issue, its income statement for the twelve months ended June 30, 1979 pro formed for the proposed issue, and its interest coverages for the twelve months ended June 30 pro formed to reflect the proposed issue.

During the course of the hearing concern was expressed by staff as to the capital structure resulting from this issue. The commission is not satisfied with the resulting structure, but realizes

as construction of the plant proceeds the company will rely heavily on the unsecured notes authorized by commission Order No. 13,559.

As the company prepares to retire those unsecured notes with longer term financing, the commission strongly

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recommends industrial development bonds. Use of that type of tax-exempt financing will result in a lower cost of capital to the company and therefore lower rates to its customers.

Utilization of such bonds would also tend to get the capital structure to a 60-40 or 60-10-30 ratio of debt to equity; which the commission feels is superior to a 39-61 ratio of debt to equity.

[2] Upon investigation and consideration, the commission is satisfied that the proceeds of the proposed issue will be expended to reduce loan borrowings for the construction of the water treatment facility and finds that the issue of the 15,000 shares of the company's preferred stock upon the terms proposed is consistent with the public good. The commission approves the corporate purpose for the proposed increase of the company's capital stock beyond the amounts fixed and limited by its articles of association or its charter. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Pennichuck Water Works be, and hereby is, authorized to increase its capital stock by 15,000 shares of 10.25 per cent $100 par preferred stock due 1999; and it is

Further ordered, that Pennichuck Water Works be, and hereby is, authorized to issue and sell for $1.5 million cash 15,000 shares of 10.25 per cent $100 par preferred stock due 1999 upon the terms set forth or referred to in the foregoing report; and it is

Further ordered, that the proceeds from the sale of said stock shall be used to reduce loan borrowings for the construction of its water treatment facility; and it is

Further ordered, that on January 1st and July 1st in each year, Pennichuck Water Works shall file with this commission a detailed statement duly sworn by its financial vice-president or its treasurer, showing the disposition of the proceeds of said issue and sale of stock being authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of September, 1979.

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NH.PUC*09/27/79*[78387]*64 NH PUC 335*Gas Service, Inc.

[Go to End of 78387]

Re Gas Service, Inc.

DR 79-129, Order No. 13,839

64 NH PUC 335

New Hampshire Public Utilities Commission

September 27, 1979

PETITION of a gas company for a rate increase; order setting procedural guidelines for hearing.

PROCEDURE, § 26 — Hearing and notice — Conduct of hearings.

[N.H.] Where a gas company had filed a petition for a rate increase, the commission issued a preliminary order setting the hearing date and the procedural guidelines the parties were to comply with at the hearing.

APPEARANCES: Charles Toll, Jr., for the petitioner; Gerald Lynch for the Legislative Utility Consumers' Council; and Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

On June 1, 1979, Gas Service, Inc., a corporation providing gas service in the state of New Hampshire, filed certain revisions to its tariff, NHPUC No. 5 — Gas, providing for increased rates designed to provide additional annual revenues in the amount of $727,299 (7.4 per cent) for effect July 1, 1979.

On June 29, 1979, the commission suspended said tariff filing under Order No. 13,697 pending further investigation and consideration by the commission.

On September 9, 1979, the commission issued an order of notice providing for a procedural hearing to be held at the office of the commission on September 17, 1979. Said order provided that the commission will not accept appearances for any party after the date of the procedural hearing unless the party can demonstrate good cause for an appearance and demonstrate that failure to appear may be detrimental to that party and to the public generally.

The following parties entered their appearances in these proceedings in addition to the attorney for the petitioner, the Legislative Utility Consumers' Council represented by Gerald Lynch, Esquire and for the Community Action Program, Gerald Eaton, Esquire.

Witnesses to be presented

The company will be presenting four witnesses, Michael Mancini, Charles

Drexel, Lawrence Stagney, and Mr. Montaup, an outside consultant hired for this rate case.

The Legislative Utility Consumers' Council informed the parties that at this time they have no plans to present any witnesses in this case.

The Community Action Program intends to present one witness in the area of rate structure pending funding for said witness. CAP stated that they would definitely know the status of this witness by October 1, 1979.

Staff will present two witnesses, Robert Camfield, economist of the commission and a member of the finance department. Areas to be covered by the commission staff will be attrition, test-year expenses, and economic aspects of the case.

Testimony, Exhibits, Data Requests, and Responses

Prepared prefiled testimony and exhibits will be received by the commission from the petitioner on or before October 4, 1979. The parties will expeditiously review these filings and make data requests by October 23, 1979. The company shall respond to said data request no later than October 31, 1979. No date has been set for the filing of direct testimony by other parties.

Hearings

Hearings will commence on the merits of these matters on November 7, 8, and 9, 1979. In the event that the proceedings are not completed at the end of said hearings, further dates will be scheduled.

Requests

Community Action Program requests that at least two evening hearings be held in the areas affected by this rate increase. The company opposes this request stating that all hearings on this matter are public in nature. The commission is taking this matter under advisement. Our order will issue accordingly.

Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that all parties appearing in this proceeding shall comply with the procedural guidelines set forth in the attached report as well as the rules and regulations of the commission.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of September, 1979.

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NH.PUC*09/28/79*[78386]*64 NH PUC 333*Granite State Electric Company

[Go to End of 78386]

Re Granite State Electric Company

DR 79-195, Order No. 13,838

64 NH PUC 333

New Hampshire Public Utilities Commission

September 28, 1979

PETITION for inclusion of purchased power cost adjustment in rate schedule; granted.

REPARATION, § 41 — Award of reparation; method of payment — Period of reparation.

[N.H.] Where an electric company experienced a decrease in its cost of purchased power resulting in refunds for its customers, the commission approved a plan to flow the refunds through in the form of credits per

Page 333

kilowatt-hour but modified the plan so that the credits would be applied in one month only, rather than two as the company had proposed.

APPEARANCES: Philip H. R. Cahill for the petitioner.

BY THE COMMISSION:

Report

On September 18, 1979, Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, filed with this commission Original Page 16-G and Second Revised Page 40 of its tariff, NHPUC No. 8 — Electricity, the former providing for purchased power cost adjustment No. W-1 and the latter to adjust time-of-use rates accordingly. The PPCA represents a decrease in rates of approximately $84,200 per year, via a credit of 0.23 mills (.023 cents) per killowatt-hour (kwh) sold by the company. This is consistent with the terms of the settlement agreement of New England Power Company's W-1 wholesale rate which was approved for effect July 1, 1979, by the Federal Energy Regulatory Commission.

A duly noticed public hearing was held on September 27, 1979, at the office of the commission.

The company submitted testimony and exhibits which demonstrated the decrease in the company's cost of purchased power resulting from the W-1 rate.

The NEP's W-1 rate as approved was below the level of the R-12 rate, resulting in refunds for the company's customers for the period July 1-October 1, 1979, the proposed effective date of the PPCA No. W-1. The refund is based upon the difference in levels between the R-12 rate and the W-1 rate. Additionally, a sub-transmission charge made under the R-12 rate was reduced subsequent to said rate becoming effective and this also will result in refunds as will a carry-over from the R-9 refund. The total refund amounts to $37,049. The company proposed to flow such refunds through to its customers in the form of a credit of 0.6 mills per kwh spread over a period of approximately two months. Because of the small amount of refund, the commission finds this excessive and will order the credit applied in one month.

The commission finds that PPCA No. W-1 of 0.23 mills per kwh properly reflects the reduction in purchased power costs which the company will experience, and complies with the company's purchased power cost adjustment provisions of its tariff. Our order will issue

accordingly.

Order

In consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Original Page 16G and Second Revised Page 40 of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, be, and hereby are, permitted to become effective on October 1, 1979; and it is

Further ordered, that the refund plan filed by Granite State Electric Company with this commission by letter of September 18, 1979, be, and hereby is, rejected; and it is

Further ordered, that Granite State Electric Company implement a plan for refunding $37,049 to its customers during the billing cycle of October, 1979, said plan to be structured in accordance with the plan filed but the refund shall be

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restricted to one month rather than two. A copy of the calculation will be furnished to the commission; and it is

Further ordered, that public notice of this order be made by publication in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of September, 1979.

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NH.PUC*09/28/79*[78388]*64 NH PUC 336*Public Service Company of New Hampshire

[Go to End of 78388]

Re Public Service Company of New Hampshire

DR 79-187, Second Supplemental Order No. 13,840

64 NH PUC 336

New Hampshire Public Utilities Commission

September 28, 1979

PETITION for a rate increase; order providing procedural guidelines.

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1. RATES, § 641 — Rate cases — Intervention.

[N.H.] Intervention provided for by commission rules is permissive, not mandatory; intervention is granted or denied at the discretion of the commission. p. 337

2. RATES, § 641 — Intervention — Lead counsel.

[N.H.] Where several intervenors had similar interests the commission required the designation of a lead counsel. p. 339

RATES, § 641 — Intervention — Standards.

[N.H.] Discussion of the standards employed by the commission in granting intervenor status. p. 338

APPEARANCES: Martin L. Gross and Philip Ayers for the petitioner; Gerald L. Lynch for the Legislative Utility Consumers' Council; Gerald M. Eaton for Community Action Program, Belknap — Merrimack counties; Christopher J. Giaimo U. S. Air Force; New Hampshire Peoples' Alliance; Representative Ed Smith; Larry Eckhaus; John Harrison; and Business Industrial Program.

BY THE COMMISSION:

Report

Procedural History

The last rate case filed by the Public Service Company of New Hampshire (DR 77-49) was decided by the commission on May 23, 1978, Order No.13,166. Said order provided for a revenue requirement in the sum of $30,134,232. The report issued by the commission found that the average rate base for the test year was $478,833,421 which included $111,258,428 of construction work in progress (CWIP). On May 4, 1979, RSA 378:30(a) was amended and provided public utility rates or charges shall not in any manner be based on the cost of CWIP. In response to that legislation the commission initiated docket DR 79-107 on May 8, 1979. On August 29, 1979, the commission issued a report and Order No. 13,799 excluding CWIP from the rate base of Public Service Company of New Hampshire as of May 7, 1979. While the docket DR 79-107 was being processed the Public Service Company of New Hampshire on August 6, 1979, filed a petition to increase its permanent rate by $18,456,225. This petition was assigned docket DR 79-187.

As a result of the overlapping effects of the aforementioned docket, DR 79-107, DR 79-166, and DR 79-187, on September 5, 1979, the commission issued Order No. 13,810 consolidating DR 79-166 and the remaining issues in DR 79-107 into this docket, DR 79-187. On the same date Order No. 13,811 was issued suspending the proposed tariff filed in DR 79-187. On September 6,1979, the commission issued an order of notice scheduling a procedural hearing on the consolidated docket DR 79-187. The notice was duly published and a public hearing was held on September 17, 1979, at the offices of the commission in Concord, New Hampshire. At this hearing Public Service Company of New Hampshire withdrew its petition for interim rates and docket 79-166 shall be closed.

Intervention

[1] The commission rules of practice and procedure, enacted pursuant to the provisions of RSA 541-A, provide for the intervention of interested parties (see Rules A(6)(f), A(6)(d) and

C(2) issued under Order No. 11,428 dated May 21, 1974). The intervention provided for in these rules is permissive, not mandatory,

and intervention is granted or denied at the discretion of the commission. Procedural rules regarding intervention and the application of agency discretion are commonly employed before administrative agencies. Meeker v Lehigh Valley R. Co. (1915) 236 US 434, 35 S Ct 337; and Sunshine Broadcasting Co. v Fly (DC DC 1940) 33 F Supp 560.

Our rules of practice and procedure could not anticipate every type of situation that could arise at a hearing. No set of rules can anticipate all of the various differences and difficulties that any given case will present. Thus, the rules of practice and procedure contain the requisite discretionary power for the commission to form the procedure for a hearing which will afford due process to all and which will expedite the disposition of the proceeding. It is desirable for our rules to contain discretionary provisions. This allows the commission to individualize the hearing procedure to adequately accommodate and satisfactorily protect the interests, rights, and responsibilities of all parties, including the commission. Our discretion in these matters allows us wide opportunities in the way of permitting effective participation in administrative proceedings.

Formal and full intervention is not without difficulty in a rate case proceeding such as we have before us. Prolonged hearings, undue enlargement of the record and introduction of extraneous issues are some of the difficulties that can and have been encountered in cases where there are numerous pro se interventions.

The commission recognizes the interests of individual consumers, however, while we recognize these interests and wish to have the benefits of the consumers' viewpoint we also are motivated to resolve this case before us as expeditiously as possible. We are also mindful of RSA 378:6 by which Public Service Company of New Hampshire can implement its full rate increase prior to a decision by the commission. We wish to avoid this result for we do not believe this is in the best interests of the consumers even though Public Service Company of New Hampshire would file a bond to protect consumers and even though there are provisions for crediting consumers with any overcollections. We are equally mindful of the necessity for sufficient time for the staff, the consumer advocate, Public Service Company of New Hampshire, and other parties to read, study, analyze, and react to the inevitable volumes of testimony which will be filed.

Participation as a full intervenor presupposes some familiarity with the proceedings of the commission, the presentation of evidence, the cross-examination of witnesses, the filing of exhibits, the preservation of exceptions, the knowledge of when objections or responses to objections are proper, an understanding of the express, implied, and inherent powers of the commission, and understanding of the manner and method for rehearing and appeal, and an understanding of the principles of administrative law.

The full intervenors accepted by us have demonstrated a sufficient right and interest in the proceeding so that their participation and the presentation of their arguments and concerns is indeed relevant. The other intervenors before us are uninitiated in proceedings before this commission. They are untrained in the law and have demonstrated no other capability to deal

with the complexities of the proceedings before us.

RSA 363-C, created the Legislative Utility Consumers' Council as the state

consumer representative. The consumer advocate, employed by the LUCC, is trained in the law, initiated in the proceedings of the commission, familiar with the principles of administrative law, educated as to the complexities of a rate case and the rights, obligations, and remedies of an intervenor at every stage of the proceedings. The rights and interests of the limited intervenors will be better served, protected, and advocated through the guidance, direction, and representation of an attorney such as the consumer advocate.

[2] At the procedural hearing these intervenors exhibited mutual concurrence and support of each others position. The interests presented by these intervenors are essentially similar and the commission will require that intervenors appoint lead counsel to represent their collective interests. New Hampshire Pub. Utilities Commission docket DR 76-186, Petition of VOICE, Procedural Report and Order No. 12,601 dated February 11, 1977.

The nature of the rate proceeding before us is essentially complex, involving not only issues of law and legal procedure but also methods of accounting and principles of finance, economics, and engineering. It is a proceeding in which the commission may engage experts to assist it in these complex determinations. It is a proceeding in which the orderly and systematic presentation of evidence and argument is critical to the evaluation of the interests of all parties involved. This is an additional reason to commend these responsibilities to trained persons to represent the various interests before us.

Our administrative rules of practice and procedure give us discretion in the acceptance of parties for full intervention. Our discretion in this matter leads us to conclude that the Legislative Utility Consumers' Council, United States Air Force and General Administrative Services, Community Action Program Belmont — Merrimack counties, and the New Hampshire Peoples Alliance shall be permitted full intervention only if represented by counsel, and only if they appoint lead counsel to represent their collective interests.

Testimony, Exhibits, Discovery, Data Requests

The company's prepared written testimony and exhibits shall be filed with the commission by October 1, 1979.

Intervenors and commission staff shall review the filings and make their data requests by October 26, 1979. The company shall respond to the intervenors data request by November 16, 1979.

The intervenors and staff shall file their prepared written testimony and exhibits and file same with the commission by December 17, 1979.

The company shall review the intervenors and staff's filing and make their data requests by January 10, 1980.

The intervenors and staff shall respond to the company's data requests by January 31, 1980.

Hearings

Hearings on the merits of these proceedings shall be held at the offices of the commission and shall commence on December 18, 1979, at 10:00 A.M. December 19th, 20th, and 21st are reserved by the commission for further hearings on the merits if necessary. Evening informational hearings will be scheduled at the discretion of the commission. Such hearing will be duly noticed.

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Additional Procedural Hearings

Subsequent to January 1, 1980, the commission in its discretion will schedule such additional procedural hearings as necessary to expeditiously direct this proceeding to completion.

Distribution of Documents

Any documents or correspondence filed by Public Service Company of New Hampshire in these proceedings shall be distributed as follows: five copies for the office of the secretary; two copies for the commission finance department; two copies for the commission engineering department; two copies for the Legislative Utility Consumers' Council and four copies to lead counsel for the intervenors for distribution to the individual named intervenors. Any other party filing documents or correspondence shall follow the same distribution pattern and, in addition, supply Public Service Company of New Hampshire with two copies of any such document of correspondence one at the offices of the company in Manchester, the other at the office of counsel in Concord. This distribution level may be waived by the secretary of the commission for good cause shown as in the case of particularly large volumes of materials. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that counsel for Public Service Company of New Hampshire, Legislative Utility Consumers' Council, staff of the commission and lead counsel for the intervenors, all parties named as appearing parties in this proceeding shall comply with the procedural guidelines set forth in the attached report as well as the other rules and regulations of the commission.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of September, 1979.

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NH.PUC*09/28/79*[78389]*64 NH PUC 340*The United Illuminating Company

[Go to End of 78389]

Re The United Illuminating Company

DF 79-142-6205, Order No. 13,841

64 NH PUC 340

New Hampshire Public Utilities Commission

September 28, 1979

PETITION of an electric company for authority to transfer portions of its ownership interest in a nuclear generating plant; granted.

CONSOLIDATION, MERGER, AND SALE, § 23 — Grounds for approval or disapproval — Economy and efficiency; financial benefit.

[N.H.] Where a nonresident electric utility sought commission approval for a transfer of a portion of its interest in an in-state nuclear generating plant to two other nonresident utilities upon the suggestion of its domiciliary regulatory agency, the commission approved the transactions under which the utility would be reimbursed for its full investment in

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the interests being sold, up to the date of transfer, including an allowance for funds used during construction, finding that the proposal to use the funds to reduce the utility's short-term indebtednesses and construction budget would be in the public good.

APPEARANCES: Sulloway, Hollis & Soden, by Martin L. Gross, for the applicant.

BY THE COMMISSION:

Report

By this unopposed petition filed with the commission July 5, 1979, The United Illuminating Company, a Connecticut electric utility (UI), seeks authority to sell and transfer a portion of its participation in the so-called Seabrook Station project to two nonresident purchasing utilities. Pursuant to notice duly given in accordance with the commission's order dated July 6, 1979, hearing was held on the matter at the offices of the commission on September 11, 1979.

The Seabrook Station project is a nuclear generating station which is being constructed at Seabrook, New Hampshire by Public Service Company of New Hampshire as a domestic electric utility company in association with a number of nonresident electric utilities, including UI, pursuant to RSA 374-A. UI seeks authority for the transfer of a portion of its participation pursuant to the provisions of RSA 374:30.

At the hearing, at the request of UI, the commission took administrative notice that the Seabrook project is being constructed pursuant to an agreement for joint ownership, construction, and operation of New Hampshire nuclear units dated May 1, 1973, as amended. UI's witness, James F. Cobey, testified that UI has a 20 per cent ownership in the Seabrook units at present and that it proposes to sell a 2.5 per cent interest to Central Maine Power Company and a 1.06469 per cent interest to Montaup Electric Company, pursuant to agreements to transfer ownership shares which were marked as exhibits. The witness Cobey outlined the history of UI's efforts to reduce its ownership share in the Seabrook project to 10 per cent. He stated that the

company's latest effort was in response to suggestions contained in recent rate orders affecting UI, entered by the Connecticut Public Utilities Control Authority. Mr. Cobey further stated that Central Maine and Montaup responded affirmatively and that subsequently UI has made a general offering of the balance of a 10 per cent ownership interest (6.43531 per cent) to all New England electric systems.

Under the proposed transaction the purchasing utilities will acquire the designated percentages of UI's ownership share in Seabrook under contracts which provide for reimbursement of UI's full investment in the ownership interest being sold, up to the date of transfer, including allowance for funds used during construction. The proposed transfers would not take place until required approvals have been obtained from the Connecticut Division of Public Utility Control, the Massachusetts Department of Public Utilities, and the Nuclear Regulatory Commission.

Mr. Cobey further stated that net proceeds of the transaction be used by UI for the reduction of its short-term indebtedness and that the transaction would also have the effect of reducing UI's construction budget for the period 1980-86. The accounting treatment resulting from the sales and estimated reduction in construction budget were

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depicted by additional exhibits.

Mr. Cobey stated his belief that the purchasing utilities will have the necessary financial qualifications based on his general knowledge of their financial positions and on the understanding that the Nuclear Regulatory Commission will have to make a favorable finding regarding each purchaser's financial qualification before a sale can be consummated.

The commission takes notice that each intending purchaser of a portion of UI's ownership share has heretofore duly qualified to be a Seabrook participant under RSA 374-A.

There is no testimony or other evidence to the contrary. However, the commission is concerned that UI has received only dictum from the Connecticut Public Utility Control Authority as to the divestiture of Seabrook. The commission believes that UI should go back to the Connecticut Public Utility Control Authority to discover if the present members are in favor of UI's continuing to divest itself of 10 per cent of Seabrook. In any future requests for divestiture of Seabrook shares, this commission will expect UI to have an order from the Connecticut Public Utility Control Authority before any consideration is given to the merits of the divestiture.

Based upon the foregoing testimony, as well as the entire record in this proceeding, the commission finds that the transfer of the portions of UI's ownership share in the Seabrook Station project to Central Maine Power Company and Montaup Electric Company, as proposed in the application, will be for the public good in that it will enable UI to comply with a course suggested by its domiciliary regulatory agency and that it is just and reasonable and in accordance with the provisions of RSA 374:30 as well as all other applicable provisions of New Hampshire law that the said transfers should be approved. Our order will therefore issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the application of The United Illuminating Company, a Connecticut corporation to transfer a 2.5 per cent ownership share in the Seabrook units to Central Maine Power Company and a 1.06496 per cent ownership share in the Seabrook units to Montaup Electric Company is hereby approved; and it is

Further ordered, that the said transfer from The United Illuminating Company to Central Maine Power Company and Montaup Electric Company, upon the terms proposed, are hereby authorized in accordance with the authority vested in this commission under RSA 374:30.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of September, 1979.

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NH.PUC*10/02/79*[78390]*64 NH PUC 343*New Hampshire Electric Cooperative, Inc.

[Go to End of 78390]

Re New Hampshire Electric Cooperative, Inc.

DE 79-161, Order No. 13,843

64 NH PUC 343

New Hampshire Public Utilities Commission

October 2, 1979

PETITION for authority to construct a power line across state-owned railroad property; granted.

ELECTRICITY, § 7 — Wires and cables — Authorization for transmission lines.

[N.H.] The commission granted the petition of an electric utility for authority to construct a power line across state-owned railroad property where the crossing was a necessary means of increasing service voltage, clearances would exceed those required by the national electrical safety code, a license for the crossing was issued by the state transportation authority, and no objections to the crossing had been filed.

APPEARANCES: Thomas W. Morse for the petitioner.

BY THE COMMISSION:

Report

On August 14, 1979, the New Hampshire Electric Cooperative, Inc., filed with the commission a petition for authority to construct a power line across state-owned railroad

property in the town of Meredith, New Hampshire. An order of notice was issued by the commission setting a hearing for September 27, 1979, at 1:00 P.M. and directing public notice. Additionally, notice was sent to the office of the attorney general, the director of safety services, the Department of Resources and Economic Development, the Aeronautics Commission, and the Transportation Authority.

The duly noticed public hearing was held at the commission offices on the prescribed date and was uncontested.

Witness for the Cooperative described the crossing as a necessary means of increasing the service voltage to an area of Meredith from 2,400 volts to 7,200 volts, the capacity of the former nearly having reached its limits. One pole is to be installed to which the two-wire vertical service will be attached. The power line will run from Pole 12101.1/2 to Pole 12101.1/3, passing across the railroad tracks in northerly direction. Clearances will exceed those required by the National Electrical Safety Code.

Presented as exhibits were vertical and horizontal sketches of the crossing, sketches of pole-top assemblies, staking sheet, and a map of the area. Filed with the petition was correspondence from the New Hampshire Transportation Authority with a license for said crossing.

There being no objection to this crossing, it appears in the public good and our order will issue accordingly.

Order

In consideration of the foregoing report which is made a part hereof; it is

Ordered, that authority is granted to the New Hampshire Electric Cooperative, Inc., to construct a power

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line across state-owned railroad property, all construction to be on the highway right of way to run between existing Pole No. 12101.1/2 and a proposed Pole No. 12101.1/3 in the town of Meredith, New Hampshire. Construction will comply with requirements of the National Electrical Safety Code.

By order of the Public Utilities Commission of New Hampshire this second day of October, 1979.

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NH.PUC*10/02/79*[78391]*64 NH PUC 344*Locke Lake Water Company

[Go to End of 78391]

Re Locke Lake Water Company

IE14,878, Order No. 13,844

64 NH PUC 344

New Hampshire Public Utilities Commission

October 2, 1979

ORDER to show cause why water company should not take corrective action to provide adequate service.

SERVICE, § 479 — Water company — Adequacy of pressure.

[N.H.] A water company was ordered to appear before the commission to show cause why it should not be ordered to improve its service where investigation revealed that its water pressure was lower than required by commission standards.

BY THE COMMISSION:

Order

Whereas, in response to a complaint by Dennis O'Neil, 72 Low Lane, Barnstead, New Hampshire, this commission investigated into allegations of poor water pressure and water outages; and

Whereas, that investigation identified consistent water pressures lower than the minimum acceptable operating pressures of the standards of this commission; and

Whereas, the company has not taken corrective actions as directed by the commission staff; it is

Ordered, that the company appear before this commission at its offices in Concord, New Hampshire, 8 Old Suncook Road, on the 25th day of October, 1979, at ten o'clock in the forenoon, to explain the facts and circumstances surrounding the unacceptable water situation on Low lane in Barnstead, New Hampshire, and to show cause, if necessary, why the commission should not immediately order the company to take corrective action to provide adequate water service as required by this commission's "Rules and Regulations Prescribing Standards for Water Utilities."

By order of the Public Utilities Commission of New Hampshire this second day of October, 1979.

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NH.PUC*10/03/79*[78392]*64 NH PUC 345*Nelson v Public Service Company of New Hampshire

[Go to End of 78392]

Nelson v Public Service Company of New Hampshire

DR 79-132, Second Supplemental Order No. 13,846

64 NH PUC 345

New Hampshire Public Utilities Commission

October 3, 1979

SUPPLEMENTAL order clarifying method of making refunds.

REPARATION, § 42 — Method of payment — Interest.

[N.H.] An order requiring refunds pursuant to a state supreme court order provided for interest at 6 per cent per year on refunds of one dollar or more, with refunds of less than $1 being credited to the customer's regular bills.

BY THE COMMISSION:

Supplemental Order

Whereas, Supplemental Order No. 13,816 issued on September 11, 1979, relative to the above cited matter did not order the method of the refund to the customers; it is

Ordered, that each refund will be based on the difference between each eligible customer's original bill for December, 1977 and the recalculated bill with interest since December, 1977 being added at 6 per cent per year; and it is

Further ordered, that amounts of the refunds of less than one dollar will be credited to the customer's regular October, 1979 bills, with the amount of the refund stated on each bill; and it is

Further ordered, that amounts of refunds of one dollar or more will be refunded by check mailed to customers in late October.

By order of the Public Utilities Commission of New Hampshire this third day of October, 1979.

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NH.PUC*10/03/79*[78393]*64 NH PUC 345*Continental Telephone Company of New Hampshire

[Go to End of 78393]

Re Continental Telephone Company of New Hampshire

IE-14,873, Supplemental Order No. 13,847

64 NH PUC 345

New Hampshire Public Utilities Commission

October 3, 1979

PETITION changing tariff regarding telephone municipal calling service area; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, Continental Telephone Company of New Hampshire, a public utility engaged in the business of supplying telephone service in the state of New Hampshire; and

Whereas, Continental Telephone of New Hampshire has filed with this commission a filed tariff, to offer municipal calling in their franchised area, to be effective, September 30, 1979; and

Whereas, the following tariff pages have been submitted under NHPUC No. 11:

Section 1, Second Revised Sheet 6

Section 3, Contents

Original Sheet 4

Original Sheet 5; and

Whereas, it appears to the commission that the rights and interests of the public are benefited by this filing, it is

Ordered that municipal calling be placed into operation effective September 30, 1979; and it is

Further ordered, that the tariff pages listed are hereby accepted as submitted.

By order of the Public Utilities Commission of New Hampshire this third day of October, 1979.

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NH.PUC*10/03/79*[78394]*64 NH PUC 346*Bretton Woods Telephone Company

[Go to End of 78394]

Re Bretton Woods Telephone Company

IE14,873, Second Supplemental Order No. 13,848

64 NH PUC 346

New Hampshire Public Utilities Commission

October 3, 1979

PETITION changing tariff regarding telephone municipal calling service area; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, the Bretton Woods Telephone Company, being a public utility engaged in the

business of supplying telephone service in the state of New Hampshire; and

Whereas, Bretton Woods Telephone Company will offer municipal calling in their franchised area, to be effective September 30, 1979; and

Whereas, the following tariff pages are submitted:

Section 2, Original Pages 3 and 4 under NHPUC No. 1; and

Whereas, it appears to the commission that the rights and interests of the public are benefited by this filing; it is

Ordered, that municipal calling be placed into operation effective September 30, 1979; and it is

Further ordered, that filed tariff pages listed are hereby accepted as submitted.

By order of the Public Utilities Commission of New Hampshire this third day of October, 1979.

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NH.PUC*10/03/79*[78395]*64 NH PUC 347*Granite State Electric Company

[Go to End of 78395]

Re Granite State Electric Company

DR 77-63, Fifth Supplemental Order No. 13,849

64 NH PUC 347

New Hampshire Public Utilities Commission

October 3, 1979

PETITION for rehearing of order requiring refund of overcharges; order in accordance with opinion.

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1. VALUATION, § 251 — Rate base determination — Customer deposits and advances.

[N.H.] Customer deposits and advances should be excluded from a public utility's rate base. p. xxx

2. REPARATION, § 42 — Interest on refunds.

[N.H.] No interest on refund of overcharges was required where a public utility's overcharges were attributed to commission error in a rate case. p. xxx

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APPEARANCES: Philip H. R. Cahill for the company; Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Granite State Electric Company (hereinafter "Granite State"), a New Hampshire public utility engaged in the retail distribution and sale of electricity in 23 communities in New Hampshire, on July 12, 1978, filed a request for a rehearing on the portion of the third supplemental order dated June 22, 1979, of the New Hampshire Public Utilities Commission which provided as follows:

"Further ordered, that Granite State Electric Company is also ordered to file a plan for the refund of those related revenues, including interest at 8 per cent collected from the time temporary rates were put into effect."

The company stated that the aforesaid portion of the order was issued in violation of law and of the company's rights.

A duly noticed hearing was held on September 18, 1979, at Concord, New Hampshire.

Upon consideration of the arguments of counsel and the pleadings filed herein, the commission finds: The commission's interpretation of the relevant quotation from the supreme court Decision 78-174, Legislative Utility Consumers' Council v Granite State Electric Co., "We remand this case to the commission for the limited purpose of deducting customer deposits and customer advances from the rate base, and for the purpose of making whatever adjustments in the overall rate of return as may be proper" is that an improper collection has been made by the company, requiring refunds to customers of all moneys received due to an incorrect determination by the commission in docket DR 77-63 dated May 23, 1978.

We cite Grafton County Electric Light & P. Co. v New Hampshire, 77 NH 490, PUR1915C 1064, 93 Atl 1028. "If a finding of the commission appears to be erroneous, the court in its decision may remand the case to the commission for a rehearing or may determine the fact according to its view of the weight of the evidence, in which latter event the commission in its further consideration of the case upon recommittal will proceed as it would do if such fact had been announced

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in the first instance, and if any essential fact has not been found, the case may be remanded for such findings."

[1] We therefore reaffirm a portion of Third Supplemental Order No. 13,680 removing customer deposits and advances from rate base as of May 23, 1978, including portions in the surcharge relating to temporary rates and order refunds thereon.

[2] Since overcollection must be attributed to commission error, as determined by the supreme court decision in 78-174, we feel that any interest penalty placed upon the company at this time would unfairly add reimbursement costs and increase a burden not of their own making. We therefore remove interest considerations in this matter.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof, it is

Ordered, that Granite State Electric Company file a plan for refund of the revenues related to the incorrect inclusion of customer deposits and customer advance in the rate base authorized in the New Hampshire Public Utilities Commission's Order No. 13,159, dated May 23, 1978, with no interest thereon.

By order of the Public Utilities Commission of New Hampshire this third day of October, 1979.

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NH.PUC*10/05/79*[78396]*64 NH PUC 348*SCA Disposal Services of New England, Inc.

[Go to End of 78396]

Re SCA Disposal Services of New England, Inc.

DT 79-149

64 NH PUC 348

New Hampshire Public Utilities Commission

October 5, 1979

APPLICATION for authority to operate as a contract carrier of rubbish by motor vehicle; denied.

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1. CERTIFICATES, § 88 — Grant or refusal — Public interest.

[N.H.] Public interest considerations relating to an application for a motor carrier certificate or permit involve an evaluation of the general welfare of the community and other significant trends bearing upon the proposed service. p. 351

2. CERTIFICATES, § 85 — Basis for denial — Unauthorized operation.

[N.H.] Failure to obey the laws of the state and the rules and regulations of the commission as to the operation of a contract or common carrier justified denial of a certificate to operate as such, and such violation is not cured by seeking commission authority after the fact. p. 351

3. MONOPOLY AND COMPETITION, § 40 — Effect of low rate proposals.

[N.H.] A motor carrier certificate was denied where the applicant's submission of rates designed to lose money had a deleterious effect on other carriers. p. 351

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APPEARANCES: John Teague for the applicant; Charles DeGrandpre for Great Bay Disposal;

George Frisbee for Seacoast Trucking.

BY THE COMMISSION:

Report

By application filed on July 24, 1979, SCA Disposal of New England, Inc., seeks authority as a contract carrier of rubbish by motor vehicle from the Advent Corporation site at 345 Heritage Avenue, Portsmouth, New Hampshire. (Transcript, p. 4.) A hearing was held at the office of the commission on August 31, 1979.

SCA Disposal Services of New England, Inc. (hereinafter referred to as SCA), operates in Massachusetts, Rhode Island, Connecticut, and New York. (Transcript, pp. 23, 24.) SCA negotiated a contract with Advent Corporation and began servicing that account in June of 1979. (Transcript, p. 27.) SCA removed trash from the Advent site at 345 Heritage Avenue, Portsmouth and dumped the trash in the Portsmouth city dump. (Transcript, p. 27.) Sometime in late July, SCA was advised by its attorneys that this commission's approval was necessary to act as a contract carrier within the state of New Hampshire. (Transcript, p. 27.) SCA seemingly was also advised that Portsmouth dump permits were also needed.

The commission is governed by RSA 375-B and in particular RSA 375-B:7, which relates to contract carriers. That statute states the following (in part):

"A permit shall be issued to any qualified applicant therefor, as defined in § 2, Par VII authorizing in whole or in part the operations covered by the application or from any hearing held thereon, that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this act and the lawful requirements, rules, and regulations of the commission thereunder, and that the proposed operation, to the extent authorized by the permit, will be consistent with the public interest and the policy declared in § 1 of this act; otherwise such application shall be denied ... ."

Willing and Able

Obviously, the company satisfies that it is willing to operate as a contract carrier, since it has sought the business from Advent. Nor does the record reveal any evidence, which would question the ability or willingness of SCA to operate as a contract carrier. SCA has a large supply of vehicles operating in Massachusetts, which could in part be used to service this account. The ratio of one spare for every six vehicles provides ample support in emergencies.

SCA's testimony as to maintenance, insurance, drivers' training, and its safety record all provide support for the finding that this company is able to operate as a contract carrier. (Transcript, pp. 17-22.)

Public Interest and Fitness

The commission has set forth rules and regulations governing our operation under RSA 375-B. These rules and regulations were issued pursuant to the powers provided to the commission under RSA 375-B:17 I and II. These rules and regulations further define and clarify the provisions of RSA 375-B and do govern the operation of motor vehicles transporting for hire under the aforementioned statute.

SCA has satisfied its burden as to the number of shippers to be served (1) and the nature of the service proposed as well as the commodities that will be shipped and the frequency of the service. (Transcript, pp. 13, 14, 56, 57, 61.) However, SCA has not established where the trash is to be transported to since the witnesses presented by SCA could not answer questions as to whether SCA has Portsmouth dump permits. (Transcript, pp. 27, 28.) Portsmouth's dump is where SCA seeks to transport the trash from the Advent site. Therefore, SCA has satisfied commission Rule and Regulation 1-F-1 and a portion of 1-F-2.

Rule and Regulation 1-F-3 requires an analysis of the effect which granting the permit would have upon the services of the protesting carriers. Great Bay Disposal Service (hereinafter referred to as Great Bay) offered witness Bardwell. Mr. Bardwell, who is a part owner of Great Bay, is a registered contract carrier with this commission. His center of operations is the Portsmouth area (Transcript, p. 99) and his company is presently serving Advent at another location.

Great Bay protests the granting of the permit because of the detrimental effect on its business. Mr. Bardwell testified that his company recently purchased two new roll-off trucks for approximately $120,000. (Transcript, p. 111.) Great Bay also placed into evidence that its employees are all New Hampshire residents (Protestant's Exh 5); that it had the proper equipment to handle the account (Protestant's Exh 4); and that it had similar equipment. (Protestant's Exhs 2 and 3.)

Mr. Bardwell testified that like SCA, Great Bay has a safety and maintenance program (Transcript, p. 114). Great Bay by its testimony has demonstrated that like SCA it would be willing and able to handle this account. The detrimental effect, according to Great Bay, stems from not having access to accounts like this one, which would enable Great Bay to support these new equipment expenditures and also to continue to employ New Hampshire residents. Great Bay contends that to survive it is necessary to have as many clients in as short a distance as possible thereby being in a position to maximize the capital investment.

Great Bay further argues that if firms like SCA are allowed to take individual accounts such as Advent, rural accounts will be left without service due to the fact that large firms like SCA are not interested in such accounts. Further, that if companies the size of Great Bay do not get accounts like Advent's, they will eventually be forced to reduce their investment and cut back service to rural areas.

Finally, Great Bay charges that the reason SCA received the account was related solely to price. Witness Bardwell then proceeded to relay the contents of a conversation where an officer of SCA stated that the Advent account was a loss leader. To support the conversation, witness Bardwell indicates that his investigation into the leasing of compactors (the same type and size as those proposed to be used by SCA) reveals that the lowest bid obtainable was still $200 to $300 a month higher than SCA's submission. (Transcript, p. 160.)

SCA counters these arguments by focusing on the fact that Great Bay already has 80 per cent of the business in the Portsmouth area, (Transcript, p. 141) and that Great Bay is attempting to exclude SCA from the market so as to preserve its market penetration.

SCA also contends that there are certain cost savings, which relate to the size

of a company which SCA can pass along through its rates to its customers. These include buying gasoline in large quantities. (Transcript, p. 162.) SCA views the question of price a false issue and an argument common to carriers who lose in a competitive bid situation. Furthermore, SCA testified that the rates charged by SCA to Advent are the same as those charged Massachusetts customers and that they are on file at the Massachusetts Department of Public Utilities. (Transcript, p. 89.)

The commission has attempted to investigate this question of price by conducting research into the rates charged by SCA in Massachusetts. The Massachusetts Department of Public Utilities does not have records as to SCA on these types of contracts. In fact, the SCA tariffs on file with the Massachusetts Department of Public Utilities are at best rather sparse. The statements made by the SCA officer that SCA would be taking a loss on the Advent account, together with the absence of tariffs filed with the Massachusetts Department of Public Utilities, raises a significant concern. The commission finds that as to Regulation 1-F-3, the record, coupled with the commission's investigation, leads to the conclusion that as to this regulation SCA application is not in the public interest.

The finding as to 1-F-3 is not fatal to the SCA application. Commission Regulation 1-F requires consideration of numerous factors in arriving at a finding as to public interest. Consequently, the other factors listed under Regulation 1-F must also be considered.

As to 1-F-4, there is no substantial evidence as to the effect of a denial upon the applicant or the supporting shipper. Regulation 1-F-6 is not applicable to this proceeding. The final consideration is 1-F-5.

[1-3] Regulation 1-F-5 is by far the crucial factor in any determination as to "public interest." One of the elements to be evaluated pursuant to this regulation is "the general welfare of the community and other significant trends bearing upon the proposed service."

One such trend, which the commission has found to be escalating, is the failure to obey the laws of this state and the rules and regulations of this commission as to the operation as a contract or common carrier. Our investigators report almost daily on carriers who are operating without our permission, either because they have never received it or the authority or license has expired. These unlicensed carriers are dumping in dumps located within the state without our knowledge as to the type of garbage, whether it is toxic, and often without a dump permit. These actions are in direct violation of RSA 375-B:4.

This disturbing trend results in additional problems besides violation of New Hampshire laws. Illegal dumping has caused in recent months the pollution of water supplies in various communities, the costs of which are initially and forever borne by the citizens of New Hampshire. Another problem which results from the unauthorized use of our highways is one of maintenance of the roads, both as to quality and safety. These expenses are also borne by the citizens of New Hampshire.

A company like SCA, which operates in at least four other states, must be aware that operation as a common or contract carrier requires the approval of the state public utilities

commission. Motor carrier regulation does not differ substantially from state to state, and to enter the New Hampshire market without our authority must be viewed as

a knowing attempt to skirt our laws and regulations.

Nor is this violation suddenly cured by seeking our authority after the fact. If the commission ignores this violation and then proceeds to grant the authority requested the commission would be in direct violation of RSA 375-B:17. The commission cannot be satisfied that after ignoring laws that require approval of this commission to operate, SCA or any other violating carrier will adhere to other laws, such as 375-B:16, which require adherence to filed tariffs. This statutory provision is of particular concern in this case given the lack of information in the Massachusetts Department of Public Utilities' files. In addition, the failure to seek Portsmouth dump permits prior to dumping also reinforces the concern over SCA's willingness to comply with the laws and regulations of this state and the communities located herein.

Consequently, the commission finds that the granting of this application is not in the public interest. SCA has not demonstrated that it is "fit" to operate in this state given its violations of our laws. The finding against the public interest rests on all of the following: (1) the lack of proof that Portsmouth dump permits have been obtained; (2) the effect on other carriers resulting from SCA's submission of rates designed to lose money; (3) the failure to sustain the burden of proof as to 1-F-4; and (4) the violations of our laws by SCA, which are part of a trend which has had measurable damage to the public's general welfare.

Accordingly, the application is denied.

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NH.PUC*10/05/79*[78397]*64 NH PUC 352*Gas Service, Inc.

[Go to End of 78397]

Re Gas Service, Inc.

DF 79-188, Order No. 13,851

64 NH PUC 352

New Hampshire Public Utilities Commission

October 5, 1979

PETITION for authority to issue and sell first mortgage bonds; granted.

SECURITY ISSUES, § 58 — Additions and betterments.

[N.H.] A gas company was authorized to issue and sell first mortgage bonds to replace short-term debt arising in connection with the construction or acquisition of additions and improvements to its plant and facilities where the commission found the proposed financing to

be consistent with the public good.

APPEARANCES: Charles H. Toll, Jr., for the petitioner; Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this petition, filed September 4, 1979, Gas Service, Inc.(the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire, and operating therein as a gas utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369:1, RSA 369:2, and RSA 369:4 to issue and sell for cash

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not exceeding $1 million of Series G, first mortgage bonds.

At the hearing on the petition, held in Concord on October 2, 1979, the company submitted exhibits detailing its long- and short-term debt as of June 30, 1979; capital structure as of June 30, 1979, and pro formed to reflect the proposed issue; income statement as of June 30, 1979, and pro formed to reflect the proposed issues; tax effects, interest costs, and issuance expenses of the issue, the bond purchase agreement, the sixth supplemental indenture, the directors' resolution, etc.

Proceeds from the sale will be used to replace short-term debt arising in connection with the construction or other acquisition of additions and improvements to the applicant's plant and facilities, among other things.

The company asserted its belief that the bonds are on the most favorable terms available under the present conditions prevailing in today's money markets. The private sale of its first mortgage bonds, Series G, 10.5 per cent interest, due 1999, in the aggregate principal amount of $1 million shall provide for amortization prior to maturity of 64 per cent of the original principal amount thereof by application of annual sinking fund payments equal in aggregate amount to 4 per cent of the original principal amount thereof commencing in 1983, with a noncumulative option on the part of the applicant to double the amount of the annual sinking fund payments without reducing the amount of subsequent mandatory sinking fund payments, and shall be otherwise as provided in, and shall be issued under, and shall be secured by, the indenture of mortgage and deed of trust dated as of February 1, 1959, by and between the applicant and Second National Bank of Nashua, trustee (the "original indenture of mortgage"), as heretofore supplemented and amended (the original indenture of mortgage as to supplemented and amended being hereinafter called the "amended indenture of mortgage"), under which all of the applicant's outstanding bonds referred to in Part I of Exh 1 have been issued and by which all of said bonds are secured, and as further supplemented by the following mentioned sixth supplemental indenture (the "sixth supplemental indenture") to be made by the applicant to Bank of New Hampshire, National Association, as trustee, into which said Second National Bank of Nashua was merged effective November 28, 1969.

To mortgage all of the applicant's property, real, personal and mixed, tangible and intangible, including franchises and after-acquired property (other than property of the kind specifically reserved, excepted, and excluded from the amended indenture of mortgage ["excepted property"]), as security for the payment of the Series G bonds and all other bonds heretofore or hereafter issued with the approval of this commission under the original indenture of mortgage as heretofore and/or hereafter supplemented and amended with the approval of this commission, all in and by, and as provided in, the amended indenture of mortgage as supplemented by the sixth supplemental indenture.

To make, execute, and deliver to Bank of New Hampshire, National Association, as trustee, a sixth supplemental indenture dated as of a date in 1979 to be designated by the applicant providing for the creation of the Series G bonds and mortgaging, and confirming the lien of the amended indenture of mortgage on,

the aforesaid property as security as aforesaid.

Upon investigation and consideration, the commission is satisfied that the proceeds from the proposed financing will be expended for the purposes herein stated and will be consistent with the public good.

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the applicant, Gas Service, Inc., be, and hereby is, authorized to issue and sell at private sale, for cash equal to the aggregate principal amount thereof, the applicant's first mortgage bonds, Series G, 10.5 per cent due November 1, 1999, in the aggregate principal amount of $1 million, said bonds to be dated the date on which they are issued, to bear interest from such date at the rate of 10.5 per cent, to mature November 1, 1999, to provide for amortization prior to maturity of 64 per cent of the original principal amount thereof by application commencing in 1983 of annual sinking fund payments equal in aggregate amount to 4 per cent of said original principal amount, with a noncumulative option on the part of the applicant to double the amount of the annual sinking fund payments without reducing the amount of subsequent mandatory sinking fund payments, and to be otherwise as provided in, to be issued under, and to be secured by, the indenture of mortgage and deed of trust dated as of February 1, 1959, by and between the applicant and Second National Bank of Nashua (predecessor of Bank of New Hampshire, National Association), trustee (the "original indenture"), as heretofore supplemented and modified by five supplemental indentures (the original indenture as so supplemented and modified being herein called the "amended indenture") and as further supplemented by the following mentioned sixth supplemental indenture (the "sixth supplemental indenture"); and it is

Further ordered, that Gas Service, Inc., be, and hereby is, authorized to mortgage all of its property, real, personal and mixed, tangible and intangible, including franchises and after-acquired property (other than property of the kind defined specifically reserved, excepted,

and excluded from the amended indenture), as security for the payment of the Series G bonds and all other bonds heretofore or hereafter issued with the approval of this commission under the original indenture as heretofore and/or hereafter supplemented and modified with the approval of this commission, all in and by and as provided in, the amended indenture as supplemented by the sixth supplemental indenture; and it is

Further ordered, that Gas Service, Inc., be, and hereby is, authorized to make, execute, and deliver to Bank of New Hampshire, National Association, as trustee, the sixth supplemental indenture dated as of September 1, 1979, providing for the creation of the Series G bonds and mortgaging, and confirming the lien of the amended indenture on, the aforesaid property as security as aforesaid; and it is

Further ordered, that the proceeds from the Series G bonds shall be applied toward payment of the applicant's short-term indebtedness to banks for borrowed money; and it is

Further ordered, that on January 1st and July 1st of each year Gas Service, Inc., shall file with this commission a

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detailed statement, duly sworn to by its treasurer or assistant treasurer, showing the disposition of the proceeds of the Series G bonds, until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this fifth day of October, 1979.

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NH.PUC*10/06/79*[78408]*64 NH PUC 370*Concord Natural Gas Corporation et al.

[Go to End of 78408]

Re Concord Natural Gas Corporation et al.

DR 79-73 et al. Order No. 13,886

64 NH PUC 370

New Hampshire Public Utilities Commission

October 6, 1979

REVIEW of proposed cost-of-gas adjustments; order in accordance with opinion.

RATES, § 303 — Fuel adjustment clauses.

[N.H.] The cost of a gas adjustment clause is not designed to be a financing device, thereby allowing the companies the use of consumer-supplied funds at a relatively low rate of interest; but rather it is designed to protect the companies from dramatic increases in the cost of

purchased and produced gas, and, furthermore, it does not sanction or relieve the companies of their regulatory duty to minimize costs.

APPEARANCES: Eaton W. Tarbell for Northern Utilities, Inc.; Charles H. Toll, Jr., for Concord Natural Gas Corporation and Gas Service, Inc.; James C. Hood for Manchester Gas Company; Harry Sheldon, president, for the Keene Gas Corp.; Gerald L. Lynch for the Legislative Utility Consumers' Council; Gerald Eaton for Community Action Program.

BY THE COMMISSION:

Report

In conformance with commission tariff filing rules and cost-of-gas adjustment terms outlined in the individual tariffs of each of the named companies, proposed cost-of-gas adjustments for the winter period, November 1, 1979, through April 30, 1980, were filed for commission consideration. The companies' originally proposed cost-of-gas adjustments are as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Concord Natural Gas Corporation	$0.0774 per therm
Gas Service, Incorporated Nashua	$0.0838 per therm
Laconia	$0.1145 per therm
Manchester Gas Company	$0.1458 per therm
Northern Utilities, Inc. (Allied Gas)	$0.1003 per therm
Keene Gas Corporation	$0.1360 per therm

A duly noticed public hearing was held at the offices of the commission on October 17, 1979, at which time a witness for each company discussed the components of its cost-of-gas adjustment.

The various companies presented testimony and exhibits discussing their forecasts as to the various components used to derive the cost-of-gas adjustment. Impacting the cost-of-gas adjustment were the following:

1. A smaller refund from the major supplier, Tennessee Gas Pipeline, as compared to last winter.

2. Increases in the cost of purchased and produced cost of gas.

However, the testimony and exhibits in this proceeding require the commission to restate the purpose of the cost-of-gas adjustment (CGA). The CGA is not designed to be a financing device, thereby allowing the companies the use of consumer-supplied funds at a relatively low interest rate. Rather the CGA is designed to protect the companies from dramatic increases in the cost of purchased and produced gas. Nor does this imply, sanction, or relieve the companies of their regulatory duty to minimize costs. The commission is extremely concerned over the varying costs presented for propane, the constant overcharges tendered by Tennessee Gas Pipeline, and the trend towards overcollection in the CGA. While these eventual overcharges are credited back with interest, this trend is a misuse of the CGA. The CGA will continue to provide protection from unexpected and severe cash-flow problems. However, attempts to use it as a financing

device will not be allowed by this commission.

As to the presentations themselves, the commission finds it necessary to require greater documentation in all future CGA hearings. Each company will be required to file documents indicating the method of calculation for each estimate. All data relied upon by a company in making its estimates will from this day forward accompany the CGA filing. Furthermore, all contracts for LNG, propane, natural gas, railroad cars, storage, etc. are to be filed with the engineering department of the commission no later than December 1, 1979. Any additions, amendments, deletions, or new contracts are to be filed as they become effective. Each company will also file quarterly with the commission all actions taken by that company to hold the costs of gas at their present level. Included in these filings will be a discussion of the company's position in all Federal Energy Regulatory Commission (FERC) hearings related to the Tennessee Gas Pipeline Company.

The commission in this proceeding required all companies to submit actual refund figures for overcollection by Tennessee Gas Pipeline. The commission's action has resulted in a lowering of the cost-of-gas adjustment for most companies. Other factors, as discussed below, have also necessitated a change in at least one company's filing.

Concord Natural Gas Corporation submitted 15th Revised Page 21 and 21A, requesting a winter period CGA of $0.0774 per therm for the 1979-80 winter period. This reflected a 10 per cent estimated increase in therm sales, which we accept as well as an estimate of the Tennessee Gas Pipeline refund in RP 77-62 for the winter period. Since the date of the hearing, at staff's request, a more accurate refund figure was provided, and we will use it. The new figure reduces the CGA to $0.0772 per therm, which we accept.

Gas Service, Inc., also submitted CGA estimates with sales growth projections

and an estimated refund from Tennessee Gas Pipeline. We note that the growth projections relied upon did not take degree days into account. We will accept the CGA's as filed of $0.0838 per therm for the Nashua division and $0.1145 per therm for the Laconia division.

Manchester Gas Company did not include any sales growth projections in its filing. The commission feels a 10 per cent growth estimate would produce a more accurate CGA, and our order will reflect such.

The commission requested and accepts the company's refund figures for Tennessee Gas Pipeline's latest refund and will incorporate such into this CGA. In summation, we accept a CGA for the 1979-80 winter period of $0.1332 per therm, computed using Exh M3 and the Tennessee refund, or $0.0126 per therm less than the company originally filed for. For the average residential customer, this $0.0126 per therm reduction amounts to approximately $7.78 over the winter period.

Northern Utilities, Inc., Allied Gas Division, utilized a 10 per cent estimate for the growth in winter period sales in therms over the prior winter period as well as a refund from its supplier, Granite State Gas Transmission. The commission accepts the CGA as filed of $0.1167 for the winter period 1979-80.

Keene Gas Corporation submitted a CGA for the winter period 1979-80 of $0.1360 per therm, which we accept.

The commission wishes to reemphasize its concern with the accuracy of company forecasts. In the previous winter period, one company reported undercollection of the cost-of-gas revenue, while three reported over-collection. Despite the fact that 8 per cent interest is required on overcollected revenues, it is the goal of the commission that companies be accurate in their forecasts. In this regard, the commission again stresses that close scrutiny will be given future cost-of-gas filings to determine the impact of inaccurate forecasts on the consumer.

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 14th Revised Page 21 and 12th Revised Page 21A of Concord Natural Gas Corporation, Tariff NHPUC No. 13 — Gas, be, and hereby are, rejected; and it is

Further ordered, that 15th Revised Page 21 and 13th Revised Page 21A of Concord Natural Gas Corporation, Tariff NHPUC No. 13 — Gas, providing for a cost-of-gas adjustment of $0.0772 per therm for the period November 1, 1979, through April 30, 1980, be, and hereby are, approved; and it is

Further ordered, that Section 2, 15th Revised Page 3; and Section 4, 15th Revised Page 3 of Gas Service, Inc., Tariff NHPUC No. 5 — Gas, providing for cost-of-gas adjustment of $0.0838 per therm for Nashua; and $0.1145 per therm for Laconia for the period November 1, 1979, through April 30, 1980; be, and hereby are, approved; and it is

Further ordered, that 15th Revised Page 20 of Manchester Gas Company, Tariff NHPUC No. 12 — Gas, be, and hereby is, rejected; and it is

Further ordered, that Manchester Gas Company file 16th Revised Page 20 in lieu of rejected 15th Revised Page 20 of Manchester Gas Company, Tariff NHPUC No. 12 — Gas, providing for a cost-of-gas adjustment of $0.1332 per therm for the period November 1, 1979,

through April 30, 1980, to be, and hereby is, approved; and it is

Further ordered that 14th Revised Page 22A of Northern Utilities, Inc., Allied Gas Division, Tariff NHPUC No. 6 — Gas, providing for a cost-of-gas adjustment of $0.1167 per therm for the period November 1, 1979, through April 30, 1980, be, and hereby is, approved; and it is

Further ordered, that Original Page 26 of Keene Gas Corporation, NHPUC No. 1 — Gas, providing for a cost-of-gas adjustment of $0.1360 per therm for the period November 1, 1979, through April 30, 1980, be, and hereby is, approved; and it is

Further ordered, that revised tariff pages approved by this order become effective with all billings issued on and after November 1, 1979; and it is

Further ordered, that public notice of this cost-of-gas adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of October, 1979.

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NH.PUC*10/09/79*[78398]*64 NH PUC 355*Public Service Company of New Hampshire

[Go to End of 78398]

Re Public Service Company of New Hampshire

DF 79-199, Order No. 13,853

64 NH PUC 355

New Hampshire Public Utilities Commission

October 9, 1979

PETITION by electric company for authority to issue common stock pursuant to an employee stock ownership plan and trust; granted.

SECURITY ISSUES, § 119 — Subscriptions and allotments.

[N.H.] An electric company was authorized to issue common stock pursuant to an employee stock ownership plan and trust where the proceeds from the financing would be expended in the purchase and construction of property within the state reasonably requisite for present and future use in the conduct of the company's business and to finance the purchase and construction of additional such property within the state, and where the commission also found that the issue and transfer of the securities upon the terms proposed would be consistent with the public interests.

APPEARANCES: Eaton W. Tarbell, Jr., for the petitioner.

Report

By this unopposed petition filed September 28, 1979, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority under RSA 369 to issue and transfer up to 400,000 of its authorized but unissued shares of its common stock, $5 par value (the "common stock").

At the hearing on the petition, held in Concord on October 9, 1979, the company submitted that it adopted an employee stock ownership plan and trust (the "plan") on September 14, 1979. The plan as adopted allows the company to increase its investment tax credit under § 46 of the Internal Revenue Code from 10 to 11 per cent of qualified investment by either (i) issuing to the trustee under the plan for the benefit of eligible employees additional common stock equal in fair market value to the additional one per cent credit, or (ii) distributing cash in said amount to said

trustee and the trustee in turn either purchases common stock in the open market or purchases common stock directly from the company. Further, dividends paid on the common stock held in the plan, with minor exceptions, will be reinvested in common stock.

The federal tax law permits, within certain limits which the company submits are not applicable, the company to pay the expenses of establishing and maintaining the plan from the proceeds realized from the one per cent investment tax credit, thus its contribution described above would be accordingly reduced or, in the alternative, the trustee under the plan will pay all such costs.

The plan provides that the per share price of common stock contributed as an employer contribution shall be the average of daily closing prices for common stock reported on the New York Stock Exchange over the twenty consecutive trading days immediately preceding the due date (including extensions) of the company's federal income tax return for the year to which such employer contribution relates.

The company estimates proceeds from the plan in the first year to approximate $1,022,000, $1,046,113 investment tax credit less estimated expenses of $24,000 (approximately $14,000 of legal fees and $10,000 of trustee fees). The company expects to raise a total of approximately $6 million either by direct contribution or sale of its stock to the plan by the end of 1983. In addition, there will be additional capital raised through the dividend reinvestment feature of the plan.

The company submitted a statement of its capitalization as of August 31, 1979, actual and pro formed for the issuance of 400,000 shares of common stock at an average price of $18 per share; a copy of the actual plan as adopted; a certified vote of the board of directors of the company adopting the plan; a statement of disposition of proceed; a balance sheet as of August 31, 1979; and related financial information.

Upon investigation and consideration, the commission is satisfied that the plan previously adopted by the company and the issuance and transfer of its common stock pursuant thereto is consistent with the public good. The commission is further satisfied that the proceeds from the financing will be expended (1) to pay off short-term notes, the proceeds of which will have been expended in the purchase and construction of property within the state reasonably requisite for present and future use in the conduct of the petitioner business, (2) to finance the purchase and construction of additional such property, within the state and finds that the issue and transfer of these securities upon the terms proposed will be consistent with the public good.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and transfer up to 400,000 shares of common stock, $5 par value, in accordance with the said plan; and it is

Further ordered, that the proceeds from the issue and transfer of said securities shall be used

for the purpose of discharging and repaying outstanding short-term notes of said company, to pay for the purchase and construction of additional property, and for other lawful corporate purposes; and it is

Further ordered, that the Public Service Company of New Hampshire shall file with this commission a detailed statement,

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duly sworn to by its treasurer or an assistant treasurer, showing the disposition of the proceeds of common stock, until the expenditure of the whole of said proceeds have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this ninth day of October, 1979.

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NH.PUC*10/10/79*[78399]*64 NH PUC 357*Hudson Water Company

[Go to End of 78399]

Re Hudson Water Company

DE 79-134, Order No. 13,854

64 NH PUC 357

New Hampshire Public Utilities Commission

October 10, 1979

PETITION for authority to establish a water utility in a limited area in a municipality; granted.

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1. DEPRECIATION, § 16 — Property subject to depreciation — Contributions in aid of construction.

[N.H.] Contributions in aid of construction were excluded from a water company's depreciation allowance. p. 358

2. ACCOUNTING, § 7.1 — Particular accounts — Contribution in aid of construction.

[N.H.] A water company's request for authority to submit to the commission each year a statement of the revenues and expenses of one of its operating systems was granted for the next three years, and if the statements are found to be reasonable and accurate, the commission indicated that it will authorize the company to offset the negative impact on the company's equity accounts of a loss by debiting contributions in aid of construction attributable to the system and crediting paid-in capital by a like amount. p. 359

3. RATES, § 598 — Water company — Declining unit cost.

[N.H.] The commission disagreed with a water company's proposed residential rate schedule with its widely varying declining unit cost, finding no basis for the unit cost to decline with consumption, especially within one customer class, since such a rate structure might tend to encourage additional consumption at peak times, reducing reserve capacity and eventually leading to necessary capacity expansion. p. 359

APPEARANCES: Robert E. Jauron for the company.

BY THE COMMISSION:

Report

By petition filed June 14, 1979, Hudson Water Company, a New Hampshire corporation with its principal place of business at 8 Winn Avenue, Hudson, New Hampshire, seeks permanent authority to operate as a public utility in a limited area of the town of Pelham, New Hampshire, formally served by Williamsburg Water Company.

By order of the commission on June 17, 1970, Order No. 9996, Williamsburg Water Company was authorized to operate as a public utility in a limited area of the town of Pelham, New Hampshire.

On December 26, 1978, Williamsburg Water Company submitted to this commission a petition to discontinue services as a public utility pursuant to RSA

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374:28 and for authority to transfer certain assets to another utility under RSA 374:30. This other utility was Beaver Brook Water Company.

The hearing on said petition was held on January 11, 1979. On February 15, 1979, a motion was filed by Hudson Water Company and Consumer Water Company to stay said proceeding and to reopen the hearing.

Per commission Order No. 13,624, dated May 16, 1978, the commission found that during the period December 26, 1978, through May 16, 1979, there has been many interruptions of service to the consumers of the water system. Continued requests for service by customers during that period had met with totally negative responses. Beaver Brook Water Company could not respond to, or correct, the emergency situation. The town of Pelham by necessity repaired and maintained the equipment to provide its citizens with continued water service.

The commission thus found that an emergency existed and suspended Williamsburg Water Company's authority to operate a water system in a limited area in the town of Pelham and granted Hudson Water Company temporary authority to repair, service, and maintain the equipment in an effort to provide continuous and efficient service to the customers of the water system.

The commission further ordered Hudson Water Company to file a petition requesting permanent authority to operate the water system.

A public hearing on said petition was held at the commission offices on July 5, 1979, and Order No. 13,781 was issued granting Hudson Water Company permanent authority to operate

the water system previously operated by Williamsburg Water Company.

The company witness testified that Hudson proposes to purchase the physical assets of the water system from the town of Pelham for $3,000 contingent upon satisfaction of company counsel that clear title to the property will be realized. In addition Hudson plans to purchase the accounts receivable from Beaver Brook Water Company for $4,000.

Correspondence from the board of selectmen of Pelham and Williamsburg Water Company were submitted supporting the petition.

[1] Hudson in Exh 2 submitted two accounting entries it proposes to use to account for the purchase.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Entry No. 1	DR. Accounts Receivable	$ 5,000	
	CR. Reserve for Bad Debts		$ 1,000
	CR. Cash	$ 4,000	
Entry No. 2			
	DR. Plant in Service (various accounts)	$35,000	
	CR. Cash		$ 3,000
	CR. Accounts Payable Affiliates		2,500
	CR. Accounts Payable Trade		2,500
	CR. Contributions in Aid of Construction		27,000

The commission accepts the entries as submitted realizing they are estimates based on the commission's latest rate decision regarding Williamsburg Water Company.

In that decision the commission allowed a zero rate base, stating that contributions in aid of construction were in excess of net plant. In this case that decision will remain, and depreciation will

be allowed only on plant net of contributions in aid of construction.

[2] The petitioner requested "authority to submit to the New Hampshire Public Utilities Commission each year a statement of the revenues and expenses of the Williamsburg system, and if such statement is found by the commission to be reasonable and accurate, then the commission will authorize Hudson Water Company to offset the negative impact on Hudson's equity accounts of such loss by debiting contributions in aid of construction attributable to the Williamsburg Water Company system and crediting paid-in capital by a like amount." We will accept the petitioner's request, after taxes, but rather than leave the duration of the request for the next five years, will limit it to the next three years.

The accounting books and records of Williamsburg Water Company had not been reviewed by employees of Hudson Water Company as of the hearing date. For this reason the commission staff under the authority vested in it by RSA 374:18, requested that the books and records be made available for staff review.

The staff reviewed the records provided to them, which were represented to be all of the existing records, and concluded there was not enough information on which to establish any accurate figures for rate base, contribution, expenses, etc.

[3] At the hearing, Hudson Water Company submitted a proposed meter rate schedule which was questioned by staff as to its design. Hudson Water Company has testified (Phelps) that the average consumption figures were derived from an analysis of its Litchfield system and in fact this schedule bears some resemblance to that employed in Litchfield.

The metered schedule which is a part of the Williamsburg tariff NHPUC No. 1 — Water, was accepted by this commission, however, it has never been used as meters have yet to be installed. We are not aware of the basis for the design of this rate schedule and cannot accept it now on the basis that it has been proven adequate by use and in fact we disagree with its widely varying declining unit cost as we do with that now proposed for Williamsburg. Williamsburg is a residential water system and we can see no basis for the unit cost to decline with consumption, more especially within one customer class. Such a rate structure tends to encourage additional consumption at peak times, reducing reserve capacity and eventually leading to necessary capacity expansion. It can be argued that a multiblock rate schedule should recover customer costs in its initial block or minimum charge, and three subsequent rate blocks would be designed to recover residential, commercial, and industrial customer costs in that order. We see no justification for such a design in this case.

The following metered rate schedule has been designed to produce annual revenues of $11,000 from sixty customers as authorized by Order No. 13,317 in docket DR 78-53. The charge for the minimum allowance of 500 cubic feet is proportional to that proposed for Williamsburg and to that in use in Hudson's tariff for the city of Hudson and the town of Litchfield.

First 500 cubic feet per quarter $12.50.

All additional cubic feet per quarter at $2.20 per hundred cubic feet.

The commission finds that the sale of the physical assets and accounts receivable of the water system from Williamsburg

Water Company and Beaver Brook Water Company to Hudson Water Company is consistent with the public good, and is in the public interest. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Hudson Water Company shall file with this commission, each year for the next three years, a statement of revenues and expenses, after taxes, of the Williamsburg Water system, such statement as approved, to be a debit to contributions in aid of construction and a credit to paid-in capital; and it is

Further ordered, that in accordance with the rate schedule set forth in this report, Hudson Water Company shall file a new tariff page designated as follows:

Second Revised Page 17, issued in lieu of First Revised Page 17; and it is

Further ordered, that this revised tariff page shall become effective on all service rendered

after October 1, 1979, and shall bear the notation "Issued in compliance with Order No. 13,854 in case DE 79-134"; and it is

Further ordered, that Hudson Water Company shall give public notice of this rate schedule by insert with the next regular billing.

By order of the Public Utilities Commission of New Hampshire this tenth day of October, 1979.

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NH.PUC*10/11/79*[78400]*64 NH PUC 360*Manchester Gas Company

[Go to End of 78400]

Re Manchester Gas Company

IR14,877, Order No. 13,857

64 NH PUC 360

New Hampshire Public Utilities Commission

October 11, 1979

PETITION seeking special contract for gas service; granted.

BY THE COMMISSION:

Order

Whereas, Manchester Gas Company, a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 18 with Pandora Industries, Inc., effective as of the date of this order, for gas service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this eleventh day of October, 1979.

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NH.PUC*10/12/79*[78401]*64 NH PUC 361*Tilton and Northfield Aquaduct Company

[Go to End of 78401]

Re Tilton and Northfield Aquaduct Company

IE14,881, Order No. 13,860

64 NH PUC 361

New Hampshire Public Utilities Commission

October 12, 1979

PETITION seeking special contract for water service; granted.

BY THE COMMISSION:

Order

Whereas, Tilton and Northfield Aquaduct Company, a utility selling water under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 1 with Jensen's, Inc., effective September 18, 1979, for water service at conditions other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twelfth day of October, 1979.

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NH.PUC*10/18/79*[78402]*64 NH PUC 361*Small Energy Producers and Cogenerators

[Go to End of 78402]

Re Small Energy Producers and Cogenerators

DE 79-208, Order No. 13,869

64 NH PUC 361

New Hampshire Public Utilities Commission

October 18, 1979

ORDER providing for hearing to receive testimony and exhibits by electric utilities as to proper adjustments to existing rates for cogenerators and small power producers.

RATES, § 321 — Electric companies.

[N.H.] A hearing was ordered to consider rate adjustments for public utilities purchasing electric energy in an attempt to consider existing versus new equipment, size, financial stability of the energy producer, price, capacity versus energy, and cogenerator versus small energy

producer.

BY THE COMMISSION:

Order

RSA 362-A directs that public utilities purchasing electrical energy in accordance with the provisions set forth therein shall pay a price per kilowatt-hour

to be set from time to time by its public utilities commission; and

Whereas, the Public Utility Regulatory Policies Act (PURPA) of 1978, effective subsequent to RSA 362-A, directs that the Federal Energy Regulatory Commission shall prescribe rules requiring electric utilities to purchase power from small power production facilities; and

Whereas, RSA 362-A and PURPA both require the encouragement of alternative energy sources as opposed to nuclear or fossil fuels; and

Whereas, the commission, pursuant to RSA 362-A and PURPA, held hearings on a price to be paid per kilowatt-hour; and

Whereas, the commission at the conclusion of these hearings, by Order No. 13,589, set four cents per kwh for plants which produce energy on a nondependable capacity basis and 4.5 cents per kwh on a dependable basis; and

Whereas, the commission stated in its order that it would review the price set and make annual adjustments; and

Whereas, Representative Eugene Daniell has requested that the commission begin its adjustment process; it is

Ordered, that the commission will open DE 79-208 for the purpose of receiving testimony and exhibits as to what are the proper adjustments to be made to the existing rate for cogenerators and small power producers; it is

Further ordered, that all electric utilities within the state must inform the commission within thirty days if it intends to present testimony and/or exhibits; it is

Further ordered, that all other interested parties must notify the commission within forty-five days of their intentions to file testimony and/or exhibits; it is

Further ordered, that all testimony is to be prefiled on or before November 29, 1979; it is

Further ordered, that hearings on all prefiled testimony and exhibits will begin December 12, 1979, at 10:00 A.M.; it is

Further ordered, that those who become parties to this proceeding should attempt to address some of the following concerns: (a) existing versus new equipment; (b) size; (c) financial stability of the energy producer; (d) price; (e) capacity versus energy; (f) cogenerator versus small energy producer; it is

Further ordered, that all electric utilities notify all persons desiring to be heard to appear at said hearing, when and where they may be heard by causing an attested copy of this order of notice to be published once in a newspaper having general circulation in that portion of the state in which operations are conducted, such publication to be not later than October 31, 1979, and such publication to be designated in an affidavit to be made on a copy of this order of notice and filed with this office.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of October, 1979.

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NH.PUC*10/19/79*[78403]*64 NH PUC 363*Public Service Company of New Hampshire

[Go to End of 78403]

Re Public Service Company of New Hampshire

DR 79-187, Third Supplemental Order No. 13,874

64 NH PUC 363

New Hampshire Public Utilities Commission

October 19, 1979

PETITION for right to participate in rate case as full intervenors; denied in part and granted in part.

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1. RATES, § 641 — Intervention in rate case.

[N.H.] Full intervention in a rate case by an individual is permitted only when it can be shown that the individual, or the class he represents, is not adequately protected by competent counsel. p. 363

2. RATES, § 641 — Intervention in rate case.

[N.H.] Two individuals were denied full intervenor status in a rate case where they and the class of customers that they represented were adequately represented in the proceeding by the Legislative Utility Consumers' counsel. p. 363

3. RATES, § 641 — Intervention in rate case.

[N.H.] The Business and Industry Association was allowed to participate as a full intervenor in a rate case where the commercial and industrial customers whom it represented were not represented as a class by any of the other full intervenors. p. 363

APPEARANCES: Anthony McManus for Representative Edward Smith; Senator D. Alan Rock, pro se; Dom S. D'Ambruoso for the Business and Industry Association.

BY THE COMMISSION:

Report

On August 16, 1979, Public Service Company of New Hampshire filed a petition to increase its permanent rates by $18,456,225. Prior to that filing Public Service Company of New Hampshire, on August 6, 1979, filed a petition for interim rates. This petition, being assigned docket DR 79-166 was consolidated along with docket DR 79-107 into this docket DR 79-187. A procedural hearing was held on September 17, 1979, pursuant to a duly advertised order of notice. During the procedural hearing Representative Edward Smith requested this commission to allow him to participate in this proceeding as a full intervenor. A request was also made during the hearing by the Business and Industry Association to participate as a full intervenor. The Business and Industry Association reserved the right to ask for full intervention by petition if the association after meeting with their counsel so desired. After the procedural hearing the commission received a written request from Senator D. Alan Rock requesting full intervention status.

The three requests will be treated in this report. Representative Smith and Senator Rock are seeking status as full intervenors in this proceeding in their individual capacities and not as direct representatives of the legislature. As both of their interests are similar, we shall address their requests first.

[1-3] Representative Smith sets forth that he represents a class of persons who do not have adequate representation in this proceeding. He further states that he is entitled to intervene as a matter of

right pursuant to §§ 121 and 122 of the Public Utility Regulatory Policies Act.

Senator Rock's request fails to state any reason, but the commission will acknowledge his interest in the regulation of public utilities in the state of New Hampshire and his status as a member of the Legislative Utility Consumers' Council.

Both of these gentlemen share a common goal with this commission which is that the interest of all customers be adequately represented in this type of proceeding. However, the commission determines that both gentlemen and the class of customers that they represent are adequately represented in this proceeding by the Legislative Utility Consumers' counsel. The Legislative Utility Consumers' counsel is a direct representative of the Legislative Utility Consumers' Council, a body created by the legislature specifically to represent residential consumers in this type of hearing (see RSA 363-C). In our report issued September 28, 1979, Order No. 13,840 we referred to that office and the comments made therein are pertinent here.

As to Representative Smith's contention that PURPA mandates all individuals have a right to full interventions, we disagree. It is our opinion that full intervention by an individual is permitted only when it can be shown that the individual, or the class he represents, is not adequately protected by competent counsel. Sections 111 and 112 of PURPA require state commission to permit intervention as a matter of right but the extent of intervention is limited by the state's commission administrative rules and regulations. In this proceeding the retail

customers are more than adequately represented by at least two parties having full intervention status.

Upon consideration of all of the arguments, petitions, and facts presented and after careful deliberation, the commission denies Representative Smith's and Senator Rock's request for full intervenor status but do permit them to participate as limited intervenors for the purpose of presenting a statement of their views orally or in writing.

The Business and Industry Association request that they be permitted to be full intervenors in this proceeding because they represent commercial and industrial customers who are not represented as a class by any of the other full intervenors. The commission agrees that the commercial and industrial customers are not represented and allows the Business and Industry Association to participate as a full intervenor subject to the conditions imposed on the other full intervenors as set forth in our report issued September 29, 1979.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the Business and Industry Association shall participate in this proceeding as a full intervenor and shall comply with the procedural guidelines set forth in the report of this commission issued September 29, 1979, as well as the other rules and regulations of the commission; and it is

Further ordered, that the motion or appeal of Representative Edward Smith is denied and the request of Senator D. Alan Rock is also denied, both Representative Edward Smith and Senator D. Alan Rock may participate in this proceeding as limited intervenors

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and shall comply with the rules and regulations of this commission.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of October, 1979.

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NH.PUC*10/19/79*[78404]*64 NH PUC 365*Public Service Company of New Hampshire

[Go to End of 78404]

Re Public Service Company of New Hampshire

DR 79-187, DR 79-107, Fourth Supplemental Order No. 13,875

64 NH PUC 365

New Hampshire Public Utilities Commission

October 19, 1979

PETITION seeking rehearing of electric rate decision; commission schedules hearing to consider

motion.

BY THE COMMISSION:

Supplemental Order

Whereas, the Community Action Program has filed a motion for rehearing in this proceeding on September 18, 1979. Public Service Company of New Hampshire filed objections to the granting of said motion on September 21, 1979, which objections were responded to by Community Action Program on September 26, 1979.

The commission, having considered the pleadings filed by the parties in this matter, hereby schedules November 1, 1979, at ten o'clock in the forenoon at the offices of the commission, 8 Old Suncook Road, Concord, New Hampshire, for oral arguments to be presented. Community Action Program and Public Service Company of New Hampshire are directed to appear at said time and place to present their arguments.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of October, 1979.

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NH.PUC*10/23/79*[78405]*64 NH PUC 365*Manchester Water Works

[Go to End of 78405]

Re Manchester Water Works

IE14,884, Order No. 13,877

64 NH PUC 365

New Hampshire Public Utilities Commission

October 23, 1979

PETITION for authority to extend water mains into a limited area of a municipality; granted.

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SERVICE, § 210 — Extensions — Water.

[N.H.] A water company was authorized to extend its mains and service further into a municipality where no other water company had franchise rights in the affected area; the town officials were in accord with the petition and the commission was satisfied that the proposed service would be for the public good.

BY THE COMMISSION:

Order

Whereas, Manchester Water Works, a water public utility operating under the jurisdiction of this commission, by a petition filed October 1, 1979, seeks authority under RSA 374:22 and 26 as amended to extend its mains and service further into the town of Londonderry; and

Whereas, no other water utility has franchise rights in the area sought, and the petitioner submits that the area will be served under its regularly filed tariff; and

Whereas, the board of selectmen, town of Londonderry, has stated that it is in accord with the petition; and

Whereas, after investigation and consideration, this commission is satisfied that the granting of the petition will be for the public good; it is

Ordered, that Manchester Water Works be, and hereby is, authorized to extend its mains and service further into the town of Londonderry in the area herein described, and as set forth on a map on file in the commission offices, as follows:

Beginning at a point along the center line of Grenier Field road, said point being the southerly most existing franchise limit for said Grenier Field road as granted by Order No. 12,583 in DR 77-8, from this point southerly and easterly following the path and contour of the center line of said road to its intersection with the westerly most line of Mammoth road, meaning and intended to service all of the area along said Grenier Field road, not already granted by the above referenced order; and for those purposes to construct and maintain the necessary lines and apparatus.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of October, 1979.

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NH.PUC*10/24/79*[78407]*64 NH PUC 367*Public Service Company of New Hampshire

[Go to End of 78407]

Re Public Service Company of New Hampshire

DR 76-46, 45th Supplemental Order No. 13,880

64 NH PUC 367

New Hampshire Public Utilities Commission

October 24, 1979

PETITTON of electric company for authority to revise fuel adjustment charges; denied as proposed and revised charges authorized.

RATES, § 303 — Fuel adjustment clauses.

[N.H.] An electric company was ordered to reduce its fuel adjustment charge by a set figure so as to begin crediting customers for overcharges.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Gerald L. Lynch and William Shaine for the Legislative Utility Consumers' Council; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission on October 22, 1979, held hearings on the petition of Public Service Company of New Hampshire for authority to apply a fuel adjustment charge to regular November, 1979, monthly billings to their customers.

Reference may be made to previous

commission decisions in this docket for statements and explanations of the fuel adjustment clause.

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire on October 18, 1979, filed with this commission 20th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect November 1, 1979.

The company reported a fuel cost above base of $8,425,185 and total kilowatt-hours subject to the fuel adjustment of 422,209,000 resulting in a per kilowatt-hour charge of $0.01995501.

The fuel adjustment charge thus adjusted rounded to $2 per hundred kilowatt-hours is proposed to go into effect in the month of November, 1979.

The month's proposed rate is 19 cents per hundred kilowatt-hours higher than last month's for five major reasons. The cost of oil was up substantially, the amount of purchased nuclear generated energy was considerably lower due to outages, the cost of purchased energy increased, the company made a correction to its prime sales for a period's billing error, and Merrimack experienced some unscheduled outages.

As to the billing error, the commission recommends that the company look into and implement procedure to provide a check of the manual meter readings to avoid this type of error in the future.

For the past three months, the commission has conducted inquiry into the status of Public Service Company of New Hampshire's coal pile. The inquiry has revealed that approximately 25,000 tons of coal has been billed to consumers but have not as yet been burned. The company has been negotiating with its fuel supplies for approximately two months. The company has not however, sought to credit any money to consumers until the conclusion of these negotiations.

In the previous month's fuel adjustment hearing the company was informed that the

commission desired final figures for this month. While the approximate tonnage and price figures are now known, there has not been a credit submission by the company.

This situation is not new to the commission. A similar set of circumstances occurred in September, 1976. At that time the commission ordered Public Service Company of New Hampshire to reduce its fuel adjustment charge by a set figure so as to begin crediting consumers for overcharges. Subsequent to that hearing, the company finalized its negotiations and the next two fuel adjustment charges were used to credit the remainder of the overcharges.

The commission upon deliberation believes that a similar adjustment is necessary for this month and will expect future filings from the company to reflect the remainder of the credits owed to consumers as well as a full accounting of the amounts involved.

Consequently, the Public Service Company of New Hampshire's request for a fuel adjustment of $2 per hundred kilowatt-hours is rejected. The company will instead be allowed to charge a fuel adjustment for November of $1.93 per hundred kilowatt-hours. This seven-cent credit per hundred kilowatt-hours is not the entire credit owed consumers but rather a beginning. This action will have the additional benefit of eliminating a portion of the dramatic fluctuations in the fuel adjustment charge that have been characteristic of recent months.

The following companies: Concord Electric Company, Exeter and Hampton

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Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, and Woodsville Water and Light Department submitted their fuel adjustment calculations for the subject period, and the commission having reviewed the calculation, accepted said calculations were prepared accurately.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of November, 1979, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 20th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, be, and hereby are, rejected and the company is hereby ordered to file revised pages providing for the monthly fuel surcharge of $1.93 per hundred kilowatt-hours for the month of November, 1979, which will be permitted to become effective November 1, 1979; and it is

Further ordered, that 57th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of $1.66 per hundred kilowatt-hours for the month of November, 1979, be, and hereby is, permitted to become effective November 1, 1979; and it is

Further ordered, that 42nd Revised Page 16 of Exeter and Hampton Electric Company tariff,

NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of $1.61 per hundred kilowatt-hours for the month of November, 1979, be, and hereby is, permitted to become effective November 1, 1979; and it is

Further ordered, that 31st Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 93 cents per hundred kilowatt-hours for the month of November, 1979, be, and hereby is, permitted to become effective November 1, 1979; and it is

Further ordered, that 20th Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.62 per hundred kilowatt-hours for the month of November, 1979, be, and hereby is, permitted to become effective November 1, 1979; and it is

Further ordered, that 62nd Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $2.52 per hundred kilowatt-hours for the month of November, 1979, be, and hereby is, permitted to become effective November 1, 1979; and it is

Further ordered, that 14th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of $1.72 per hundred kilowatt-hours for the month of November, 1979, be, and hereby is, permitted to become effective November 1, 1979; and it is

Further ordered, that 70th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 —

Electricity, providing for the monthly fuel surcharge of $1.33 per hundred kilowatt-hours for the month of November, 1979, be, and hereby is, permitted to become effective November 1, 1979; and it is

Further ordered, that 36th Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 94 cents per hundred kilowatt-hours for the month of November, 1979, be, and hereby is, permitted to become effective November 1, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of October, 1979.

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NH.PUC*10/25/79*[78406]*64 NH PUC 366*New Hampshire Electric Cooperative, Inc.

[Go to End of 78406]

Re New Hampshire Electric Cooperative, Inc.

IR14,883, Order No. 13,878

64 NH PUC 366

New Hampshire Public Utilities Commission

October 25, 1979

PETITION seeking special contract for electric service; granted with limitations.

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 67 with Tufpak, Inc., signed on October 12, 1979, to become effective following approval of this commission and when service is made available; and

Whereas, this contract represents an agreement to limit service to loads of 150 kw or the capacity of the existing V-phase line now service the premises involved; and

Whereas, should loads exceed that specified, necessary steps must be taken to upgrade the line from V-phase to 3-phase, such conversion or extension to be according to terms of the then existing tariff of New Hampshire Electric Cooperative, Inc.; and

Whereas, upon investigation and consideration, this commission is of the opinion that the special circumstances justify the need for interim power service and the terms and conditions of such are just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the date of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of October, 1979.

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NH.PUC*10/26/79*[78409]*64 NH PUC 373*Rule Change, Rule C-13

[Go to End of 78409]

Re Rule Change, Rule C-13

I-A14,882, Order No. 13,887

64 NH PUC 373

New Hampshire Public Utilities Commission

October 26, 1979

ORDER repeating rule relating to staff participation in commission proceedings.

PROCEDURE, § 19 — Staff participation — Rule revision.

[N.H.] The commission has repealed its Rule C-13, participation by staff which reads as follows: members of the commission's staff generally appear neither in support of nor in opposition to any cause, but rather solely to discover and present facts pertinent to the issues.

Order

Whereas, the New Hampshire Public Utilities Commission has the power to adopt and publish rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings; and

Whereas, the New Hampshire Public Utilities Commission has complied with the requirements of RSA 541-A et seq. and the New Hampshire rule-making manual; and

Whereas, it now appears that the New Hampshire Public Utilities Commission's rules entitled, § I, Rules of Practice and Procedure, subsection C, Par 13, Participation by Staff which reads as follows shall be repealed:

"13. *Participation by Staff* — Members of the commission's staff generally appear neither in support of nor in opposition to any cause, but rather solely to discover and present facts pertinent to the issues."

Now therefor, it is ordered that the New Hampshire Public Utilities Commission's rules, § I, subsection C, Par 13, be and hereby is, repealed and shall read as follows:

"13. (Repealed)"

The effective date of said appeal shall be November 25, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of October, 1979.

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NH.PUC*11/01/79*[78410]*64 NH PUC 374*Hampton Water Works

[Go to End of 78410]

Re Hampton Water Works

DR 79-51, Second Supplemental Order No. 13,895

64 NH PUC 374

New Hampshire Public Utilities Commission

November 1, 1979

APPLICATION for authority to increase water rates; proposed rates rejected and new rates approved in accordance with opinion.

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1. RETURN, § 26.2 — Cost of debt capital.

[N.H.] The commission accepted a weighted cost rate of debt of 7.68 per cent for a water company's capital structure. p. 375.

2. RETURN, § 26.3 — Cost of preferred stock.

[N.H.] The commission accepted a weighted cost rate for preferred stock of 6.81 per cent for a water company. p. 375.

3. RETURN, § 26.4 — Cost of equity capital.

[N.H.] A return of 13.78 per cent on equity was found to be proper for a subsidiary operating water company where the company's construction program was nowhere near the magnitude in terms of rate base comparison as that of other New Hampshire water companies, and where the commission continued its policy to recognize leverage and the benefits of the parent company's situation in the return on common equity. p. 375.

4. RETURN, § 35 — Attrition factor.

[N.H.] The attrition factor must be recognized in fixing a rate of return if proven by the company seeking a rate increase, and such proof must support the adjustment actually requested. p. 378.

5. RETURN, § 115 — Water company — Attrition factor.

[N.H.] A water company was allowed an overall rate of return of 9.58 per cent, to which it added an 0.53 per cent attrition factor at the beginning of the second year to assist the company in preserving its overall return of 9.58 per cent. p. 379.

6. APPORTIONMENT, § 8 — Water company.

[N.H.] The commission must consider a broader spectrum of factors than merely the apportionment of costs in order to fix proper rates that directly affect various elements of the community in different ways. p. 384.

APPEARANCES: Joseph Ransmeier for the petitioner; Harold T. Judd for the Legislative Utility Consumers' Council.

BY THE COMMISSION: This proceeding originated with the filing by Hampton Water Works (company) of a new tariff, NHPUC No. 7, which (1) provided for a 26 per cent increase in the level of the company's rates, and (2) additional changes in the company's tariffs. The company's proposed new tariffs were filed on February 22, 1979, and were suspended by commission Order No. 13,541 of March 26, 1979.

The company filed a petition seeking to have its existing rates made temporary as of May 1,

1979. After hearing on May 25, 1979, the commission made the determination that existing rates should

be made temporary effective as of May 31, 1979, by its Order No. 13,751. Hearings on the permanent rates were convened at the offices of the commission on July 25th and continued on July 26th. In addition, a public hearing was held in Hampton, New Hampshire on September 5, 1979. Brief was submitted by the company on September 13, 1979. No brief was submitted by the company on September 13, 1979. No brief was filed by any other party.

I. Rate of Return

A. *Areas of Agreement*

[1, 2] There was no challenge to the company's capital structure or the cost rates for either debt or preferred stock. Company witness M<*l>lle and staff witness Camfield agree that these aspects of the overall return calculation were not in dispute. Upon a review of the record, the commission agrees and, therefore, accepts a weighted cost rate of debt of 7.68 per cent and a weighted cost rate for preferred stock of 6.81 per cent. While there were slight differences between company witness M<*l>lle and staff witness Camfield as to the calculation of the overall capital structure, the differences were not substantial. Staff witness Camfield's approach was one traditionally adopted by the commission, and the commission finds no evidence to substantiate any deviation from that standard practice. Consequently, Mr. Camfield's capital structure is adopted.

B. *Return on Common Equity*

[3] The commission over the years has often experienced enigma in arriving at a proper return on common equity due to a lack of clarity and firmness in presentations made on the record. Such is not the case however in this instance in that staff and the company thoroughly analyzed all phases relating thereto.

Company witness M<*l>lle performed an analysis using four alternative approaches which might be applied in arriving at a proper return on common equity. His Schedule 13A summarizes the four approaches providing a range of 14.01 per cent to 14.60 per cent. The four approaches and the indicated results are as follows:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

1. Absolute Risk Differential 14.44%
2. Comparison, Regulated
Earnings-price Ratio          14.01%
3. Yield plus growth          14.60%
4. Comparison Regulated
Earnings-book Value           14.55%
Average                       14.40%
```

The absolute risk differential approach employs the historical average difference between dividend yields of common stocks and bonds of equivalent classes using Standard and Poor's definition of risk. It then applies such difference to the current dividend yield of bonds as an estimate of equity arriving at a cost of 14.44 per cent.

The second approach, comparison regulated earnings-price ratio, indicates the price at which today's investor is willing to pay for a stock on the strength of what its total earnings will be at a certain estimated level one year from today. Mr. M<*l>lle relies upon projected earnings levels together with current market prices as reported by Value Line. This step is then used in conjunction with historical earnings to market price ratios and results in a cost of 14.01 per cent.

The third approach is the DCF approach; namely, yield plus growth rate. This approach simply stated employs the price an investor is willing to pay today

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for a stock in return for anticipated dividends and a perceived annual growth rate in those dividends over a year's time producing a cost of 14.60 per cent.

The fourth approach is the earnings-to-book value rates of return. This approach differs markedly from the other three methods in that it does not relate to current market conditions. Rather it uses in essence a comparable earnings approach. Focus of attention on this approach is the return to be allowed based upon book value as opposed to market value. This approach has been characterized by making numerous adjustments in relating the historical levels experienced in the present and the future and gives a cost of 14.55 per cent.

C. *Staff Position*

The staff position was presented by commission economist Camfield. Witness Camfield used two approaches to arrive at a proper return on common equity for Hampton. The first approach, double leverage, recognizes that Hampton is a subsidiary of a parent company, American Water Works. This approach utilizes American's cost rate and then applies leverage. The theory behind this approach demonstrates that if a subsidiary earns its cost of equity, then the parent company will over-recover the parent's cost rate of equity capital. Thus, Mr. Camfield's recommendation for Hampton of 10.74 per cent would lead to a 14.85 per cent return to American.

His second approach is the DCF model. Using this model he examines weighted growth rates together with the composite market yields. In addition, various risk elements are examined in relation to other water and electric companies. Mr. Camfield's conclusion was a 13.78 per cent return on common equity under this approach. This number was arrived at by finding unadjusted cost of equity to be 13.28 per cent and then adding 50 basis points to reflect that an annualized estimate understates the true estimate when quarterly dividends are paid.

In brief, the company argues for the four approaches advocated by Mr. M<*l>lle and is adamant in its objection to any consideration of American, an unregulated company, in determining a proper rate of return.

The company further argues that using the double leverage approach presented by Mr. Camfield does not satisfy the tests of Bluefield and Hope as to: (1) using companies of corresponding risks, and (2) proving that Hampton is comparable to the companies used in the composites.

Mr. M<*l>lle then stated that he and Mr. Camfield were very close on both second approaches, and he would not address, nor would there be rebuttal, were it not for Mr. Camfield's

first approach. (Transcript, Page 327, Lines 13 through Lines 21.)

Question (speaking of double leverage)

"Would you please tell the commission what your judgement is about this?"

Answer: "Yes. First of all let me, before I go into this, digress for a moment and say I don't believe Mr. Camfield and I are very, very far apart philosophically on our second approach, and I would not even address nor would there be any rebuttal were it not for this one particularly sticky issue."

D. *Commission Analysis*

The commission rejects the suggestion

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by the company that the commission should ignore the parent company, American Water Works. In Re Hampton Water Works (1975) DR 74-220, the commission stated that in arriving at a return on common equity it "considered the fact that the company is a wholly owned subsidiary of American Water Works Company, Inc.," and that consideration was given to "the capitalization, earnings rate, and market price of the parent company." (Page 3.) Similar considerations are evident in Re Hampton Water Works (1972) D-R 6298. In this instance, the commission chose to provide a lower return on equity to Hampton as compared to Pennichuck because of the legitimate economic concerns relating to this parent-subsidiary relationship.

The commission has used the double leverage approach previously. See Re Granite State Electric Co. (1978) DR 77-63. Many of the same considerations in that proceeding are present here. However, because of many unanswered questions as to American's nonutility operations, the commission will not use this approach in arriving at a fair return on equity for this proceeding. This action does not foreclose the raising of this issue in future proceedings.

The commission notes that a weakness in Mr. M<*l>lle's first approach is that it ignores the changes in dividend yields of stocks and bonds that occur with regard to changes caused by inflation.

Mr. M<*l>lle's second approach is, on the whole, rational and therefore, is within the range of reasonableness. However, his third approach, while sound in theory, suffers from errors of application and computation. The commission does not accept the adjustment on Schedule 16 to bring historical results up to reasonable future prospects. This commission has not recognized this alteration of the DCF model. Furthermore, even if this were so, the factor of 1.08 should be applied solely to the dividend yield.

The major difference (other than the adjustment referred to above) between witness Camfield and witness M<*l>lle is the calculation of growth rates (3.9 per cent versus 4.8 per cent). Mr. M<*l>lle has not demonstrated to our satisfaction how he arrived at the conclusion that Hampton is comparable to A-rated companies. Therefore, Mr. Camfield's dividend yield and growth rate is more justifiable in our viewpoint.

The fourth approach by Mr. M<*l>lle has some adjustment, which may be valid, but appears subjective and speculative. In addition, we question whether the rate of return on book value

necessarily represents the cost of capital.

In summary, the analysis by both witnesses, although subject to some criticisms, are for the most part valid. Consequently, the commission arrives at a range of reasonableness between 13.78 per cent and 14.01 per cent. The commission will opt for the lower portion of this range for the following reasons: (1) The company's construction program is nowhere near the magnitude in terms of rate base comparison as that of other New Hampshire water companies; (2) A continuation of commission policy to recognize leverage and therefore the benefits of the parent subsidiary's situation in the return on common equity. Accordingly, the commission finds 13.78 per cent to be a proper return on equity.

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

HAMPTON WATER WORKS COMPANY

OVERALL COST OF CAPITAL, FOR RATE-MAKING PURPOSES

Item			
Common Equity			
Preferred Stock			
Long-term Debt.			
Total			

II. Attrition

[4] The New Hampshire supreme court has provided guidelines for the commission to use in addressing the question of attrition. In its landmark decision, New England Teleph. & Teleg. Co. v New Hampshire (1973) 113 NH 92, 97, 98 PUR3d 253, 257, 302 A2d 814, the court defined attrition as follows:

" 'An erosion in earning power of a revenue producing investment. This erosion is a complex phenomenon, the result of operating expenses or plant investment, or both, increasing more rapidly than revenues. If attrition occurs, the result would be that the rate of return realized in the future would be below that which rates were designed to produce.' This effect is apt to occur in a period of comparatively high construction costs when 'new plant is being added which ... is relatively expensive per telephone station. As the high cost plant comes into service, it tends to increase the applicable rate base at a more rapid pace than the resultant earnings, and the rate of return decreases accordingly.' New England Teleph. & Teleg. Co. v Massachusetts Dept. of Pub. Utilities (1954) 331 Mass 604, 622, 6 PUR3d 65, 121 NE2d 896, 906."

The court went on to state that if the existence of attrition can be established by a company, the commission must evaluate the impact of this factor on the earnings of the utility and make an appropriate allowance. 92 NH at p. 97 98 PUR3d at p. 257. The court concluded its discussion by citing various ways generally used to offset attrition. In addition, the commission has set forth other methods to handle attrition. Re Pennichuck Water Co. (1979) DR 79-3; Re Concord Electric Co. (1978) DR 77-142.

In the Pennichuck decision, the commission allowed that utility a secondary phase increase. In doing so, the commission recognized growth in plant, which the supreme court recognized as one of the variables affecting the overall return of the company. This approach benefitted the consumer by spreading the rate increase thereby minimizing its inflationary aspects.

In the Concord Electric case, the commission ruled that numerous pro forma adjustments made in a company's filing have the effect of offsetting or delaying the onset of attrition. (1978) DR 77-142 p. 12. This mitigation of attrition through pro forma adjustments was also recognized in Pennichuck (1979) DR 79-3,p. 11.

Before analyzing the arguments of the parties, it is necessary to examine one additional supreme court decision. Legislative Utility Consumers' Council v Granite State Electric Co. (1979) 119 NH — . In that case, the court clearly stated that when an attrition allowance is granted, it must be supported by

findings of fact. (Decision p. 4.) Consequently, the area of attrition must be recognized if proven by the company, and such proof must support the adjustment actually requested. To put it another way, not only must a company prove attrition, but it must also carry the burden as to quantifying the adjustment.

A. *Hampton Water Position*

The company's evidence as to attrition was presented through Mr. Mlambdaulle. Mr. Mlambdaulle's discussion relates to attrition and to the return on equity. His Schedule 38 computes attrition based on what he found to be the actual experience of the company. He then proceeded to remove any benefits from intervening rate increases. This was done based on the belief that there would be no rate increases during the time period these rates were in effect.

The company argues in brief that Mr. Mlambdaulle's conclusion as to attrition of 0.60 per cent is conservative and that the evidence on the record reveals even a higher attrition factor. The company rejects staff witness Camfield's argument that the investment tax credit is an offset to attrition. Their argument is that: (1) the overall returns found by Mr. Mlambdaulle already take into account the investment tax credit (ITC), and that this proves how conservative Mr. Mlambdaulle has been; (2) that the ITC cannot be used in any fashion, because of IRC § 46(f) and Public Service Co. of New Hampshire v New Hampshire (1973) 113 NH 497 2 PUR4th 59, 311 A2d 513.

B. *Staff Position*

Staff witness Camfield argues that the job development investment tax credit (JDITC) is an offset to attrition in that the true economic cost of this credit is zero rather than as it is costed for rate base or capitalization purposes; namely, the overall rate of return. Witness Cam-field argues that the JDITC increases at a faster rate than do other components of capitalization.

Witness Camfield quantifies his proposition through his exhibits, which show an offset of 25 basis points, or 0.25 per cent.

C. *Commission Analysis*

[5] The commission, upon a review of the record and the positions of the parties, finds the following: (1) the fact that the company has had temporary rates throughout the major portion of the proceeding is an offset to attrition; (2) the fact that the company has made pro forma adjustments to a major portion of its test-year expenses is also an offset to attrition; (3) that the evidence reveals an historic attrition rate of 0.53 per cent; (4) that the JDITC is an offset to attrition from an economic standpoint, but whether it can legally be treated as such will be the subject of further commission investigation when the commission has access to legal counsel.

Consequently, the commission will allow an attrition allowance of 0.53 per cent to be passed on to the consumer on all bills rendered on or after November 1, 1980 (one year after the date of our overall order in this proceeding). The commission, therefore, will allow an overall rate of return of 9.58 per cent, to which it will add a 0.53 per cent attrition factor at the beginning of the second year to assist the company in preserving its overall return of 9.58 per cent This secondary phase increase will have the laudable benefits of: (1) minimizing the inflationary impact on the consumer; (2)

reduce the fluctuation in the company's overall return, which would occur from front-loading this attrition allowance; and (3) properly reflect the fact that the temporary rates, together with the pro forma adjustment, are an offset to attrition.

The historic growth rate in attrition of 0.53 is accepted over the company's finding of 0.70 because of an error in the calculation made by the company in its Schedule 38. The allowed rate of return shown by the company in its Schedule 38 for the years 1976, 1977, and 1978 is 8.7 per cent. However, upon review of Re Hampton Water Co. (1975) Docket No. 74-220, it is clear that the allowed rate of return by the commission was 8.3 per cent, and that a 0.40 per cent attrition factor was added. For purposes in calculating attrition, it is the allowed rate of return rather than the return plus attrition that is used for measuring future attrition.

In addition, the fact that the company has experienced attrition may be attributable to the fact that it has not done a cost-of-service study or provided the commission with a billing analysis. Such failure by the company to perform these two traditional studies may explain a portion of the attrition in that the rates put into effect may not recover the revenue approved. In fairness to all consumers, the commission will require the company to submit cost-of-service studies and billing analysis in the future. In this way, the commission will resolve its concern over whether in fact the revenue granted is the revenue received.

III. Test-year Expenses

The company submitted the actual results of operations for the year ended December 31, 1978. Pro forma adjustments were made for known changes to expenses which occurred prior to the end of the test year, and in the case of painting standpipe and tanks for repairs projected in 1979, 1980, and 1981.

The staff witness presented testimony, which disagreed with the computation of several pro forma adjustments. That testimony recommended adjustments to the payroll and associated benefits adjustment, rate case expenses, and the amortization of projected repairs and painting of

standpipe and tanks.

The commission will address the several areas of disagreement between the company and the staff.

A. *Salary and Wage Expense*

The company has included a pro forma adjustment for salary and wage increase in the amount of $17,588. Those increases became effective on June 12, 1979, for hourly employees, and on July 1, 1979, for salaried employees. Staff contends that adjustment should be revised to include only the portion of the salary and wage increase which would be in effect for one year after the close of the test year. Staff's salary adjustment would revise the pro forma increase from $17,588 to $10,129, or a decrease of $7,459. The company contends that their adjustment should be accepted if the commission is "to promulgate just and reasonable rates at the conclusion of this proceeding looking forward from June 1, 1979." That argument is based on temporary rates being in effect from that date and subject to recoupment.

The commission has decided in the past that in order to arrive at just and reasonable rates, there should be a proper matching of revenues and expenses. If the company's proposition is accepted, the commission would in effect

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be looking ahead in terms of expenses and overlooking the fact that no adjustment was made to revenues for growth during the test year and beyond. The commission will, therefore, accept the staff pro forma adjustment of $10,129.

B. *Pension Expense*

As a result of the above, a downward adjustment should be made to the pro forma adjustment for pension costs. Applying the ratio of pension expense used for the calculation of the company's adjustment to the staff's figures, the required pro forma amount is $1,573. The company's adjustment amounted to 82,780; therefore, this adjustment is reduced by $1,207.

C. *Rate Case Expenses*

Staff testimony pointed out that rate case expenses should be reduced by $684. The company accepts that analysis; therefore, rate case expense amortization will be reduced from 59,835 to $9,151.

D. *Adjustment for Cost of Painting Tanks*

The company submitted a test-year adjustment to annualize the cost of painting standpipe and tanks in the amount of $8,478. This adjustment applies to projects which are planned to be accomplished in the years 1979, 1980, and 1981.

Staff witness testified that this adjustment should not be allowed in total due to the fact that two of the projects are planned to occur in 1980 and 1981. He further testified that by accepting that principle, the commission would be setting up a contingency reserve. The company argues that the ratepayer should pay a "provision for the fair annual burden of this expense, irrespective of the accident of whether or not the equipment was in fact actually painted during the test year involved." They further argue that the ratepayers, who would be affected by the new rates, would

be excused from paying a part of the true cost of providing water service to them.

Staff witness further testified that the period (1981), in which one project is planned, also falls within the time frame when the 30-year amortization of a previous decision by the supreme court and the commission in case D-E 2940 will expire. The company argues that the staff witness has beclouded the issue, and these two items require separate analysis.

The company further contends that the adjustment should be accepted as it was in the previous rate case (DR 74-220) and suggests that the commission should accept an adjustment based on an average of the last allowance and the claimed allowance in this rate case.

The staff recommends that the amortization of painting the Mill Road standpipe in 1979 ($1,760) and the Glade Path elevated tank in 1980 ($5,175) be accepted as a pro forma adjustment. They claim that adjustment would reasonably compensate the company for this type of expense. Staff further recommends that the 1981 project (Jennes Beach) not be included, as it will fall within the period when the previously mentioned rate base amortization will be completed.

The commission will accept the staff's recommendation, and in the future will require the company to defer the cost of painting tanks and standpipes with amortization of those costs over the periods suggested in the filed exhibit.

The test-year net operating income is calculated as follows:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Net Utility Operating Income Per Books		$189,420
Pro Forma Adjustments:		
Salary and Wage Increase	$ 10,129	
Pension Expense Increase	1,573	
Employee Welfare Expense	2,044	
Rate Case Expense	9,151	
Purchased Power	1,104	
Tank Painting Expense	6,935	
Leased Vehicle Expense	1,980	
Purchased Water	(5,305)	
Depreciation	3,753	
Amortization Adjustment	5,700	
Property Tax Increase	5,794	
FICA Increase	1,859	
Business Profits Tax Decrease	(2,722)	
Total Adjustments	$ 41,995	
Federal Income Tax Adjustment	(6,135)	
Net Income Adjustment		$ 35,860
Pro Forma Net Utility Operating Income		$153,560

IV. Rate Base

The company submitted an average rate base calculation of $2,807,258 based on a 1978 test year. That computation was revised during the proceedings to $2,813,972. The revision was made to exclude customer advances due to construction work in progress.

Staff witness Sullivan presented testimony, which adjusted the rate base for differences in the

amount of customer advances that appeared on the company's books and certain items of nonrevenue producing fixed capital additions. As a result of information provided by the company witness, the staff has revised its recommendation.

The commission will accept the company's computation of rate base, with the exception of the cash working capital amount. That amount should be revised to agree with the adjusted pro forma operation and maintenance expense.

The commission finds the average rate base for the test year in an amount of $2,812,608 is a reasonable and proper basis upon which to establish just and reasonable rates:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

AVERAGE RATE BASE
YEAR 1978

Plant In Service
Less: Depreciation Reserve

Net Plant In Service
Less: Customer Advances
Contribution in Aid of Const.
Pre-1971 Invest. Tax Credit
Plus: Nonrevenue Fixed Capital
Additions

Subtotal:
Add: Working Capital
Materials & Supplies
Operation & Maint. Expense
(12.5% - $435,381)

Average Rate Base

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V. Tariff Rules and Regulations

A. *Allowed Distance Per Customer on Main Extensions*

A divergence of opinion has arisen between the company and staff over whether or not there should be a free distance per customer allowed on main extensions. Presently, the company allows 75 free feet on all main extensions. In this proceeding, the company seeks to abolish this free distance allowance. Staff opposes the company's proposed deletion. While the staff does dispute the elimination of that free distance, it does not argue that 75 feet of free distance is now required. Rather, staff argues that the distance allowed should be reduced to 25 feet.

The company supports its contention by criticizing the method used by staff witness Lessels in staff Exh 8. The company does not criticize the cost factor per foot for eight-inch pipe, but rather the use by witness Lessels of a 7.2 per cent rate of return. The company argues that the data should not be relied upon, because the company was not earning its rate of return. If a higher return was used, the number of feet which would be provided free of charge would decrease. The company admits that the distance would also be reduced by assuming a higher cost per foot for eight-inch pipe.

The second contention put forth by the company is that since extensions are usually in the magnitude of hundreds of feet, that any allowance as small as 25 feet is in effect de minimus.

Staff counters their arguments by indicating that the time period measured, three years, provides ample evidence that 25-foot allowance is fair. In addition, staff indicates that Hampton's tariff NHPUC No. 6, Tenth Revised Page 13 shows the cost of eight-inch main to have decreased from $13.50 to $10.20 per foot. This decrease, it is argued would increase the distance Hampton could economically extend its mains.

Finally, staff cites our attention to two recently concluded Pennichuck cases where a reduction to 25 feet was found to be economical.

Upon review of the contentions made by both staff and the company, the commission finds that the allowance for main extensions should be dropped from 75 to 25 feet. The fact that the installed cost of eight-inch main has in fact decreased counteracts any revised assumption as to rate of return. However, since staff used three years in its calculations, the commission finds the company's concern over the low return to be mitigated.

In addition, the commission attempts whenever possible to standardize the tariff provisions to reflect some measure of similarity. Consequently, the commission favors having Hampton's and Pennichuck's tariffs reflect similar provisions.

B. *Other Changes to the Main Extension Plan*

The company has proposed numerous other changes to its main extension plan; among these is an extension of the deposit refund period from three to five years, and the amount of such refund from 3.5 to 2.5 times actual first-year revenues. The commission approves the proposed changes.

C. *Customer Deposit and Termination of Service Provisions*

The tariffs of this company as to customer deposits and termination of service are to be the commission's rules

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and regulations for water utilities on these subjects. The commission's rules and regulations on these topics are always applicable in these areas.

D. *Costs of Service Establishment or Restoral of Service*

The company is hereby instructed to charge whatever the actual cost is for service establishment and restoral of service after normal working hours. This charge is to reflect the most recent pay scales of the company as well as the most recent price as to expense items, such as gasoline.

Any dispute as to the validity of the charge can be referred to the commission for arbitration and for decision. However, to help mitigate the effects of attrition, the commission will require the company to charge its actual costs for these service trips.

E. *Increased Meter Reading Charges*

The commission accepts the company's evidence as to the need for increased charges for the

reading of meters. Such an increase will also help mitigate attrition.

F. *Replacement of Seasonal Lines*

The company's approach of replacing remaining seasonal lines when economically justified, or by a cost sharing agreement with the customers concerned when costs are excessive, is accepted. The commission is convinced that the company has done everything possible to replace as many lines as quickly as possible.

VI. Rate Design

A. *Hampton Position*

The company's position on rate design is to have any allowed increase to be across the board. The company argues that it has not done a cost-of-service study, and until one is performed, no material alterations should be made to the rate structure.

B. *Staff Position*

Staff takes the position that the existing rate structure of Hampton is inequitable in its design. Staff witness Lessels expressed concern over the fact that there was no cost-of-service study done by the company, and that Hampton's rates were markedly different from those of other water companies subject to this commission's jurisdiction. Witness Lessels indicated that many of these other water companies had done cost-of-service studies to support the rates charged. Of particular concern to staff was the relatively small amount of consumption in the minimum charge and the substantial differences in charges for the various rate blocks.

C. *Commission Analysis*

[6] The commission refuses to accept the company's contention that it must await a cost-of-service study by the company before it alters the rate design. The company's rate design was challenged in this proceeding, and the company offered no substantial proof to justify its rate design. Consequently, the company failed to satisfy its burden of proof pursuant to RSA 378:8.

Staff's comparison of Hampton's rates to those charged by other water utilities is a legitimate concern. Re New Hampshire Electric Co-op. (1977) DR

77-93. There are concerns over and above cost-of-service studies that must be examined in questions of rate design. In setting various rates, the commission must consider a broader spectrum of factors than merely the apportionment of costs in order to fix proper rates that directly affect various elements of the community in different ways. Re Equitable Gas Co. (1976) 17 PUR4th 95.

The commission shares staff's concern over amount of consumption related to the minimum charge. The present 150 cubic feet per quarter is dramatically below the amount of usage under other water company tariffs. (Manchester — 600 cubic feet, Pennichuck — 1,000 cubic feet, Pittsfield — 1,000 cubic feet, Hanover — 500 cubic feet, Hudson — 900 cubic feet.)

Staff witness Lessels' illustration that even 600 cubic feet per quarter does not provide a

minimum for basic health and sanitary use is particularly persuasive. Consequently, the commission rejects the company's rate design as to the minimum charge allowance. Instead, the commission accepts the staff recommendation for a minimum charge allowance of 600 cubic feet per quarter for year-round customers.

The differences in the latter usage blocks are of such magnitude that the lack of explanation or proof by the company is unsettling. Since there is no evidence on the record to substantiate the difference, and where staff has properly raised the rate structure of other water utilities, the commission will allow this rate increase for regular customers to be spread as follows: (1) After increasing the level of consumption per quarter for the minimum charge to 600 feet, the company will apply the charge of $1.15 per hundred cubic feet (see Eighth Revised Page 11) for the additional 450 cubic feet per quarter. (2) This new rate for the minimum charge, as well as the second step of usage (1,600 cubic feet) will be increased by a percentage increased that is half the percentage increase to be applied to the remaining two blocks. (3) For seasonal customer, the usage blocks, including the level of consumption for the minimum charge, shall remain the same. However, the percentage increase applied to the minimum charge shall be one-half of the percentage increase applied to the other usage blocks. (4) The rates for private fire service shall all be increased by the same percentage.

In this way, the commission will bring Hampton's rate structure closer to that of other water utilities within the state and will serve the additional function of encouraging the conservation of water.

VII. Temporary Rates

The company is to file with this commission a plan to collect the difference between the revenues allowed pursuant to this report and those collected under the temporary rate order. Such a surcharge is to be collected in a time period not to exceed fifteen months.

VIII. Hampton Beach Fire Protection

There has been a tremendous amount of discussion in both DR 74-220, as well as this docket, concerning adequate fire protection at Hampton Beach. At present, there is a 12-inch main in Ashworth avenue that is owned by the Hampton Beach precinct. If Hampton Water were able to secure this main from the precinct, the result would be better fire protection for Hampton Beach at a rate substantially lower in cost than if a new main is built by Hampton Water Company.

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The commission finds the following: (1) Hampton Water is to negotiate in good faith with the precinct as to the purchase of this 12-inch main; (2) such negotiations are to conclude by December 31, 1979; (3) if the precinct and the company are unable to reach an agreement as to the sale of this main to the company by the aforementioned date, the company is hereby instructed to contact the commission for further instructions that may include potential eminent domain proceedings.

IX. Revenue Requirement

The required increase in rates is computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	1st Year	*2nd Year*
Accepted Rate of Return	9.58%	9.58%
Plus: Allowance for Attrition		.53
Total	9.58%	10.13%
Initial Year Requirement:		
Rate Base		$2,812,608
Rate of Return		9.58%
Required Net Operating Income		$ 269,448
Less: Test-year Operating Income		153,560
Required Increase in Net Operating Income		$ 115,888
Tax Adjustment		48,180
Revenue Increase		$ 164,068
Subsequent Year Requirement:		
Rate Case		$2,812,608
Rate of Return		10.11%
Required Net Operating Income		$ 284,355
Less: Test-year Operating Income		153,560
Required Increase in Net Operating Income		$ 130,795
Tax Adjustment		63,280
Revenue Increase		$ 194,075

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions of the Hampton Water Works tariff, NHPUC No. 7, which was suspended by commission Order No. 13,541 dated March 26, 1979, be, and hereby are, rejected; and it is

Further ordered, that in accordance with the increase in rates authorized by this report and order, Hampton Water Works shall file new tariff pages designed in accordance with this commission's Tariff Filing Rules (Rule 25) setting forth therein rates designed to produce an annual increase in gross revenues of $164,068 and such rates to be designed in accordance with Section VI of the report; and it is

Further ordered, that said tariff pages be filed to become effective with all current bills rendered on or after the date of this order, such pages to carry the notation "issued in compliance with Second Supplemental Order No. 13,895 in case DR 79-51"; and it is

Further ordered, that by November 1, 1980, Hampton Water Works shall file new tariff pages setting forth thereon rates designed to produce additional

revenues of $30,007, such rates shall be derived by an equal percentage increase in each

block of the rate schedules; and it is

Further ordered, that Hampton Water Works file with this commission its computation of revenue collected under temporary rates from May 31, 1979 (Supplemental Order No. 13,751), its plan to surcharge customers for the difference between such revenue and that authorized by this order. Said plan to be filed as Supplement No. 1 to its tariff; and it is

Further ordered, that Hampton Water Works give public notice to these new rates by publishing the same in a newspaper for general circulation in the territory served; and it is

Further ordered, that Hampton Water Works submit a calculation of its rate case expenses for further evaluation by the commission in another order.

By order of the Public Utilities Commission of New Hampshire this first day of November, 1979.

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NH.PUC*11/02/79*[78411]*64 NH PUC 387*Hanover Water Works Company

[Go to End of 78411]

Re Hanover Water Works Company

DR 79-173, Supplemental Order No. 13,896

64 NH PUC 387

New Hampshire Public Utilities Commission

November 2, 1979

APPLICATION by water company for authority to increase rates; hearing scheduled.

RATES, § 649 — Hearing and notice.

[N.H.] The commission has scheduled a hearing on a water company's application for authority to increase rates.

APPEARANCES: S. John Stebbins and John S. Stebbins for the petitioner; Gerald L. Lynch for the Legislative Utility Consumers' Council; Robert English for Ruth English; J. M. Donovan, vice-president, board of directors for Brook Hollow Condominium.

BY THE COMMISSION:

Report

On August 6, 1979, Hanover Water Works, a public utility engaged in the business of supplying water service in the state of New Hampshire, filed with this commission its tariff, NHPUC No. 4 — Water, providing for increased annual revenues in the amount of $61,470

(16.4 per cent) effective October 1, 1979.

The commission suspended said filing by Order No. 13,812 dated September 6, 1979, pending further investigation and decision thereon.

On September 6, 1979, the commission issued an order of notice providing for a procedural hearing to be held at the office of the commission on September 17, 1979. Said order provided that the commission will not accept appearances for any party after the date of the procedural hearing unless the party can

demonstrate that failure to appear may be detrimental to that party and to the public generally.

The following parties entered their appearances in this proceeding in addition to the attorneys for the petitioner; for the Legislative Utility Consumers' Council, Gerald L. Lynch; for Ruth English, a property owner, Robert English; and for Brook Hollow Condominium, J. M. Donovan, vice-president of the board of directors. The commission asked the parties of English and Donovan if they wished to be limited or full parties. Mr. English stated he desired full intervenor status and that an attorney would be retained. Mr. Donovan stated that he would notify the commission of his appearance in this matter. As of the date of this order, the commission has not received notice from Mr. English. Brook Hollow Condominium is represented by Attorney Laurence Gardner of Hanover.

Witnesses to be Presented

The company intends to present two witnesses, Edward Brown, executive vice-president of the company and Bennett Brown, certified public accountant with the firm of Smith, Batchelder and Rugg. Mason Ingram, assistant treasurer, will be available if necessary. Edward Brown will deal with the area of rate structure design and Bennett Brown will cover the financial areas of the filing.

The Legislative Utility Consumers' Council stated that after reviewing the filing and based on its support staff, it would determine if it would intervene in this matter. On September 12, 1979, the commission received notice from the LUCC that they intend to intervene in this matter. However, there was no indication that they intend to present any witness.

Staff will present two witnesses. Kenneth Traum, assistant finance director, will be covering the financial aspects of the filing and Robert B. Lessels, water engineer, will be covering the engineering aspects of the case.

Testimony, Exhibits, Data Requests, and Responses

At the hearing, the company submitted its testimony and exhibits. The company has no plans to file additional testimony. A schedule for filing and responses was arranged. Since the procedural hearing, it has come to the commission's attention that the test year has been adjusted to include part of 1979. As a result the commission will require additional data requests and responses thereto; therefore, the following schedule has been adopted.

[Graphic(s) below may extend beyond size of screen or contain distortions.]


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Data Requests to the Company — October 30, 1979
Data Responses to Requests     November 7, 1979
Staff and Intervenor Testimony November 14, 1979
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Hearings

Hearings will commence on the merits of these matters on November 20, 1979, and November 21, 1979. In the event that the proceedings are not completed at the end of said hearings, further dates will be scheduled.

Temporary Rates

At the procedural hearing the company filed a petition for present rates to be effective as temporary rates. However, the company stated that if a decision on permanent rates would be forthcoming soon after the hearings, its petition for

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temporary rates would be unnecessary. Therefore, the question of temporary rates is deferred. Our order will issue accordingly.

Supplemental Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that all parties appearing in this proceeding shall comply with the procedural guidelines set forth in the attached report as well as the rules and regulations of the commission.

By order of the Public Utilities Commission of New Hampshire this second day of November, 1979.

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NH.PUC*11/06/79*[78412]*64 NH PUC 389*Southern New Hampshire Gas Company, Inc. et al.

[Go to End of 78412]

Re Southern New Hampshire Gas Company, Inc. et al.

DF 79-190, Order No. 13 897

64 NH PUC 389

New Hampshire Public Utilities Commission

November 6, 1979

JOINT petition to approve sale and transfer of Southern New Hampshire Gas J Company, Inc.'s, assets in Salem and Pelham, New Hampshire, to Petrolane-Southern New Hampshire Gas Company, Inc.; hearing scheduled.

CONSOLIDATION, merger, and sale, § 63 — Hearing and notice.

[N.H.] A hearing was scheduled to consider the merits of a joint petition for approval of the sale and acquisition of a gas company's assets, and all parties involved in the proceeding were ordered to comply with the commission's procedural guidelines as outlined.

APPEARANCES: Dom S. D'Ambruoso for Southern New Hampshire Gas Company, Inc., and Petrolane-Southern New Hampshire Gas Company, Inc.; Franklin Hollis for intervenors, Northern Utilities, Inc., and Bay State Gas Company; Robert S. Giordano for Manchester Gas Company.

BY THE COMMISSION:

Report

On September 12, 1979, a joint petition was filed by Southern New Hampshire Gas Company, Inc., and Petrolane-Southern New Hampshire Gas Company, Inc., to approve the sale and transfer of all of Southern New Hampshire Gas Company, Inc.'s, business assets, including its public utility franchise, works, and systems located in New Hampshire (with certain exceptions specified in the contract of sale) to Petrolane-Southern New Hampshire Gas Company, Inc.

On September 14, 1979, the commission issued an order of notice for publication providing for a public hearing to be held at the commission offices at 10:00 A.M. in Concord. On October 10, 1979,

hearing was held and procedural requirements were discussed between the parties.

Parties

The following parties entered their appearances in the proceeding: for the company, Dom S. D'Ambruoso; for Northern Utilities, Inc., and Bay State Gas Company, Franklin Hollis; and for Manchester Gas Company, Robert S. Giordano.

Testimony, Exhibits, Data Requests, and Responses

A procedural hearing schedule was stipulated between the parties setting forth the following schedule.

Petitioners written testimony and exhibits shall be filed no later than November 2, 1979.

Intervenors and staff shall file data requests no later than November 26, 1979.

Intervenors written testimony and exhibits shall be filed no later than December 7, 1979.

Petitioner and commission staff shall file data requests on intervenors no later than December 14, 1979.

Responses to petitioner and staff data requests shall be filed no later than December 24, 1979.

Commission staff shall file written testimony and exhibits no later than January 7, 1980.

All of the parties waive data requests to staff.

Hearings

Hearing shall commence on the merits on January 9, 1980, and January 10, 1980, at 10:00 A.M.

Our order will issue accordingly.

Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that all parties appearing in this proceeding shall comply with the procedural guidelines set forth in the attached report as well as the rules and regulations of the commission.

By order of the Public Utilities Commission of New Hampshire this sixth day of November, 1979.

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NH.PUC*11/06/79*[78413]*64 NH PUC 390*Granite State Electric Company

[Go to End of 78413]

Re Granite State Electric Company

DR 77-63, Sixth Supplemental Order No. 13,898

64 NH PUC 390

New Hampshire Public Utilities Commission

November 6, 1979

MOTION for stay of commission decision pending appeal; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, the Granite State Electric Company, on or about November 1, 1979, has filed with the New Hampshire supreme court a petition to appeal the commission's Order Nos. 13,680 and 13,849; and

Whereas, the commission has considered the motion to stay pending appeal and concludes that if said motion was granted it would maintain and preserve the status quo until such time as a decision is rendered by the New Hampshire supreme court and for good cause; it is hereby

Ordered, that the motion to stay so much of the commission's Fifth Supplemental Order No. 13,849 as requires the company to file a plan for refunding a portion of the revenues collected under the commission's Second Supplemental Order No. 13,159 is hereby granted. Said stay to

remain in effect until a decision is rendered by the New Hampshire supreme court.

By order of the Public Utilities Commission of New Hampshire this sixth day of November, 1979.

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[Go to End of 78414]

Re SCA Disposal Services of New England

DT 79-149, Order No. 13,900

64 NH PUC 391

New Hampshire Public Utilities Commission

November 8, 1979

MOTION for rehearing of application for authority to operate as a contract carrier of rubbish; denied.

BY THE COMMISSION:

Order

The commission having before it a motion for rehearing filed October 25, 1979, for, and on behalf of, SCA Disposal Services of New England for a rehearing on the commission decision rendered in a report issued October 5, 1979; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this eighth day of November, 1979.

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[Go to End of 78415]

Re Boston and Maine Corporation

DT 79-114, Supplemental Order No. 13,905

64 NH PUC 392

New Hampshire Public Utilities Commission

November 14, 1979

MOTION for rehearing of investigation into the closing of a railroad cross-ring; denied.

BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed August 9, 1979, for, and on behalf of, Boston and Maine Corporation of Boston, Massachusetts for a rehearing on the commission decision rendered in Order No. 13,757 issued July 26, 1979; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of November, 1979.

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NH.PUC*11/15/79*[78417]*64 NH PUC 393*Gas Service, Inc.

[Go to End of 78417]

Re Gas Service, Inc.

IR14,886, Order No. 13,907

64 NH PUC 393

New Hampshire Public Utilities Commission

November 15, 1979

PETITION seeking special contract for gas service; granted.

BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 27 with St. Joseph's Hospital, effective as of the date of this order, for gas service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the date of this order.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of November, 1979.

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NH.PUC*11/19/79*[78418]*64 NH PUC 393*Small Energy Producers and Cogenerators

[Go to End of 78418]

Re Small Energy Producers and Cogenerators

DE 79-208, Supplemental Order No. 13.908

64 NH PUC 393

New Hampshire Public Utilities Commission

November 19, 1979

MOTION to change hearing date regarding the proper adjustment rates for cogenerators and small power producers; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, on October 18, 1979, the commission issued Order No. 13,869 stating that it would open hearings for the purpose of receiving testimony and exhibits as to what are the proper adjustments to be made to the existing rate for cogenerators and small power producers; and

Whereas, on November 8, 1979, this commission received a motion for enlargement of time filed on behalf of Granite State Electric Company; and

Whereas, on November 16, 1979, the commission received a motion from Public Service Company of New Hampshire to reschedule this matter; and

Whereas, after full consideration of the allegations in said motion for enlargement of time and after weighing the

reasons presented in said motion the commission hereby states; and it is

Ordered, that said motion for enlargement of time be, and hereby is, granted and a public hearing shall be held on January 16, 1980, at 10:00 A.M. at the offices of this commission in Concord, New Hampshire, and the hearing of December 12, 1979, is cancelled.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of November, 1979.

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NH.PUC*11/20/79*[78419]*64 NH PUC 394*The United Illuminating Company

[Go to End of 78419]

Re The United Illuminating Company

DF 79-142-6205, Supplemental Order No. 13,911

64 NH PUC 394

New Hampshire Public Utilities Commission

November 20, 1979

AMENDMENT of order approving transfer of stock ownership in corporation to electric utilities.

CONSOLIDATION, MERGER, AND SALE, § 1 — Stock ownership in electric utilities.

[N.H.] The application of The United Illuminating Company, a Connecticut corporation, to transfer a 2.5 per cent ownership share in the Seabrook units to Central Maine Power Company and a 1.06469 per cent ownership share in the Seabrook units to Montaup Electric Company, was approved.

BY THE COMMISSION:

Supplemental Order

Whereas, a typographical error was made in Order No. 13,841, it is hereby

Ordered, that Order No. 13,841 is amended and corrected to read as follows:

Ordered, that the application of The United Illuminating Company, a Connecticut corporation, to transfer a 2.5 per cent ownership share in the Seabrook units to Central Maine Power Company and a 1.06469 per cent ownership share in the Seabrook units to Montaup Electric Company is hereby approved; and fit as

Further ordered, that the said transfer from The United Illuminating Company to Central Maine Power Company and Montaup Electric Company upon the terms proposed are hereby authorized in accordance with the authority vested in this commission under RSA 374:30.

By order of the Public Utilities Commission of New Hampshire this twentieth day of November, 1979.

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NH.PUC*11/21/79*[78420]*64 NH PUC 395*Public Service Company of New Hampshire

[Go to End of 78420]

Re Public Service Company of New Hampshire

DR 76-46, 46th Supplemental Order No. 13,912

64 NH PUC 395

New Hampshire Public Utilities Commission

November 21, 1979

PETITION by electric company for authority to apply a fuel adjustment charge to its regular monthly billings; granted.

RATES, § 303 — Fuel adjustment clauses — Electric company.

[N.H.] An electric company's proposed fuel adjustment charges for the month of December, 1979, were found to be just and reasonable.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers, for Public Service Company of New Hampshire; Gerald L. Lynch for the Legislative Utility Consumers' Council; and Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Report

Pursuant to RSA 378 :30A(II), the commission on November 19, 1979, held hearings on the petition of Public Service Company of New Hampshire for authority to apply a fuel adjustment charge to regular December, 1979, monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire on November 16, 1979, filed with this commission 22nd Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect December 1, 1979.

The company reported a fuel cost above base of $8,895,368 and total kilowatt-hours subject to the fuel adjustment of 441,895,000, resulting in a per kilowatt-hour charge of $2.01 per hundred kwh rounded.

This $2.01 was then reduced by nine cents per hundred kwh, to $1.92 per hundred kwh, reflecting the second stage in the Merrimack Coal Inventory adjustment. A final adjustment if required will be made in connection with the February fuel adjustment.

This month's proposed rate is one cent per hundred kwh higher than the prior month's exclusive of the coal inventory adjustment due to three main reasons:

1. Fuel prices were up 18.5 cents per ton for coal burned at Merrimack station and 26.5 cents per barrel for oil burned at the Newington and Schiller stations.

2. Several nuclear plants in which Public Service Company owns an entitlement percentage were down for part or all of the month.

3. Prime net output was up approximately 10 per cent from the prior month, thus requiring more expensive units to come into service.

These factors were partially offset by greater generation from the company's

less expensive units, Merrimack and Newington, and greater generation from the company's hydroelectric units.

The following companies: Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Water and Light Department, and Woodsville Water and Light Department submitted their fuel adjustment calculations for the subject period, and the commission having reviewed the calculations, accepts said calculations were prepared accurately.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of December, 1979, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 22nd Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, are rejected and 23rd Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of $1.92 per hundred kilowatt-hours for the month of December, 1979, be, and hereby is, permitted to become effective December 1, 1979; and it is

Further ordered, that 58th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of $2.18 per hundred kilowatt-hours for the month of December, 1979, be, and hereby is, permitted to become effective December 1, 1979; and it is

Further ordered, that 53rd Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of $2.21 per hundred kilowatt-hours for the month of December, 1979, be, and hereby is, permitted to become effective December 1, 1979; and it is

Further ordered, that 32nd Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 88 cents per hundred kilowatt-hours for the month of December, 1979, be, and hereby is, permitted to become effective December 1, 1979; and it is

Further ordered, that 21st Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of 51.87 per hundred kilowatt-hours for the month of December, 1979, be, and hereby is, permitted to become effective December 1, 1979; and it is

Further ordered, that 63rd Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $2.54 per hundred kilowatt-hours for the month of December, 1979, be, and hereby is, permitted to become

effective December 1, 1979; and it is

Further ordered, that 15th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of $2.18 per hundred kilowatt-hours for the

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month of December, 1979, be, and hereby is, permitted to become effective December 1, 1979; and it is

Further ordered, that 71st Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of $1.43 per hundred kilowatt-hours for the month of December, 1979, be, and hereby is, permitted to become effective December 1, 1979; and it is

Further ordered, that 37th Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 93 cents per hundred kilowatt-hours for the month of December, 1979, be, and hereby is, permitted to become effective December 1, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of November, 1979.

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NH.PUC*11/21/79*[78421]*64 NH PUC 397*New England Power Company

[Go to End of 78421]

Re New England Power Company

DE 79-223, Order No. 13,913

64 NH PUC 397

New Hampshire Public Utilities Commission

November 21, 1979

ORDER to show cause why an electric company should not be ordered to discontinue the transmission of hydroelectricity beyond the boundaries of New Hampshire.

ELECTRICITY, § 14 — Exportation of hydroelectricity.

[N.H.] A hearing was ordered for the investigation into whether or not the commission should alter its approval, in whole or in part, of the transfer of hydroelectricity outside the boundaries of New Hampshire.

BY THE COMMISSION:

Order

Whereas, NH RSA 374:35 states the following:

"Transmitting Electricity Out of the State

"374:35 Permission Required. No corporation engaged in the generation of electrical energy by water power shall engage in the business of transmitting or conveying the same beyond the confines of the state, unless it shall first file notice of its intention so to do with the public utilities commission and obtain an order of said commission permitting it to engage in such business. Any such corporation engaged in the business of transmitting or conveying such electrical energy beyond the confines of this state pursuant to such order shall discontinue such business in whole or in part, to such extent and under such conditions as the commission may order, whenever, after notice to such corporation and hearing thereon, the commission shall find that such electrical energy or the portion thereof affected by said order is reasonably required for use within this

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state and that the public good requires that it be delivered for such use."

Whereas, the New England Power Company presently transmits hydro capacity beyond the confines of the state;

Whereas, the rated capacity of these New England Power hydro units is in excess of 300 Mw; and

Whereas, 300 Mw of hydro capacity represents between one-fourth and one-third the electrical peak demand of the state of New Hampshire; and

Whereas, the present fuel adjustment clauses of electrical utilities within the state are rising rapidly due to escalation in the price of oil and temporary shutdowns of nuclear units for repairs;

Whereas, the oil situation appears to be worsening; and

Whereas, the interest of New Hampshire towns existing near the hydro facilities operated by New England Power may have changed since the commission first approved the transfer of hydro power outside the boundaries of the state of New Hampshire; and

Whereas, the New Hampshire general court has recently passed RSA 362-A to encourage greater use of hydro capacity in meeting the electrical demands of New Hampshire consumers; and

Whereas, for the aforementioned reasons, the public good requires the commission to investigate the question of whether or not to discontinue the transmission of this hydro energy outside the state of New Hampshire; and

Whereas, pursuant to RSA 374:35, 374:4, 378:7, 365:19, and 365:28, the commission has the right to initiate its own investigation, a duty to keep informed, and the right to alter prior orders to conform with changing circumstances; it is hereby

Ordered, that docket DE 79-223 is hereby opened for the investigation into whether or not the commission shall alter its approval, in whole or in part, of the transfer of hydroelectricity outside the boundaries of New Hampshire; and it is

Further ordered, that the aforementioned docket will include an investigation into whether or not New Hampshire electric utilities, towns, cities, cooperatives, or the state itself, should have greater access to this hydro power to meet electrical demand within the state of New Hampshire; and it is

Further ordered, that New England Power shall file testimony as to why the commission should not alter its operation of these facilities, in whole or in part, by December 28, 1979; and it is

Further ordered, that any other interested party file testimony in favor or in opposition to such alteration by January 14, 1980; and it is

Further ordered, that hearings will commence at 9:30 A.M. on January 29, 1980, at the office of the commission, 8 Old Suncook Road, Concord, New Hampshire.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of November, 1979.

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NH.PUC*11/26/79*[78416]*64 NH PUC 392*Keene Gas Corporation

[Go to End of 78416]

Re Keene Gas Corporation

DE 79-13, Fifth Supplemental Order No. 13,906

64 NH PUC 392

New Hampshire Public Utilities Commission

November 26, 1979

PETITION seeking to implement previously approved gas tariffs; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, Keene Gas Corporation, a public utility engaged in the business of supplying gas service in the state of New Hampshire, on November 1, 1979, filed with this commission its tariff, NHPUC No. 1 — Gas, providing for rates, terms, and conditions previously approved by this commission; it is

Ordered, that tariff, NHPUC No. 1 — Gas, of Keene Gas Corporation, be, and hereby is, authorized for effect as of the effective date shown thereon — August 3, 1979.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of

November, 1979.

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NH.PUC*11/27/79*[78426]*64 NH PUC 404*Trombly Motor Coach Service, Inc.

[Go to End of 78426]

Re Trombly Motor Coach Service, Inc.

DT 78-219, Order No. 13,922

64 NH PUC 404

New Hampshire Public Utilities Commission

November 27, 1979

APPLICATION for authority to operate as a common carrier of passengers by motor vehicle; granted.

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MONOPOLY AND COMPETITION, § 62 — Motor carrier.

[N.H.] An application for authority to operate as a common carrier of passengers by motor vehicle was granted despite objections by an existing carrier where the commission concluded that additional bus service in the southern portion of the state was desirable and needed, particularly in view of the present energy situation which, in all probability, will demand additional public transportation.

APPEARANCES: Francis J. Trombly, pro se for Trombly Motor Coach Service, Inc.; Thomas Plouffe for Hudson Bus Lines; Herbert Pence for Manchester Transit Authority; William Gage for Strafford Rockingham Regional Council.

BY THE COMMISSION:

Report

On November 30, 1978, an application was filed by Trombly Motor Coach Service, Inc., to operate as a common carrier of passengers by motor vehicle between all points and places in the town of Salem, and the towns of Windham, Derry, Londonderry, and in the city of Manchester via Route 28 including Harvey road, South Willow street, and Elm street in the city of Manchester in both directions.

On January 12, 1979, an order of notice was issued providing for a hearing to be held at the office of the commission in Concord on February 5, 1979. Said notice was duly published and the hearing took place at the scheduled time.

Francis J. Trombly, president of Trombly Motor Coach Service, Inc., testified that his company is seeking intrastate authority between towns in New Hampshire along Route 28. The company had originally carried passengers between Manchester and Boston. That business was transferred to Hudson Bus Lines. In 1975 Hudson Bus Lines discontinued its scheduled service between Manchester and Boston. The applicant began operations again and filed an application with the Interstate Commerce Commission which was granted. In the fall of 1978, Hudson notified the public that another carrier would take over the New Hampshire to Lawrence, Massachusetts, service. After checking with this commission the applicant instituted the service for which they now seek intrastate authority. The company runs two trips in the morning and two trips at night in addition to hourly service in the town of Salem, between Salem and Lawrence and Methuen.

Mr. Welch, director of scheduling operations for Trombly Motor Coach Service, Inc., testified concerning the schedule of runs between Manchester and Boston (see Exh 1). He further testified as to the number of passengers using the service and presented documents showing same (see Exhs 4 and 5). He further testified that this service would not interfere with any service offered by Manchester Transit Authority (see Exh 6).

Tolbert M. McKay of Londonderry, New Hampshire, generally testified in favor of additional public transportation.

William Gage of the Strafford Rockingham Regional Council also testified in favor of the applicant and additional public transportation.

Thomas Plouffe, general manager of Kenneth Hudson d/b/a Hudson Bus Lines, appeared to protest the application. His company presently operates a commuter bus from Manchester, Londonderry, Derry, and Salem to Boston. He testified that additional revenue was

needed to support the portion of service which are not financially secure.

A good portion of the record in this proceeding clearly showed the feelings between the applicant and protector. Although the record sets forth the history of these carriers it does little to inform this commission as to whether the public interest requires additional public bus transportation for the southern section of this state.

It is the feeling of this commission that additional bus service in the southern portion of the state is desirable and needed. The present energy situation, in all probability, will demand additional public transportation. If the present conditions did not exist this commission would deal with the carriers in a different fashion. To do so now would create an undue burden on an already burdened public. The transportation department of this commission will be instructed to be more alert to changes in the industry and to inform this commission immediately of any unauthorized operations within this state.

Upon consideration of all the facts and evidence presented, the commission finds that the public convenience and necessity requires the granting of an appropriate certificate. Our order will issue accordingly.

Order

Passenger Carrier Certificate No. 461

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Trombly Motor Coach Service, Inc., be, and hereby is, authorized to operate as a common carrier of passengers by motor vehicle as follows:

"Between points and places in the town of Salem and the towns of Windham, Derry, Londonderry, and in the city of Manchester via Route 28 including Harvey road, South Willow street, and Elm street in said city of Manchester in both directions"; and it is

Further ordered, that operations conducted under this certificate shall comply with the rules governing the operation and equipment of motor vehicles in the common and contract carriage of passengers, as prescribed by the public utilities commission.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of November, 1979.

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NH.PUC*11/29/79*[78422]*64 NH PUC 399*Hampton Water Works

[Go to End of 78422]

Re Hampton Water Works

DR 79-51, Third Supplemental Order No. 13,917

64 NH PUC 399

New Hampshire Public Utilities Commission

November 29, 1979

MOTION to change date when water rate increase to become effective; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, by Report and Second Supplemental Order No. 13,895 issued November 1, 1979, Hampton Water Works was authorized an increase in rates in the amount of $164,068 to become effective with all current bills rendered on or after the date of said order; and

Whereas, the company has requested that said rates become effective on December 1, 1979, rather than the November 1, 1979, date previously authorized; it is

Ordered, that said rate increase in the amount of $164,068 originally authorized to become effective with all current bills rendered on or after the date of said order be, and hereby is, amended to become effective with all current bills rendered on or after December 1, 1979; and it is

Further ordered, that by December 1, 1979, Hampton Water Works shall file new tariff pages setting forth thereon rates as authorized; and it is

Further ordered, that in all other aspects Second Supplemental Order No. 13,895 shall remain in full force and effect.

The secretary of the commission is hereby directed to issue the above order this twenty-ninth day of November, 1979.

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NH.PUC*11/29/79*[78423]*64 NH PUC 399*Exeter and Hampton Electric Company

[Go to End of 78423]

Re Exeter and Hampton Electric Company

DR 79-91, Supplemental Order No. 13,918

64 NH PUC 399

New Hampshire Public Utilities Commission

November 29, 1979

REQUEST for temporary rates; granted and effective date established.

RATES, § 649 — Hearing and notice — Temporary rates.

[N.H.] The effective date of any temporary rate order must occur after the hearing date on temporary rates, since it is necessary to have both notice and hearing before granting temporary rates.

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APPEARANCES: Franklin Hollis and Martin Gross for Exeter and Hampton Electric Company; Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On November 6, 1979, the Exeter and Hampton Electric Company (hereinafter referred to as the company) filed a motion to make its existing rates temporary as of November 1, 1979. On November 8, 1979, the commission ordered that notice to the public be given indicating that a hearing would be held at the offices of the commission on November 19, 1979. Such notice was to be given no later than November 14, 1979. On November 14, 1979, such notice appeared in the Exeter News-Letter.

At the hearing, the company asked the commission to accept the information submitted during the hearings concerning permanent rates. There was no objection to this procedure, and the commission accepted the company's request. No party to the proceeding has challenged the granting of temporary rates. Upon a review of the testimony and cross-examination submitted to date, the commission will grant temporary rates to the company.

The sole remaining question is as of what date should these temporary rates become effective. The company argues that November 1, 1979, is an appropriate effective date. The Legislative Utility Consumers' Council (LUCC) rejects the company's position as contradictory to past commission precedent.

The commission has continually been faced with the problem as to when temporary rates should be made effective. The commission has issued orders on this subject in Re Manchester Gas Co. (1979) 29 PUR4th 121, Re Pennichuck Water Works (1979) DR 79-3, Re Hampton Water Works (1979) DR 79-51. Our philosophy as to temporary rates is most clearly set forth in the Hampton decision. The crux of our opinions is the necessity to have both notice and hearing before granting temporary rates. While the information relied upon to find temporary rates predates November 1, 1979, the notice does not. Consequently, the effective date of any temporary order must occur after the hearing date on temporary rates, which was held on November 19, 1979.

The commission, therefore, will allow temporary rates to be made effective as of today, November 29, 1979. Since this order will apply to all bills rendered on or after November 29, 1979, this in effect allows a "reasonable retroactivity" covering usage over the past thirty days. Our order will issue accordingly.

Supplemental Order

In consideration of the foregoing report which is made a part hereof, it is

Ordered, that existing rates appearing in Exeter and Hampton tariff, NHPUC No. 11, be, and hereby are, allowed as temporary rates effective on November 29, 1979, and it is

Further ordered, that one-time public notice of such temporary rate authorization be given through publication in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of November, 1979.

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NH.PUC*11/29/79*[78424]*64 NH PUC 401*Gas Service, Inc.

[Go to End of 78424]

Re Gas Service, Inc.

IR14,889, Order No. 13,919

64 NH PUC 401

New Hampshire Public Utilities Commission

November 29, 1979

PETITION seeking special contract for gas service; granted.

BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 26 with Hudson Sand & Gravel, Inc., effective October 19, 1979, for gas service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of November, 1979.

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NH.PUC*11/29/79*[78427]*64 NH PUC 407*New England Telephone and Telegraph Company

[Go to End of 78427]

Re New England Telephone and Telegraph Company

IE14,892, Order No. 13,924

64 NH PUC 407

New Hampshire Public Utilities Commission

November 29, 1979

CONSIDERATION of telephone company's proposal to offer low-use measured residence service in certain locations; approved subject to further investigation.

RATES, § 539 — Telephone — Low-use measured residence service.

[N.H.] A telephone company's proposal to offer low-use measured residence service was approved subject to its future filing of a report as to the economic impact and customer acceptance of the service.

BY THE COMMISSION:

Order

Whereas, the New England Telephone and Telegraph Company, being a public utility engaged in the business of supplying telephone service in the state of New Hampshire; and

Whereas, New England Telephone Company proposes to offer low-use measured residence service in certain locations of their franchised area to be effective December 1, 1979; and

Whereas, the following tariff pages are submitted for commission approval:

General Regulations, Part I, revision page 2

General Regulations, Part II, revisions of pages 2 and 3; and

Whereas, an optional telephone service is being proposed, providing 30 timed message unit allowance for a monthly rate of $4.95; and

Whereas, one message unit is used for each five minutes, or fraction thereof, of conversation; and

Whereas, additional message units (five minutes duration) over the allowance (30 units) are billed at 11 cents per unit; and

Whereas, measured residence service (1MR) will be offered, subject to the availability of suitable facilities, in only certain areas (ESS central offices); and

Whereas, IMR will be optional in Concord, Hampton, Manchester, and Nashua (ESS central office exchanges); and

Whereas, measured business services will be reestablished where appropriate facilities exist; and

Whereas, the tariff filing is for residential services only, as filed; and

Whereas, the commission needs to have more information for this optional filing; and

Whereas, a report and analysis with recommendations and results are imperative; and

Whereas, the impact of low-use measured service is uncertain in the selected areas; and

Whereas, to give the public a low option, the commission will require a full and detailed report by July 1, 1980; and

Whereas, the results of this report will need study and approval by the commission; and

Whereas, it appears to the commission that the rights and interests of the public are benefited by this filing; it is

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Ordered, that low-use measured service be placed into operation effective December 1, 1979, in certain applicable areas with proper equipment as proposed; and it is

Further ordered, that filed tariff pages listed are hereby accepted as submitted; and it is

Further ordered, that a full and detailed report will be submitted to the commission by July 1, 1980, as to the economic impact and customer acceptance of the filing as well as the company's plans for the future regarding the filing.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of November, 1979.

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NH.PUC*11/30/79*[78425]*64 NH PUC 401*Browning Ferris Industries of Vermont

[Go to End of 78425]

Re Browning Ferris Industries of Vermont

DT 79-146, Order No. 13,921

64 NH PUC 401

New Hampshire Public Utilities Commission

November 30, 1979

APPLICATION for authority to operate as a contract carrier to service two accounts; granted.

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1. MONOPOLY AND COMPETITION, § 41 — Motor carrier competition — Inadequacy of existing service.

[N.H.] The failure of an applicant for a contract carrier permit to prove the inadequacy of existing carriers to perform the service is not crucial to the application. p. 403.

2. CERTIFICATES, § 115 — Motor carrier contract service.

[N.H.] A motor carrier was granted a contract carrier permit where the commission found that the applicant was fit, willing, and able to perform properly the services of a contract carrier by motor vehicle and to conform to the provisions of the governing statute and the law, requirements, rules, and regulations of the commission, and where the granting of the permit was consistent with the public interest. p. 404.

APPEARANCES: Susan M. Vercillo for the petitioner; Charles A. DeGrandpre for opponent Noel J. Vincent Trucking, Inc.

BY THE COMMISSION:

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Report

On July 20, 1979, the petitioner filed an application to operate as a contract carrier to service two accounts, Rich's Department Store of West Lebanon and Dartmouth Printing Company of Hanover, New Hampshire. The applicant's letter of transmittal requested temporary authority.

On July 24, 1979, Order No. 13,747 was issued granting Temporary Property Carrier Public

Interest Permit No. 40 for a period of sixty days. Said order provided that Order No. 13,747 be published in accordance with the commission's rule.

On August 16, 1979, the commission received an objection from Noel J. Vincent of White River, Vermont.

On August 14, 1979, the applicant, by letter, requested a hearing for permanent authority.

On August 17, 1979, the commission issued an order of notice providing for a public hearing to be held on September 20, 1979, such notice to be published not later than September 7, 1979. Such notice further provided any person opposing the application notify the commission by September 14, 1979.

On September 10, 1979, the commission received a letter from Attorney Charles A. representing Noel J. Vincent Trucking, Inc., of White River Junction, Vermont who was opposing the application.

A public hearing commenced on September 20, 1979, at the offices of the commission in Concord. Shortly after the hearing opened, applicant's counsel requested the hearing be adjourned and continued to a future date. Over protestants objection the request for adjournment was granted and the matter was rescheduled for October 4, 1979, at 10:00 A.M. at the commission offices in Concord.

Discussion of Procedural History

The letter of transmittal accompanying the application requested temporary authority for a period of one year. Upon receipt of said application and letter of transmittal, the commission staff notified the attorney for the applicant by telephone that there was no authority to issue temporary authority for a one-year period. The maximum temporary authority that could be granted without a hearing being sixty days. Thereupon the applicant's attorney requested that the proper temporary authority be issued. As a result thereof, Order No. 13,747 was issued. The subsequent objection filed by the protestant initiated the public hearing scheduled for September 20, 1979.

The commission has reviewed the events leading to the public hearing and although admittedly an error was committed in the letter of transmittal, said error was properly cured by the commission staff and the subsequent conduct of the applicant. Any so-called error we found was harmless if it existed at all.

The protestant also raises objection to the order of notice having been published in the state edition of the *Manchester Union Leader* as not being adequate in the area to be serviced.

The commission disagrees with the position of the protestant and finds the said notice and publication of same adequately meets the requirement of the laws of New Hampshire and the rules and regulations of the commission.

Evidence

Michael Hasting, district manager of

the applicant, testified that he is in charge of administrations and operations of the Springfield division of Browning Ferris of Vermont, a division of Browning Ferris, Inc., a national corporation. He reports directly to the New England regional office in Dorchester, Massachusetts.

The applicant purchased the rubbish hauling business from Howard Shepard. Since April, 1976, Rich's Department Store was served by his company and Dartmouth Printing Company from October 29, 1976.

Applicant began servicing the Rich's account since they acquired the business from Howard Shepard. Said account was serviced by picking up a container and transporting it to a Springfield, Vermont landfill or to a recycling plant in Claremont, New Hampshire. The Dartmouth account was negotiated by a written contract dated October 29, 1976. To service this account the applicant had to furnish certain equipment and make certain improvements to the customers' place of business.

The record clearly reflects that the applicant has the necessary equipment to service these accounts and has the financial capability to do so.

The protestant sets forth that he is the only authorized carrier in the area capable of providing the requested service. That he is willing to do so and make whatever investment needed.

The customers testified that they are currently being serviced by the applicant and are very satisfied with the service performed.

The protestant's main protest to the applicant goes to the applicant's fitness. It is their position that the applicant has operated illegally and without authority of this commission, and by serving the two subject accounts is attempting to come in the so-called back door. They direct the commission's notice to DT 5468 wherein the applicant previously sought authority to serve some 17 towns.

The commission has reviewed DT 5468 and finds that docket is not dispositive of the present application nor does it provide any adequate information for the commission to dispose of this matter.

The protestant also sets forth that the practice of the applicant to pick up rubbish in New Hampshire and transport same to Vermont was an illegal or unauthorized practice, thereby showing that the applicant is unfit to hold authority. The commission disagrees, and the commission finds that its staff was aware of said activities of the applicant. If the actions were unauthorized, said conduct was not performed contemptously to the laws, rules, or regulations of the state of New Hampshire but within the knowledge of the commission's staff.

[1] The protestant also set forth that the applicant failed to prove the inadequacy of existing carriers to perform the service. The commission finds that such failures, if it exists is not crucial to the application.

The pertinent statute reads as follows:

"375-B:7 Issuance of Contract Carrier Permits. A permit shall be issued to any qualified applicant therefor, as defined in § 2 Par VII authorizing in whole or in part the operations covered by the application, if it appears from the application or from any hearing held thereon,

that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this act and the lawful requirements, rules, and regulations of the commission thereunder, and that the proposed

operation, to the extent authorized by the permit, will be consistent with the public interest and the policy declared in § 1 of this act; otherwise such application shall be denied. The commission shall specify in the permit the business of the contract carrier covered thereby and the scope thereof and shall attach to it, at the time of issuance, and from time to time thereafter, such reasonable terms, conditions, and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of such carrier, the requirements established by the commission under the provisions of this act; provided, however, that no terms, conditions, or limitations shall restrict the right of the carrier to substitute or add contracts within the scope of the permit, or to add to his or its equipment and facilities, as the development of the business and the demands of the public may require."

[2] Upon consideration of all the evidence and testimony presented in this matter the commission finds that the applicant is fat, willing, and able properly to perform the services of a contract carrier by motor vehicle and to conform to the provisions of the statute and the laws, requirements, rules, and regulations of the commission. The commission further finds that it is consistent with the public interest to issue a contract carrier permit to the applicant in accordance with the application filed. Our order will issue accordingly.

Order

Property Carrier Public Interest Permit No. 1,273

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Browning Ferris Industries of Vermont, be, and hereby is, authorized to engage in operations as a contract carrier of rubbish by motor vehicle as follows:

"Transportation of rubbish to service two accounts, Rich's Department Store of West Lebanon and Dartmouth Printing Company of Hanover, New Hampshire"; and it is

Further ordered, that said operations shall comply with the provisions of RSA 375-B, and the rules and regulations prescribed by the public utilities commission pursuant thereto.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of November, 1979.

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NH.PUC*12/03/79*[78428]*64 NH PUC 408*Public Service Company of New Hampshire

[Go to End of 78428]

Re Public Service Company of New Hampshire

DR 79-187, Fifth Supplemental Order No. 13,926

64 NH PUC 408

New Hampshire Public Utilities Commission

December 3, 1979

MOTION by state finance director to require an electric company to provide a copy of its 1978 federal income tax return; company ordered to submit copies of tax return to the commission for its consideration.

REPORTS, § 1 — Copies of federal income tax returns.

[N.H.] An electric company was ordered to file copies of its 1978 federal income tax return with the commission so that agency could determine whether such copies should be surrendered to the state finance director.

BY THE COMMISSION:

Supplemental Order

On October 26, 1979, Finance Director Eugene Sullivan filed a motion to compel Public Service Company of New Hampshire (PSNH) to provide a copy of the company's 1978 federal income tax return. Finance Director Sullivan, in his motion, stated that the information was necessary to verify the methodology used in arriving at accelerated depreciation, equity in the subsidiary company, and investments in nuclear plants.

The company declined to produce the 1978 federal income tax return because: (a) the tax return covers a different time period than the data shown for the test year; (b) the tax return reflects taxes not included in operating expenses; and (c) the tax return is without probative value.

Upon consideration of the motion, it is

Ordered, that Public Service Company of New Hampshire is to produce three copies of all documents that were submitted to the federal government, which together comprise its 1978 federal income tax return; and it is

Further ordered, that such copies include a sworn statement by one of the company's counsel that the aforementioned documents are complete copies of

the 1978 federal income tax return; and it is

Further ordered, that these three copies be delivered to the commissioners themselves for a review in camera by the commissioners by 12 noon on Wednesday, December 5, 1979; and it is

Further ordered, that the commission within a week from that date, will determine whether the finance staff or the company will prevail in its arguments as to consideration of the

aforementioned documents in this proceeding.

By order of the Public Utilities Commission of New Hampshire this third day of December, 1979.

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[Go to End of 78429]

Re Service Territories for Electric Utilities

I-A14,674, Third Supplemental Order No. 13,927

64 NH PUC 409

New Hampshire Public Utilities Commission

December 4, 1979

SUPPLEMENTAL order extending time for electric companies to file maps defining their service territories.

MONOPOLY AND COMPETITION, § 33 — Service areas — Map filling.

[N.H.] Electric companies were granted an extension of time to file maps defining their service territories.

BY THE COMMISSION:

Supplemental Order

Whereas, by Order No. 13,066, First Supplemental Order No. 13,205, and Second Supplemental Order No. 13,406, this commission extended the filing date of February 26, 1978, to July 1, 1978, January 1, 1979, and December 31, 1979, respectively; and

Whereas, an analysis of the status of this project relative to defining electric utility service territories indicates that the work pertaining to five of nine utilities involved, and 205 of the necessary 388 map filings, has been completed, thus requiring additional time to adequately complete the remaining field inspections and make proper map filings; it is

Ordered, that the last extension date of December 31, 1979, be, and hereby is, further extended to December 31, 1980, for those electric utilities for which all service territory town maps have not been filed; namely Concord Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Public Service Company of New Hampshire.

By order of the Public Utilities Commission of New Hampshire this fourth day of December, 1979.

Re Public Service Company of New Hampshire

DR 79-187, Sixth Supplemental Order No. 13,928

64 NH PUC 410

New Hampshire Public Utilities Commission

December 4, 1979

MOTION by electric company to vacate order requiring it to provide copies of all papers that form its 1978 federal income tax return; denied.

REPORTS, § 1 — Copies of federal income tax return.

[N.H.] An electric company's motion to vacate an order requiring it to provide the commission with copies of all papers that form its 1978 federal income tax return was denied.

BY THE COMMISSION:

Supplemental Order

The commission, by its Order No. 13,926 ordered Public Service Company of New Hampshire to provide copies of all papers that form their 1978 federal income tax return. Public Service Company of New Hampshire was ordered to provide the aforementioned copies to the three commissioners for review in camera. Public Service Company of New Hampshire, on December 3, 1979, filed a motion to vacate Order No. 13,926. In that motion the company sets forth that they are willing to provide specific portions of the tax return to the staff, if the staff would withdraw its request for the entire tax return; and

Whereas, the commission has considered the position of the staff and the company in this matter; and

Whereas, Public Service Company of New Hampshire is bound by RSA 374:15, 374:17, and 374:18; and

Whereas, Public Service Company of New Hampshire has come before the commission pursuant to RSA 378:9; and

Whereas, the commission is obligated by RSA 374:5 to keep informed; and

Whereas, in the filing made by the company pursuant to RSA 378:5, the 1978 federal income tax return may be relevant to issues other than those set forth by the staff's motion to compel

responses to Data Requests 3, Set 2; it

Ordered, that Public Service Company of New Hampshire's motion to vacate Order No. 13,926 is denied.

By order of the Public Utilities Commission of New Hampshire this fourth day of December, 1979.

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[Go to End of 78431]

Re Northern Utilities, Inc. et al.

DF 79-34, Supplemental Order No. 13,929

64 NH PUC 411

New Hampshire Public Utilities Commission

December 4, 1979

SUPPLEMENTAL order relating to merger of gas companies.

RATES, § 237 — Filing of supplemental tariffs.

[N.H.] A gas company which, on merger, was required to file supplemental tariffs obtained commission approval of its filed tariff Supplement No. 13.

BY THE COMMISSION:

Supplemental Order

Whereas, Northern Utilities, Inc., by commission Order No.13,739 dated duly 18, 1979, was granted authority under a merger to assume the franchised territory and assets of Northern Utilities, Inc., Allied Gas Division; and

Whereas, said merger was culminated on October 30, 1979; and

Whereas, Northern Utilities, Inc., by issue of Supplement No. 13 to its tariff, NHPUC No. 6 — Gas, has complied with said order; it is

Ordered, that Supplement No. 13 to Northern Utilities, Inc., tariff, NHPUC No. 6 — Gas, be, and hereby is, approved for effect as of October 31, 1979.

By order of the Public Utilities Commission of New Hampshire this fourth day of December, 1979

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[Go to End of 78432]

Re Public Service Company of New Hampshire

DR 79-187, Seventh Supplemental Order No. 13,930

64 NH PUC 411

New Hampshire Public Utilities Commission

December 4, 1979

ORDER for electric company to provide qualified witnesses for hearing.

BY THE COMMISSION:

Supplemental Order

Whereas, the First Bank of Boston and the Shawmut Bank of Boston are institutions referred to on p.7 of the application of Public Service Company to alter existing rates on account of emergency circumstances; it is

Ordered, that Public Service Company of New Hampshire produce financially qualified individuals from the aforementioned institutions for cross-examination on December 11, 1979. Such representatives will be familiar

with the financial situation of Public Service Company as well as the negotiations in which PSNH sought to divest itself of 22 per cent of the Seabrook station; and it is

Further ordered, that if for any reason the aforementioned representatives will not be in attendance on December 11, 1979, the Public Service Company will inform the executive director of the commission by 12 noon on December 7, 1979, so as to allow the commission to pursue its obligation under 374:4 by use of RSA 365:10.

By order of the Public Utilities Commission of New Hampshire this fourth day of December, 1979.

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NH.PUC*12/05/79*[78273]*64 NH PUC 94*Edgar J. Liberty d/b/a Liberty's Eastern Express et al.

[Go to End of 78273]

Re Edgar J. Liberty d/b/a Liberty's Eastern Express et al.

DT 79-231, Order No. 13,931

64 NH PUC 94

New Hampshire Public Utilities Commission

December 5, 1979

PETITION for authority to transfer a certificate of public convenience and necessity; granted.

CERTIFICATES, § 142 — Transfer of certificates — Authorization.

[N.H.] The commission authorized a utility to transfer its certificate of public convenience and necessity to a corporation which the utility formed.

BY THE COMMISSION:

Order

Whereas, Edgar J. Liberty d/b/a Liberty's Eastern Express was issued property carrier certificate of public convenience and necessity No. 36 under Order No. 8835 dated November 9, 1967, authorizing operations as an irregular-route common carrier of property by motor vehicle as follows:

"Transportation of general commodities between Milford, Wilton, Lyndeboro, Greenfield, Bennington, Antrim, Hillsboro, Henniker, Hancock, Peterboro, Jaffrey, East Jaffrey, Dublin, Keene, Francestown, Temple, Greenville, Manchester, Nashua, Derry, Amherst, Bedford, Merrimack, Hudson, Brookline, Mount Vernon, New Boston, Goffstown, Hollis, and Dunbarton," and property carrier public interest permit No. 66 under Order No. 8836, dated November 9, 1967, authorizing operations as a contract carrier of property by motor vehicle in the following described territory:

"Transportation of general commodities between all points and places in New Hampshire;" and

Whereas, for business reasons Edgar J. Liberty d/b/a Liberty's Eastern Express has formed an incorporation

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known as American Messenger Service, Inc.; and

Whereas, Edgar J. Liberty d/b/a Liberty's Eastern Express desires to transfer said certificate and permit to American Messenger Service, Inc., and upon consummation of the transfer to discontinue operations thereunder; it is

Ordered, that Edgar J. Liberty d/b/a Liberty's Eastern Express, be, and hereby is, authorized to transfer property carrier certificate of public convenience and necessity No. 36 under Order No. 8835 dated November 9, 1967, and property carrier public interest permit No. 66 under Order No. 8836 dated November 9, 1967, to American Messenger Service, Inc., and upon consummation of the transfer to discontinue operations thereunder; and it is

Further ordered, that the said American Messenger Service, Inc., be, and hereby is,

authorized to receive the said property carrier certificate of public convenience and necessity No. 36 and property carrier public interest permit No. 66 and to continue operations thereunder; and it is

Further ordered, that said operations shall comply with the provisions of RSA 375-B, and the rules and regulations prescribed by the Public Utilities Commission pursuant thereto.

The secretary of the commission is hereby directed to issue the above order this fifth day of December, 1979.

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[Go to End of 78433]

Re Public Service Company of New Hampshire

DR 79-187, Eighth Supplemental Order No. 13,932

64 NH PUC 412

New Hampshire Public Utilities Commission

December 5, 1979

ORDER for parties to present arguments as to which witnesses are required for electric company's emergency rate request.

BY THE COMMISSION:

Supplemental Order

On December 4, 1979, the Legislative Utility Consumers' Council (LUCC) filed a motion requesting the presence of representatives from Morgan Guaranty Trust Company and/or the First National Bank of Boston. Public Service Company of New Hampshire, on December 4, 1979, filed testimony which included testimony of a representative from Morgan Guaranty Trust Company. Also, on December 4, 1979, the commission issued Seventh Supplemental Order No. 13,930 requiring the presence of representatives from the First National Bank of Boston and the Shawmut Bank of Boston. Accordingly, 4 (b) of the LUCC's motion appears to be answered.

As to the LUCC's request for a representative from the New England Electric System and/or Granite State Electric Company; it is hereby

Ordered, that all parties to the proceeding present written arguments as to why the commission should or should not order the appearance of a representative from the New England Electric System and/or Granite State Electric Company by Friday, December 7, 1979.

By order of the Public Utilities Commission of New Hampshire this fifth day of December, 1979.

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[Go to End of 78434]

Re Public Service Company of New Hampshire

DR 79-187, Ninth Supplemental Order No. 13,933

64 NH PUC 413

New Hampshire Public Utilities Commission

December 5, 1979

PETITION seeking additional hearing on emergency rate increase request; granted.

BY THE COMMISSION:

Supplemental Order

On December 4, 1979, Attorney Philip Ayers of Public Service Company of New Hampshire requested the commission to give consideration to postponing DE 79-141, the commission's investigation into Schiller station, so as to allow the emergency rate hearing to be continued on Wednesday, December 12, 1979. Upon consideration of this request, it is

Ordered, that December 12, 1979, will be reserved for an additional hearing on the emergency rate increase request; and it is

Further ordered, that docket DE 79-141 will be postponed until 11:30 A.M. on December 14, 1979.

By order of the Public Utilities Commission of New Hampshire this fifth day of December, 1979.

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NH.PUC*12/05/79*[78435]*64 NH PUC 413*Public Service Company of New Hampshire

[Go to End of 78435]

Re Public Service Company of New Hampshire

DE 79-141, Supplemental Order No. 13,934

64 NH PUC 413

New Hampshire Public Utilities Commission

December 5, 1979

PETITION seeking further hearings on emergency rate request; granted.

BY THE COMMISSION:

Supplemental Order

Whereas, the commission, by Ninth Supplemental Order No. 13,933 in Docket No. DR 79-187, has set Wednesday, December 12, 1979, for further hearings on the emergency rate request; it is hereby

Ordered, that the hearing in Docket No. DE 79-141, originally scheduled for Wednesday, December 12, 1979, at 10:00 A.M. is postponed to Friday, December 14, 1979, at 11:30 A.M.

By order of the Public Utilities Commission of New Hampshire this fifth day of December, 1979.

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NH.PUC*12/06/79*[78436]*64 NH PUC 414*Prohibition of Gas Outdoor Lighting

[Go to End of 78436]

Re Prohibition of Gas Outdoor Lighting

IE14,893, Order No. 13,936

64 NH PUC 414

New Hampshire Public Utilities Commission

December 6, 1979

ORDER requiring gas companies to advise customers who use natural gas for decorative outdoor lighting of the provisions of the statute prohibiting such use.

SERVICE, § 339.1 — Gas — Conservation of supply.

[N.H.] Gas companies were ordered to notify their customers of the provisions of a statute which prohibits use of natural gas for decorative outdoor lighting.

BY THE COMMISSION:

Order

Whereas, the Powerplant and Industrial Fuel Use Act of 1978, enacted November 9, 1978, established provisions prohibiting the use of natural gas for decorative outdoor lighting; and

Whereas, in cases where gas was being supplied for lighting purposes prior to November 9, 1978, the prohibition becomes effective on the following dates:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Industrial and Commercial Structures	November 5, 1979
Municipal Outdoor Lighting Fixtures	January 1, 1982
Residential Structures	January 1, 1982

and

Whereas, in cases where outdoor lighting was installed after November 9, 1978, the provisions become effective immediately; and

Whereas, certain annual reporting requirements to the Economic Regulatory Agency are directed in consideration of the act; and

Whereas, it is the commission's judgment that notification to the general public of the provisions of this act can best be implemented by the gas distribution companies whose customers may be affected; it is

Ordered, that the gas distribution companies under the jurisdiction of this commission prepare and distribute (during the month of December) notices to all customers that have active or inactive outdoor lights advising them of the provisions of the act; and it is

Further ordered, that the notices advise customers of the opportunities for waiver provisions, which shall be furnished by the commission; and it is

Further ordered, that the companies prepare the requirements for the annual report to the Economic Regulatory Agency in consideration of consolidation and submission by this commission on January 1, 1980, and each year thereafter.

By order of the Public Utilities Commission of New Hampshire this sixth day of December, 1979.

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NH.PUC*12/07/79*[78437]*64 NH PUC 415*Public Service Company of New Hampshire

[Go to End of 78437]

Re Public Service Company of New Hampshire

DF 79-100-6205, Fifth Supplemental Order No. 13,937

64 NH PUC 415

New Hampshire Public Utilities Commission

December 7, 1979

MOTION to intervene in proceeding relating to the Public Service Company of New Hampshire Seabrook transfer; denied.

PARTIES, § 19 — Intervenors.

[N.H.] The petition of the Seabrook Anti-Pollution League to intervene in a proceeding relating to the Public Service Company of New Hampshire Seabrook transfer was denied where one of the issues to be raised related to peak demand for Public Service Company of New Hampshire and the commission had already made a study of that issue and a reexamination by

the commission would be repetitive, and where the other issue to be raised was beyond the scope of the proceeding.

BY THE COMMISSION:

Supplemental Order

The following responds to the motion to intervene on behalf of the Seacoast Anti-Pollution League filed October 18, 1979:

The Seacoast Anti-Pollution League's (SAPL) request to be admitted as a party was denied orally from the bench at hearings in this proceeding. The rationale of the commission in denying SAPL's motion to intervene relates to the issues sought to be raised by SAPL in its petition. The commission has already made an independent study into peak demand for Public Service Company of New Hampshire. Therefore, a reexamination by the commission would be repetitive. Seacoast Anti-Pollution League's request as to 3(b) of its motion, which relates to examination by the commission into converting one or both of the Seabrook units to coal, is beyond the scope of this proceeding, and is not relevant to this proceeding.

As to 3(c) of SAPL's motion, which focuses on deferral, conversion, or cancellation of the Seabrook units, the commission finds that conversion and cancellation are outside the scope of these proceedings, and, therefore, not relevant. The question of deferral will be dealt with in docket DR 79-187.

Upon consideration of the motion, the commission hereby denies the request to intervene in this proceeding by the Seacoast Anti-Pollution League.

By order of the Public Utilities Commission of New Hampshire this seventh day of December, 1979.

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NH.PUC*12/10/79*[78438]*64 NH PUC 416*Swans Falls and Rollinsford Hydro Sites

[Go to End of 78438]

Re Swans Falls and Rollinsford Hydro Sites

IF 14,894, Order No. 13,938

64 NH PUC 416

New Hampshire Public Utilities Commission

December 10, 1979

COMMISSION jurisdiction extended to two hydroelectric generating sites.

BY THE COMMISSION:

Order

Whereas, there is an old public service company hydro station located on the property of the Swans Falls Corporation; and

Whereas, this site has been shown to be able to produce 700 kw per hour or 0.70 Mw per hour, when operable; and

Whereas, this site has been shown to be covered by RSA 362-A; and

Whereas, there is an old public service company hydro station located at Rollinsford, New Hampshire; and

Whereas, this site has been shown to be able to produce 1,200 kw per hour, or 1.2 Mw per hour, when operable; and

Whereas, the Rollinsford site has been shown to be covered by RSA 362-A; it is hereby

Ordered, that the hydro generating sites at Swans Falls and Rollinsford qualify under RSA 362-A:2 and are thereby governed by the public utilities commission as to the payment for the energy generated from these two sites; and it is

Further ordered, that Order No. 13,589, which sets the rates for limited electrical energy producers, is applicable to these two facilities.

By order of the Public Utilities Commission of New Hampshire this tenth day of December, 1979.

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NH.PUC*12/11/79*[78439]*64 NH PUC 416*New Hampshire Electric Cooperative, Inc.

[Go to End of 78439]

Re New Hampshire Electric Cooperative, Inc.

IR14,834, Second Supplemental Order No. 13,939

64 NH PUC 416

New Hampshire Public Utilities Commission

December 11, 1979

REVIEW of replacement power costs adjustment.

RATES, § 303 — Fuel adjustment clause.

[N.H.] An electric cooperative was ordered to deduct from its total cost of fuel to be recovered during the December fuel adjustment charge billing cycle, any overcollection from the replacement power surcharge.

BY THE COMMISSION:

Supplemental Order

Whereas, commission Order No. 13,719 indicated that any revenues over-

Page 416

or undercollected from the surcharge allowed to recover replacement power costs during the March through May, 1979, outage of the Maine Yankee plant would be reconciled on the December, 1979, billing; and

Whereas, New Hampshire Electric Cooperative, Inc., now reports an over-collection of $3,388 and proposes to account for same through a credit to be applied to the December, 1979, fuel adjustment charge, said proposal appearing to the commission to be in the best interest of the public; it is

Ordered, that New Hampshire Electric Cooperative, Inc., deduct from its total cost of fuel to be recovered during the December fuel adjustment charge billing cycle, any overcollection from the replacement power surcharge.

By order of the Public Utilities Commission of New Hampshire this eleventh day of December, 1979.

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NH.PUC*12/11/79*[78441]*64 NH PUC 422*Public Service Company of New Hampshire

[Go to End of 78441]

Re Public Service Company of New Hampshire

DR 79-187 (DR 79-107), Tenth Supplemental Order No. 13,942

64 NH PUC 422

New Hampshire Public Utilities Commission

December 11, 1979

MOTION for rehearing of rate order; granted in part and denied in part.

Page 422

1. RATES, § 649 — Hearing and notice — Temporary rates.

[N.H.] Temporary public utility rates will be implemented only after notice and hearings. p. 423.

2. REPARATION, § 37 — Basis for rebates — Subsequent reduction or readjustment.

[N.H.] The commission in reply to objections to its refusal to order an electric company to make immediate rebates due to the passage of House Bill 155, reiterated its position that rates

may not be altered until a thorough investigation of the company's revenues, expenses, and rate base has been conducted. p. 423.

BY THE COMMISSION:

Supplemental Order

On September 18, 1979, the Community Action Program (CAP) timely filed a motion for rehearing as to the commission's Report and Order No. 13,799. The commission subsequently set November 1, 1979, for oral argument on the motion.

[1] Community Action Program requests reconsideration of two aspects of the commission's decision. The first area of contention is that portion of the commission's order that made Public Service Company of New Hampshire's (PSNH) rates temporary as of May 7, 1979. CAP argues that such action by the commission is unjust and unreasonable, in that the order is against our prior decisions. Re Pennichuck Water Works (1979) DR 79-3, Order No. 13,603. Community Action Program also alleges that the commission's order violated the notice and hearing requirements of RSA 378:27.

Upon consideration of the oral and written arguments submitted by all parties and based on a review of our past decisions, in particular, Re Pennichuck Water Works (1979) DR 79-3, Re Manchester Gas Co. (1979) 29 PUR4th 121, Re Hampton Water Co. (1979) DR 79-51, the commission finds that any reference to temporary rates that appears in Report and Order No. 13,799 should be stricken. Temporary rates will be implemented only after notice and hearings. The commission will preserve CAP's and the Legislative Utility Consumers' Council's (LUCC) right to rebates through operation of RSA 365:29 and 378:7.

[2] The second area of contention is the commission's refusal to order immediate rebates due to the passage of House Bill 155. The commission has reviewed the arguments of all parties and believes that its position that rates cannot be altered until thorough investigation has been conducted of PSNH's revenues, expenses, and rate base is still valid.

Consequently, CAP's motion for rehearing is granted in part and denied in part.

By order of the Public Utilities Commission of New Hampshire this eleventh day of December, 1979.

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NH.PUC*12/11/79*[78442]*64 NH PUC 424*Manchester Gas Company v City of Manchester, Parks and Recreation Department

[Go to End of 78442]

Manchester Gas Company v City of Manchester, Parks and Recreation Department

I-E14,840, Order No. 13,943

64 NH PUC 424

New Hampshire Public Utilities Commission

December 11, 1979

ACTION by gas company to recover underpayments resulting from incorrect billing; order in accordance with opinion.

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1. RETURN, § 36 — Guarantee of return — Prudence of management.

[N.H.] The commission must provide a public utility company an opportunity to earn a just and reasonable return, but this standard does not require it take steps to guarantee the return, if through error or imprudent management the company should not achieve the allowed rate of return. p. 429.

2. PAYMENT, § 23 — Incorrect billing — Liability for undercharges.

[N.H.] A gas company's claim for undercharges resulting from a billing error for service to a municipality was modified downward where the commission concluded that only the company could have known and should have known of the error, where, in intervening rate cases, the company had been made whole despite its billing error, where the municipality had no way of proving it was being underbilled, and, if the entire amount requested by the company was charged to the city, it would be denied an opportunity to take measures designed to lower its consumption and thereby its costs; clearly the company's other customers have a right to have commission regulation enforced upon all utilities and consumers, as well as the right to be charged only for expenses related to service of their account. p. 429.

APPEARANCES: Bruce Felmly for Manchester Gas Company; Charles W. Flower for the city of Manchester.

BY THE COMMISSION:

Report

This proceeding involves a dispute between the Manchester Gas Company (hereinafter referred to as the company) and one of its customers, the city of Manchester, Parks and Recreation Department (hereinafter referred to as the city).

In January, 1979, the company notified the superintendent of parks and recreation for the city of Manchester that the city had been underbilled for gas used at the parks and recreation garage on Bridge street from the first month that gas service was provided (December, 1973) to November of 1978. The company claimed that the underbilling was the result of its failure to multiply the meter reading by a factor of ten. The company alleges that 81,498.7 therms were consumed at the Bridge street facility but were never paid for by the city. The company requested the city to pay $23,654.96 that the company calculated to be the dollar equivalent for the underbilling. The company's calculation is as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

PARKS AND RECREATION GARAGE
A/C NO. 23-6-2135-0
Month — Year

December, 1973
January, 1974
February, 1974
March, 1974
April, 1974
May, 1974
June, 1974
July-August, 1974
September, 1974
October, 1974
November, 1974
December, 1974
January, 1975
February, 1975
March, 1975
April, 1975
May, 1975
June, 1975
July, 1975
August, 1975
September, 1975
October, 1975
November, 1975
December, 1975
January, 1976
February, 1976
March, 1976
April, 1976
May, 1976
June, 1976
July, 1976
August, 1976
September, 1976
October, 1976
November, 1976
December, 1976
January, 1977
February, 1977
March, 1977
April, 1977
May, 1977
June, 1977
July, 1977
August, 1977
September, 1977
October, 1977
November, 1977
December, 1977
January, 1978
February, 1978
March, 1978
April, 1978
May, 1978

June, 1978
July, 1978
August, 1978 (Est.)
September, 1978 (Est.)

October, 1978
November, 1978

Totals
Therms Difference
Dollars Difference

In May of 1979, the city of Manchester contacted the public utilities commission to protest the company's claim. The commission by letter dated May 31, 1979, set a hearing for dune 13, 1979, to decide the controversy. An additional hearing was held on June 18, 1979. A memorandum was submitted by the company on June 13, 1979, and by the city on June 20, 1979.

Manchester Gas Position

Both parties provide a number of contentions to support their positions. The company argues that if the commission fails to order the city to pay the alleged underbilling, the company and the commission will be establishing an undue and unreasonable preference in favor of the city of Manchester in direct contradiction to NH RSA 378:10. That statute states:

"No public utility shall make or give any undue or unreasonable preference or advantage to any person or corporation or to any locality, or to any particular description of service in any respect whatever or subject any particular person or corporation or locality or any particular description of service, to any undue or unreasonable prejudice or disadvantage in any respect whatever."

The company's second argument focuses on this belief that the city of Manchester should have known that it was being underbilled. This contention is based on the size of the facility, the number of gas appliances located on the premises, and the fact that gas was the source of heat.

The company argues that "if for some reason, the individual billing out the meter reading is not made aware, or fails to realize, that a particular reading must be factored, there is no way that the individual can possibly know whether the amount being billed is unreasonably low. " (Page 6, company's brief.) The company concludes this portion of its argument by indicating that its office personnel cannot know or understand the relationship between gas consuming appliances and a particular meter at any given location.

The third concern expressed by the company relates to the recovery period should it be allowed to recover from the city. Manchester Gas argues that the company should receive its money immediately as opposed to a recovery over the time period similar in length to the underbilling. Such a procedure would not allow the company to recover the entire amount until June, 1984. The company argues that in view of present inflationary trends, recovery through a time period of five years would result in further deflation of the value of the money owed and would not be the best

method of minimizing the preference and unjust enrichment realized by the city.

The company's fourth contention relates to its analogy between the present situation and that of a meter that does not register. Consequently, the company cites NHPUC Gas Company

Regulation 18(b) (3), entitled "Nonregistration." This regulation allows for an estimate to be based on historical time periods where the meter does not register. The company argues that the failure to perform the factoring to this "p.p.i." device is essentially a failure to register gas consumption.

The company's final contention if that NHRSA 365:29, the reparation provision, does not apply by analogy to limit the company's recovery to the most recent two-year period. The company testified that if it found an overbilling going back more than two years, it would willingly report the situation and refund the money beyond the two-year time provision of RSA 365:29.

Furthermore, the company contends that had the legislature intended to impose some special limitation on the ability of a public utility to recoup the value of the product consumed by its customers, it would have done so.

City of Manchester Position

The city contends that the demand made by the company is arbitrary, unreasonable, and unjust. To support this contention, the city delineates its position as follows.

First, the city challenges the validity of the figures used by the company as to consumption figures. The city cites trips to its recreation garage due to malfunctions of the meters. The city relies on testimony of its witness that, during the five-year period, and in particular 1974-75, employees of the company made frequent visits to the installation. The city in particular points to the complete meter failure in early 1976. Together, the city provides substantial doubt as to the correctness of the company's readings.

In its second argument, the city challenges the company's comparison to meter nonregistration cases. The city contends that the meter always registered with the exception of January through March, 1976. Therefore, the error was due to the failure to factor the meter readings, not because the meter failed to register. If there is an analogous situation, the city argues it would be the fast or slow meter which requires computation, and backbilling is not permitted for more than two years.

The city's third argument relates to the prudence by which the company conducted its operations. The city places emphasis on the following: (1) the company only has between 30 and 35 meters, to which it applies a factor; (2) of this relatively small number of meters, but large amounts of revenue, it failed to factor at least four of the accounts; (3) that it had numerous opportunities to correct its error, of which the most noteworthy was the failure of the meter during early 1976.

The city next cites the report of its consultant to indicate the steps the city would have taken if the bills rendered over the period in question had been higher. These steps would have reduced the amount of consumption of gas. The city argued that if the company is allowed to recover for its failure to accurately read the meter, the city has been deprived of the opportunity to save some of the money now claimed by the company.

The city next focuses on the fact that the gas company prepared an estimate of

gas usage at the garage prior to the opening of the account. This estimate showed an expected consumption rate of nearly 40,000 therms per year, or more than twice the alleged consumption according to the gas company and 20 times the highest-billed consumption for any single year. The city argues that this information clearly places Manchester Gas in a position of greater knowledge.

The city concludes its argument by indicating that the company has already been made whole since it has recovered the disputed revenue from other customers, and that to allow Manchester Gas to recover any money from the city would be in contradiction to RSA 374:2.

Commission Analysis

Both parties have devoted considerable argument to the questions of who was in a better position to know that an error was occurring. Yet upon review of the evidence, it is unequivocally clear that Manchester Gas Company is the only one who could have known of the error and, further, should have known. The evidence in this proceeding clearly reveals a pattern of opportunity for Manchester Gas to correct any factoring error. To begin with, the company was the only party to have access to an estimate of the gas usage at the garage before it was constructed. It was the company's decision to place this account on a factoring basis. This decision in part was based on the fact that it was a major account. The small usage figures during the early months of operation clearly should have signaled a company with an in-house estimate that something was amiss.

However, these were not the only warning signals. In early 1976, the meter was determined to be malfunctioning. In February, 1976, the meter registered zero usage. The company, if it was operating in an efficient manner, should have gone through the billing records for this account to arrive at an estimate for that month. Yet the company chose neither to review its records nor to make an estimate. Testimony by representatives of the city cites numerous visits to the facility by company personnel due to malfunctions, vandalism, and routine maintenance. Each visit represents an opportunity foregone by the company. Furthermore, each meter reading, together with the subsequent billing, provided 60 different opportunities to correct this situation. Finally, the company should, in preparation for rate cases and cost of gas adjustment hearings be reviewing its account so as to determine if it is in fact receiving the proper level of revenues from its existing customers.

In contrast, the city of Manchester had no way of knowing that an error was being committed. The error, according to the gas company, began with the first day of operation at this newly constructed facility. There was no prior usage at the facility for the city to be placed on notice that a billing error was occurring. Nor did the city have any other facility that was remotely comparable to the parks and recreation garage.

Besides not having any prior usage with gas at the garage, the city received bills which indicated: (1) previous actual meter reading; and (2) present actual meter reading. There was no delineation on the bills of the existing basic rates or any data concerning average usage per appliance or heating unit. Finally' there is a specific box on the bill where factors are to be listed if there is one applicable to the account. (See bills from West Side

Arena and JFK Coliseum.) Yet in each instance, this box was void of any factor. (See box marked "constant".)

Therefore, it is clear that only Manchester Gas could have known and should have known of the error.

[1, 2] The next area of conflict lies with the application of existing commission regulations and state statutes. The company's argument is that commission Regulation 18(b)(3) concerning nonregistration is not applicable. The meter at the garage, for the most part, did register during the time period involved.

The failure to apply the factor is more analogous to a slow meter, in that the failure of the company to properly factor the usage slowed the measurement of the usage at the garage. [Commission Regulation 18(b)(2).] The analogy to 18(b)(2) is also proper, since the commission regulations as to fast and slow meters clearly recognize a duty by the gas utility to make sure it is receiving adequate revenue from each account. If the meter is running fast, the consumer has a right to go back at least twelve months; whereas, if the meter is running slow, the company can only recover at most six months of lost usage. Clearly, the language in the commission Regulations 18(b)(1) and (2) impose a penalty for companies which are lax in their monitoring of meters, and where that laxity results in lower revenues than what would have occurred under proper management. The commission must provide a company an opportunity to a just and reasonable return. However, this standard does not require the commission to take steps to guarantee the return, if through error or imprudent management the company should not achieve the allowed rate of return.

The parties call the commission's attention to RSA 378:10, 365:29, and 374:2. The first statute cited relates to a prohibition of discrimination. However, this statute is of little assistance to the company, since if anyone has been harmed by the company's failure to properly factor this account it is other consumers, not the company. The cost of gas adjustment (CGA) clause provides for undercollections of one CGA time period to be recovered from consumers during the next time period. Consequently, as to charges flowed through the CGA, this company is whole. As to the revenue lost, which relates to other aspects of the company's business, the company has also been made whole.

This company has been a regular visitor before the commission during the time period in question. (See Re Manchester Gas Co. (1974) DR 74-70; Re Manchester Gas Co. (1976) DR 75-207; Re Manchester Gas Co. (1979) 29 PUR4th 121. In each case, the commission based its decision on a finding as to revenues. If the commission now were to award the company revenue related to these prior time periods, the company would benefit from its submission of exhibits with lower than actual revenues. The commission in those proceedings found a revenue level and then found an attrition factor to compensate for proven erosion in earnings that was believed to occur over time. If by failing to monitor their billing properly this company benefits by having rate increases that are granted on lower than actual revenues and lower than actual earned rates of return, an unjust, unreasonable, and untenable position is reached.

Such a windfall is directly contrary to RSA 378:7 and 374:2. Since the company has already been made whole through rates recovering additional increases based on artificial revenues and earnings, it is other consumers, not the

company, that have cause to complain. Furthermore, it is other consumers and not the company that have rights pursuant to RSA 378:10.

As to RSA 365:29, the company argues that the commission should not by analogy compare this situation of undercharges to a statute which allows consumers the right to refunds for overcharges during a previous 24-month period. The company states that if it found that it was overcharging consumers for a time period in excess of two years, it would refund the overcharges despite any time limitation in RSA 365:29. The commission finds little reason to believe this argument. In DR 78-100, the commission made a revenue adjustment to test-year revenues to recognize additional revenues that the company would collect in the years ahead because of its failure to factor this account, as well as one other account. In its motion for rehearing in that proceeding, the company made the following statement:

"The revenue adjustment of $6,360 discussed at p. 16 of the commission's report reflecting underbillings to two customers during the base period is unreasonable and unlawful in that the underbilling was discovered by the company and reported to the commission after the hearings in this proceeding had terminated and the record had closed, and may not properly be the basis for an order in this proceeding unless the record is reopened to permit the introduction of evidence with respect to that newly discovered matter and any other newly discovered matter that would affect the company's cost of service or would otherwise be relevant to these proceedings." (Page 7.)

This passage, when compared with the record in this proceeding and DR 78-100, reveals the following: (1) Despite hearings on the merits in the waning days of December, 1978, the company failed to bring this situation to the commission's attention until after the close of the proceeding. (2) When the commission was finally made aware of the situation, the company objected to its consideration. (3) The company failed to inform the commission of two other accounts, which it failed to factor until it was brought out in proceedings under this informal docket. The aforementioned sequence of events clearly does not qualify this company for any consideration that it approaches rate matters with clean hands.

As to RSA 374:2 and RSA 378:7, this commission has the duty to make sure the rates and charges tendered by any utility to its customers are just and reasonable. Clearly, the company has been made whole despite its billing error. The city had no way of proving it was being underbilled, and if the entire amount requested by the company was charged to the city, the city would be denied an opportunity to take measures designed to lower their consumption and thereby their costs. Clearly, the other consumers have a right to have commission regulations enforced upon all utilities and consumers, as well as the right not to be charged only for expenses related to service of their account.

In summation, the final decision is between the city and other Manchester Gas Company consumers. The situation in this proceeding is most analogous to a slow meter. Furthermore, given the competing consideration, such as: (1) the city's right to take appropriate conservation steps; (2) the other consumers not being required to pay more than their fair share; (3) the malfunction of the meter in 1976 and possibly before; and

(4) The desire to uphold commission regulations as to slow meters, it is found that the city of Manchester will be required to pay Manchester Gas Company $1,469.76. This amount reflects the difference between that actually billed for the past six months by the company and the company's evidence as to what the bill would have been if it had been properly factored. The company will then credit the $1,469.76 collected from the city to the remainder of its customers in the next CGA proceeding.

Our order will issue acordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the city of Manchester is to tender a check for $1,469.76 to the Manchester Gas Company; and it is

Further ordered, that the Manchester Gas Company will credit the moneys received from the city of Manchester to consumers in its calculation of the next cost of gas adjustment.

By order of the Public Utilities Commission of New Hampshire this eleventh day of December, 1979.

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NH.PUC*12/11/79*[78443]*64 NH PUC 431*Continental Telephone Company of Maine

[Go to End of 78443]

Re Continental Telephone Company of Maine

IE14,873, Third Supplemental Order No. 13,945

64 NH PUC 431

New Hampshire Public Utilities Commission

December 11, 1979

ORDERS placing municipal calling service area plan into operation.

BY THE COMMISSION:

Supplemental Order

Whereas, Continental Telephone Company of Maine, being a public utility engaged in the business of supplying telephone service in the state of New Hampshire; and

Whereas, Continental Telephone Company of Maine will offer municipal calling in its franchised area effective November 30, 1979; and

Whereas, Continental Telephone Company of Maine has submitted revised pages of its tariff,

NHPUC No. 4, as follows:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Section 3, 1st Revised Sheet 6
Section 4, Original Sheet 6
           1st Revised Sheet 5
           2nd Revised Contents, Sheet 1 and Sheet 2
           4th Revised Sheet 4
Section 5, 1st Revised Sheet 7; and
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Whereas, it appears to the commission that the rights and interests of the public are benefited by this filing; it is

Ordered, that municipal calling be placed into operation effective November 30, 1979; and it is

Further ordered, that the filed tariff pages listed above are hereby accepted as submitted.

By order of the Public Utilities Commission of New Hampshire this eleventh day of December, 1979.

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NH.PUC*12/13/79*[78440]*64 NH PUC 417*Public Service Company of New Hampshire

[Go to End of 78440]

Re Public Service Company of New Hampshire

DSF 79-102-6205, Order No. 13,941

64 NH PUC 417

New Hampshire Public Utilities Commission

December 13, 1979

PETITION for modification of transmission line routes and tunnel construction as authorized in a certificate of site and facility for a nuclear power plant; granted.

ELECTRICITY, § 7 — Authorization of transmission lines.

[N.H.] The commission, being bound by the findings of the site evaluation committee, found that the petition of an electric company for modification of transmission line routes and tunnel constructions as authorized in its certificate of site and facility for the Seabrook nuclear power plant would be consistent with the public good.

APPEARANCES: Martin L. Gross and Franklin Hollis for the petitioner; Robert Backus for the

Society for the Protection of New Hampshire Forest; Gary Holmes for the town of Seabrook; E. Tupper Kinder for the public; Anthony McManus for the Seacoast Anti-Pollution League.

BY THE COMMISSION:

Report

These proceedings were initiated on May 1, 1979, when Public Service Company of New Hampshire (the company) filed a petition to amend the certificate of Public Service Company of New Hampshire for the Seabrook project. Pursuant to RSA 162-F, copies of the petition of Public Service Company of New Hampshire amendments to the certificate of site and facility for the Seabrook nuclear power plant were requested by the executive director of this commission, were received on May 7, 1979, and distributed to members of the

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Bulk Power Supply Facility Site Evaluation Committee on May 8, 1979.

The company noted that the petition was submitted in recognition of requirements by the United States Environmental Protection Agency to extend the intake tunnel, and of requirements by the Federal Regulatory Commission to alter the transmission line routes through Packer bog and Cedar swamp. The petition comprised eight pages of specific requests and included four exhibits.

Public notice of the filing was issued by this commission on June 4, 1979. A letter of intent to intervene was submitted on June 8, 1979, by the Assistant Attorney General, Environmental Protection Division.

Authority to Act

"In accordance with RSA 162-F:6, no electric utility shall commence to construct any bulk power site ... any bulk power supply facility within the state unless it has obtained a certificate of site and facility, with respect to those facilities, issued by the public utilities commission."

While the statute is silent on the subject of modification to a certificates, the committee and commission agreed that it is the clear intent of the statute that any modification to any approved certificate also requires consideration and approval of those bodies. In fact, in its Report and Order No. 11,267 issued January 29, 1974, the commission noted (report, p. 9) that "while the associated transmission lines will be authorized along the routes set forth in Exh 53A, we fully recognize the possibility of refinement of these locations as fieldwork progresses with the actual layout of these routes. This approval may be modified, upon request, by the petitioner should meaningful negotiations with responsible local authorities, regional commissions, etc., result in any beneficial route relocation." The company notes, in its letter of May 7, 1979, that " ... we are simply requesting the PUC to do a ministerial act within its own authority in granting the application and thus no reference to the site evaluation committee is necessary."

The commission requested an interpretation by the office of the Attorney General on the matter, and on May 24, 1979, in a letter to Chairman J. Michael Love, that office replied, in summary, "You asked whether the subject petition may be heard by the public utilities commission without a hearing before the Bulk Power Supply Site Evaluation Committee. The

answer to your question is no."

In any event, while the commission notes that the modifications are comprised mainly of changes mandated by federal authorities, it is convinced that the public good is best served by providing a public forum to disclose and discuss those changes. Public Hearings

Under the provision of RSA 62-F:7, the commission is required to hold joint public hearings with the site evaluation committee (the committee) in six months of the date of application, upon not less than twenty-one days' public notice. Accordingly, on June 4, 1979, an order of notice of public hearing, to be held on June 28, 1979, at the Portsmouth Armory, Circuit Road, Portsmouth, New Hampshire at 10:00 A.M. was issued, with instructions for the company to give public notice through newspapers having general circulation in that portion of the state in which operations are proposed to

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be conducted. Additionally, in response to requests by residents of the town of Kingston, an order of public notice was issued on July 2, 1979, to be held on July 12, 1979, at the Kingston Town Hall, Main Street, Kingston, New Hampshire at 1:00 P.M. Both hearings were held as scheduled. Finally, a view was made of portions of the proposed relocations by certain committee members on August 2, 1979. The Petition

The company petition contends that, subsequent to the PUC issuance of the certificate in 1974, the Atomic Safety and Licensing Board of the United States Nuclear Regulatory Commission undertook to review among other things the location of the transmission line routes. After hearings, the board determined that the Seabrook-Scobie transmission line route should follow a "minimum circumference dogleg" route around the perimeter of Cedar swamp in preference to the direct transit of Cedar swamp authorized by the commission in the original certificate. The board also determined that the Seabrook-Newington transmission line should run through the center of Packer bog rather than follow its easterly edge as directed in the original certificate. Additionally, the Environmental Protection Agency, upon a review of the condenser cooling water tunnel system approved by the commission determined that the northerly of the two tunnels (to be used for the intake of cooling water) should be extended about 3,500 feet beyond that authorized by the certificate, and that the installation of three intake structures was preferable to the one approved in the certificate. *Transmission Lines — Cedar Swamp*

In its docket DSF-6205, this commission, in its Order No. 11,267 as amended, authorized PSNH to construct a 345-kv transmission line in accordance with a route depicted on a company Exh P-53A. That route ran westerly from the Seabrook station to PSNH's Scobie pond transmission substation in Londonderry, New Hampshire and ran directly through Cedar swamp, so-called. Subsequent to the issuance of the certificate, the Atomic Safety and Licensing Board of the United States Nuclear Regulatory Commission determined that the Seabrook-Scobie transmission line route should follow a "minimum circumference dogleg" route around the perimeter of Cedar swamp in preference to direct transit of Cedar swamp. The board rejected the original application on the basis that the Pow Wow river-Cedar swamp area is unique and is the only area under protective ownership (Society for the Protection of New Hampshire Forests) where pure stands of white cedar trees are combined with the "river marsh and the bog, the

Cedar swamp itself." *Transmission Lines — Packer Bog*

The original certificate authorized a 345-kv transmission line around the easterly edge of Packer bog in Greenland, New Hampshire, as shown on company's original Exh P-53A. The Atomic Safety and Licensing Board subsequently determined that a relocation was desirable through the center of Packer bog rather than to follow its easterly edge. In its decision, the board noted similarities between Packer bog situation and the Cedar swamp situation, but found that Packer bog lacked the unique features of Cedar swamp. It noted that Packer bog is relatively inaccessible, has no visual vistas comparable

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to those which the Pow Wow river-Cedar swamp area offers, and found that the visual impact on the residences would be significant, noting that the local officials in the town of Greenland indicated their objections to such a route. The board summarized that the effects of the selected route upon Greenland residents was of more significance than the environmental effects upon the bog, and accordingly, directed the revised route through the bog. *Cooling Water Tunnels*

The commission order in docket DSF 6205 authorized the construction of condenser cooling water tunnels as shown on a company Exh P-106. It provided that the intake tunnels would continue 3,000 to 4,000 feet easterly of the New Hampshire State Highway 1A and Hampton Beach state park, beneath the ocean floor and over which the company would install an appropriate single intake structure. The Environmental Protection Agency, in a review of the cooling water system, required that the intake tunnel be extended about 3,500 feet further and that the single intake structure be enlarged to three. The company's modification provides that the tunnel would be 4,002 feet beyond the originally approved location. The company testified (T-41) that there will be no operational differences or effects if one large intake had been built versus three smaller ones, but that during construction the environmental impact of three smaller diffusers would be much less than if one large intake were built. The company further testified (T-46) that the extended location provided a greater measure of protection for the coastal plankton community. It noted " ... it is obvious that the further offshore you place the intake, the less risk there is to the type of planktonic forms that originate from intertidal spawning adults," although it noted that the original location was, in its judgment, adequate. It conceded (T-47) that the "location for the inlet required by EPA is probably somewhat better from an environmental point of view." *Other Transmission Line Relocations*

The company also petitions for modifications to certain portions of the transmission line in consideration of particular landowner needs. Its Exh P-B notes a relocation in the town of Greenland, north of Ocean road to accommodate a landowner, Mr. Drake, to avoid the lines passing over a newly constructed pond.

The second change involves a relocation at the southerly end of Packer bog at a crossing of Breakfast Hill road. The company proposes to move the route to the west following the property line of Dr. Sewall in order to minimize the amount of damage to his property and abutting properties.

The third change involves the relocation of the line as it runs westerly in the towns of

Greenland and North Hampton crossing Interstate 95 and Route 151 in order to minimize the visibility of the line.

A fourth change involved the relocation in the town of North Hampton in the vicinity of Loverine and Winnicutt roads in an attempt to avoid crossing the land of Hampton Water Works and to minimize the visual impact from homes on Barton Hill and Winnicutt road.

The final change involved the relocation in the town of Hampton near Timber Swamp road and Drakeside road. The company testified that subsequent

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to the certificate approval the New Hampshire Public Works and Highways Department redesigned and rebuilt the intersection of Timber Swamp road and Route 101-C preventing them from using the originally authorized route.

Findings

In accordance with RSA 162-F:8, the site evaluation committee, sitting in joint hearing with this commission, must, after having considered available alternatives and the environmental impact of the site or route, find that:

1. The site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal legislative bodies.

2. Will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and the public health and safety.

The commission shall issue or deny a certificate and shall be bound by the findings of the site evaluation committee. In making its decision, the commission, having been bound by these findings must also find on its own authority that the facility:

1. Is required to meet the present and future demand for electric power.

2. Will not adversely effect system's stability and reliability and economic factors.

These latter two issues are not before us in this petition. Accordingly, there are no specific issues which demand the specific and sole consideration of the commission. The requests outlined in the petition are clearly matters to be considered by the site evaluation committee as a whole and the commission is hereby statutorily bound to issue or deny this petition based upon the findings of that committee.

On November 9, 1979, the site evaluation committee voted on the "basic findings of fact by the Bulk Power Site Evaluation Committee in connection with the application of Public Service Company of New Hampshire for amendments to the certificate of site and facility for the Seabrook Nuclear Power Plant." A quorum was present, and the members voted unanimously in the affirmative. The commission was directed to issue a modification to the certificate based upon those findings. The basic findings of fact were based upon a careful evaluation of public testimony, written reports, exhibits, and a visit by certain members of the committee to portions of the transmission lines sites, and the committee considered specifically the requests for findings and orders received from the Public Service Company of New Hampshire, the Attorney

General for the state of New Hampshire, and the Attorney for the Seacoast Anti-Pollution League. The commission accepts basic findings and appends them hereto for implementation by the company.

The company will be bound by the specific provisions of those findings.

Accordingly, upon consideration of all the facts, the commission finds that granting the petition of Public Service Company of New Hampshire for modification of transmission line routes and tunnel construction as authorized in the certificate of site and facility for the Seabrook project will be consistent with the public good. Our order will issue accordingly.

Order

Upon consideration of the foregoing

report which is made a part hereof; it is

Ordered, that the basic findings of fact by the Bulk Power Site Evaluation Committee in connection with the application of Public Service Company of New Hampshire for amendments to the certificate of site and facility for the Seabrook nuclear power plant as voted in public meeting on November 9, 1979, be, and hereby are, adopted; and it is

Further ordered, that the transmission line and route and tunnel construction authorized in this certificate of site and facility for the Seabrook nuclear electric generating station shall be modified as follows:

1. The location and number of cooling water intake structures shall be in accordance with the "alternate inlet location" depicted on Exh P-D and with the description set forth in Exh P-E in this proceeding.

2. The location and construction of the portion of the Seabrook-Scobie transmission line in the vicinity of Cedar swamp shall be in acordance with Exh P-A-1 in this proceeding, with the additional conditions specified in the findings of the site evaluation committee.

3. The location and construction of the Seabrook-Newington transmission line shall be in accordance with Exh P-B with the additional conditions as set forth in the findings of the site evaluation committee;

and it is

Further ordered, that modifications to any licenses and permits resulting from the issuance of this certificate shall be filed by the company and approved by the granting agency, and such approval shall constitute compliance under RSA 162-F:8-II that all state standards and requirements shall be met by the applicant as a condition of granting the certificate; and it is

Further ordered, that this docket shall remain open to permit the petitioner at a subsequent time to seek further authorization with respect to actual layout of the portion of the Seabrook-Massachusetts transmission line route from the Seabrook-Kensington town line to the Massachusetts border; and a section of the Seabrook-Scobie transmission line route consisting of about three and one-half mile in Kensington running from the Seabrook-Kensington town line to

South road by Towle Hill, in the event that final layout required modification of the approved routes.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of December, 1979.

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NH.PUC*12/14/79*[78444]*64 NH PUC 432*Granite State Electric Company

[Go to End of 78444]

Re Granite State Electric Company

DR 79-228, Order No. 13,947

64 NH PUC 432

New Hampshire Public Utilities Commission

December 14, 1979

PETITION requesting purchased power cost adjustment; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on November 30, 1979, filed with this commission certain revisions of its tariff, NHPUC No. 8 — Electricity, providing for purchased power cost adjustment No. W-2, effective January 1, 1980; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Original Page 16H and Third Revised Page 40 of tariff, NHPUC No. 8 — Electricity, of Granite State Electric Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of December, 1979.

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NH.PUC*12/17/79*[78445]*64 NH PUC 432*Gas Service, Inc.

[Go to End of 78445]

Re Gas Service, Inc.

DF 79-232, Order No. 13,948

64 NH PUC 432

New Hampshire Public Utilities Commission

December 17, 1979

APPLICATION by a gas company for authority to issue short-term debt; granted.

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SECURITY ISSUES, § 29 — Short-term notes.

[N.H] A gas company was authorized to issue short-term notes up to but not exceeding its short-term line of credit where the proposed financing was found to be in the public interest.

BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., has filed for authorization to issue short-term debt in excess of 10 per cent of its net fixed capital account in accordance with RSA 369:7; and

Whereas, the company's peak borrowing period will occur during February and March; and

Whereas, the company's present short-term borrowing limit is inadequate to provide for plant growth and its needs to purchase storage gas for winter usage; and

Whereas, the company's short-term line of credit is presently $2 million and requests this commission's authorization to borrow up to that amount until sometime next summer; and

Whereas, Gas Service, Inc., will seek permanent financing during 1980 in order to refinance the short-term debt; and

Whereas, upon investigation this commission finds that the proposed financing is in the public interest; it is

Ordered, that Gas Service, Inc., be, and hereby is, authorized from the date of this order to borrow up to but not exceeding $2 million until December 31, 1980; and it is

Further ordered, that on or before January 1st and July 1st, Gas Service, Inc., shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of the rates herein authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of December, 1979.

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[Go to End of 78446]

Re Southern New Hampshire Gas Company, Inc. et al.

DF 79-190, Order No. 13,953

64 NH PUC 433

New Hampshire Public Utilities Commission

December 18, 1979

MOTION to exclude testimony of gas company witness in rate increase re quest; taken under advisement and decision reserved until all testimony presented.

BY THE COMMISSION:

Order

The commission having before it a motion to exclude the direct testimony of Charles T. Ellis submitted in support of northern utilities intervention of NHPUC Docket No. 79-190, for and on

behalf of Southern New Hampshire Gas Company, Inc., and Petrolane-Southern New Hampshire Gas Company, Inc., dated December 12, 1979; after full consideration of the allegations in said motion and after weighing the reasons presented to support said motion, it is hereby

Ordered, that said motion is taken under advisement and reserved until all of the testimony, exhibits, and evidence are presented in this docket.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of December, 1979.

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NH.PUC*12/19/79*[78447]*64 NH PUC 434*Union Telephone Company

[Go to End of 78447]

Re Union Telephone Company

DR 79-120, Supplemental Order No. 13.956

64 NH PUC 434

New Hampshire Public Utilities Commission

December 19, 1979

APPLICATION by a telephone company for authority to increase rates; granted in part.

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1. RETURN, § 26.4 — Cost of equity capital.

[N.H.] Finding that a reasonable return on common equity lies within the range of 13.25 per cent to 13.5 per cent, the commission used the upper portion of this range with an admonition to the company that this was directly linked to an improvement in service. .Pg p. 435.

2. RETURN, § 26.1 — Capital structure — Proposed financing.

[N.H.] A telephone company's proposed, but yet to be issued, common stock sale may not be included in its capital structure for rate-making purposes. p. 435.

3. SECURITY ISSUES, § 111 — Telephone company — REA financing.

[N.H.] A telephone company seeking to embark on a major construction program was advised by the commission to seek Rural Electrification Administration financing for all future debt financings, especially during this period of high prime interest rates. p. 437.

4. RETURN, § 35 — Attrition factor.

[N.H.] A company seeking an attrition allowance in a rate case must not only prove attrition but it must also carry the burden as to quantifying the adjustment. p. 440.

5. RETURN, § 35 — Attrition allowance.

[N.H.] A telephone company was granted a 0.2 per cent attrition allowance rather than a 0.5 per cent allowance as requested, where it failed to carry its burden of proof to justify the requested allowance. p. 440.

6. RATES, § 120.1 — Reasonableness — Test period.

[N.H.] An actual test period adjusted for known and measurable changes was used in a telephone rate case, and a proposal to adopt an estimated test year was rejected, where the commission concluded that the use of an historical test year as opposed to an estimate will allow it to strike a delicate blance between the interests of the company and those of its customers. p. 441.

7. VALUATION, § 17 — Rate base determination — Use of formula.

[N.H.] The commission is not bound to utilize one formula over another in determining a proper rate base for a utility. p. 443.

8. VALUATION, § 25 — Rate base determination — Average figures.

[N.H.] An average of thirteen monthly balances for an historical test year was deemed the most accurate method for calculating a rate base. p. 443.

9. EXPENSES, § 46 — Charitable contributions.

[N.H.] Reasonable charitable expenses have been

traditionally allowed as legitimate operating expenses for rate-making purposes. p. 446.

10. EXPENSES, § 109 — Nonutility operations.

[N.H.] Taxes associated with nonutility operations should be removed from test-year utility taxes for rate-making purposes. p. 446.

11. EXPENSES, § 62 — Liability insurance — Directors and officers.

[N.H.] Liability insurance premiums for directors and officers of a telephone company were allowed for rate-making purposes, although they would be given closer scrutiny in future proceedings. p. 446.

12. EXPENSES, § 92 — Amortization of rate case expenses.

[N.H.] Rate case expenses were amortized over a two-year period for rate-making purposes. p. 447.

13. RATES, § 186 — Reasonableness — Burden of proof.

[N.H.] The burden of proof as to the reasonableness of proposed rates rests with the applicant utility. p. 448.

14. RATES, § 541 — Telephone — Mileage charges.

[N.H.] Mileage charges were eliminated from a telephone company's rate structure. p. 448.

APPEARANCES: Dom S. D'Ambruoso for Union Telephone Company; Harold T. Judd and Gerald L. Lynch for the Legislative Utility Consumers' Council; Representative Jane Sanders, pro se.

BY THE COMMISSION:

Report

This proceeding was initiated by the Union Telephone Company (company) on May 25, 1979. In its petition, the company sought an increase of $110,167. On June 4, 1979, the commission suspended the effective date of the said filing pending investigation (Order No. 13,657). The commission, on June 8, 1979, set forth an order of notice providing for a procedural hearing which was held on June 27, 1979. Representative Jane Sanders, Alton, requested a public hearing to be held in Alton. The commission granted the request and an evening hearing was held in Alton on July 25, 1979. Union Telephone Company filed a petition for temporary rates on June 29, 1979. The commission subsequently issued an order of notice providing for a hearing to be held on July 18, 1979. At the hearing, the company requested temporary rates in the amount of $110,167. The commission in its report and Order No. 13,752, dated duly 25, 1979, allowed temporary rates of $81,169 to be applied to all billings rendered on or after July 31, 1979.

Hearings on the permanent rate increase were held on August 28 and continued on August 29, 1979. Briefs were submitted by the company, the Legislative Utility Consumers' Council (LUCC), and Representative Jane Sanders of Alton. The company near the end of the proceedings and in brief, requests the commission to increase its annual rates by $124,799.

I. Return on Common Equity

A. *Union Telephone Company's Position*

[1, 2] The company contends that it is entitled to a 13.5 per cent return on common equity because it has requested such a return, the LUCC does not object and that staff witness Camfield did not have any difficulty with 13.5 per cent.

B. *LUCC*

The LUCC begins its argument by citing RSA 378:8 for the purpose of showing that the company is under the obligation to carry the burden of proof as

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to its necessary cost of common equity. In doing so, the LUCC argues that the company must apply the criteria of the Bluefield and Hope decisions (citations omitted) as well as the various risk factors that have been recognized by past commission precedent. Re Pennichuck Water Works (1979) DR 79-3.

Applying the aforementioned criteria to the company's presentation, the LUCC concludes that Union Telephone Company has not satisfied its burden of proof and, furthermore, it cannot rely upon the staff presentation of Mr. Cam-field.

C. *Staff Position*

Staff presented Robert Camfield, an economist employed by the commission. Mr. Camfield's analysis of debt-equity ratios and recent staff studies of the electric utility industry led him to conclude that a reasonable return on common equity was in the range of 13.25 to 13.5 per cent for Union. Mr. Camfield found the company's request for a 13.5 per cent return on equity to be reasonable. (Staff Exh C, page 6.)

The evidence submitted by the company in this proceeding as to return on equity is minimal. While company witness Flaherty's presentations in this proceeding were in most instances of a very high caliber, his analysis as to the proper return on common equity failed to properly apply past judicial and administrative decisions.

While the company failed to carry its burden of proof in this matter, the commission is still required under RSA 378:7 to set just and reasonable rates. The analysis performed by Mr. Camfield properly relied on debt-equity ratios as a risk factor, as well as the use of other comparable utility composites previously recognized by this commission. Consequently, the commission finds that a reasonable return on common equity lies within the range of 13.25 per cent to 13.5 per cent.

The commission in attempting to balance the interests of consumers with those of the company will use the upper portion of this range. This finding is based on: (1) Mr. Camfield's analysis; (2) past commission decisions relating to other independent telephone companies. (See Re Kearsarge Teleph. Co. [1977] DR 76-171; Re Chester Telephone [1978] DR 77-116.)

However, the commission places the company on notice that this selection of the upper portion of the reasonable range is directly linked to an improvement in service. The return on equity, which is often given in a range, leads to an overall return which is also in a range. Other commissions have not hesitated to select the lower portion of this range until service to the

consumer is improved. Re Southern Bell Teleph. & Teleg. Co. (Fla 1970) 83 PUR3d 84, 101; Re Southeastern Teleph. Co. (Fla 1970) 85 PUR3d 330, 338. The commission will monitor the company's progress on improving general service. If, after a reasonable period of time, improvements are not forthcoming, the commission will on its own motion and after a hearing revise the overall return granted at this time.

One additional issue has been raised by Union Telephone Company; namely, whether the company's proposed, but yet to be issued, common stock sale should be included in its capital structure for rate-making purposes. The company is awaiting the future of this proceeding before it determines whether it will issue the stock. Counsel for the company cites Re Public Service Co. of

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New Hampshire (1978) DR 77-49 for the proposition that a financing can be included in the capital structure prior to its completion.

The Public Service Company decision did allow the inclusion of a debt instrument with an estimated cost element. However, the commission has traditionally issued only actual cost elements when calculating the overall return for any given company. Decisions both before and after the Public Service Company decision have used actual cost elements rather than estimated. To do otherwise would lead the commission into an area of unfenced speculation. The commission also found compelling reasons in the Public Service Company of New Hampshire case, DR 77-49 (1978), to depart from tradition, which are absent in this proceeding. In the Public Service Company case, the commission found Public Service Company to be teetering precariously on the brink of financial disaster. (DR 77-49, p. 34.) Nothing in this record substantiates any finding that Union Telephone Company is in the same precarious situation.

A further important difference is that the company's stock issuance is still conditional. (See applicant's brief, p. 8.) There is nothing in the record that guarantees the issuance of the stock regardless of the commission decision.

Finally, the financing instrument in this proceeding is one of equity as opposed to debt. ([1978] DR 77-49, pp. 45, 46.) If the commission were to include this additional amount of unissued equity, the company's debt-equity ratio would be changed. The result, a greater percentage of equity, would make the company less risky, and thereby necessitate a finding of a lower cost rate. Re Pennichuck Water Works (1979) DR 79-3, Re Public Service Co. of New Hampshire (1978) DR-49.

Consequently, the commission refuses to pro form the capital structure because of (1) past commission precedent, (2) a desire to avoid speculation, and (3) alterations to the total amount of the capital structure cannot be allowed without also taking into account their effect on the cost rate.

II. REA Financing

A. *REA Financing — Staff Position*

[3] Staff witness Camfield introduced the issue of REA financing into the proceeding. Witness Camfield states that many, if not most, small telephone utilities carry on their books

various amounts of REA debt capital. He finds that REA funds are and have been available at a cost below the market costs of funds when sold privately. Mr. Cam-field concludes his argument by stating that because the company does not use REA funds, it has not pursued a course which would minimize ratepayer costs. (Staff Exh C.)

To remedy the situation, witness Camfield suggests various avenues of action for the commission to consider. The first possibility, a hypothetical rate of return, is rejected by Mr. Camfield. The rejection is based on two rationales: (1) if a utility is very clearly negligent in minimizing costs, then the regulators are simply irresponsible in permitting such excesses; and (2) there may be non-capital costs related to REA funds that negate any cost benefits and that the contracts for REA funds need to be fully examined before it can be found that Union is not minimizing their costs.

The second possibility is to have the commission order Union Telephone

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Company to investigate use of REA funds as to both its upcoming need for capital, as well as for retirement of existing short-term notes. The investigation is to include a balancing of the costs and benefits. Witness Camfield concludes his discussion of the second possibility by suggesting that if Union finds that REA funds have been less costly over time, then the commission should order the company to report the discounted excess revenues paid by ratepayers for the period 1960-78. Witness Camfield recommends the second approach, and his testimony seems to requests an investigation coupled with some unspecified treatment of excess revenues, if REA financing is found less costly.

B. *REA Financing — Company Position*

The company begins its argument by stating that they have not raised the issue of REA financing in the proceeding and, therefore, it should not be an issue in this proceeding. Citing RSA 378, the company makes the distinction that it has requested commission action as to the setting of rates as opposed to RSA 369, which relates to commission approval of financing. The company finds the entire discussion of REA financing to be an academic exercise within the context of this proceeding. Union contends that if the commission wishes to pursue this matter, the next financing hearing would be a more appropriate forum.

The testimony of the company as to REA financing suggests that there may be offsets to the differential in interest rates, as well as other factors that make REA either undesirable or unobtainable. These, according to the company include: (1) initial costs of obtaining REA approval; (2) requirements as to density per route mile; (3) interest after tax coverage of less than 1.5 times; (4) legal expenses associated with changing the debt financing; (5) survey maps; (6) certified annual audit; (7) annual reports; (8) management time involved; and (9) length of time before REA financing could begin.

C. *REA Financing — LUCC Position*

The LUCC contends that a considerable saving could result from the use of REA-RTB funds. In its brief, the LUCC presents tables summarizing their finding as to the use of REA-RTB funds versus debt financing through the Farmington National Bank and various individuals in the

greater Alton area. According to the LUCC, the use of REA-RTB funds would result in a $10,390 annual savings. LUCC concludes its argument by asserting that the company is not minimizing costs to consumers.

D. *Commission Analysis*

To put the question of REA-RTB rates into focus, it is necessary to understand why the REA and the RTB funds were initially made available. According to the 1950 census, only 38.2 per cent of the nation's farms had telephone service, and a considerable portion of this service was inadequate and of low quality. Establishment of the REA telephone program provided a needed source of credit and gave fresh hope to people in rural areas for full telephone coverage with high-quality service.

The REA program, which was later supplemented by the Rural Telephone Bank (RTB), has helped raise the percentage of telephone saturation in rural areas to over 90 per cent. Furthermore, REA specifications for the design

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of telephone equipment are recognized as standard throughout the industry, and construction techniques pioneered by REA have helped keep the cost of telephone service down for all people who live in rural areas.

REA, in addition to helping finance new construction with lower than market interest rates, has been a leader in providing technical assistance and expertise too often unreachable by small, independent telephone companies acting alone. REA's staff of engineering, accounting, and management specialists have been the source of vast improvements in service throughout the United States, including New Hampshire.

Staff witness Camfield testified that the vast majority of independent telephone companies in the United States use REA-RTB financing. In an attempt to determine the validity of this statement, the commission has reviewed its library as to statistics on usage of REA-RTB financing.

The 1978 Annual Statistical Report for Rural Telephone Borrowers reveals that 963 telephone companies in the United States and its territories use REA or RTB financing. Comparisons to similar reference documents from prior years reveal a steady increase in the number of telephone companies, primarily independents, using these relatively low-cost financing devices.

In New Hampshire, independent telephone companies mirror the national picture, in that five New Hampshire independents presently finance either with REA or RTB loans, or both (Chester, Dunbarton, Kearsarge, Merrimack, Meriden). The amount of the loans approved ranges from $638,500 to $5,132,500.

Therefore, both in New Hampshire and in the United States generally, REA-RTB financing is a cornerstone of debt financing by small independent telephone companies.

The company argues that an obstruction to REA-RTB financing arises from the initial costs of obtaining REA approval. These initial costs include survey maps, certified annual audits,

annual reports, management time, and legal expenses associated with changing their mechanism for debt financing. Upon review of these arguments, the commission finds them unpersuasive. The company will be required to spend money for attorney fees to proceed before this commission to increase its debt regardless of whether it seeks REA-RTB or local bank financing. A company this size should be conducting yearly audits. Certainly, prudent utility practice dictates such a procedure. Management time could hardly be better spent than by reducing debt costs to a level responsive to the prime lending rate downwards to a rate slightly in excess of 8 per cent. In a time period where the prime is in excess of 15 per cent, it would be prima facie imprudent for Union Telephone management not to be seeking a lending rate slightly in excess of 8 per cent. The survey maps are not so markedly different from those required by prudent business practice. Furthermore, given the various consumer complaints, these maps would appear justified, REA-RTB financing considerations aside.

The company's contention that the requirements for REA-RTB financing are in all cases tied to density per route mile, and/or interest after tax coverage of less than 1.5 times, do not withstand careful scrutiny. For example, the company states that one of the criteria is a density per route mile of less than three customers. Since Union Telephone claims a density of customers per route

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mile of between nine and 20, the company reaches the conclusion that REA-RTB financing is unobtainable (transcript, p. 2-8).

However, using commission records and the 1978 Annual Statistical Report of Rural Telephone Borrowers, the commission has found the following relevant considerations:

a. New Hampshire telephone utilities using REA-RTB financing have customers per route mile in the range of *seven to 18.01*.

b. Telephone utilities throughout the United States which have used solely REA or RTB financing, or both, have customers per route mile ranging from *0.45 to 45.92*.

c. The independent telephone companies listed in the 1978 Annual Report have customers per route mile at levels throughout the range provided above.

The commission's review of REA-RTB regulations reveals a requirement for interest after tax average of 1.5 times. The New Hampshire Electric Cooperative has been able to achieve this level for a substantial period of time. Those independent telephone companies bound by this requirement have also found the level to be easily obtainable.

Therefore, the commission finds that where the company seeks to embark on a major construction program and where the value of REA-RTB financing has been found to be significant during these times of extraordinary prime rates, the commission will require the company to seek REA-RTB financing for all future debt financings.

III. Attrition

A. *Union Telephone Position*

[4, 5] The company seeks permission to apply a 0.5 per cent attrition allowance. Exh 47 was

offered by the company to support the testimony of witnesses Flaherty and Thayer. The exhibit measures a decline in the earned rate of return over the past eight years. Legal support cited in the company's brief draws from the supreme court's decision in New England Teleph. & Teleg. Co. v New Hampshire (1973) 113 NH 92.

B. *LUCC Position*

The LUCC focuses its contention on the fact that Union Telephone Company has made a substantial number of pro forma adjustments to its test-year expenses. Consequently, the LUCC argues that the Re Pennichuck Water Works (1979) DR 79-3 decision becomes a relevant consideration, in that pro forma adjustments to expenses help mitigate the effects of attrition. The LUCC also contends that alteration of the test year as to rate base will also mitigate the effects of attrition. Consequently, the LUCC requests that the commission deny a portion of the attrition factor requested.

C. *Staff Position*

Staff witness Robert Camfield provided the commission general considerations that should be taken into account in any consideration of attrition. These include: (1) the fact that the job development investment tax credit (JDITC) has a true economic cost to the company of zero; and (2) that flat attrition factors tend to overrecover during the first year and underrecover during the second year.

D. *Commission Analysis*

This case presents some unusual situations. First, this is the first true basic rate case since 1953. The increase allowed in

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1971 was through an informal docket which, for the most part, did not require specific findings as to rate-base expenses, etc. In 1971, the commission's finance director found the cost of capital to be approximately 8.9 per cent and that this figure was close to the overall rate of return that the commission would have allowed. If the commission were to use 1971 as a benchmark for the last found rate of return, this company would have experienced accretion rather than attrition. (See Exh 47 and LUCC request 3 T-1.) However, the commission is also aware that as this company has experienced a growth in cost of capital from 8.9 to 10.36 per cent. This results in an annual growth in the cost of capital of 0.19 per cent.

The commission's treatment of rate base and operating expenses which for the most part updates the test year, will be a considerable offset to attrition. Obviously, another concern is this company's failure to comply with RSA 374:5 as to their actual construction plans over the past six years. Consequently, the commission will continue to implement its policy that a company must not only prove attrition but it must also carry the burden as to quantifying the adjustment. Re Hampton Water Works (1979) DR 79-51, p. 8. Pursuant to this standard the commission finds that the company has not carried its burden as to a 0.5 per cent attrition factor and instead the commission will allow a 0.2 per cent attrition factor.

E. *Overall Cost of Capital Plus Attrition*

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Item	Capitalization Ratio	Cost Rate	Weighted Cost Rate
Common Equity	.3811	13.50%	5.14%
Long-term Debt	.4219	8.35	3.52
Short-term Debt	.1970	8.65	1.70
			10.36%
		Attrition	.20%

IV. Test-year Methodology

A. *Union Telephone Position*

[6] The company seeks an abandonment of the commission's practice of using an adjusted historical test year. Instead, the company proposes an estimated test year containing estimates as to expenses, revenues, and rate base.

The company's first argument relates a forecasted test year to minimizing regulatory lag. The company cites Missouri commission action in two proceedings, which included both historical and projected information. Other cites offered by the company include cases from Florida, New York, and Utah.

The second contention of the company is that the commission is not bound by any set formula. For support, the company cites Legislative Utility Consumers' Council v Public Service Co. of New Hampshire (1979) 119 NH — and New England Teleph. & Teleg. Co. v New Hampshire (1953) 98 NH 211, 99 PUR NS III, 97 A2d 213. Heavy emphasis is accorded the New Hampshire supreme court's language that a test-year methodology is within the commission's discretion, and the entire order must be just and reasonable.

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Finally, the company relies upon Chicopee Mfg. Co. v Public Service Co. of New Hampshire (1953) 98 NH 5, 98 PUR NS 187 93 A2d 820 for the proposition that when the commission sets a rate, that the order must meet the constitutional standards both now and in the future.

B. *LUCC Position*

The LUCC argues that the company's forecasted test year is biased because according to the LUCC, expenses are overestimated and revenues are underestimated. Furthermore, the LUCC challenges the entire concept of projections as being speculative.

C. *Staff Position*

Staff witness Traum has taken the following positions: (1) Expenses should be based on 1978 levels with pro forma adjustments for known increased expenses, such as insurance policies. (2) Revenues should be related to the number of customers as of December 31, 1978, annualized so as to provide recognition of seasonal customers. (3) Rate base should be the average of beginning and end 1978 balances. Mr. Traum's rationale for these positions derives from concern over the principles of matching revenues, expenses, and rate base.

D. *Commission Analysis*

This commission has traditionally rejected an estimated test year as being speculative. Re Manchester Gas Co. (1974) DR 74-70, Re New England Teleph. & Teleg. Co. (1976) DR 75-164, Re Public Service Co. of New Hampshire (1972) 95 PUR3d 401. As the commission noted in New England Telephone: "Future predictions necessarily involve speculation and the commission rejects this approach." (P. 4) In Public Service Co. of New Hampshire, the commission stated the test-year concept as follows:

"A recently past test year serves as a guide for the establishment of rates for the future. Where the test-year experience is not an accurate guide to the future because of *known and certain* changes which will occur, a conservative adjustment should be made." (Emphasis supplied.) (95 PUR3d at p. 437.)

The New Hampshire supreme court by its language has also rejected the concept of an estimated test year. The court stated the test-year concept as follows in Public Service Co. of New Hampshire v New Hampshire:

"The test year is designed to produce an index to the deficiencies in earnings which the companies will probably encounter in the immediate future as indicated by *actual operations* in the *known* and *recent past*. To the extent that test-year figures can be accurately pro formed to reflect *established* and current changes in *revenues* or *expenses*, modification of test-year figures is considered appropriate." (Emphasis supplied.) (1959) 102 NH 150, 30 PUR3d 61, 72, 153 A2d 80.

While the supreme court has afforded the commission wide parameters within which to exercise its judgment, Legislative Utility Consumers' Council v Public Service Co. of New Hampshire III (1979) 119 NH — , the supreme court has never deviated from allowing an actual test period adjusted for known and certain changes. In Legislative Utility Consumers' Council v Public Service Co. of New Hampshire III, cited by the petitioner, the supreme court upheld the commission's use of an actual test year not an estimated one.

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Estimated test years have generally been found to be against the public interest. Re United Illum. Co. (Cone 1974) 7 PUR4th 417; Re Arizona Pub. Service Co. (Ariz 1977) 20 PUR4th 253; Re Hilo Electric Light Co. (Hawaii 1974) 6 PUR4th 195; Re Intermountain Gas Co. (Idaho 1978) 26 PUR4th 442; Re Yelcot Teleph. Co. (Ark 1979) 28 PUR4th 143; Re Upper Peninsula Teleph. Co. (Mich 1979) 28 PUR4th 230; Re Mountain States Teleph. & Teleg. Co. (Colo 1977) 22 PUR4th 516; Re Southwestern Bell Teleph. Co. (Ken 1979) 28 PUR4th 519. Estimated and projected test years result in lengthy discussions as to the accuracy of projections which leads a proceeding into the realm of speculation rather than addressing the validity and prudence of recent actual results.

The company in this proceeding has failed to carry its burden (RSA 378:8) as to the adoption of an estimated test year. The commission has chosen to adjust actual figures for known and measurable changes. The use of an historical test year as opposed to an estimate will allow the commission to strike that delicate balance between the interests of the utility and those of its consumers.

V. Rate Base

A. *Union Telephone Position*

[7, 8] The company's position as to rate base is summarized by their Exh No. 4, which requests the commission to average the actual balance as of December 31, 1978, with an estimated balance as of December 31, 1979. The company supports its position with a rationale similar to that put forth to justify its proposed alteration to the test year.

B. *Staff Position*

Staff witness Kenneth Traum urges the commission to adopt a 1978 average rate base as consistent with commission precedent. The rationale is that this method more properly matches revenues, expenses, and plant investment. Mr. Traum criticizes the company's approach as speculative.

C. *LUCC's Position*

The LUCC reiterates many of the concerns of staff. Namely, that the company's approach is subject to errors of prediction. Further argument by the LUCC goes to the passage of RSA 378:30-a, which prohibits the inclusion of construction work in progress in the rate base. Legislative Utility Consumers' Council contends that an estimated rate base, which includes consideration of elements still under construction, is a direct violation of this recently passed statute.

The LUCC in the spirit of offering solutions offers a compromise whereby the commission would update the test year to an average of the beginning balance as of June 30, 1978, and the ending balance of June 30, 1979, the latter data being submitted pursuant to the temporary rate request.

D. *Commission Analysis*

The most accurate method for calculating rate base is an average of 13 monthly balances for an historical test year. This approach provides for the most accurate matching of revenues, expenses, and investment. Other reliable methods include quarterly averages and an average of beginning and ending test-year balances. A public utility commission

is not bound to utilize one formula over another in determining a proper rate base for a utility. Providence Gas Co. v Burman (1977) — RI — , 22 PUR4th 103, 376 A2d 687.

The commission has never adopted an estimated rate base as standard operating procedure. Nor has the petitioner in this proceeding set forth adequate reasons why such approach should be adopted in this proceeding. The commission can ill afford to be involved in questions of speculation as to future additions to rate base.

Construction plans are too easily altered by circumstances both within and outside the control of a utility's management. Union's submission in this proceeding does not provide any protection for such alteration. Union's evidentiary submission consists of a 1979 projected rate base and a 1980-85 estimated construction. Union's failure to comply with RSA 374:5 over the

past six years has left the commission with no records to test the accuracy of the company's projections. This company would be well advised to file the appropriate documents required by RSA 374:5.

Finally, RSA 378:30-a effectively precludes estimates to be added to rate base. Otherwise, the commission would be in essence allowing construction work in progress into the rate base or quite possibly potential construction work in progress.

Therefore, the commission rejects the company's approach as being: (1) against commission precedent; (2) lacking evidentiary support; and (3) contrary to RSA 378:30-a.

Staff's presentation is reliable and would have been accepted had these proceedings not concluded so near the end of 1979. When, as here, the commission has reliable information for a more recent time period, and where there was an opportunity for all parties to proceed with full discovery and cross-examination, the commission can achieve a more reasonable rate base by using the more recent data. Consequently, the commission will adopt an average of the beginning rate base as of June 30, 1978, and the ending rate base as of June 30, 1979. To arrive at the base calculation as of June 30, 1978, the commission will adopt an average of the figures submitted for beginning and end 1978.

Therefore, the commission finds the following as the proper rate base for use in this proceeding.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

UNION TELEPHONE COMPANY

RATE BASE

Telephone Plant In Service
Less: Depreciation Reserve

Net Average Plant

Working Capital
Deferred Income Taxes and
Deferred ITC
Customer Deposits
Materials and Supplies
12.5% Cash Expenses

Average

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VI. Operating Expenses

A. *Union Telephone Position*

Union Telephone, in its brief, relies upon *Priest and Welch* for the proposition that while a utility has the burden of proof to establish the reasonableness and propriety of the claimed operating expenses, that testimony and exhibits based on the established records of the company are prima facie proof of the legitimacy of such expenses. Furthermore, Union relies on the

statement of the Alabama supreme court that operating expenses incurred should be accepted as reasonable, unless they are found to be exorbitant, unnecessary, wasteful, extravagant, or incurred in the abuse of discretion, or in bad faith, or of a nonrecurring character not likely to recur in the future.

B. *LUCC Position*

The LUCC challenges a variety of the company's pro forma adjustments to test-year expenses on the basis that they were neither substantiated, known, nor measurable. These include the 7.5 per cent inflation factor shown on Exhs 15, 16, and 17, estimated increases in New Hampshire property taxes, consulting fees as shown on Exh 20, expenses related to new IBM equipment, liability insurance for directors and officers, and the amount of compensation payment to the president of Union Telephone.

C. *Staff Position*

Staff witness Kenneth Traum expressed difficulty with some of the company's pro forma adjustments to expenses. His first area of concern related to the company's estimate for New Hampshire state property taxes. The second area of his concern related to federal income taxes. Basically, Mr. Traum believes that the company has applied a tax factor that underestimates the required revenue on one hand and also is concerned that the state and federal income tax shown for the company reflect nonutility operations. Mr. Traum's third area of concern relates to a growth of 13 per cent in the company's officers' salaries over a one-year period, which Mr. Traum finds to be in violation of the 7 per cent wage increase ceiling recommended by President Carter. Other concerns expressed by staff through both Mr. Traum and cross-examination relate to the 7.5 per cent inflation factor applied by the company in Exhs 15, 16, and 17, the amount of depreciation expenses pro formed and expenses related to the purchase of new IBM equipment.

D. *Representative Sanders' Concerns*

Representative Sanders argues that the directors' and officers' policy has no benefit to the ratepayer and should be borne by the stockholder; i.e., below the line. Other challenges expressed by Representative Sanders in her brief relate to the amount of charitable contributions provided by the company, the legal and professional fees, the association dues, consulting fees, and executive salaries. Finally, the advent of ESS is argued as improving reliability and thus causing downward adjustments to maintenance accounts.

E. *Commission Analysis*

The commission, after considering the arguments of all parties, as well as all documents and testimony provided in

this proceeding, reaches the following conclusions as to operating expenses.

1. The pro forma adjustment of 7.5 per cent to the company's Exhs 15, 16, and 17 are not allowed as being known, measurable, or substantiated. Many of the same considerations that the commission has in rejecting an estimated test-year expense also relate to this pro forma adjustment by the company. Furthermore, under the company's criteria, this adjustment does not

come from established records of the company.

[9] 2. Reasonable charitable expenses have traditionally been allowed as legitimate expenses to be charged to the ratepayer by this commission. Re Public Service Co. of New Hampshire (1978) DR 77-49. It has been the position of the commission that the company must contribute to the community within which it serves, and that by contributing to charitable organizations, there is a direct benefit to both the ratepayer and the company.

3. Salaries to corporate officers is a classification to be considered within the wage guidelines initiated by President Carter. The Council on Wage and Price Stability has been extremely critical of public utilites commissions for not enforcing these controls on both wages and prices allowed utilites. The commission is sensitive to the fact that increased rates for utility service permeates all aspects of states', as well as a nation's, economy. Many times these increases can further increase rather than reduce the increase in the inflationary spiral. Consequently, the commission will accept staff's recommendation as to an adjustment in the expenses paid the officers of Union Telephone. This reduces expenses by $4,560.

4. The commission refuses to accept any adjustments based on estimated taxes because of its experience in Re Concord Electric Co. (1978) DR 77-142 and Re Concord Nat. Gas Co. (1978) DR 78-96. In both of these cases, despite trends similar to those put forth by both staff and the company, actual property taxes for the year following the test year are substantially lower than for the test year. The commission has traditionally rejected the use of estimated property taxes and instead has opted for property taxes actually incurred. If Union has actual property tax bills that reflect increased property taxes from the test year, the commission will consider this evidence in a separate hearing. This reduces the pro forma adjustments by $4,137.00.

[10] 5. The taxes associated with non-utility operations should be removed from test-year utility taxes. This $503 adjustment is consistent with the commission's decisions in Re Concord Electric Co. (1978) DR 77-142 and Re Concord Nat. Gas Co. (1978) DR 78-96.

6. The amount of depreciation expenses will reflect the amount requested by the company of $166,988, annualized $174,011.

[11] 7. The liability insurance for directors and officers will be allowed in this proceeding. However, it will be given closer scrutiny in future proceedings.

8. Pursuant to commission staff cross-examination, the company agreed that $1,296 of its $8,113 pro forma for new IBM equipment should be removed from rate case consideration. Since all parties agreed, the adjustment proposed by the company will be reduced by $1,296.

9. The company has not established records to justify the $3,600 payment to James Thayer, Sr. (transcript, p. 107). The company does not either keep track of his hours or the duties he performs. The commission believes that: (a) this

expenditure was called into question, and (b) the company provided no records to substantiate the charge; however, there was testimony that the work was performed. The commission will disallow one-fourth.

10. The $503 increase in legal expenses due to the rate case has already been recognized in the company's rate case expense submission. If this adjustment were allowed, there would be a double recovery.

VII. Rate Case Expenses

A. *Union Telephone Position*

The company seeks rate case expenses in the amount of $12,811.01 to be recovered over a two-year period. The company relies on New Hampshire v Hampton Water Works (1941) 91 NH 278 39 PUR NS 15, 19 A2d 435.

B. *LUCC Position*

The LUCC cites a letter from the counsel for the company where the counsel refers to the president of Union Telephone as his client. The LUCC contends that a further breakdown of the legal fees is necessary so as to ascertain which expenses are associated with representation for the case and which relate to the personal representation of the president of Union Telephone Company.

C. *Commission Analysis*

The commission does not find any validity to the LUCC claim that a further breakdown of legal expenses is justified. Where a utility is in essence owned by an individual or a family, it is hard to separate the individual or family from the company. The letter relied upon by the LUCC, while using the term "my client," relates to matters that were raised during the course of this proceeding. Consequently, the commission finds that the proper rate case expenses for this proceeding are $12,811 (rounded to the nearest dollar).

[12] As to the time period in which these expenses are to be amortized, the commission will adopt a two-year period. While it is true that the commission is not required to examine any utility rate request that is submitted within two years, it has also been twenty-four years between basic rate increases for this company. Consequently, the company's rate case expenses of $12,811 will be amortized over a two-year period.

Representative Sanders in her brief poses the question of whether rate case expenses should be charged solely to the company. However, the treatment of reasonable rate case expenses has been properly cited by petitioner's counsel through his reference to New Hampshire v Hampton Water Works (1941) 91 NH 278 39 PUR NS 15, 19 A2d 435. The supreme court has clearly recognized that rate case expenses are a proper charge to be assessed against the ratepayers.

VIII. Operating Revenue

A. *Union Telephone Position*

The company seeks an estimated revenue change of $88,697 based on identifiable increases in local and toll service revenues.

B. *Commission Analysis*

The commission will allow an $88,697 adjustment to revenues.

IX. Revenue Requirement

[Graphic(s) below may extend beyond size of screen or contain distortions.]

December 31, 1978 Net Utility Operating Income		$157,958	
Pro Forma Adjustments			
Revenue Adjustment	88,697		
Company Proposed Pro Forma Adjustments	(67,709)		
7.5% Inflation Factor Removal	3,447		
Salaries to Officers	4,560		
Depreciation	(7,023)		
Nonutility Operations — Taxes	503		
IBM Adjustment	1,296		
Consulting Fees	900		
Rate Case Expense (1)	503		
Rate Case Expense (2)	(6,406)		
Total Adjustments		18,768	
Federal Income Tax Adjustment		1,032	
Net Income Adjustment		19,800	
Pro Forma NOI			$177,758
Rate Base		$2,052,027	
		10.56%	
Required Net Operating Income		216,694	
Less Test-year Operating Income		177,758	
Required Increase NOI		38,936	
Income Tax Adjusted		39,438	
Required Increase		78,374	

The commission in an attempt to improve service will allow an additional 0.3 per cent attrition factor to be applied to rates one year from the date of this order.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Rate Base	$2,052,027
	10.86%
Required NOI	222,850
Test Year NOI	177,758
Required Increase NOI	45,092
Income Tax Adjusted	45,673
Required Increase	90,765

The commission will allow the rates of the company to increase this $12,391 one year from today.

X. Mileage Charges

A. *Description*

[13, 14] In the Union Telephone service area, mileage charges are applied to customer bills when the customer is located outside the base area, which for all exchanges except Alton is a one-mile circle from the central office. In Alton-Alton Bay, the base area is approximately two miles from the central office. The existing rate for one-party service is 80 cents per month for each quarter mile from the base area with a maximum of $8 per month. The existing mileage charge for four-party service is 25 cents per quarter mile, again with a maximum of $8.

(Transcript — July 25, 1979, pp. 10, 11.)

B. *Company's Position*

Union Telephone requests that the

commission not consider the issue of mileage charges in this proceeding. The company offers the following arguments: First, the company did not raise mileage charges as an issue. Second, that there is an absence of financial information relating to mileage charges in the record. Third, that the company is examining a plan whereby it would gradually phase out mileage charges; however, time and money must be devoted to the plan before implementation. Finally, the company argues that the elimination of mileage charges would result in four-party service and thereby necessitate the expenditure of additional dollars for equipment to upgrade service to one-party service. C. *Staff Position*

Staff witness Partan believes that the elimination of mileage charges should be considered very vigorously by the company's management. Mr. Partan refers to three 1979 commission decisions that have eliminated mileage charges. Mr. Partan went on to testify that elimination of the mileage charges would provide a saving in billing and computer expenses, as well as a positive approach to consumer concerns. Mr. Partan also believed that the density study should be completed. D. *LUCC Position*

The LUCC contends that mileage charges should be eliminated because there are no records indicating how these rates were established. In addition, the LUCC cites a quote by company counsel recognizing that mileage charges are no longer justified and should be eliminated. E. *Comments by Others*

Representative Jane Sanders, who filed a limited appearance and brief, also urges the elimination of the mileage charges. Representative Sanders indicates that 45 per cent of Union Telephone's customers pay this surcharge without any justification. At the public hearing held in Alton, other Union Telephone customers expressed concern over mileage charges. Bud Gray of Alton Bay complained that mileage charges, together with existing basic rates, bring his telephone bill up to $17 without any consideration as to toll calls. Objections to mileage charges were also raised by Judith Peverlay, Ed Sturpel, Forest Hilton at the public hearing. George Schmidt of Alton Bay wrote the commission expressing his concern as to mileage charges. Mr. Schmidt indicated that where he lives he must pay $15.90 for basic service, of which over half is for mileage charges. David Munroe, Pauline Tilton, Elizabeth Nystedt, Aloha and William Cameron, and Darlene Starr have all written to the commission with complaints related to mileage charges.

The burden of proof as to any charge levied upon consumers rests with the applicant utility. RSA 378:8. Furthermore, RSA 378:10 and 11 do not allow a utility to give undue preference to any person, corporation, locality, or particular description of service unless the company can prove that the lack of uniformity is just and reasonable.

In this proceeding, Union's mileage charges were called into question by staff, the LUCC, Representative Sanders, and various customers of the company. A review of the company's files

revealed that there were no records to substantiate these charges. (Transcript, p. 109.) Furthermore, there are no

studies or supporting workpapers to substantiate the continuation of these charges (transcript, p. 109); nor any record as to why these charges were established in the first instance. (Transcript, p. 110.) There is simply no evidence to substantiate the continuation of these charges.

In addition to the total absence of evidence upon which to base these charges, there is also a question of discrimination. The record reveals that some people in the Union Telephone area are presently paying double the basic rate for basic service. Mr. George Schmidt, who wrote to the commission, is a case in point. If Mr. Schmidt opted for a one-party line, his monthly bill for basic service would be $7.90 basic rate plus an additional $8 for mileage charges, or a total of 515.90. Another residential one-party customer living in the same town, but closer to the company's headquarters, would pay only the $7.90 basic rate. Such a disparity is clearly discriminatory.

The commission finds no comfort in the company's request to study the situation. Such a study would result in an expenditure of money and time, which would ultimately be passed on to the ratepayer. Nor does the commission find any validity in the company's arguments that an elimination of mileage charges will result in an outcry for upgrades in service. Contrary to the company's assertion, one-party service without mileage charges is still more expensive than four-party service without mileage charges. Requests for upgrades are continually made by customers. The company will satisfy these requests in a reasonable fashion, and the commission finds little, if any, relationship between upgrades and mileage charges.

Finally, as was indicated by staff witness Partan, the commission has been eliminating these charges throughout the New Hampshire telephone network. Re Kearsarge Teleph. Co. (1979) Order No. 13,626; Re Dunbarton Teleph. Co. (1979) Order No. 13,644; Re Continental Teleph. Co. of New Hampshire (1979) Order No. 13,692. In addition, New England Telephone has eliminated mileage charges from almost every locality it serves. While approximately 35 towns still have mileage charges, the number is being reduced at a rapid rate.

The basic rate for one-party residential service in the service territories served by the aforementioned telephone companies is as follows: Kearsarge ($6.60 a month), Dunbarton ($7 a month), Continental ($10.25 a month), New England Telephone ($7 to $10.90 a month). A continuation of a monthly charge on certain customers of $15 while others on that system, as well as others throughout the state, are paying between $7 and $10 is simply unjust, unreasonable, and discriminatory. Therefore, all mileage charges are hereby eliminated from the allowable charges to be imposed on Union Telephone customers. This revenue is to be recovered from basic service revenues. Our order will issue accordingly. Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that mileage charges are eliminated; and it is

Further ordered, that the rates of the company will be increased permanently by 878,374; and it is

Further ordered, that the difference by the permanent increase and the temporary increase will be the subject of a supplemental order; and it is

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Further ordered, that the rates on December 19, 1980, will be allowed to increase by the amount of $12,391.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of December, 1979.

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NH.PUC*12/20/79*[78448]*64 NH PUC 451*Granite State Electric Company

[Go to End of 78448]

Re Granite State Electric Company

DE 78-111, Second Supplemental Order No. 13,957

64 NH PUC 451

New Hampshire Public Utilities Commission

December 20, 1979

PETITION to establish service territories; granted with exception.

MONOPOLY AND COMPETITION, § 28 — Establishment of service territories — Territorial agreements.

[N.H.] Limited service areas were established for electric companies pursuant to agreement, where the areas established reflected current conditions in the territories involved and were considered to be compatible with the interests of all consumers, and all other relevant factors.

APPEARANCES: Norman B. Dobson for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of the 1977 session laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service

territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. RSA 374:22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, Granite State Electric Company (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition consisting of numbered town maps showing service territories for which commission authorization is being

sought. The date of filing and the towns involved are as follows:

June 29, 1979 — Canaan (36) and Charlestown (42).

A duly noticed public hearing was held on December 14, 1979, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing.

At the hearing, the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate, along with other New Hampshire electric utilities whose territorial boundaries may not be precisely defined, the proposed service territories have been established on maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a.

In the town of Canaan it was necessary to establish a joint service territory for a small section of the town to be served by both Granite State Electric Company and New Hampshire Electric Cooperative, Inc., because the distribution facilities were so intertwined or co-mingled as to make establishment of exclusive territories impractical. Service in this area shall be rendered subject to the conditions set forth in RSA 374:22-c.

The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers, and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

This application has been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission, and completes the requirements for the present under Chap 304 of the 1977 session laws for this company.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory maps filed with the applications are, with the exception noted for the town of Canaan, established as the exclusive service territories as of this report. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories, except as noted, of Granite State Electric Company as follows:

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Canaan (36)[1(1)] and Charlestown (42); and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twentieth day of December, 1979.

FOOTNOTE

[1]Includes a joint service territory in which New Hampshire Electric Cooperative, Inc., is also authorized to serve.

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NH.PUC*12/21/79*[78449]*64 NH PUC 453*Connecticut Valley Electric Company, Inc.

[Go to End of 78449]

Re Connecticut Valley Electric Company, Inc.

DE 79-216, Order No. 13,958

64 NH PUC 453

New Hampshire Public Utilities Commission

December 21, 1979

PETITION to establish service territories; granted.

MONOPOLY AND COMPETITION, § 28 — Establishment of service territories — Territorial agreements.

[N.H.] Limited service areas were established for electric companies pursuant to agreement where the areas established reflected current conditions in the territories involved and were considered to be compatible with the interests of all consumers, and all other relevant factors.

APPEARANCES: James A. Selleck for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of the 1977 session laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sales of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. RSA 374:22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

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In the case at hand, Connecticut Valley Electric Company, Inc. (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition consisting of numbered town maps showing service territories for which commission authorization is being sought. The date of filing and the towns involved are as follows:

December 7, 1979 — Bath (17), Cornish (53), Hanover (108), Lyman (144), Plainfield (194), and Unity (240).

A duly noticed public hearing was held on December 14, 1979, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing, except as noted below for the town of Bath.

At the hearing the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps, except for the town of Bath. Public Service Company of New Hampshire, who serves in a limited area in the town of

Bath, had found that the proposed service boundary did not properly reflect actual conditions now prevailing, and both companies agreed to make a joint field check of the area in question so as to determine any changes necessary to establish a proper service territory boundary. So much of the petition as relates to the town of Bath will be dismissed, subject to refiling a new town map for Bath at a later date.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate, along with other New Hampshire electric utilities whose territorial boundaries may not be precisely defined, the proposed service territories have been established on maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a.

The areas established reflect current conditions in the territories involved and are considered to be compatible with the interest of all consumers, and all other relevant factors. No customer transfers are involved in the establishment of those service territories.

These applications have been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the applications are established as the exclusive service territories as of this report. Our order will issue accordingly.

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Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories of Connecticut Valley Electric Company, Inc., as follows:

Cornish (53), Hanover (108), Lyman (144), Plainfield (194), and Unity (240); and it is

Further ordered, that so much of the petition as relates to the map of the town of Bath (17), be, and hereby is, dismissed, subject to the condition that a new map for Bath will be filed at a later date; and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of December, 1979.

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NH.PUC*12/21/79*[78450]*64 NH PUC 455*Concord Electric Company

[Go to End of 78450]

Re Concord Electric Company

DE 79-215, Order No. 13,959

64 NH PUC 455

New Hampshire Public Utilities Commission

December 21, 1979

PETITION to establish service territories; granted.

MONOPOLY AND COMPETITION, § 28 — Establishment of service territories.

[N.H.] Limited service areas were established for electric companies pursuant to agreement where the areas established reflected current conditions in the territories involved and were considered to be compatible with the interests of all consumers, and all other relevant factors.

APPEARANCES: Vernon E. M. McFarland for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of the 1977 session laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area.

RSA 374:22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, Concord Electric Company (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition consisting of numbered town maps showing service territories for which commission authorization is being sought. The date of filing and the towns involved are as follows:

November 14, 1979 — Boscawen (26), Concord (51), Dunbarton (69), Salisbury (208), and Webster (248).

A duly noticed public hearing was held on December 14, 1979, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing.

At the hearing, the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers, and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

These applications have been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the applications are established as the exclusive service territories as of this report. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories of Concord Electric Company, as follows:

Boscawen (26), Concord (51), Dunbarton (69), Salisbury (208), and Webster (248); and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated

places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of December, 1979.

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[Go to End of 78451]

Re Littleton Water and Light Department

DE 79-144, Order No. 13,960

64 NH PUC 457

New Hampshire Public Utilities Commission

December 21, 1979

PETITION to establish service territories; granted.

MONOPOLY AND COMPETITION, § 28 — Establishment of service territories.

[N.H.] Limited service areas were established for electric companies pursuant to agreement where the areas established reflected current conditions in the territories involved and were considered to be compatible with the interests of all consumers, and all other relevant factors.

APPEARANCES: I. Merle Burke for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of the 1977 session laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area.

In the case at hand, Littleton Water and Light Department (hereinafter called the petitioner), a municipal department duly organized and existing under the laws of New Hampshire and

operating as a public utility engaged in the distribution and sale of electrical energy outside its own municipal limits, in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition on May 29, 1979, consisting of numbered town maps outlining it service territories, as follows: Bethlehem (25) and Lisbon (137).

A duly noticed public hearing was held on December 14, 1979, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing. At the hearing, I. Merle Burke, service territory representative of New

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Hampshire Electric Cooperative, Inc., an electric utility operating adjacent to the petitioner, testified on behalf of the petitioner, to the effect that he had been asked by the petitioner to assist in the preparation of the maps filed by the petitioner, and had done so; and that the limited territories for which authority was requested were exactly the same as had been granted by earlier commission orders. Mr. Burke's testimony was accepted as a result of earlier telephone approval for Mr. Burke to testify on behalf of the petitioner.

The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers, and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

This application has been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the application are established as the exclusive service territories as of the date of this report. Our order will issue accordingly. Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories of Littleton Water and Light Department, as follows:

Bethlehem (25) and Lisbon (237); and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of December, 1979.

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NH.PUC*12/21/79*[78457]*64 NH PUC 467*Public Service Company of New Hampshire

[Go to End of 78457]

Re Public Service Company of New Hampshire

DR 79-187

64 NH PUC 467

New Hampshire Public Utilities Commission

December 21, 1979

APPLICATION by an electric company for an emergency rate increase; granted.

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1. RATES, § 631 — Emergency rates — Financing problems.

[N.H.] By past commission precendent, statute RSA 378:27 is a mechanism whereby a public utility can obtain a rate increase if it can demonstrate that access to the permanent capital markets is being influenced by its inability to earn a reasonable return p. 471.

2. RATES, § 631 — Emergency rates — Financing problems.

[N.H.] The state emergency rate statute, RSA 378:9, has been recognized as a vehicle whereby a public utility demonstrating a lack of avenues to the permanent financing markets can receive an increase in rates. p. 471.

3. RATES, § 630 — Emergency rates — Effect of hearing.

[N.H.] A public utility's request for an emergency rate increase does not lose its character as an emergency simply because the matter is set for public hearing. p. 471.

4. RATES, § 634 — Emergency rates — Burden of proof.

[N.H.] A public utility seeking emergency rate relief has a heavy burden to establish the existence of circumstances which would warrant departure from the normal rate-making process, and that burden bears more heavily upon an applicant in a request for extraordinary rate relief than in a normal rate case. p. 472.

5. RATES, § 634 — Emergency rates — Burden of proof.

[N.H.] The evidence submitted by an applicant for emergency rate relief must clearly and convincingly demonstrate that a situation exists which warrants an exercise of the commission's emergency powers, since in such a case, the commission does not have the benefit of a complete independent analysis by its staff on the financial posture of the utility. p. 472.

6. RETURN, § 26.4 — Cost of equity capital.

[N.H.] A 15.3 per cent return on common equity of an electric company involved in a large construction program was deemed reasonable during this period of recession high interest rates, falling stock market and inflation. p 472.

7. RATES, § 631 — Emergency rates — Financing problems.

[N.H.] An electric company was granted an emergency rate increase where the commission was satisfied that without the increase the company would not be able to sell its securities or to finance its construction program or its day-to-day operations. p. 472.

8. VALUATION, § 224 — Rate base items — Construction work in progress.

[N.H.] The statute as well as its title relating to rate base exclusions clearly indicates that the legislature intended to exclude construction work in progress from a public utility's rate base. p. 474.

9. RATES, § 630 — Emergency rates — Effect of utility management.

[N.H.] Emergency rate relief depends on the needs of the applicant rather than on questions relating to the methods and practices of the company and its management. p. 475.

10. DIVIDENDS, § 2 — Commission jurisdictions and powers.

[N.H.] The commission lacks the authority to dictate the dividend policy of a public utility since the company and its investment bankers must decide what is necessary for its stock to be attractive to investors. p. 475.

11. APPORTIONMENT, § 1 — Cost allocation — Emergency rate case.

[N.H.] Because of the expedited nature of temporary and emergency rate proceedings rates must be established without in-depth allocations of costs, and the allocations chosen by the commission in such

proceedings do not necessarily control when fixing permanent rates. p. 475.

12. RATES, § 630 — Emergency rates — Rate design.

[N.H.] Emergency electric rates were ordered to be placed on a per kilowatt-hour basis within each customer class of service, except for controlled water heating service and high pressure sodium outdoor light service. p. 475.

APPEARANCES: Martin Gross, Franklin Hollis, and Philip Ayers for the company; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council; Gerald Eaton for Community Action Program; Captain Jefferson M. Shaffner for the U. S. Air Force and General Services Administration.

BY THE COMMISSION:

Report

On November 27, 1979, the Public Service Company of New Hampshire, an electric utility company, filed an application or authority to alter existing rates on account of emergency circumstances to produce an annual increase of revenues of 5.5 per cent in the amount of $11,970,591 or 7.5 per cent over the present base revenues computed in accordance with Tariff No. 22 but exclusive of the fuel adjustment charge. The application is filed pursuant to RSA 378:9, or in the alternative RSA 378:27 or 29.

On November 29, 1979, the commission issued an order of notice providing for a public hearing on this application to be held on December 11, 1979, and for publication of said notice.

The notice was duly published and the hearings were held on December 11, 12, 13, and 14, 1979.

The company presented testimony from Robert J. Harrison, vice-president and chief financial officer of the company, William Q. Harty, vice-president and the head of the public utilities department of Morgan Guaranty Trust Company, and Eugene W. Meyers, vice-president of the Kidder Peabody Company, Hanover Square, New York, New York.

The commission requested the testimony of Jonathan D. Horne of the First National Bank of Boston and Philip H. McLaughlin of Shawmut National Bank of Boston.

The Legislative Utility Consumers' Council (hereinafter called the LUCC) presented testimony of Professor J. Peter Williamson of Dartmouth College.

Various members of the public and representatives of consumer groups gave oral or written statements to the commission.

I. *Position of the Parties*

A. Position of Public Service Company

Public Service Company of New Hampshire (hereinafter referred to as the company or PSNH) contends that without an increase in the basic rates it will no longer be able to sell long-term securities nor will it be able to finance its construction or its day-to-day operations. This inability to meet its obligations is cited as confronting PSNH with immediate and substantial financial disaster both as to the completion of Seabrook and the continuation of PSNH as a corporate entity.

Public Service Company of New Hampshire in its memorandum states that it has carried its burden under both RSA 378:9 (emergency) and RSA 378:27 and 29 (temporary). The company cites the commission's attention to

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Re Public Service Co. of New Hampshire (1951) 97 NH 549 and Re Concord Electric Co. (1974) DR 74-1 for support of its contention that under either RSA 378:9 or 27, an inability to finance its capital requirements is a sufficent ground for relief.

Public Service Company fo New Hampshire relies upon evidence submitted in this proceeding for the proposition that it has made a good faith effort to reduce its cash demands. The company charges that the failure to reduce these cash demands cannot be laid at the company's doorstep given the appeals taken by other parties to this proceeding.

The problems the company faces are delineated in their memorandum as follows: (a) the need to raise $290 million by December 31, 1980, (b) the term loan is up for renewal. (c) access to the short-term credit market has been curtailed, (d) common stock access is limited, (e) general and refunding bonds are not a possiblity at this time, and (f) only limited amounts of preferred stock could be issued.

Public Service Company of New Hampshire contends that alternatives to the surcharge are not feasible or an adequate replacement for rate relief. The company indicates that regulatory approvals which reduce PSNH ownership in Seabrook to 35 per cent will not solve the problem

since 28 per cent is the level that is manageable by the company. Other alternatives such as shutting down construction or altering the scheduled completion dates are also rejected by the company as being both against the public interest and of little value in solving inadequate cash flow. The company concludes that only through a surcharge can these problems begin to be resolved.

Public Service Company of New Hampshire takes exception to the contention that the requested rate relief is a departure from cost-of-service principles. Supporting this position, the company cites, that cost of service includes not only a utility's cost of operation but also its cost of capital. That further, this cost of capital is not to be determined solely in terms of return on amounts invested in plant actually in service.

The company finds solace and support for its contentions as to cost-of-service principles in LUCC witness Williamson's testimony. If Proffesor Williamson finds a 4.2 to 6.2 per cent increase necessary under a narrow concept of cost of service, the company contends its 5.5 per cent is clearly justified.

Finally, the company contends that while it has submitted a variety of proposed rate structures to the commission, it believes its original filing to be the strongest. However, the company will accept the method the commission finds appropriate.

B. Position of LUCC

The LUCC objects to the company's application and sets forth a number of arguments for the consideration of the commission.

The first argument is that the application discussed costs that are associated with the company's uncompleted construction at Seabrook, and are, thus irrelevant to the establishment of rates whether they be interim, temporary, emergency, or otherwise. Legislative Utility Consumers' Council takes the position that the level of rates and charges to be assessed by PSNH may not be based on any manner on the cost of construction work in progress; nor may the level of rates and charges be based upon any costs *associated* with construction work if said construction work

is not completed. To do so would violate the language of RSA 378:20-a.

The second argument advanced by the LUCC is that emergency rates should be denied because it is unlikely that PSNH will be able to substantiate an increase of 5.5 per cent over their current levels of revenues in the hearings concerning rate relief requested by PSNH. This contention basically alleges that PSNH cannot meet the burden of proof necessary to justify a rate increase of any kind in light of the fact that they cannot show that they can maintain their present level of revenues. In this context the LUCC also suggests that the commission should not grant the company's request to fully normalize its income tax accounts.

The third contention of the LUCC is that there is no testimony that the requested increase will avert the crisis. Legislative Utility Consumers' Council sets forth that it would be an abuse of discretion to grant an increase without evidence of a permanent financing package designed to allow PSNH to continue construction of Seabrook on schedule, at its current level of ownership.

Generally, the LUCC alleges that the company has not pleaded a factual basis for the granting of emergency rate relief and if such relief were granted a bond should be required to protect residential consumers.

C. Position of Community Action Program

The Community Action Program (CAP) sets forth a number of considerations for the commission to evaluate in arriving at a decision in this proceeding. The first concern expressed by CAP is if the commission finds that an emergency exists, the commission should not allow a rate increase without a concomitant effort by Public Service Company. Community Action Program views the additions of personnel for purposes of construction monitoring and the possibility of increased dividends to stockholders as unreasonable if consumers are asked to pay higher rates to relieve an emergency.

The second contention put forth by CAP is that Public Service has simply not carried its burden of proof pursuant to RSA 378:8. In addition, CAP alleges that the emergency, if it exists, relates directly to financing construction costs, generating cash for construction and preventing default on lending agreements for construction. Therefore, CAP contends that this expense of construction financing is directly prohibited from being passed on to the ratepayer by RSA 378:30-a.

The third concern expressed by CAP is that the commission must first determine if there is a crisis of sufficient severity to warrant relief and then determine the extent of the relief. Re Public Service Co. of New Hampshire (1951) 97 NH 549 — Blandin opinion. Community Action Program alleges that even if there is an emergency, the emergency rate request will not cure the financial difficulties faced by the company. Community Action Program alleges that there is a significant probability that many of the company's plans will not bear fruition in 1980, thus worsening the emergency. Among those cited by CAP are: (1) sale of the Vermont facilities; (2) the approval of the divestiture by other regulatory bodies; (3) the refusal of the various banks to provide assurances that the loans will be renewed or extended; (4) the nuclear fuel agreement will occur; and (5) that a renegotiation of the unit sale of power from Merrimack II will be successful.

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Community Action Program points to the fact that many of its clients face emergencies of their own. If these people are faced to part with a portion of their limited resources, CAP contends that there is no assurance that the company will succeed in remaining stable during 1980, or that there will not be further requests.

Community Action Program's fourth contention is that temporary rates cannot be granted because of the failure to adequately inform the public that temporary rates would be addressed.

Community Action Program's final concern is that if the commission ignores CAP's other concerns and finds an emergency, the rates granted should be applied on a per kilowatt-hour basis.

II. *Statutory Concerns*

A. Temporary Rates

[1] The commission has in this proceeding provided adequate notice to the public of an immediate rate increase request. A hearing was scheduled and notice of said hearing was properly published. The adequacy of the notice and the awareness of the public concerning the matters before the commission have been clearly demonstrated by the number of people who have presented their views both orally and in writing to the commission.

Temporary rates have traditionally protected a utility's right to a reasonable return during the pendency of a proceeding. Consumers are protected through the notice and hearing provisions and RSA 378:30 which allow for a bond to secure repayment to the customers of the utility in the event that temporary rates prove to be higher than what is allowed in the permanent rate decision.

The commission in Re Concord Electric Co. (1974) DR 74-1 allowed a temporary increase in rates where it found that Concord Electric was unable to do any permanent financing. Similar concerns were expressed in Re Public Service Co. of New Hampshire (1974) D-R 6081. Therefore, by past commission precedent RSA 378:27 is a mechanism whereby a utility can obtain an increase in rates provided it can demonstrate that access to the permanent capital markets is being influenced by the inability of the utility to earn a reasonable return.

B. Emergency Rates

[2, 3] RSA 378:9, the emergency rate statute, has also been recognized as a vehicle whereby a utility after demonstrating a lack of avenues to the permanent financing markets can receive an increase in rates, New England Teleph. & Teleg. Co. v New Hampshire (1949) 95 NH 58, 75 PUR NS 370, 57 A2d 267; Re Public Service Co. of New Hampshire (1951) 97 NH 549.

In both the New England Telephone decision and the Blandin opinion in Public Service the inability to finance generally, inability to pay present bank loans and/or issue common stock have been recognized as sufficient grounds by the supreme court for the finding of an emergency. The Kenison opinion in Public Service does not differ as to the recognition of what factors result in a rate increase being granted prior to completion of a permanent rate order. Rather, the focus of the Kenison opinion is the statutory mechanism. Since that decision, the supreme court has clearly stated that the commission is not to substitute form over substance. Legislative Utility Consumers' Council v Public Service Co. of New Hampshire III (1979) —

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NH — . While the issue of form versus substance was a question of methodology in that proceeding, the considerations supporting that decision are equally applicable to the question of which statute is appropriate.

The commission does not believe that an emergency request pursuant to RSA 378:9 loses its character as an emergency, simply because the matter is set for public hearing. Commission policy is to always have a hearing because this is the only way the commission can be assured of balancing the interests of the consumers and the utility.

Therefore, the commission adopted the position that this proceeding is pursuant to RSA

378:9 and 378:27 either individually or in conjunction.

C. Burden of Proof

[4, 5] RSA 378:8 states that when any utility seeks the benefit of any order of the commission to charge and collect rates in excess of the rates presently being charged, the burden of proving the necessity of the increase is clearly on the utility.

In an emergency rate relief situation, there is a heavy burden upon the utility seeking relief to allege and establish the existence of circumstances which would warrens departure from the normal rate-making process. Re Potomac Electric Power Co. (DC 1975) 9 PUR4th 363. While the burden of establishing the need for rate relief is always upon the applicant in a rate proceeding, that burden bears more heavily upon the applicant in a request for extraordinary relief. Re Arkansas Power & Light Co. (Ark 1975) 10 PUR4th 474.

Since the commission does not have the benefit of a complete independent analysis by its staff on the financial posture of the utility, the evidence submitted by an applicant for emergency rate relief must clearly and convincingly demonstrate that a situation exists which warrants an exercise of the commission's emergency powers. Re Arthur Mut. Teleph. Co. (Ohio 1973) Case No. 73-562-4.

III. *Commission Analysis*

[6, 7] The testimony of Mr. Meyer of Kidder Peabody is concise and to the point. This company is foreclosed from permanent financing if additional revenues are not forthcoming. If permanent financing is not available, the commercial bankers have no reason to either renew or extend short-term financial arrangements. If that occurs this company will not be able to meet its bills which would effectively stop the construction of Seabrook. Furthermore, there is at least a strong likelihood that Public Service Company itself would founder on the shoals of insolvency absent rate relief.

Staff Exh 8 does show that this company is earning a rate of return in excess of that allowed by the commission in the last rate case decision DR 77-49. If the financial circumstances involving this company had remained the same, staff Exh 8 would present a significant barrier to rate relief. However, the circumstances involving this company have changed. First, at the time the company was last before the commission the prime interest rate was below 10 per cent; now it is at 15.25 per cent. Second, during the last proceeding the economy as a whole was on a relative upward swing. Today, all of us are in the throes of a recession. Third, between the last filing by this company and this emergency rate filing, an incident occurred at the Three Mile Island station. In the aftermath of this

incident the financial markets have reacted somewhat less positively than in the past. While hopefully the events in Caracas this past week will begin to swing the pendulum in the opposite direction, certainly the incident did add risk to those utilities constructing nuclear plants.

Fourth, the stock market has had a steady downward slide. This overall market condition, a symptom of the recession and the high interest rates, has had a particularly chilling effect on stocks of utilities. Those with major construction programs or heavy reliance upon oil were hit

the hardest. Public Service Company of New Hampshire is in the unfortunate position of qualifying under both.

Fifth, the company has maintained and correctly, we believe, that Seabrook is a valuable project. The New England utilities who first requested portions of Seabrook and then backed off provided an additional risk factor that neither the company nor this commission could control. However, a risk factor to which investors and bankers respond. Obviously, if the company is perceived as having to be wary of its fellow brethern in the industry, this too causes risk.

Mr. Meyer's indication that he believed Public Service was the utility with the greatest risk may be true. However, what is clear is the correctness of our statement in DR 79-107 where the commission indicated that both the overall rate of return and the return on common equity is higher than our findings in DR 77-49. Legislative Utility Consumers' Council witness Williamson, company witnesses Meyer and Harrison all maintained that the cost of common equity for PSNH was higher than 14 per cent. Certainly the 15.3 per cent at this point in time is reasonable.

Applying the facts in this proceeding to the tests set forth by the supreme court, it is clear that the company qualifies for emergency assistance. As in Re Public Service Co. of New Hampshire (1951) *infra,* Public Service Company is again faced with an inability sell common stock, 97 NH 551.

As in 1951, Public Service Company must, assuming the divestiture is not completed in 1980, raise extraordinary amounts of additional capital. This factor was another one relied upon by the supreme court in determining an emergency existed in 1951. 97 NH at p. 551. Finally, again as in 1951 a loan is coming due that must be renewed or extended to pay for past construction and to pay for further expansion of services.

The evidence of LUCC witness Williamson also indicates that at least some form of permanent rate relief is necessary. While Professor Williamson did not address his belief as to the emergency situation and what relief if any was needed, his recommendation of a 4.2 per cent to 6.2 per cent permanent increase does not differ markedly from the action the commission takes today.

The testimony of Mr. Harrison together with our own extensive investigation into what is occurring in other jurisdictions, lead us to conclude that PSNH has made every attempt to implement the divestiture in the most expeditious fashion possible. If they had not been held up by people such as the Massachusetts intervenors there is a strong likelihood that the action taken today might not have been necessary.

Upon a review of all the evidence in this proceeding it is clear that PSNH has sustained its heavy burden and that our action conforms to the tests set forth by the New Hampshire supreme court. Obviously, this review cannot address all

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the concerns raised by each party to the proceeding. However, the full investigation in situations such as these is left to the hearings on the permanent increase. The $11,970,000 revenue request is approved.

D. Bond

The commission pursuant to RSA 378:30 will require a bond to be posted.

IV. *Allegations Concerning CWIP and RSA 378:30a*

[8] Parties to the proceeding have set forth the proposition that the company's request is nothing more than CWIP by another name. In addition, some of these parties contend that RSA 378:30a precludes any mention of any project under construction. Because these parties have persisted with these positions, the commission finds it necessary to provide the following:

If RSA 378:30-a was not in existence, the company would be entitled to a rate base nearly double the rate base submitted in this proceeding. Assuming the same 14 per cent return on equity allowed in DR 77-49 the company would be entitled to approximately $83,706,267 of additional revenue this year. This compares to the approximate $11,970,-000 granted by this opinion and the approximately $18.5 million asked in the permanent rate increase request. Clearly neither this commission nor PSNH is side stepping the effect of RSA 378:30-a.

The formula used by the commission in DR 79-107 will again be cited as an attempt to explain rate making.

R = E + (V-d)r R = Overall revenues required E = Expenses V = Rate Base d = Depreciation r = Overall return

Under either the CWIP or no CWIP scenario, expenses and depreciation can be assumed to be treated in the same fashion. Consequently, the differences are rate base and return. Obviously, many of the concerns of the 15.3 per cent at this early stage of the proceeding would not be ignored in a similar proceeding without RSA 378:30(a). The differences, if any, on return on equity are the proper subject for experts. Debt costs and preferred stock costs that have been the subject of hearings by this commission would not be addressed by the caliber of witnesses such as Harrison and Williamson, since these portions of the rate of return are rarely, if ever, in dispute.

This leaves a rate base under CWIP based rates on a New Hampshire jurisdictional basis of $648,522,763 as opposed to the requested non-CWIP rate base (on a jurisdictional basis) of $325,722,740.

As to the suggestion that RSA 378:30-a is designed to eliminate consideration of construction from all elements of rate making, i.e. expenses, return, and rate base is untenable.

The bill reads as follows:

"1.*Costs of Construction Work In Progress Excluded From Rate Base.* Amend RSA 378 by inserting after § 30 the following new section:

"378:30-a *Public Utility Rate Base; Exclusions.* Public utility rates or charges shall not in any manner be based on the cost of construction work in progress. At no time shall any rates or charges be based upon any costs associated with construction work if said construction work is not completed. All costs of construction work in progress, including, but not limited to, any costs associated with constructing, owning, maintaining, or financing construction work in

progress, *shall not be included in a utility's rate base* nor be allowed as an expense for rate-making purposes until, and not before, said construction project is actually providing service to consumers.

"2. Effective Date. This act shall take effect upon its passage." (Emphasis supplied.)

The statute as well as the title of the statute clearly indicates that the legislature was intending to exclude CWIP from rate base.

V. *Commensurate Jurisdiction Returns and Divestiture*

The commission urges the company to proceed in a reasonably expeditious manner to seek equality of rates from customers in other jurisdictions serviced by the company and at the same time to continue to strive toward a successful conclusion of the planned divestiture.

Emergency Measures — PSNH

[9, 10] Community Action Program and LUCC are concerned that if consumers are paying higher rates because of an emergency resulting from lack of cash flow then it is only fair and reasonable to require similar sacrifices by the utility and its stockholders. Both ask for a curtailment in expenses and CAP has particular concerns about a possible dividend increase.

Both of these parties want the commission to evaluate the expenses of the company and it is suggested that the commission impose either a flat percentage reduction to expenses or in the alternative disallow certain expenditures such as the expenditure associated with the Electric Power Research Institute.

The questions raised by CAP and LUCC relate to the methods and practices of the utility and its management. These are legitimate inquiries that must be considered before reaching a decision in the permanent rate request. However, the supreme court has clearly indicated that "emergency relief does not depend upon the answers to these questions but upon the needs of the company ... ." New England Teleph. & Teleg. Co. v New Hampshire (1948) 95 NH 58, 62, 75 PUR NS 370, 57 A2d 267.

While there is no statutory or case law which requires a limitation on expense, the question of increased dividends may well have been addressed in part by the New Hampshire supreme court in the New England Teleph. & Teleg. Co. decision. In that decision, the court found that a proper return for common equity was required to be found before establishing permanent rates. The court then stated the following:

"Until such permanent rates can be established, stockholders must expect to share the burden of abnormal costs without transferring the whole to the public under the guise of emergency relief." 95 NH at p. 63, 75 PUR NS 370.

However, the commission agrees with Mr. Harrison that the commission lacks the authority to dictate the dividend policy of this company or any other company. (Transcript 4-48) The company and its investment bankers must decide what is necessary for the common and preferred stock of the company to be attractive to investors.

Rate Design

[11, 12] Because of the expedited nature of both temporary and emergency proceedings, rates must be established without in-depth allocations of costs. The allocations chosen by the commission in these types of proceedings do not necessarily control when fixing permanent rates. New England Teleph. &

Teleg. Co. v New Hampshire (1949) 95 NH 515, 82 PUR NS 296, 68 A2d 114. Consequently, parties to the proceeding have the right to challenge the cost allocations made by the commission in hearings to be held on the permanent rate request.

The commission, in adopting the increased rate level sought by the company is faced with substantial problems of increasing complexity. Yesterday's solutions are not always applicable where (1) a unit is being built with a cost many times the size of the company's existing investment, (2) the fuel type of the new plant is more desirable because of inflationary and national interest problems associated with the fuel type that is presently being used, and (3) conservation is now a national policy.

The commission has attempted to implement a three-pronged approach to reducing the oil dependence of utilities within our jurisdiction. First, the commission endorsed and continues to endorse the construction of the nuclear facility at Seabrook. Second, the commission has initiated an investigation into the feasibility of converting oil-fired stations to coal. Third, the commission has, through its decision on rates for small energy producers, attempted to increase substantially the amount of hydropower in the state and possibly make it more likely that other alternate energy forms will also increase. In addition, the commission has launched an investigation into whether or not the commission should require greater amounts of hydropower generation on the Connecticut river to be used within the state.

Today, the commission adds a fourth prong; namely, to make the rate structure more conservation oriented at least until either the other fuel types begin to have a greater percentage of PSNH's mix or until the oil crisis lessens in impact.

At the present time any increase usage by any consumer in this state will be satisfied by a greater use of oil-fired generating stations. This will be especially true if the NRC carries through on its order to begin closing some of New England's nuclear plants for safety checks and for safety-related equipment additions. Consequently, the initial rate structure submitted by the company will not be accepted for purposes of this proceeding.

Instead, the commission will allow the following increases to the following customer classes and service charges. It should be noted that the full $11,970,591 is being allowed but because of the $1.82 fuel adjustment charge as opposed to the test-year average fuel adjustment charge of $1.33 the overall percentage is lower. (4.98 per cent.) The commission will spread the emergency surcharge as shown on the attached report of proposed rate changes. The proposed change is to be placed on a per kilowatt-hour basis within each customer class of service. The company will use the amount of kilowatt-hours for each class of service that it used in the calculations it submitted to the commission. The commission will make two deviations from this overall rule. The controlled water heating subclass for the general service rate G will not have any increase applied to its kilowatt-hour usage. This lost revenue is to be recovered on a per

kilowatt-hour basis from other rate G customers. The second deviation is that no increase will be applied to the high-pressure sodium outdoor lights. Again, this small revenue loss is to be recovered from other ML customers on a per kilowatt-hour basis. Our order will issue accordingly to be effective as of December 28, 1979.

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[Graphic Not Displayed Here]

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NH.PUC*12/26/79*[78452]*64 NH PUC 458*Public Service Company of New Hampshire

[Go to End of 78452]

Re Public Service Company of New Hampshire

DR 79-187, 11th Supplemental Order No. 13,962

64 NH PUC 458

New Hampshire Public Utilities Commission

December 26, 1979

PETITION for emergency rate relief; granted.

RATES, § 630 — Emergency rates.

[N.H.] An electric company was granted an emergency rate increase pending the establishment of permanent rates, with the additional

Page 458

revenue to be gained by increasing service charges and applying a surcharge to each kilowatt-hour of energy sold.

BY THE COMMISSION:

Supplemental Order

In consideration of a report issued December 21, 1979, which is made a part hereof; it is

Ordered, that the Public Service Company of New Hampshire be, and hereby is, allowed emergency rate relief in the amount of $11,970,591, to become effective with all billings issued on or after December 28, 1979, and to continue until permanent rates are ordered under this docket; and it is

Further ordered, that said revenue be gained by increasing service charges and applying a surcharge to each kilowatt-hour of energy sold, with the exceptions noted within the report; and it is

Further ordered, that surcharges for each class be calculated according to the report of proposed rate change attached to the aforementioned report; and it is

Further ordered, that the resulting rates be documented by filing Supplement No. 7 to the Public Service Company of New Hampshire's tariff NHPUC No. 22 — Electricity; and it is

Further ordered, that public notice be given according to tariff filing Rule 27, said notice to summarize Supplement No. 7.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of December, 1979.

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NH.PUC*12/26/79*[78453]*64 NH PUC 459*Public Service Company of New Hampshire

[Go to End of 78453]

Re Public Service Company of New Hampshire

DR 76-46, 47th Supplemental Order No. 13,963

64 NH PUC 459

New Hampshire Public Utilities Commission

December 26, 1979

PETITION by electric company for authority to apply a fuel adjustment charge to monthly billings to its customers; granted.

RATES, § 303 — Fuel adjustment charges.

[N.H.] An electric company was authorized to apply a fuel adjustment charge to monthly billings to its customers.

APPEARANCES: Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Gerald L. Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:30A (II), the commission on December 17, 1979, held hearings on the petition of Public Service Company of New Hampshire for authority to apply a fuel adjustment charge to regular January, 1980, monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire on December 14, 1979, filed with this commission 24th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the estimated monthly calculation of the fuel adjustment charge for effect January 1, 1980. The filing was an estimate as the actual NEPEX bills had not yet been received.

On December 20, 1979, the company filed with this commission 25th Revised Pages 17 and 18 to its tariff, NHPUC No. 22 — Electricity, comprising the actual monthly calculation of the fuel adjustment charge for effect January 1, 1980.

Rights have been reserved by intervenors and the commission staff to cross-examine the company's witnesses on the new figures at the next regularly scheduled fuel adjustment clause hearing.

The company reported a fuel cost above base of $8,260,577 and total kilowatt-hours subject to the fuel adjustment of 452,834,000 resulting in a per kilowatt-hour charge of 51.82 per 100 kwh rounded.

This month's proposed rate is 19 cents per hundred kwh lower than the prior month's exclusive of the coal inventory adjustment due to three main reasons:

1. Fuel prices were down 39 cents per ton for coal burned at Merrimack station.

2. Generation in nuclear plants in which Public Service Company owns an entitlement percentage was up from the prior month.

3. The lost and unaccounted for generation was down from the prior month.

These factors were partially offset by less generation from one of the company's less expensive Merrimack units and an 18-cents per barrel increase in oil costs for the oil burned at the Newington and Schiller stations.

The following companies: Concord Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, Inc., New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Water and Light Department and Woodsville Water and Light Department submitted their fuel adjustment calculations for the subject period, and the commission having reviewed the calculations, accepts said calculations were prepared accurately.

Based upon all of the testimony and evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of January, 1980, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly. Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 24th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, are rejected and 25th Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 22 — Electricity, providing for the monthly fuel surcharge of $1.82 per hundred kilowatt-hours for the month of January, 1980, be, and hereby

is, permitted to become effective January 1, 1980; and it is

Further ordered, that 59th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of $2.27 per hundred kilowatt-hours for the month of January, 1980, be, and hereby is, permitted to become effective January 1, 1980; and it is

Further ordered, that 54th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of $2.26 per hundred kilowatt-hours for the month of January, 1980, be, and hereby is, permitted to become effective January 1, 1980; and it is

Further ordered, that 33rd Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 76 cents per hundred kilowatt-hours for the month of January, 1980, be, and hereby is, permitted to become effective January 1, 1980; and it is

Further ordered, that 22nd Revised Page 17 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $1.97 per hundred kilowatt-hours for the month of January, 1980, be, and hereby is, permitted to become effective January 1, 1980; and it is

Further ordered, that 64th Revised Page 15A of Granite State Electric Company tariff NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of $2.25 per hundred kilowatt-hours for the month of January, 1980, be, and hereby is, permitted to become effective January 1, 1980; and it is

Further ordered, that 16th Revised Page 11 of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 5 — Electricity, providing for the monthly fuel surcharge of $2.25 per hundred kilowatt-hours for the month of January, 1980, be, and hereby is, permitted to become effective January 1, 1980; and it is

Further ordered, that 72nd Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of $1 per hundred kilowatt-hours for the month of January, 1980, be, and hereby is, permitted to become effective January 1, 1980; and it is

Further ordered, that 38th Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 83 cents per hundred kilowatt-hours for the month of January, 1980, be, and hereby is, permitted to become effective January 1, 1980.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of December, 1979.

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Re New Hampshire Electric Cooperative, Inc.

I-E 14,423, Order No. 13,964

64 NH PUC 462

New Hampshire Public Utilities Commission

December 27, 1979

PETITION: by electric cooperative for approval of refund plan; granted.

REPARATION, § 39 — Refund plan.

[N.H.] An electric cooperative's proposal to make refunds in the form of a credit to its customers on their January, 1980, bills was approved as being in the best interest of the customers.

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., has filed with the commission Original Page 17A to its tariff, NHPUC No. 8 — Electricity, providing for a refund in the form of a credit to its customers on their January, 1980 bills; and

Whereas, said credit returns to its customers moneys collected by a surcharge during the period March, 1976, through March, 1977, plus any accrued interest; and

Whereas, such credits are in the best interest of the cooperative's customers; it is

Ordered, that Original Page 17A of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No.8 — Electricity, be, and hereby is, approved for effect January 1, 1980; and it is

Further ordered, that the cooperative make every effort to locate former customers affected, and to honor claims of same during the four months in which a reserve of $100,000 is held for such purpose; any residual of which will be credited against fuel costs for the month of May, 1980, and reflected in billings in June, 1980; and it is

Further ordered, that the cooperative shall continue to accrue interest on this reserve.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of December, 1979.

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NH.PUC*12/27/79*[78455]*64 NH PUC 462*New Hampshire Electric Cooperative, Inc.

[Go to End of 78455]

Re New Hampshire Electric Cooperative, Inc.

DE 78-105, Second Supplemental Order No. 13,965

64 NH PUC 462

New Hampshire Public Utilities Commission

December 27, 1979

PETITION to establish service territories; granted with exception.

MONOPOLY AND COMPETITION, § 28 — Establishment of service territories.

[N.H.] Limited service areas were established for electric companies pursuant to agreement

Page 462

where the areas established reflected current conditions in the territories involved and were considered to be compatible with the interests of all consumers, and all other relevant factors.

APPEARANCES: Thomas W. Morse for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of the 1977 session laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374 :22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. RSA 374 :22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, New Hampshire Electric Cooperative, Inc. (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition consisting of numbered town maps showing service territories for which commission authorization is being sought. The date of filing and the towns

involved are as follows:

September 5, 1979 — Canaan (36), Charlestown (42), Cornish (53), Orange (184), and Plainfield (194).

A duly noticed hearing was held on December 14, 1979, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing.

At the hearing, the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

In those towns where earlier authorizations show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate, but

without precise territorial boundaries, the proposed service territories have been established on the maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a.

In the town of Canaan it was necessary to establish a joint service territory for a small section of the town, to be served by both New Hampshire Electric Cooperative, Inc., and Granite State Electric Company, because the distribution facilities were so intertwined or comingled as to make establishment of exclusive territories impractical. Service in this area shall be rendered subject to the conditions set forth in RSA 374:22-c.

The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

In an earlier hearing (May 2, 1979) on this same docket, authority was sought for a limited area in the town of Conway, but a decision was delayed pending further examination. The company now indicates that a new service territory boundary is in the process of being established, and wishes to withdraw the map of Conway (52) filed previously, subject to the submission of a new map at a later date. This is agreeable to the commission.

These applications have been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the applications are, with the exception noted for the town of Canaan, established as the exclusive service territories as of the date of this report. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places, filed with the application are established as the exclusive service territories, except as noted, of New Hampshire Electric Cooperative, Inc., as follows:

Canaan (36)[1(2)] , Charlestown (42), Cornish (53), Orange (184), and Plainfield (194); and it is

Further ordered, that so much of an earlier petition filed on February 2, 1979, as relates to a numbered map of the town of Conway (52), be, and hereby is, dismissed without prejudice, subject to filing of a new map of Conway at a later date; and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of December, 1979.

FOOTNOTE

[1]Includes a joint service territory in which to Granite State Electric Company is also authorized to serve;

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NH.PUC*12/27/79*[78456]*64 NH PUC 465*Exeter and Hampton Electric Company

[Go to End of 78456]

Re Exeter and Hampton Electric Company

DE 78-112, Second Supplemental Order No. 13,966

64 NH PUC 465

New Hampshire Public Utilities Commission

December 27, 1979

PETITION to establish service territories; granted.

MONOPOLY AND COMPETITION, § 28 — Establishment of service territories.

[N.H.] Limited service areas were established for electric companies pursuant to agreement where the areas established reflected current conditions in the territories involved and were considered to be compatible with the interests of all consumers, and all other relevant factors.

APPEARANCES: David Johnson for the petitioner.

BY THE COMMISSION:

Report

This petition has been filed pursuant to Chap 304 of 1977 session laws, amending RSA 374 effective August 26, 1977, which requires that within six months after the effective date of this section, or at such other time as the commission shall direct, each electric utility engaged in the distribution and sale of electrical energy in the state shall apply to the commission for service territory, consisting of the distribution areas served by it on the effective date of this section, and any areas not presently served by it, or any other electric utility company, which it believes it is entitled to serve.

RSA 374:22-a II provides that existing franchise areas shall be deemed to be service territories in which an electric utility is presently providing service, provided that no other electric utility is authorized to engage in the distribution of electrical energy within the same franchise area. RSA 374 :22-a and -b further provide that where two or more utilities are engaged in the sale and distribution of electricity in the same area, the commission shall have jurisdiction to establish service territories.

In the case at hand, Exeter and Hampton Electric Company (hereinafter called the petitioner), a corporation duly organized and existing under the laws of the state of New Hampshire and operating as a public utility engaged in the distribution and sale of electrical energy in said state, has, as a part of its ongoing plan in compliance with standing commission instructions in this matter, filed a petition consisting of numbered town maps showing service territories for which commission authorization is being sought. The date of filing and the towns involved are as follows:

July 16, 1979 — Brentwood (29)and Derry (62).

A duly noticed hearing was held on December 14, 1979, at Concord, New Hampshire, at which time no one appeared in opposition to the petitioner's filing.

At the hearing the petitioner represented that it either held exclusive franchises to provide service to the public in portions of the towns listed above, and/or that it was in agreement with

other utilities holding franchises to serve the remaining portions of the towns listed above as to the location of service territory boundaries set forth on the filed maps.

In those towns where earlier authorization show the petitioner to have an exclusive franchise to provide electric service in limited areas, the areas have been outlined on the town maps filed with the petitions substantially as set forth in the earlier authorizations. To the extent that minor discrepancies have been found where service has been inadvertently extended beyond a territorial boundary line, the boundary has been adjusted to reflect actual conditions, as provided in RSA 374:22-a and -b.

In those towns where the petitioner has commission authority to operate, along with other

New Hampshire electric utilities whose territorial boundaries may not be precisely defined, the proposed service territories have been established on the maps by voluntary agreement with the other companies having authority to operate in the same town. This voluntary agreement is in compliance with RSA 374:22-a.

The areas established reflect current conditions in the territories involved and are considered to be compatible with the interests of all consumers, and all other relevant factors. No customer transfers are involved in the establishment of these service territories.

This application has been timely made under the extension granted by Second Supplemental Order No. 13,406 of the commission; and the requirements under Chap 304 of the 1977 session laws have, for the present, been completed.

In accordance with the provisions of RSA 374:22-a and -b, the commission determines that the limited areas set forth in the numbered service territory town maps filed with the applications are established as the exclusive service territories as of the date of this report. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the limited areas outlined and shown on the correspondingly numbered service territory maps of cities, towns, and unincorporated places filed with the application are established as the exclusive service territories of Exeter and Hampton Electric Company, as follows:

Brentwood (29) and Derry (62); and it is

Further ordered, that this authorization supersedes all previous authorizations granted by the commission with respect to the cities, towns, and unincorporated places which are the subject of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of December, 1979.

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NH.PUC*12/28/79*[78458]*64 NH PUC 478*Public Service Company of New Hampshire

[Go to End of 78458]

Re Public Service Company of New Hampshire

DF 73-233, Order No. 13,967

64 NH PUC 478

New Hampshire Public Utilities Commission

December 28, 1979

PETITION by electric company for authority to extend maturity of existing terms notes; granted.

SECURITY ISSUES, § 9 — Extension of maturity date.

[N.H.] An electric company was authorized to extend the maturity date of its existing term notes where its petition was unopposed, where the company said it was desirable to keep the borrowed money as a part of the long-term debt component of its capital structure, and where there were no presently available sources of nonbank funds to pay off the term notes and at the same time continue its construction program.

APPEARANCES: Frederick J. Coolbroth and Ralph H. Wood for the petitioner; William Shaine and Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this unopposed petition filed November 30, 1979, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to further extend the maturity of term notes originally issued pursuant to our Order No.12,991 dated December 19, 1977, and now outstanding under Order No. 13,450 dated December 28, 1978, in the aggregate amount of $25 million.

At the hearing on the petition held in Concord on December 26, 1979, the company submitted that it proposed to extend until January 5, 1981, the maturity of $25 million in principal amount of term notes now outstanding and payable on January 3, 1980; the seven leading banks and the amount which each has lent the company being as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Citibank, N.A.	$ 5,000,000
The First National Bank of Boston	5,000,000
Manufacturers Hanover Trust Company	5,000,000
Morgan Guaranty Trust Company of New York	5,000,000
Bank of America National Trust and Savings Association	2,000,000
Continental Illinois National Bank and Trust Company of Chicago	2,000,000
Shawmut Bank of Boston, N.A.	1,000,000

It was further submitted by the company that the company and the banks were currently negotiating the proposed extension of maturity and that no

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changes (other than extension of the maturity to January 5, 1981) had been proposed in the terms of the borrowing arrangements, which provide for interest to be paid quarterly at fluctuating interest rates per annum equal to the sum of 116 per cent of the base commercial lending rate charged from time to time by The First National Bank of Boston, plus 0.25 per cent,

and that the principal or any portion in integral multiples of $1 million may be repaid at any time upon three days' notice. The company's petition has also sought authority to increase the aggregate amount of term notes to be outstanding from $25 million to $45 million, in the event such an increase was negotiated with the banks involved. However, at the hearing the company testified that such an increase was no longer contemplated.

The company submitted a balance sheet as at September 30, 1979, actual and pro formed to reflect extension of the maturity of the term notes and an increase in amount to $45 million. Certified copy of authorizing votes of the company's board of directors was put in evidence at the hearing.

Position of the Parties

A. Position of the Company

The company submits that it is desirable to keep the $25 million as a part of the long-term debt component of its capital structure. The company described potential sources of cash to refinance the term notes at their present maturity and stated that there are no presently available sources of nonbank funds to pay off the term notes and at the same time continue its construction program.

B. Position of the Legislative Utility Consumers' Council (LUCC)

The LUCC does not oppose the extension of the term notes on the terms proposed but stated that it was not waiving its position regarding the treatment of the costs of certain capital in present and future rates proceedings.

Upon investigation and consideration, the commission is satisfied and finds that extension of the maturity of the term notes will be consistent with the public good.

Our order will issue authorizing the extension of the maturity, on the terms presented, of the company's outstanding term notes in the amount of $25 million payable to said group of commercial banks.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire, be, and hereby is, authorized to extend until January 5, 1981, the maturity of its term notes in the aggregate amount of $25 million presently payable on January 3, 1980, to the banks as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Citibank, N.A.	$5,000,000
The First National Bank of Boston	5,000,000
Manufacturers Hanover Trust Company	5,000,000
Morgan Guaranty Trust Company of New York	5,000,000
Bank of America National Trust and Savings Association	2,000,000
Continental Illinois National Bank and Trust Company of Chicago	2,000,000
Shawmut Bank of Boston, N.A.	1,000,000

and bearing interest at fluctuating rates per annum equal at all times to the sum of 116 per cent of the base commercial lending rate charged from time to time by The First National Bank of Boston, plus 0.25 per cent.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of December, 1979.

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NH.PUC*12/28/79*[78459]*64 NH PUC 480*Hanover Water Works Company

[Go to End of 78459]

Re Hanover Water Works Company

DR 79-173, Second Supplemental Order No. 13,968

64 NH PUC 480

New Hampshire Public Utilities Commission

December 28, 1979

APPLICATION by water company to increase rates; proposed rates rejected and smaller rate increase granted.

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1. REVENUES, § 13 — Rentals.

[N.H.] A water company's revenues from rental of a farmhouse were allowed to be treated as miscellaneous utility revenues and to be treated as a portion of the total utility operating revenues. p. 481.

2. RETURN, § 115 — Water company

[N.H.] A return of 10.3 per cent for a water company was accepted by the commission. p. 481.

3. RETURN, § 35 — Attrition allowance.

[N.H.] No attrition allowance or inflation-related adjustment was given in a water rate case. p. 481.

4. RETURN, § 26.4 — Cost of equity capital.

[N.H.] A 13 per cent return on common equity was included in a water company's return allowance. p. 481.

5. EXPENSES, § 10 — Effect of inflation.

[N.H.] Inflation factors are not accepted by the commission as known and measurable changes in a company's operating expenses for rate-making purposes. p. 482.

6. EXPENSES, § 109 — Property taxes.

[N.H.] The commission accepts the actual, rather than estimated, property taxes as an operating charge for rate-making purposes. p. 482.

7. RATES, § 602 — Water main extensions — Burden of cost.

[N.H.] The free distance allowed per customer on water main extensions was reduced to 25 feet. p. 483.

8. RATES, § 603 — Water company — Initial charge.

[N.H.] A water company's initial charge should be scaled, but any charge levied by a utility should be based on actual costs and the company's investment. p. 484.

9. RATES, § 313 — Multiple charges — Multiunit buildings.

[N.H.] A water company's proposal to change the method of billing multiunit buildings so that the size of each block in the rate schedule shall be multiplied by the number of dwelling units in such buildings if served through a single meter was accepted by the commission, except as it applies to the initial charge. p. 484.

APPEARANCES: S. John Stebbins and John S. Stebbins for the petitioner; Gerald L. Lynch for the Legislative Utility Consumers' Council; Robert English for property owner Ruth English; Lawrence Gardner for Brook Hollow Condominium.

BY THE COMMISSION:

Report

On August 17, 1979, Hanover Water

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Works (Hanover), a New Hampshire corporation operating as a public water utility in the town of Hanover under the jurisdiction of this commission, filed certain revisions to its tariff, providing for an increase in annual revenues of $61,470, to become effective October 1, 1979.

On September 6, 1979, the commission suspended said filing by Order No. 13,812, dated September 6, 1979, pending investigation and decision thereon.

On September 17, 1979, a procedural hearing was held at the commission offices. At that time, the company filed its testimony.

On November 20, 1979, a duly noticed public hearing was held at the office of the commission. Prior to the hearing, the company and commission staff reached general agreement on all items in dispute in this case.

The commission will review this agreement together with the other evidence submitted in reaching our ultimate conclusion.

Farmhouse

[1] One area of difference between the company and NHPUC staff was related to the handling of the farmhouse revenues and expenses.

The company originally accounted for rent received from the farmhouse net of taxes as nonutility income, but treated expenses related to the farmhouse as utility expenses.

Staff testimony stated that the expenses, depreciation, property taxes, inclusion in rate base, etc. related to the farmhouse should all be considered non-utility costs.

The agreement worked out by both parties, and to which the commission accepts, is that revenues from rental of the farmhouse shall be treated as miscellaneous utility revenues, and be considered as a portion of the total utility operating revenues.

Rate Base

The company originally submitted a schedule showing a rate base of $1,007,078, staff's was $1,001,227.

The differences were inclusion of CWIP in rate base by the company, which they withdrew; and exclusion of the farmhouse by the staff, which they withdrew in connection with the previously noted agreement on the farmhouse.

Thus, the agreed upon rate base figure is $1,005,140, which the commission accepts as just and reasonable and in compliance with RSA 378:30-a.

Rate of Return

[2-4] The company originally requested a 10.3 per cent rate of return and no attrition allowance, but did include $12,369 for an inflation-related adjustment to operation and maintenance expenses.

The staff witness recommended an 8.1 per cent rate of return, plus 0.35 per cent for attrition. The difference between the 8.1 per cent and 10.3 per cent arose from the staff witness taking into consideration the income from timber operations and the cost of money to the town of Hanover, which owns approximately one-half of the company's outstanding stock.

By way of a compromise agreement, which the commission accepts, the cost of capital to be used will be 10.3 per cent, which includes 13 per cent on common equity. No attrition allowance will be applied.

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The company's inflation-related adjustment is eliminated.

The net income from timber operations will be invested with the revenue from the investment treated as an offset to the utility's revenue requirement. For the rates under discussion here, this results in $3,124 less, which must be collected from utility customers.

Operation and Maintenance Expenses

[5] Actual operation and maintenance expenses for the test year were $172,599.

The company originally requested that two additions be made to that amount totaling $17,931, for an 8 per cent wage increase and a 12 per cent inflation-related adjustment to other

expenses. The company's adjusted operation and maintenance level was $190,530.

Staff testimony deleted the 12 per cent inflation-related adjustment, deleted expenses related to the farmhouse, agreed with the company's 8 per cent wage adjustment, and suggested an additional $1,000 be added to the test-year level of expenses for rate case related expenses. The result was a recommendation of $179,151.

A compromise position was agreed upon by the commission staff and the company at the level of $180,761. It is the $172,599 actual for the test year, plus the 8 per cent wage increase of $5,562, plus the $1,000 amount for amortization of rate case expenses, and $1,600 for a known increase in the rent for the company's office.

The 12 per cent inflation-related expense adjustment request was dropped by the company, as was the farmhouse-related expense adjustment by the staff.

The commission accepts the adjusted figure of $180,761 for operation and maintenance expenses. This acceptance follows our decision in Re Union Teleph. Co. DR 79-120. Inflation factors are not accepted by this commission as known and measurable changes.

Depreciation

Test-year depreciation was $35,190.

The commission staff in its testimony recommended use of the 535,190 less the depreciation related to the farmhouse, netting to $35,060. This adjustment was later dropped per the previously mentioned agreement on the handling of the farmhouse.

The company originally requested an adjustment to test-year depreciation for three proposed projects, yielding a total adjusted depreciation expense of $35,798.

One of the three projects currently does not have a known completion date, a second is already completed, and the third has been completed since the date of agreement.

The company withdrew its adjustment relating to the first project, and the staff agreed to a depreciation adjustment relating to the other two. The resultant adjusted depreciation figure is $35,339, which the commission accepts.

Property Taxes

[6] Test-year property taxes were reported as $70,172. The company originally filed its adjusted estimate of $77,189. Between the time the company filed and the commission staff filed, the actual property tax bill came in. The staff testimony used the actual bill less the amount related to the farmhouse. The farmhouse-related adjustment has since been dropped, and the company and commission staff agreed to accept

Page 482

the actual property tax bill of $67,659. The commission following its traditional practice accepts the actual, rather than estimated, property taxes.

Other Taxes

The company in its testimony used 56,930 as the adjusted level of payroll taxes and $561 for public utility and franchise taxes.

The commission staff accepted those figures in its testimony, and the commission also accepts them.

The method of computation of the investment tax credit, New Hampshire business profits tax, and federal income tax originally utilized by the company was accepted by the commission staff in its testimony, and only the numbers themselves changed based on previously mentioned revisions.

Based on the prior revisions, the company and commission staff have agreed on the following figures:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Federal Income Tax	$7,287
New Hampshire Business Profits Tax	4,747
Investment Tax Credit	(446)

The commission accepts these figures.

Revenue Requirement

Based on the preceding sections of this report, the company's net operating income requirement is $103,529, computed by multiplying the approved rate base of $1,005,140 by the approved rate of return of 10.3 per cent.

The $103,529, when added to the total approved revenue deductions of $302,838, yields a total revenue requirement of $406,367.

Test-year revenues were $367,460 adjusted by the company to $369,420 to reflect customer growth and rental revenue received on the farmhouse. This relates to a revenue deficiency of $36,947.

This $36,947, as previously stated in the rate-of-return section of this report, is reduced by $3,124 representing the return on invested funds from the timber income, to $33,823.

The commission accepts $33,823 as the required increase in revenues.

Tariff

[7] Staff has proposed the reduction of the free distance allowed per customer on main extensions presently allowed from 75 feet to 25 feet. Staff exhibits showed the justified investment that can be made by the water company on main extensions for the years 1978, 1977, and 1976 to be 22, 23, and 24 feet. The commission has accepted 25 feet in the two recent decisions involving Pennichuck and Hampton Water Works and finds 25 feet is justified in this case.

Tariff changes required as a result of this proceeding and recent changes in commission rules and regulations will require the revision of greater than 50 per cent of the existing tariff pages. As required by Rule 19 of the commission tariff filing, a complete new tariff should be filed for simplification and consolidation.

Rates

Staff prepared a cost-of-service study (staff Exh 2) to determine if the design of Hanover's metered rate schedule produced the proper cost responsibility from the residential, commercial,

and industrial customers. The conclusion reached was that the widely varying unit cost in the blocks of the existing rate schedule were too great and in its present form, results in the residential customer,

in effect, subsidizing the commercial and industrial, or large volume consumer.

It is our judgment that the differential in unit cost developed by staff's cost study should be applied to Hanover's rate schedule. In this regard, the commission finds that the first block unit charge shall remain at 56 cents per hundred cubic feet per consumer, with succeeding steps at 47 cents and 44 cents per hundred cubic feet, while retaining the existing level of consumption. The remaining deficiency in revenues allowed shall be made up with an equal per cent increase in all other rate schedules. The minimum charge shall remain as it is presently structured in existing rate schedules.

[8, 9] This existing rate structure also includes a scaled, or varying, initial charge which is based on the customer's meter size. As presently structured, the charges bear little relation to actual company investment at the customer's premises. We concur that the charge should be scaled; however, we also believe that any charge levied by a utility should be based on actual costs and, in this case, the company's investment.

To modify the scaled initial (minimum) charge at this time, would result in excess revenue. However, it is also our judgment that at the next rate adjustment requested by Hanover, the initial or minimum charge shall be established on a cost basis. The commercial and industrial customer will bear the brunt of this increase; however, the design and operation of this water system, plus the results of the cost-of-service study, demonstrate that there is no justification for continuing the present wide differential between the unit cost in three blocks of the rate.

Hanover proposed that the method of billing certain multiunit buildings be changed, so that the size of each block in the rate schedule shall be multiplied by the number of dwelling units in such building if served through a single meter. The commission concurs in the method proposed, except as it applies to the initial charge. We find that the initial charge when properly established, returns the fixed charges on the company's investment regardless of the number of units supplied. However, when considering use beyond the initial or minimum allowance, one residential customer should not enjoy a cost advantage over another for the same use of the commodity, as presently occurs in multiunit buildings when total consumption is passed through the rate schedule. The metered rate schedule shall be revised accordingly.

Leak Survey

Water company data indicates that unaccounted-for water on an annual basis is in excess of 200 million gallons or 35 per cent, which represents an amount well in excess of industry accepted standards. Hanover is directed to determine to what extent this represents meter error or actual leakage, and report their findings to the commission *within nine months* of the date of this report and order. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions to Hanover Water Works tariff, NHPUC No. 4, which were suspended by commission Order No. 13,812 dated September 6, 1979, be, and hereby are, rejected; and it is

Further ordered, that in accordance

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with the increase in rates authorized by this report and order, Hanover Water Works shall file a new tariff designed in accordance with this commission's tariff filing rules and setting forth therein rates which will produce an annual increase in gross revenues of $33,823 and such rates to be designed as set forth in this report; and it is

Further ordered, that said tariff shall be filed to become effective with all current bills rendered on or after January 1, 1980, and such pages to carry the notation "issued in compliance with Second Supplemental Order No. 13,968 in case DR 79-173"; and it is

Further ordered, that said tariff shall comply with all sections of this commission's rules and regulations prescribing standards for water utilities as presently in effect; and it is

Further ordered, that Hanover Water Works give public notice to these new rates by publishing the same in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of December, 1979.

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NH.PUC*12/31/79*[78460]*64 NH PUC 485*Public Service Company of New Hampshire

[Go to End of 78460]

Re Public Service Company of New Hampshire

DF 79-100-6205, Sixth Supplemental Order No. 13,970

64 NH PUC 485

New Hampshire Public Utilities Commission

December 31, 1979

PETITION for approval of adjustment of ownership interests in a nuclear power plant; granted in accordance with opinion.

CONSOLIDATION, MERGER, AND SALE, § 19 — Basis for approval — Public benefit.

[N.H.] The request of Public Service Company of New Hampshire for an adjustment in the ownership interests of Seabrook nuclear power plant by reducing its ownership interests and increasing the ownership interests of various other companies was granted where the

commission recognized that the financial condition of the company was such that partial divestiture of its ownership would be in furtherance of the public good.

BY THE COMMISSION:

Supplemental Order

On November 27, 1979, the Public Service Company of New Hampshire filed a motion for further orders. To support their request the company relies on testimony presented at the hearing held on October 18, 1979, and November 13, 1979, where the company witnesses detailed certain changes in circumstances that have occurred since the order the commission issued August 10, 1979.

The changed circumstances relate to the March offering of ownership interest

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in its Seabrook project, specifically the reduction in participation of Massachusetts Municipal Wholesale Electric Company (MMWEC) and the withdrawal from participation of Central Vermont Public Service Corporation, and Green Mountain Power Corporation.

The company proposes an adjustment of Seabrook ownership interests in accordance with the March offering by reducing its ownership interests and increasing the ownership interest of the following companies.

Additionally, the company reported the effects of its October offering and the acceptance thereof.

The company is presently requesting an adjustment in the ownership interest of Seabrook by reducing its ownership interests and increasing the ownership interests of the following companies in the indicated percentages.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Bangor Hydro-Electric Company	1.80142%
Central Maine Power Company	1.0%
Town of Hudson, Massachusetts Light and Power Department	0.01957%
Massachusetts Municipal Wholesale Electric Company	6.00091%
Montaup Electric Company	1.0%
New Bedford Gas and Edison Light Company	2.1739%
Taunton, Massachusetts Municipal Lighting Department	0.34445%
Fitchburg Gas and Electric Light Company	0.2608%
New Hampshire Electric Co-operative, Inc.	2.17391%
	14.76496%

The LUCC objects to the motion alleging (1) it is not in the public good, and (2) the need for power must be examined before any order of divestiture is approved. Additional objections were filed and received alleging (3) no decision has been made as to who will bear the costs of

AFDUC of the transferred interest and (4) without such a decision a transfer cannot be for the public good.

Upon consideration of the motion and the objection received thereto, the commission finds that LUCC's objection Nos. 1 and 4 are substantially the same and will consider them as one objection.

The commission rejects LUCC's objection Nos. 1 and 4 and recognizes that the financial condition of the company is such that partial divestiture of its ownership interest will be in furtherance of the public good.

As to objection Nos. 2 and 3, need for the power and treatment of AFDUC, the commission's findings in the report on motion for rehearing issued September 10, 1979, is reaffirmed.

Based on the foregoing, the motion for further orders is granted, and our order will issue approving the reduction in ownership interest of Public Service Company of New Hampshire and the increase of ownership interest set forth, *infra*.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1979.

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NH.PUC*12/31/79*[78461]*64 NH PUC 487*Public Service Company of New Hampshire

[Go to End of 78461]

Re Public Service Company of New Hampshire

DF 79-237, Order No. 13,973

64 NH PUC 487

New Hampshire Public Utilities Commission

December 31, 1979

PETITION by electric company for authority to issue and renew short-term notes; granted in accordance with opinion.

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1. SECURITY ISSUES, § 18 — Commission supervision — Statutory duty.

[N.H.] The commission has a statutory duty to consider the public interest in each financing arrangement contemplated by a utility. .Pg p. 489.

2. SECURITY ISSUES, § 29 — Short-term notes — Sale.

[N.H.] An electric company was authorized to issue and sell short-term notes where the proceeds would be reasonably necessary for present and future use in the conduct of the company's business and for other corporate purposes, and where the issuance and sale would be consistent with the public good. p. 489.

APPEARANCES: Ralph H. Wood and Frederick J. Coolbroth for the petitioner; William L. Shaine and Gerald Lynch for the Legislative Utility Consumers' Council.

BY THE COMMISSION: By this unopposed petition filed December 17, 1979, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash, and from time to time to renew, notes payable less than twelve months after the date thereof (hereinafter referred to as short-term notes) in amounts such that short-term notes outstanding at any time may aggregate up to but not exceed the maximum short-term unsecured indebtedness the company may at any time issue or assume without a favorable vote of its preferred stockholders. That maximum is set forth in subdivisions 8(b) and 12 H(b) of Art V of the company's articles of agreement as:

" ... 20 per centum of the total of (i) the total principal amount of all bonds or other securities representing secured indebtedness issued or assumed by the corporation, and then to be outstanding and (ii) the capital and surplus, less the amount, if any, by which electric plant adjustments exceed reserves provided therefor, as then stated on the books of account of the corporation ... ."

A duly noticed hearing was held in Concord on December 26, 1979.

Positions of the Parties

A. *Position of Public Service Company of New Hampshire*

The company through witness Harrison stated that additional borrowings beyond the present limit of $121,700,000 would be essential in early January, 1980, and would be necessary from time to time in order for the company to be

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able to finance its large construction program and meet the needs of its customers. Mr. Harrison testified that using the above formula the maximum allowable amount of short-term indebtedness was approximately $146.5 million at October 31, 1979, and would increase from time to time in proportion to the increase in the company's secured indebtedness, capital, and surplus. Mr. Harrison further testified that the short-term notes outstanding on December 21, 1979, amounted to $104 million and that current projections would change this figure to $119.1 million at December 31, 1979, and to $131.1 million, on January 29, 1980, assuming that the company had authority to borrow up to that level.

The company testified that the proceeds of the sale of the short-term notes will be expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the company's business and for other proper corporate purposes and will primarily be used to finance the company's construction program on an interim basis. The company stated that the construction program for the years 1980-85 would include principally the following listed items estimated to cost about $585.2 million.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Facilities	*Estimated Construction Expenditures 1980-85 (Millions of Dollars)*
Generating Facilities	
Company's share of Seabrook Nuclear Plant	$295.8
Participation in Other Plants	39.4
Other Generation	9.7
Total Generating Facilities	344.9
Transmission Facilities	117.1
Distribution and General Facilities	123.2
Total	$585.2

The company testified that it presently has lines of credit with banks aggregating $120,350,000. All of the banks outside the state of New Hampshire are presently loaning moneys under a "revolving credit agreement." Mr. Harrison testified that the company expected from $15 million to $20 million of additional credit to become available under the company's existing revolving credit agreement by inclusion of one or two new banks which would make loans of $15 million to $20 million.

A balance sheet as of October 31, 1979, was filed as an exhibit.

B. *Position of the Legislative Utility Consumers' Council (LUCC)*

The LUCC stated that it had no objection to the requested increase in the company's short-term borrowing limit so long as the interest rates and other terms were the same or better than those under the company's present revolving credit agreement. Legislative Utility Consumers' Council further stated that in taking this position it was not waiving any rights it might have with respect to the treatment of financing costs in rate proceedings. Legislative Utility Consumers' Council further requested that the commission establish a ceiling on interest rates to be paid for short-term borrowings and a time limitation on the effectiveness of the commission's authorization. Company counsel, on the other hand, expressed the company objection to any such ceiling or time limitation as unduly restricting the company's

financing flexibility. Short-term borrowing rates are customarily floating rates based on the so-called prime lending rate at a designated bank, and we will (as we have in other cases) specify that interest on short-term borrowings will be at the prime rate or a rate or rates based on the prime rate.

In docket DF 79-53 the commission did not grant the company's Articles of Agreement unsecured short-term borrowing limit, believing that a formula authorization was undesirable.

[1, 2] The commission reaffirms its position that it has a duty pursuant to RSA 369:1 and 369:4 to consider the public interest in each financing arrangement contemplated by a utility. The commission feels that it is not in the best interest of the public good to issue an open-ended order that would tie the commission to an automatic formula. The company's financial position and methods of financing will be investigated prior to each additional financing.

However, the commission is firmly convinced that the maximum allowable amount of short-term indebtedness should be extended to $146.5 million at this time since this order is

being issued five days after the public hearing. The company is aware that quick regulatory action is possible if necessary.

Based upon all the evidence, the commission finds that the short-term debt limit should be raised to $146.5 million. The proceeds from the short-term notes will be reasonably necessary for present and future use in the conduct of the petitioner's business and for other corporate purposes. The issuance and sale of short-term notes will be consistent with the public good. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell, and from time to time renew, for cash its notes or notes payable less than twelve months after the date thereof in an aggregate principal amount not exceeding $146.5 million; and it is

Further ordered, that interest on bank borrowings will be at the prime rate or a rate or rates based on the prime rate; and it is

Further ordered, that on or before January 1st and July 1st of each year, Public Service Company of New Hampshire shall file with this commission a detailed statement, duly sworn to by its treasurer or an assistant treasurer, showing the disposition of proceeds of the notes herein authorized until the expenditures of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1979.

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NH.PUC*12/31/79*[78462]*64 NH PUC 490*Investigation Into Canadian Power Sources

[Go to End of 78462]

Re Investigation Into Canadian Power Sources

DE 79-245, Order No. 13,974

64 NH PUC 490

New Hampshire Public Utilities Commission

December 31, 1979

ORDER initiating investigation to examine the purchase of electric power from Canada for resale on a nonprofit basis to electric distribution companies and cooperatives throughout the state.

ELECTRICITY, § 14 — Importation of power from Canada.

[N.H.] The commission, designated as the agency to bargain with the appropriate agencies of Canada or its provinces for the procurement of power capacity and power output and to purchase electric power for resale on a nonprofit basis to electric distribution companies and cooperatives throughout the state, initiated an investigation into Canadian power sources for that purpose, particularly in view of its duty to assure adequate power at reasonable rates and the fact that recently increased fuel costs might be reduced through the purchase of power from Canadian sources.

BY THE COMMISSION:

Order

Whereas, the commission has been designated as the agency of the state to bargain with the appropriate agencies and officials of Canada or its provinces, for the procurement of power capacity and power output, therefrom, with the right to contract for the purchase of electrical power and resale of such power on a nonprofit basis to the various electrical distribution companies and cooperatives throughout the state; and

Whereas, pursuant to RSA 374:1, RSA 374 :2, and RSA 374:3, the commission has the duty to make sure that there is adequate power at reasonable rates; and

Whereas, the commission has witnessed dramatically increased fuel adjustment charges related to increased oil costs; and

Whereas, such increased fuel costs may be reduced through the purchase of power from Canadian sources; and

Whereas, pursuant to RSA 374:7 and 378:7 the commission can on its own motion initiate an investigation; and it is hereby

Ordered, that docket DE 79-245, "Investigation Into Canadian Power Sources" is hereby initiated to examine the purchase of Canadian power; and it is

Further ordered, that all electric distribution companies and cooperatives throughout the state shall be required to assist the commission in its determination of whether or not Canadian power sources are feasible or justified under today's conditions and those of the near future.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 1979.

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Endnotes

1 (Popup)

[1]Includes a joint service territory in which New Hampshire Electric Cooperative, Inc., is also authorized to serve.

2 (Popup)

[1]Includes a joint service territory in which to Granite State Electric Company is also authorized to serve;