STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 12-307

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Petition of James Snyder Requesting Review of Line Extension Charges

Order Denying Petition

O R D E R N O. 25,461

January 31, 2013

I. PROCEDURAL BACKGROUND

On October 15, 2012, James Snyder of Canterbury, New Hampshire filed a petition regarding the line extension charges included in the approved tariffs of Public Service Company of New Hampshire (PSNH). Mr. Snyder is a PSNH customer who requested electric service to a planned residence located on a Class 5 road. The petition and subsequent docket filings, other than any information for which confidential treatment is requested or granted by the Commission, will be posted to the Commission website at http://www.puc.nh.gov/Regulatory/Docketbk/2012/12-307.html.

On October 19, 2012, Staff filed a memorandum and attachments consisting of an August 22, 2012 letter from PSNH to Mr. Snyder and a copy of Intercompany Operating Procedure (IOP) #12 between PSNH and Northern New England Telephone Operations, LLC d/b/a FairPoint Communications.

PSNH filed a petition to intervene and a motion to dismiss the petition on November 16, 2012. On November 20, 2012, the Office of Consumer Advocate (OCA) filed a letter stating that it did not object to PSNH's motion to dismiss. Mr. Snyder filed an objection to PSNH's motion to dismiss on November 26, 2012.

Mr. Snyder filed a letter with the Commission on December 24, 2012. In that letter, he stated that his project is proceeding without electricity.

II. POSITIONS OF THE PARTIES

A. James Snyder

In his petition, Mr. Snyder requested that the Commission review PSNH's line extension tariff as it applies to the cost of extending service on public roads. He said that, before the current policy, customers had an option for the cost to be prorated on the customer's bill. Also under the prior policy, if another customer wanted to use the extended line subsequent to the extension, that customer had to share in the cost of the installation.

Mr. Snyder compared the tariff to the procurement of propane service for his property. He said that with respect to propane service, if he didn't like the terms of the first company that offered service, he could look for another supplier, but there was no such choice when it came to electric service.

Mr. Snyder stated that he believes it is unfair for an individual customer to bear the cost of extending utility infrastructure, in this case a line extension, down a public road. He asserted that such costs should be borne by all customers as a group. Mr. Snyder argued that a line extension is an investment in the utility's infrastructure which benefits the utility and all customers and, therefore, is more properly shared by all customers. Mr. Snyder also said that it is unfair that one customer pay the entire cost of installing a line extension while potential future customers received the benefit at no cost to them. He stated that he saw no justification for individuals to bear the entire cost of infrastructure for a service for which they will pay for decades to come as well as "effectively subsidize that cost for all future development on the road." Petition at 1.

In his November 26, 2012 filing, Mr. Snyder notes that, as stated in PSNH's motion to dismiss, the current line extension policy was established pursuant to a settlement agreement in Docket No. DE 08-135, *Public Service Co. of N.H., Tariff Filing Revising Line Extension Agreement*. According to Mr. Snyder, PSNH said that the new tariff was proposed in DE 08-135 because the pre-existing line extension policy (1) resulted in existing customers subsidizing new customers, (2) was difficult to administer, and (3) was difficult for customers to understand. Mr. Snyder challenged each of these arguments.

First, he said that all customers, at some point, share in the cost of delivery infrastructure. The current delivery infrastructure covers most, but not all, public roads, and he said that those persons living on public roads should not be penalized because of gaps in the existing infrastructure.

Second, regarding the difficulty in administering the policy, Mr. Snyder argued that what was gained in ease of administration was at the expense of fairness and reasonableness. He asserted that the first customer would pay for the initial extension of the line down the public road and would be subsidizing any customers who subsequently took service on the same line. Mr. Snyder repeated his argument that this arrangement is unfair.

Third, he said that, in his opinion, neither the prior policy nor the current policy is difficult to understand. He said that developing a policy based on a settlement of parties is an effort to compromise between the parties and that a broader approach should be taken to assure fairness.

In his December 24, 2012 letter, Mr. Snyder stated that he is proceeding with his project "without electricity" and has to decide on alternative sources of energy. In addition, he said that the only way that the Commission could evaluate the fairness of PSNH's tariff was "in a public forum with information provided by PSNH about how many feet of Class 5 or higher roads remain unserved in their coverage area."

B. Public Service Company of New Hampshire

On November 16, 2012, PSNH filed a petition to intervene and a motion to dismiss the petition. In its petition to intervene, PSNH stated that Mr. Snyder's petition seeks to change PSNH's tariff, and that it is clear that PSNH has rights, duties, privileges, immunities and other substantial interests that could be affected by the proceeding, citing RSA 541-A:32 and the Commission rules, New Hampshire Code Admin. Rules Puc 203.17.

In its motion, PSNH provided additional background regarding Mr. Snyder's petition. According to PSNH, Mr. Snyder contacted the Commission's Consumer Affairs Division on July 6, 2012 regarding an estimate PSNH had provided to him for the construction of a line extension necessary to serve the home he was building in Canterbury. On July 24, 2012, Mr. Snyder met with representatives of the Commission Staff and PSNH to discuss PSNH's line extension tariff and the estimate provided to Mr. Snyder. Following that meeting, PSNH reviewed its tariff to determine whether possible amendments to the tariff were warranted in light of the concern raised by Mr. Snyder relative to the assignment of costs in locations, such as Mr. Snyder's property, where PSNH was not responsible for setting poles. Based on that review, PSNH determined that the costs were properly accounted for in areas where PSNH did not set poles and concluded that no tariff changes are necessary.

According to PSNH, Mr. Snyder alleged in his petition that under a prior line extension policy, as expressed in a prior version of PSNH's tariff, there was an option to pro-rate the cost of a line extension on a customer's bill. Mr. Snyder also stated in his petition that, under PSNH's current policy, the first user must bear the entire costs. PSNH affirmed that the prior line extension policy allowed the cost of an extension to be pro-rated on a customer's bill for a period of 60 months and that if new customers were added to the extension within that 60-month period, those customers would share a portion of the cost for the remainder of the period.

PSNH pointed out that Mr. Snyder's petition contends that both the current and prior line extension practices are unfair and argues that because a utility has a monopoly in a franchise area, the utility should bear the cost of extending service lines along all Class V or higher roads within the franchise area. PSNH said that its prior policy, which Mr. Snyder also finds unfair, is substantially similar to the existing policies of Unitil Energy Systems, Inc. and Granite State Electric Company. That being the case, PSNH suggested that, to the extent the Commission intends to act on Mr. Snyder's petition and any allegations related to PSNH's prior policy, such action may affect the existing policies and tariffs of other electric, gas or water utilities, and requires a rulemaking pursuant to RSA 541-A and N.H. Code Admin Rules Puc 205.

PSNH said that its current line extension policy as stated in its tariff was reviewed and approved by the Commission in DE 08-135. According to PSNH, the directive to change its line extension policy was the result of its 2006 distribution rate case where it was made apparent that existing customers were subsidizing the costs of providing service to new customers because the distribution revenue received from new customers was insufficient to recover the actual cost of initiating service. In DE 08-135, PSNH proposed revisions to the policy for the purposes of avoiding subsidies, easing administrative burdens and increasing customer understanding of the policy. PSNH said that the proceeding in DE 08-135 resulted in a settlement agreement between PSNH, Staff, the OCA and the Homebuilders and Remodelers Association of New Hampshire. The Commission accepted and approved the settlement in Order No. 25,046 (November 20, 2009).

The settlement agreement provided, among other things, that PSNH would phase in over three years line extension charges based upon a cost per foot. The three-year phase-in was intended to lessen the impact of the changes to the policy on customers requesting line extensions. The phase-in period runs until March 31, 2013, after which time PSNH noted the settlement provides for a new methodology for the calculation of the cost per foot charge that will apply to all line extensions. In addition, under the approved settlement agreement, all costs of a line extension are paid up front rather than over a 60-month period. According to PSNH, the Commission accepted and approved that settlement in Order No. 25,046. In approving the settlement, the Commission found that the resulting policy was "fair to new customers and existing customers as it phases out a long-standing policy that has allowed for a level of subsidization." Order No. 25,046 at 10. The Commission also found that instituting the new policy, and requiring new customers to pay the actual cost of line extensions, is reasonable and in the public interest.

PSNH argued that Mr. Snyder's petition seeks to undo a settlement agreement that was found to be both fair and reasonable by the Commission and to undo it prior to the initial phase-in period having been completed. Granting the petition, according to PSNH, would upend a settlement that has not even run for the minimum period contemplated at the time it was executed. PSNH claimed that altering the line extension policy before it has been fully implemented would undermine confidence that this policy, enacted pursuant to a settlement agreement and approved by the Commission, is in fact just and reasonable. Furthermore, PSNH asserted that there had been no changes in facts or circumstance that warranted departure from the approved line extension policy, and the Commission should not consider a challenge to the settlement agreement that has not been allowed to accomplish the objective stated in the settlement agreement.

PSNH pointed out that Homebuilders and Remodelers Association of New Hampshire (HBRANH) was an intervenor in DE 08-135, *Public Service Co. of N.H., Tariff Filing Revising Line Extension Agreement* and that the stated interest of HBRANH was to represent its members, developers and builders of residential properties who were also commercial and residential customers of PSNH. According to PSNH, HBRANH said that it was participating in the docket because its members, as developers and builders of residential properties, were concerned about the possible impact of the policy change on their business and their ability to provide affordable housing to New Hampshire's citizens. PSNH said that both HBRANH and the OCA (on behalf of residential ratepayers) participated in and agreed to support PSNH's current line extension policy as embodied in the settlement agreement. PSNH asserted that its line extension policy is a product of recent negotiation and settlement with numerous parties, including those whose interests are similar to those of Mr. Snyder. PSNH argued that the Commission should not now entertain argument that a policy agreed upon by entities with such diverse interests is somehow unfair or inappropriate.

Based on the foregoing, PSNH recommended that the Commission dismiss the petition.

C. Office of Consumer Advocate

The OCA filed comments in this docket on November 20, 2012. The OCA referenced DE 08-135 and noted that PSNH was required to examine its line extension policy and the level of subsidization that existed between new customers and existing customers. The OCA said that in DE 08-135, the parties analyzed cost data for line extensions to determine how to reduce subsidies between customers and reached a settlement agreement that was ultimately approved by the Commission. See Order No. 25,046 (November 20, 2009) in DE 08-135.

The OCA opined that Mr. Snyder did not raise any issues that were not considered in DE 08-135. The OCA also observed that there appears to be no unforeseen or extenuating circumstances that would warrant an exception to PSNH's line extension policy. In light of these considerations, the OCA stated that it does not object to PSNH's motion to dismiss.

D. Commission Staff

On October 19, 2012, Staff filed a memorandum on Mr. Snyder's petition. Staff explained that Mr. Snyder initially contacted the Commission's Consumer Affairs Division regarding the cost estimate that PSNH provided to him for the extension of service along a public road to a home being constructed. Staff said that after reviewing PSNH's tariffed charge for line extensions with Mr. Snyder, Mr. Snyder requested a conference in accordance with N.H. Code Admin. Rules Puc 1203.17. As previously noted by PSNH, that conference was held on July 24, 2012 among Mr. Snyder, Staff and representatives of PSNH. Because this particular extension was being requested in a FairPoint pole maintenance area, where FairPoint would be setting any necessary poles, there was a question as to whether the average cost per foot used by PSNH might overstate PSNH's cost. Staff reported that, at the conference, PSNH said that it would review the average cost per foot used to assess line extension costs to determine if the cost included the cost of setting poles.

Staff attached the response of PSNH, a letter dated August 22, 2012, to its memorandum. Staff said the letter indicated that the cost of setting poles is included in the per foot cost charged for a line extension and PSNH does incur a cost for setting poles regardless of whether the pole is being set in PSNH's pole maintenance area or in FairPoint's pole maintenance area.

Staff said it took no position on Mr. Snyder's petition or PSNH's motion to dismiss. Staff said that given that the line extension policy derived from a settlement agreement in DE 08-135, all parties to the settlement agreement should be provided an opportunity to comment on Mr. Snyder's petition.

III. COMMISSION ANALYSIS

At the outset, we grant PSNH's motion to intervene pursuant to RSA 541-A:32 and N.H. Code Admin. Rules Puc 203.17.We have examined the statements of Mr. Snyder, PSNH and Staff and the related attachments, as well as the comments filed by the OCA. We have also reviewed the settlement agreement and Order No. 25,046 in DE 08-135.

Mr. Snyder's petition stems from his disagreement with the line extension policy instituted by PSNH according to the terms of a settlement agreement approved by the Commission in Order No. 25,046 in DE 08-135. In the process of reviewing PSNH's distribution revenues in DE 06-028, it became apparent that existing customers were subsidizing the costs of providing service to new customer locations because the distribution revenue PSNH received from new customers did not cover the actual cost of initiating service. Accurately allocating costs to customers who cause those costs to be incurred is an important tenet of public utility ratemaking. *See* James C. Bonbright, *Principles of Public Utility Rates* (New York: Columbia University Press, 1961), 291 (Fairness of the specific rates in the apportionment of total costs of service among the different consumers is one of eight criteria to consider in developing a rate structure). The parties to PSNH's distribution rate case and Staff agreed to review the cost of initiating service to new customer locations compared to the distribution revenue to be received from such customers and to develop a line extension policy to better align the costs and revenues related to new customer locations.

PSNH filed a report of its analysis of line extension costs and revenues on November 1, 2008 and a revised tariff on November 3, 2008. The OCA and HBRANH participated in the docket. Following discovery, the parties entered into settlement discussions that resulted in the filing on September 18, 2009 of a settlement agreement signed by PSNH, Staff, the OCA and HBRANH.

Among other things, the proposed tariff provided that the per-foot cost would be phased in over three years to alleviate the impact of the new policy on customers requesting line extensions and to lessen the impact on the housing industry. The tariff allowed PSNH to base costs on customer specific requirements for overhead and underground installation of three-phase facilities. The tariff also eliminated the prior tariff provision which allowed customers to pay for the cost of the line extension over 60 months and to recalculate the amount owed if a new customer came on the line that had been extended.

In Order No. 25,046, we found that the proposed tariff, supported by the OCA, the HBRANH and Staff met the goals of minimizing subsidization occurring between existing customers and new customers. We also found that the proposed tariff would reduce the time PSNH spent on administering, estimating and monitoring line extensions, making the policy more straightforward and easier to understand. Overall, we concluded that the proposed tariff was just and reasonable and in the public interest.

We find no evidence in the record here that would cause us to reconsider these conclusions. Based on the statements we received, we understand that there is no disagreement that PSNH properly calculated the costs of the line extension to Mr. Snyder's property in a manner consistent with its tariff. There is also no evidence that PSNH has acted in contravention to its line extension policy, or with the settlement agreement that we approved in DE 08-135. In addition, Mr. Snyder has not presented us with any new facts that would persuade us to reopen the investigation of PSNH's tariff or conduct a public forum on PSNH's line extension policy. Though we recognize that the cost of the line extension is significant, given the length of public road that is not now served with electricity, we cannot conclude that it would be fairer for other customers to subsidize Mr. Snyder's decision to build on a parcel that has no electric service.

Based upon the foregoing, it is hereby

ORDERED, that the Public Service Company of New Hampshire petition to intervene and motion to dismiss are hereby GRANTED.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of January, 2013.

Amy L. Ignatius Chairman	Michael D. Harrington Commissioner	Robert R. Scott Commissioner

Attested by:

Debra A. Howland
Executive Director

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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Docket #: 12-307-1 Printed: January 31, 2013

FILING INSTRUCTIONS:

a) **Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**

DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
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b) **Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**

c) **Serve a written copy on each person on the service list not able to receive electronic mail.**