

DR 98-097

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

Request to Amend Restructuring Compliance Filing

Order Approving Procedural Schedule and Granting Interventions

O R D E R N O. 23,342

November 15, 1999

APPEARANCES: Dean, Rice & Kane by Mark W. Dean, Esq. for New Hampshire Electric Cooperative, Inc.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; James Rodier, Esq. for Freedom Partners, LLC, AGF Direct Energy, Ltd. and Town of Waterville Valley; Robert A. Backus, Esq. for the Campaign for Ratepayers' Rights; James A. Monahan for Cabletron Systems, Inc.; Office of Consumer Advocate by F. Anne Ross, Esq. for residential ratepayers; and Donald M. Kreis, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On October 1, 1999, the New Hampshire Electric Cooperative, Inc. (NHEC) filed with the New Hampshire Public Utilities Commission (Commission) a Motion to Amend its Compliance Filing relative to NHEC's obligations under the State's electric utility restructuring law, RSA 374-F. The motion concerns the Settlement Agreement entered into on September 30, 1999 by NHEC and Public Service Company of New Hampshire (PSNH) to resolve litigation over wholesale power arrangements. The Settlement Agreement, among other things, affects the level of NHEC's currently approved stranded cost recovery and allows for the full implementation of competitive choice. Consequently, NHEC seeks to amend the compliance filing that was approved by Order No. 23,013 (September 8, 1998), Order

No. 23,243 (June 28, 1999) and Order No. 23,249 (June 30, 1999). NHEC proposes to implement retail choice throughout its service territory on January 1, 2000.

The filing raises, inter alia, issues related to NHEC's stranded cost recovery charge, including the establishment of a regulatory asset to cover Seabrook related costs; NHEC's proposed acquisition of transition and default power supply; NHEC's proposal to acquire additional financing through the National Rural Utilities Cooperative Finance Corporation (CFC) and its plan to pay \$18 million of these borrowed funds to PSNH in order to terminate NHEC's wholesale power supply contract with PSNH (the so-called Amended Partial Requirements Contract, or "ARPA") on January 1, 2000 and settle all outstanding stranded cost claims between the two companies.

On October 18, 1999, the Commission issued an Order of Notice scheduling a pre-hearing conference and technical session for November 9, 1999. At the pre-hearing conference, without objection, the Commission granted the motions to intervene of AGF Direct Energy, Ltd. and Town of Waterville Valley.

II. POSITIONS OF THE PARTIES AND STAFF**A. New Hampshire Electric Cooperative**

NHEC noted that amending its Restructuring Compliance Filing to reflect the settlement of the company's four years of litigation with PSNH will significantly reduce NHEC's stranded costs, thus lowering rates, and permit NHEC's customers to choose their electricity suppliers as of January 1, 2000. Specifically, NHEC asks the Commission's approval for its proposed methodology for establishing stranded costs; the acquisition of additional financing from CFC; the use of that financing (1) to fund NHEC's \$18 million APRA termination payment, (2) to restructure NHEC's Seabrook-related debt to 12 years, and (3) to fund the payment of an additional \$8.5 million owed by NHEC to PSNH on an outstanding note. The company points out that, unlike the proposed settlement of PSNH's stranded costs now pending before the Commission, NHEC is not proposing to securitize any of its stranded costs.

NHEC further seeks approval for its plan to acquire transition and default service for the five-month period beginning on January 1, 2000. According to NHEC, it issued requests for proposals for transition and default service, is currently in negotiations with three bidders and expects to sign contracts by the end of November. The company anticipates it will file in early 2000 for transition and default service for

the period after May 31, 2000. NHEC also requests approval of a mechanism to permit its special contract customers to obtain power in the competitive market and to establish recovery mechanisms, rate design and tariff changes in connection with stranded costs, wheeling costs, transition service and default service.

In connection with its PSNH settlement, NHEC notes that FERC has issued a ruling requiring NHEC customers to continue paying APRA demand charges to PSNH even while purchasing power from competitive suppliers. Because the settlement provides for the termination of APRA, the demand charges associated with APRA would also be eliminated.

NHEC further noted that PSNH has been purchasing NHEC's share of the Seabrook power output but that this so-called Sellback Agreement expires on June 30, 2000. At that time, NHEC will be carrying approximately \$106 million in Seabrook-related debt. Therefore, NHEC is proposing to establish a regulatory asset for Seabrook-related stranded costs as of July 1, 2000 and to restructure this debt so as to pay it off completely within 12 years. According to NHEC, it is committed to divesting its interest in Seabrook but, as the owner of only 3% of the facility, it believes it will achieve maximum value if it acts in concert with other investors to sell a controlling interest in Seabrook. The NHEC filing assumes for modeling purposes that its interest in Seabrook will be sold on January 1, 2001 for

\$3,750,000 and that NHEC will be required to pay \$6,000,000 into the decommissioning trust at that time. NHEC proposes on July 1, 2000 to write off the book value of its Seabrook investment less the estimated sale price.

Because its proposal does not call for recovery of Seabrook-related stranded costs until the termination of the sellback agreement on June 30, 2000, and because rates would decrease on January 1, 2000 under the plan, NHEC proposes to recover all costs associated with the PSNH note between January 1, 2000 and June 30, 2000. According to NHEC, this will have the salutary effect of filling in the rate 'gap' between the beginning of competition and the commencement of Seabrook-related stranded cost recovery, while also permitting NHEC to save significant interest expense through prepayment of the note.

NHEC requests that certain additional matters be resolved when the Commission rules on its proposed modifications to the compliance filing. These additional matters are (1) an adjustment to the already-approved restructuring surcharge that the Company would have sought in September in any event, (2) a request to recover in base rates certain costs associated with litigation related to Maine Yankee, and (3) approval of NHEC's low-income program.

Finally, NHEC drew the Commission's attention to its motion for confidential treatment of the financial forecasts it submitted in connection with its prefiled testimony. The company

noted that all parties wishing to review these documents had agreed to sign confidentiality agreements prior to their review.

B. Public Service Company of New Hampshire

PSNH noted that it supports NHEC's requests and is participating in this docket mainly to provide information as necessary.

C. Campaign for Ratepayers' Rights

The Campaign for Ratepayers' Rights indicated that it is not yet taking a final position on the matters at issue but is pleased that the NHEC Settlement does not involve securitization.

D. Freedom Partners, LLC, AGF Direct Energy, Ltd. and Town of Waterville Valley

On behalf of these parties, Mr. Rodier expressed some concern that the process NHEC is using to ensure wholesale competition for transition and default service may not be adequate. He indicated that it may be appropriate to approve the pending proposals relating to transition and default service on the basis that the approval sets no precedent for what should occur after May 1, 2000. On behalf of the Town of Waterville Valley, Mr. Rodier characterized NHEC's plan for stranded cost recovery as too aggressively "front-loaded" and inconsistent with the level of rate relief that NHEC's retail customers have been expecting with the advent of competition.

E. Cabletron Systems, Inc.

Cabletron Systems, Inc. is generally favorably inclined

toward approval of the NHEC-PSNH settlement.

F. Office of Consumer Advocate

OCA's chief concerns involve rate design. OCA questions whether it is appropriate to establish a Regional Access Charge that is roughly one-third higher for the residential class than for non-residential customers. Regarding Transition Service, OCA questions whether one rate for all classes makes sense in terms of providing competitive options equally for all classes.

OCA also has concerns about the duration of transition service. If that question is left unanswered when the second round of transition service bidding occurs, OCA believes the bids may be unnecessarily high. Other concerns of OCA relate to whether there will be "branding" when customers are billed for transition service and the charges to be imposed on competitive suppliers.

G. Staff

Staff commended NHEC for reaching a negotiated settlement with PSNH and indicated that it has not fully developed its position on the matters at issue. With regard to NHEC's motion for protective order, Staff indicated that it would like to review the unredacted versions of the documents at issue before taking a position. NHEC supplied the unredacted versions to staff during the technical session.

III. PROPOSED SCHEDULE

During the prehearing conference, the parties had an opportunity to meet informally and to agree upon a proposed schedule to govern the remainder of the proceedings on NHEC's motion. The proposed schedule is as follows:

Deadline for submitting rolling data requests to NHEC	November 24, 1999
NHEC responses to all data requests	November 29, 1999
Technical session/settlement	November 29, 1999
Submit settlement	November 29, 1999
Testimony from Staff and Intervenors	December 3, 1999
Discovery on Staff/Intervenor testimony (technical sessions and/or depositions)	December 6-7, 1999
Hearing on the merits	December 9-10, 1999

IV. COMMISSION ANALYSIS

We believe that the proposed schedule, although ambitious, is appropriate given the January 1, 2000 effective date of NHEC's agreement with PSNH and the attendant commencement of competition in the NHEC service area. Accordingly, we approve the schedule as proposed by the parties. We will grant both additionally requested interventions because the requesters have stated a basis for intervention under our rules and granting such interventions will not interfere with the orderly handling of the docket. With regard to NHEC's motion for confidential treatment, we will defer consideration of the issue pending Staff's review of the unredacted versions of the documents in question.

Based upon the foregoing, it is hereby

ORDERED, that the procedural schedule delineated above is APPROVED; and it is

FURTHER ORDERED, that AGF Direct Energy, Ltd. and the Town of Waterville Valley are granted intervenor status; and it is

FURTHER ORDERED, that the Petitioner, New Hampshire Electric Cooperative, Inc., cause a copy of this order to be published no later than November 22, 1999 in a newspaper with statewide circulation or of general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before

November 29, 1999.

By order of the Public Utilities Commission of New
Hampshire this fifteenth day of November, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary