

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 08-009

**ENERGYNORTH NATURAL GAS, INC.
D/B/A NATIONAL GRID NH**

Petition for Permanent Rate Increase and for Temporary Rates

Order Approving Settlement on Temporary Rates

ORDER NO. 24,888

August 18, 2008

APPEARANCES: Sarah B. Knowlton, Esq., of McLane, Graf, Raulerson, and Middleton, and Thomas P. O'Neill Esq., Senior Counsel, on behalf of EnergyNorth Natural Gas, Inc. d/b/a National Grid NH; Rorie E.P. Hollenberg, Esq. and Meredith A. Hatfield, Esq., of the Office of Consumer Advocate, on behalf of residential utility ratepayers; and Edward N. Damon, Esq. for the Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

On February 25, 2008, EnergyNorth Natural Gas, Inc. d/b/a National Grid NH (EnergyNorth) made a filing requesting permission to implement new permanent natural gas service delivery rates. Pursuant to RSA 378:27 it also requests permission to charge temporary rates, effective with service rendered on and after August 24, 2008. On February 28, 2008, the Office of Consumer Advocate (OCA) entered its appearance on behalf of residential ratepayers consistent with RSA 363:28. On March 14, 2008, the Commission issued Order No. 24,830, suspending the tariffs included in the Company's delivery rate filing and scheduling a prehearing conference.

At the prehearing conference, the Commission granted motions to intervene by Pamela Locke, represented by New Hampshire Legal Assistance, and Unifil Energy Systems, Inc., but held a request for intervention by Robert Giordano in abeyance pending clarification of his

intentions regarding intervention. Subsequently, the Commission approved the procedural schedule proposed by the parties and Staff as well as certain modifications proposed thereafter. By letter filed on May 20, 2008, Staff recommended that the Commission accept the withdrawal of Robert Giordano's intervention request.

On July 22, 2008 National Grid New Hampshire filed the direct testimony of Company witness Ann E. Leary and Commission Staff member Stephen P. Frink in support of a settlement on temporary rates. A hearing on temporary rates was held on August 5, 2008.

II. SETTLEMENT REGARDING TEMPORARY RATES

EnergyNorth and Staff recommend that temporary rates be set based on the Company's requested increase of \$6,620,440 in annual operating revenue, for the temporary rate period starting August 24, 2008 on a service rendered basis, and that the difference between existing revenues and the proposed revenue requirement be recovered pro-rata across all current rate classes based on the Company's currently effective rate design. In addition, permanent rates, once approved by the Commission would be reconciled back to August 24.

The Company and Staff agreed that, effective August 24, the Company would begin to bill customers on a dry therm basis¹ in order to make the reconciliation process less burdensome when permanent rates are determined, assuming the Commission ultimately approves the changeover to dry therm billing. Currently, the Company bills its customers on a wet therm basis although the Company is billed by its suppliers on a dry therm basis and, in accordance with proposed revisions to the tariff attached to the testimony, seeks to change its customer billing to a dry therm basis to conform to the industry norm. This change will obviate the need

¹ As more fully explained in Order No. 24,752 (May 25, 2007), customers are billed according to the heat content of the gas they consume. The heat content may be measured on a dry therm basis, which is a measurement of the actual heat content of the delivered gas, or on a wet therm basis, which is a measurement of the gas fully saturated with water vapor at standard temperature and pressure conditions.

for converting the dry therms billed to the Company by its suppliers to the wet therms billed by the Company to its customers. There will be no revenue impact to customers or the Company as a result of this change.

III. POSITIONS OF THE PARTIES AND STAFF

A. EnergyNorth

In its petition for temporary rates, EnergyNorth stated that it earned a return of 3.94% based on its test year rate base and operating revenues and expenses, as compared to its last allowed rate of return of 9.83% and the 9.26% rate of return proposed in its permanent rate filing. The Company asserted that the shortfall in its rate of return was due in large part to substantial non-revenue producing rate base additions and increases in operating expenses experienced since its last base rate case was completed in 1993 that outstripped significant cost savings and operating efficiencies achieved during the past 15 years.² The Company argued that unless temporary and, ultimately, permanent rate relief is granted, it will not earn a reasonable rate of return on the cost of property used and useful in the public service and the continuation of current rates will result in the confiscation of the Company's property. The Company requested temporary rates pursuant to RSA 378:27 in order to generate an increase of \$6,620,440 in operating revenues. The Company noted that the EnergyNorth Merger Rate Agreement, approved by the Commission in Order 24,777 (July 12, 2007), contemplated that the Company could file for a temporary rate increase effective one year after consummation of the merger (i.e., August 24, 2008).

The Company calculated that the requested temporary rate relief would increase customers' total bills on average by approximately 3.75% and that the resulting revenue increase

² The Company estimated that its rate base had nearly doubled and inflation had increased almost 50% in the 15 years since its last base rate increase.

would be 50% of the revenue deficiency determined on the basis of its test year rate base and net operating income (without any pro forma adjustments) and requested allowed rate of return.

Finally, the Company requested that the temporary rate increase be implemented in accordance with the rate design proposal set forth in its permanent rate filing.

At hearing, the Company provided more detail about expected rate impacts on the various customer classes. For example, residential heating customers will experience an increase of approximately 4.1% on their overall bills, while residential non-heating customers will experience an increase of approximately 5.7% and low income customers an increase of approximately 1.9% after their discount. High winter use commercial and industrial customers will experience rate increases ranging from approximately 2.1% to 3.8% while low winter use commercial and industrial customers will see increases ranging from approximately 0.4% to 3.3%.

In addition, the Company explained that its temporary rate request included a return on a component of rate base referred to as non-interest bearing CWIP (construction work in progress), which the Company described as being related to “blanket” projects of such short duration and small dollar value that there is no recovery on the cost of money associated with these projects through the AFUDC (allowance for funds used during construction) mechanism. The Company maintained that since the blanket projects are of short duration they became plant in service by the time temporary rates go into effect and thus do not violate the State’s anti-CWIP law, RSA 378:30-a.

B. OCA

The OCA stated that it did not object to the proposed temporary rates as described by the Company and Staff in their direct testimony in support of a settlement on temporary rates.

C. Staff

Staff noted that the requested temporary rates are approximately two thirds of the requested permanent rate increase. Staff further noted that, using unadjusted books from the test year, the requested temporary rates are approximately 50% of what the Company would be entitled to under the current allowed rate of return. Staff performed a calculation using the agreed-upon merger savings and a rate of return consistent with recent Commission cost of capital decisions, and even then the allowable revenue increase would exceed the \$6.6 million requested increase. Staff noted that the revenue increase will be reconciled once a final decision is reached on permanent rates. In response to a question from OCA at hearing, Staff confirmed that the temporary rate settlement does not address how any over- or under-recovery will be handled and it noted that the reconciliation issue would be addressed later in the proceeding.

IV. COMMISSION ANALYSIS

Since the direct testimony of EnergyNorth and Staff sets forth a settlement on temporary rates, we will employ the standards normally employed when considering settlements. N.H. Code Admin. Rules Puc 203.20(b) provides that the Commission will approve a disposition of any contested case by settlement if the Commission determines that “the result is just and reasonable and serves the public interest.” In addition, RSA 378:27 requires the Commission to set temporary rates at a reasonable level, which the New Hampshire Supreme Court has determined must be:

sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service less accrued depreciation, as 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.

Appeal of the Office of Consumer Advocate, 134 N.H. 651, 661 (1991). The Court has further held that “[t]his standard is ‘less stringent’ than the standard for permanent rates, in that

temporary rates shall be determined expeditiously, without such investigation as might be deemed necessary to a determination of permanent rates.” *Id.* at 660 (citation and internal quotation marks omitted). In addition, as the Court observed in *Appeal of Pennichuck Water Works*, 120 N.H. 562, 564 (1980), the effective date of temporary rates “fixes and determines the period during which the rates allowed in the underlying permanent rate proceeding may apply.” Based on the record in this case and the applicable standards, we find that EnergyNorth has demonstrated that its request for temporary rates is warranted.

We note first that the temporary rate filing complies with the one year stay-out provision in the National Grid-KeySpan Merger Agreement approved in Order No. 24,777. Furthermore, we find that temporary rates are appropriate in the circumstances present here, where the Company has not increased its base delivery rates in 15 years and, based on its books and records, its actual rate of return for the test year is well below the authorized return.

Staff has evaluated the revenue increase that would be generated by temporary rates and concluded that the level of the Company’s request is reasonable under the circumstances. Of particular importance to Staff is the fact that “the additional revenue that would be generated by the temporary rate increase is 44% of the increase that the company would be entitled to receive based on the rate base and operating expenses reflected in the Company’s unadjusted books and records on file with the commission and 45% of what the Company would be entitled (on a per books basis) to receive using the last allowed rate of return.” See, Direct Testimony of Anne E. Leary and Stephen P. Frink, p.4 (July 22, 2008). We agree with Staff’s view.

Consistent with RSA 379:29, temporary rates are reconciled with permanent rates. Thus, the Company may recoup an under-recovery while customers will be credited with an over-recovery. Under the settlement, the temporary rates are to be recovered under the currently

effective rate design rather than the rate design proposed in the Company's filing. We find the temporary rates provided in the settlement to be reasonable. As discussed at hearing, we are not called on here to decide the issue of how any over- or under-recovery will be handled following the reconciliation and we do not decide here any issue related to construction work in progress.

Finally, the agreement that the Company may change its customer billing from a wet therm to a dry therm basis effective with temporary rates is reasonable because it will have no revenue impact on customers or the Company and it is consistent with current industry norms. Proposed revisions to the Company's tariff to accomplish this change were attached to the direct testimony in support of the settlement on temporary rates filed with the Commission on July 22, 2008. We find the proposed tariff revisions to be appropriate. The tariff revisions were not attached to the copy of Exhibit 5 introduced at hearing and the Company is requested to file a copy of Exhibit 5 that conforms with the testimony and attachments previously filed.

Based upon the foregoing, it is hereby

ORDERED, temporary rates as set forth in the settlement are approved, effective August 24, 2008 on a service-rendered basis; and it is

FURTHER ORDERED, that EnergyNorth shall file properly annotated tariff pages in compliance with this Order no later than 15 days from the issuance date of this Order, as required by N.H. Code Admin. Rules Puc 1603.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of August, 2008.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Lori A. Normand
Assistant Secretary