

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 16-769

CONCORD STEAM CORPORATION

Petition for Emergency Rates and to Discontinue Service

Order Granting Emergency Rates on an Interim Basis

ORDER NO. 25,947

September 28, 2016

APPEARANCES: Orr & Reno, by Susan S. Geiger, Esq., for Concord Steam Corporation; The New Hampshire Department of Justice, Office of the Attorney General, by Christopher G. Aslin, Esq., for the Department of Administrative Services; Upton & Hatfield, LLP, by John F. Teague, Esq., for the Concord School District; Messrs. Brian Lebrun and Carlos Baia, *pro se*, for the City of Concord; and Alexander F. Speidel, Esq. for the Staff of the Public Utilities Commission.

In this order, the Commission approves an increase in distribution rates on an interim emergency basis for Concord Steam Corporation. The new distribution rates will be effective as of October 1, 2016, and are: \$37.53 per one thousand pounds (Mlb) of steam for the first 500 Mlbs of steam sales; \$36.37 per Mlb for sales of 501-2000 Mlbs; and \$32.88 per Mlb for steam sales over 2000 Mlbs. Those rates, when combined with other rate elements in Concord Steam Corporation's tariff, will increase customer bills by approximately 23 percent. The rates are being approved pursuant to RSA 378:9 on an interim emergency basis, without reference to a specific revenue requirement or other detailed rate elements. The final determination regarding Concord Steam's permanent rate proposal and other matters under consideration in this proceeding will be made after further recommendations by Staff and other parties on such matters, and a subsequent hearing before the Commission in this docket on October 5, 2016.

I. PROCEDURAL HISTORY

On July 21, 2016, Concord Steam Corporation (Concord Steam), a public utility offering steam service to customers in Concord, filed a petition for emergency rates pursuant to RSA 378:9. In support of its request, Concord Steam filed the direct testimony of Peter G. Bloomfield, P.E., President, and supporting schedules. Hearing Exhibits 1 and 2. On July 26, the Commission issued an Order of Notice, scheduling a hearing for September 6, 2016. Commission Staff propounded discovery on Concord Steam regarding its emergency rate request, and the Company responded. Motions to Intervene were filed by three governmental entities that are customers of Concord Steam: the New Hampshire Department of Administrative Services (Department of Administrative Services); the City of Concord; and the Concord School District (on a late-filed basis, on September 8, 2016). The Jordan Institute, not a customer, also sought intervenor status. Concord Steam filed an objection to The Jordan Institute's motion to intervene.

The Commission held a public hearing as scheduled on September 6, at which the petitions to intervene of the Department of Administrative Services and the City of Concord were granted, and the Jordan Institute's petition was denied. The Commission established a procedural schedule for the remainder of this docket by secretarial letter. *See* Letter of Executive Director Debra A. Howland, September 14, 2016. The Concord School District's petition to intervene is granted in this Order.

Just prior to the September 6 hearing, Deputy Commissioner Michael P. Connor of the Department of Administrative Services filed testimony. Hearing Exhibit 4. Messrs. Bloomfield and Connor provided additional oral testimony regarding Concord Steam's proposal at the hearing. Stephen Frink of the Commission's Gas & Water Division also testified at the hearing to present Staff's view of Concord Steam's request.

II. POSITIONS OF THE PARTIES AND STAFF REGARDING EMERGENCY RATE PETITION

A. Concord Steam

In its petition for emergency rates pursuant to RSA 378:9, Concord Steam stated that, due to an ongoing decline in customer counts, declining steam load, and chronic revenue shortfalls, it has decided to seek a termination of its utility service status from the Commission in the instant docket, and emergency rate relief for the 2016-2017 heating season. Specifically, Concord Steam intends to permanently discontinue steam service to its customers (pursuant to RSA 374:28) on or about May 31, 2017, within the framework of an Asset Purchase Agreement with Liberty Utilities (considered in the companion DG 16-770 docket), and to use the increased emergency rates to cover operating and wind-down expenses. Exhibit 1 at (Bates page) 3-8.

In his written testimony, Mr. Bloomfield discussed the appropriateness of emergency rate relief and the problems faced by Concord Steam prior to its decision to seek a termination of service. Mr. Bloomfield estimated that by year-end 2016, 12 percent of Concord Steam's existing load will be eliminated due to customer migration caused by uncertainties regarding Concord Steam's business viability. Exhibit 1 at 14. Mr. Bloomfield also discussed the implications of the Liberty Utilities Asset Purchase Agreement for the Concord Steam wind-down plan, and the net income loss of more than \$500,000 incurred by Concord Steam over the last decade. Exhibit 1 at 15-16. Mr. Bloomfield provided a general breakdown of the expected use for the emergency rate increase revenues in his testimony, and a request that the new rates be made effective on October 1, 2016. Exhibit 1 at 16-20.

At hearing, Mr. Bloomfield elaborated on Concord Steam's reasons for seeking emergency rates and a termination of service petition. Transcript of September 6, 2016, Hearing (Tr.) at 13-40. Mr. Bloomfield also revised Concord Steam's emergency rate request upward by

16 cents per Mlb, so that the distribution rates being sought were as follows: \$37.53 per Mlb of steam for the first 500 Mlbs of steam sales, \$36.37 per Mlb for sales of 501-2000 Mlbs, and \$32.88 per Mlb for steam sales over 2000 Mlbs. Tr. at 15-16. Mr. Bloomfield stated that the proposed rates were being adjusted upward due to a slight decrease in projected steam sales. *Id.*

B. Department of Administrative Services

The Department of Administrative Services offered support for the concept of interim emergency rates effective October 1, pending further elaboration of its position on emergency rates for Concord Steam at or before the October 5 hearing, and fully reserving its rights to raise issues regarding these rate schedules at that hearing. Tr. 108-110.

C. Staff

Mr. Frink testified that the record was sufficient to justify implementing the proposed rates as interim emergency rates effective October 1, 2016, but that a final determination on emergency rates should be delayed pending resolution of a number of outstanding issues. Mr. Frink recommended a procedural schedule to allow for additional discovery, testimony, and a hearing on the merits that would enable the Commission to issue a final order setting emergency rates for effect on November 1, 2016. Tr. 77-89. Mr. Frink also confirmed that there were no outstanding audit-related issues for consideration identified by the Audit Division of the Commission in connection with Concord Steam's emergency rate petition. Tr. at 90.

D. Others

The City of Concord and the Concord School District took no position regarding the emergency rate request by Concord Steam. Tr. 107-108

III. COMMISSION ANALYSIS

Pursuant to RSA 378:9, “[w]henever the Commission shall be of the opinion that an emergency exists, it may authorize any public utility temporarily to alter, amend or suspend any existing rate, fare, charge, price, classification or rule or regulation relating thereto.” Regarding the scope of the Commission’s authority under RSA 378:9, the Supreme Court has said that, “The Legislature . . . intended to vest in the commission as a fact finding body wide discretionary powers to decide whether a crisis is of sufficient severity to warrant relief and if so the extent of the relief.” *Petition of Public Service Company of New Hampshire*, 130 N.H. 265, 273 (1988). The test for whether an emergency exists is, “whether reasonable persons may find the affairs of this company are at such a crisis that immediate and substantial disaster threatens unless prompt relief is given.” *Petition of Public Service Co.*, 97 N.H. 549, 551 (1951). The crisis need not be unforeseen, sudden, or unexpected. *Id.* at 550-51. The urgency of the petitioner’s needs, rather than the time or manner of their arrival, determines whether emergency rates are warranted. *Id.* at 551; *see also Lakes Region Water Company, Inc.*, Order No. 25,516 (June 4, 2013) at 6-7.

Based on Concord Steam’s petition and the evidence presented at hearing, we approve Concord Steam’s request for emergency rate relief on an interim basis, pursuant to the revised schedule presented at hearing. We find that an emergency exists with regard to Concord Steam. Operating losses and customer migration conditions militate in favor of immediate rate relief for this enterprise so that the Company can continue operations and earn the revenue generated by higher winter usage. The situation is drastic, and on that basis, we elect to extend this interim relief to Concord Steam pursuant to RSA 378:9, within our discretion. We expect Staff and Concord Steam to provide more development of the factual record regarding emergency rates at the upcoming October 5 hearing, and we will also further consider the question of termination of service and permanent emergency rates at that hearing.

Regarding the request for intervention by the Concord School District, as a customer of Concord Steam, the District has an interest that will be substantially affected by the outcome of this docket. As a result, the District meets the test for intervention set out in RSA 541-A:32, I(b), and we grant intervention on that basis.

Based upon the foregoing, it is hereby

ORDERED, that pursuant to RSA 378:9, Concord Steam's petition for emergency distribution rates of \$37.53 per Mlb of steam for the first 500 Mlbs of steam sales, \$36.37 per Mlb for sales of 501-2000 Mlbs, and \$32.88 per Mlb for steam sales over 2000 Mlbs, is hereby **GRANTED** on an interim basis, effective on October 1, 2016, pending a final Staff recommendation regarding Concord Steam's rate elements and the Commission hearing on October 5, 2016, at 1:00 p.m. and; it is

FURTHER ORDERED, that the Concord School District is granted intervenor status in this docket.

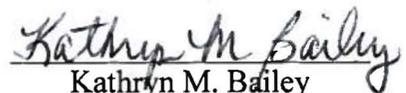
By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of September, 2016.



Martin P. Honigberg
Chairman

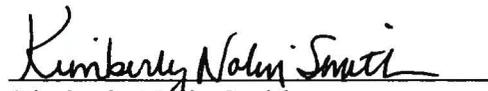


Robert R. Scott
Commissioner



Kathryn M. Bailey
Commissioner

Attested by:



Kimberly Nolin Smith
Assistant Secretary