

State of New Hampshire
Public Utilities Commission

DG 08-009

Re: Energy North Natural Gas, Inc.
d/b/a National Grid NH

**CLOSING ARGUMENT AND BRIEF
OF PAMELA LOCKE**

Submitted by
New Hampshire Legal Assistance
Attorney for
Pamela Locke

February 20, 2009

I. Introduction.

New Hampshire Legal Assistance represents Pamela Locke, a low income residential heating customer who receives service under the Company's R-4 rate. National Grid NH, the Company, filed for a rate increase in February of 2008. The Company requested a revised rate increase of approximately \$10 million. The proposed delivery increase was approximately 16%, with an overall bill increase of approximately 5.6% to residential customers. The proposed average increase to R-3 residential heating customers was 6.4%.

The parties agreed to a temporary across the board rate increase of 3.75%, which was approved by the Commission in Order No. 24,888. This temporary increase represented an increase of about 4% for the average residential heating customer.

On January 23, 2009, the parties entered into a partial settlement agreement, which covered all issues except return on equity. Ms. Locke was a signatory to the partial settlement agreement by her counsel New Hampshire Legal Assistance.

Ms. Locke, the Company, Staff and the Office of Consumer Advocate (OCA) did not agree on the Company's appropriate return on equity¹. Hearings took place on January 28 and 29, 2009. On January 28, 2009, the Commission heard testimony regarding the partial settlement agreement. At the January 28, 2009 hearing, Ms. Locke's counsel introduced Exhibits 42 and 43, and cross examined the Company's witness regarding rate impacts under the Staff's proposed return on equity and under the Company's proposed return on equity².

The partial settlement agreement at sections II.F.3 and II.F.4., on page 8, contains the following provisions regarding rate design:

¹ See Partial Settlement Agreement, Item II.A.1, p. 3, Ex. 41.

² See Transcript Day 1 (hereinafter TR-1), pp. 32-40.

- 1) Rate class revenue targets will be capped at 112.5%³,
- 2) Volumetric charges shall be designed to reduce the current declining block price differential by half⁴, and
- 3) All customer charges shall be increased by no more than 45%⁵.

In sections II.F.6 and II.G.2 (page 6) Ms. Locke, the Company, Staff and the OCA agreed to meet to discuss the following issues:

- 1) a possible increase to the R-4 low income discount⁶,
- 2) possible enhanced outreach efforts to low income customers on the R-3 rate who might be eligible for the R-4 low income discount rate⁷ and,
- 3) the Company's enhanced collection activities⁸.

II. Ms. Locke's Closing Argument.

Pamela Locke and her undersigned counsel would like to thank the Company, Staff, and the OCA for their efforts in developing the partial settlement agreement. Ms. Locke and her counsel would also like to express their appreciation to the Company, Staff and OCA for their understanding and sensitivity shown to the interests and concerns of low income customers, particularly in these difficult economic times.

Ms. Locke fully supports the partial settlement agreement entered into by Staff and the parties. Ms. Locke believes that the terms of the partial settlement agreement are just and reasonable and are in the public interest. For example, Ms. Locke supports capping rate class

³ See Partial Settlement Agreement, Item II.F.3, p. 8.

⁴ See Partial Settlement Agreement, Item II.F.4, p. 8.

⁵ *Id.*

⁶ See Partial Settlement Agreement, Item II.F.6, p. 9.

⁷ *Id.*

⁸ See Partial Settlement Agreement, Item II.G.1, p. 9.

revenue targets to 112.5% of the overall Company average delivery rate increase as being just and reasonable.

Ms. Locke particularly supports Section F, the Rate Design principles and provisions of the partial settlement agreement. These provisions will result in a significantly lower customer charge increase than originally proposed by the Company in its initial filing. This will also substantially reduce the rate impact on residential customers, particularly the impact on low income and elderly customers on the R-4 low income discount rate.

Ms. Locke similarly supports the flattening of the declining block, volumetric rate design for the R-3 residential heating rate and the R-4 low income discount rate. The flattening of the per therm charges will reduce the disparity of the increases between higher use customers and lower use customers. As a result, lower use customers will not be subject to such a disproportionately high percentage rate increase because of their reduced usage as was originally proposed by the Company in its initial filing.

Likewise, Ms. Locke supports the flat rate proposed for R-1 non-heating customers as set forth in the partial settlement agreement and related exhibits.

Ms. Locke believes that the Company's agreement, supported by Staff and the OCA, to meet with her and her counsel concerning the matters described above in the Introduction is in the public interest.

Finally, Ms. Locke urges the Commission to consider the bill impacts on residential ratepayers in determining the Company's allowed return on equity as part of the Commission's determination of just and reasonable rates in the contested part of this proceeding. This matter will be more fully discussed in the following section of this brief.

Ms. Locke thanks the Commission for the opportunity to participate in this proceeding.

III. The Commission Should Set the Return on Equity to Result in Just and Reasonable Rates.

The New Hampshire Supreme Court has observed that “[T]he commission [thus] controls three variables in regulating rates to provide revenue to [a utility]: operating expenses, rate base [cost of used and useful property] and rate or percentage of return allowed on the rate base.”⁹ As the Commission has recognized: “[t]he cost of capital is understood to be what a utility must receive to maintain its credit, to pay a return to the owners of the enterprise, and to insure the attraction of capital in amounts adequate to meet future needs.”¹⁰ And: “When the Commission fixes a utility’s cost of equity capital, the relevant determinations ‘depend for their validity upon the integrity of the reasoning process by which a series of relevant competing factors are evaluated in relation to each other.’”¹¹ Thus, in setting the Company’s return on equity, the Commission will be fixing the Company’s rates and those rates must be just and reasonable in accordance with RSA 378:7 and 378:28.

Because the Commission is fixing rates by determining the return on equity, the Commission “...must balance the consumers’ interest in paying no higher rates than are required with the investors’ interest in obtaining a reasonable return on their investment”¹². Further, the Commission must ensure that rates are limited to a level that is “reasonable” under RSA 378:7, :27, and :28.¹³ Finally, the Commission must serve as the arbiter between the interests of the customer and the interests of the regulated utility.¹⁴

⁹ *Appeal of Conservation Law Found.*, 127 N.H. 606, 634 (1986)(citing to *Appeal of Public Serv. Co.*, 125 N.H. 46, 49 (1984)).

¹⁰ *PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, Transition and Default Service Rates*, DE 04-177; ORDER NO. 24,552 granting rehearing in part, 2005 N.H. PUC LEXIS 134, 30 (2005)(citing to *Appeal of Public Service Co. of N.H.*, 130 N.H. 748, 751 (1988)).

¹¹ *Id* at 30-31.

¹² *Eastman Sewer Co.* 138 N.H. 221, 225 (1994)(citing to *New England Tel. & Tel. Co. v. State*, 113 N.H. 92, 95 (1973)).

¹³ *Appeal of Conservation Law Found.*, 127 N.H. at 633.

¹⁴ See RSA 363:17-a.

The term “reasonable rate” is understood as referring to the result of the ratemaking process.¹⁵ Thus, rate impacts can be helpful in evaluating what return on equity is most appropriate. A comparison of Exhibits 42 and 43 shows that a return of equity of 9.01% for an R-4 household consuming 50 therms per month would result in a rate increase of 1.88%, compared with a rate increase of 3.20% under a return on equity (“ROE”) of 12.25%.¹⁶ For many households, particularly low-income households on either the R-3 or R-4 rate, an additional 2-4% increase in winter heating bills can mean the difference in being able to pay the co-pay on a needed medication or the gas needed to go to work.¹⁷

Rate increases are particularly harmful to consumers in a tough economy, as the Company has pointed out¹⁸, and especially at a time when the cost of necessities for all households has gone up dramatically.¹⁹ For low-income customers, who generally use less fuel²⁰, and who are often on fixed incomes²¹, the impact of higher rate increases is felt that much more.

Ms. Locke has attempted to set forth herein frequently utilized ratemaking principles in the hope that they will be of assistance to the Commission in determining an appropriate return on equity in this proceeding.

¹⁵ *Appeal of Conservation Law Found.*, 127 N.H. at 633.

¹⁶ *See* Exhibit 42, p. 5; Exhibit 43, p. 5.

¹⁷ R-3 or R-4 customers may not experience much, if any, “rate shock” under Company’s requested ROE for permanent rates as compared to temporary rates. However, the standard for approval of temporary rates is less stringent than that for permanent rates. *See Appeal of Office of Consumer Advocate*, 134 N.H. 651, 660 (1991). And the results of the temporary rates need not be adopted in the permanent rates. *See New England Telephone & Telegraph Co. v. State*, 95 N.H. 515, 518 (1949). The relevant rate impact analysis should be the rate impact of possible new permanent rates as compared to the old permanent rates.

¹⁸ *See* Leary Rebuttal Testimony, Ex. 39, p. 4, ll. 1-11.

¹⁹ *See* Colton Prefiled Testimony, Ex. 31, page 10, l. 17 – p. 11, l. 20.

²⁰ *Id* at p 4, l. 20 – p. 8, l. 15.

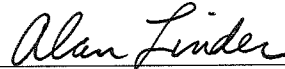
²¹ *Id* at p. 9, l. 16 – p. 10, l. 15.

IV. Conclusion.

Ms. Locke recommends that the Commission approve the partial settlement agreement. Ms. Locke further recommends that the Commission consider the justness and reasonableness of permanent rates when setting the return on equity for National Grid NH.

Respectfully submitted,

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Date

Certification of Service

I certify that on this date copies of the within document were sent by email to the Commission, Staff, and all parties to this proceeding.

New Hampshire Legal Assistance



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2/20/09