

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 10-017

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

Notice of Intent to File Rate Schedules

Order on Petition for Temporary Rates

ORDER NO. 25,104

May 14, 2010

APPEARANCES: Steven V. Camerino, Esq., and Patrick Taylor, Esq., of McLane, Graf, Raulerson & Middleton, P.A. for EnergyNorth Natural Gas, Inc. d/b/a National Grid NH; Alan Linder, Esq., of New Hampshire Legal Assistance for Pamela Locke (not present at this hearing); Rorie E.P. Hollenberg, Esq., of the Office of Consumer Advocate, on behalf of residential utility ratepayers; and Matthew J. Fossum, Esq., for the Staff of the Public Utilities Commission

I. PROCEDURAL HISTORY

On January 26, 2010, EnergyNorth Natural Gas, Inc. d/b/a National Grid NH (National Grid or Company) filed its notice of intent to file rate schedules to seek an increase in its annual distribution revenues. On February 4, 2010, the Office of Consumer Advocate (OCA) notified the Commission that it would participate in the docket on behalf of residential ratepayers consistent with RSA 363:28. On February 26, 2010, National Grid filed its proposed rate schedules seeking an increase of \$11,422,718 in annual distribution revenues, which, according to the Company, would result in an average overall increase of 9.59 percent in customers' combined distribution and commodity bills. The Company also sought a temporary rate increase of \$5,711,339. In its filing, the Company also moved for waivers from compliance with certain requirements of the Commission's rules, and for confidential treatment relative to information about the compensation paid to its officers and directors.

On March 10, 2010, the Commission issued Order No. 25,081 suspending the Company's proposed tariff revisions and scheduling a pre-hearing conference and technical session for April 8, 2010, and a hearing on the Company's request for temporary rates for May 6, 2010. The order also granted the Company's motion for a waiver of the 30-day notice requirement of New Hampshire Code of Administrative Rules Puc 1203.02(d). The order noted that the Commission was not then ruling upon the Company's other pending motions. A discussion of and ruling on the Company's pending motions is contained in a separate order. At the pre-hearing conference, the only pending petition to intervene, that of Pamela Locke, was granted. That grant of intervention was affirmed by a Secretarial Letter dated April 16, 2010.

On April 26, 2010, Staff filed a settlement agreement reached between National Grid and Staff with regard to temporary rates. The settlement agreement provided for an increase in the Company's annual revenue of \$5,000,000. To effectuate this increase, the existing rates for all customers would be increased on an equi-proportional basis for service rendered on and after June 1, 2010. Attachment A to the agreement, which was originally omitted, but filed on April 29, 2010, sets out the rates to be imposed under the terms of the agreement. *See* Hearing Exhibit 1. On May 5, 2010, the Company filed a letter noting that the settlement agreement and attachment were inconsistent, in that the agreement stated that only the volumetric charges would be increased, whereas the attachment showed increases to all components, including the customer charge. *See* Hearing Exhibit 2. The letter stated that the attachment was accurate and that the language in the agreement was incorrect. *See* Hearing Exhibit 2.

II. POSITIONS OF THE PARTIES AND STAFF

A. National Grid

National Grid's original petition for temporary rates averred that the reports and documentation on file with the Commission demonstrated its need for a rate increase and that it was, therefore, requesting an increase of \$5,711,359 in annual revenues on a temporary basis. The requested amount of temporary rates was one-half of that sought in the Company's request for permanent rates. That proposed increase was approximately 3.4 percent on average over current bills and 13 percent based on delivery rates only. The Company stated that it had agreed to the \$5,000,000 after conferring with Staff during the April 8, 2010 technical session. Transcript of May 6, 2010 Hearing on Temporary Rates (Tr.) at 17. According to the Company, the agreed-upon increase will help "bridge the gap" toward the new permanent rates, by allowing for more gradual rate increases. Tr. at 17-18. National Grid stated that, had it been required to do so, it could have shown the need for a higher amount, but that in the interest of resolving temporary rates efficiently, it agreed to the lesser amount. Tr. at 33.

The Company continued to seek implementation of the new rates for service rendered on and after on June 1, 2010. At that point, the Company noted that customers' overall bills would increase, on average, by 2.8 percent, with the bills for residential heating customers increasing by 3.65 percent. *See Exhibit 4, Report of Proposed Rate Changes*; Tr. at 19-20. The Company noted that the increase would be equi-proportional across all components of the bill, as shown by the attachment to the agreement. Tr. at 20-21. In its closing, the Company stated that it believed the temporary rates produced by the settlement were reasonable. Tr. at 32-33.

B. OCA

The OCA took no position relative to the settlement agreement reached between Staff and the Company on temporary rates. Tr. at 29. The OCA questioned the Company about which books and records it relied upon in producing its request for temporary rates and the Company noted that it relied upon the annual report filed in early 2010. Tr. at 22-23. The OCA also asked the Company about its most recent rate case, Docket No. DG 08-009, and whether all issues other than the return on equity had been settled in that case. Tr. at 23. National Grid confirmed that the case was settled except for the issue of return on equity. Tr. at 23.

The OCA also questioned the Company about the timing of its current rate filing. Tr. at 23. Specifically, the OCA asked whether the settlement in the last rate proceeding was filed prior to the end of the test year in the current case. Tr. at 23. National Grid also confirmed that that was the case. Tr. at 23. Lastly, the OCA questioned the Company about the manner in which recoupment was addressed in the prior rate case. Tr. at 23-24. The Company responded that, upon calculating the difference between temporary and permanent rates, and netting that amount against its rate case expenses, it delivered a credit to its customers on the volumetric portion of their rates through the Local Distribution Adjustment Clause. Tr. at 24.

C. Staff

Staff stated that the Company's original request for temporary rates was based upon information available at the end of 2008. Tr. at 27. According to Staff, using more up-to-date information, the Company appeared to have improved its earnings. Tr. at 27. Therefore, Staff found the settlement amount of \$5,000,000 more reasonable in that it would prevent the Company from possibly over-earning. Tr. at 27. Staff noted that it agreed with the Company's clarification that in reaching the settlement agreement it had intended for all components of the

rate to be increased, and not only the volumetric rate. Tr. at 21-22. Staff also noted that, because any temporary rates would be subject to reconciliation with permanent rates, there was a measure of protection for customers and the Company from over- or under-earning. Tr. at 31.

III. COMMISSION ANALYSIS

Because the Staff and National Grid have put forth a settlement on temporary rates for our consideration, we employ the standard used to evaluate settlement agreements. New Hampshire Code of Administrative Rules Puc 203.20(b) provides that the Commission shall approve the disposition of any contested case by settlement “if it determines that the result is just and reasonable and serves the public interest.” *See also* RSA 541-A:31, V(a). Even where all parties enter into a settlement agreement, however, the Commission cannot approve it “without independently determining that the result comports with applicable standards.” *Unitil Energy Systems, Inc.*, Order No. 24,677, 91 NH PUC 416, 426 (2006) (quotation omitted).

RSA 378:27 requires the Commission to set temporary rates at a reasonable level, that is:

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.

See also Appeal of the Office of Consumer Advocate, 134 N.H. 651, 661 (1991). “This 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 quotations omitted). Moreover, the effective date of temporary rates “fixes and determines the period during which the rates allowed in the underlying permanent rate proceeding may apply.” *Appeal of Pennichuck Water Works*, 120 N.H. 562, 564 (1980). Based on the record in this case, we find the revenue increase as set

forth in the settlement agreement to be appropriate and the resulting rates to be just and reasonable.

The Company indicated that it is under-earning as a result of making non-revenue producing capital investments, increases in costs and “a flattening trend in average use per customer” due to changes in conservation and energy efficiency. Hearing Exhibit 3, Temporary Rate Testimony of Frank Lombardo and Ann Leary at 3 of 8. According to the Company, this has resulted in its earning a return on equity of approximately three to four percent in 2008 and 2009.

The test year selected by National Grid for the rate case is the twelve-month period ended June 30, 2009. This means that the period of under-earning claimed by National Grid includes a period where the impact of new permanent rates may not be evident. Staff testified that National Grid’s more recent filings show improvement in its earnings, though the books and records on file still indicate that it is under-earning. The level of earnings and other issues will be explored in depth during the examination of the Company’s filing for permanent distribution rates. For purposes of temporary rates and the more limited investigation envisioned by RSA 378:27, we find that the records of the Company justify an increase in rates on a temporary basis. *See Appeal of the Office of Consumer Advocate*, 134 N.H. at 661.

As to the amount of the temporary rates increase, Staff and the Company have agreed that \$5,000,000 represents a reasonable increase on a temporary basis. National Grid stated that its records would support, and that it could prove, the need for a greater increase, but that it agreed to a lesser increase so as to efficiently resolve the issue of temporary rates. Further, Staff stated that through its review it found the original request reasonable, but that a lesser amount was warranted so as to avoid potential over-earning by the Company since its earnings had shown

improvement in more recent reports to the Commission. We note that one of the expressed desires for temporary rates is that such rates may be determined expeditiously and based upon a less thorough investigation than might be conducted for permanent rates. *See Appeal of the Office of Consumer Advocate*, 134 N.H. at 660. For the reasons put forth by Staff and the Company, we conclude that the amount of the increase is reasonable. Moreover, this increase may help to “bridge the gap” to new permanent rates and decrease any potential rate shock resulting from the institution of new permanent rates at the conclusion of the case. Accordingly, we approve the settlement agreement on temporary rates as filed by Staff and the Company, as well as the rate changes resulting from it.

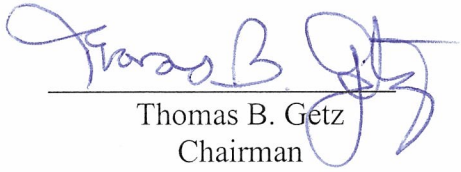
Based upon the foregoing, it is hereby

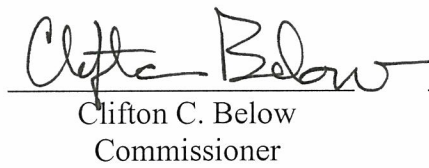
ORDERED, that the Settlement Agreement between Staff and National Grid is hereby APPROVED; and it is

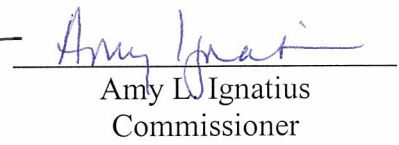
FURTHER ORDERED, that commencing with service rendered on and after June 1, 2010, National Grid may increase its annual distribution rates on a temporary basis by \$5,000,000 on an equi-proportional basis as shown on Attachment A to the Settlement Agreement; and it is

FURTHER ORDERED, that that National Grid shall file with the Commission properly annotated tariff pages consistent with the settlement agreement within 10 days of the date of this order, as required by N.H. Code Admin. Rules Puc 1603.

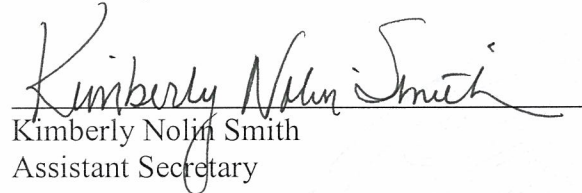
By order of the Public Utilities Commission of New Hampshire this fourteenth day of
May, 2010.

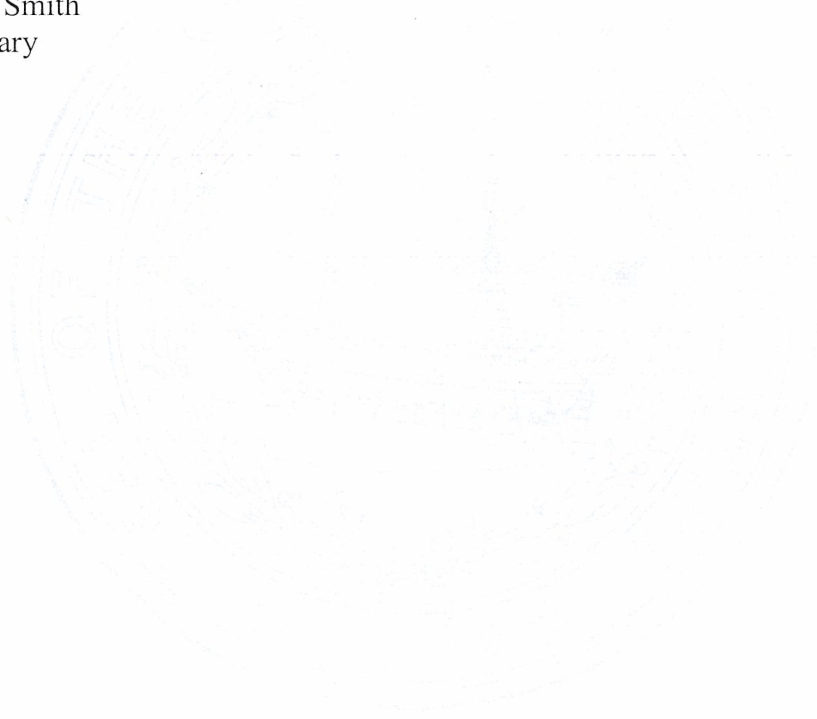

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05/14/10 Order No. 25,104 issued and forwarded to all
parties. Copies given to PUC Staff.

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FILING INSTRUCTIONS: PURSUANT TO N.H. ADMIN RULE PUC 203.02(a),

WITH THE EXCEPTION OF DISCOVERY, FILE 7 COPIES (INCLUDING COVER LETTER) TO:

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