

DG 01-182

NORTHERN UTILITIES, INC.

Rate Case

Order Approving Temporary Rates

O R D E R    N O.    23,920

February 13, 2002

**APPEARANCES:** Rubin and Rudman, L.L.P., by Maribeth Ladd, Esq. for Northern Utilities, Inc.; Marcia A. B. Thunberg Esq. for the Staff of the New Hampshire Public Utilities Commission.

**I.    PROCEDURAL HISTORY**

Northern Utilities, Inc. (Northern or the Company) is a New Hampshire public utility as defined in RSA 362:2, with a principal place of business in Portsmouth, New Hampshire. Northern serves approximately 25,000 customers in the Seacoast region of New Hampshire, and operates a propane system in Pelham, New Hampshire.

On September 19, 2001, pursuant to N.H. Admin. Rule Puc 1604.05, Northern filed with the New Hampshire Public Utilities Commission (Commission) a Notice of Intent to file rate schedules. On November 15, 2001, Northern filed its proposed tariff revisions, along with supporting documentation, containing new rates designed to produce an increase in annual revenues of \$3,834,344, which consisted of a proposed \$203,295 increase in indirect gas costs and a

\$3,631,050 increase in delivery service revenues. This represented a 7.4% increase over weather normalized test year revenues, with a bill impact representing an average increase of 8.2% for customers. Northern requested an effective date of December 16, 2001.

On September 24, 2001, the Office of the Consumer Advocate (OCA) filed a Notice of Intent to Participate in this docket on behalf of residential utility consumers pursuant to the powers and duties granted under RSA 363:28,II.

On November 15, 2001, Northern filed a Petition and supporting documentation requesting authority to implement temporary rates in the amount of \$3,631,049 during the pendency of the Commission's investigation of Northern's permanent rate request in DG 01-182. Northern requested that it be permitted to implement temporary rates effective November 16, 2001.

On December 7, 2001, the Commission issued an Order Scheduling Prehearing Conference and Temporary Rate Hearing and Suspending Proposed Tariffs, Order No. 23,863 (Suspension Order). The Order scheduled a Prehearing Conference for January 8, 2002 and a temporary rate hearing for February 7, 2002.

On January 3, 2002, the Maine Public Utilities Commission

(MEPUC) submitted a Petition for Limited Intervention. By Order No. 23,904 (January 25, 2002), the Commission approved the proposed procedural schedule in this docket.

On January 30, 2002, Northern submitted a proposed settlement agreement between Northern, the OCA, and Staff. On January 31, 2002, Northern submitted to the Commission the executed signature pages to the settlement.

### **III. POSITIONS OF THE PARTIES AND STAFF**

#### **1. Northern Utilities, Inc.**

Northern states its proposed temporary and permanent rate increases are designed to remedy the Company's existing revenue deficiency. The Company's overall return on rate base and return on common equity, as shown in its Quarterly Return on Rate Base Reports filed with the Commission, are well below the returns authorized in Northern's last rate case (DR 91-081). As shown in Exhibit 1, Schedule NU-2-4, Page 1 of 3, Temporary, the Company's per books rate of return for the test year ending June 30, 2001 was 3.42%. As adjusted to reflect normalized weather and to eliminate the effect of the amortization of the acquisition premium from the Bay State/NIPSCo merger, the Company's overall rate of return at the end of the test year was 5.13%, as compared to the 10.01% authorized in Northern's last base rate proceeding.



The agreed upon temporary rate levels are approximately 60% of the total permanent rate relief requested by Northern. Although Northern believes that the level of temporary rates proposed in its filing dated November 15, 2001 was both appropriate and calculated in a manner consistent with Commission precedent, Northern believes the proposed level contained in this settlement agreement is appropriate because (1) the agreed upon temporary rate level will allow the Company to begin to ameliorate its present under-earnings condition, (2) the proposed level of temporary rates also will send appropriate price signals to Northern's customers; and (3), the temporary rates will ultimately be reconciled based on the permanent rate level approved by the Commission at the conclusion of Docket DG 01-182. Northern further stated the resolution of temporary rates by settlement presents an administratively efficient means of moving forward with this proceeding for both Parties and Staff.

## **2. Maine Public Utilities Commission**

Intervenor Maine Public Utilities Commission did not attend the hearing on temporary rates and did not participate in the settlement agreement.

### **3. Office of Consumer Advocate**

The OCA's preliminary view of the filing indicated Northern is probably entitled to some level of increase. The OCA expressed concern that the permanent rate request is too high. The OCA noted this was likely due to a high cost of capital figure, proformas going out more than 12 months from the end of the test year, improper matching by proforming expenses but not recognizing the corresponding sales and customer growth, etc. The OCA was particularly concerned that the temporary request approximated the permanent request and thus expressed the same concerns that the proposed temporary rates were excessive.

### **4. Commission Staff**

Northern's calculation of the revenue deficiency for temporary rates, based on actual test year return on rate base with proforma adjustments to normalize for weather and to eliminate the effect of the amortization for the acquisition premium from the Bay State/NIPSCO merger is consistent with Staff's preferred methodology for calculating temporary rates.

It is Staff's position that proforma adjustments for temporary rate purposes, given the abbreviated proceeding designed solely to provide some level of rate relief to the Company for the pendency of its permanent rate proceeding,

should only be incorporated when such adjustments are an accepted Commission practice (i.e., weatherization), unusual in nature, or significant in their impact on the utility's cost of providing service. Staff noted that Northern's calculation of the revenue requirement for temporary rates used the return on equity currently authorized by the Commission for Northern from its previous rate case in Docket DR 91-081, although the use of a return on equity consistent with those granted by the Commission in more recent decisions would result in a significantly lower revenue requirement. Based upon that additional adjustment, Staff concluded that a revenue requirement of \$2.3 million for temporary rates is reasonable.

Staff indicated that implementing temporary rates based on a revenue requirement of \$2.3 million will provide a level of rate relief for Northern, but such relief is likely to be limited if not granted expeditiously. The bulk of Northern's revenues are derived from winter sales and as sales are expected to drop precipitously as Spring approaches, delays in implementing the temporary rates will likely reduce the relief sought here.

Staff concluded it would be appropriate for the Commission to approve temporary rates effective as of the date

of the temporary rate hearing, based upon the record established through Northern's filing, the settlement agreement and hearing.

## II. SETTLEMENT AGREEMENT

The terms of the settlement are summarized below:

### 1. Temporary Rate Levels

The Parties and Staff agree that Northern's revised tariff NHPUC No. 10 - Supplement No. 2 - Gas should be approved effective February 7, 2002. The Parties and Staff agreed to temporary rates that would produce an additional \$2.3 million in annual revenues. This amount is 60% of the Company's original temporary rate request. This increase will be implemented among customer classes according to the method proposed in Northern's Petition. The agreed-upon level of temporary rates of \$2.3 million will impact customer classes as follows:

<u>Rate or Class of Service</u>	<u>Percentage Increase</u>
Residential Heating	4.9%
Residential Heating - Low-Income	4.9%
Residential Non-Heating	5.1%
Residential Non-Heating Low-Income	5.1%
G/T-40 High Winter Low Annual	4.9%
G/T-50 Low Winter Low Annual	5.0%
G/T-41 High Winter Medium Annual	4.8%
G/T-51 Low Winter Medium Annual	4.9%
G/T-42 High Winter High Annual	5.0%
G/T-52 Low Winter High Annual	5.2%
<b>Total Average Increase</b>	<b>4.9%</b>



## **2. Effective Date of Temporary Rates**

The Parties and Staff agreed temporary rates should become effective on a service-rendered basis as of the date of the temporary rate hearing before the Commissioners, February 7, 2002.

## **3. Reconciliation**

The Parties and Staff agree temporary rates would be fully reconciled against the permanent rate level granted by the Commission in this proceeding. The difference between the temporary and permanent rates would be recovered or refunded in accordance with RSA 378:29 and without interest. The settlement agreement did not address the amortization period of any such surcharge or refund.

## **III. COMMISSION ANALYSIS**

RSA 378:27 authorizes the Commission to grant temporary rates if, in its opinion, the public interest so requires and the records of the Company on file with the Commission indicate it is not earning a reasonable return on its property used and useful in the public service. Further, the analysis and investigation conducted by the Commission in a temporary rate case need not be as intensive as that deemed necessary in a permanent rate proceeding. See New England Telephone & Telegraph v. State, 95 N.H. 515, 518 (1949).

We have reviewed the terms of the settlement agreement as well as Northern's filing and supporting testimony and exhibits presented at the February 7, 2002 hearing. Northern demonstrated that it is currently underearning and that this underearning would disadvantage both the Company and its ratepayers. Based on our review of the record, we find Northern's temporary rates, as set forth in the settlement agreement and which are subject to reconciliation at the conclusion of the permanent rate case, produces rates that are just and reasonable and in the public good. We note, however, that the settlement agreement implements the temporary rate increase in such a manner as to create small variances among the customer classes. While we find this to be acceptable for the purpose of setting temporary rates, we will examine the proposed method before setting permanent rates, to determine whether such variances are justified on the basis of the calculation issues raised by the Company regarding across-the-board equal percentage increases.

**Based on the foregoing, it is hereby**

**ORDERED,** that the settlement agreement proposed by Northern, the OCA, and Commission Staff is APPROVED; and it is

**FURTHER ORDERED,** that the temporary rates for the various customer classes be implemented on a service rendered basis effective February 7, 2002; and it is

**FURTHER ORDERED,** that Northern shall submit tariff pages in compliance within 15 days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of February, 2002.

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Thomas B. Getz  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director & Secretary