

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 09-139

CONCORD STEAM CORPORATION

Notice of Intent to File Rate Schedules

Order Granting Permanent Rate Increase

ORDER NO. 25,100

May 6, 2010

APPEARANCES: Sarah Knowlton, Esq., of McLane, Graf, Raulerson & Middleton, P.A., for Concord Steam Corporation; and Matthew J. Fossum, Esq., for the Staff of the Public Utilities Commission

I. PROCEDURAL HISTORY

On August 6, 2009, Concord Steam Corporation (Concord Steam or Company), a utility providing steam service to approximately 110 mostly commercial and institutional customers, filed with the Commission a notice of intent to file rate schedules seeking an increase in its permanent steam distribution rates. On September 4, 2009, Concord Steam filed rate schedules reflecting a permanent increase in its base rates of \$341,940, or 6.53 percent, annually. The increase would be spread proportionally among the three tiers of the Company's declining block rate structure. Included in its filing was a request that temporary rates be granted at the same level as permanent rates, effective on November 1, 2009, or the date on which customers were notified, whichever was earlier. In addition, the Company's petition sought waivers of various filing requirements in New Hampshire Code of Administrative Rules Puc 1604.01(a).

On September 14, 2009, the Commission issued Order No. 25,012, which suspended the Company's proposed tariffs and set a pre-hearing conference and hearing on temporary rates for October 15, 2009. Following the hearing on temporary rates, the Commission issued Order No.

25,034 (October 29, 2009), which approved the Company's request for temporary rates and granted the Company's requests for waivers. There were no intervenors in the docket and the Office of Consumer Advocate did not participate.

Following additional technical sessions, on February 11, 2010 Staff filed the testimony of Stephen Frink, Assistant Director of the Commission's Gas and Water Division in support of the Company's request for permanent rates. A hearing on the Company's permanent rate request was held on April 14, 2010.

II. POSITIONS OF THE PARTIES AND STAFF

A. Concord Steam

At the hearing on permanent rates, the Company's president, Peter Bloomfield, testified, as he had in the initial filing, that although under traditional ratemaking principles the Company would be entitled to an increase far greater than the one for which it was asking, its interest in maintaining its customer base outweighed its desire for a higher return. Transcript of April 14, 2010 Hearing (Tr.) at 6-7. He noted that, at its current rates, the Company was already not competitive with other energy sources in the area and that the Company had to do what it could to contain rates and retain customers until it could construct its new plant, and reconfigure its business. Tr. at 7-8. Mr. Bloomfield agreed with Staff's position that this level of rates was not sustainable in the long-term, but stated that in the short-term it was sufficient to allow the Company to operate a safe and reliable system. Tr. at 7-8.

Mr. Bloomfield then testified about specific items affecting the Company. He first noted that although the Company had reached an agreement to supply steam service to the Rundlett Middle School, the school had not made the required modifications to its system to begin taking steam service until very recently. Tr. at 8-9. Therefore, although the Company had expected to

add the school as a customer, it was not able to do so until after the end of the winter. Tr. at 9. He stated that the school was now set as a customer for next winter and that he expected the school coming on to the system would add approximately \$50,000 in net revenue for the Company annually. Tr. at 9. In addition, Mr. Bloomfield noted that the Company was attempting to contract with other schools in Concord to provide service when they are remodeled in the near future. Tr. at 10. Despite these possibilities, Mr. Bloomfield also noted that the downturn in the economy had affected the Company's services since the retail and office spaces it serves in downtown Concord are increasingly vacant. Tr. at 10.

As to the Company's operations, Mr. Bloomfield noted that Commission Staff had criticized the Company's accounting practices, but he stated that the Company was in the process of correcting the problems. Tr. at 11. He stated that the Company had replaced its bookkeeper in 2008 and that nearly all of the identified problems had been repaired in the year following that change. Tr. at 11. Also as to its staff, Mr. Bloomfield stated that although the Company had laid off some employees, it had rehired one person and had made arrangements with a contractor to do some other work that it had previously handled with its own staff. Tr. at 11-12. Mr. Bloomfield stated that the Company was able to operate safely with its current staffing levels. Tr. at 11-12.

Regarding its system, Mr. Bloomfield noted that there had been a significant, long-standing leak in its system that was allowed to remain through the winter so as not to disrupt service. Tr. at 12-13. He stated that the leak would be repaired in the next few months. Tr. at 13. As for the cost of the repair, he noted that there is an on-going dispute with another utility about the responsibility for the problem and its cause, and that the matter was in the hands of the Company's insurer. Tr. at 13. Mr. Bloomfield did not note any other significant problems with

the system. Tr. at 13. Mr. Bloomfield did note, however, that when it does repair the leak it will also re-insulate portions of its system and at that time will test “alternative” products for insulating its pipes. Tr. at 18-19.

In response to a question about the Company’s long-term strategy Mr. Bloomfield testified that they¹ still intended to build a new and larger steam and electricity co-generation plant in Concord. Tr. at 14. Mr. Bloomfield noted that they had reached agreement with the City on most significant points and that the largest remaining obstacle was procuring long-term purchase power agreements for the electric output of the new plant. Tr. at 14-15. He stated that more than seventy percent of the power has been sold, but one potential buyer had recently pulled out. Tr. at 15. He stated that once he could find buyers for the remaining power, they could obtain the needed financing. Tr. at 15. He further noted that financing is “loosening” and that he has seen significant interest from Citizens Bank and John Hancock Insurance Company in providing financing. Tr. at 15. He made clear that they still intended to begin construction by the end of the year and that the new plant could open about two years after construction begins. Tr. at 15. Mr. Bloomfield stated that although the Company’s lease with the State for its current location was due to expire in August, he had obtained an oral agreement with the State for the Company to remain in its current location for at least three years, if needed. Tr. at 15-16, 17-18. According to Mr. Bloomfield, he believed this request for new rates would be the last prior to the new plant becoming active, at which time the Company expects to decrease its rates. Tr. at 22. Finally, Mr. Bloomfield noted that although the initial construction schedule had been delayed,

¹ Although not expressly stated in Mr. Bloomfield’s testimony, the entity actually seeking to construct the new steam and electricity co-generation plant in Concord is separate from, but currently composed of the same individuals as, Concord Steam. Upon operation of the new plant, that entity intends to sell steam to Concord Steam through a long term contract. *See* Concord Steam Corporation, Order No. 24,696 (May 22, 2009).

recent estimates showed that the projected cost to build the new plant is still close to its initial targets. Tr. at 21.

As to the amount of expenses arising out of this rate case, on April 28, 2010, Concord Steam submitted documents supporting a total of \$7,768.80 in expenses. It proposed to recover those expenses via a surcharge on customers' bills of \$0.06 per Mlb. based upon 12 months of estimated sales. Concord Steam also stated that it would track the revenues from the surcharge and terminate it upon recoupment.

In conclusion, Mr. Bloomfield stated that he believed the proposed rate increase would yield just and reasonable rates and that it would allow the Company to earn a fair return until its new plant and new structure exist. Tr. at 7, 28.

B. Staff

Stephen Frink, Assistant Director of the Commission's Gas and Water Division, testified at the hearing in support of the Company's request. Mr. Frink stated, as he had in his pre-filed testimony, that while the Company was entitled to a larger rate increase than it had requested, the Company's request would yield just and reasonable rates in the short-term. Tr. at 25. He noted that over the short-term the increase would be enough to allow the Company to continue funding operations and maintenance, while remaining low enough to retain its customer base until the new plant is operational. Tr. at 25.

In addition, he noted that he has seen improvements in the Company's bookkeeping and accounting practices. Tr. at 26. He stated that upon submission of the Company's annual report, Staff will do a desk audit and at that time will be able to evaluate whether the improvements in the Company's accounting are adequate. Tr. at 26. In its closing, Staff noted that it supported

the Company's request and anticipated the Company's ability to make the changes it is pursuing. Tr. at 27.

On May 3, 2010, Staff filed a memorandum with the Commission recommending Concord Steam be allowed to recover rate case expenses of \$8,067.18 through a surcharge of \$0.06 per Mlb. Although the total rate case expenses are slightly higher than those initially requested for recovery by Concord Steam, the difference is due to errors identified by the Commission Audit Staff in its review of the supporting invoices and confirmed by the Company. The proposed rate case expense surcharge of \$0.06 per Mlb. would remain unchanged.

III. COMMISSION ANALYSIS

RSA 378:7 authorizes the Commission to fix rates after a hearing upon determining that the rates, fares, and charges are just and reasonable. In determining whether rates are just and reasonable, the Commission must balance the customers' interest in paying no higher rates than are required with the investors' interest in obtaining a reasonable return on their investment. *Eastman Sewer Company, Inc.*, 138 N.H. 221, 225 (1994). Additionally, in circumstances where a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8.

Our review of the record in this case reveals that, during its test year, Concord Steam was achieving a rate of return of approximately negative five percent. At the same time, it has taken steps to limit its expenses, including laying-off employees. Accordingly, in light of its low rate of return despite its cost-cutting measures, we find that Concord Steam has shown the necessity for a rate increase.

As to the amount of the increase, both the Company and Staff noted that, pursuant to traditional ratemaking principles, the Company could seek an increase of approximately twice

the requested amount. Nonetheless, the Company has elected not to do so based on its assumption that it will be able to function with a lesser increase pending construction of the new plant and a reorganization of its business. We agree that the requested increase is beneficial for the Company in the long-term and we commend the Company's desire to control its rates and maintain its customer base until it is able to make the changes it seeks.

Additionally, we observe that the Company has been able to secure an arrangement to provide service to the Rundlett Middle School and that the line extension to that school was, for the most part, reimbursed by the school district. It has also managed to correct outstanding issues relating to difficulty in securing payment from one of its special contract customers. Thus, it appears that the Company is meaningfully attempting to grow its customer base and to protect the base of customers it has with a view toward further improvements when the new plant is operational. For these reasons, we approve the amount of the requested increase giving consideration to the long-term plans articulated by the Company. We note, however, that the corporate and physical changes sought by the Company have already been substantially delayed and we anticipate that the Company is giving its best efforts to complete its transformation in a timely manner.

As to other issues raised by the parties, we acknowledge that the Company has taken steps to improve its bookkeeping and accounting in the face of short-comings identified by the Audit Staff. We anticipate that Staff's review of the Company's annual report will disclose any lingering issues, and that the Company can timely correct them.

As to the rate case expenses, we approve \$8,067.18 of rate case expenses to be recovered through a \$0.06 per Mlb surcharge. The rate case expenses have been audited by Staff and

appear reasonable and are expected to be recovered over 12 months. Finally, we note that the rate case expense surcharge will have a negligible impact on rates.

Based upon the foregoing, it is hereby

ORDERED, that Concord Steam Corporation is authorized to increase its annual rates by \$341,940 on a service-rendered basis for service rendered on and after June 1, 2010; and it is

FURTHER ORDERED, that because Concord Steam Corporation's permanent rates and temporary rates are of the same amount, there will be no reconciliation between them; and it is

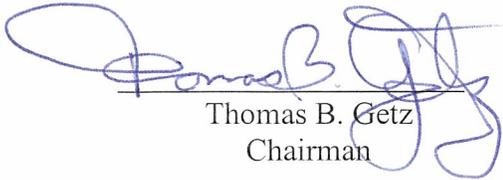
FURTHER ORDERED, that Concord Steam Corporation may recover its expenses of \$8,067.18 in pursuing this rate increase via a surcharge to its rates of \$0.06 per Mlb. for service rendered on and after June 1, 2010; and it is

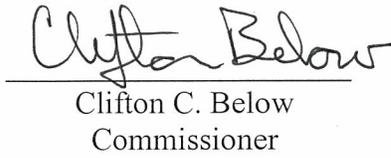
FURTHER ORDERED, that Concord Steam Corporation shall track and report monthly rate case expense recoveries until the approved cost has been fully recovered, at which time the rate case expense surcharge shall be terminated; and it is

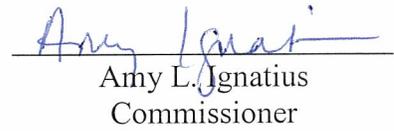
FURTHER ORDERED, that Concord Steam Corporation shall file a final reconciliation of rate case expense recoveries and any over recovery credited to the cost of energy; and it is

FURTHER ORDERED, that Concord Steam Corporation shall file a compliance tariff with the Commission within fourteen (14) days of this order.

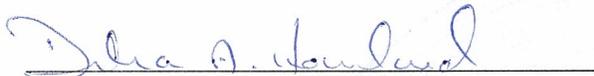
By order of the Public Utilities Commission of New Hampshire this sixth day of May,
2010.

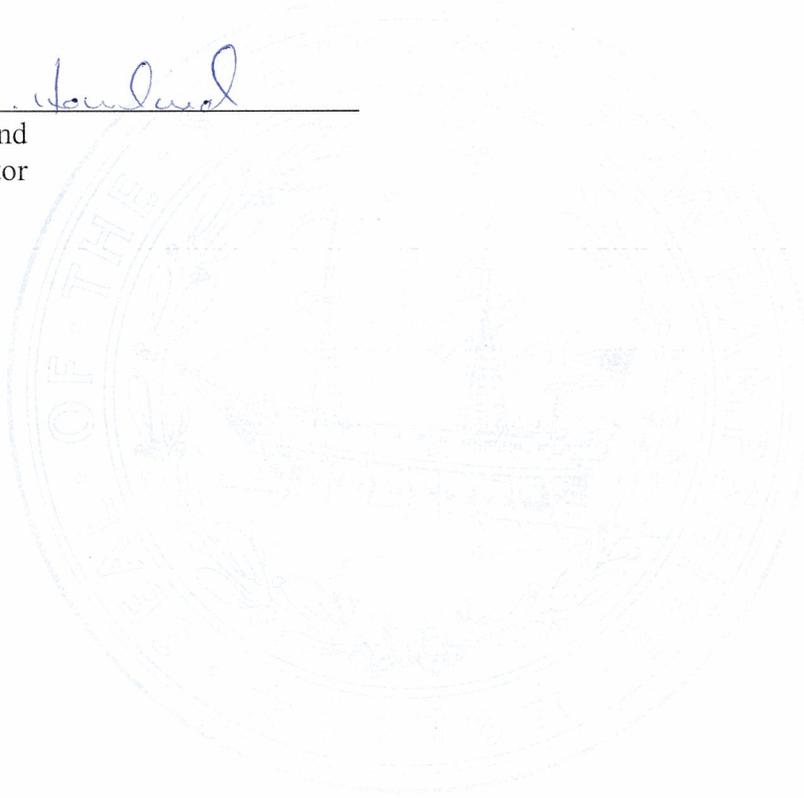

Thomas B. Getz
Chairman


Clifton C. Below
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Attested by:


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