

**THE STATE OF NEW HAMPSHIRE
BEFORE THE PUBLIC UTILITIES COMMISSION**

**REBUTTAL TESTIMONY OF
STEPHEN R. HALL AND FREDERICK B. WHITE**

Petition to Establish an Alternate Default Energy Service Rate

Docket No. DE 11-216

1 **I. Introduction and Purpose**

2 **Q. Please state your names, business addresses and positions.**

3 A. My name is Stephen R. Hall. My business address is PSNH Energy Park, 780 North
4 Commercial Street, Manchester, New Hampshire. I am Rate and Regulatory Services
5 Manager for Public Service Company of New Hampshire (“PSNH”).

6 A. My name is Frederick B. White. My business address is 107 Selden St, Berlin,
7 Connecticut. I am a Supervisor in the Wholesale Power Contracts department of
8 Northeast Utilities Service Company (“NUSCO”).

9 **Q. Did you sponsor pre-filed direct testimony in this docket?**

10 A. Yes, we did. On April 27, 2012, we filed direct testimony supporting PSNH’s proposal
11 for an Alternate Default Energy Service Rate ADE.

12 **Q. What is the purpose of your testimony?**

13 A. The purpose of our testimony is to provide comments on and/or rebuttal to the testimony
14 of: (i) August G. Fromuth of Freedom Logistics and PNE Energy Supply, LLC; (ii)
15 Steven L. Estomin on behalf of the Office of Consumer Advocate; and (iii) Steven E.
16 Mullen of the Commission’s Staff.

1 **II. Comments on PNE's Testimony**

2 **Q. Please comment on PNE's testimony.**

3 A. Although it is titled "testimony," that moniker is really a misnomer, since PNE's
4 statement is actually legal argument which attempts to demonstrate that PSNH's
5 proposed Rate ADE does not comply with the law. PNE's "testimony" appears to be
6 nothing more than the post-hearing brief that PNE requested in its letter dated June 20,
7 2012 in this proceeding, and which the Commission denied by Secretarial Letter of June
8 29, 2012 ("The Commission has determined that post-hearing briefs are not necessary for
9 the conduct of this proceeding.") PNE provides an "analysis" of various provisions of law
10 in an effort to demonstrate that PSNH's proposed Rate ADE does not comply with the
11 law.

12 **Q. Please summarize PNE's analysis.**

13 A. PNE contends that Rate ADE does not comply with the provisions of law stating that
14 default service is only available to customers who are otherwise without an electricity
15 supplier. PNE maintains that absent Rate ADE, these customers would not otherwise be
16 without a supplier. PNE concludes that the design of Rate ADE has nothing to do with
17 providing a safety net or assuring universal access and system integrity, and therefore
18 does not comply with the law.

19 **Q. Do you agree with PNE's conclusion on this point?**

20 A. No, we do not. The argument fails for several reasons. First, the contention that absent
21 Rate ADE, customers would not otherwise be without a supplier is incorrect. PSNH
22 designed Rate ADE so that the availability of Rate ADE and Rate DE are mutually
23 exclusive (i.e., customers do not have a choice of which default energy service rate they

1 will take). Therefore, Rate ADE is indeed the only option available to customers who
2 choose not to take service from a competitive supplier, or for any other reason are
3 otherwise without an electricity supplier.

4 **Q. What is the second flaw in PNE’s analysis?**

5 A. Second, PNE’s argument would lead to an illogical result. Absent Rate ADE, only Rate
6 DE would be available. Using PNE’s logic, if a customer elects not to have a competitive
7 supplier today (i.e., absent Rate ADE), they could not take service under Rate DE unless
8 they were dropped by the supplier, because the only way a customer could “choose”
9 default energy service is if they are “otherwise without an electricity supplier”. Applying
10 PNE’s argument, in a situation where market prices increased dramatically and Rate DE
11 became less expensive than the market, a customer could not unilaterally decide to leave
12 competitive supply and return to default service because the customer would not be
13 “otherwise without an electricity supplier.” Such a result would be illogical and would
14 actually hamper customers’ choices for supply.

15 **Q. What is the third flaw in PNE’s analysis?**

16 A. Third, PNE claims that “The purpose of New Hampshire’s restructuring law is to
17 ‘harness the power of competitive markets.’”¹ PNE’s selective quotation from the
18 restructuring statute is misleading, and leaves out the real purpose of that law. The
19 sentence quoted by PNE from RSA 374-F:1, I, reads in its totality, “***The most compelling***
20 ***reason to restructure the New Hampshire electric utility industry is to reduce costs for***
21 ***all consumers of electricity*** by harnessing the power of competitive markets.” The
22 emphasized words which PNE omitted detail the actual purpose of the law. PNE has
23 confused the purpose of the law with a means for the purpose to be accomplished.

¹ PNE Pre-Filed Testimony at 3.

1 Moreover, Rate ADE would enhance competition and thus comport with the means by
2 which the legislature intended for costs to be reduced. The calculation of Rate ADE will
3 be transparent and all parties will have full knowledge of how the rate is determined. As
4 a result, Rate ADE could very well cause suppliers to “*reduce costs for all consumers of*
5 *electricity*” by shaving their profit margins, and thus benefit of all customers seeking
6 competitive supply by “harnessing the power of competitive markets.”

7 **Q. What is the fourth flaw in PNE’s analysis?**

8 A. Fourth, PNE alleges that “according to PSNH, Rate ADE would be in existence
9 indefinitely.”² This is a perverse interpretation of PSNH’s response to a discovery
10 request from PNE asking how long Rate ADE would be in existence. As noted in PNE’s
11 footnote³, PSNH’s response was that it did not know how long the rate would remain in
12 existence. PNE applied its own creative interpretation to this statement and reached the
13 conclusion that PSNH stated that the rate would be in existence indefinitely.

14 **Q. Are there other flaws in PNE’s testimony?**

15 A. Yes. PNE also raised issues with respect to RSA 369-B. According to PNE, Rate ADE
16 is somehow unlawful because it is based on marginal costs which are “nowhere reflected
17 on PSNH’s books of account.”⁴ This statement is somewhat confusing in that it appears
18 to ignore basic accounting and economics. Marginal cost is the cost incurred in
19 producing an additional unit of product. When a business incurs a marginal cost, that
20 cost is incorporated into its monthly costs recorded on its books of account. It’s simply
21 incorrect to say that marginal costs are not recorded on a company’s books.

² PNE Pre-filed Testimony at 4.

³ PSNH notes that PNE’s reference is to the wrong response. PNE referred to the response to Q-PNE-FEL-11. The question and response were to PNE-FEL 2-1.

⁴ PNE Pre-Filed Testimony at 4.

1 PNE's statement that there cannot be two different calculations of default energy
2 service rates is also in error. Nowhere in the law does it specify the methodology that
3 must be used to calculate default energy service rates. Moreover, in its testimony, PNE
4 argues that:

5 "Rate DE is clearly based upon actual booked costs which are subject to audit by
6 Commission Staff. In contrast, Rate ADE is based upon estimated marginal
7 costs."⁵

8 This argument directly contradicts PNE's argument made in its Motion to Dismiss filed
9 on May 3, 2012 in this docket. In that Motion, PNE argued:

10 "The non-operating costs of the scrubber are not an 'actual' cost of providing
11 service under redesigned Rate ADE. The actual cost is the marginal cost."⁶

12 Therefore, PNE argued in May that the actual cost of providing service under Rate ADE
13 was the marginal cost, yet four months later, it is now arguing the opposite.

14 And, since PNE's "testimony" is little more than legal argument, it should be
15 noted that this Commission has previously held that marginal cost pricing is a form of
16 actual cost pricing: "The commission favors marginal cost pricing because marginal cost
17 prices provide customers with prices that more accurately reflect the actual cost of
18 providing energy." *Concord Electric/Exeter & Hampton Electric*, 77 NH PUC 798, 800
19 (1992).

20 PNE also claims that since Rate ADE does not include any costs for marketing,
21 administration or other costs it cannot be claimed that Rate ADE is based on actual costs.
22 PSNH has stated that it will not seek to recover any such costs, and there is nothing in the
23 law that requires PSNH to seek recovery of those costs.

⁵ PNE Pre-Filed Testimony at 4.

⁶ PNE Motion to Dismiss at 3.

1 **Q. Are there any other comments you wish to make on PNE’s testimony?**

2 A. Yes. In its summary, PNE claims that allowing PSNH to offer this rate is anti-
3 competitive. PNE is wrong on this point as well. PSNH is in no way using its monopoly
4 status to force customers onto Rate ADE. Rather, PSNH’s Rate ADE increases customer
5 choice, in furtherance of one of the policy principles of the restructuring law (RSA 374-
6 F:3, II). What PNE is really saying is that it does not want customers to have a regulated
7 low cost option available to them. The reason that it does not want that option is because
8 it wants to protect its market share and profitability. That is understandable from their
9 perspective, but the Commission must decide whether offering customers another choice
10 is in the public good, especially when that option will benefit all customers. Suppliers
11 have frequently complained about the need to “level the playing field.” Rate ADE levels
12 the playing field – but this time in favor of customers rather than suppliers.

13 **III. Comments on OCA’s Testimony**

14 **Q. Do you have comments on the OCA’s testimony?**

15 A. Yes, we do. The OCA’s witness has concluded that Rate ADE will provide benefits to
16 PSNH’s residential customers, and that any risk that customers could be exposed to
17 higher costs for a short period of time if marginal costs increase substantially during a
18 compressed time frame is small. The OCA’s witness also concludes that the proposed
19 adder provides a significant buffer against such marginal cost increases. PSNH agrees
20 with the OCA’s witness on these points, although we may share a difference of opinion
21 on the amount of risk to which customers would actually be exposed.

22 The OCA’s witness also concludes that the existing structure is not viable in the long
23 term, and that implementation of Rate ADE will have the same impact as a rise in the
24 market price of power. The witness then suggests potential solutions including

1 eliminating open access, transferring generating assets to an unregulated affiliate or
2 divesting generation assets altogether. While PSNH does not agree with the OCA on
3 these points, these issues are beyond the scope of this docket and therefore need not be
4 addressed by the Commission.

5 **Comments on Staff's Testimony**

6 **Q. Do you have comments on Staff's testimony?**

7 A. Yes, we do. Mr. Mullen has recommended that the Commission approve Rate ADE with
8 certain changes. First, Mr. Mullen recommends that Rate ADE be approved on a trial
9 basis as a thirty-six month pilot program. Second, he recommends that the proposed
10 twenty-four month term of service be reduced to twelve months. Third, he recommends
11 that PSNH perform new rate calculations due to the length of time that has elapsed since
12 PSNH's filing of its proposal. Finally, he recommends that PSNH develop a process for
13 notifying customers in the event that Rate ADE is closed to new customers due to an
14 increase in marginal costs.

15 PSNH agrees with all but one of Mr. Mullen's recommendations. Regarding approval of
16 Rate ADE on a thirty-six month trial basis, PSNH agrees that performing an assessment
17 of Rate ADE during that time is a reasonable and prudent course of action. In fact,
18 PSNH suggests that Rate ADE be assessed on an annual basis to determine if it is
19 producing the benefits that PSNH anticipates will accrue. If not, then it may be
20 appropriate to modify the design of the rate to ensure that other customers benefit from
21 implementation of the rate. PSNH also agrees that the proposed rate under Rate ADE
22 should be recalculated to incorporate the most recent forecast of marginal costs. PSNH
23 suggests that the Commission approve Rate ADE for effect January 1, 2013, and that
24 PSNH calculate and file a rate with the Commission on or before December 1, 2012.

1 PSNH agrees with Mr. Mullen that there is a need to develop a notification process to
2 inform customers in the event that Rate ADE is temporarily closed to new customers.
3 Upon approval of Rate ADE, PSNH will develop such a process, in collaboration with
4 the Staff and OCA, and file it with the Commission by December 31, 2012.

5 The only recommendation Mr. Mullen makes with which PSNH does not agree is the
6 recommendation to limit the term of Rate ADE to twelve months instead of twenty-four
7 months. Mr. Mullen states in his testimony, "If PSNH's concern is to be better able to
8 forecast its load and supply requirements for Rate DE, it is my opinion that a twelve-
9 month service period under Rate ADE should suffice."⁷ The primary reason PSNH has
10 proposed a twenty-four month term is to ensure that customers are not taking service
11 under Rate ADE for an extended period of time when the rate is less than PSNH's
12 standard Rate DE. PSNH's reason for a twenty-four month term does not have any
13 implications on planning for load under Rate DE. When marginal costs are low,
14 customers will want a term that is as long as possible. Conversely, one must remember
15 that Rate ADE will also apply to customers who return to PSNH for energy service when
16 marginal costs are high and the rate under Rate ADE is greater than the rate under Rate
17 DE.

18 In addition, PSNH selected a twenty-four month term so that the benefit of Rate ADE to
19 all other customers is maximized when marginal costs are low, and that higher costs
20 incurred by customers served under Rate ADE is limited when marginal costs are high.
21 If Rate ADE was only available for twelve months, all other customers could benefit for
22 only twelve months as a result of Rate ADE. Therefore, limiting the term to twelve
23 months would forfeit value that would otherwise accrue since, after twelve months,

⁷ Pre-Filed Testimony of Steven E. Mullen at 7.

1 customers taking service under Rate ADE would return to competitive supply if marginal
2 costs are still low, or would return to Rate DE if marginal costs are high. PSNH's
3 concern with a twelve month term is that it dilutes the value of the rate as a mitigation
4 tool for the effects of migration, and thereby dilutes value for all other customers.

5 PSNH believes that using a twenty-four month term better balances the interests of
6 customers under Rate DE and customers under Rate ADE. We continue to recommend
7 that the Commission approve a twenty-four month term of service.

8 **Q. Does this complete your rebuttal testimony?**

9 A. Yes, it does.