

DE 01-080

**NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.
AND PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

Pilot PAYS (Pay As You Save) Program

Order Following Pre-Hearing Conference

O R D E R N O. 23,726

June 14, 2001

APPEARANCES: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; William W. Gabler for New Hampshire Electric Cooperative, Inc.; Meredith A. Hatfield, Esq. for the Governor's Office of Energy and Community Services; Office of Consumer Advocate by Kenneth Traum for residential ratepayers; and Donald M. Kreis, Esq. the Staff of the New Hampshire Public Utilities Commission.

I. BACKGROUND AND PROCEDURAL HISTORY

This docket grows out of Order No. 23,574 (November 1, 2000), in which the New Hampshire Public Utilities Commission (Commission) ordered the New Hampshire Electric Cooperative, Inc. (NHEC) and Public Service Company of New Hampshire to propose a pilot "Pay As You Save" (PAYS) energy efficiency products program by February 1, 2001. Having obtained appropriate extensions of time, NHEC and PSNH made their joint proposal by written filing on April 12, 2001 and the Commission opened this docket to consider it.

As noted in the companies' filing, PAYS was first described in a 1999 paper commissioned from the Energy Efficiency Institute by the National Association of Regulatory

Utility Commissioners (NARUC). According to the filing, "PAYS products are packages of one or more cost-effective energy efficiency measures billed as part of the monthly electric bills of the customers who receive savings." The specific savings are not guaranteed, but the payments are structured so that, both on a short-term and long-term basis, the expected savings exceed the monthly payment.

The Commission entered an Order of Notice on May 1, 2001 scheduling a pre-hearing conference for June 5, 2001 and establishing a deadline of June 1, 2001 for petitions to intervene. Timely intervention petitions were received from Energy North Natural Gas d/b/a KeySpan Energy Delivery New England (KeySpan) and the Governor's Office of Energy and Community Services (GOECS). The Office of Consumer Advocate (OCA) entered an appearance on behalf of residential ratepayers. Subsequently, Granite State Electric Company (GSEC) filed a motion for intervention on June 8, 2001.

The Pre-Hearing Conference took place as scheduled on June 6, 2001. The Commission considered the pending intervention petitions and heard preliminary statements from the parties and Commission Staff. Thereafter, the parties and Staff conducted a technical session for the purpose of agreeing upon a proposed procedural schedule. The parties

also conducted a second technical session on June 12, 2001.

II. INTERVENTION PETITIONS

There were no objections to the intervention petitions submitted by KeySpan and GOECS. Accordingly, both petitions were approved. In addition, we approve GSEC's motion to intervene.

III. PRELIMINARY POSITIONS OF THE PARTIES AND STAFF

A. Public Service Company of New Hampshire

PSNH noted that the PAYS filing reflects the collective efforts of PSNH, NHEC, GOECS and the Energy Efficiency Institute, the consultants who were engaged by PSNH and NHEC to develop the PAYS proposal. According to PSNH, the proposal benefitted from input from many sources, particularly a public meeting that had been convened by GOECS. PSNH noted that both utilities convened focus groups and conducted meetings with banks, potential vendors, insurance companies, etc.

PSNH identified two issues that it characterized as challenging and central to the proceeding. The first involves revising the delivery service tariff to define PAYS measures as "basic utility service" within the meaning of the Commission's rules, which would allow for disconnection in the event of non-payment of PAYS charges to the relevant utility.

The second issue involves the concept that a PAYS measure, and the responsibility to pay for it, "runs with the meter," i.e., the notion that when a customer discontinues service at a particular location at which a PAYS measure has been installed, the subsequent customer at that location must assume responsibility for the PAYS obligation.

PSNH noted that it has attempted to manage the financial risk associated with a PAYS initiative. Funding for the PSNH portion of the program would come from the energy efficiency portion of the 3 mill (\$0.003) per kilowatt-hour System Benefits Charge paid by each PSNH customer. According to PSNH, an objective is to make the program "self-funding" over time by, in essence, turning into a revolving loan fund. PSNH intends to focus on commercial and industrial customers during the pilot project, anticipating that its PAYS customers would be mostly municipalities and school districts.

B. New Hampshire Electric Cooperative, Inc.

NHEC noted that it intends to fund its portion of the PAYS pilot using its own capital and by borrowing from a financial institution. In its service territory, NHEC plans to focus its PAYS pilot efforts on residential and small commercial customers.

C. Governor's Office of Energy and Community Services

GOECS expressed its appreciation for the opportunity to work collectively with PSNH and NHEC, and agreed that the two threshold issues described by PSNH represent significant challenges. Other areas of concern identified by GOECS include the issue of financing charges and utility expenses associated with the program. GOECS indicated that it believes the shareholder incentive built into the PSNH portion of the pilot program should be based on PAYS funds repaid, rather than on PAYS loans made as was in the initial proposal. Finally, GOECS raised the issue of how to confront the fact that the PAYS loans are likely to last longer than the pilot program itself does.

D. Office of Consumer Advocate

OCA indicated that it is generally supportive of the proposed PAYS pilot, but is concerned about the legal issues involving disconnection for non-payment of PAYS charges and the proposed liens designed to require a selling property owner to disclose the existence of a PAYS measure to the purchaser of the property.

E. Staff

Staff also indicated its general support for the PAYS concept, noting that it agreed with the concerns expressed by GOECS and OCA. Staff also raised the issue of

whether it is appropriate for no residential customers in the PSNH service territory to be included in the pilot program.

IV. PROCEDURAL SCHEDULE

At their technical session following the Pre-Hearing Conference, the parties and Staff agreed not to submit a full proposed procedural schedule for Commission approval. Rather, the parties and Staff proposed that the proceeding begin with (1) a technical session on June 12, 2001 to provide an opportunity for a meeting with representatives of the Energy Efficiency Institute, and (2) an initial round of legal briefs to be submitted on or before June 26, 2001. It was agreed that the briefs would address the two threshold issues identified by PSNH, i.e., (1) whether the Commission has the authority to permit a utility to disconnect the service of a customer for non-payment of PAYS charges, and (2) whether the Commission has the authority to permit a utility to cause PAYS charges to "run with the meter," i.e., to require a new customer to assume remaining PAYS charges when a previous PAYS customer has left a PAYS product behind on the premises. By secretarial letter dated June 12, 2001, the Commission approved this proposal.

The parties and Staff met for the contemplated technical session on June 12, 2001. At the technical session, the parties and Staff agreed to propose that the Commission schedule a second technical session for July 25, 2002 to allow

the parties and Staff to explore the relevant issues further and to discuss a proposed procedural schedule to govern the remainder of the docket in light of the status of the threshold issues discussed in the briefs to be submitted by June 26.

The Commission has considered the scheduling proposals submitted by the parties and Staff and deems them to be in the public interest. Therefore, they are approved and the Commission will await briefs on June 26, enter an Order on the threshold legal issues discussed in the briefs thereafter, and schedule an additional technical session for July 25, 2001.

Based upon the foregoing, it is hereby

ORDERED, that the scheduling proposal described above is APPROVED.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of June, 2001.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary