

OCA Residential Advisory Board
Meeting Minutes
September 8, 2008

Board Members Present:

Lawrence Kelly
Otis Perry
Claira Monier
Rick Russman
Kenneth Mailloux
Dwayne Wrightsman
Gloria Seldin
Louis Pare

Board Members Absent:

Nathan Cass

Present for the OCA were:

Meredith A. Hatfield
Ken E. Traum
Rorie E.P. Hollenberg
Stephen R. Eckberg
Christina Martin

Mr. Kelly declared a quorum and began the meeting at 2:10 pm.

1. **Review and Approve Minutes**

Mr. Kelly asked the board if there were any changes or comments regarding the May 12, 2008 meeting minutes. Hearing none, Mr. Mailloux moved to approve the minutes as drafted, and Mr. Pare seconded. The minutes were unanimously approved. (Ms. Monier was not in the room when the vote was taken)

2. **Case/Activity Updates**

OCA Case/Activity Updates (handout) – Ms. Hatfield offered the Board the opportunity to discuss any of the cases or activities listed in the OCA case updates.

√ *DE 08-097 Electric Assistance Program*

Ms. Hatfield briefed the board on the recommendation filed with the Commission from the EAP Advisory Board, noting that a memorandum was emailed to the OCA Board describing the issue. The recommendation is to increase the low income assistance portion of the System Benefits Charge (SBC) paid by all electric customers from 1.2 mills to 1.5 mills/kWh. This will raise the overall

SBC from 3.0 mills to 3.3 mills. She stated that the EAP board was motivated to increase the SBC by the high wait list, the current economic conditions, and the forecasts for the upcoming winter. She explained that the impact on the average household is estimated to be \$2 per year.

- √ *DE 07-064 Rate Mechanisms for Energy Efficiency*
Mr. Kelly asked Ms. Hatfield to describe the conflict between New Hampshire Legal Assistance (NHLA) and the Conservation Law Foundation (CLF) in this docket. Ms. Hatfield explained that CLF filed a motion asking the Commission to schedule further activities in the docket, as there has been no action in the docket since the parties filed comments in April 2008. However, NHLA felt that the Motion by CLF was premature due to the fact that CLF asked the Commission to move forward with decoupling, while NHLA believes that more investigation is needed before the Commission should decide whether decoupling is appropriate. We still await the Commission's order on the parties' comments, as well as on CLF's motion. Mr. Kelly thanked Ms. Hatfield for the explanation.
- √ *DE 07-096, DE 07-097, DE 08-069, DE 08-071 PSNH Energy Service (ES), Stranded cost, Transmission cost adjustment mechanism, and Storm Reserve Account interim year rate changes*
Mr. Traum informed the Board that PSNH's rates would not change again until next January 1, when new ES rates go into effect and possibly a new Stranded Cost rate.
- √ *DE 08-077 PSNH Lempster*
Ms. Hatfield gave a brief explanation of this docket and the current status. In a nutshell, PSNH seeks approval for a 15-year contract for energy and Renewable Energy Credits (RECs) with the owners of the Lempster wind farm. Constellation believes that PSNH should have issued an RFP for the RECs that it needs to comply with the RPS standards so that the Commission can be sure that RECs are purchased at the lowest possible price for ratepayers. A hearing is scheduled in December.
- √ *DE 08-103 Investigation of PSNH Installation of Scrubber Technology at Merrimack Station*
Ms. Hatfield explained that on August 22, 2008 the Commission issued a secretarial letter opening a docket for the purposes of receiving information from PSNH regarding the increase in cost of the scrubber project at the coal-fired plant in Bow from \$250 million to \$457 million. The PUC also requested that PSNH file a legal memorandum on the question of whether RSA 125-O, the mercury law, prevents the PUC from reviewing the cost increase. The PUC also indicated that OCA may file a legal memo, which is due on September 12. There has been significant press coverage of the issue. Mr. Pare asked about the time frame of the original cost and the cost disclosed by PSNH now, and Ms. Hatfield explained the original cost estimates were developed in 2005 and 2006, but were updated by PSNH over the summer. Mr. Pare suggested that PSNH should have done a better job of estimating the costs. Mr. Russman asked what the alternative is. Ms. Hatfield said that in today's regulatory structure it is not clear what is the right

venue to even ask that question. Many people have raised this question, as well as asking what other ways could we reduce mercury emissions, and what else could we do with \$500 million of ratepayer funds. Mr. Traum noted that PSNH did mention alternatives in their legal memorandum to the Commission but notes that many questions are still unanswered. Mr. Pare asked if PSNH has addressed the recurring costs of the scrubber such as maintenance. Ms. Hatfield responded by saying that some information was provided but that many questions remain. The next step in the process (after the OCA files its memo) is for the Commission to issue an order on the legal question of whether it has the authority to review the cost increase.

OCA ACTION ITEM: Mr. Kelly asked for information on the scrubber docket and information on how to get more, if needed. [The OCA has posted all information related to the docket on its website, www.oca.nh.gov].

√ *FairPoint*

Mr. Traum asked the board if they have been hearing anything or getting any comments regarding FairPoint or the quality of service provided by FairPoint. Mr. Mailloux mentioned that he has heard in the news that people still cannot go online to pay a bill. Mr. Traum said that this will continue until “cutover,” when FairPoint moves from Verizon’s systems over to new systems that are under development. Cut over is planned for November but must be approved by the Commission’s consultants. Ms. Monier said that the switching of the billing from Verizon to FairPoint seemed seamless to her. Mr. Pare stated that he will talk to the NHEC to see if the pole issue has been taken care of.

ACTION ITEM: Mr. Pare will check with NHEC to see if the double pole issue has improved.

√ *DW 04-048 Pennichuck Water Works Eminent Domain*

Ms. Hatfield explained that the Commission had issued an Order, and that both parties had filed motions for rehearing. She said that the appeal process could include appeals to the Supreme Court, which takes a long time. The docket was first opened in 2004 but has been delayed several times while the parties were in settlement negotiations.

√ *DW 08-052 Pittsfield Aqueduct Company Rate Case*

Ms. Hatfield informed the board that this case is a significant rate increase that places different groups of residential customers in adversarial positions.

√ *DW 08-065 and DW 08-088 Hampstead Area Water Company Rate Case and Financing Case*

Ms. Hatfield mentioned these two pending cases involving HAWC.

√ *DW 08-073 Pennichuck Water Works, Inc. Rate Case*

Ms. Hatfield mentioned this pending rate case.

- √ *DW 07-105 Lakes Region Water Company Investigation into receivership*
Mr. Kelly asked what the response of the Commission was to our letter stating that the company is not meeting their obligations. Ms. Hatfield explained the letter filed by Staff in response, which suggested that the company should be afforded reasonable leeway in meeting Commission requirements in light of its size and the costs of meeting obligations. The Commission acknowledged the OCA's concerns in its order, and required quarterly meetings to keep the parties updated on progress to address issues on a regular basis.

Ms. Hatfield stated that water cases are very busy right now, more so than usual. She mentioned that water companies are regulated by DES and that it can be difficult for our office to stay abreast of developments both at DES and at the PUC. Mr. Mailloux asked if we envision this getting worse. Ms. Hatfield said that she thought that environmental regulation of water companies would likely increase, causing increased costs, which in turn might mean more rate-related cases at the PUC. Ms. Monier said we will be seeing more condo owners looking at their options for water service as well as the public.

Ms. Monier asked if there is a water system for Waterville Valley. Mr. Eckberg stated that he believed that Lakes Region may supply water to the pool system there but not to the residents. Ms. Monier complained that the water quality was poor when she was there recently.

- √ *DG 08-048 Unital/Nisource Merger*
Mr. Traum explained to the Board that the OCA entered into a settlement in this case. He noted that Massachusetts is now considering whether that state's customers would be harmed by the transaction, because Northern is part of Bay State Gas.

Ms. Monier commented that people have been speaking to her about foreign companies taking ownership over New Hampshire utilities. She indicated that it may not necessarily be an issue, but that people are growing concerned about it.

- √ *Northern Utilities Cost of Gas & National Grid (KeySpan) Cost of Gas*
Mr. Traum informed the board that in looking at the filings from the companies for this winter the preliminary look shows less than a double digit increase.

3. **Legislation**

2008 Legislation (handout) – Ms. Hatfield updated the Board on the status of bills tracked by the OCA. The particular bills that were addressed at this meeting were:

- √ *HB 1434 RGGI*
DES has issued the first set of rules for RGGI, and plans to have NH participate in the December auction of CO₂ credits. Mr. Perry asked if the proceeds from the auction are to be used only for energy efficiency, and Ms. Hatfield said yes, and explained that the PUC is charged with developing rules for how to spend the funds. Mr. Perry commented that the Tidal Commission has raised the option to

use that money as a resource. Ms. Hatfield explained that renewable energy projects could seek funding from the RPS fund (not the RGGI fund), which will be available beginning in July of 2009.

√ *HB1561 EE*

This bill created a board to advise the Commission on energy efficiency and sustainable energy program, including how to invest the RPS and RGGI money. The OCA has a seat on this board. Mr. Russman asked how many people are on the board. Ms. Hatfield stated that there are approximately 20 people representing diverse interests on the board.

√ *HB1628 Renewable energy generation incentive programs*

This bill requires the PUC to develop a streamlined process for homeowners to be able to access the RPS fund when it is available in July of 2009. Homeowners can seek rebates at that time for renewable energy projects installed after July 1, 2008, subject to funding limitations. The PUC is developing an application process and has information on its website (<http://www.puc.nh.gov/Electric/Information%20regarding%20HB%201628%20073008.pdf>). Mr. Kelly asked if small businesses are eligible. Ms. Hatfield responded by stating they can seek funds under the general program, but not the one for homeowners specifically. She said that she would provide information to the Board on that issue.

ACTION ITEM: OCA to get information on how small businesses would be able to participate, including would they be competing with the wood plants. [OCA sent memo to Mr. Kelly.]

√ *SB 451 Distributed Generation*

Ms. Hatfield mentioned that representatives of Unitil Energy Services spoke to the Board about this at a prior meeting. Mr. Perry asked about the process. Ms. Hatfield stated that she thinks the process will be less rule-based and more case-by-case determinations or programmatic. Ms. Hatfield stated that a project would have to be done in partnership with the utility and in the utility's service territory.

√ *SB 383 Commission to study transmission in the North Country*

This Commission is charged with developing a consensus-based plan for transmission investments in the North Country. It will meet monthly this fall and has a report due in December. The OCA is not on the Commission but is required to be a part of the consensus process. The OCA's major concern is whether ratepayers going to pay for the transmission investments that could exceed \$200 million to allow merchant generators to sell their power into the regional market. If so, we wonder how ratepayers will benefit. The other New England states have said that they are not interested in sharing the cost of transmission, which makes a ratepayer-funded solution look more likely.

√ *SB 259*

Mr. Russman asked about SB 259. Ms. Hatfield stated that the bill represents a compromise reached with the gas appliance manufacturers association.

√ *Other bills coming?*

Ms. Monier asked if the OCA has heard anything about new bills for the next session. Ms. Hatfield explained that we are waiting for all of the bills to be submitted. The Board will review bills at our January meeting.

4. Winter Heating Issues

The Governor and the Office of Energy and Planning are planning a new initiative to fund additional weatherization assistance this winter. The funds will include redirected funds in the CORE efficiency programs, and other sources of money are being sought. The challenge for the OCA is to balance the interests of low-income residential customers with other residential customers, who are also going to face financial difficulties this winter. Governor Lynch has also joined with other NH delegates this year to seek more LIHEAP money from the federal government. Mr. Pare stated that he is on the State Committee on Aging and the Welfare Officer in the town of Holderness, and he said it is hard for people who are struggling to pay for heating fuel, especially when the non-regulated companies do not have any programs in place. Mr. Kelly agreed, but said that he also believes that the fuel companies are in a tough situation as well. Ms. Hatfield stated that she would keep the Board posted on developments in this area.

ACTION ITEM: OCA to update Board at next meeting on this issue.

5. Update on Project to Review and Update the ByLaws

Ms. Hollenberg has reached out to the Attorney General's office regarding this issue, and they are still working on our questions. She further stated that this Board may not have the authority to promulgate bylaws at all. Our statute does not authorize the board to make rules, or promulgate bylaws, so perhaps the best way to address it is to establish some operational policies. Mr. Perry commented that he is on a board in Dover and they wrote bylaws and then found out that they didn't have the authority to do so. Given that outcome, his board created rules of procedure instead. Mr. Perry said he would send a copy to the OCA.

ACTION ITEM: Mr. Perry to send copy of procedural rules from his board in Dover. OCA to continue to work with AG's office.

6. Any other topics or issues that the Board wishes to discuss

Ms. Martin announced to the Board that the fall newsletter is almost final and ready for publishing. Please look for that in the next few days and pass it on. Ms. Monier asked where the newsletter gets distributed. Ms. Martin responded that all NH media, several state agencies (some that receive customer walk-ins or appointments), several groups and organizations, some utilities and several members of the public. Mr. Kelly asked about senior contacts. Ms. Martin explained that several agencies and organizations are on the list that are geared toward the elderly. Mr. Kelly said that he can forward our newsletter to the point person (at the Community Action agencies) in each county. Ms. Monier asked if we pass it on to the United Way for the 211

services. Ms. Martin mentioned that we currently don't but we will look into getting contacts for those organizations.

OCA ACTION ITEM: Ms. Martin to get United Way contact for the newsletter distribution. Board members to send contact info to Ms. Martin for addition to the distribution list.

Ms. Hatfield informed the board that one of our members, Nate Cass, has not been able to make the meetings over the last year due to his busy schedule and distance from Concord. She further stated that after communications with him, Mr. Cass has decided to resign understanding that the board needs a member who can fully participate. The Board members expressed their regrets that Mr. Cass must resign and thanked him for his service. Ms. Hatfield then noted that we have yet to receive a resignation, which we need before a new member can be appointed by the Governor. Ms. Hatfield stated that the existing bylaws allow the Board to vote Mr. Cass off the board, which would open up his seat. Mr. Russman suggested that the Board remove Mr. Cass while simultaneously thanking him for his service. Mr. Perry questioned our authority to vote Mr. Cass out. Ms. Hatfield stated that she believed that the Board had the authority to remove a member under its bylaws.

MOTION: Mr. Kelly made the following motion "The board has been informed of Mr. Cass's intention of resigning due to his unavailability and moves to remove him from the Board while simultaneously we thank Mr. Cass profusely for his service during his tenure." Mr. Mailloux seconded and the board voted unanimously to remove Mr. Cass. [NOTE – Since the meeting it has been confirmed that the Board does not have the authority to remove Mr. Cass. Ms. Hatfield is working with the Governor's Office to have Mr. Cass resign and find a replacement for his slot.]

Mr. Perry updated the board on the Tidal Commission. He stated that the idea of energy from ocean tides is a complicated one, and said that the Commission's report will come out in November. He indicated that he has learned a lot while serving on this Commission on behalf of the OCA. He also commented that the DES website has some information on it regarding the Commission.

Ms. Hatfield then noted that the Climate Change Task Force is having public meetings to seek public input and she urged the board members to attend. She plans on attending at least one of the meetings.

Mr. Mailloux moved to adjourn the meeting. Mr. Perry seconded and the meeting was adjourned at 3:53 pm.

Ms. Hatfield indicated that the next meeting will be held on November 3rd. [The date was later moved to November 10, 2008.]