

OCA Residential Ratepayers Advisory Board  
October 5, 2009  
Board Minutes

Present:

Lawrence Kelly, Chairman  
Claira Monier  
Rick Russman  
Ken Mailloux  
Louis Pare  
Debbie de Moulpied

Present for the OCA:

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

Guests:

Heidi Kroll, Gallagher, Callaghan & Gartrell

Mr. Kelly declared a quorum and the meeting began 2:08 pm.

Ms. Monier described an experience she had with FairPoint resulting from problems with her phone service. Ms. Hollenberg urged the Board members to report any problems with any regulated utility to the PUC's Consumer Affairs division, which is charged with mediating individual consumer issues with utilities. Ms. Hatfield told Board members that the OCA can assist both Board members and any members of the public with making a complaint at the PUC. [Note: There is also an online form available at <http://www.puc.nh.gov/Consumer/complaint.htm>.]

Ms. Monier asked if FairPoint did their due diligence when reviewing the purchase, and if not why. Mr. Pare opined that he believed that they hadn't, but instead undertook the transaction for the financial gains. Ms. Monier added that Comcast is going door to door in Goffstown to try to get consumers to switch service from FairPoint to Comcast. Ms. Hollenberg stated that it is her belief that door-to-door sales requires a 3-day cooling off period and registration with the Attorney General's office.

**1. Review and Approve Minutes**

Mr. Kelly asked the board if any one had any changes or comments regarding the August 5, 2009 meeting minutes. Hearing none, Mr. Mailloux moved and Ms. Monier seconded that the August minutes be approved. The Board voted unanimously to approve the minutes.

**2. Welcome new Board members Deborah de Moulpied and Thomas Moses**

Mr. Kelly welcomed Ms. de Moulpied to the board. Ms. Hatfield explained that Mr. Moses could not attend due to an unexpected family emergency.

### **3. Case Updates - Highlights of Activity Update**

The Board then reviewed the Activity Update and discussed several current dockets. Ms. Hatfield provided an update to:

DE 08-135 – The parties filed a settlement in the case related to PSNH’s line extension costs and the hearing on the settlement is tomorrow. Parties to the settlement agreement include the OCA, PUC Staff, PSNH and the NH Homebuilders and Remodelers Association.

DE 09-009 Unitil & DE 09-010 National Grid – There will be a slight increase in electric rates for both companies on November 1, 2009. However, rates are still lower than what they have been the last few years, as Grid is at 7.3 cents/kWh, and Unitil is at 9.03 cents/kWh.

DE 09-033 PSNH – The Commission issued an Order today approving PSNH’s request for financing of \$150 million in long term debt and an increase in its short term debt of \$60 million.

DE 09-137 Unitil Distributed Energy Resource – Ms. Hatfield explained that Unitil has filed the first case under the new statute that allows utilities to undertake energy efficiency and distributed energy projects funded by all ratepayers through rates. The proposal includes the first “smart metering” pilot program for residential customers in the state. The docket is just beginning.

DE 09-180 PSNH Energy Service – PSNH is proposing a new rate of 9.31 cents/kWh for consumers on January 1, 2010, which would be higher than the current rate of 9.03 cents/kWh. This increase for consumers comes at a time when Grid and Unitil customers are seeing lower rates due to lower market prices. As we discussed at the last Board meeting, the impact on the residential customers from migration of commercial and industrial customers who leave PSNH’s energy service to go to a competitive supplier will be a key topic for discussion in this docket. Migration is at an all-time high of 25%, because large C&I customers can currently get lower rates from competitive suppliers. Mr. Traum stated that PSNH quantified the impact of this migration on captive customers such as residential and small business customers as a 5% increase in rates.

Mr. Russman asked how this will affect the recovery of the scrubber costs. Mr. Traum stated that the scrubber costs are not included in the current rate increase for 2010 because those costs can’t be recovered until the investment is “used and useful” under ratemaking principles. We won’t know what the impact on customers will be until PSNH files for rates that include scrubber costs, which could be in 2012 or 2013. Mr. Russman asked for the estimate of the impact of the scrubber if all commercial and industrial customers migrated to a competitive supplier. Mr. Traum stated that it is likely to be more than the current 5%, but that it is impossible to know how much migration will be taking place at that time. It is a concern for our office that those who can leave PSNH’s energy service (C&I customers) could cause residential and small business customers to pay more of the scrubber costs. Mr. Kelly asked if there was a study done somewhere that we could review and compare, or if there were or are other states that have had experience with this. Mr. Traum stated that PSNH did file an estimate of the rate

impact but that it is difficult to estimate because of all of the unknowns in trying to project market costs in the future. He added that because New Hampshire is a “hybrid state” with PSNH owning generation and other utilities being fully deregulated, it is difficult to compare us to other states. Ms. Hatfield stated that when PSNH seeks recovery of the scrubber costs several options for recovery could be explored if necessary to mitigate rate impact on small customers. One potential approach is to increase the length of time for paying the costs of the scrubber from PSNH’s current proposal of 15 years.

Mr. Russman then expressed concern for the fact that the utilities are getting more money for energy efficiency programs from the Greenhouse Gas Emissions Reduction Fund (also known as the RGGI fund), when they are in the business of selling electricity rather than providing energy efficiency services to customers. Mr. Kelly said that some of the money passes directly to the Community Action Agencies to provide energy efficiencies services to low income customers. Ms. Hatfield said that the low income efficiency delivery process works well, and that she hopes that at some point a third party focused on delivery energy efficiency to residential customers makes a proposal to receive RGGI funds. At this time she is not aware of such a proposal. There are several projects focused on larger customers, municipalities and schools, but at this point the utilities are the only parties proposing programs for residential customers. She added that Mr. Russman raises important larger policy questions about how to incent utilities to sell less energy, and help consumers use less. One example is to change rate design, and the Commission did have a “decoupling” docket (DE 07-064). In its final order, the Commission allows the utilities to request decoupling, but does not require it. PSNH is the first utility to file a rate case since that Order. While they did not request full decoupling, PSNH has asked to increase their customer charge and make other changes to shift more revenues to fixed charges, which is moving toward decoupling, in their current distribution rate case.

Ms. Hatfield stated that in the process that has just begun to review the CORE electric efficiency programs for 2010, we expect to have to litigate the amount of money for low income efficiency programs, as PUC Staff is advocating to decrease the amount. Mr. Kelly asked what the rationale is for decreasing it. Ms. Hatfield responded that when the testimony comes out, we will know for sure. Mr. Russman was concerned by that and he stated that businesses are in a better position to make energy efficient changes than low income consumers, and that funding for low income efficiency should not be cut.

DT 07-011 FairPoint – FairPoint had \$42 million in debt and interest payments due on September 30, but they were able to get an extension from lenders until October 30. FairPoint has stated that it is hopeful that they can restructure their debt through an out of court arrangement with their lenders, but Chapter 11 bankruptcy is very possible. Ms. Hatfield stated that FairPoint’s CEO has been pretty clear for at least the last month that they are headed to bankruptcy. She also stated that the PUCs are in regular contact with the company. The OCA is not included, and we believe that we may not be receiving all the documents that are being shared. Mr. Kelly asked if we are in touch with our counterparts in ME and VT. Ms. Hatfield replied that we do speak with the Maine Office of Public Advocate frequently as they have a similar structure as our office. We have also been in contact with Vermont, but they have a different structure than the OCA. The Vermont Department of Public Service has been taking a harder line with the company, and there is currently a docket underway in Vermont to consider whether FairPoint should be able to keep the franchise in the state.

DT 09-136 TDS Acquisition of Union Telephone – This is a new case and is on an expedited schedule. Union is a small company serving part of the Lakes Region.

DW 07-105 Lakes Region – The criminal case in Carroll County superior court arising from the Company's use of a well contaminated with uranium in Tamworth has ended with fines of \$200,000 against the company, with \$100,000 suspended on the condition that the Company comply with all applicable laws, rules and orders for the next three years. The quarterly meetings to monitor will continue until July 2010 pursuant to Commission Order. Ms. Martin announced that Lakes Region has recently filed their intent to seek a rate increase.

DW 04-048 Pennichuck Eminent Domain – This case is still ongoing at the Supreme Court.

DG 08-009 National Grid – We are in the process of discovery on the rate case expenses. The company is seeking recovery of rate case expenses of over \$770,000, which is more than the OCA's annual budget.

DG 09-162 National Grid & DG 09-167 Northern Utilities - Natural gas rates are decreasing due to lower gas prices.

#### **4. Review of potential 2010 energy legislation**

Ms. Hatfield informed the board of some of the new House LSRs that are currently before the legislature, and which may become bills in the 2010 session. She also informed the board of some possible legislation that was discussed during a public Energy Caucus meeting held by legislators on September 18, 2009.

#### **5. Any other topics or issues that the Board wishes to discuss**

The next meeting date can be either December 7<sup>th</sup> or 14<sup>th</sup>. Ms. Martin will email the board to see what works best for everyone. Once everyone has responded Ms. Martin will email the board to let them know what date will be.

Mr. Mailloux moved to adjourn the meeting at 3:21. Ms. Monier seconded and the motion passed unanimously.