STATE OF MAINE
PUBLIC UTILITIES COMMISSION

June 16, 2004

ORDER APPROVING
STIPULATION

BANGOR HYDRO-ELECTRIC CO.
Revision to Terms and Conditions to
Provide Updated Cost Information for
Services Provided to Customers

Docket No. 2004-33

BANGOR HYDRO-ELECTRIC CO.
Review of Annual Price Change
Pursuant to BHE's Alternative Rate Plan

Docket No. 2004-192

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order we approve a Stipulation entered into by Bangor Hydro-Electric Company (BHE or Company), the Office of the Public Advocate (OPA) and the Industrial Energy Consumer Group (IECG) and thus approve, effective July 1, 2004, a reduction of 2.44% in BHE's core distribution rates excluding the unbundled conservation rates established in Docket No. 2003-516 and the discounted portion of BHE's Residential Low-Income Rates as part of the second price change under the BHE Alternative Rate Plan (ARP). In addition, as part of this Order Approving Stipulation, we approve criteria which will serve to define "extraordinary weather events" for the remainder of the BHE ARP; authorize BHE to defer and amortize over a ten-year period certain employee transition costs associated with employee severance and early retirement programs; and dismiss without prejudice BHE's proposed changes to its Terms and Conditions relating to the fees for service establishment and reconnection.

II. BACKGROUND

In *Bangor Hydro-Electric Company, Request for Approval of Alternative Rate Plan,* Docket No. 2001-410, Order Approving Stipulation (June 11, 2002) the Commission approved an Alternative Rate Plan to be in effect from the date of the Order through December 31, 2007. Under the terms of the BHE ARP, the Company's rates are scheduled to change each July 1 during the term of the ARP pursuant to an Annual Percentage Price Change formula. Other than the changes allowed by the formula, BHE's distribution rates or revenue requirements were not to be changed pursuant to the provisions of 35-A M.R.S.A. § 307 during the term of the ARP.

On January 15, 2004, BHE filed changes to its Terms and Conditions[1] which proposed to increase the Company's establishment of service for initial connection of service, reconnection of service and transfer of service fees, and also added a new category of establishment of service fee for customers that disconnect/connect on a seasonal basis. On February 13, 2004, the Commission issued Suspension Order # 1 which, pursuant to 35-A M.R.S.A. §310, suspended the effective date of the proposed schedules.

On March 3, 2004, the Company filed a Petition with the Commission requesting that the Commission, pursuant to the provisions of 35-A M.R.S.A. §301, enter an accounting order authorizing BHE to defer and amortize over a ten-year period, costs incurred by BHE in connection with the severance or early retirement of part of its work force. Specifically in its Petition, BHE claimed that during 2004, as a result of various measures to reduce its costs of operations, including, but not limited to, the outsourcing of a variety of its information technology tasks and the automation of its meter reading process, BHE will incur substantial costs related to the severance or early retirement of an employee (2004 Employee Transition Costs). BHE requested that in order to mitigate the effect of these costs on 2004 earnings, the Company be authorized to amortize the 2004 Employee Transition Costs over ten years. [2]

Finally, on March 15, 2004, BHE submitted its annual filing pursuant to the Alternative Rate Plan. [3] As part of its filing, BHE proposed to decrease core distribution rates by 1.66%. This overall decrease was comprised of the ARP Basic Rate Reduction of 2.75% offset by an increase of 1.07% for costs which the Company alleged qualified as mandated costs under the ARP. The Company's mandated cost calculation was comprised of $212.173 for additional MPUC and OPA regulatory assessments and $1,152,423 for costs which the Company claimed were associated with six major storms. The totals from these two categories were then offset by $750,000 mandated cost threshold. In addition, the Company proposed an increase of 0.02% related to last year's price change applied to DSM costs pursuant to the ARP's Basic Rate Reduction provisions. BHE proposed that the rate decrease be applied to all rate components with two exceptions: for classes with seasonally differentiated rates, the total amount of the decrease would be applied to winter rates; and the Residential Low Income Tail Block rates would be calculated to maintain the same dollar discount as was the case prior to the rate change. According to BHE, Service Quality Index penalties do not apply this year.

Given the interrelationship between the issues in the Company's request for an accounting order to authorize deferral of certain severance costs (Docket No. 2004-166) and the operation of the Company's ARP (Docket No. 2004-192), the Hearing Examiner

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[1] This case was assigned Docket No. 2004-33.

[2] This case was assigned Docket No. 2004-166.

[3] This case was assigned Docket No. 2004-192.

consolidated Docket Nos. 2004-192 and 2004-166 by way of a Procedural Order dated April 5, 2004 and closed Docket No. 2004-166. In that Procedural Order, the Hearing Examiner noted that although there also was an interrelationship between the Company's filing to revise its Terms and Conditions regarding connection and reconnection of service (Docket No. 2004-33) and the Company's ARP, since the Company's filing in Docket No. 2004-33 had a schedule which was the subject of certain statutory constraints, *See* 35-A M.R.S.A. § 310, Docket No. 2004-33 would not be consolidated with Docket No. 2004-192. Docket Nos. 2004-33 and 2004-192 would, however, until further order, be processed concurrently.

The Office of the Public Advocate (OPA) and the Industrial Energy Consumer Group (IECG) petitioned to intervene in both Docket No. 2004-33 and Docket No. 2004-192. Central Maine Power Company (CMP) petitioned for limited intervenor status in Docket No. 2004-192. All such petitions were granted without objection.

Technical conferences in these proceedings were held on April 8, 2004 and April 29, 2004. A series of settlement conferences were held following the April 29, 2004 technical conference. On May 26, 2004 we received a Stipulation entered into between BHE, the OPA and the IECG.

III. DESCRIPTION ON THE STIPULATION

Based on the agreements discussed in greater detail below, the parties stipulate that this year's annual ARP price change to take effect on July 1, 2004, should be a reduction to core distribution rates of 2.44%. This decrease is comprised of the Basic Rate Reduction of -2.75% under the BHE ARP, offset by the recovery of the Low-Income Deferral. This reduction shall apply to the distribution delivery rates unbundled pursuant to the Stipulation in Docket No. 2003-516 and shall not apply to BHE's unbundled DSM conservation mil rate. In addition, the reduction shall not apply to the discounted portion of BHE's Residential Low-Income Rates.

Under the terms of the Stipulation there would be no mandated cost changes for this price change. For purposes of calculating Mandated Costs in the future, however, the parties agree that only the following weather events would qualify as "extraordinary weather events" and thus qualify as a mandated cost:

1. The event must be classified on the website of the National Climatic Data Center (a division of NOAA) or its successor entity (on a succeeding website) to be an "extreme weather event";

2. The event must directly result in BHE incurring more than $400,000 of storm restoration costs defined as those costs prudently incurred and necessary to restore service to customers affected by the extreme weather event; and,

3. Over 3 successive calendar days the event must result in disruption of service to more than:

   a. 20% of BHE customers; or

   b. 50% of BHE customers within one of the four BHE operating divisions (Bangor, Northern, Hancock, and Washington).

Any weather event that satisfies the criteria of paragraphs (2) and (3) above and is not classified on the NOAA website as an "extreme weather event" shall nevertheless qualify as an "extraordinary weather event" if BHE can demonstrate that the event's failure to be classified as a "extreme weather event" is due to the oversight or neglect of the classifying agency and not to deliberate exclusion.

The parties further agree that BHE shall be allowed to amortize on its books of account certain costs related to the severance or early retirement of its employees related to the Company's three initiatives set forth in its response to ODR-02-04, (Attachment E to the Stipulation). The amounts authorized for deferral shall not exceed the amounts set forth in Attachment E and the amortization period shall be 10 years from the date of incurrence of such costs.

The parties to the Stipulation agree that BHE has $1,122,025 in a deferral account reflecting the Company's calculation of the deficiency it has incurred over the last several years in operating its Low-Income Assistance Program pursuant to Chapter 314 ("Low-Income Program"). The parties agree that $171,000 of this amount will be reflected in rates during the 12-month period from July 1, 2004 to June 30, 2005 and that there will be no further deferrals for the BHE Low-Income Program for all periods up through October 1, 2003.

Under the terms of the Stipulation, BHE is authorized to continue to defer on its books of account as a regulatory asset or a regulatory liability, a Low Income Program Deferral amount equal to the difference between Low Income Subsidies provided (defined by the discount provided off BHE's regular residential rate) and Low Income Credits received (defined by the sum of (a) 0.000832518 x core sales and (b) all amounts received from MSHA for the Program) beginning with the Low-Income Program year that commences October 1, 2003. Given the past history of deferrals, BHE agrees to propose a revised low-income program to take effect October 1, 2004 with the goal of matching collections with low-income expenditures.

Finally, the parties agree that the Company's petition to change its Terms and Conditions in Docket No. 2004-33 should be dismissed without prejudice.

IV. DECISION

As we have now stated on many occasions, to accept a stipulation the Commission must find:

1. the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;

2. the process that led to the stipulation was fair to all parties; and

3. the stipulated result is reasonable and is not contrary to legislative mandates.

See Central Maine Power Company, Proposed Increase in Rates, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design),* Docket No. 95-052, Order (Me. P.U.C. June 26, 1996). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. *See Northern Utilities, Inc., Proposed Environmental Response Cost Recovery,* Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets these criteria.

The Stipulation before us was entered into by CMP, the OPA and the IECG, all of the parties to this proceeding. In addition, our Advisory Staff was an active participant in the settlement process and has indicated its support for the Stipulation. Our review of the procedural history here indicates that all procedural safeguards were satisfied in this instance. We therefore, find that both criteria one and two, set forth above, have been satisfied.

Unlike many previous annual ARP reviews, this case involved more than the mere mechanical application of the ARP price index and had several major issues which were contested by the parties. We find that the Stipulation resolves these issues in a reasonable manner which is both consistent with the public interest and with all legislative mandates.

Accordingly, it is

O R D E R E D

1. That the Stipulation entered into by Bangor Hydro-Electric Company, the Office of the Public Advocate and the Industrial Energy Consumer Group and filed with the Commission on May 26, 2003 is hereby approved. A copy of the Stipulation is attached hereto and is incorporated by reference.

2. That in accordance with the terms of the Stipulation, Bangor Hydro-Electric Company shall reduce its core distribution delivery rates by 2.44% effective July 1, 2004.

3. That the Company's Petition to change its Terms and Conditions in Docket No. 2004-33 is dismissed without prejudice.

Dated at Augusta, Maine, this 16th day of June, 2004.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Diamond
Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.