

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 11-150

CONCORD STEAM CORPORATION

Petition for Approval of a Special Contract with the City of Concord

Order *Nisi* Approving the Special Contract

ORDER NO. 25,268

September 9, 2011

I. BACKGROUND

On June 28, 2011, the petitioner, Concord Steam Corporation (Concord Steam or Company), filed with the Commission a petition for approval of a special contract with the City of Concord, New Hampshire (City) for steam service in connection with multiple office facilities owned by the City at and in the vicinity of the City Hall complex in downtown Concord. Concord Steam has been providing retail steam service to the City at various locations in Concord for many years.

According to its petition, to ensure that it has a long term supply of steam at reasonable cost so that it can serve its customers at reasonable rates, Concord Steam has entered into a Steam Purchase Agreement (SPA) for its steam supply requirements with Concord Power and Steam, LLC (Concord Power). Concord Steam is an affiliate of Concord Power. *See* Order No. 25,260 (August 9, 2011), at 1, *citing* Order No. 24,969 (May 22, 2009). Concord Power intends to develop an 18 megawatt wood-fired steam boiler-electric generating unit (the Wood-fired Unit) which will be the usual source of the steam supplied to Concord Steam under the SPA.

The Commission recently approved a special contract between Concord Steam and the State of New Hampshire, in Docket No. DG 11-135. *See* Order No. 25,260. The City joins the State in supporting the development of the Wood-fired Unit because it is expected to result in lower steam costs for all customers of Concord Steam, including the City, than if the Wood-fired Unit is not constructed. In addition, the City may derive additional property tax revenues from its development. Concord Steam is willing to enter into this special contract if, as part of the contract, the City commits to remain a customer of Concord Steam for a term of ten years with two five-year options to renew, and a portion of the uncommitted power output of the Wood-fired Unit is contracted for by the City (approximately 4,300 megawatt hours) to assist in the financing of the Wood-fired Unit.

II. STAFF RECOMMENDATION AND COMPANY RESPONSE

On August 18, 2011, Staff filed a recommendation outlining its investigation of the proposed contract. According to Staff, the contract specifies that the City will purchase all of its steam requirements from Concord Steam for the term of the special contract. The term will commence on January 1, 2014, following the expected completion of the Wood-fired Unit, and runs for an initial ten-year term, with two five-year automatic renewals, subject to the prior approval of the City Manager and City Council. Under the contract, the City will pay an “initial base rate,” referred to as the “Usage Rate” in Concord Steam’s tariff, of \$5.00 per Mlb. of steam, adjusted annually, beginning on January 1, 2015, by the annual percentage change in the third quarter Gross Domestic Product Implicit Price Deflator. In addition, the City will pay the other components of Concord Steam’s tariff, *i.e.*, the Meter Charge and Cost of Energy components, and any applicable tariff surcharges, at Concord Steam’s standard tariff rates.

Staff's recommendation notes that, with two major exceptions, the terms and conditions of the approved State contract and the proposed contract with the City were generally congruent. The discounted "initial base rate" exceeds the incremental cost to serve the load and provides for annual usage rate adjustments indexed to inflation, helping to ensure that the discounted delivery rate will exceed long-run marginal costs over the life of the contract. The base rate/Usage Rate will not be less than the initial usage rate of \$5.00 per Mlb. of steam. Staff presented calculations showing the Company's approximate incremental cost to serve in both 2008 and 2010 and an example of how the special contract usage rates will be adjusted each year, based on the change in the Gross Domestic Product Implicit Price Deflator from year to year. Lastly, the term of the proposed contract is tied to the length of the electric power contract between Concord Power and the City, resulting in a potential indirect subsidy of the Concord Power system by the City, in the form of higher electric costs, the benefits for which would flow through to Concord Steam customers at large.

As with the approved State special contract, according to Staff's recommendation, the City, and other Concord Steam customers, can expect considerable cost savings from the proposed special contract with the Company that would partially facilitate construction of the Wood-fired Unit. Specifically, as a result of the construction of the Wood-fired Unit, Concord Steam estimates a combined overall rate of \$25.60 per Mlb. of steam to exist after construction is completed, as compared to \$42.40 per Mlb. if the Wood-fired Unit is not built. According to Staff, all customers will benefit from the efficiencies of the Wood-fired Unit, though the City (together with the State) will achieve the greatest savings to offset the additional risk exposure

related to potentially higher electricity costs; the estimated rate impacts on the City and non-special contract customers will be a reduction of 35 and 19 percent, respectively.

Staff notes that these bill impacts do not reflect the cost of a 6,800 foot steam main extension that will be required to connect the new plant to the steam distribution system nor the system upgrades to repair and re-insulate approximately 5,500 feet of existing steam pipes to improve their performance and decrease line losses, previously estimated by the company to be approximately \$4 million. Concord Power has agreed to pay for the interconnection; Concord Steam will be responsible for system upgrades which will reduce line losses, resulting in a lower energy rate that will benefit all customers. To that end, Staff reiterated its recommendation, first made regarding the special contract with the State, that the Commission consider assessment of a new surcharge to be paid by all Concord Steam customers, including the City, when Concord Steam seeks recovery of the cost of system upgrades designed to reduce line losses.

As mentioned, there were two major differences between the State special contract, as approved in Docket No. DG 11-135, and the City special contract as initially proposed. The first difference related to the treatment of cost savings derived from thermal renewable energy certificates (RECs) that may be realized by the City as a consequence of potential future legal changes to the renewable portfolio standard established under RSA 362-F. In the State special contract, the Company specified that RECs-related savings accrued from the State's usage would be offset by an increase in the State's Usage Rate equal to 50 percent of the value of RECs savings accruing to the State. In this way, RECs-related savings are spread among Concord Steam customers generally, enhancing the benefits to non-special contract customers derived from the construction of the Wood-fired Unit. The City special contract, as initially proposed,

lacked this feature, meaning that all RECs-derived savings tied to the City's steam usage would be kept by the City. Staff opposed this feature of the City special contract.

The second major difference related to rate ceilings. Under the approved State contract, the Usage Rate applied cannot exceed the tariff rate. The City contract lacked this feature, and specified that the City could unilaterally terminate the special contract and take service under the general tariff if the Usage Rate exceeded the lowest tier of the tariff base rate. Staff recommended that the proposed City special contract be modified to include the State contract rate ceiling feature that sets a cap on the special contract usage rate at the current applicable tariff rate. Staff believes this cap would provide the City with adequate rate protection, and opposed the inclusion of the unilateral termination clause as unnecessary if the State rate ceiling were adopted.

The Company and the City assented to Staff's suggested modifications and incorporated these into the proposed special contract approved by the Concord City Council on August 24, 2011, and executed by representatives of the City and Concord Steam on August 25, 2011. In addition, the contract now states that the discount only applies to the usage rate and the standard tariff applies in all other rates and matters.

In light of the above, Staff recommended that, subject to the inclusion of certain terms in the Commission's order, and the inclusion of the two modifications to the contract discussed, the Commission approve the proposed special contract between the Company and the City. Staff stated that, in its view, the contract is in the public interest, as required by RSA 378:18, in that it offers Concord Steam the opportunity to complete its long-planned combined power and steam plant, which would offer all Concord Steam customers, along with the City, economic benefits

derived from the plant's increased efficiency, together with increased tax revenues for the City, and would also provide significant environmental benefits to the general public, as the new plant would have modern pollution controls.

Staff recommended that the following conditions be included in the Order: (1) the special contract rate apply specifically to a discount to the usage rate portion of the bill and the tariff rates apply to the Meter Charge and Cost of Energy rates paid by the City, together with applicable surcharges; (2) that the Commission consider a surcharge applicable to all customers to recover distribution system upgrade costs when Concord Steam seeks recovery; (3) that at no time during the term of the agreement will the discount to the usage rate be less than the initial special contract rate; and (4) that Concord Steam file annually, prior to each new contract year, the rate adjustment calculation using the template attached to Staff's recommendation.

III. COMMISSION ANALYSIS

RSA 378:18 authorizes the Commission to approve a special contract when "special circumstances exist which render such departure from the general schedules just and consistent with the public interest." We review the Company's filing with this in mind, giving consideration to the policy precepts established in *Generic Discount Rates*, 77 NH PUC 650, 654-55 (1992) and *Generic Discounted Rates Docket*, 78 NH PUC 316, 316-17 (1993). *See also*, *Concord Steam Corporation*, Order No. 24,776 (July 12, 2007) and *Concord Steam Corporation*, Order No. 25,009 (September 4, 2009).

Based upon our review of the record and for the reasons described in Staff's recommendation, we find that special circumstances exist that justify the departure from standard tariff rates and render the special contract just and reasonable and consistent with the public

interest. The special contract rate applies specifically as a discount to the usage rate portion of the bill for each City steam account, but the normal effective tariff rates continue to apply to the Meter Charge and Cost of Energy rates paid by the City, along with applicable surcharges. Because the City will be paying most of the normal charges, and on the charge for which it receives a discount it will still be paying more than the Company's marginal cost to serve, we find that the financial terms of the contract are appropriate. We condition this approval, however, on the discount not being lower than the initially discounted rate.

Regarding the length of the contract, we find its term appropriate. As noted, the discounted steam usage rate is intended to offset the risk inherent in the City's future purchases of electricity from the Company's affiliate. The term is long enough to provide the needed stability on the purchases of electricity in order to make the overall transaction, including the steam purchases, possible.

We also adopt Staff's recommendation, discussed in our recent approval of the State special contract, for the need to recover costs from all customers of the Company for system upgrades. *See* Order No. 25,260 at 8-9. We anticipate that, when appropriate, Concord Steam will petition the Commission for approval to recover those costs at which time the Commission will determine how prudently incurred costs are to be recovered.

Finally, consistent with Staff's recommendation, we will require that the Company file annually with the Commission, and prior to each new contract year, the inflation rate adjustment calculation using the template attached to Staff's recommendation and reference this docket number in that annual filing. Such a filing will allow the Commission to understand the impact

of this contract on the Company and on its customers and to be aware of the base rate/Usage Rate changes before they are made.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, the proposed special contract is APPROVED subject to the terms and conditions set forth herein; and it is

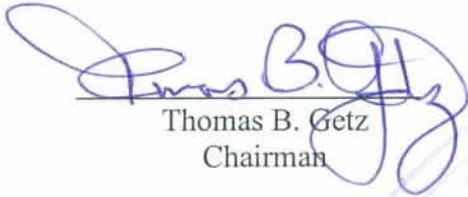
FURTHER ORDERED, that the Company shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than September 16, 2011 and to be documented by affidavit filed with this office on or before September 27, 2011; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than September 23, 2011 for the Commission's consideration; and it is

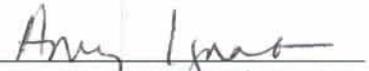
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than September 26, 2011; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective September 27, 2011, unless the Company fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this ninth day of
September, 2011.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Lori A. Davis
Assistant Secretary

