



THE NEW HAMPSHIRE RATE WATCHER 2006 Year End Review

Consumer Newsletter of the
New Hampshire Office of Consumer Advocate
21 S. Fruit Street, Suite 18
Concord, NH 03301
603-271-1172
website: www.oca.nh.gov

Volume 10

Winter 2006 - 2007

The Office of Consumer Advocate (OCA) is an independent state agency charged under RSA 362:28 with representing residential customers of New Hampshire's regulated utilities: electric, natural gas, telephone and water. The OCA is authorized to participate on behalf of residential consumers in proceedings before the New Hampshire Public Utilities Commission (PUC), the legislature, at the regional and federal levels, and in the courts.¹ Additionally, the OCA is charged with promoting and furthering consumer knowledge and education.

The OCA has 5 full-time staff members authorized by the statute: Consumer Advocate Meredith Hatfield, Assistant Consumer Advocate Ken Traum, Staff Attorney Rorie Hollenberg, Utility Analyst Steve Merrill and Legal Assistant Christina Martin.

2006 was another busy year for the OCA. In addition to participating in many dockets at the PUC on behalf of New Hampshire's residential ratepayers, we also worked on energy policy, energy assistance and consumer education initiatives. We also saw Anne Ross move on to become Director of the PUC Legal Division, and Meredith Hatfield joined the OCA in late September as the new Consumer Advocate.

Under the various state statutes governing regulated utilities, the PUC must ensure that customers of public utilities receive adequate services at reasonable rates. In this regard, under RSA 363:17-a, the Commission is required to balance the interests of the customer and the regulated utilities. In contrast, the OCA is charged with advocating on behalf of residential customers who may not have the resources or familiarity with the regulatory process required to represent their interests in utility matters.

As we begin 2007, we provide this overview of major issues and cases in each of the regulated utilities areas in which we are charged with representing residential ratepayer interests. More information can be found at our website, www.oca.nh.gov, or you can reach us using the contact information at the end of this newsletter.

¹ While the OCA is very interested in patterns of rate or service problems and lends assistance whenever possible, it is not authorized to represent individuals in complaints with utilities. Instead, the Consumer Affairs Division of the Public Utilities Commission mediates individual complaints about regulated utilities.

Electricity:

The electric arena continues to be a busy one, with two of the state's major electric utilities – National Grid (Granite State Electric) and Unitil – operating under the post-restructuring regulatory regime. This means that the two Companies still require approval from the PUC for energy service rates, which they procure from the market for their customers, as well as for delivery service (i.e., the “wires and poles” that deliver electricity to customers). For Public Service Company of New Hampshire (PSNH), which continues to own generating plants due to amendments to the restructuring laws, the PUC still has jurisdiction over the rates they charge for the electricity that the plants generate. As a result, unlike Unitil and National Grid, PSNH's energy service rate includes a return on PSNH's generation investment. The Commission last set this rate of return in a 2005 proceeding, consistent with the recommendation of the OCA's consultant and the PUC Staff. That result saves energy service customers about \$3 million annually.

2006 saw major rate delivery service cases involving Unitil and PSNH. The Unitil case is largely finished, with a few remaining issues to be resolved in early 2007. The PSNH case is under way, with hearings scheduled for March. In that case, the OCA is focused on the appropriate rate of return for the utility, and the significant rate increase requested by PSNH for operating and maintaining its distribution infrastructure.

The OCA also devotes considerable time to dockets involving ratepayer-funded low-income electric assistance and energy efficiency programs, which must be reviewed by the Commission each year. The programs are funded by ratepayers through the System Benefits Charge (SBC) paid by all electric customers. (The average residential ratepayer contributes about \$1.50 per month). The “Core” statewide energy efficiency programs provide rebates and a wide range of products and services to lower electric bills and to reduce the need for costly new investments in power plants. Since they began in 2002, the Core programs, and have saved customers approximately \$400 million. Information about the programs is available at www.nhsaves.com.

Last year the Commission approved a new design for the Electric Assistance Program (EAP), which provides bill assistance to low income electric customers. Under the new design, which went into effect on October 1, 2006, the EAP will provide benefits to approximately 30,000 eligible households across the state, a number that is roughly double the number of customers served under the previous design. The new design provides a more precise targeting of assistance by basing discount levels on household income and household size; however, it did reduce most benefit levels because the Commission stayed within the previously approved budget established for EAP. Information about the program can be found on your utility's website and through local Community Action Agencies.

There are also ongoing proceedings dealing with Stranded Cost Recovery Charges remaining from restructuring. These charges are steadily decreasing for all customers in the state.

The OCA is also participating in a docket on new federal energy policies. The Energy Policy Act of 2005 (EPAct) requires that each state determine whether implementation of new standards is appropriate, or if the state has already made progress through prior state action. The standards are: 1) Interconnection for Renewable and Distributed Generation; 2) Time-Based Metering (or "Smart Metering"); 3) Net Metering, which allows small customers who self-generate electricity from renewable resources to send power back to the grid; 4) Fuel Diversity; and 5) Fossil Fuel Generation Efficiency. The Commission must make its findings on the first two standards in 2007 and on the last three in 2008. The OCA filed comments on the first two issues and awaits Commission action.

Natural Gas:

2006 began with high natural gas prices due in large part to the hurricanes that hit New Orleans and the Gulf region in the fall of 2005. In part due to these higher costs, the OCA supported an increase in the discount for low-income natural gas heating customers, as well as increases in consumer education and outreach to ensure that customers take advantage of the cost-effective efficiency measures that are offered by our gas utilities (Keyspan and Northern Utilities). Utility-based ratepayer-funded energy efficiency programs were also approved in 2006 for another three years. Information on those programs, which are akin to the electric programs discussed above, is available through the utilities.

As usual, the OCA participated in the natural gas companies' cost of gas adjustment (CGA) dockets, which take place twice each year to reflect seasonal price fluctuations. This fall residential gas customers saw increases of approximately 10%. The OCA worked together with PUC Staff to ensure that increases were as low as possible while providing appropriate hedging protection from price spikes. So far, the mild winter has helped to keep prices low.

Keyspan was involved in several additional dockets at the PUC in which the OCA actively participated. The most significant is the proposed acquisition of Keyspan by National Grid. (National Grid provides electric service to customers in the Salem and Lebanon areas as Granite State Electric). The merger of the two companies would result in the State's first integrated utility offering both gas and electric service, but the company would not have any overlapping service territory areas. In considering the merger the PUC must apply RSA 369:8, which requires a showing that the merger will result in "no adverse impacts" or "no net harm" to customers, as well as RSA 374:33, which requires a showing that an acquisition of a utility is in the public interest. While the OCA has not yet taken a position on the proposed merger, we are reviewing the proposal to make sure that the acquisition leaves customers of both utilities in NH with safe, reliable, and high quality service, and that any savings resulting from a merger is shared with customers. Hearings in the case are scheduled for May.

Another docket that is pending before the Commission involves an investigation of Keyspan's billing practices. An analysis by PUC Staff revealed that, since 2001, the company had been incorrectly measuring gas and over-billing its customers. Keyspan has acknowledged the mistake and is working with the PUC Staff and the OCA to correct the error, investigate its cause, and to determine the most appropriate way to return over-billed amounts to customers with interest.

The OCA has also participated in dockets regarding Integrated Long Range Planning by the gas utilities to review the utilities' planning processes and ensure that they are comprehensive. A related issue in 2006 involved Northern Utilities, which provides natural gas in the Seacoast region. In the case, which impacted both Maine and New Hampshire customers, the OCA and Commission Staff sought to end the historical subsidization of Maine customers by New Hampshire customers. Under a settlement agreement in the case, New Hampshire customers will see savings of up to \$2.5 million annually as a result of appropriately shifting costs to Maine from New Hampshire.

Water

Although critically important to modern life, natural gas, electricity, and telephone services are not as essential to life as water. Generally, a private entity is a public water utility subject to the jurisdiction of the Commission if it owns, operates or manages any plant or equipment for the furnishing of water for the public under state law. A public entity (i.e., municipal corporation) is a public water utility and subject to the Commission's jurisdiction only if it furnishes water outside its corporate limits, and either charges customers outside corporate limits rates that are more than 15% higher than those charged to customers within corporate limits, or provides a quality or quantity of water to customers outside corporate limits that is not equal to that provided to customers within corporate limits.

Ensuring that New Hampshire customers of public water utilities receive adequate water at reasonable rates is the responsibility of the Commission. As discussed previously, the OCA's role focuses on the interests of residential ratepayers and their need for high quality water for daily life.

Unlike the majority of dockets related to electricity, natural gas, and telecommunications, the water dockets at the Commission often involve small companies with relatively fewer customers. Nevertheless, when important issues arise in water dockets, the OCA applies its limited resources to achieve the best possible outcome for residential ratepayers.

In 2006, the OCA dedicated significant resources to a number of water dockets at the Commission. Most involved rates and improvements necessary to comply with Federal Safe Drinking Water Act requirements, including Lakes Region Water Company, Inc., Pennichuck East Utilities, Hampstead Area Water Company, Aquarion Water Company, and Hanover Water Works Company. Generally speaking, in these dockets the OCA focused on ensuring that the costs ultimately passed on to ratepayers were prudently incurred and equitably distributed.

The OCA also participated in dockets involving the sale of New Hampshire water utilities including the sale of Aquarion Water Company to Macquarie Utilities, Inc. In that docket, the OCA challenged terms of an agreement between Commission Staff and the companies, which allowed Macquarie to close a local customer service center and eliminate a local customer advisory group. The Commission agreed with the OCA, conditioning its approval of the sale on the requirement that Macquarie maintain its local presence and connections.

2006 also saw significant activity for Pennichuck Water Works (PWW). The company's rate case continues into 2007, and hearings on the City of Nashua's petition to take PWW by eminent domain will be held in January.

One water docket in 2006 exemplifies the benefits of the OCA's participation in water cases: the Commission's investigation of the Fryeburg Water Company (FWC). This docket began when customers of FWC, a public water utility located in Maine that provides services to approximately 70 customers in New Hampshire, complained about poor quality water. FWC, which the Commission had previously investigated for water quality problems, refused to remedy the problem – a corroded pit-cast-iron distribution main installed in 1883. The OCA worked diligently to keep the problems and the Company's responsibility for rectifying them before the Commission. Finally, the FWC replaced the corroded main serving New Hampshire customers. As a result, for the first time in many years, FWC's New Hampshire customers have adequate tap water for drinking and other household uses. FWC is now in a rate case at the Maine PUC. The OCA is monitoring that case to be prepared when FWC seeks approval of new rates resulting from that case at the New Hampshire PUC.

Telecommunications:

The regulated telecommunications industry continue to evolve toward full deregulation and competition more than ten years after the Federal Telecommunications Act of 1996 (TAct), which allowed competitive entry of new companies to compete against the traditional Incumbent Local Exchange Carriers (ILECs). New Hampshire is currently served by eleven ILECs. Verizon NH is the largest ILEC, with its service territory covering the majority of the state. The other ILECs are relatively small companies predominantly serving more rural regions within the state, and, under the TAct, each qualifies as a "Rural Telephone Company." With this designation the ten smaller ILECs currently have no landline-based competition and are sheltered from such competition unless and until a competitor initiates a regulatory process and the Commission finds that entry is in the public interest. All ILECs in New Hampshire, however, theoretically face competition from non-landline-based competitors, such as those who offer wireless telephone service or telephone services via the internet. The following are a few of the many telecommunications cases that the OCA participated in during 2006.

In May 2006 Verizon NH filed with the PUC a Stipulated Agreement between Verizon and the PUC Staff, which, if approved, would grant Verizon flexible pricing for its retail services, otherwise known as Alternative Form of Regulation or AFOR. The OCA was not a party to the Stipulated Agreement because it failed to address two critical issues: the need for consumer protections to ensure service quality; and the need for a review of Verizon's cost of services to determine if the proposed retail pricing reflected current costs. The PUC last reviewed Verizon's rates more than fifteen years ago. In the opinion of the OCA, times (and costs) have changed, so that a review is warranted. Another critical issue is the need to formally investigate the current state of local telephone competition, as more than half of Verizon's exchanges serve rural areas where residents as a practical matter still have no alternative to Verizon's basic service offerings.

The OCA dedicated a significant amount of its limited resources to this case, both in terms of internal staffing and hiring a nationally-recognized expert to provide testimony in support of protections for residential ratepayers. On the eve of the OCA's deadline for filing testimony, on September 5, 2006, Verizon NH submitted a letter to the PUC requesting the withdrawal of the Stipulated Agreement. The OCA responded by submitting a motion requesting that the Commission proceed with the docket notwithstanding Verizon's request. The Commission has yet to rule on either request. Verizon operates under AFORs in Maine and Vermont, both of which include significant consumer protections and address some of the other issues raised by the OCA.

Another case involving Verizon NH in which the OCA participated in 2006 concerns service quality. The Commission opened this docket in early 2004. The Commission is now considering performing its own customer survey of Verizon customers in order to independently determine the level of customer satisfaction with service quality. Verizon has taken the position that an independent survey is not necessary or required. The OCA awaits Commission action and will continue to monitor and actively participate in this important docket.

In 2006, the OCA participated in another major case involving both the telecommunications and electricity industries. This docket, opened by the Commission was opened in late 2005, concerns the timely installation and repair of utility poles. The NH electric distribution utilities and Verizon NH jointly own utility poles and divide responsibility for their installation and maintenance and, as a result, they are parties to this docket. In addition, numerous other parties have intervened in the case

including municipalities, the New Hampshire Telephone Association, the New Hampshire Department of Transportation and the General Contractor's Association. The Commission divided the docket into five categories: 1) Emergency Management; 2) Joint Ownership Responsibilities for Operation and Maintenance; 3) Utility Relationships with Government Entities and their Subcontractors; 4) Retail Customer Relationships; and 5) Competitive issues. Many hours in 2006 were dedicated to numerous technical sessions. The Parties are now collaborating on white papers covering each category with the objective of presenting findings and recommendations to the Commission sometime during the first quarter of 2007.

The OCA also participated in dockets ranging from a Granite State Telephone rate case to cases involving competitive issues that have ramifications for Competitive Local Exchange Carriers (CLECs) and the emerging competitive local exchange market. For instance, near the end of 2006 we began watching a case at the Federal Communications Commission (FCC) in which Verizon seeks relief from certain FCC regulations in the Boston Metropolitan Statistical Area (MSA) that could have far-reaching effects on local exchange competition within the area. Portions of the New Hampshire telecommunications market would be affected by any decision made by the FCC because Strafford and Rockingham Counties lie within the Boston MSA, and the two counties hold approximately 31% of New Hampshire's population. The OCA is collaborating with other members of the National Association of State Utility Consumer Advocates (NASUCA) to submit comments to the FCC in an effort to ensure that the interests of consumers are protected in any geographic areas where little to no competition exists.

2007 may include more telecommunications cases involving the regulatory treatment of ILECs and consumer protection issues. There is also significant interest in the issue of increasing access to broadband and high speed internet in the rural and northern parts of the state. The challenge with these issues is that they sometimes involve concurrent state and federal regulation.

Regional issues

Due to the increasingly regional (and sometimes national) nature of many energy and telecommunications issues, the OCA works, as appropriate, to represent the interests of residential ratepayers in regional and national forums as appropriate. For example, the OCA is a participant in NEPOOL (New England Power Pool), sharing consulting resources with other parties with similar interests to participate in the governance of the Independent System Operator (ISO) that manages the regional electric grid. We also work with our counterparts in other states to participate at the Federal Energy Regulatory Commission (FERC) and the Federal Communications Commission (FCC) on key issues. As a member of NASUCA (National Association of State Utility Consumer Advocates), we are able to tap into a national network to keep abreast of major issues around the country, share resources, and collaborate to advance the interests of residential ratepayers.

Legislation:

In addition to actively participating in and assisting with legislation on regulated utility issues, the OCA serves on legislative committees on behalf of residential ratepayers. The OCA currently serves on the Energy Policy Commission and Energy Planning Advisory Board, which have overlapping charges to considering energy policy and planning issues for the state. Both groups have information

and reports posted on the PUC website, and the OCA can provide electronic copies of those documents.

2007 is shaping up to be a busy year in the legislature. A preliminary review of the 1,300 LSRs (Legislative Services Requests for bills made by legislators) shows that we will begin the session tracking bills covering topics ranging from renewable energy, to cell phone consumer protection, to low-income electric bill assistance.

Consumer Education

Under our statute, RSA 362:28, we are charged, in addition to representing residential ratepayers' interests, with the duty to "promote and further consumer knowledge and education." To that end, we have developed the following resources: a website that provides information on regulated utilities; a quarterly newsletter with information on current issues and resources for customers; the timely issuance of press releases on important consumer topics; and staff available to answer questions and provide guidance on utility issues. It is our goal in 2007 to broaden and deepen our outreach and education resources for residential ratepayers to ensure that all have access to the programs and information they need to be informed consumers of utility services. We welcome your input on how best to achieve that goal.

Residential Ratepayers Advisory Board

In 1999 the Legislature created the Advisory Board to provide input and guidance to the OCA. The nine members of our Advisory Board are appointed to three year terms by the Governor and Executive Council, the Senate President, and the Speaker of the House and represent a broad range of ratepayer interests. The Board usually meets monthly, and their meetings are open to the public. Please check our website for meeting dates, agendas, and minutes.

Office of Consumer Advocate

Main Number 603-271-1172

Website:www.oca.nh.gov

Consumer Advocate:
Meredith Hatfield 603-271-1174
Asst. Consumer Advocate:
Ken Traum 603-271-1176
Staff Attorney:
Rorie Hollenberg 603-271-1173
Utility Analyst:
Steve Merrill 603-271-1175
Legal Assistant:
Christina Martin 603-271-1172

If you have any ideas or suggestions for any upcoming newsletters, or have any comments regarding present or past newsletters, please contact Christina Martin at 271-1172 or christina.martin@puc.nh.gov.

If you would like to be added to or removed from the distribution list for our newsletters, please contact Christina Martin at 271-1172.

A limited number of copies of this newsletter have been printed. We encourage copying of this newsletter for distribution to others who may be interested.

