New Hampshire Public Utilities Commission

BIENNIAL REPORT
July 1, 1997 - June 30, 1999
Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it.

NH Constitution, Part II Article 83 (1903)

The legislature, ...by... placing the regulation of rates in the hands of this commission, intended to create a situation where utilities could supply service at the smallest possible cost to themselves, ... thereby saving to consumers the amount which would, under the competitive system, be wasted in unnecessary duplication of plants.

Parker v. Hudson Water Co., 3 NHPUC 142, 151 (1913)

New Hampshire's extraordinarily high electric rates disadvantage all classes of customers.

Market forces can now play the principal role in organizing electricity supply for all customers instead of monopoly regulation.

It is in the best interests of all the citizens of New Hampshire... to establish a competitive market for retail access to electric power as soon as is practicable.

New Hampshire RSA 374-F (1996)
Her Excellency Governor Jeanne Shaheen

and The Honorable Executive Council:

As the Twentieth Century draws to a close, it is natural to take a broader view of events than would normally be the case in a biennial report. The dawn of the century found a fully formed movement towards the creation of large business trusts and a growing countervailing movement to limit the power of those trusts. The public policy impetus in favor of consumer protection was expressed in the 1903 passage of Part II, Article 83 of the New Hampshire Constitution, which stated, “[f]ree and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it.”

In 1911, the New Hampshire Legislature enacted comprehensive legislation transforming a system of county commissioners with limited jurisdiction over railroads into a state tribunal with broad jurisdiction over public utilities. Shortly thereafter, in 1913, the Commission issued its opinion in Parker v. Hudson Water Co., 3 NHPUC 142, stating the rationale for regulation, that is, “[t]he legislature,...by...placing the regulation of rates in the hands of this commission, intended to create a situation where utilities could supply service at the smallest possible cost to themselves,...thereby saving to consumers the amount which would, under the competitive system, be wasted in unnecessary duplication of plants.”

For the better part of this century, there has been a general acceptance that utility service constitutes a natural monopoly that should be free from competitive forces but, by the same token, subject to price regulation. During much of that time, technological advances have increased the efficiency of utility service, made service nearly universally available, challenged the limits of economies of scale and substantially reduced the real price of service. More recently, however, it has become apparent in industry after industry that the natural monopoly presumption no longer necessarily applies and that competition is appropriate in areas including local telephone service and electric generation. See, for instance, Laws of 1996, Chapter 129, where the Legislature found that “[m]arket forces can now play the principal role in organizing electricity supply for all customers instead of monopoly regulation’ and “[i]t is in the best interests of all the citizens of New Hampshire...to establish a competitive market for retail access to electric power as soon as it is practicable.”

We are witnessing an era of fundamental change in nearly all areas of utility regulation as competition is introduced to various segments of the telephone, electric and gas industries. The transition to a competitive arena is complex and the stakes are high to insure that consumers are adequately protected. From the Commission’s perspective, the short term demands on our resources have been unprecedented both in overall terms and in terms of the breadth of specific expertise required. Because the transitional period requires continuation of traditional regulation, while simultaneously undertaking large and controversial proceedings to bring about the new paradigm, we have had often to engage the assistance of consultants to augment our own resources.

It is our belief that the current strain on our resources will abate as the boundaries of price regulation contract but we do not expect that regulation will disappear. Rather, we see a transformed era of regulation. Safety and reliability will
continue to be critical areas of concern and consumer protection will grow in importance as more companies provide services and customers have more choices. Consequently, the Commission of the 21st Century will be more concerned with the effects of anti-competitive behavior and unfair trade practices. For the commission to operate effectively, new skill sets will be needed and flexibility will have to be a hallmark of the agency. In furtherance of the goal of flexibility, the Legislature amended our enabling statutes to give us broader organizational authority.

One of the more important transitional, and likely enduring, issues is consumer education. We have already taken steps to prepare for the new era by reconstituting the Consumer Assistance department as a more proactive Consumer Affairs department. Consumer education is an express component of the new department and tremendous effort has gone into preparing an educational campaign to accompany electric restructuring. Furthermore, Consumer Affairs positions have been upgraded, the department has been expanded and new hires have had backgrounds in education, alternative dispute resolution and communications.

Communication will be a key to our effectiveness in the future. Consequently, we have taken every reasonable measure to ensure that we are at or near the leading edge in technology. All our equipment is Y2K compliant and our professional staff is highly proficient in state-of-the-art hardware and software. Our website is expanding in leaps and bounds and has served as a model in a number of areas for commissions around the country. In addition, our website is becoming more interactive and we are very near to the reality of electronic filing. Finally, our Consumer Affairs personnel can make real time entries on consumer inquiries and it will not be long before we are interconnected to utility databases, which will greatly enhance the efficiency of our operations.

We are continuously searching for ways to improve the quality of our service. Please do not hesitate to contact us if you have suggestions and recommendations in this regard.

Respectfully submitted,

________________________________________________________
Douglas L. Patch, Chairman

________________________________________________________
Susan S. Geiger, Commissioner

________________________________________________________
Nancy Brockway, Commissioner
CONTENTS

A Century of Evolution ............................................... i
Letter from the Commissioners ........................................ ii
Contents .................................................................. v
Mission Statement ....................................................... vii
History ..................................................................... 1
Commissioners .......................................................... 2
Department Functions ................................................... 4
Organizational Chart .................................................... 6
Commission Finances ................................................... 7
Electric Industry Summary ............................................. 8
Gas Industry Summary .................................................. 17
Telecommunications Industry Summary .......................... 21
Water Industry Summary .............................................. 28
Sewer & Steam Industry Summary .................................. 32
Financings Approved ................................................... 37
Legislation During the Biennium ..................................... 38
Primary Statutory Authority .......................................... 41
Office of Consumer Advocate ...................................... 43
MISSION STATEMENT

We will ensure that customers of regulated utilities receive safe, adequate and reliable service at just and reasonable rates.
We will foster competition where appropriate.
We will provide necessary customer protection.
We will provide a thorough but efficient regulatory process that is fair, open, and innovative.
We will perform our responsibilities ethically and professionally in a challenging and supportive work environment.

October 1997
The New Hampshire Public Utilities Commission (Commission) has its origins in an 1838 statute that provided for appointment of Commissioners, in each New Hampshire County, having limited powers regarding railroads. This was the first attempt by any state to regulate transportation. The County boards were consolidated into a State Board of Railroad Commissioners in 1844, the first such board in the nation.

In 1911, the New Hampshire Legislature enacted comprehensive legislation which instituted a new system for the establishment and regulation of public utilities and railroads in the state. As a result, the Public Service Commission was created as a state tribunal and given broad supervisory and regulatory powers over public utilities. The name “Public Service Commission” was changed in 1951 to “Public Utilities Commission”. In 1979, the Legislature made the Commissioner positions full-time and generally amended the structure and guidelines of the Commission.

In 1985, the Legislature established the Department of Transportation to which the Commission’s transportation functions were transferred. The statutory definition of “public utility” in RSA 362:2 was changed to exclude railroads, passenger carriers, toll bridges, toll roads, carriers of household goods for hire by motor vehicle and motor vehicles carrying property for hire.

Various amendments to RSA 363 in 1985, 1986, 1987 and 1989 removed the Office of the Consumer Advocate (OCA) from being an integral part of the Commission, making it independent of the Commission except for shared use of business office and support functions and clarified the respective roles of the Chairman and Commissioners.
COMMISSIONERS

The three New Hampshire Public Utilities Commissioners are appointed for six year terms by the Governor subject to Executive Council approval. The Commissioners’ terms are staggered so that one term expires every odd numbered year. The Governor, with Executive Council approval, appoints one of the Commissioners chairman. One Commissioner must be an attorney and at least one of the remaining Commissioners must have experience in engineering, economics, accounting or finance.

DOUGLAS L. PATCH
Chairman

Douglas L. Patch was appointed Chairman in March, 1992, by Governor Judd Gregg. Chairman Patch was the Assistant Commissioner of the New Hampshire Department of Safety from 1986 through 1992 and worked in the Bureau of Civil Law, New Hampshire Attorney General’s Office, as an Assistant Attorney General from 1982 through 1986. Prior to his move to the Attorney General’s Office, Chairman Patch worked as a Legislative Attorney in the Office of Legislative Services in Concord, New Hampshire. He earned his Juris Doctor Degree from Boston College Law School in 1978 and was graduated Magna Cum Laude as a Political Science/Honors major in June, 1975 from the University of Massachusetts at Amherst.

He served as Chairman of the New England Conference of Public Utilities Commissioners, is a member of the “Enhanced 911” Commission, is on the Committee on Electricity of the National Association of Regulatory Utilities Commissioners (NARUC), serves as Co-Chair of the Governor’s Y2K Preparedness Task Force, and is a member of the Bar in New Hampshire and Massachusetts. His term ends June 30, 2001.

SUSAN S. GEIGER
Commissioner

Susan S. Geiger was appointed to the Commission by Governor Stephen Merrill in December, 1993. From January 1993 to the time of her appointment, Commissioner Geiger served as Attorney General Jeffrey Howard’s Chief of Staff and was a Senior Assistant Attorney General in the New Hampshire Department of Justice, Bureau of Civil Law where she had been employed since July, 1985.

Before joining the Attorney General’s Office, Commissioner Geiger was a Legal and Legislative Consultant for the N.H. Division of Welfare from March 1982 to July 1985. She was also engaged in the private practice of law from 1980 to 1981 with the firm formerly known as Feeney and Kraeger in Newport, New Hampshire.

Commissioner Geiger received her Juris Doctor degree from Suffolk University in 1980 and her BA from Mount Holyoke College. She served as President of the New England Conference of Public Utilities Commissioners and currently serves on NARUC’s Water Committee and is a member of the Bar in New Hampshire and Massachusetts. Her term expired June 30, 1999.

NANCY BROCKWAY
Commissioner

Commissioner Nancy Brockway was appointed to the Commission by Governor Jeanne Shaheen in October, 1998.

From 1991 until the time of her appointment, Commissioner Brockway worked as a consultant, advocate on low-income energy and utility issues at the National Consumer Law Center (NCLC) in Boston, Massachusetts. Before joining the NCLC, Commissioner Brockway worked as
General Counsel from 1986-1991 at the Massachusetts Department of Public Utilities. Prior to her move to the Massachusetts Department of Public Utilities, Commissioner Brockway worked as an Advocate and Hearings Examiner at the Maine Public Utilities Commission from 1983-1986. And from 1974-1986 she provided legal services in a variety of settings, representing low-income tenants, university students, juveniles, elders, and others in a wide range of civil legal matters, including cases on access to housing and utility services.

Commissioner Brockway received her B.A cum laude from Smith College in 1970 and earned her Juris Doctor degree from Yale Law School in 1973. She currently serves on NARUC’s Energy Resources and Environment Committee, Committee on Consumer Affairs, and is a member of the Bar in New York, Massachusetts and Maine.


SITE EVALUATION COMMITTEE

The Commissioners and the Chief Engineer, pursuant to RSA 162-H, are also members of the Site Evaluation Committee (SEC). The purpose of the SEC is to determine the terms and conditions of any certificate issued for the construction and operation of energy and bulk power supply facilities.

The major activity of the SEC in the biennium has concerned the siting of two interstate natural gas transmission pipelines. Additional information is found in the Gas Industry Summary.
**DEPARTMENT FUNCTIONS**

**Office of the Commissioners/Secretary**  
**Thomas B. Getz, Secretary**

The Office of the Commissioners and Executive Director is responsible for the administration of the Commission, scheduling and conduct of hearings, clerk of court functions, preparation of orders of notice, issuance of reports and orders, maintenance of docket files, and the public information function. The three Commissioners generally preside over most of the public hearings at the NHPUC and decide by majority vote the matters which come before it.

**Office of the Director**  
**Thomas B. Getz, Executive Director**

This department provides the administrative support for the Commission as a whole, including personnel and budget administration, internal accounting functions, management of electronic information systems, and supervision of the library.

**Economics**  
**Thomas L. Frantz, Chief Economist**

The Rate Analysts and Economists conduct comprehensive analyses of utility rate requests, conduct economic research, examine utility rate structures, coordinate the regulations of small power producers and cogenerators, and investigate cost of capital and capital structure aspects of rate investigations.

**Legal**  
**Gary Epler, General Counsel**

The Legal Department provides legal counsel to the Commissioners and staff, litigates cases before the Commission, provides input to the General Court on utility matters, and assists the Attorney General in his representation of the Commission before the New Hampshire Supreme Court and other bodies.

**Finance**  
**Mark Naylor, Director**

The Finance Department is responsible for the financial and accounting aspects of rate investigations, supervision of operating expenses, the investigation of utility financing requests, control of account procedures, fuel adjustment hearings, investigation of rate of return, auditing of utility financial records and the supervision of the utility assessment which funds the Commission’s operations.

**Engineering**  
**Michael D. Cannata, Jr., Chief Engineer**

The Engineering Department performs prudence reviews and monitors the quality of utility service. The Engineering staff also evaluates utility construction plans, analyzes utility operating data, investigates accident and safety issues, reviews proposed utility crossings of public lands and waters and inspects utility plants for technical compliance. The investigation and resolution of numerous consumer complaints also requires the assistance of Engineering’s technical expertise.

**Consumer Affairs**  
**Amanda O. Noonan, Director**

The Consumer Affairs Department responds to consumer inquiries and complaints regarding public utility rates and service. The department acts as an intermediary between consumers and the public utility and is generally successful in resolving complaints and other
inquiries without the necessity of a hearing. Consumer Affairs also identifies ways to enhance the quality of utility service to consumers and prepares consumer information releases, including a quarterly bulletin.

**Electric Restructuring**

**George M. McCluskey, Director**

The primary function of this division is to develop policy alternatives for the introduction of competition to the electric industry in New Hampshire and assist the Commission in evaluating plans to restructure the industry. The Division is comprised of an inter-disciplinary team drawing on a wide range of expertise within the Commission.
The Commission is primarily funded by an assessment on the utilities it regulates. The utilities, in turn, include their portion of the assessment in their rates,
with their share determined by the level of their revenue. In addition, half of the Gas Safety Program is federally funded.

<table>
<thead>
<tr>
<th>CLASS DESCRIPTION</th>
<th>CLASS</th>
<th>FY 1998 EXPENSES</th>
<th>FY 1999 EXPENSES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>010</td>
<td>2,755,757</td>
<td>2,807,217</td>
</tr>
<tr>
<td>Current Expense</td>
<td>020</td>
<td>141,970</td>
<td>159,221</td>
</tr>
<tr>
<td>Rent &amp; Lease - Other</td>
<td>022</td>
<td>230,568</td>
<td>227,734</td>
</tr>
<tr>
<td>Maintenance - Other</td>
<td>024</td>
<td>11,117</td>
<td>19,043</td>
</tr>
<tr>
<td>Equipment</td>
<td>030</td>
<td>85,258</td>
<td>103,749</td>
</tr>
<tr>
<td>Indirect Costs</td>
<td>040</td>
<td>679</td>
<td>3,406</td>
</tr>
<tr>
<td>Audit Fund Set Aside</td>
<td>041</td>
<td>0</td>
<td>68</td>
</tr>
<tr>
<td>Consultants</td>
<td>046</td>
<td>58,469</td>
<td>62,919</td>
</tr>
<tr>
<td>Contractual Maintenance</td>
<td>048</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Trans. to Other Agencies</td>
<td>049</td>
<td>67,283</td>
<td>67,283</td>
</tr>
<tr>
<td>Other Personnel Services</td>
<td>050</td>
<td>25,964</td>
<td>19,434</td>
</tr>
<tr>
<td>Benefits</td>
<td>060</td>
<td>704,319</td>
<td>704,800</td>
</tr>
<tr>
<td>Travel (In State)</td>
<td>070</td>
<td>11,733</td>
<td>23,200</td>
</tr>
<tr>
<td>Travel (Out of State)</td>
<td>080</td>
<td>59,912</td>
<td>72,457</td>
</tr>
<tr>
<td>Printing / Advertising</td>
<td>090</td>
<td>42,912</td>
<td>42,964</td>
</tr>
<tr>
<td>Westlaw</td>
<td>091</td>
<td>10,046</td>
<td>10,860</td>
</tr>
<tr>
<td>Educational Training</td>
<td>092</td>
<td>13,556</td>
<td>10,480</td>
</tr>
<tr>
<td>NRRI / NARUC</td>
<td>095</td>
<td>17,886</td>
<td>18,181</td>
</tr>
<tr>
<td>N.E. Conf. of PUCs</td>
<td>096</td>
<td>18,000</td>
<td>22,500</td>
</tr>
<tr>
<td>Retirees Health</td>
<td>097</td>
<td>68,296</td>
<td>89,564</td>
</tr>
<tr>
<td>Workers Compensation</td>
<td>090</td>
<td>59,869</td>
<td>465</td>
</tr>
<tr>
<td>Unemployment</td>
<td>090</td>
<td>0</td>
<td>7,150</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$ 4,383,594</strong></td>
<td><strong>$ 4,472,695</strong></td>
</tr>
</tbody>
</table>
ELECTRIC INDUSTRY SUMMARY

Overview
Implementation of restructuring was interrupted by a lawsuit initiated by PSNH in March 1997 and a subsequent Federal Court injunction. In order to avoid the legal obstruction, electric utilities are now being restructured on a company-by-company settlement basis. Granite State Electric was the first in the state to gain Commission approval of their restructuring plan and offered their customers access to competitive power suppliers in the fall of 1998. The New Hampshire Electric Cooperative has unbundled its bills, has an approved restructuring settlement in place, and is expected to provide its members access to the competitive power market by early 2000. PSNH, which serves 70% of the state, reached a comprehensive settlement with the State of New Hampshire and filed a proposed settlement agreement with the Commission on August 2, 1999. The settlement, if approved by the Commission, would resolve numerous pending dockets and restructuring issues as well as all current legal actions.

ELECTRIC RESTRUCTURING IN NEW HAMPSHIRE
Pursuant to legislation passed in May 1996, the Commission issued on February 28, 1997 its statewide Final Plan for Restructuring New Hampshire’s Electric Utility Industry which directed all New Hampshire electric utilities to unbundle their retail services and provide retail customers the right to choose their electric energy supplier. On the same day, the Commission issued five related orders establishing interim stranded cost charges for each utility. The Final Plan was the blueprint to restructure the electric utility industry and bring customer choice to all New Hampshire consumers. In addition to the legislative background and an accompanying legal analysis, the Final Plan addressed broadly three major areas: Market Structure, Stranded Costs, and Public Policy Issues. Among other things, the Final Plan required utilities to unbundle their rates into generation, transmission, and distribution components and to provide competitive power suppliers non-discriminatory access to their distribution systems so that suppliers could sell to retail customers. The Final Plan also created five working groups charged with the task of developing recommendations on several technical and policy issues. The working groups concern:

- Electronic Data Interchange Standards Working Group
- Standards for Competitive Providers of Metering Equipment Working Group
- Low Income Assistance Program Working Group
- Supplier Registration Requirements Working Group

Pursuant to requests for rehearing, the Commission on April 7, 1997 suspended and stayed the Final Plan and the interim stranded cost orders and granted PSNH’s request for rehearing of two discrete issues. The first issue was whether the methodology utilized by the Commission to establish PSNH’s interim stranded cost charge required the write-off of regulatory assets resulting in the potential for creditors to place PSNH in bankruptcy. The second issue was whether PSNH’s...
interim stranded cost order repudiates the 1989 Rate Agreement, which PSNH alleges is an enforceable contract with the State which affords it the right to stranded cost recovery. After granting two continuances to accommodate a confidential mediation process, hearings on these issues were held in November and December of 1997.

The Final Plan was amended by the Commission in an order issued March 20, 1998, which ruled on several parties’ requests for rehearing. The rehearing order also affirmed the interim stranded cost orders of all utilities other than PSNH.

In lieu of issuing rulings on the rehearing requests relating to PSNH’s interim stranded cost charges, the Commission transferred two questions of law concerning the Rate Agreement to the New Hampshire Supreme Court. On December 23, 1998, the New Hampshire Supreme Court remanded the transferred questions to the Commission with certain guidance regarding the application of the standard for setting stranded cost charges under RSA 374-F and a conclusion that it could not find that the Rate Agreement was a contract with the State based upon the language of the document or the enabling statute. Moreover, the Supreme Court found that whether the Rate Agreement created a contract governing PSNH’s rates likely depended upon the intentions of the parties, which would require consideration of extrinsic evidence.

On February 4, 1999, the Commission issued an order vacating portions of those earlier orders which established the interim stranded cost charges for PSNH and the findings and conclusions of the Final Plan’s legal analysis pertaining to the Rate Agreement. That order also established a procedural schedule for additional evidentiary hearings on PSNH’s interim stranded cost charges.

**PSNH Memorandum of Understanding**

A Memorandum of Understanding (MOU) between PSNH, the Governor of New Hampshire and Commission staff was filed with the Commission on June 14, 1999. The MOU sets forth the understandings to resolve the pending District Court litigation and bring retail competition to customers of PSNH. In order to implement the understandings, the New Hampshire Legislature must approve the use of securitization and a comprehensive agreement must be approved by the Commission.

Among other things, the MOU proposes to: provide all customers the opportunity to choose a competitive supplier; offer customers significant near term rate reductions funded in part by write-offs and the issuance of special purpose bonds (securitization); require PSNH to sell its power plants and certain power contracts; and provide customers the option of meeting their energy on a temporary basis through the purchase of transition service. The MOU also called for the Commission to stay several proceedings during the pendency of the review process and withdraw its federal lawsuit on the effective date of any final agreement. A comprehensive settlement agreement which expounds upon the MOU was filed with the Commission on August 2, 1999.

On June 17, 1999, several parties to the restructuring filed a motion to stay the rehearing proceeding pending the review by the Commission of a settlement agreement which was filed August 2, 1999. On September 16, 1999, the Commission issued a procedural order establishing a schedule for review of the Settlement Agreement with PSNH. If approved, competition for PSNH customers could occur before July 1, 2000.

**Legal Challenges to Restructuring Orders**

Within days of the Final Plan’s issuance, Northeast Utilities and PSNH filed suit in U.S. District Court for the District of New Hampshire to stay the Commission’s orders on a temporary basis. Northeast Utilities and PSNH were joined in the suit by three other New Hampshire utilities, Granite State Electric Company (GSEC), Connecticut Valley Electric Company
(CVEC) and its parent Central Vermont Public Service (CVPS), and Unitil Corporation and its affiliates. The suit alleged among other things that the Commission’s use of average regional rates to set stranded cost charges would result in the write-off of over $400 million of regulatory assets and push PSNH to the brink of bankruptcy. PSNH also argued that the Commission’s orders violated a 1989 contract with the State (the Rate Agreement) that gives it certain special rights.

In March, 1997, the Court issued an order restraining the Commission from enforcing its orders with respect to PSNH. In June of that year, the Court extended the scope of its restraining order to the other utilities in the suit. In April, 1998, the Court also enjoined the Commission from enforcing an order finding Connecticut Valley Electric Company (CVEC) imprudent for not terminating its wholesale power contract with Central Vermont Public Service (CVPS) in favor of lower cost power in the wholesale marketplace. That injunction was overturned by the Court of Appeals for the First Circuit in December, 1998.

In early 1999, the Commission filed motions for summary judgement of the utilities’ claims and to dissolve the amended restraining order. Although the Court denied the motion to dissolve the restraining order, the Commission was permitted to complete the rehearing process in order to establish interim stranded cost charges for PSNH. The Court indicated that it would rule on the motion for summary judgement after the Commission issued its rehearing order. As a result of the Court’s decision, the restraining order remains in effect until the motion for summary judgement is decided or the case can be heard on the merits.

**Connecticut Valley Electric Company’s Federal Litigation**

The interim stranded cost order for CVEC issued February 28, 1997 allowed recovery of stranded costs associated with certain QF contracts but denied recovery of stranded costs associated with the CVPS power contract. The Commission found that CVEC could have avoided any stranded cost obligation to CVPS by terminating the contract. Instead of appealing the Commission’s decision to the New Hampshire Supreme Court, CVEC joined the lawsuit filed by PSNH in Federal District Court.

CVEC’s complaint alleges that the Commission’s denial of stranded costs and its ordering of retail access are preempted by Federal law. In addition, CVEC argues that the denial of stranded costs is unconstitutional and disturbs an alleged contract between the Commission and CVEC.

On December 31, 1997, in docket DR 97-241, unrelated to the restructuring docket, the Commission found that a CVEC rate increase request was unreasonable because it could have terminated its power contract with CVPS and purchased lower cost power in the wholesale marketplace. This set off a series of legal challenges, the details of which are described below under Major Cases.

Meanwhile, CVPS filed an application with the Federal Energy Regulatory Commission (FERC) on January 12, 1998 for an exit fee to collect approximately $50 million of alleged stranded costs associated with the termination of wholesale power service to CVEC. FERC hearings on CVPS’s application were held in August, 1998 and April and May 1999. The Commission is awaiting a FERC decision.

**Granite State Electric Company Offer of Settlement**

Granite State Electric Company (GSEC) together with several stakeholders submitted an Offer of Settlement on February 3, 1998 which was intended to represent a final and comprehensive resolution of restructuring issues pertaining to GSEC. After six days of hearings, the Commission conditionally approved the settlement in an oral ruling issued June 26, 1998. An Amended Settlement reflecting the required changes was submitted to the
Commission July 13, 1998 and an order approving that submission was issued October 7, 1998.

The Amended Settlement is contained in two books. Book 1 contains the retail-related aspects of the Settlement including near-term rate reductions for all GSEC customers, open access to GSEC’s distribution system, the establishment of final stranded cost charges, and the availability of stable and predictable energy prices through the provision of transition service. Book 2 contains the wholesale-related aspects of the Settlement including the termination of the wholesale power contract between GSEC and its affiliate wholesale supplier New England Power Company (NEP) and the sale of NEP’s generating assets. Order No. 22,982, dated July 20, 1998, approved a request filed December 8, 1997 by NEP for authority to transfer its New Hampshire hydro electric facilities in a proposed transaction with USGen New England, Inc.

**Unitil Companies Offer of Settlement**

On September 8, 1998, Concord Electric, Exeter & Hampton Electric, and Unitil Power Company (the Unitil companies) filed with the Commission a settlement offer. An amended Settlement Agreement supported by the Unitil Companies and several stakeholders was filed October 20, 1998. The amended Settlement Agreement if approved would have resolved almost all outstanding restructuring issues and required the Unitil Companies to withdraw from the federal litigation. Although the Commission generally found the Settlement Agreement to be in the public interest, it nonetheless directed in an oral ruling on November 2, 1998 that certain modifications be made as a condition of its approval. Despite several attempts to reach consensus on the mandated changes, the settling parties failed to agree to the Commission’s modifications and eventually terminated and withdrew the offer.

**New Hampshire Electric Cooperative’s Compliance Filing**

In response to the March 20, 1998 rehearing order, New Hampshire Electric Cooperative (NHEC) submitted a compliance filing to implement the requirements of the amended Final Plan. The compliance filing was later modified by the terms of a settlement stipulation offered by NHEC and several parties to the compliance proceeding. The modified filing offers NHEC customers three energy service options: default service provided by NHEC utilizing existing wholesale power supply contracts; market-based transition service provided by a third-party supplier; or direct-access service provided by competitive suppliers. The Commission approved the modified compliance filing September 8, 1998.

The Commission’s approval of NHEC’s unbundled tariffs was conditional on the outcome of NHEC’s dispute with PSNH over the terms of the FERC approved wholesale requirements contract between PSNH and NHEC. On September 30, 1999, NHEC and PSNH executed a Settlement Agreement resolving all outstanding litigation. NHEC submitted an amended compliance filing on October, 1999, designed to bring competition and rate relief to NHEC members by January 1, 2000.

**Low Income Working Group.**

In its February 1997 Restructuring Final Plan, the Commission addressed two areas of concern for low income customers in a deregulated environment: “unfair and discriminatory business practices and affordability and manageability of electric bills”. The Commission established a Low Income Working Group to make recommendations addressing these concerns. The group worked for over a year and in August of 1998 submitted to the Commission a proposal for an Electric Assistance Program (EAP). The EAP recommendation was for a statewide, Percentage of Income Payment Plan targeting electric customers whose
income level is at or below 150% of the federal poverty level. The group recommended a fixed credit payment plan to promote electricity conservation and a matching arrearage program to promote timely arrearage payments. New Hampshire’s Community Action Agencies would be responsible for the daily operations of the EAP. A hearing was held on the Low Income Working Group’s report and on May 10, 1999, the Commission orally approved the recommendations with some minor modifications.

**Energy Efficiency Working Group**

By Order No. 22,875, Electric Utility Restructuring Requests for Rehearing, Reconsideration and Clarification, the Commission directed interested stakeholders to form a working group on energy efficiency issues for New Hampshire in a restructured environment. The group, made up of representatives from state agencies, utility companies and various interest groups, met for over a year to address numerous issues including market barriers, market framework, program design, cost effectiveness testing, shareholder incentives and lost fixed cost recovery, and budget issues. The group reached a substantial level of consensus on many issues and made a number of recommendations in its report submitted in early July, 1999. The report describes a limited number of options for the Commission’s consideration on issues where consensus was not reached. A hearing on the report was held in September of 1999.

**NATIONAL ISSUES**

Federal electric industry restructuring legislation is currently being debated in Congress. Two basic positions have emerged, with one group pushing for comprehensive federal restructuring legislation to ensure reliability and the other group advocating legislation which allows states to proceed independently in implementing restructuring. It appears that both sides agree with repealing the Public Utility Holding Company Act of 1935. Major federal legislation on electric restructuring is not expected to emerge this year.

State restructuring of electric utilities is occurring at a varying pace across the country, with those states with high electric rates proceeding much more rapidly. Moreover, as states restructure the industry, the attempt to capture economies of scale is driving a trend towards mergers in both the distribution and generation business.

Another noteworthy federal impact upon the electric industry is the US Circuit Court of Appeals recent ruling blocking the implementation of the National Ambient Air Quality Standards. The Court ruled that EPA interpreted sections of the Clean Air Act “so loosely as to render them unconstitutional delegations of legislative power”. The EPA’s eight hour ozone standard, which regulates electric plants’ NO\textsubscript{x} emissions, is currently remanded. New Hampshire has a number of generating plants that could be affected by that ruling.

**REGIONAL ISSUES**

The Federal Energy Regulatory Commission’s (FERC’s) Open Access rule, Order 888, required all jurisdictional utilities that own, operate or control transmission facilities to file a single pro forma transmission tariff that offers, to eligible customers, transmission services that are comparable to those the utilities provide to themselves. In addition, FERC required public utilities that were members of a tight power pool, such as the New England Power Pool (NEPOOL) to file a joint pool-wide pro forma tariff and to begin taking service under the pool-wide tariff for all pool transactions no later than December 31, 1996. This affected all of New Hampshire’s electric utilities.

Since then, the Commission has continued to work with the New England Conference of Public Utilities Commissioners, Inc. (NECPUC) to improve the market model proposed by the NEPOOL Participants. The Commission has focused primarily on
issues that directly affect the structure and, therefore, the outcome or performance of the developing competitive market. In July 1997, the FERC approved the establishment of NEPOOL’s proposed independent system operator (ISO-NE) to manage the region’s bulk power supply and transmissions systems and to administer the NEPOOL Open Access Transmission Tariff and competitive wholesale electricity markets. The Commission worked with NECPUC to increase the independence of the ISO by urging FERC to require that NEPOOL file a tariff that would allow for ISO self-funding, thus moderating NEPOOL’s financial control over ISO activities.

The Commission also took an active role in working with NEPOOL, the ISO-NE and NECPUC to develop the new market rules as well as market monitoring and mitigation procedures. The new rules provide for seven product markets: (1) Energy; (2) Ten Minute Spinning Reserve; (3) Automatic Generation Control; (4) Ten Minute Non-Spinning Reserve; (5) Thirty Minute Operating Reserve; (6) Operable Capability; and (7) Installed Capability. The rules also describe market mechanics, including how the markets will operate, how the bidding process will be conducted, settlement procedures, sanctions for violations of the rules, requirements for resource performance monitoring and contracting procedures. On December 17, 1998, the FERC conditionally accepted the proposed market rules and conditionally approved market based rates.

The Commission supported a proposal by two ISO consultants to improve the design of the new markets. Staff has actively participated in and contributed to regional work on these developing markets.

May 1, 1999, marked the start of the new “spot” market for the buying and selling of wholesale electricity products. With the implementation of the restructured wholesale markets, electricity spot market trading in electricity products is conducted entirely over the Internet. In addition, recent FERC approved rule changes grant ISO-NE the authority necessary to take quick corrective action to adjust prices that result from market design flaws or bulk power system emergencies.

On March 11, 1999, FERC denied (for the second time) NEPOOL’s governance proposal, finding that ISO-NE’s independence was compromised because NEPOOL dominated ISO-NE and voting procedures allowed transmission owners to dominate NEPOOL. FERC noted that NEPOOL could remediate the problem by either changing the governance of NEPOOL or by revising the relationship between ISO-NE and NEPOOL, but must do so by May 10, 1999. Given the short time frame, the NEPOOL Participants sought the help of the FERC’s new alternative dispute resolution procedures. The Commission participated in the ensuing negotiations that led to the development of a new and fairer sectoral voting system for NEPOOL. FERC approved the Settlement on July 16, 1999.

Since the last biennial report, the Commission Staff has also worked with NECPUC, ISO-NE, market participants and environmental groups/agencies to develop a model rule for the disclosure of certain environmental information associated with the production of electricity. The New England Governors Council (NEGC) noted that having a uniform disclosure policy throughout the region would be simpler and less costly for suppliers to implement. The Commission participated in the NEGC’s New England Tracking System project that expanded on the NECPUC initial draft model rule.

On May 13, 1999, FERC issued a Notice of Proposed Rulemaking in which it proposed to amend its regulations under the Federal Power Act (FPA) to facilitate the formation of Regional Transmission Organizations (RTOs). Each utility that owns, operates or controls facilities for the transmission of electric energy in interstate commerce would be required to make certain filings with respect to forming and participating in an RTO. In addition, the FERC proposed minimum
characteristics and functions that a transmission entity must satisfy in order to be considered an RTO. The Commission, through NECPUC, has intervened in this FERC docket and is preparing written comments.

NECPUC Staff has been working with their respective State Commissions to coordinate a conference in October to identify areas to encourage coordination and interaction among ISO-NE, PJM and New York Power Pool.

CLEAN AIR ACT COMPLIANCE

Since the Commission’s lengthy review of PSNH’s compliance with Clean Air Act Amendments of 1990, a number of significant events have taken place to improve air quality conditions in New Hampshire. In the last biennial, it was reported that PSNH chose Selective Catalytic Reduction (SCR) technology for installation at its 320 MW coal-fired Merrimack Unit No. 2 plant. The plant had been a major contributor of ground level ozone due to its high emission of nitrogen oxide (NOx) and was required by Title I of the Clean air Act, as well as rules promulgated by the New Hampshire Air Resources Division (NHARD), to reduce its baseline uncontrolled NOx emissions rate. It had to go from a NOx allowance of 2.66 lbs per million Btu to 0.92 lbs per million Btu or 35.4 tons per day. SCR proved sufficient for the job, in meeting 1995 standards, but whether it could meet air quality standards for 1999 was unknown prompting an extensive investigation and rehearing on the merits of the SCR installation.

The Commission considered the matter in mid-July, 1997 and allowed PSNH recovery of capital costs and operating expenses until such time as the 1999 standards were established. PSNH filed a motion for rehearing, objecting to possible future cost disallowances, but it was denied. PSNH appealed to the NH Supreme Court and subsequently filed a motion to withdraw without prejudice.

In May, 1999, NHARD established the NOx standard at 0.40 lbs per million Btu or 15.4 tons per day. Merrimack Unit No. 2 met the new standard following the placement of additional catalyst in the SCR, earlier, in the fall of 1998. In addition, PSNH proposed and installed enhanced air emission reduction systems at all of their fossil generating plants. An SCR was installed at Merrimack Unit No. 1, an Electrostatic Precipitator on Unit 2; an SNCR (Non-catalytic) on all three Schiller Units; and, a combustion tempering NOx reduction system at Newington Station. These installations are characterized by PSNH as devices for future Clean Air Act compliance at no incremental cost to customers. Funding was obtained by trading emission allowance permits for emission control devices.

MAJOR CASES

In addition to restructuring issues, the Commission has continued to face numerous traditional electric decisions over the past two years. The following summarizes some noteworthy non-restructuring cases decided by the Commission since the last Biennial Report.


On November 26, 1997 Connecticut Valley Electric Company, Inc. filed a proposed Fuel Adjustment Clause, Purchase Power Adjustment Clause and Short-Term Energy Purchase Rate. One week prior, the City of Claremont had filed a petition asking the Commission to find CVEC imprudent for failing to terminate its wholesale requirements contract with Central Vermont Public Service Corporation, its parent company. The Commission found CVEC imprudent for remaining in the CVPS contract when lower cost supply alternatives existed in the wholesale power market. CVEC issued a motion for rehearing which the Commission partially granted. On February 23, 1998 the Commission publicly deliberated all outstanding matters, and reaffirmed its finding that CVEC was imprudent for failing to terminated the CVPS contract. The Commission also decided that $0.04 per
kWh was a conservative estimate of the rate at which CVEC could have procured its power requirements if it had acted prudently and exercised its one year notice provision in the contract.

On April 9, 1998, the US District Court for the District of New Hampshire, at the request of CVEC and CVPS, issued a preliminary injunction enjoining the Commission from enforcing its decision to set CVEC’s power costs at $0.04 per kWh for power. In compliance with the District Court’s order which required the Commission to allow CVEC to recover through retail rates all power costs associated with the CVEC/CVPS contract, the Commission approved revised tariff sheets increasing CVEC’s rates by $0.0235 per kWh and forcing the average residential customer of CVEC to pay 22 percent higher rates.

On December 3, 1998, the United States Court of Appeals for the First Circuit vacated the preliminary injunction. The First Circuit denied CVEC/CVPS’s requests for rehearing and a stay pending an appeal to the United States Supreme Court. The United States Supreme Court denied another request for a stay.

On March 22, 1999 the Commission ordered CVEC to implement a rate rider refund to be applied to all billings for the period April 1, 1999 through December 31, 1999 to refund the over-collection in 1998 relative to the 1997 rate level. CVEC then sought and received an injunction from the US District Court for the State of New Hampshire which ceased implementation of the rate rider refund. The US District Court stated that rates could not go below the rates which the Commission had approved on a temporary basis in December of 1997.

On May 17, 1999 the Commission ordered that CVEC set temporary rates at the level in effect December 31, 1997 for bills issued on and after June 1, 1999.

**DR 98-025 New Hampshire Electric Cooperative, Inc. Base Rate Proceeding.**

NHEC filed with the Commission on April 14, 1998 a petition to increase base rates by $4.68 million (5.1%). The Commission approved a Settlement between all parties and Staff which allowed for a revenue increase of $4.146 million (5.0%) on January 12, 1999.

### Average Rates For 1998

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Res. Avg ¢/kWh</th>
<th>Overall Avg ¢/kWh</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concord Electric Company</td>
<td>10.6900</td>
<td>9.7000</td>
</tr>
<tr>
<td>Connecticut Valley Electric Company</td>
<td>14.8900</td>
<td>12.5300</td>
</tr>
<tr>
<td>Exeter &amp; Hampton Electric Company</td>
<td>10.3600</td>
<td>9.8900</td>
</tr>
<tr>
<td>Granite State Electric Company</td>
<td>9.6300</td>
<td>8.2400</td>
</tr>
<tr>
<td>Public Service Company of New Hampshire</td>
<td>14.5100</td>
<td>12.2600</td>
</tr>
</tbody>
</table>

* Source: FERC Form 1, except GSEC

GSEC rate from company, includes transition service

**DF 98-196 Montaup Electric Company’s Petition for Approval of the Transfer of Its Interest in Seabrook Station.**

On November 5, 1998, Montaup Electric Company, Inc. filed with the Commission a petition for approval of its 2.9 percent interest in Seabrook
Station to Great Bay Power Corporation who would assign its interest to its affiliate Little Bay Power Corporation. The Commission approved the transfer on June 21, 1999 under the condition that the terms of the Settlement between New England Power Corporation, Inc. and Little Bay would extend to the customers of Public Service Company of New Hampshire and the New Hampshire Electric Cooperative. The conditions include that Little Bay will set aside sufficient funds to meet its portion of the Seabrook budget for a period of six months and that Little Bay will obtain business interruption insurance with respect to its 2.9 percent interest in Seabrook.

**Ongoing Commission Investigation into Reliability**

In 1996, the Commission concluded an agreement with each electric utility which was designed to maintain reliability of the six franchised systems. The thrust of the effort was to ensure that the proper incentives were in place, when competition occurred, to encourage utilities to maintain highly reliable service. Those formal agreements will remain in place through the year 2000, but staff and utility operators are working to see that responsible reliability practices are embraced on a continuous basis beyond that point in time.

The key to the success of such an endeavor lies with the ability of staff and utility operating personnel to work together to adopt as uniform a set of reliability and storm reporting criteria as possible. Quarterly reliability reporting will become more standardized across the state. Plotting this criteria with a common format will permit the ready analysis of reliability trends over time. Also in development is a measure which could track momentary outages that are currently omitted from reliability data, but are extremely important from the customer perspective. In another area, a major storm technical definition is being developed which will be common to all utilities. Once established, data will omit major storms so as to indicate true system reliability. Along with other analytical tools, this commonality and uniformity in reporting will help all parties do a better job of tracking the success of reliability programs.

**Energy Efficiency Programs**

The Commission's Order on Rehearing stated that “efforts during the transition toward market-based DSM programs should focus on creating an environment for energy efficiency programs and services that will survive without subsidies in the future.” To that end, the Commission approved the introduction of the TumbleWash program in PSNH’s and GSEC’s service territories. The TumbleWash program is a regional initiative aimed to increase the market share of horizontal-axis washing machines which are considered to be the most efficient machines on the market today.

The Commission also approved a residential lighting program for PSNH’s customers. The company offers various compact fluorescent light bulbs and fixtures that use substantially less energy than incandescent lighting. During the biennium, the Commission also approved the continuation of residential lighting programs for GSEC and NHEC.

CVEC was allowed by the Commission to discontinue its DSM programs. NHEC’s and UNITIL’s DSM filings are currently on hold pending the Commission’s consideration of the final report filed by the Energy Efficiency Working Group. At that time, the Commission will decide whether and what programs will be introduced or continued for New Hampshire’s electric utilities.

**DE 99-035: New England Electric System/National Grid Group Merger.**

On December 14, 1998, New England Electric System (NEES), parent company to Granite State Electric Company (GSEC), announced its agreement to merge with The National Grid Group plc. On March 18, 1999, NEES, on behalf of GSEC, filed with the Commission documents representing that the proposed merger between NEES and National Grid would not adversely
affect the rates, terms, service, or operation of GSEC pursuant to RSA 369:8, II. NEES requested that the Commission accept the representations of no adverse effect and advise the SEC that the Commission has the authority and resources to protect retail customers following the merger. In an order issued April 21, 1999, the Commission concluded that the proposed transaction may adversely affect the rates, terms, service or operation of GSEC or New England Power Company, and therefore the requirements of RSA 369:8, II were not satisfied. National Grid’s proposed offer for NEES is two times the book value of NEES, an acquisition premium that NEES/National Grid are not proposing to recover from NEES’ customers at this time, but are requesting that the Commission not preclude them from making a request in the future to recover some or all of the acquisition premium. Hearings were held in June of 1999 primarily on the disputed issue of whether NEES/National Grid should be entitled the opportunity to recover the acquisition premium from Granite State customers.

On, October 4, 1999, the Commission approved the merger.
GAS INDUSTRY SUMMARY

Overview
Natural gas has developed into a competitively priced energy commodity much sought after in the marketplace. The construction of new interstate pipelines greatly enhances access to the production regions and increases the potential uses for the product. It is widely believed that the next generation of electric power production will be fueled by natural gas and that this will lead to greater efficiency in the use of the transportation system.

However, construction of the facilities is only one factor in the utilization of the system. The Federal Energy Regulatory Commission, state regulatory agencies, utilities, marketers, and retail customers are all investigating actions which could optimize the efficient utilization of the gas infrastructure both nationally and in New England. Once initiated, it is predicted that natural gas as an energy resource will play a major role in the economies of the Northeast.

GAS TRANSPORTATION AND COMPETITION
On July 8, 1998, the Commission opened Docket DE 98-124 Gas Restructuring, Unbundling and Competition in the Gas Industry. Pursuant to Order No. 23,018, issued September 14, 1998, the Commission sanctioned the establishment of an unbundling collaborative for the purpose of advising the Commission on the merits of restructuring the gas industry in New Hampshire. On June 1, 1999, the Collaborative filed a report outlining the progress to date and noted that it anticipated that a final report to the Commission would be filed in the fall of 1999. Given the complexity of the issues, the Collaborative estimated that actual implementation of any full unbundling plan would commence, at the earliest, in the fall of 2000. It is expected that this round of unbundling will afford new opportunities to smaller commercial and industrial customers. Large customers have had access to competitive markets since 1993.

Coincident with the Gas Unbundling Collaborative, the Commission, by its consultant, RKM Research and Communications, Inc., conducted focus groups and telephone surveys to gather information from residential and small business natural gas customers to help develop a record on restructuring and retail choice. The results indicated that while a high percentage of customers support the introduction of competition, an even higher percentage are satisfied with their local distribution company. This speaks highly for the natural gas industry as a whole in New Hampshire.

INTERSTATE GAS PIPELINES
On February 25, 1999, the Portland Natural Gas Transmission System (PNGTS) and joint PNGTS/Maritimes & Northeast Pipeline Projects were completed. This 292 mile project (U.S. only), 109 miles of which reside in New Hampshire, provides New England gas customers additional access to Western Canadian and Midwest gas supplies. The new facilities have an initial capacity of 178 million cubic feet of gas a day and have the capability for expansion by adding incremental compression. Both of New Hampshire's natural gas utilities, EnergyNorth Natural Gas, Inc. (ENGI) and Northern Utilities, Inc. (Northern) will have capacity contracts on the new transmission system which will facilitate additional growth on their systems.

On May 11, 1999, Maritimes & Northeast Pipeline, L.L.C. announced the start of construction of its 1.2 billion project to provide interstate/international natural gas
pipeline transportation service from reserves situated in offshore Nova Scotia to markets in Atlantic Canada and the northeastern United States. With an initial capacity of 530 million cubic feet per day, this project provides access to newly developed gas reserves and enhances New Hampshire’s ability to secure competitively priced gas supplies.

**MERGERS**

In March 1998, Northern, NIPSCO Industries, Inc. (NIPSCO) and Northern Indiana Public Service Company jointly filed with the Commission a petition for approval of a merger. The petition requested permission for NIPSCO or its affiliate, Northern Indiana, to acquire Northern, or its parent, Bay State Gas Company, Inc. under two alternative acquisition plans. Over the past several years, NIPSCO has diversified and expanded its utility businesses through the acquisition of non-electric entities. The merger required the approvals of both the Maine and New Hampshire Commissions because Northern provides service in both states. It also required the approval of the Massachusetts Department of Telecommunications and Energy, the Federal Energy Regulatory Commission, and the Securities and Exchange Commission. The Commission approved the merger on July 20, 1998. After receiving the remaining necessary approvals, the merger closed on February 12, 1999.

**SYSTEM EXPANSION**

During the biennium, ENGI completed the construction of an eight-mile system expansion which extends natural gas service through Amherst to Milford. The expansion enabled ENGI to provide natural gas service to Hitchiner Manufacturing Co., Inc., an investment casting business which employs approximately 700 people at its Milford location. To date, ENGI connected approximately 200 residential and 110 other commercial customers along the expansion route.

In November 1998, ENGI requested Commission authority to provide natural gas service in Berlin. ENGI has entered into a contract with the New Hampshire Department of Corrections to provide service to the North Country Medium Security Prison currently being constructed in Berlin. The franchise request and Special Contract with the New Hampshire Department of Corrections are now pending before the Commission.

**ENVIRONMENTAL CLEAN UP**

Northern petitioned the Commission for approval to recover certain expenses incurred in investigating and remediating contamination of five sites that were contaminated by the operation of manufactured gas plants (MGP). The sites are located in: Dover, Exeter, Portsmouth, Rochester, and Somersworth. The Commission

---

### Local Distribution Companies Average Rates per Therm for 1998

<table>
<thead>
<tr>
<th></th>
<th>Residential Average</th>
<th>Overall Average</th>
<th>Residential Customers</th>
<th>Commercial &amp; Industrial Customers</th>
<th>Transportation Customers</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENGI</td>
<td>0.8193</td>
<td>0.7495</td>
<td>61,203</td>
<td>8,323</td>
<td>62</td>
</tr>
<tr>
<td>NHGC</td>
<td>1.135</td>
<td>0.9867</td>
<td>697</td>
<td>293</td>
<td>0</td>
</tr>
<tr>
<td>Northern</td>
<td>0.8162</td>
<td>0.6978</td>
<td>17,689</td>
<td>5,450</td>
<td>26</td>
</tr>
</tbody>
</table>

* Source: 1998 Annual Reports

1 Propane Distribution Company
approved a surcharge mechanism designed to recover prudently incurred costs to remediate the former MGP sites less any recoveries from other potentially responsible parties and insurance carriers.

ENGI has recently petitioned the Commission for similar approval for remediation efforts at MGP sites owned by ENGI’s predecessors. These sites are located in: Dover, Keene, Laconia, Manchester, and Nashua. The request is currently pending before the Commission.

COST OF GAS ADJUSTMENTS

While the gas utilities are still allowed to recover gas costs through a summer and winter cost of gas adjustment (CGA) mechanism, three significant changes have been implemented in response to increased competition in the energy markets.

First, the utilities are now able to make monthly adjustments to within ten percent (10%) of the approved CGA rate without having to submit a revised CGA filing for Commission approval. This change was implemented to better match period gas cost revenues with actual gas costs, thereby minimizing over and under recoveries that are carried forward into subsequent periods and more accurately reflecting market prices.

Second, the CGA is no longer filed as a credit or charge to the base rate but rather at the projected per therm rate. Tariffs and bills have been revised accordingly, enabling customers to identify the gas portion of the bill and better recognize the price fluctuations associated with natural gas. These changes are designed to assist customers in assessing other pricing and supply alternatives that may be available to them.

Third, EnergyNorth Natural Gas, Inc., serving approximately seventy-five percent (75%) of the natural gas customers in New Hampshire, implemented a price stability plan which affords its customers who desire price certainty the opportunity to lock-in fixed prices for the winter period. The plan is similar to fixed price plans offered in the competitive market by oil and propane dealers as well as natural gas marketers.

SAFETY DIVISION

The Safety Division continues to conduct oversight over the safety practices of gas utilities in partnership with the United States Department of Transportation, Office of Pipeline Safety (OPS). Each year OPS audits the Division’s Safety program and has praised them consistently scoring high on their performance evaluation and recognizes the PUC for having one of the top performing state pipeline safety programs. The Division monitors 13 inspection units for compliance with the Natural Gas Pipeline Safety Act and initiates enforcement actions where appropriate. New Hampshire continues to enjoy an excellent safety record with no reportable incidents in the biennium. The Division employs a multifaceted approach to enforcement which combines rigorous inspection of operator’s facilities with operator education.

The completion of the Portland Natural Gas Transmission System (PNGTS) interstate pipeline in northern New Hampshire, and the joint PNGTS/Maritime Northeast Pipeline, L.L.C. (M&NE) pipeline facilities in the south, marks a new era for the availability of natural gas in New England, and particularly New Hampshire. Construction of these 24 and 30 inch diameter high pressure, interstate pipelines was completed in March of 1999, and provides access to production and storage in western Canada, mid-continent U.S. and Nova
Scotia. In accordance with its assigned responsibilities in the Certificate issued by the New Hampshire Site Evaluation Committee, and by agreement with the Office of Pipeline Safety, Division personnel and its consultant conducted field inspections of the construction and testing of the pipeline facilities.

The Division administers the Underground Utility Damage Prevention Program pursuant to RSA 374:55V. The Division’s main emphasis is on educating excavators and utility personnel in an effort to minimize damages to underground facilities. When violations do occur, the Division initiates enforcement actions which may result in punitive fines consistent with the severity of the violation. The Division processed 435 reports of damages during the biennium. In New Hampshire, as well as the rest of the country, third party excavation is the number one cause of pipeline damages. It is very critical that the PUC continue it’s efforts to work with the various stakeholders to reduce these damages in order to protect life, property and the environment of the citizens of New Hampshire. The construction activity in New Hampshire has been apparent by the number of calls into the Dig-Safe Center. New Hampshire led all five New England states with the largest increase, posting a 35% increase in calls in 1998 compared to 1997. In an effort to remain current with industry trends, the Division, in conjunction with the Underground Utility Damage Prevention Advisory Board, supported legislation to improve the statute and to strengthen the program.

**TELECOMMUNICATIONS INDUSTRY SUMMARY**

**Overview**

The Telecommunications Act of 1996 (Tact) has impacted most of the Commission’s work in Telecommunications during the biennium. Enacted in February 1996,
the TAct anticipated rapid development of local telecommunications competition between incumbents and new entrants including cable, cellular, electric and long distance companies. In return for opening their local market to competition, incumbents, like Bell Atlantic, would be permitted to compete for interLATA toll calls (out-of-state calls). States and the Federal Communications Commission (FCC) determine when the local market is sufficiently opened to allow the incumbent to compete in the interLATA market. Although many incumbents have argued to states and the FCC that they have sufficiently opened their local market, no approval has been obtained, suggesting that meaningful local competition has not yet occurred. Coincidentally, many mergers have transpired. Much of the Commission’s work in the past two years centered on issues that will shape and develop competition for local telephone service.

STATUS OF COMPETITION

In December 1996, the Commission adopted local competition rules pursuant to RSA 374:22-f and g. The rules specify how competitive and incumbent telecommunications companies must operate together to provide local telephone service in a competitive arena. Sixty-one Competitive Local Exchange Providers (CLECs) were authorized to compete as of June 30, 1999; twenty-seven have interconnection agreements with Bell Atlantic, which are necessary for operation. We anticipate that approximately twenty providers will be operating by the end of 1999, with several more beginning their marketing efforts in the year 2000, initially targeting the business market with emphasis on high-tech service and packaging of services to attract customers. Approximately twenty-five percent of CLECs who are operating have some facilities, or physical plant, installed in New Hampshire while the others resell Bell Atlantic service to their customers throughout New Hampshire. Metro-area business customers are initially being targeted by CLECs due to the inherent lower cost in buying or building facilities in concentrated areas as well as the ease of marketing to more customers. Rural areas are likely to experience minimal competitive benefit over the next few years as providers establish their new business in the most profitable markets.

SGAT DE 97-171

On July 11, 1997, Bell Atlantic filed its Statement of Generally Available Terms and Conditions (SGAT) for review and approval. The SGAT is a Bell Atlantic tariff which contains rates, terms and conditions for competitive local exchange carriers (CLECs) to interconnect with Bell Atlantic in order to compete. CLECs may purchase service from Bell Atlantic for resale, or pieces of the Bell Atlantic network, referred to as unbundled network elements, allowing CLECs to put together their own network without completely duplicating every pole and wire in the street. The SGAT prices every piece of Bell Atlantic’s network and includes wholesale discounts for resold services.

The TAct required the price for unbundled network elements be based on total element long run incremental costs. The proceeding focused on developing these costs properly to insure unbundled network elements are priced correctly, which will in turn allow competitors access to the unbundled network elements at fair prices. Bell Atlantic, AT&T and a consultant hired on behalf of the Commission Staff each performed a
cost study which produced different results. The Commission held 12 days of evidentiary hearings, primarily on the cost studies. After the hearings were completed, the Commission received extensive briefs on the matter through the end of April, 1999. The Commission is carefully deliberating the multitude of issues raised.

**FRESH LOOK DE 96-420**

In November 1996, the Commission received a petition from Freedom Ring Communications, the first CLEC authorized to compete in New Hampshire, requesting that the Commission require Bell Atlantic to provide their customers with an opportunity to terminate long term contracts in order to take advantage of services offered by a new CLEC in the area. The opportunity to consider selecting an alternative provider while committed to a long term contract became known as a “fresh look.”

The Commission determined there were no factual issues involved and decided to conduct the proceeding through a briefing schedule which concluded in the fall of 1997. In December 1997, the Commission issued its order which allowed customers a 180-day fresh look opportunity to reconsider term contracts with Bell Atlantic, when a CLEC begins to provide service in an area. In lieu of contracted termination charges, customers are required to pay a reduced termination charge to compensate Bell Atlantic for the price the customer would have paid for service if the customer had taken a term offering for the length of time the contract had actually run, minus the amount the customer actually paid. The 180 day fresh look opportunity has occurred in Manchester, Nashua and Portsmouth where CLECs are competing for local services.

In May 1998, the Commission held a hearing to determine whether the presence of a reseller should open the fresh look window. Resellers typically use Bell Atlantic service to resell to customers and once operational, can provide service to any customer in the state. If resellers opened the window, it would be opened statewide and permanently closed after six months. In its order, the Commission found that although resale benefits New Hampshire customers, facilities based competitors have a much greater impact on competition by putting facilities into place that can provide services that are different from the incumbent’s. The Commission found that limiting the fresh look opportunity to six months for the entire state would reduce the benefit to customers envisioned by its initial order and, therefore, that only the presence of a facilities-based CLEC would initiate the fresh look period.

**DARK FIBER**

In October 1997, Vitts, a CLEC, and Bell Atlantic filed a joint petition for arbitration requesting that the Commission decide whether dark fiber, or spare fiber installed in Bell Atlantic’s network, is an unbundled network element defined by the TAct. The Commission found that dark fiber is an unbundled network element and ordered Bell Atlantic to make any excess fiber capacity available to its competitors upon request. Pursuant to the TAct, Bell Atlantic appealed the decision to the New Hampshire Federal District Court. Members of the NH Court recused themselves when Bell Atlantic announced its merger with GTE and the appeal was referred to the Rhode Island Federal District Court.

**SPECIAL CONTRACTS**

Rules created by the Federal Communications Commission (FCC) as required by the TAct caused the Commission to reexamine procedures which were in effect prior to the TAct. One such example is how the New Hampshire special contracts statute, RSA 378:18 should be interpreted in the advent of local competition. RSA 378:18 relies on an incremental cost standard for review of special contracts. FCC rules require that wholesale rates be based on total element long run incremental costs (TELRIC). Competitors who purchase elements of
Bell Atlantic’s network to serve customers are required to pay prices based on TELRIC, which are typically higher than prices based on incremental costs. In February 1999, the Commission opened docket DT 99-018 to determine which incremental cost methodology should be applied when reviewing special contracts between the incumbent and a retail customer. At the end of the biennium, the Commission was carefully examining the evidence to insure that Bell Atlantic would not create a price squeeze by offering a special contract to a retail customer for a price less than the wholesale price a competitor would be required to pay Bell Atlantic.

**AREA CODE**

One unforseen consequence of the TAct is the impact that increased competitive entry has had on the demand for telephone numbers in New Hampshire. In order to compete, CLECs need telephone numbers and telephone numbers have been allocated in blocks of 10,000 for use in a local area. CLECs wishing to provide service in the entire state have requested 50 local prefix codes and thus are allocated 500,000 telephone numbers in order to enter the market although they have far fewer customers requiring telephone numbers. Currently there is no way for CLECs to share the allocated numbers, so 16 CLECs each requesting 50 blocks of numbers use up an entire area code.

According to the North American Numbering Plan Administrator (NANPA) the 603 area code is expected to be fully allocated by the first quarter of 2001. As a result, while the Commission is committed to finding number conservation alternatives that will preserve the 603 area code, the Commission is required by federal law to decide between specific alternatives. The Commission opened Docket DT 99-603 in February 1999 to investigate two primary options: an overlay and a geographic split. In a geographic split, the territory now served by area code 603 would be split in half, with one half retaining the old 603 code and the other half receiving a new code. In contrast, an overlay would simply put a second area code in place to cover the entire state for new customers, serving the same territory as that covered by the existing 603 area code.

Each of the available area code relief options has different implications for callers and service providers. The geographic split option would allow callers to dial seven digits, as they do now, for local calls within their area code, but would result in roughly half of the state being switched to a new area code. The overlay option would require callers to dial ten digits for all local calls, thus eliminating the dialing distinction between local and toll calling, but the new area code would only affect new lines ordered after area code 603 has completely exhausted.

The consensus from the majority of industry participants, Commission Staff, and others is that an overlay is the less objectionable of two undesirable results. But neither solution is very palatable to New Hampshire residents and businesses. Nevertheless, as required by federal law, the Commission orally selected the overlay alternative in its August 1999 deliberation.

Unfortunately, the FCC has not delegated enough authority to state Commissions to implement the types of number conservation measures that might allocate numbers more efficiently and avoid the need to add a new area code. In issuing its recent Notice of Proposed Rulemaking, the FCC has begun the tough job of tackling these issues, but the timing of the FCC’s decisions on area code and related numbering optimization measures is critical to the potential success or failure of such measures in New Hampshire.

While it is now becoming technically feasible to allocate numbers to carriers in smaller blocks of
numbers, the opportunities for saving area code 603 diminish while the state awaits FCC action. The Commission has filed numerous comments and petitions in its endeavor to influence the federal process, and has sought additional delegated authority from the FCC to implement number conservation measures. The Commission remains hopeful that the citizens and businesses of this state can avoid the disruption and other societal costs imposed by a new area code.

MERGERS

The volume of telecommunications carrier mergers continues to be strong in all segments of the industry, as the new less regulated environment promotes competition and new entrants are able to attract market share and become targets for take over by larger companies. In the past, the Commission reviewed all proposed mergers for compliance with public policy, including the effect on competition. On June 20, 1997, the General Court relaxed the Commission oversight responsibilities for certain transactions that involved parent companies of public utilities regulated by the Commission. RSA 369:8 provides flexibility to investigate mergers, however, Commission approval is not required for parent companies if the public utility represents to the Commission in writing no less than 30 days prior to the merger that it will not adversely affect the rates, terms, service, or operation of the public utility operating within the state. The first major merger to fall under the new statute for Commission review was MCI Communications and WorldCom, Inc., which represented to the Commission that the underlying carriers certified in New Hampshire would not be affected. Since the statute has been in place the Commission has been notified of numerous mergers at the holding company level including MCI/WorldCom with Brooks Fiber, Bell Atlantic Corporation and GTE Corporation, and AT&T Corporation and MediaOne Group, Inc.

On a local level, the Commission has granted approval of the merger of the TDS Telecom local exchange companies that include Chichester Telephone Company, Kearsarge Telephone Company and Meriden (DR 98-147). In addition, the Commission also granted approval of the merger of the MCT, Inc. independent phone companies that include Merrimack County Telephone Company and Contoocook Valley Telephone Company (DR 98-189). With both of these mergers, the Commission recognized the efficiencies to be gained by consolidating the companies, which will be passed onto the customers.

BELL ATLANTIC EARNINGS

On October 31, 1997, Bell Atlantic notified the Commission of an extensive three-part initiative the Company and Staff agreed would result in a $26 million annual revenue reduction. The initiative was aimed at providing broad base rate reductions in local, in-state toll services and carrier access charges; expanding local calling areas to include “home and contiguous” exchanges in the Company’s service area; and an Internet access plan for all schools and libraries within the Bell Atlantic service area.

To lower toll rates for in-state calls, Bell Atlantic-NH introduced a new business calling plan, Business Link; modified the CallAround 603 plan to lower overall charges; and reduced the Measured Toll Service day rate and per message rate. In response to a Commission goal to establish a basic calling area on a state-wide basis that would include “home and contiguous” exchanges, Bell Atlantic implemented a plan to not only provide this service but also agreed to reduce their 21 rate groups to 5 to minimize the rate impacts resulting from local calling area expansion.

Finally, in effort to lower the cost of access to the Internet, Bell Atlantic offered to provide all public, private and parochial schools and public libraries within their service area a new flat-rate business line or a 56kb
Frame Relay circuit with no installation or monthly charge for a period of two years. This two year commitment is intended to provide all schools and libraries an opportunity to sample and learn about the benefits of network and Internet access.

**INDEPENDENT TELEPHONE COMPANY RATE REVIEWS**

In 1998, Staff initiated an earnings inquiry for ten of the thirteen independent local phone companies based on 1997 financial reporting performance. As a result of Staff’s earnings inquiry initiative, Northland Telephone Company, Union Telephone Company and Granite State Telephone Company agreed to reduced their earnings by recovering only a part of their lost toll revenue resulting from the implementation of contiguous exchange toll free calling. Although Dunbarton Telephone Company was not part of Staff’s earnings review, the Company proposed to accept less than full recovery for their lost toll revenue in order to implement contiguous exchange local calling with the rest of the state. Although the aforementioned Companies did not agree with Staff’s alleged overearnings, each Company agreed to provide contiguous exchange local calling and limit the increase to residential basic rates to two dollars or less per month.

Also in 1998, Staff conducted an earnings review of Wilton Telephone Company and Hollis Telephone Company as directed in Commission Order No. 22,823. Staff concluded that both companies were over earning and recommended the Commission initiate rate cases for both companies (DR 98-058 and DR 98-059). On April 6, 1998, the Commission approved a Stipulation and Comprehensive Settlement Agreement that settled all issues between Wilton and Hollis, Staff and the OCA. The Agreement provided for annual revenue reductions for Wilton and Hollis in the amounts of $126,971 and $258,811 respectively. The revenue reduction for Wilton was implemented through rate reductions in toll and access services. The revenue reduction for Hollis was implemented by first reducing residential and business basic exchange rates by 10% and then reducing toll and access rates with the remaining revenue.

In September 1998, the Commission initiated an earnings investigation of Contoocook Valley Telephone (DR 98-160) based on Staff’s allegation that the Company was in an over earnings position. As part of the proceedings, Staff performed an audit of Contoocook’s books and records and, also, those of its affiliate Merrimack County Telephone Company. Based on the audit of Merrimack, Staff concluded the Company was also in an over earnings position. In response to Staff’s recommendation the Commission opened docket DT 99-025 to investigate Merrimack’s earnings. On April 28, 1999, Merrimack, Contoocook, the OCA and Staff entered into an Agreement to settle all issues related to the over earnings dockets as well as the proposed merger of Contoocook into Merrimack. Among other provisions, the Agreement provided for annual revenue reductions for Contoocook and Merrimack in the amounts of $330,071 and $62,161 respectively. Like Northland, Union and Granite State, the Companies agreed to apply their excess earnings as part of their total lost toll revenue associated with implementing contiguous exchange local calling. As a result, Merrimack
and Contoocook were in a position to provide contiguous exchange local calling and limit the increase in basic exchange rates to two dollars for all customers.

On September 18, 1998, in response to Staff’s on-going inquiry into the earnings of the TDS Companies, Chichester Telephone Company, Kearsarge Telephone Company and Meriden Telephone Company, the Commission opened Docket Nos. DR 98-157, DR 98-158 and DR 98-159 to investigate possible excess earnings. The TDS Companies had previously filed with the Commission on August 19, 1998 a petition requesting authority to merge Chichester and Meriden into Kearsarge (DR 98-147). On February 18, 1999, the Commission approved the Stipulation and Comprehensive Settlement Agreement that settled all issues between the TDS Companies, Staff and the OCA pertaining to the merger, a plan to implement contiguous exchange local calling for the Companies’ service area, and a plan for resolving a petition requesting local calling between Boscawen and Concord. Like the other Independent Companies, the TDS Companies agreed to provide contiguous exchange local calling within the $2.00 maximum increase for residential basic exchange rates and would not seek to recover additional lost toll revenue. However, the Agreement provided that the TDS Companies’ (DR 98-157, 158, and 159) earnings investigations would continue and lost toll revenue would be applied against any excess earnings. Hearings for those dockets are scheduled for October 1999.

LOCAL CALLING AREAS

As part of Bell Atlantic’s $26 million rate reduction ordered by the Commission in March of 1998, the Company expanded the local calling area for all their New Hampshire exchanges to include all contiguous, or bordering, exchanges.

In its March 1998 order, the Commission directed Staff to work with the independent telephone companies in an effort to establish contiguous toll-free calling for their customers as well. Staff and all twelve independent companies successfully reached agreement on various plans that all provided for an expanded local calling area with only partial recovery of lost toll revenue and a $2.00 limit on any increase to Residential Local Basic rates.

Expansion of Bell Atlantic’s calling areas required substantial investment in central office electronic equipment, as well as cabling and programming changes. To implement the statewide initiative, Bell Atlantic developed a schedule to allow exchanges requiring minimum effort to receive the expanded local calling as soon as possible. The last phase will be completed by October 1, 1999, for Bell Atlantic exchanges that border the service areas of Merrimack County Telephone Company and Contoocook Valley Telephone Company service areas. At that time, all local calling areas throughout the state will include contiguous exchange local calling.

ROUNDTABLE

Beginning in April 1998, the Commission, in conjunction with the Governor’s Office, hosted a series of discussions between State Government, the telecommunications industry and interested members of the public to insure that all the benefits of the Information Age become available to the citizens of New Hampshire as quickly as possible. From the outset, the goals of the Roundtable were: to educate people about telecommunications; to provide a forum for customers to explain what they like and do not like about telecommunications in New Hampshire and what they think needs to be done to insure state-of-the-art services in the future; and, to provide a forum for discussion about what our State should be doing through legislation, regulation, government policy and/or public-private partnerships in the future to insure the best telecommunications environment for our state. Members of the Roundtable have met six times and,
among other things, are working on legislation to create an office of telecommunications planning and continuing discussions about appropriate regulation in a telecommunications market that is transitioning to competition and Universal Service.

CONCLUSION

It was hoped that the Telecommunications Act of 1996 would rapidly open the telecommunications market to full scale competition and customers would benefit from a choice of providers, lower prices and a myriad of new products and services. Implementation of the Tact, however, has not occurred as quickly as anticipated and local telecommunications competition is in its infancy. Several large mergers have occurred and state commissions throughout the country are deciding how to equitably open the markets so that competitors have a reasonable opportunity to compete. Several Regional Bell Operating Companies (RBOCs) have filed applications pursuant to Section 271 of the TAet with the FCC, attempting to demonstrate that their local market has been irreversibly opened to local competition in order to enter the interLATA market. The FCC has not found any local market sufficiently opened to competition to grant such a request. Competition in the New Hampshire local market is expected to increase and the AT&T Media One merger promises to deliver alternative service to many New Hampshire citizens during the next biennium.
Overview
Although smallest among the various types of utilities in terms of number of consumers provided with service, the regulated water industry in New Hampshire is largest in terms of the number of companies providing service. The majority of these companies serve very few (less than 100) customers. New Hampshire is not unique in this respect. Nationally, water systems serving fewer than 3,300 customers account for approximately 87% of all systems, yet serve just over 10% of total customers. Small water systems in New Hampshire and around the country have found it increasingly difficult to maintain their systems while trying to comply with the provisions of the Safe Drinking Water Act.

FEDERAL SAFE DRINKING WATER ACT - STATE REVOLVING LOAN FUND
The 1996 Amendments to the Federal Safe Drinking Water Act (SDWA) provided for a Drinking Water State Revolving Fund (SRF) to assist both public and privately-owned water systems in financing the costs of improvements needed to achieve compliance with SDWA requirements and to protect the public health objectives of the original act. The SRF program has placed particular emphasis on assisting smaller drinking water systems and those serving less affluent populations by providing greater funding flexibility and low interest rates on the funds. In addition, the Department of Environmental Services (DES) has been charged with developing guidelines for ensuring that newly approved systems have the technical, managerial, and financial resources to maintain compliance with requirements of the SDWA and to provide safe and adequate water.

During this biennium, four PUC-regulated water systems requested and received Commission approval under RSA 369 to borrow funds from the SRF program. Pennichuck Water Works, Inc. requested and received approval to borrow $445,000 to develop and construct additional wells and storage facilities in its East Derry and Hubbard Hill Community Water Systems to address supply deficiencies and projected increases in demand. Hanover Water Works requested Commission approval to borrow up to $4,035,000 for three projects involving replacement of outdated infrastructure including transmission and distribution mains, and a new storage facility for post-treated water. Tilton & Northfield Aqueduct Company requested approval to borrow $1,230,000 from the SRF program to replace very old cement-tin mains, as well as undersized mains in certain portions of its service area. And, Rosebrook Water Company requested authority to borrow $120,000 to install a new well to augment its source of supply within its service area.

As of the end of the biennium, these SRF borrowing requests were being set for closing. Commission Staff continues to work closely with many of the small regulated water companies in seeking solutions to problems of supply, SDWA compliance, and financial stability. The SRF program is one tool now available for assisting small companies in meeting these challenges.

SDWA COMPLIANCE PROJECTS
The enhanced Surface Water Treatment Rules of the SDWA placed a heavy compliance burden on small water utilities that rely on surface water as a source of supply. Pittsfield Aqueduct Company (Pittsfield) and Tilton & Northfield Aqueduct Company (Tilton) found it necessary to
substantially improve their existing water systems in order to comply with the Surface Water Treatment Rules. After consideration of various options, Pittsfield continues to use its surface water supply after constructing a water treatment plant at a cost of roughly $1 million. For Tilton, an extensive examination of alternatives revealed that the most prudent means of compliance was abandonment of its existing surface water supply coupled with the construction and installation of two wells, a new transmission system and a storage reservoir. Tilton’s project cost approximately $3.8 million and was completed in two phases. Each company’s SDWA compliance project resulted in significant rate increases to customers. On December 31, 1997, the Commission approved a revenue increase of 101.6% for Pittsfield, and on March 27, 1998 an 180% increase related to the first phase of Tilton’s project was approved. The second phase of Tilton’s compliance project was completed on June 30, 1998. On September 25, 1998, the Commission approved an agreement reached between Tilton and Commission Staff which incorporated the second phase plant costs, grant monies, and refinancing of Tilton & Northfield’s existing construction loan and resulted in a 9% rate decrease.

**PENNICHUCK WATER WORKS, INC. RATE CASE**

As the largest of the regulated water utilities in New Hampshire, Pennichuck Water Works, Inc. (PWW) serves over 22,000 customers in its Nashua core area as well as in community water systems in 10 other communities in Southern New Hampshire. In late May of 1997, PWW filed for an overall increase in its water rates of approximately 27%, citing substantial additions to its infrastructure in recent years as the major reason for the requested increase. In addition, the company requested approval for Single Tariff Pricing, whereby the separate rates of its community water systems would be consolidated with those of its core system. At the hearing held on January 30, 1998, Staff and PWW presented a settlement agreement which provided for a resolution of all issues except the consolidation of rates. The Commission heard testimony on the rate consolidation issue, and on March 25 issued an order which accepted the settlement agreement and approved the Company’s request for Single Tariff Pricing. PWW’s overall revenue increase approved by the Commission was 16.77%.

**MUNICIPAL EFFORT TO ACQUIRE UTILITY**

In a case that began in 1996, the Town of Hudson (Hudson), pursuant to RSA Chapter 38, acquired the plant and property of Consumers NH Water Company (Consumers) in order to establish a municipal water utility. The final transaction resulted from a settlement reached between Hudson and Consumers and Pennichuck Water Works and was conducted in two parts. The first part of the transaction, approved by the Commission on October 30, 1997, involved Hudson acquiring all of Consumers New Hampshire water service assets for $34 million with an additional amount of up to $500,000 for property additions made by Consumers between January 1, 1997 and April 1, 1998. As part of the settlement, Hudson ratepayers received an immediate 10% rate reduction. Hudson also entered into a five year management agreement with Pennichuck Corporation (Pennichuck).
On November 21, 1997, the Commission approved the second part of the transaction whereby the non-Hudson assets formerly owned by Consumers were sold by Hudson to Pennichuck for $7.5 million. Pennichuck created a new subsidiary called Pennichuck East Utility (PEU) to own and operate the non-Hudson assets. Interim rates were established which provided for a 10% rate reduction for a period of eighteen to twenty-four months. At the end of the interim rate period, PEU will file a rate case during which the current rate structure, among other things, will be revisited.

**SMALL WATER UTILITY PUT INTO RECEIVERSHIP**

At the request of customers, an investigation into the quality of service and viability of continued operation of Birchview by the Saco (Birchview) was opened by the Commission. Birchview by the Saco is located in Bartlett and serves 112 customers. Following a show cause hearing, the Commission found that the utility was providing inadequate and unreasonable service that threatened the health and welfare of customers. The Commission placed Birchview in receivership as a temporary measure to secure a minimum level of safety and adequacy of service while exploring long term solutions.

The Commission encouraged customers to work together toward a consensus for the future of their water supply and distribution system. One option was the transfer of the system and service territory to the Lower Bartlett Water Precinct, a municipal corporation providing water service in the area. A Commission survey indicated that the majority of customers felt the Precinct option was the best solution. The Precinct was willing to interconnect the system with its own and, following an exhaustive investigation, the Commission approved the transfer of the system to the Precinct.

**PENNICHUCK CORPORATION ACQUIRES PITTSFIELD AQUEDUCT, INC.**

In October of 1997, Pennichuck Corporation, the parent of Pennichuck Water Works, Inc., filed a petition with the Commission to acquire the Capital Stock of Pittsfield Aqueduct Company, and to continue to provide water service to the existing franchise area in the Town of Pittsfield. The Town of Pittsfield itself, as an intervenor in the docket, initially expressed an interest in acquiring the water system pursuant to RSA 38, but ultimately did not oppose the acquisition by Pennichuck. All parties recognized the Town’s continuing rights under that chapter to acquire the water system.

Pennichuck had been operating Pittsfield’s new treatment facility since it opened and had provided its expertise to Pittsfield in bringing the new facility online. In addition, with Pennichuck’s greater ability to access the capital markets, it was asserted that lower cost financing could be obtained to lower the cost of the treatment facility’s debt to the company and its ratepayers. Also, Pennichuck’s experience with its
community water systems in the southern part of the state provided assurance that they could address the infrastructure problems in existence with the Pittsfield system. The Commission, citing Pennichuck’s financial, managerial and technical expertise to operate a water utility, approved the transfer of the Pittsfield Aqueduct Company in January of 1998.

RATE CONSOLIDATION

In May 1997, just prior to the start of the biennium and along with its rate increase request, Pennichuck Water Works filed for consolidation of its ten separate small water system rates with its Nashua core system rate. The only major water rate consolidation prior to that filing had involved a partial consolidation of Southern NH Water Company’s 20-odd system rates into essentially two rates in 1991.

Pennichuck, Anheuser-Busch (Pennichuck’s largest customer) and Commission Staff filed extensive testimony both in support of and in opposition to Pennichuck’s consolidation proposal. Areas addressed included the historic comparability and variability of the various rates to be consolidated; usage and cost characteristics among different customer groups; the degree of averaging inherent in existing rates; the degree of subsidization resulting from consolidation; the degree to which existing or consolidated rates reflected true cost of service; detrimental impacts from the failure to consolidate, particularly in relation to small system viability; the realities of provision of service by a single provider; the level of administrative efficiencies from consolidating; the degree of cross-benefits between differing customer groups; the level and trending of new system acquisition costs; the ability to track individual system performance and profitability after consolidation; the danger in weakening the connection between rates and cost; the applicability of physical interconnection as a criterion for a consolidated rate; and factors that differentiated the proposal from the earlier Southern consolidation. The Commission, after weighing all of these factors, ultimately concluded that rate consolidation in Pennichuck’s case presented more positives than negatives, and approved the proposal.

Subsequently, Lakes Region Water Company also requested consolidation of its nine individual rates into a single rate. Factors distinctive to Lakes Region included historic variation in what would have been not only the degree but direction of subsidy among its systems had they been under a consolidated rate and a homogenous customer base.

Testimony again evaluated historic, current and anticipated rates and other factors in relation to the consolidation proposal, which was also approved by the Commission.

HAMPTON WATER WORKS SOURCE PROBLEMS

Hampton Water Works has struggled over the years with the limited ability of its source of supply to meet growing demand, in spite of continuing efforts to locate additional supply and as evidenced by a moratorium on new development imposed by the Department of Environmental Services in 1995. A case concluded in the first month of the biennium involved installation of a new well just outside the Company’s franchise area in the Town of Stratham. The Company’s filing had included a petition for exemption from municipal zoning ordinances that might have prohibited development of the well. A settlement was ultimately reached that involved extensive monitoring by the Company of any impact of its well on neighboring wetlands, surface waters or wells, as well as a detailed procedure for remedying well impacts.

Subsequently, the Company filed a similar petition for construction of three additional wells inside its franchise area in the Town of North Hampton. That case was again settled by adoption of a similar monitoring and remediation program.
While the Commission asserted its jurisdiction and ultimately approved settlements in both cases, the Stratham case in particular was the impetus behind legislation passed in 1998 that provided for increased notification and opportunity for public input in relation to Department of Environmental Services approvals of large groundwater withdrawals.
SEWER & STEAM INDUSTRY SUMMARY

SEWER
The Commission currently regulates five sewer utilities and two combined water/sewer utilities. Bodwell Waste Services Corporation, which serves 400 customers in the City of Manchester, filed at the end of 1997 to expand its franchise authority into neighboring Londonderry. The docket was closed without prejudice pending amendment of the existing Intermunicipal Sewer Agreement between Manchester and Londonderry. Bodwell Waste also filed for, and was ultimately granted, a rate increase unrelated to the proposed expansion. Finally, two other sewer utilities filed for rate increases at the very end of the biennium.

STEAM
Concord Steam is the only regulated steam utility in New Hampshire. Late in 1998 the company filed for relief regarding a dispute with New Hampshire Hospital, which is not only the company’s largest customer but the owner and lessor of the company’s steam plant. The dispute involved measurement of steam delivery and responsibility for maintenance of certain NH Hospital facilities. The case was subsequently resolved by the parties outside the Commission and withdrawn.
CONSUMER OUTREACH

The Consumer Affairs Department conducted information forums and evening hearings for consumers on issues before the Commission. During this biennium, the Commission held 7 informational forums on the possible addition of a second area code to the state and 6 evening hearings on extended area calling service. All of these sessions were in the evening and located in the communities or regions affected thereby offering consumers a greater opportunity to become involved in the Commission’s hearing process.

The Consumer Affairs Department continues to participate in a series of statewide workshops held each fall for social service agencies. The focus at these workshops has changed during this biennium to reflect the changes occurring in the electric industry. Through these sessions, the Commission is helping social service agencies to better understand electric competition and the challenges facing their clients in a competitive environment. Armed with the information and resources the Commission has provided, social service agencies will be able to help educate their clients on electric competition, creating another opportunity for those most at risk to gain the knowledge that they need to make an informed choice.

In addition to efforts to reach out to consumers, the Commission has also reached out to utilities during this biennium. During 1998, Consumer Affairs staff conducted 14 training sessions for Public Service Company of New Hampshire customer representatives to help them better understand the role of the Commission. While the results are hard to measure, these sessions have helped resolve many customer issues before they reach us and lead to increased customer satisfaction overall. The Commission intends to continue these sessions with other utilities in the upcoming biennium.

PUBLIC EDUCATION

As New Hampshire moves forward with the transformation from monopolistic utility industries to increasingly competitive utility industries, the need for consumer outreach and public education continues to grow. During this biennium, the Commission focused considerable time on the development of the materials for the public education program on retail competition in the electric industry. As a part of that program, Commission staff visited with all the major media outlets across the state during April and May of 1998 to help familiarize them with electric competition and provide them with a resource for information. While not fully geared up, another component of the public education program, the Speaker’s Bureau, is operational.

During this past biennium, Commission staff met with a number of community based organizations and spoken with them about the changes that will be occurring in the electric industry. In addition, the Commission sponsored a conference in May 1999 on buying groups and the role that aggregation can play in the competitive electric
market.

PUBLIC INFORMATION

The Commission daily receives oral and written requests for information from citizens, legislators, the media, parties to proceedings and consultants. The Executive Director is primarily responsible for seeing that all information requests are satisfied. In addition, public information is disseminated as explained below.

Publications

The PUC Update communicates to a large group of people about what is going on at the Commission. Over 750 copies are distributed each quarter to a mailing list which includes town libraries, public interest groups, radio and television stations, legislators and representatives, utilities, industry groups, and consumers.

The Commission’s Consumer Rights and Responsibilities booklet was revised during this biennium to reflect changes in consumer protection rules. The booklet, which is available to anyone and can be obtained from the Commission as well as utilities and public interest groups, summarizes the Commission’s consumer protection rules.

Internet

The Commission’s website was one of the first among utility regulatory agencies in the country to publish its information for availability to the general public allowing actual file downloads of its contents. This past biennium saw further enhancements. It now contains up-to-date information on current docketed cases, commission orders, notices, agendas, and minutes, as well as press releases, commission rules and tariffs and links to regulated utilities.

Library

This is the only library of its kind within the state. The Commission’s library contains approximately 4,000 books and reference articles dedicated to utility regulation. Due to the great public interest in electric deregulation, special display areas consisting of articles and publications concerning electric deregulation have been set up for public use.
## Biennium in Review

### Number of Dockets

<table>
<thead>
<tr>
<th></th>
<th>Pending as of 7/1/97</th>
<th>Instituted 7/1/97-6/30/99</th>
<th>Concluded by Agency 7/1/97-6/30/99</th>
<th>Pending as of 6/30/99</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric</td>
<td>54</td>
<td>106</td>
<td>116</td>
<td>44</td>
</tr>
<tr>
<td>Gas</td>
<td>10</td>
<td>47</td>
<td>49</td>
<td>8</td>
</tr>
<tr>
<td>Rules</td>
<td>11</td>
<td>4</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>Sewer</td>
<td>1</td>
<td>3</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Telephone</td>
<td>48</td>
<td>251</td>
<td>250</td>
<td>49</td>
</tr>
<tr>
<td>Water</td>
<td>16</td>
<td>41</td>
<td>42</td>
<td>15</td>
</tr>
<tr>
<td>Other Combo.</td>
<td>0</td>
<td>4</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>140</strong></td>
<td><strong>456</strong></td>
<td><strong>468</strong></td>
<td><strong>128</strong></td>
</tr>
</tbody>
</table>

### Summary of Non-Docketed Commission Activities

<table>
<thead>
<tr>
<th>Activity</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of consumer contacts</td>
<td>21,500</td>
</tr>
<tr>
<td>Energy Code applications</td>
<td>1,164</td>
</tr>
<tr>
<td>Competitive Local Exchange Carriers certifications</td>
<td>52</td>
</tr>
<tr>
<td>Competitive toll provider tariff reviews</td>
<td>508</td>
</tr>
<tr>
<td>Telecommunications carrier merger reviews</td>
<td>88</td>
</tr>
<tr>
<td>Competitive toll provider registrations</td>
<td>158</td>
</tr>
</tbody>
</table>
9% of all tariff filings required suspension with only 5% going over 90 days.
# Financings Approved

## Long-Term Securities Authorized by the Commission

**FY July 97 - June 98**

<table>
<thead>
<tr>
<th></th>
<th>Notes</th>
<th>Stocks</th>
<th>Bonds</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric</td>
<td>$31,561,300</td>
<td></td>
<td></td>
<td>$31,561,300</td>
</tr>
<tr>
<td>Gas</td>
<td></td>
<td></td>
<td>$22,000,000</td>
<td>$22,000,000</td>
</tr>
<tr>
<td>Steam</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telephone</td>
<td>$5,788,055</td>
<td></td>
<td></td>
<td>$5,788,055</td>
</tr>
<tr>
<td>Water</td>
<td>$605,000</td>
<td>$800,000</td>
<td>$2,700,000</td>
<td>$4,105,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$37,954,355</td>
<td>$800,000</td>
<td>$24,700,000</td>
<td>$63,454,355</td>
</tr>
</tbody>
</table>

## Long-Term Securities Authorized by the Commission

**FY July 98 - June 99**

<table>
<thead>
<tr>
<th></th>
<th>Notes</th>
<th>Stocks</th>
<th>Bonds</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric</td>
<td></td>
<td></td>
<td>$20,000,000</td>
<td>$20,000,000</td>
</tr>
<tr>
<td>Gas</td>
<td>$5,000,000</td>
<td></td>
<td></td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Steam</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telephone</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water</td>
<td>$4,035,000</td>
<td></td>
<td></td>
<td>$4,035,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$9,035,000</td>
<td>$0</td>
<td>$20,000,000</td>
<td>$29,035,000</td>
</tr>
</tbody>
</table>
The Public Utilities Commission actively tracks bills in the General Court, and provides technical support which involves testimony and technical assistance for the appropriate committees, primarily the House Science, Technology and Energy Committee, Senate Executive Departments and Administration Committee, and both Finance Committees. Following is a summary of some of the significant legislation from the 1998-1999 Session.

1998 LEGISLATIVE SESSION

Senate Bill 341 - Electric Utility Restructuring

As a result of the lawsuit filed in Federal District Court by Public Service Company of New Hampshire, the Commission was unable to implement restructuring by the July 1, 1998 deadline established in HB 1392. Consequently, SB 341 amends RSA 374-F to allow the Commission to postpone implementation if the delay is the result of events beyond the control of the Commission. As a result, the Commission issued an order delaying restructuring and citing the District Court’s Temporary Restraining Order, which allows the Commission to deal only with voluntary filings, as the basis for the delay.

In addition, SB 341 distinguishes between default service and transition service. Default service is available to retail customers who are without a supplier and ineligible for transition service while transition service is available to customers who decide not to choose a competitive supplier. Default service will always be a safety net for customers while transition service will only be available for the first few years of competition.

House Bill 587 - Systems Benefits Charge

Previously passed HB 1392 provided for restructuring of the electric industry and created a systems benefits charge which authorized the Commission to impose a charge on customers through the distribution company to fund public benefits such as programs for low income customers and energy efficiency. HB 587 imposes limits on the systems benefits charge. In the first year of competition, there will be an overall cap of 2.5 mills per kWh while in the second year there will be an overall cap of 3 mills per kWh. The portion of the charge available for low income programs in all years will be limited to 1.5 mills per kWh, or approximately $13.5 million statewide, and will terminate on June 30, 2003.

House Bill 485 - Small Power Producers

Public Service Company of New Hampshire, as a result of its Rate Agreement with the State, has been required to exercise its best efforts to negotiate with small power producers to reduce the financial impact those producers have on rates. Methods of renegotiation to reduce small power producer costs have included buy downs and buyouts of the agreements. HB 485 restricts buyouts and buy downs of particular facilities. None of the designated facilities may be bought out before July 1, 2000 and no renegotiation can reduce the total output of the facilities below 80% for a calendar year before 2006.

HB 587 also allows net energy metering for customers who own a generator with a peak capacity of 25

---

1 As of this writing, the 1999 Session of the New Hampshire General Court has not adjourned, so this summary will be incomplete.
kW which is powered by solar, wind or hydro energy. Net energy metering allows the customer to offset over a billing period purchases from the utility or competitive supplier with power fed into the electric distribution system. The overall limit on such arrangements is equal to .05 percent of the peak energy demand of the respective utility.

House Bill 1496 - Energy Facility Evaluation

Traditionally, as part of the Site Evaluation process, the Public Utilities Commission was required to make a finding that a proposed generation facility was required to meet the present and future needs for electricity. As a result of restructuring, such determinations are logically to be made by competitors in the marketplace. Accordingly, HB 1496 removes generation facilities from the definition of bulk power supply facilities that would require a Commission finding of need. Such facilities, however, would remain subject to environmental assessments.

House Bill 1659 - Eminent Domain Powers for Generation Facilities

Conceptually related to the elimination of regulatory oversight regarding the need for a generation facility is elimination of eminent domain powers to allow utilities to take property for a generation facility. In a restructured competitive environment, decisions to build generation are left to the marketplace. Correspondingly, business enterprises should not have the power to take private property solely for their personal benefit. As a result, HB 1659 provides that a public utility may not take property to construct or operate a generating facility.

House Bill 1527 - Relative to Slamming

Slamming concerns the unauthorized switching of telephone companies. This is a practice that has become a problem in some areas of the country when, for instance, a long distance carrier notifies the local telephone company that a customer has changed long distance companies without that customer’s permission. This practice results in companies losing business and customers often paying higher bills. HB 1527 specifically prohibits slamming and authorizes the Commission to fine a business up to $2,000 per offense.

House Bill 1651 creates a study committee to investigate cable television rates and service to determine whether they should be regulated by the Commission.

Senate Bill 390 allows the merger or reorganization of a gas utility without requiring the new entity to be incorporated in New Hampshire.

House Bill 707 provides that telecommunications poles and lines will be exempt from local property taxes as long as the interstate or intrastate communications services tax remains at current levels.

Senate Bill 374 requires notification of municipalities with respect to certain large withdrawals of water from local wells.

Senate Bill 140 designates joint owners of the Seabrook facility as guarantors of the decommissioning fund obligations of other joint owners that do not have a franchise territory.

House Bill 1592 encourages municipalities to provide information to the bureau of emergency communications for the enhanced 911 data base.

1999 LEGISLATIVE SESSION

HB 274 - Office of Consumer Advocate

This bill fixes the term of the Consumer Advocate at four [4] years, and provides that the Consumer Advocate is appointed by the Governor.
and Executive Council. It also establishes a Residential Ratepayers Advisory Board, establishes the composition of the membership of the Board, and sets board terms at three [3] years.

**HB 318 - Recovery of Costs in Utility Proceedings**

This bill permits the Commission to award costs associated with participating in a rate making docket to certain parties who demonstrate financial hardship and can show that they significantly affected the outcome of the proceeding, up to $10,000 per docket. The utility can recover this cost through its rate case. It also provides that anyone appointed as a Commissioner shall have a public hearing before the Executive Council.

**HB 325 - Prohibiting Cramming in Telecommunications Billing**

This bill prohibits the submission or inclusion of unauthorized, misleading or deceptive charges for products or services on your phone bill, called cramming. An example of this would be a customer being billed for a service they did not order or receive, such as caller ID. It also requires those companies who want to bill for their services through your telephone bill to register with the Commission, and allows the Commission to revoke the authority to bill if the company engages in cramming.

**HB 388 - Area Code 603 Conservation**

New Hampshire is in danger of running out of telephone numbers in the 603 area code. HB 388 establishes policy principles to guide the Commission in telephone number conservation, and, if necessary, implementation of a new area code. The bill places particular emphasis on preserving the single 603 area code for New Hampshire for as long as possible.

**HB 464 - Electric Rate Reduction Financing and Duties of the PUC**

This bill is actually the combination of several bills addressing several issues of importance to the Public Utilities Commission. The most straightforward of these topics is the section which makes changes in New Hampshire’s ‘DigSafe’ law, which has been recognized as one of the most effective in the country. The goal of this law is to reduce the number of accidental utility outages due to construction projects. This section was adopted at the request of the ‘DigSafe’ program and its utility and construction group advisory committee.

Another major section of this bill outlines the process the Commission and General Court will use in evaluating the proposed settlement of the lawsuit between the Commission and Public Service Company concerning electric utility restructuring and opening the electricity market to competition. It sets guidelines by which the proposed settlement will be judged and authorizes the General Court to hire a consultant to help it evaluate the proposed settlement.

Finally, the bill makes some ‘housekeeping’ changes in the laws governing the Commission and how it conducts business.
### PRIMARY STATUTORY AUTHORITY

**RSA 38:1 et seq.**
NHPUC authority over certain municipal utility operation and disputes between municipalities and public utilities.

**RSA 162-F:2 et seq.**
Authority for the three Commissioners of NHPUC and the Chief Engineer to be members of the Site Evaluation Committee for Bulk Power Supply Facilities and for the Commission to hold joint hearings with the Committee.

**RSA 301:53 et seq.**
Jurisdiction of NHPUC over cooperative marketing associations organized for the purpose of rural electrification.

**RSA 362:1-2, 4 et seq.**
General jurisdiction of public utilities - telephone, electric, heat, power, water and pipelines.

**RSA 362-A:1 et seq.**
Authority for the NHPUC to set rates for the energy produced by limited energy producers, settle disputes, approve all contracts for retail sale and order wheeling; prohibition against buyout of existing small power producers’ rate orders.

**RSA 362-C:1 et seq.**
Authority of NHPUC to approve reorganization of PSNH and procedures for regulation of PSNH under the reorganization plan.

**RSA 363:1-21 et seq.**
Enabling statute for the NHPUC, providing for appointment, removal, compensation, etc. of Commissioners, structure and composition of staff; authority for alternative forms of regulation: procedural and ethical guidelines for the operation of the Commission and authority to contract for power.

**RSA 363:22-23**
Jurisdiction for NHPUC to investigate interstate rates, fares, and charges and right to petition any federal government department for relief.

**RSA 363:28**
Authority for creation of Office of Consumer Advocate.

**RSA 363:30-36**
Procedures to designate advocacy and advisory staff and assess costs if necessary.

**RSA 363-A:1 et seq.**
Authority for the NHPUC to assess expenses of the NHPUC against certain utilities.

**RSA 363-B:1 et seq.**
Procedure for termination of certain utility service.

**RSA 364:1 et seq.**
Jurisdiction of NHPUC to investigate the public need for a municipal utility system and to determine the feasibility of said plan.

**RSA 365:1-21, 23, 25 et seq.**
Procedures governing complaints against public utilities; NHPUC investigations of public utilities; proceedings before the commission; reparations, fees and costs as well as penalties and other sanctions for noncompliance.

**RSA 366:1 et seq.**
Authority of the NHPUC over the sale of utility securities to employees, over contracts between utilities and affiliates and over information disclosing interest in utilities and affiliates.
<table>
<thead>
<tr>
<th>RSA Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>RSA 369:1 et seq.</td>
<td>NHPUC authority over public utilities and their financings - sale of securities, mortgages, short-term debt, long-term debt, etc.</td>
</tr>
<tr>
<td>RSA 370:1-9</td>
<td>Authority of the NHPUC regarding service equipment of public utilities, including the determination of units of service, standards for meter accuracy and related enforcement procedures.</td>
</tr>
<tr>
<td>RSA 371:1 et seq.</td>
<td>Authority of the NHPUC over public utility condemnation proceedings and rights in public waters and lands.</td>
</tr>
<tr>
<td>RSA 374:1-5, 7-19, 21-28, 30 et seq.</td>
<td>General regulations governing NHPUC, including general supervision of public utilities, procedures for utility’s failure to perform duties; procedures for determining when competition in local exchange telephone service is in the public good; authorization for electric service pilot program; underground utility damage prevention system (Dig Safe).</td>
</tr>
<tr>
<td>RSA 374-A:1 et seq.</td>
<td>Authority of the NHPUC over electric utilities participating in power facilities to be placed in service in New England.</td>
</tr>
<tr>
<td>RSA 374-B et seq.</td>
<td>Authority of NHPUC to approve issuance of municipal electric revenue bonds.</td>
</tr>
<tr>
<td>RSA 374-F:1 et seq.</td>
<td>Authority and procedures for NHPUC to restructure electric utility industry and implement competition in retail electric service for all customers by the earliest date possible consistent with the public interest.</td>
</tr>
<tr>
<td>RSA 378:1 et seq.</td>
<td>Authority of the NHPUC and procedures regarding public utility rates, fares, charges and prices; prohibition against CWIP in rates; annual conservation and load management filings required; biennial least cost planning filings required unless waived by NHPUC.</td>
</tr>
<tr>
<td>RSA 674:30</td>
<td>Authority of NHPUC to exempt structures used by a public utility from municipal regulation.</td>
</tr>
</tbody>
</table>
OFFICE OF CONSUMER ADVOCATE

RSA 363:28  The Office of Consumer Advocate shall be an independent agency administratively attached to the Public Utilities Commission.

The Office of Consumer Advocate is an independent agency administratively attached to the Public Utilities Commission.

The Office of Consumer Advocate (OCA) was originally formed in 1976. The present structure of the OCA under RSA 363:28 was established on August 30, 1999, by several amendments to RSA 363:28. The basic changes on August 30, 1999, provided that the Consumer Advocate is henceforth to be an unclassified State employee position and that the Advisory Board is now statutory rather than voluntary. RSA 363:28 provides that the office represent the interests of residential ratepayers in any forum in which those interests might be effected. RSA 363:28 also provides for five permanent positions to serve those interests, four of which are classified. At this time all positions are filled.

As a governmental agency of only five persons, it is not possible for the OCA to participate in each of the cases at the Commission, which can exceed 300 in any given year. Nor is it necessary for the OCA to participate in each of these cases since the Commission and Staff is established to deal with this large volume of cases. Instead the OCA attempts to keep informed on each case to the extent necessary to determine the cases which involve a significant precedent, or which will cause a particularly burdensome economic impact on residential ratepayers. The OCA then attempts to focus its energies in a manner that will serve to either sharpen the issues for the Commission or present a favorable case on behalf of residential ratepayers. It is important to note that the OCA can appeal decisions of the Commission whereas the Staff cannot. This means that in addition to appealing decisions based on evidence the OCA has offered, the OCA can also appeal based on evidence any other party has provided, including the Commission’s Staff, if appropriate and desirable.

In an effort to obtain an objective view of the needs and desires of residential ratepayers, the OCA has historically had a voluntary Advisory Board which has provided constructive direction by its members on the issues facing the Commission. The new Board is designed to achieve the same results and to reflect a broad cross-section of interests. The new nine member Board has members appointed as follows:

(a)  Three members appointed by the speaker of the house. One shall represent the interests of residential ratepayers; one shall represent the interests of the elderly; and one shall be a member of the public.

(b)  Three members appointed by the senate president. One shall represent the interests of residential ratepayers; one shall represent the interests of the disabled; and one shall represent environmental concerns.

(c)  Three members appointed by the governor and council. One shall represent the interests of persons of low income; one shall represent the interests of small business owners; and one shall represent the interests of residents of low-income housing.

The previous Advisory Board’s participation has been valuable in pointing out particular concerns of the various groups of ratepayers and methods to resolve competing interests of those residential customers. It has brought up questions, and provided
insights on how to approach issues.
With the current case load at a point where it is impossible to keep up with daily demands and still remain reflective enough to prioritize and keep the issues in perspective, the new Advisory Board will continue to assist the OCA in reaching policy decisions and establishing priorities.

The following summary by utility industry gives some indication of the OCA’s more important participation in the regulatory process on behalf of residential customers over the past two years. In addition to industry specific issues, the OCA has attempted to provide some input to the Legislature.

**ELECTRIC INDUSTRY**

Pursuant to RSA 374:F, the OCA has focused most of its resources on restructuring the electric industry in order to achieve the dual objectives of effective competition and savings for residential ratepayers. In line with those objectives we have participated in the legislative, judicial and regulatory arenas on matters involving Connecticut Valley Electric Company (CVEC), Public Service Company of New Hampshire (PSNH) and Granite State Electric Company (GSEC).

In spite of considerable effort on behalf of the Commission, its Staff, the OCA, the Legislature and Governor, restructuring has been tied up in Federal District Court in Rhode Island for 2½ years without a hearing on the merits. During this time the Commission approved a restructuring Settlement submitted by Granite State Electric Co., a case in which the OCA was very active. The Commission also rejected a Settlement by Unitil Company (consisting of Concord Electric Co., and Exeter & Hampton Electric Co.), which the OCA supported. CVEC is not only tied up at the Federal District Court in Rhode Island, but some of the most important issues are currently being litigated at the Federal Energy Regulatory Commission (FERC). At the end of the biennium, PSNH and the Governor’s Office announced a Settlement to be presented to the Commission to address and resolve all issues involving PSNH and restructuring.

Another significant electric utility issue involved the Commission’s examination of a proposal by a company in England, National Grid Group (NGG), to purchase the Granite State Electric Company. The OCA opposed the merger because it exposed ratepayers to a substantial risk of paying for the premium over book value paid by NGG. Furthermore, the merger did not provide for a share of the gain on sale of assets to benefit ratepayers.

**THE TELEPHONE INDUSTRY**

The OCA has worked to achieve competitive choice in all aspects of this industry. This advocacy has led us to become involved in many dockets relating to the implementation of the 1996 Federal Telecommunications Act in New Hampshire. OCA actively participated in the SGAT proceeding, a prolonged docket to determine terms and prices at which Bell would make available to others the unbundled network elements necessary for competitors to provide telecommunications service in the State. OCA also advocated pricing consistent with SGAT as a benchmark for Bell Atlantic’s pricing of special contracts in order to create a level playing field and to promote competition for local telephone services. In the dark fiber docket OCA supported a competitive supplier’s right to use excess fiber installed by Bell Atlantic and not needed to service existing customers. OCA has participated in an ongoing docket opened in order to evaluate and remedy various congestion issues which are impacting the quality of telephone service for local New Hampshire users.

In the Area Code Docket, concerning the impending exhaustion of numbers in the 603 area code, OCA participated in hearings at the Commission as well as in a series of evening forums to solicit customer opinion on the various area code options. On the Advisory Board’s
Recommendation, the OCA advocated a geographic split in the event New Hampshire exhausts its available numbers. Despite arguments by OCA and other parties, the Commission elected to adopt an overlay area code if an additional code is needed. OCA also pushed for various number conservation measures at the area code proceeding and supported the Commission’s petition to the Federal Communications Commission (“FCC”) to allow the State expanded authority to implement various number conservation methods. OCA filed comments with the FCC on various methods to conserve numbers and prevent implementation of an additional area code. The OCA has also filed comments in various FCC dockets involving access charge reform and other issues impacting New Hampshire telephone customers.

The OCA participated in proceedings involving various independent telephone companies in the State. In a telephone docket on overearnings and compliance with Commission directives OCA worked closely with Commission staff and was instrumental in the Commission’s implementation of the highest penalties (other than safety penalties) ever levied against a utility. A stipulation in that case also requires ongoing verification of compliance issues. OCA represented residential ratepayers in an overearnings proceeding with Granite State Telephone and in merger and overearnings dockets for Contoocook Valley Telephone/Merrimack County Telephone. In each of these dockets OCA helped to secure significant benefits for ratepayers. OCA continues to push for lower earnings in the ongoing TDS Telephone overearnings docket.

GAS INDUSTRY

The OCA participated in a generic collaborative proceeding on expanding gas choice to all customer classes. We supported an expansion of choice for commercial and industrial customers, as long as it did not result in cost shifting to the residential class. As far as residential choice was concerned, based on the ratepayers very high level of satisfaction with their current gas utilities and the lack of success in residential choice programs in other states, both the OCA and Advisory Board decided, and then convinced the collaborative participants, that the time was not ripe for residential participation.

The OCA also participates in Cost of Gas Adjustment proceedings when issues arise which are of particular concern to residential ratepayers. The OCA was involved in the environmental and financial impacts related to the clean-up of various coal gasification sites around the state and supported the settlements reached there. The recovery mechanisms are structured to cast as wide a net as possible to collect the necessary funds from all who bear any responsibility.

We also actively participated in settlement discussions and ultimately a settlement resolving all issues related to abandonment costs of the Wells LNG Tank investment by Northern Utilities, Inc.

The OCA supported the Acquisition of Keene Gas Corp., while bearing in mind the potential risks to ratepayers of environmental remediation in Keene.

WATER INDUSTRY

Recognizing that water plays a critical role in the standard of living for each and every New Hampshire citizen, the OCA has participated in a number of dockets before the Commission over the last two years. The OCA’s participation addressed issues ranging from rate increases to Safe Drinking Water laws to Main Extension policies. Such diversity in the range of issues facing the water industry and its customers has been a challenge for the OCA considering its limited resources and we have reduced our level of participation in this area to focus on issues which demand more immediate attention.

The future of the water utility industry in New Hampshire, as far as
rates and service are concerned, is in our opinion, uncertain. Typically water systems are small in size and lack the resources to adequately address the formidable challenges of meeting the ever increasing demands of customers. Despite these challenges, the OCA will continue to contribute, as resources permit, to the process of resolving issues as they develop.