Bill as Introduced

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1999 SESSION

99-0186
03/09

HOUSE BILL ***314***

AN ACT relative to the escrowing of certain utility payments.

SPONSORS: Rep. Bradley, Carr 8

COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This bill requires the governor, under certain circumstances, to direct the treasurer to place up to 15 percent of moneys due to a utility for electric power supply to the state in an escrow account. Upon such action by the governor, other ratepayers may also escrow a percentage of moneys due to the utility.

. . . . . .

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

99-0186
03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

AN ACT relative to the escrowing of certain utility payments.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Findings. The general court finds that:

I. New Hampshire has the highest average electric rates in the nation and such rates are unreasonably high. The general court also finds that electric rates for most citizens may further increase during the remaining years of the Public Service Company of New Hampshire rate agreement and that there is a wide rate disparity in electric rates both within New Hampshire and as compared to the region. The general court finds that this combination of facts has a particularly adverse impact on a majority of New Hampshire citizens.

II. New Hampshire's extraordinarily high electric rates disadvantage all classes of customers: industries, small businesses, and captive residential and institutional ratepayers and do not reflect an efficient industry structure. The general court further finds that these high rates are causing businesses to consider relocating or expanding out of state and are a significant impediment to economic growth and new job creation in this state.

III. In 1997, Public Service Company of New Hampshire was scheduled to return to traditional ratemaking and was directed by the public utilities commission to participate in a rate case proceeding pursuant to the agreement between the state of New Hampshire and Northeast Utilities.

IV. Although a rate case proceeding was commenced, such rate case proceeding has not been concluded and is presently enjoined by a Federal Court at the request of Public Service Company of New Hampshire, thereby preventing the state from exercising its appropriate police powers to protect the citizens of New Hampshire from the abuse of monopoly practices.

V. Authority to escrow certain moneys due to Public Service Company of New Hampshire is an appropriate exercise of the power granted to the general court by Part II, Article 83 of the New Hampshire constitution to "enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against."

2 New Subdivision; Escrow of Utility Payments. Amend RSA 9 by inserting after section 28 the following new subdivision:

Escrow of Utility Payments

9:29 Withholding of Utility Payments.

I. The governor shall direct the treasurer to withhold up to 15 percent of moneys due to a utility for electric power supply to the state if:

(a) The utility's rates are the subject of a proceeding before the public utilities commission that was commenced more than 12 months previously;

(b) Such proceeding has not concluded due to events outside the control of the public utilities commission and the state;

(c) The public utilities commission has ordered temporary rate reductions pursuant to RSA 378:27;

(d) The governor, based upon information submitted to the public utilities commission relating to the rate case proceeding, finds that the utility has requested only a minor increase in rates or no increase in rates whereas intervenors have represented that the public good requires a substantial additional decrease in rates; and

(e) The amount withheld does not, in the opinion of the governor based upon the considerations in subparagraph (d), put at risk normal operations of the utility in serving its customers.

II. Withholding moneys pursuant to paragraph I shall be presumed to be a matter of sound business practice and in the interest of protecting New Hampshire taxpayers.

III. Upon the withholding of moneys pursuant to paragraph I and the establishment of an escrow account pursuant to RSA 9:30, I, municipalities, businesses, and individual ratepayers may withhold the same percentage of moneys due for electric power supply to the utility designated by the governor pursuant to paragraph I.

9:30 Escrow of Withholdings.

I. The treasurer shall deposit moneys withheld under RSA 9:29, I in a segregated escrow account.

II. Money to be withheld by a ratepayer pursuant to RSA 9:29, III shall be escrowed on a monthly basis either by:

(a) The ratepayer depositing the money in an interest bearing, segregated escrow account established by the ratepayer and notifying the utility of the establishment of the account; or

(b) Upon agreement of the utility and the ratepayer, the utility depositing the money into one segregated escrow account established by the treasurer for the collective withholdings of ratepayers. The utility shall derive such moneys from bill payments made by the participating ratepayers.

III. No utility shall take any action, such as disrupting or threatening to disrupt electric power supply, against a ratepayer because the ratepayer escrows money pursuant to this subdivision.

9:31 Payments From Escrow. Upon conclusion of the rate case proceeding before the public utilities commission or pursuant to a settlement between the utility and the state, payments shall be made, consistent with the rate case or settlement, in the following manner from the specified escrow accounts:

I. RSA 9:30, I, the governor is authorized to draw a warrant for any money in the account to pay any moneys due and owing to the utility; any moneys remaining after payment to the utility shall be deposited into the general fund;

II. RSA 9:30, II(a), the ratepayer shall pay from the account any moneys due and owing to the utility and shall retain the remainder; and

III. RSA 9:30, II(b), the governor is authorized to draw a warrant up to the total amount in the account to be paid over to the utility. The utility shall retain any moneys due and owing to the utility and shall credit the electric bills of participating ratepayers that amount which is due and owing to them.

3 Severability. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect any other provision or the application of such provision to other persons or circumstances, and to this end the provisions of this act are severable.

4 Effective Date. This act shall take effect upon its passage.

Committee Minutes

Date: June 30, 2000
Time: 10:00 a.m.
Room: Room 105A State House

The Senate Committee on Energy and Economic Development held a hearing on the following:

HB 314 (New Title) relative to the escrowing of certain utility payments

Members of Committee present: Senator King
Senator Fraser
Senator Disnard
Senator Johnson

Due to tape malfunction, no transcript is available for HB 314.

Respectfully submitted,

L. Gail Brown
Senate Secretary
10/14/02

HB

Date: June 22, 1999
Time: 3:15 p.m.
Room: State House, Room 105-A

The Senate Committee on Energy and Economic Development held a hearing on the following:

HB 314 relative to the escrowing of certain utility payments

Members of Committee:

Senator F. King, Chair
Senator Below, Vice Chair
Senator Cohen
Senator Disnard
Senator Hollingworth
Senator Johnson
Senator Roberge
Senator Fraser

The Chair, Senator King, opened the hearing on HB 314.

Senator King: This is a bill that requires the Governor, under certain circumstances, to direct the Treasurer to place up to 15% of monies due to a utility for electric power supply to the state in an escrow account. Upon such action by the Governor, other ratepayers may also escrow a percentage of monies due to the utility.

The bill is sponsored by Representative Bradley, who I don't see here. I believe he is meeting with his committee at this time. I told him I would open the hearing and ask for anyone who had a desire to testify on this bill to do that. I have one person, Representative Gilmore, who is going to speak for Representative Bradley.

Representative Gilmore: Representing everybody actually. This bill, as you see it now, is actually has a name as sponsor, it is actually my amendment to a bill. We took what was the bill and gutted it. So, in one sense, this is essentially my bill.

For the record, I'm Gary Gilmore. I represent Dover, Strafford County District 11.

The escrow bill basically arose out of the Rhode Island court case, the federal court case that happened earlier this year. I'm sorry, but I thought I had the testimony that occurred in that court case, and I don't have it. Because, what occurred in that court case was two notable things. One, the federal district courts suspended the rate case and he did it on the basis that it was part of restructuring. Now, Legue was informed that it was part of restructuring on the basis of the comments of the NU lawyer, Mr. Nolin, Connecticut lawyer who, on two occasions in the testimony in that court case, referred to the ongoing rate case as part of the restructuring. Anybody in New Hampshire who has been familiar with what has happened in the state in the last ten years knows that, in 1989 when we agreed to the NU agreement, that in 1997 when we came out of the 5.5% rate increases, there was going to be a rate case. That was the rate case that was begun in 1992 and has often been delayed.

Basically what this bill does is allow the Governor, under certain circumstances, to escrow a certain amount of money. By the Governor taking such an action, then it would allow other consumers ratepayers for businesses to do the same. It gives flexibility to the Governor of escrowing up to 15%. And, again, she or he would have to justify it under certain circumstances to their satisfaction. Of course, there would be a true up at the end of such time when the rate case was adjudicated.

This bill passed the Science, Energy and Technology Committee with a unanimous vote, a very strong unanimous vote. The only debate in Committee wasn't on the bill itself per se. Once you got past the basics and everyone was comfortable with it, the only real debate that occurred on whether the upper limit should be 10% or 15% and a vast majority of the Committee favored 15%.

Again, this bill doesn't mandate the Governor to escrow 15%; only up to that amount at a level which she would feel comfortable.

It is hoped by the Committee, it is strongly hoped by the Committee, that this bill would not be necessary to implement, but it is also strongly felt by the Committee that it might be under certain circumstances. Given past history, it is a necessary and prudent insurance policy.

I believe I speak on behalf of myself and on many members of my Committee, would strongly urge this Committee to pass this and, again, like most members of my Committee, I would also hope that it would not be necessary,

that the settlement would reach fruition and everybody would be comfortable with it. But, barring that, that there would be a rate case or other means and we would be comfortable with that and that such a bill would not be necessary. Again, if we are to learn anything from the past, we have known where this rate case has been delayed unnecessarily most recently and that should not occur, continue to occur.

So, again, I would strongly urge the Committee to pass this and I would welcome any questions.

Senator King: Questions? Senator Johnson?

Senator Johnson: Thank you, Mr. Chairman. Representative Gilmore, not being really part of the, closely part of the process, could you just give me a reason for escrowing the money?

Representative Gilmore: Okay. I didn't explain it very well and I recognize that. When PSNH went to court and sought to delay the rate case, it was felt by the Committee and certainly by myself that this was a very unnecessary and prudent action and one that necessarily complicated a situation. The rate case was to have occurred in 1997. We were to be under an adjudicated rate schedule by then. That has not occurred yet. There have been numerous delays. This last delay was totally unnecessary and we believe should not have occurred. If the utility was to continue in such regard and the settlement fell apart, which we don't believe would happen at this point in time, the PSNH has the opportunity to go back to Mr. Legue and reinstate its order that the rate case cannot continue. We feel that, should it fall apart, such a bill as law, that PSNH would not take such a hasty action. They realize there are some ramifications for its behavior, something they didn't realize back in the spring when they did go to federal court.

Senator Johnson: Just to follow up on that, just for my own information. Are we talking about Public Service or are we talking about the court decision?

Representative Gilmore: We're talking about Public Service's ability to put off the rate case. Yes, we're talking about Public Service.

Senator Johnson: Thank you.

Senator King: Other questions?

Senator Johnson: Gary, I always get nervous when legislation is before us identifying a particular entity. I assume before this bill came across that somebody checked on the constitutionality of identifying one utility to the

exclusion of others. I apologize for not being an attorney. No, I don't apologize for that. But, sometimes, any time a certain entity is singled out to be the subject of legislation, I get nervous. As the propriety of such legislation, was this investigated in the House I guess is my question.

Representative Gilmore: It was certainly discussed in that nature. Obviously, as you read the findings, they reference, as findings certainly do, they reference certain specific actions that have occurred. Unfortunately, the findings are such that this is PSNH that has been doing these things and this is PSNH that we feel has acted dishonestly and certainly not in the best interests of the state in their behavior. So, in a certain sense, while it may well be targeted toward PSNH, other utilities have looked at it and I know that 'cause I have talked to several of them, as to how it applied to them. In terms of my discussions with Unitil and the Co-Op and with Granite State, they don't feel this would ever apply to them because they don't engage in such behavior. I recognize the concern about targeting one utility, but, again, this is reality, this is what one utility has done.

In terms of constitutionality of the escrow, I'm certain that has been looked at by a number of sources. Of course, escrowing money is not an unknown factor in daily life. As we are well aware, Cabletron escrowed a certain percentage of monies when they had a conflict with the state on the BIA. As we know, that conflict was resolved and everything was, you know, evened out as to nobody thought they got cheated. So, it's an uncommon event perhaps for the state to be taking, but certainly one that has been taken by other entities and certainly one that has reached amicable resolution when it has gone to that extent.

Again, I would also say that we hope this isn't implemented. This is looked at primarily as an insurance policy so that certain behaviors, certain actions are not taken in the future and to give us a means of countering them should they occur.

Senator Johnson: Follow up?

Senator King: Sure.

Senator Johnson: Thank you. You use the term dishonest so far as PSNH is concerned with some practice.

Representative Gilmore: Yes. And, I'm not going to back away from that.

Senator Johnson: Well, what was that?

Representative Gilmore: Again, in the discussions that occurred in federal court in Rhode Island earlier this spring, I'm sorry I don't have the transcript of the hearing here 'cause I meant to bring it. On two occasions in that transcript we have the attorney for PSNH, Mr. Nolin, saying or eluding, in a lawyerly fashion, how the restructuring, that the rate case was part of the restructuring docket. It is on the basis of that testimony in that federal court litigation, that Judge Legue enjoined the rate case from continuing.

Now, there was an agreement after this legislation, HB 314, passed the House. Miraculously, PSNH then went back to federal court and said the rate case could continue under certain limitations. That may or may not have had anything to do with 314. Many of us believe it must have, but that's immaterial. But, you know, certainly the actions of the lawyer for PSNH, for NU, in federal court, I think, were extremely dishonest and were that attorney a member of the New Hampshire, I think appropriate action should be taken before the Professional Conduct Committee for the way he represented that case because it was dishonest.

Senator Johnson: Did the federal judge who heard this testimony take any action?

Representative Gilmore: Yes, he did.

Senator Johnson: What did he do?

Representative Gilmore: He enjoined the rate case from continuing.

Senator Johnson: Well, I mean, I guess my question is, did he take any action against this attorney?

Representative Gilmore: No. He believed the attorney.

Senator Johnson: Thank you.

Senator King: I guess I will pursue that a little bit. Really what happened, you are really questioning the actions of the lawyer in making his argument. He was doing his job and I assume that your discomfort is the fact that he prevailed.

Representative Gilmore: My discomfort is the fact that this rate case has not occurred and it should have occurred in 1997. We have no basis...

Senator King: If you're not happy with what the judge did, when the state went to pass this legislation, the PUC acted on the legislation. The

Legislature passed the bill that said we will have competition and the PUC said go ahead and prepare that. They made their findings. The utility took exception to that in court, which we would agree, we might not think it was the right thing to do, but the fact is, they took the advantage that they had in the law and they are pursuing it. I would be interested in knowing what... Did our attorneys representing New Hampshire argue that the rate case should go forward?

Representative Gilmore: The proceeding in court was a little bit more complicated 'cause it involved other issues and they did, in their argument, say that this is not part of the restructuring docket. I actually have no complaint with NU and PSNH from taking the state to court on the larger issue. My complaint is solely on the basis of combining the restructuring docket with the NU agreement in 1989 and saying they are the same.

So, I am not criticizing them for taking the state to court. Anybody, any citizen of the state has the right and I believe are right to take the state to court whenever we pass any legislation that they believe is unconstitutional. The court will eventually rule on the merits of that argument. My complaint is when a company knowingly goes to court and, under false pretenses, says that a is b, that apples are oranges. That is my complaint.

Senator King: That happens all the time in court.

Representative Gilmore: I suspect you're right, Senator.

Senator King: I don't necessarily think it is dishonest. We may not like it, but I assume one problem that the Committee may have certainly is the word dishonest. We might question whether what they did was in the best interests of the state, but I think they took their right under the law and we who perhaps think the rate case should have gone forward aren't happy with the determination. Since then, they have allowed it to go forward.

Representative Gilmore: Well, again, after the passage of 314, yes, they did get together and say yes, under certain circumstances and in this order, it can go forward.

Senator King: I guess the issue here is for the Committee to decide. Are there any other questions? Thank you very much. I am going to call on Gary Long. Senator Rubens, do you have a card?

Gary Long: Thank you. I'm Gary Long. I work for Public Service Company of New Hampshire and I would urge the Committee not to pass HB 314.

It is based on a false premise that the discussion is starting to get to and also it doesn't really do anything for anybody, but it does cause harm to parties and I will explain what I mean by that.

I think, as you can see, this bill started in reaction to a frustration that people were having with an oral decision that a judge made in Rhode Island and it has kind of kept a life of its own since then. What happened was the judge went further than we had asked in an oral order to enjoin the rate case that was never PSNH's intention to enjoin the rate case in that proceeding. We felt the judge went further than what we had wanted. There was some confusion in the record of what the lawyer said and how it was interpreted. We thought that there was some confusion and not interpreted correctly. But, the bottom line was that the judge went further than what we thought.

So, we worked cooperatively, regardless of 314, we worked cooperatively with the lawyers for the other parties and, in the process of issuing a written order, which always happens after the judge gives that oral order, it is followed up with a written order. We had consensus with other parties on the format of the written order and the written order did not stay the rate case, which was always our intent. It was never our request that the rate case be stayed. Unfortunately, it caused a stir in the House and this bill to come about. So, the provision of the bill that says that the rate case is stayed by the federal court, that's not true. It was at one point in time, but that has been remedied.

The other thing is, and probably more substantial, is this bill doesn't do anything for anybody. Customers still are required to pay 100% of their electric bill. Customers still are paying their electric bills. What they have to do is go through some sort of a hassle and administrative process so that they can escrow part of their bill. So, it is giving customers sort of a hassle of setting up an escrow, but it doesn't save them any money and they still have to pay the bill.

The problem with comparing PSNH to the Cabletron situation of a few years ago is that PSNH is a regulating company with regulated rates. So, we are not similar to the situation that Cabletron may have found itself in some time ago. We are a regulated company. The PUC has jurisdiction over our rates and our rates are set as temporary right now and the PUC has authority over that. So, this bill causes difficulties for customers without lowering their bills. It does not give the PUC any more authority than it already has. It already has authority to rule on our rates without this bill. This bill doesn't give them any more authority than they currently have.

For PSNH, it is problematic for us. It has the potential of lowering our revenues by up to 15% without any related reduction in expenses or costs. So, it could create several problems for PSNH, which bills do we pay, which bills do we not pay, how much revenue do we lose and what kind of accounting situation do we get into under that circumstance. So, this bill really doesn't do anything for anybody, but it does harm people and I would urge you not to pass it.

Senator King: Thank you. Questions? Senator Disnard.

Senator Disnard: Sir, I tried to follow you at the beginning and I got mixed up and I need some help.

Mr. Long: Okay.

Senator Disnard: It said somewhere in here, which I think the previous speakers were alluding to. You said this wasn't true, but it was at one time. I'm not trying to be difficult, but what are you referring to?

Mr. Long: On page 1, under findings one, IV, lines 17 through 20. It says "such rate case proceeding has not been concluded and is presently enjoined by a federal court at the request of Public Service Company of New Hampshire." That's the part that's not true. It's not presently enjoined by the federal court.

Senator Disnard: You said it was at one time? I just don't...

Mr. Long: Judge Legue issued from the bench an oral decision that said that he was going to enjoin the rate case and instructed the parties to draft a written order. When the parties drafted the written order, the parties came to a consensus on what that written order should say and that written order did not enjoin the rate case. The parties agreed that that was not what PSNH had intended to happen. So, it is fixed in the written order.

Senator Disnard: Thank you.

Senator King: Further questions? I guess the bill doesn't do anything anyway unless the Governor decides, in this case Governor Shaheen, decided she wanted to do this. Right?

Mr. Long: Well, that's true. But, to the public at large and to the financial community, they are gonna look at this and view it very negatively. Lawyers have to look at it. I think it also puts the Governor in a difficult situation that she doesn't need to be into for a bill that doesn't do anything.

Unidentified speaker: Well, I think the bill was obviously intended to do something. It was intended to move the rate case forward. I suspect that was the motivation. We could ask the sponsors here if that was the intent, but it is a fact that you haven't had a rate case since when?

Mr. Long: Well, the rate agreement, there was a rate proceeding in '89. Since that time, there hasn't been what we call a base rate case. We filed all the information in May of 1997 and that is what you all have been calling the two-year rate case. The data has been updated during that period of time. There has been thousands of data requests and information has been exchanged in that proceeding so far.

Unidentified speaker: There has been no determination to what was an historical rate case dating back to, starting... It has been ten years since someone made a determination about whether the rates correlate with your cost of doing business.

Mr. Long: That's correct. The base rate.

Unidentified speaker: And, that's an unusually long time period for a utility.

Mr. Long: Yes, unusual because the rate agreement specified what the rates were going to be for seven years. It is also unusual that a rate case would take two years because normally a rate case would be decided within a year under New Hampshire law. This one, because of all the circumstances, has gone on longer. But, the quid pro quo in all that is the rates were deemed temporary, which means you can take longer and still reach a decision because they are still subject to adjustment.

Unidentified speaker: When were the temporary rates effective?

Mr. Long: June, I think it is July 1, 1997.

Unidentified speaker: What happened at that time to my rate?

Mr. Long: Nothing happened, but the rates were deemed to be temporary. That has a different status of law.

Unidentified speaker: So, my rates didn't go down?

Mr. Long: No. But, whatever decision the commission were to make, if it were to make a decision in a case, would be retroactive to July of 1997.

Unidentified speaker: So, what it said in effect was that, as of that date, any future decisions would be retroactive to that date, up or down, I assume.

Mr. Long: Up or down, yes.

Senator King: Thank you very much. Senator Rubens?

Senator Rubens: Thank you very much members of the Committee. I will waive formality by not having a coat. I heard you were doing that yesterday also.

Unidentified speaker: I want everybody to know that we purposely put this off until today. So, we knew it was going to be a long hearing. It's more comfortable today and we knew it would be. That's why we did that.

Senator Rubens: Obviously, the genesis of this bill is frustration over the rate case and it may be partially made moot. You will notice on my card I don't take a position either for or against the bill. I would like to present some information to the Committee that may be useful in deciding what to do with it.

The rate case is ongoing, but as you probably know, Northeast Utilities has filed before the Public Utilities Commission to discontinue the rate case. So, the question of whether the rate case should continue or not is still before us, the PUC and the public, and is still obviously a point of major contention.

Some new information that may be helpful to the Committee in determining whether this bill would be useful or not is some new information that was brought before the Public Utilities Commission a week ago Monday, which, in my mind, slam dunks any allegation there is an ongoing contract between Northeast Utilities and the state or the Public Utilities Commission which obligates rates to remain higher than they would otherwise be. This is relative to the stranded cost proceeding. It is pretty well proven, through a chain of records and documents that Northeast Utilities requested what would be called a contract which would persist out beyond 7/1/97 and the evidence presented by the PUC staff in the form of documentation provided by the chief negotiator for the state slam dunks that assertion.

That information was given to both our Supreme Court by Northeast Utilities that there is an ongoing contract persisting out into the future. That information was also given to the Rhode Island court. It is proven and will be determined by the PUC, in my opinion, to be absolutely false and I think the company knew it at the time they made those assertions, both before the

PUC and the Rhode Island court and the Supreme Court in the state of New Hampshire.

Unidentified speaker: July 1, 1997 being the date of the last of the automatic increases?

Senator Rubens: Right. It would have terminated, at which time, in the PUC's docket at the time approving the agreement, the PUC states and everyone knows this, that we go back to conventional rate making at the end of that period of time. Now that has been the subject of major dispute whether that statement by the PUC in the rate order is true or not. We now have evidence, documentary evidence, presented a little over a week ago showing that the PUC statement that we go back to ordinary rate making in '97 is absolutely consistent with that chain of records. There is no really viable documentation or argumentation otherwise.

Some other new information. The rate case, as it goes on, the number in here of 15% is picked out, up to 15%. PUC staff feels that a conventional rate case reduction, which can take effect relatively shortly, maybe by the end of the year, in the range of 10% to 15% is very well possible through just two lines of logic. Simply reducing our Northeast Utilities New Hampshire equity base down to a rate of return which is traditional would yield somewhere in the range of 10, 11 or 12% and some nickel and dime stuff, some smaller stuff, would add up potentially to as high as a 15% conventional rate case cut, which could take effect right away without very much viable legal argumentation as to the inability of the PUC to implement, simply by reducing PSNH's $650 millionish equity base from its present 17% rate of return down to 11. You can pick up, after tax, about a $60 million rate cut and by reducing the rate of return on the acquisition premium from 11 down to 9% rate after tax, produces another $25 million. That's pushing you up to 10 or 11% rate reduction there, adding in some of the nickel and dime stuff. The PUC staff thinks that is a viable claim, and they are saying this, a 15% reduction, is achievable.

Tape change.

Senator Rubens: ...going to 7/1/97. So, if there were to be a rate cut, it would be retroactive back to that time. In the deal, the bail out deal being proffered to the state now, there is a chart showing a rate spike at the end of this year. The retroactive nature of this rate reduction in the rate case would wipe out that rate spike. So, it is important for the Legislature to know that information being presented to you is less than wholly accurate and the option of the ongoing rate case yielding what this bill seeks, 15% reduction, is viable and the Legislature should support that proper process and I think the

HB 314

Legislature should send a signal to the PUC which is under intense political and procedural pressure to drop this rate case to achieve what this bill seeks. This Legislature, particularly the Senate, should send a signal, by whatever means, to the PUC to keep going to give the ratepayers that method, that benchmark to compare any deal that might be proffered against a very mainstream method of reducing rates, conventional rate case, rate reduction.

Thank you very much.

Senator King: Questions? Thank you. Does anyone else wish to testify on HB 314? Hearing none.

Representative Gilmore: I would just like to add... Thank you, Mr. Chairman. I did find the court transcript from April 7, 1989, 1999. On page 51 and 52 and again on page 67 and 68, when Mr. Nolin lumped together several things, several issues with the restructuring case along with the so-called traditional rate case and he asked that they be frozen. Again, on page 67 and page 68, he again asks the judge to freeze them. So, I would somewhat dispute Mr. Long's testimony because I think the words of their attorney are fairly clear that they did seek at that point in time to enjoin.

Unidentified speaker: But there has since been agreement between the company and the parties, and I would assume parties would include the state of New Hampshire so the rate case could go forward.

Representative Gilmore: Yes. Mr. Long was correct in saying that the bill is somewhat wrong in that, when it was drafted, the state was enjoined and certainly, in the findings on the first page, in IV, certainly language could be added that it has been enjoined, has been or even take that out. Is presently is not accurate. It was accurate at the time that the Committee heard this, at the time the House passed it without any debate. Other than that, I think it is imperative that we hold this out there. Again, if not in the interest of pursuing it because we do hope the settlement will achieve that, but should a settlement not occur, it would be nice to be able to have a little leverage and not have a company that has successfully gone to court in the past going back to court and making that same argument. So, again, I would urge the Committee.

Oh, the other thing that did come up is that nobody would be mandated to escrow money. That would certainly only be at the ratepayers' option, the customers' option and there would be no mandate to that aspect. If somebody wished to do so out of whatever frustration or whatever, that would be allowed should the Governor, should the Governor take action. This is purely at, the Governor totally controls the situation. She is not mandated to take

action; she can only take action if she believes it is proper and prudent. We are not mandating actions; we are just allowing them to occur should it be deemed appropriate.

Thank you, Mr. Chairman.

Senator King: Thank you. I am going to close the hearing on HB 314.

Hearing concluded.

Respectfully submitted,

L. Gail Brown
Senior Senate Secretary
9/8/03

Because this testimony is being transcribed four years after the recording, transcriber is not always able to recognize voices and/or identify speakers. Therefore, the transcriber has used "unidentified speaker" in those instances.

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON **Energy Economic Development**

to which was referred **House Bill 314**

AN ACT **(New Title) relative to the escrowing of certain utility payments.**

VOTE: **3-0**

Having considered the same, report the same with the following resolution:
Resolved, that it be sent to: **INTERIM STUDY.**

Senator Frederick W. King, Sr.
For the Committee

|HB314 Docket

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Bill Title: (New Title) relative to the escrowing of certain utility payments.

Date	Body	Description
1/7/1999	H	Introduced and ref to Science, Tech & En; HJ15, p188
1/28/1999	H	Copy to Chairman on 01/28/1999 due on
1/28/1999	H	Hearing on Feb 03 11:00 Rm304,LOB
3/4/1999	H	Subcom work session Mar 10 10:30 Rm304,LOB
3/18/1999	H	Subcom work session Mar 24 11:00 Rm304,LOB
3/25/1999	H	Subcom work session Mar 30 10:00 Rm304,LOB
4/1/1999	H	Subcom work session Apr 7 10:00 Rm304,LOB
4/8/1999	H	Subcom work session Apr 13 (after caucus) Rm304,LOB
4/15/1999	H	Subcom work session Apr 20 11:30 Rm304,LOB
4/21/1999	H	Subcom work session Apr 27 10:00 Rm304,LOB
4/21/1999	H	==CANCELLED==Subcom work session Apr 28 10:00 Rm304,LOB
4/27/1999	H	Resched Subcom work session May 5 10:00 Rm304,LOB
5/4/1999	H	Subcom work session May 6 (if needed) 10:00 Rm304,LOB
5/25/1999	H	Maj Report OTP/AM for June9 (vote 16-0;Reg)
5/25/1999	H	Prop Comm Am{1388}(New Title); HC59, p1603-1604
6/9/1999	H	Comm Am, AA VV; Passed with Am VV; HJ62, p1661-1662 + 1668
6/14/1999	S	Introduction and referring to Energy & Economic Development 6/8/99; SJ 22, Pg.591
6/17/1999	S	Hearing, 6/22/99, Room 105A, SH, 3:15 p.m.
10/14/1999	S	Committee Report, Rereferred to Committee, 10/19/99
10/19/1999	S	Rerferred to Committee, MA, VV; SJ 28; Pg. 816
1/31/2000	S	Committee Report, Interm Study, 2/3/2000 ; SC8, Pg.2
2/3/2000	S	Interim Study, MA, VV; SJ 2, Pg.49

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