

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6346

Joint Petition of Public Service Company of New)
Hampshire, Northeast Utilities and Consolidated)
Edison, Inc. For Approval of Merger)

Order Entered: 3/30/2000

I. INTRODUCTION

This Docket concerns a petition filed by Public Service Company of New Hampshire ("PSNH"), Northeast Utilities ("NU") and Consolidated Edison, Inc. ("CEI") seeking Vermont Public Service Board ("Board") approval, under 30 V.S.A. §107, of the acquisition of NU and its wholly-owned subsidiary PSNH to be accomplished through the merger of CEI and a newly formed public utility holding company ("New CEI"), and the merger of a subsidiary of CEI into NU, with NU being the entity surviving the merger. In this Proposal for Decision, I recommend that the Board approve the proposed transaction.

On January 20, 2000, PSNH, NU and CEI (together "Joint Petitioners") filed a petition with the Board for approval of the acquisition of NU and its wholly-owned subsidiary PSNH (the "Acquisition") to be accomplished through the merger of CEI and New CEI, and the merger of a subsidiary of CEI into NU, with NU being the entity surviving the merger, all upon terms detailed in the testimony of Michael G. Morris and Hyman Schoenblum.

In support of the joint petition, Joint Petitioners submitted the prefiled testimony of Michael G. Morris, Chairman, Chief Executive Officer and President of NU and Chairman of its principal subsidiaries, including PSNH, and the testimony of Hyman Schoenblum, Vice President and Controller of CEI. Copies of the filing were served on the Vermont Department of Public Service ("Department"), a statutory party to this proceeding.

I conducted a prehearing conference in this Docket on February 17, 2000, and established March 2, 2000, as the deadline for motions to intervene. None were filed. Thereafter, the Department, PSNH, NU and CEI entered into a stipulation resolving the issues in this proceeding and waived their respective rights under 3 VSA § 811 to review a proposal for decision, file exceptions, present briefs and oral arguments and convene a hearing.

I have reviewed the petition, the supporting testimony, and the accompanying documents. I conclude that approval of the joint petition pursuant to 30 V.S.A. § 107 is appropriate and that the approval may occur without hearing. The parties have agreed that the record upon which the Board may base its determination in this proceeding shall consist of all testimony, exhibits and data filed by the Joint Petitioners. Therefore, based upon the evidence in the record, the testimony and exhibits presented in the Docket, and the stipulation entered into by PSNH, NU, CEI and the Department on March 10, 2000, I hereby report the following findings and conclusions to the Board in accordance with 30 V.S.A. § 8.

II. FINDINGS OF FACT

In making findings of fact in this case, I have addressed the six broad categories and 15 standards applied by the Board in deciding previous cases under § 107¹ and make the following findings:

A. The Joint Petitioners

1. PSNH is a New Hampshire public utility corporation which does not provide retail electric service to any customers in Vermont. Petition at 2.
2. PSNH owns property in Vermont consisting of a 1.1 MW hydroelectric generating plant in Canaan, Vermont. The entire output of the plant is transmitted via a 34.5-KV transmission line to PSNH's electric system in New Hampshire. Petition at Appendix A.
3. PSNH owns and operates the following electric transmission facilities within Vermont: a 115-KV transmission line running from Littleton, New Hampshire, which traverses nine miles through the towns of Concord and Waterford, Vermont; and certain transmission lines of 345-KV, 115-KV and 69-KV located in New Hampshire which interconnect with other companies' lines at the Vermont State border. PSNH also owns 4.0 percent of the outstanding shares of common stock of Vermont Yankee Nuclear Power Corporation and

1. For a discussion of those standards, see Docket No. 6150, Order of 9/13/99 at 47-48 and Order of 11/5/99 at 3-5.

has contracted to purchase 3.591 percent of its capacity and electric energy. Petition at Appendix A.

4. PSNH receives no compensation in Vermont from retail sales as a result of the properties it owns in the State of Vermont. Petition at 2.
5. NU is a Massachusetts business trust, is the parent entity of the Northeast Utilities holding company system (the "NU System"), is a registered holding company under the Public Utility Holding Company Act of 1935 ("PUHCA") and is owner of 100 percent of the common stock of PSNH. Petition at 2.
6. CEI is incorporated in New York State and is a public utility holding company for Consolidated Edison Company of New York ("CECONY") and Orange and Rockland Utilities, Inc. ("O&R"). Schoenblum pf. at 3.

B. Legal Authority

7. CEI is currently an exempt holding company for the purposes of the PUHCA. NU is a registered holding company under PUHCA. CEI and NU will obtain Securities Exchange Commission approval under the Public Utility Holding Company Act to effect the Acquisition. New CEI will register under Section 5 of PUHCA and will become subject to the restrictions that PUHCA imposes on registered holding company systems. Schoenblum pf. at 11.

C. Services

i. Emergency Services

8. The Acquisition will result in the availability of additional line crews and other personnel to assist PSNH in system emergencies, and the sharing of CEI's expertise in reliability improvement. Morris pf. at 11.

ii. Compatibility

9. PSNH's facilities are today compatible with neighboring systems. Following the Acquisition, New CEI will have a significant presence in the northeast energy market, particularly in the delivery of electricity to retail

customers. It will be the nation's largest electric distribution utility with over 5,000,000 customers and the largest distribution system in both the New York and New England power pools. Schoenblum pf. at 8.

iii. Terms and Conditions of Service

10. No finding is required under this factor because of Finding No.1 that PSNH does not provide retail electric service to any customers in Vermont.

iv. Service Quality

11. PSNH seeks to provide a high quality of service and has plans to improve that service. Morris pf. at 6.

12. According to two recognized reliability surveys of the electric utility industry, CECONY ranked first (best) in 1998 of all utilities for customer system interruption rate (SAIFI). Schoenblum pf. at 27.

13. SAIFI statistics are not expected to change for 1999, even when the July 6-8, 1999 heat wave related outages in New York City are included. Schoenblum pf. at 28.

v. Customer Service

14. No finding is required under this section because of Finding No.1 that PSNH does not provide retail electric service to any customers in Vermont.

D. Facilities

i. Quality of Facilities

15. CEI's financial strength should aid NU in its ability to raise capital to provide system improvements. Technological improvements can be more rapidly deployed because their costs can be spread over a much larger customer base. Morris pf. at 5.

16. New CEI will have a strong regional foundation, which should help provide the scale and scope necessary to invest in infrastructure, utilize advanced technologies in a cost effective manner and better serve customers.
Schoenblum pf. at 14.
- ii. Rate of Investment
 17. NU's existing operating company subsidiaries, including PSNH, will remain as separate operating companies. As a consequence, the merger should not impair PSNH's ability to continue to raise debt or preferred equity capital in the future, and should, instead, enhance such ability.
Schoenblum pf. at 19.

E. Company Structure

- i. Financial Stability
 18. Upon completion of the merger, NU will become a wholly-owned subsidiary of the new holding company, New CEI. Schoenblum pf. at 14.
 19. CEI's total capitalization was \$10 billion as of September 30, 1999, and CEI's market capitalization was approximately \$9 billion on October 6, 1999. CEI's total operating revenues for the twelve months ending September 30, 1999, were \$7.2 billion. Schoenblum pf. at 19 and 20.
 20. CECONY's most recent bond ratings are A1 by Moody's, A+ by Standard & Poor's and AA- by Fitch. Schoenblum pf. at 20.
 21. Prior to the merger, NU has approximately \$3.8 billion in annual revenues. With the merger, New CEI will have over \$11 billion in annual revenues.
Morris pf. at 4.
- ii. Affiliate Interests
 22. There are no affiliate interests which affect PSNH's Vermont properties.
Petition at Appendix A.

F. Personnel

i. Competent Management

23. PSNH plans to continue to have local management that will be attuned to the needs of the communities it serves. Morris pf. at 6 and 7.
24. The key management personnel serving NU's regulated operating companies, including PSNH, are expected to remain in place. Morris pf. at 5.
25. Michael G. Morris, current Chairman, Chief Executive Officer, and President of NU, will continue to be actively involved in the management of NU and its operating utility subsidiaries including PSNH. Morris pf. at 5.
26. Eugene R. McGrath, the current CEI Chairman, President and Chief Executive Officer will continue as Chairman and Chief Executive Officer of New CEI. Schoenblum pf. at 14 and 21.
27. Mr. Morris will continue to serve as President of NU and will become President of New CEI. Schoenblum pf. at 14.
28. CEI's Board of Directors will be increased to include four members from NU's Board, including Mr. Morris. Schoenblum pf. at 14.

ii. Technical Knowledge, Experience and Ability

29. The combined companies, including PSNH, should benefit from an expanded human resource pool which will allow the combined company to draw on a large and more diverse and talented work force. Schoenblum pf. at 9.
30. NU employees, including employees of PSNH, should benefit from CEI's long-term commitment to the career development of its employees, through, among other things, courses and career development programs offered at CECONY's learning center. Schoenblum pf. at 15.

iii. Good Reputation

31. CEI has a good business reputation, and corporate goals that emphasize reliability, corporate service, the environment and safety which are consistent with NU's goals. Morris pf. at 3.

G. Economic Effect

i. Efficiency

32. During the first ten years of the merger, New CEI anticipates approximately \$1.3 billion in net merger savings from the elimination of duplicate corporate and administrative programs, greater efficiencies in operations and business processes and increased purchasing efficiencies. Schoenblum pf. at 16 and Morris pf. at 10.
33. CEI and NU have assembled merger functional transition teams to develop a plan for joining the two companies together. Schoenblum pf. at 26.

ii. Competition

34. CEI supports the restructuring of the electric utility industry and the introduction of competition. Schoenblum pf. at 30.
35. The merger has the potential to enhance competition as both companies have committed to comprehensive generation divestiture programs. Schoenblum pf. at 30.
36. Both CECONY and O&R have rate agreements with their state regulators to implement restructuring, and the New York Public Service Commission has approved CECONY's "Competitive Opportunities Settlement Agreement" which provides for a transition to a competitive electric market in that state. Schoenblum pf. at 4.
37. PSNH, as a result of a settlement agreement reached with the State of New Hampshire that is presently under review by the New Hampshire Public Utilities Commission, will be expected to provide customers with a choice of electric generation suppliers. Morris pf. at 8.
38. The settlement agreement reached with the State of New Hampshire, to which PSNH is a party, specifically contemplated the possibility of an NU merger, but the settlement agreement and the merger are completely

separate and independent and the merger will have no impact on the settlement agreement. Morris pf. at 9.

III. DISCUSSION AND CONCLUSIONS

Under 30 V.S.A. § 107, "[no] company shall directly or indirectly acquire a controlling interest in any company subject to the jurisdiction of the [Board] . . . without the approval of the [Board]." "Controlling interest" is defined as "ten percent or more of the outstanding voting securities of a company" or such other interest as the Board determines "to constitute the means to direct or cause the direction of the management or policies of a company." 30 V.S.A. § 107(e)(1). In order to approve the acquisition of such controlling interest, the Board must first find that it will "promote the public good." 30 V.S.A. § 107(b).

Under 30 V.S.A. § 311, the Board can approve a merger of a company subject to its jurisdiction only if the Board finds that the "merger will not result in obstructing or preventing competition." The Board has previously held that this statutory provision applies to a merger involving a parent corporation of a company under the Board's jurisdiction.²

I have reviewed the stipulation and the evidence in support of it. The Joint Petitioners have agreed that the acquisition will promote the public good of the state of Vermont, and will not result in obstructing or preventing competition. Based upon all of the foregoing and the evidence in the record, I reach the same conclusion. Accordingly, I recommend that the Board approve the petition as described above.

Consequently, I find that the acquisition of Northeast Utilities, and its wholly-owned subsidiary, Public Service Company of New Hampshire, to be accomplished through the merger of Consolidated Edison, Inc. and a newly formed public utility holding company and the merger of a subsidiary of Consolidated Edison, Inc. into Northeast Utilities, with Northeast Utilities being the entity surviving the merger will promote the public good of the State of Vermont. 30 V.S.A. § 107(b). I thus recommend that the Board approve the acquisition and merger.

2. Docket No. 5900, Order of 2/26/97, at 20.

Dated at Montpelier, Vermont this 17th day of March, 2000.

s/David Farnsworth
David Farnsworth, Esq.
Hearing Officer

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings, conclusion and recommendation of the Hearing Officer are adopted.
2. The Board approves the request for the acquisition of Northeast Utilities, and its wholly-owned subsidiary, Public Service Company of New Hampshire, to be accomplished through the merger of Consolidated Edison, Inc. and a newly formed public utility holding company and the merger of a subsidiary of Consolidated Edison, Inc. into Northeast Utilities, with Northeast Utilities being the entity surviving the merger, as described in the joint petition and in the pre-filed testimony.
3. This Order does not constitute approval of any particular capital or operating expenditure by Public Service Company of New Hampshire.

DATED at Montpelier, Vermont, this 30th day of March, 2000.

s/Michael H. Dworkin)	PUBLIC SERVICE BOARD OF VERMONT
)	
)	
s/Suzanne D. Rude)	
)	
s/David C. Coen)	

OFFICE OF THE CLERK

Filed: March 30, 2000

Attest: s/Susan M. Hudson

Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or mail) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.