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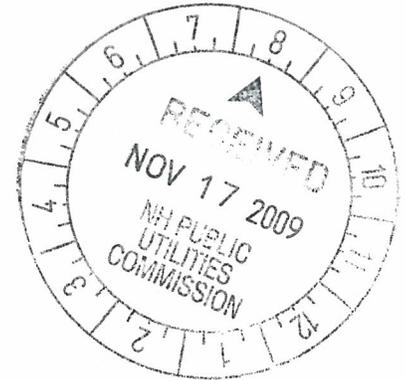
The Northeast Utilities System

Gerald M. Eaton
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November 17, 2009

Ms. Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 Fruit Street, Suite 10
Concord, New Hampshire 03301

**Re: Docket No. DE 09-180
PSNH 2010 Energy Service Charge**



Dear Secretary Howland:

On November 4, 2009, you issued a Secretarial Letter in the above-captioned proceeding on behalf of the Commission. ("Secretarial Letter"). That Secretarial Letter dealt with interventions and scheduling issues. In that Letter, the Secretary reported that, "the Commission has determined to grant the motions to intervene of TransCanada, Freedom, Halifax and NEPGA subject to limitations on access to confidential information."

On November 11, 2009, counsel for Freedom Logistics, LLC (Freedom) and Halifax-American Energy Company, LLC (collectively, "Freedom/Halifax") sent a letter and a Memorandum of Law to the Commission complaining about the limitation on access to confidential information imposed by the Commission on their intervention as set forth in the Secretarial Letter.

The November 11 Freedom/Halifax letter was just that – a letter. It is not a motion nor any other formal filing that must be acted upon by the Commission.

As an intervenor in this adjudicative proceeding, Freedom/Halifax must comply with the Commission's rules. Rule Puc 203.07 sets forth requirements for written communications a written communications that is intended to be a "motion." As the Freedom/Halifax letter fails to comply with this Rule, PSNH must

assume that it was not intended by Freedom/Halifax to be dealt with as a formal motion. Hence, PSNH is responding to the Freedom/Halifax letter accordingly, via this letter.

No entity as an absolute right to unfettered participation as an intervenor in an administrative proceeding in New Hampshire. The New Hampshire Administrative Procedure Act (RSA Chapter 541-A) expressly provides agencies with the authority to impose conditions upon any intervenor's participation in the proceedings. RSA 541-A:32, III states:

If a petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Such conditions may include, but are not limited to:

- (a) Limitation of the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition.
- (b) Limitation of the intervenor's use of cross-examination and other procedures so as to promote the orderly and prompt conduct of the proceedings.
- (c) Requiring 2 or more intervenors to combine their presentations of evidence and argument, cross-examination, and other participation in the proceedings.

The limitations imposed on the participation by Freedom/Halifax, et al., as intervenors in this proceeding that were set forth in the Secretarial Letter are unquestionably permitted by RSA 541-A:32, III.

Moreover, RSA 541-A:32, I (b) requires an entity seeking intervenor status to include in its request for intervenor status "facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law." Per this provision, Freedom/Halifax should be limited in its intervention to the issues they raised in their Petition for Intervention and their statements at the prehearing conference.

Freedom Logistics, LLC. justified its request for intervention as follows: "As an entity providing an alternative to PSNH's Default Rate,..." Halifax-American Energy Co., LLC petitioned similarly: "As an energy marketer providing an alternative to PSNH's Default Rate,..." Furthermore, in the absence of Attorney Rodier, Mr. Bart Fromuth stated that Freedom/Halifax were interested in the issues of migration and the restructuring principles of RSA 374-F. Transcript, October 19, 2009, at 10 to 11.

PSNH made it quite clear that with respect to the requests for intervention of all four competitive suppliers (Freedom/Halifax, TransCanada and NEPGA) the Commission must impose a limitation so that these competitive or alternative energy suppliers would not receive confidential, competitive information. Transcript at 9 and 11. Freedom/Halifax raised no objection to that limitation at the prehearing conference.

Because the Freedom/Halifax letter is not a formal motion or other pleading, PSNH will not provide a lengthy formal response in this letter. However, should the Commission waive its rules in order to treat that letter as a motion (notwithstanding both the lack of request for such a waiver and the fact that such a waiver would deviate from the requirements set forth in Rule Puc 201.05), PSNH reserves the right to submit a formal objection pursuant to the Commission's rules.

In conclusion, PSNH respectfully requests the Commission to sustain its decision to limit the competitive/alternative suppliers' access to competitive information and to order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

By: 
Gerald M. Eaton

cc: Service List