

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 10-188

ELECTRIC AND GAS UTILITIES
2011-2012 CORE Electric Energy Efficiency Programs and Natural Gas Energy Efficiency
Programs

JOINT OBJECTION TO PETITIONS FOR INTERVENTION OF US ENERGY SAVER
LLC AND DANIEL RAMAGE AND R. JEREMY HILL

NOW COMES Granite State Electric Company d/b/a National Grid (“National Grid”), New Hampshire Electric Cooperative, Inc. (“NHEC”), Public Service Company of New Hampshire (“PSNH”), Unitil Energy Systems, Inc. (“Unitil”), EnergyNorth Natural Gas, Inc. d/b/a National Grid NH and Northern Utilities Inc. d/b/a Unitil (collectively the “Electric and Gas Utilities”) and submit this Joint Objection to Petitions for Intervention of US Energy Saver LLC and Daniel Ramage and R. Jeremy Hill and state as follows:

1. On August 3, 2010, the Electric and Gas Utilities jointly filed with the Commission proposals for their energy efficiency plans for the program years 2011-2012 (the “Energy Efficiency Proposals”). These plans were filed consistent with Orders 25,062, 25,099, 24,995, 24,968 and 25,136. The Energy Efficiency Proposals seek Commission approval of a continuation of both the CORE New Hampshire Energy Efficiency Programs offered by the Electric Utilities and the energy efficiency programs offered by the Gas Utilities. Both proposals contain some modifications from programs previously approved by the Commission.

2. On August 12, 2010, the Commission issued an Order of Notice in this proceeding pursuant to the requirements of RSA 541-A:31, which requires, *inter alia*, a “short and plain statement of the issues involved.” The Noticed issues included in this proceeding were stated in the Order of Notice to be:

The filing raises, inter alia, issues related to whether the proposed two-year duration of the programs is appropriate, whether the formula change for performance incentive calculations is appropriate, whether the increase in the allocation of funds for the low income programs is reasonable, whether the fuel neutral pilot program should be continued, whether the other proposed changes to the electric and gas energy efficiency programs are reasonable and should be approved, and whether the proposed energy efficiency programs are consistent with applicable law and Commission requirements, including RSA 374-F:3,X and Order No. 23,574 (2000) relative to cost effectiveness and the need for program consistency, and with the public interest.

3. On August 26, 2010, US Energy Saver LLC filed a Petition for Intervention in this docket, claiming an interest in the further development of the New Hampshire market for energy efficiency and renewable generation services. On that same day, Daniel Ramage and R. Jeremy Hill submitted a joint petition to intervene (“Ramage and Hill Petition”). In that petition, Messieurs Ramage and Hill inform the Commission that they intend to form an entity called “New Hampshire Energy Trust”, whose purported purpose will be to “demonstrate to the Commission that it is in the best interest of the State of New Hampshire to transfer the administration of at least some, if not all, of its publicly-funded energy efficiency programs to New Hampshire Energy Trust.” Ramage and Hill Petition at ¶ 2. They further state that “Mr. Ramage and Mr. Hill, upon behalf of New Hampshire Energy Trust, will soon file a detailed proposal explaining how the newly formed non-profit will be able to better serve certain market sectors.” *Id.* at ¶ 7. US Energy Saver LLC’s principal, Russell Aney, will be advising Mssrs. Ramage and Hill and the New Hampshire Energy Trust through a consultancy arrangement. US Energy Saver LLC Petition at ¶ 4. US Energy Saver and Mssrs. Ramage and Hill both claim that their expertise will benefit the Commission in its inquiry in this docket, and that their participation will not impair the orderly and prompt conduct of the proceedings.

4. The standard for intervention is set forth in the New Hampshire Administrative Procedure Act and the New Hampshire Code of Administrative Rules. RSA 541-A:32, I

provides that the presiding officer shall grant a petition for intervention if:

- (a) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's notice of the hearing, at least 3 days before the hearing;
- (b) The petition states facts demonstrating that the petitioner's rights, duties, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervener under any provision of law; and
- (c) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

Puc 203.17 provides that the Commission may grant only those intervention petitions that are consistent with RSA 541-A:32.

5. Accordingly, pursuant to RSA 541-A:32, a petition to intervene shall be granted if the petitioner properly files a petition to intervene, the petitioner establishes that it has a right, duty, privilege, immunity or other substantial interest that may be affected by the determination of the issues in the proceeding and if the intervention of the petitioner will not impair the interests of justice and the orderly and prompt conduct of the proceedings.

6. The Ramage and Hill Petition is based on a plan to form the New Hampshire Energy Trust for the purpose of taking over the energy efficiency programs that are under consideration in this docket. Mr. Aney, the principal of US Energy Saver LLC, intends to assist in that effort. Neither petition asserts that the Electric and Gas Utilities' proposals will impact the rights, duties, immunities, and substantial interests of US Energy Saver LLC, or Mssrs. Ramage and Hill. These petitions to intervene should be denied since their rights, duties, immunities and substantial interests as stated in their petitions will not be affected by this proceeding.

7. The Commission's Order of Notice in this docket makes clear that the focus of the Commission's inquiry is whether various aspects of the Energy Efficiency Proposals are appropriate and consistent with applicable law and Commission requirements. This inquiry will include an examination of whether the proposed two-year duration of the programs is appropriate, whether a proposed change in the formula for calculating the shareholder incentive is appropriate, whether enough funds are allocated to the low income program, and whether a fuel neutral pilot program should be continued. Order of Notice at 2-3. What is not before the Commission in this proceeding is a wholesale re-invention of how the Electric and Gas Energy Efficiency programs are offered, including whether they should be transferred from the Electric and Gas Utilities to a non-profit or other entity.

8. Rule Puc 203.12 (b) provides that for proper notice of an adjudicative proceeding, "The commission shall direct the petitioner or other party to the docket to disseminate a notice issued pursuant to this section to the general public by causing the notice to be published in a newspaper of general circulation serving the area affected by the petition or by such other method as the commission deems appropriate and advisable in order to ensure reasonable notification to interested parties." Such published notice was accomplished on August 16, 2010. That publication – intended to meet the regulation's mandate "to ensure reasonable notification to interested parties" – did not include any notice regarding a wholesale change in the long-standing administration of this state's energy efficiency programs. Thus, other persons interested in how these programs are administered did not receive notice that this issue may be included in this proceeding.

9. To allow US Energy Saver and Msrs. Ramage and Hill to participate based on their stated agenda would not only allow intervention on issues outside the scope of the noticed

proceeding, it would result in substantial disruption to the proceeding in violation of RSA 541-A:32, I(c). Such disruption would undoubtedly occur through every phase of the docket, as the proposed intervenors seek discovery of data to support their attempts to overtake stewardship of the Electric and Gas Energy Efficiency Programs. To allow such a gross deviation from the noticed proceeding would be unlawful. *See Petition for Approval of Issuance of Long-Term Debt and Related Relief*, DE 10-122, Order No. 25,131 (July 20, 2010).

10. Further, to the extent that US Energy Saver and Mssrs. Ramage and Hill seek to pursue their agenda for a complete revolution in the manner in which energy efficiency programs are offered in New Hampshire, this is not the correct forum for that pursuit. As the Commission is undoubtedly aware, the Energy Efficiency and Sustainable Energy Board (“EESSE Board”) has been tasked by the Legislature to conduct a review of “energy efficiency, conservation, demand response, and sustainable energy programs and incentives in the state,” including “[t]he appropriate role of regulated energy utilities, providers of energy and energy efficiency, and others in helping the state and consumers achieve the state’s energy efficiency potential for all fuels.” SB 323 (2010 Session). The appropriate venue for consideration of US Energy Saver’s and Mssrs. Ramage and Hill’s concerns about the stewardship of the energy efficiency programs is before the ESSE Board, not in this docket.

11. For the Commission to take up those issues here would not only be premature, but contrary to the noticed purpose of this proceeding. This is a proceeding about the types of energy efficiency programs that should be offered by the Electric and Gas Utilities in 2011 and 2012. It is not a proceeding to consider the restructuring of the administration of those programs or whether they should be transferred to another entity. Based on US Energy Saver and Mssrs. Ramage and Hill’s own stated purposes for participation, their interests are not a right, duty,

privilege, immunity or other substantial interest that support their intervention in this proceeding. For these reasons, the Electric and Gas Utilities request that US Energy Saver's and Mssrs. Ramage and Hill's petitions to intervene be denied.

12. Moreover, there are additional underlying deficiencies in each of the Petitions which must lead to the denial of intervenor status. US Energy Saver admits that its participation is as advisor to Mssrs. Ramage and Hill and the New Hampshire Energy Trust. As an "advisor," US Energy Saver fails to meet the RSA 541-A:32, I standards for intervention. Allowing US Energy Saver intervenor status as an advisor would open the door to intervenor status for expert witnesses, consultants, attorneys, and others whose role is advisory to another potential party. This could allow for limitless participation in Commission dockets, which would set a dangerous precedent for future Commission proceedings and could result in significant disruption to the orderly conduct of proceedings.

13. In addition, US Energy Saver's espoused interest in this proceeding is well beyond its stated corporate purpose included in its New Hampshire Limited Liability Company Certificate of Formation. As filed with the New Hampshire Secretary of State's Office, US Energy Saver LLC's Certificate of Formation, which contains its legal purpose as a limited liability company, is as follows: "The nature and the primary business or purposes are Software Development and Online Services." A copy of this Certificate of Formation is attached as Exhibit A to this Joint Objection. US Energy Saver's Petition states that it is a business organized in New Hampshire "to discover and implement cost-effective energy efficiency and renewable energy solutions." What is stated in its Petition is a far cry from the stated purpose of US Energy Saver in its Certification of Formation, and amounts to an ultra vires act. *See* RSA 293-A:3:01 and 293-A:3:04.

14. The Ramage and Hill Petition is explicitly a place-holder for their so-called “New Hampshire Energy Trust” – an entity that does not exist. Mssrs. Ramage and Hill proclaim in their Petition to “reserve their rights to petition the New Hampshire Public Utilities Commission, upon the formation of the New Hampshire Energy Trust, to allow for the substitution of Mr. Ramage and Mr. Hill by the New Hampshire Energy Trust and to grant the New Hampshire Energy Trust full party status within the proceedings of this docket.” Such a “reservation” of the “right” to essentially hold a place in line for an entity that does not exist as of the date required for intervention would create another ill-advised intervention precedent for proceedings before this Commission.

15. For the reasons stated above, the Electric and Gas Utilities request that US Energy Saver and the Ramage and Hill petitions to intervene be denied. Alternatively, if the Commission grants the petitions to intervene, their participation should be limited to those issues which have been noticed for this proceeding and where those petitioners have clearly and unequivocally demonstrated standing.

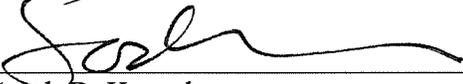
Respectfully submitted,

GRANITE STATE ELECTRIC COMPANY
D/B/A NATIONAL GRID
ENERGYNORTH NATURAL GAS, INC.
D/B/A NATIONAL GRID NH

By their Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: August 31, 2010

By: 

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NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

By its Attorney,

MARK W. DEAN

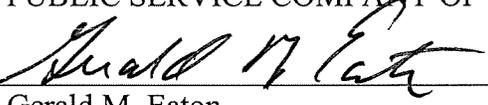
Date: August 31, 2010

By: 

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Date: August 31, 2010

By: 

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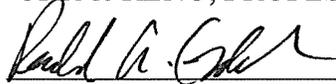
UNITIL ENERGY SYSTEMS, INC. and
NORTHERN UTILITIES INC. d/b/a Unitil

By their Attorneys,

ORR & RENO, PROFESSIONAL ASSOCIATION

Date: August 31, 2010

By:



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Certificate of Service

A copy of this Joint Objection to Petitions for Intervention of US Energy Saver LLC and Daniel Ramage and R. Jeremy Hill has been served by electronic mail this 31st day of August, 2010 to each of the parties on the service list in this docket.



Sarah B. Knowlton

Filed

Date Filed: 04/01/2009

Business ID: 611500

William M. Gardner

Secretary of State

State of New Hampshire

Filing fee: \$50.00

Fee for Form SRA: \$50.00

Total fees \$100.00

Use black print or type.

Form must be single-sided, on 8 1/2" x 11" paper;

double sided copies will not be accepted.

Form LLC-1

RSA 304-C:12

CERTIFICATE OF FORMATION NEW HAMPSHIRE LIMITED LIABILITY COMPANY

THE UNDERSIGNED, UNDER THE NEW HAMPSHIRE LIMITED LIABILITY COMPANY LAWS
SUBMITS THE FOLLOWING CERTIFICATE OF FORMATION:

FIRST: The name of the limited liability company is US ENERGY SAVER LLC

SECOND: The nature of the primary business or purposes are Software Development and Online Services

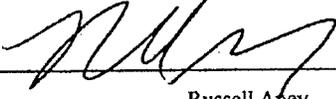
THIRD: The name of the limited liability company's registered agent is Russell Aney

and the street address, town/city (including zip code and post office box, if any) of its registered office is
(agent's business address) 440 Main St., PO Box 1440, New London, NH 03257-1440

FOURTH: The latest date on which the limited liability company is to dissolve is Perpetual

FIFTH: The management of the limited liability company is _____ vested in a manager or managers.

SIXTH: The sale or offer for sale of any ownership interests in this business will comply with the
requirements of the New Hampshire Uniform Securities Act (RSA 421-B).

*Signature: 

Print or type name: Russell Aney

Title: Manager

(Enter "manager" or "member")

Date signed: March 19, 2009

*Must be signed by a manager; if no manager, must be signed by a member.

DISCLAIMER: All documents filed with the
available for public inspection in either tangi

Mail fees, DATED AND SIGNED ORIGINAL
of State, 107 North Main Street, Concord NH

State of New Hampshire
Form LLC 1 - Certificate of Formation 2 Page(s)



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LLC-1 V-1.0

**Form SRA – Addendum to Business Organization and Registration Forms
Statement of Compliance with New Hampshire Securities Laws**

Part I – Business Identification and Contact Information

Business Name: US ENERGY SAVER LLC
Business Address (include city, state, zip): 440 Main St, PO Box 1440, New London, NH 03257-1440
Telephone Number: (603) 865-7488 E-mail: russaney@yahoo.com
Contact Person: Russell Aney
Contact Person Address (if different): _____

Part II – Check ONE of the following items in Part II. If more than one item is checked, the form will be rejected. [PLEASE NOTE: Most small businesses registering in New Hampshire qualify for the exemption in Part II, Item 1 below. However, you must insure that your business meets all of the requirements spelled out in A), B), and C):]

1. Ownership interests in this business are exempt from the registration requirements of the state of New Hampshire because the business meets ALL of the following three requirements:
 - A) This business has 10 or fewer owners; and
 - B) Advertising relating to the sale of ownership interests has not been circulated; and
 - C) Sales of ownership interests – if any – will be completed within 60 days of the formation of this business.
2. _____ This business will offer securities in New Hampshire under another exemption from registration or will notice file for federal covered securities. Enter the citation for the exemption or notice filing claimed - _____.
3. _____ This business has registered or will register its securities for sale in New Hampshire. Enter the date the registration statement was or will be filed with the Bureau of Securities Regulation - _____.
4. _____ This business was formed in a state other than New Hampshire and will not offer or sell securities in New Hampshire.

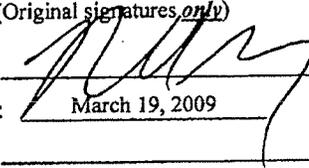
Part III – Check ONE of the following items in Part III:

1. _____ This business is not being formed in New Hampshire.
2. This business is being formed in New Hampshire and the registration document states that any sale or offer for sale of ownership interests in the business will comply with the requirements of the New Hampshire Uniform Securities Act.

Part IV – Certification of Accuracy

(NOTE: The information in Part IV must be certified by: 1) all of the incorporators of a corporation to be formed; or 2) an executive officer of an existing corporation; or 3) all of the general partners or intended general partners of a limited partnership; or 4) one or more authorized members or managers of a limited liability company; or 5) one or more authorized partners of a registered limited liability partnership or foreign registered limited liability partnership.)

I (We) certify that the information provided in this form is true and complete. (Original signatures only)

Name (print):	<u>Russell Aney</u>	Signature:	
		Date signed:	<u>March 19, 2009</u>
Name (print):	_____	Signature:	_____
		Date signed:	_____
Name (print):	_____	Signature:	_____
		Date signed:	_____