

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 10-226

ELECTRIC UTILITIES

Disclosure of Electric Service Energy Sources and Environmental Characteristics

Order Approving Disclosure Label Format and Content

ORDER NO. 25,264

September 1, 2011

APPEARANCES: Gerald M. Eaton, Esq., on behalf of Public Service Company of New Hampshire; McLane, Graf, Raulerson & Middleton, P.A. by Sarah B. Knowlton, Esq., on behalf of Granite State Electric Co. d/b/a National Grid; Gary Epler, Esq., on behalf of Unitol Energy Systems, Inc; Mark W. Dean, Esq., on behalf of New Hampshire Electric Cooperative; Orr & Reno, P.A. by Douglas L. Patch, Esq., on behalf of TransCanada Power Marketing Ltd.; Eric Steltzer on behalf of Office of Energy & Planning; Office of the Consumer Advocate by Meredith A. Hatfield, Esq., on behalf of residential ratepayers; and Marcia A.B. Thunberg, Esq., on behalf of Commission Staff.

I. PROCEDURAL HISTORY

Senate Bill 327, 2010 N.H. Laws 336:1, signed into law on July 20, 2010, amended N.H. R.S.A. Chapter 378 by adding section 49 and establishing requirements for disclosure of electric service energy sources and environmental characteristics to customers by providers of electricity. The enactment directed the Commission to approve a standard format and methodology for electricity providers to use in providing this information to their customers. Specifically, the disclosure should include but not be limited to: (a) a presentation of energy sources used to generate the electricity and their respective contributions to the service's total energy mix, by percentage; (b) the environmental characteristics of the service's energy mix, including but not limited to air pollutant emission rates; and (c) a comparison of source and emissions data

between the service's energy mix and the average energy mix of the region available from the Independent System Operator of New England.

On September 28, 2010, the Commission issued an Order of Notice scheduling a prehearing conference and technical session for October 15, 2010. On September 30, 2010, the Office of the Consumer Advocate (OCA) notified the Commission of its participation on behalf of residential ratepayers consistent with RSA 363:28. Between October 11 and 13, 2010, the Office of Energy and Planning (OEP), Granite State Electric Company d/b/a National Grid (GSEC), Constellation Commodities Group, Inc. and Constellation NewEnergy, Inc. (collectively Constellation); Unitil Energy Systems, Inc (UES); TransCanada Power Marketing (TransCanada); and Public Service Company of New Hampshire (PSNH) filed petitions to intervene.

The Commission conducted the prehearing conference on October 15, 2010, during which the New Hampshire Electric Cooperative (NHEC) and N.H. State Senator Amanda Merrill requested intervention status. No objections were noted regarding the intervention requests, and the Commission granted all intervention requests. Staff and the parties met in a technical session and proposed a procedural schedule, which the Commission approved on October 26, 2010.

In accordance with the procedural schedule, technical sessions were held on October 26, 2010; November 22, 2010; and January 21, 2011 to exchange information on the content and format of the disclosure labels. Staff, PSNH, UES, NHEC, GSEC, TransCanada, Constellation, OEP, and the OCA (Staff and the parties) reached agreement, and on March 8, 2011, Staff filed the agreed upon recommendations. On April 28, 2011, Staff filed a number of sample disclosure labels that had been reviewed by Staff and the parties, which illustrated how the information

contained in the recommendation would appear on labels to customers. The Commission received no objections to the recommendation.

II. STAFF AND THE PARTIES' RECOMMENDATIONS

Staff and the parties recommend that the disclosure label be provided no less frequently than annually, that minimum requirements be established by the Commission to allow electric providers the flexibility to provide additional information to customers if desired, that the label contain standard definitions of the terms used, and that there be a separate disclosure label for each service offering available to customers. Additionally, Staff and the parties recommended that supplemental information be available on the Commission's website to comply with the requirement in RSA 378:49, III that access or reference to relevant public information that is more detailed than what is provided on the label be available to customers.

Staff and the parties recommend the disclosure label include, at a minimum, information regarding sulfur dioxide (SO₂), nitrogen oxides (NO_x), and carbon dioxide (CO₂). Although Staff and the parties did not recommend that information regarding mercury and particulates be included on the label at this time, they did recommend that such information be available as supplemental information on the Commission's web site. Staff and the parties recommended a comparison of the electric provider's emissions to the New England regional average emission be displayed on the label in either a tabular or graphical format. Staff and the parties agree to obtain emissions data for the region from the NEPOOL Generation Information System (GIS) website's public reports section, specifically the NEPOOL System Mix report, which is updated quarterly.

Staff and the parties recommend that the information regarding the resource mix of the electricity being provided also be included on the label, and that the following power sources be

identified on the label for purposes of disclosing resource mix: biomass, coal, hydro, imported power, landfill gas, municipal trash, natural gas, nuclear, oil, other renewable, solar, and wind. Staff and the parties further recommend that, as with the emissions data, the comparison of the electric provider's power sources to the New England regional average emission be displayed in either a tabular or graphical format. The power source data for the region would also be obtained from the NEPOOL GIS website's public reports section, specifically the NEPOOL System Mix report.

In addition to the minimum requirements outlined above, Staff and the parties recommend standard definitions for certain terms that should be stated on the label. Those terms and definitions are as follows:

Power Sources: The electricity you consume comes from the New England power grid, which receives power from a variety of power plants and transmits the power as needed to meet the requirements of all customers in New England. When you choose a power supplier, that supplier is responsible for generating and/or purchasing power that is added to the power grid in an amount equivalent to your electricity use. 'Known Resources' include resources that are owned by, or under contract to, the supplier. 'System Power' represents power purchased in the regional electricity market. Electric suppliers are required to obtain a certain amount of renewable energy in accordance with RSA 362-F, the state's renewable portfolio standard law. They may also choose to obtain amounts of renewable energy above their legal obligation, and utilities must also offer a renewable energy option to allow customers to choose to support the purchase of additional renewable energy by the utility.

Emissions: Carbon Dioxide (CO₂) is released when fossil fuels (*e.g.*, coal, oil and natural gas) are burned. CO₂, a greenhouse gas, is a major contributor to climate change.

Nitrogen Oxides (NO_x) form when fossil fuels and biomass are burned at high temperatures. They contribute to acid rain and ground-level ozone (or smog), and may cause respiratory illness with frequent high level exposure. NO_x also contribute to oxygen deprivation of lakes and coastal waters which is destructive to fish and other animal life.

Sulfur Dioxide (SO₂) is formed when fuels containing sulfur are burned, primarily coal and oil. Major health effects associated with SO₂ include asthma,

respiratory illness and aggravation of existing cardiovascular disease. SO₂ combines with water and oxygen in the atmosphere to form acid rain, which raises the acid level of lakes and streams, and accelerates the decay of buildings and monuments.

Staff and the parties also recommend the label include explanatory language at the top which would read:

Electric providers are required by the New Hampshire Public Utilities Commission to provide customers with an environmental disclosure label with information to evaluate services offered by competitive suppliers and electric utilities, and to provide information about the environmental and public health impacts of electric generation. Further information can be obtained by calling your electric utility or competitive electric supplier, or by contacting the Public Utilities Commission. Additional information on disclosure labels is also available at <http://www.puc.nh.gov> or on your electric provider's website.

Staff and the parties recommend that all information disclosed on the label be periodically reviewed to ensure it continues to provide information relevant to customers and reflective of the available technology.

Staff and the Parties recommend the label be provided to all customers no less than once a year and that electric service providers may provide the label to customers as a bill insert, as part of a newsletter or as a stand-alone mailing. Additionally for customers with electronic billing, electric service providers may provide the label as an electronic document sent with the e-bill or via an electronic link on the e-bill. Electric service providers will provide new customers with the disclosure label at the time they become a customer. The parties agree to provide annually to the Commission electronic copies of the disclosure labels the parties provide to customers.

To comply with the requirement in RSA 378:49, III that customers have access to relevant public information that is more detailed than what is provided on the label, the recommendation states that supplemental information would be available on the Commission's

website and that electric utilities and competitive suppliers would link to that information. A draft of the recommended supplemental information was provided by Staff and the parties and included definitions of the three air emissions identified in the minimum requirements as well as links to the New Hampshire Department of Environmental Services website where additional information about air emissions, New Hampshire's renewable portfolio standard; and renewable energy certificates is available.

Staff and the parties identify one area where they were unable to reach agreement; that is, whether all renewable energy attributes displayed on the label must tie back to the renewable energy certificates (RECs) owned by the distribution company or competitive electric power supplier. Pursuant to RSA 374-F:3, V(f)(7), reasonable efforts should be made to assure that the renewable energy source (RES) component of an RES option is not separately advertised, claimed, or sold as part of any other electricity service or transaction. There was disagreement as to how this statutory provision interacts with the requirement to disclose energy sources and environmental characteristics found in RSA 378:49. While Staff and the majority of parties agree that RECs can only be claimed by a utility for purposes of a disclosure label if they have not been otherwise sold, claimed, or transferred to another entity, PSNH disagreed. PSNH states that it generates and purchases power from renewable sources that predate RECs and that RSA 378:49 requires one to show the renewable attributes of its energy sources regardless of whether it has purchased RECs, provided the power supplier has not reserved the RECs to its own GIS account and provided PSNH has not sold the RECs produced by its owned generation resources.

Lastly, Staff and the parties recommend that the Commission amend NH Code Admin. R. Chapter Puc 2000 relative to competitive electric power suppliers (CEPS) to require such suppliers to provide new customers with a copy of the environmental disclosure label when they

become a customer and to provide existing customers with the disclosure label annually. Staff and the parties also recommend that the rule require that the disclosure label be readily available on the supplier's website. Staff and the parties recommended the following rule language in the section addressing CEPS:

2004.xx Environmental Disclosure

- (a) A CEPS shall provide its customers with an environmental disclosure label as required by RSA 378:49 no less than annually.
- (b) In addition to (a) above, a CEPS shall provide all new customers with an environmental disclosure label at the start of service.
- (c) A CEPS shall provide an easily accessible environmental disclosure label on its website for each electric service it sells in the state.
- (d) The environmental disclosure label shall be updated no less than annually.

III. COMMISSION ANALYSIS

RSA 378:49 requires the Commission to “approve a standard format and methodology that providers of electricity, as defined in RSA 362-F:2, XIV, shall use when providing information to existing or prospective customers regarding the energy sources and environmental characteristics of their electric service.” Staff and the parties have provided a recommendation that responds to the first three directives of RSA 378:49, that is they recommend specific label content that; (1) identifies the environmental characteristics of the services' energy mix, (2) compares the source and emission data of the energy mix to the average energy mix of the region available from the Independent System Operator of New England, and (3) presents the energy sources used to generate the electricity and their respective contributions to the service's total energy mix, by percentage.

The recommendation also responds to the requirement that providers of electricity “provide and make easily accessible on the provider's Internet site the information for each electric service that it sells in the state; update such information at least annually; and provide such information to electric customers at least annually in conjunction with billing, whether

distributed through the mail or online, or other mailed or online communication to customers, as approved by the commission.” Further, the recommendation includes supplemental information that could be available on the Commission’s website, and linked to by the electric providers, which would provide more detailed information than that contained in the disclosure label itself.

Having reviewed the recommendation, the suggested content of the disclosure label, the sample labels filed by Staff on April 28, 2011, and the supplemental information for the Commission’s website, we find that the recommendation satisfies the requirements of RSA 378:49. The recommendation contains the format and content of a label that should provide meaningful information to customers regarding the resource mix of the electricity they purchase and its relevant environmental characteristics. The label also provides customers access to additional information that is more detailed than that contained on the disclosure label. The recommendation appropriately balances the interests of customers with that of the electric providers, and we adopt it with a slight modification. With respect to the reference to nitrogen oxides on the label, we make the following modification: “They contribute to acid rain and ground level ozone (or smog), and may cause respiratory illness when there is frequent high level exposure.” We also modify the order of the listed emissions accordingly: sulfur dioxide, nitrogen oxides, and then carbon dioxide.

In its recommendation, Staff and the parties stated that periodic review of the information disclosed ought to occur to ensure that the information is relevant to customers and that the information reflects current available technology, although Staff and the parties do not specify a mechanism for conducting that review. We agree. As to the mechanism for periodically reviewing the information disclosed, we direct Staff to convene a meeting of interested parties eighteen months following the date of this order to review the information being disclosed and

identify changes, if any, to the information being disclosed. Staff shall submit a report to the Commission within 30 days of the meeting. Changes to disclosures that clarify, update or reflect then-current regional, statutory, market or utility conditions may be memorialized in a letter issued by the Commission's Executive Director.

One area of disagreement was identified by Staff and the parties; while Staff and the majority of parties agreed that renewable energy certificates (RECs) can only be claimed by a utility for purposes of a disclosure label if they have not been otherwise sold, claimed, or transferred to another entity, PSNH stated that it generates and purchases power from renewable sources that predate RECs and believes that it should be able to show these attributes regardless of whether it has purchased the RECs, provided that the power supplier has not reserved the RECs to its own GIS account and provided that PSNH has not sold the RECs produced by its own generation resources. Renewable energy certificates are governed by RSA 374-F, and pursuant to RSA 374-F:3, V(f)(7), "reasonable efforts should be made to assure that the renewable energy source component of [a renewable energy source] option is not separately advertised, claimed, or sold as part of any other electricity service or transaction, including compliance with the renewable portfolio standards under RSA 362-F." RSA 378:49, I(a) requires a "presentation of energy sources used to generate the electricity and their respective contributions to the services' total energy mix, by percentage." RSA 378:49 does not limit the presentation of environmental characteristics to renewable energy sources, and we understand PSNH is in a unique situation because it generates and purchases power from renewable sources that predate RECs. As a result, if PSNH can comply with RSA 374-F:3, V(f)(7) and RSA 378:49, and can disclose the environmental characteristics of its energy sources used to generate electricity in a manner that does not claim a renewable energy source that is otherwise separately

advertised, claimed, or sold as part of any other electricity service or transaction then we will allow PSNH to include those energy sources on its disclosure label. We also observe that, according to PSNH's sample disclosure label, it intends to note that its contract mix includes REC transactions. We find that this notation of the interplay with RECs is sufficient, especially given that PSNH intends only to disclose the attributes of its energy sources under the proviso that the power supplier has not reserved the RECs to its own GIS account and that PSNH has not sold the RECs produced by its own generation resources.

With respect to Staff and the parties' recommendation that the Commission commence rulemaking, we find the recommendation reasonable and will adopt it. The Commission's administrative rules, N.H. Code Admin. R. Chapter Puc 2000, establish requirements for competitive electric power suppliers, and a rulemaking to clarify the requirements of RSA 378:49 will provide a logical means of informing new power suppliers of the disclosure requirements. We will notice the commencement of rulemaking by separate order.

Based upon the foregoing, it is hereby

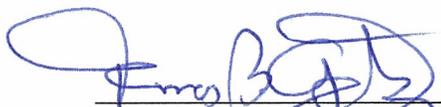
ORDERED, that the recommendation provided by Staff and the parties regarding the content and dissemination of the disclosure label is hereby adopted and approved as discussed herein; and it is

FURTHER ORDERED, that the providers of electricity are required to provide the disclosure label to all customers no less than once a year as specified in the recommendation; and it is

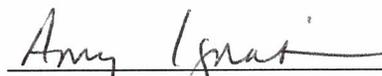
FURTHER ORDERED, that Staff shall convene a meeting of interested parties eighteen months following the date of this order to review the information being provided to ensure that it

continues to be relevant to customers and reflective of the current available technology with a report to be filed within 30 days of such meeting with any recommended changes.

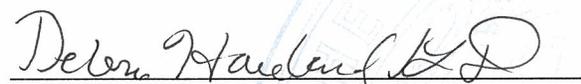
By order of the Public Utilities Commission of New Hampshire this first day of September, 2011.

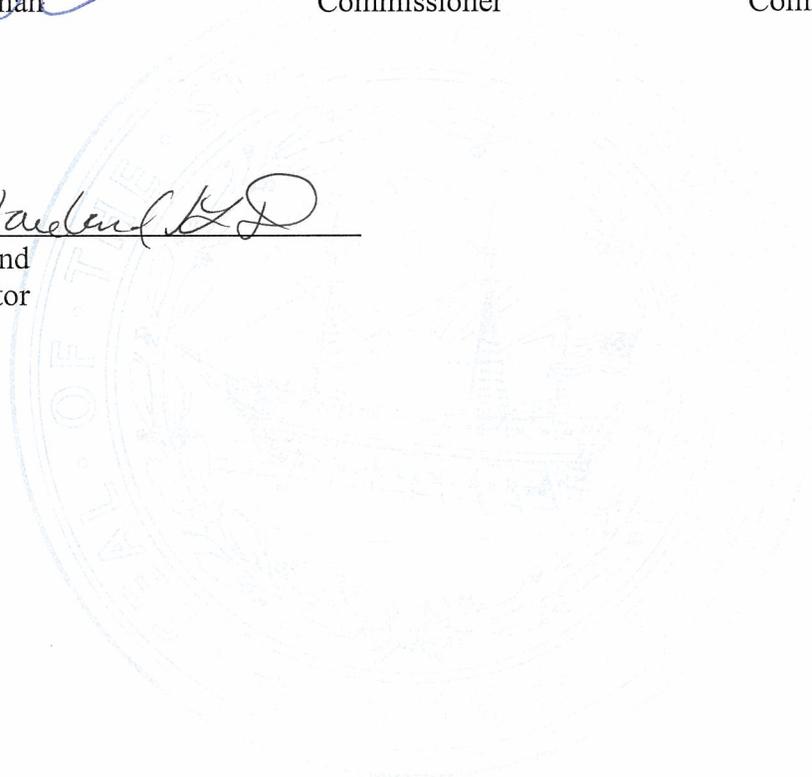

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09/01/11 Order No. 25,264 issued and forwarded to all parties. Copies given to PUC Staff.

Docket #: 10-226-1 Printed: September 01, 2011

FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with: DEBRA A HOWLAND
EXEC DIRECTOR & SECRETARY
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.

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Docket #: 10-226-1 Printed: September 01, 2011

PURSUANT TO N.H. ADMIN RULE PUC 203.09 (d), FILE DISCOVERY

DIRECTLY WITH THE FOLLOWING STAFF

RATHER THAN WITH THE EXECUTIVE DIRECTOR

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