

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Alternative Default Energy Service Rate
Docket No. DE 11-216

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE’S OBJECTION TO MOTION
TO STRIKE OF FREEDOM LOGISTICS, LLC D/B/A
FREEDOM ENERGY LOGISTICS**

Pursuant to New Hampshire Code of Administrative Rules Puc 203.07(e), Public Service Company of New Hampshire (“PSNH” or the “Company”) hereby objects to the “Motion to Strike PSNH’s Request for Adjustment to Alternate Default Energy Service Rate” (the “Motion”) filed with the Commission on September 19, 2014 by Freedom Logistics, LLC d/b/a Freedom Energy Logistics (“FEL”).¹ FEL’s motion is based on numerous faulty premises, and presents no valid basis for the relief it seeks. In support of its objection PSNH states as follows:

1. On June 23, 2014, the Commission Staff and the Office of Consumer Advocate (“OCA”) filed a joint recommendation noting that PSNH’s Alternate Default Energy Service Rate (“Rate ADE”), as conditionally approved by the Commission following a partial settlement agreement, was not achieving the customer savings that had been anticipated and, pursuant to a termination provision in the settlement agreement, recommended “suspending” the Rate ADE pilot program. Moreover, Staff and OCA recommended that PSNH review options for addressing potential high

¹ PSNH notes that at various points in this proceeding petitions, motions and other documents, including the instant motion, have been filed by the same attorney on behalf of at least three entities, FEL, Halifax American Energy Company, LLC and Power New England d/b/a PNE Energy (“PNE”), and somewhat differing arguments have been made at different times on behalf of those entities in attempts to procure essentially the same relief. *Compare, e.g.*, October 13, 2011 Petition to Intervene of FEL and Halifax, and May 4, 2012 Motion to Dismiss of FEL, and June 21, 2012 Joint Motion of FEL and PNE, and May 7, 2013 Motion for Rehearing of PNE. As such, despite the heading on this motion, it is not entirely clear who is represented by this motion, and PSNH would request that the Commission treat these entities as consolidated intervenors. *See* RSA 541-A:32, III(c).

prices in the coming winter period and renewed a proposal for the Commission to consider implementation of a “stay out” provision. On June 25, 2014, PSNH filed a response stating that it agreed that circumstances warranted revisiting the implementation of Rate ADE and, potentially, revising the terms and conditions for the rate. PSNH also agreed that the rate should remain closed to new customers pending this review.

2. On June 27, 2014, the Commission issued a secretarial letter ordering PSNH to work with others on potential modifications to Rate ADE, including whether to continue Rate ADE through the remainder of the pilot term. Consistent with the Staff and OCA joint recommendation, and with the apparent intention of having modifications in place for the coming winter period, PSNH was ordered to make a separate filing of a new proposal governing Rate ADE at the time of its energy service and stranded cost recovery filings to allow the Commission to review the filing in time for implementation on January 1, 2015. PSNH made that filing on September 15, 2014 as directed.

3. On September 19, 2014 FEL filed the Motion contending that PSNH had violated the Commission’s directive in its June 27, 2014 secretarial letter by not consulting with FEL, and that PSNH erred in its filing because the docket was not noticed in a manner sufficient to permit the filing. Accordingly, FEL contended that PSNH’s September 15, 2014 submission should be struck. FEL’s Motion must be denied.

4. As to FEL’s first contention, in its June 27, 2014 secretarial letter the Commission stated:

PSNH is directed to meet with the parties to this docket, in conjunction with Commission Staff to explore whether Rate ADE should continue through the pilot period and, if so, whether further Rate ADE adjustments would be appropriate to mitigate the effects of customer migration on Rate DE customers. The Company shall make a separate filing of a new proposal or Rate ADE adjustments in September 2014 when it makes its energy service and stranded cost recovery filings to allow the Commission to review the proposal for effect January 1, 2015.

June 27, 2014 secretarial letter in Docket No. DE 11-216 at 1-2. In that implementation of any change to Rate ADE would require modifying the underlying settlement agreement, PSNH interpreted the Commission's directive as a requirement to work with the parties to the settlement agreement prior to making a filing proposing amendments to Rate ADE. Personnel from PSNH, Staff and the OCA, the parties to the settlement agreement in the docket, met and discussed potential amendments to Rate ADE prior to PSNH's filing. PSNH has complied with the Commission's requirement to consult with the parties before making its filing.

4. FEL next contends, generally, that insufficient notice has been provided of the changes proposed by PSNH, and, more specifically, that because PSNH "proposes to change Rate ADE from an optional rate to a mandatory rate" PSNH's proposal "is not even remotely similar to the scope [of] Mr. Hall's testimony referenced in the Order of Notice." Motion at 2. FEL is not correct. As to the general issue of notice, in its June 27, 2014 secretarial letter, as quoted above, the Commission required PSNH to make "a separate filing of a new proposal or Rate ADE adjustments" that would "mitigate the effects of customer migration" and that would be "for effect January 1, 2015." Accordingly, through its secretarial letter, the Commission placed FEL and others on notice that PSNH was required to make a filing by September 15, 2014 that would be a new proposal on, or present amendments to, Rate ADE, that would be intended to mitigate the effects of migration, and which would be for effect on January 1, 2015.² PSNH's filing was made consistent with the Commission's requirements and should not be stuck.

5. As to the more specific contention, in its present form Rate ADE is, in fact, a mandatory rate. For customers meeting the eligibility requirements of Rate ADE, they are

² To the extent FEL may be understood to claim that the Commission's order of notice of October 5, 2011 on PSNH's prior proposal for Rate ADE is somehow insufficient to encompass this filing, PSNH notes that the prior proposal was for a marginal cost based rate applicable to rate classes LG, GV and B – a proposal that is similar to the present proposal. Accordingly, to the extent it is necessary to address the issue, the Commission's October 2011 order of notice is sufficient to include this filing.

required to take that rate should they return to PSNH's service from competitive supply, except when Rate ADE is closed due to changes in market prices. Even for otherwise eligible customers returning when Rate ADE is closed, however, once the price of Rate ADE is adjusted, those customers are placed on the rate. PSNH's new proposal is essentially the same in that regard. For eligible customers, should they return to PSNH's service, they will be required to do so on Rate ADE, and the only exception is for those customers on PSNH's default service rate, Rate DE, before January 1, 2015. Notably, should otherwise eligible customers leave PSNH's service after January 1, 2015, they too would be required to take Rate ADE should they return to PSNH's service. While the terms of eligibility differ somewhat between the present and proposed forms of Rate ADE, the fact remains that Rate ADE is mandatory as it exists and would be mandatory as proposed. Accordingly, FEL is not correct in its characterization of Rate ADE and its Motion must be denied.³

6. Lastly, as the Commission is well aware, there are substantial concerns about the retail supply of electricity in New Hampshire. *See, e.g.*, Order No. 25,715 (September 8, 2014) in Docket No. DE 14-211 (requiring Staff to begin a stakeholder process to review retail electric supply issues). Those concerns exist for PSNH as well, and were identified in the Staff and OCA joint recommendation and the Commission's secretarial letter giving rise to PSNH's September 15, 2014 filing. Those concerns are particularly acute for the coming winter period. PSNH's proposal was made in accordance with the Commission's expectations and directions and to address the Commission's concerns. PSNH's proposal should not be struck, but should be reviewed by the Commission for implementation on January 1, 2015 as directed.

³ Notably, FEL itself is aware, and has pointed out to the Commission, that the present incarnation of Rate ADE is a mandatory rate for eligible customers. *See* May 7, 2013 Motion to Reconsider of PNE at footnote 5 citing a PSNH description of the availability of Rate ADE.

WHEREFORE, PSNH respectfully requests that the Commission deny FEL's Motion to Strike, and order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

September 22, 2014
Date

By: 
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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Objection to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

September 22, 2014
Date


Matthew J. Fossum