

**THE STATE OF NEW HAMPSHIRE  
BEFORE THE PUBLIC UTILITIES COMMISSION**

**REBUTTAL TESTIMONY OF  
STEPHEN R. HALL**

**INVESTIGATION INTO PURCHASE OF RECEIVABLES,  
CUSTOMER REFERRAL AND ELECTRONIC INTERFACE**

**Docket No. DE 12-097**

1 **I. Introduction and Purpose**

2 **Q. Please state your name, position and business address.**

3 A. My name is Stephen R. Hall. My business address is PSNH Energy Park, 780 North  
4 Commercial Street, Manchester, New Hampshire. I am the New Hampshire Revenue  
5 Requirements Manager for Public Service Company of New Hampshire.

6 **Q. Have you previously testified before the Commission?**

7 A. Yes, I have testified on numerous occasions before the Commission.

8 **Q. What is the purpose of your testimony?**

9 A. The purpose of my testimony is to provide comments on and/or rebuttal to the combined  
10 testimony of Daniel W. Allegretti, Marc A. Hanks and Christopher Kallaher on behalf of  
11 the Retail Energy Supply Association (“RESA”). I will provide comments on the three  
12 “market enhancements” proposed by RESA in its direct testimony that it maintains are  
13 necessary to remove “market entry barriers” for competitive suppliers of electricity: i)  
14 the Purchase of Receivables program; ii) the electronic interface program; and iii) the  
15 customer referral program. I am not commenting on the testimony recently filed by Mr.

1 Tschamler on behalf of North American Power and Gas, LLC, as that testimony does not  
2 contain any substantive information relevant to this generic proceeding.

3 **Q. What is your recommendation to the Commission regarding RESA's proposals?**

4 A. For the reasons outlined in this testimony, the Commission should reject RESA's "market  
5 enhancements." Those proposals would, *inter alia*: result in increased costs to  
6 customers; place the state's utilities in the middle of disputes between customers and  
7 suppliers; result in release of confidential customer information to competitive suppliers  
8 with little, if any control; otherwise burden customers and the state's utilities without  
9 producing any benefits for customers; and run afoul of New Hampshire state  
10 Constitutional and legislative prohibitions.

11 **Q. What is the basis for the "market enhancements" proposed by RESA?**

12 A. RESA claims that market enhancements are needed to promote the development of retail  
13 electric markets for the residential and small commercial customer. However, as will be  
14 demonstrated later in this testimony, the retail electric market in New Hampshire is  
15 vibrant and quickly growing. The most significant determinant of vibrant competition in  
16 the electricity marketplace is the price of the commodity, which at this time is closely  
17 linked to the price of natural gas. The "market enhancements" sought by RESA will  
18 merely transfer risks and costs from competitors to the host utilities, significantly  
19 breaking the risk/reward paradigm of the competitive marketplace. Therefore, RESA's  
20 proposed "enhancements" are both unnecessary and inadvisable.

21 **Q. What are the financial implications of RESA's "market enhancement" proposals?**

22 A. In its testimony, RESA cites the "economies" that may be achieved if the host utilities  
23 were required to perform "duplicative administrative and cash management functions."

1 And it wants competitive suppliers to receive such services at cost; i.e., no profit to the  
2 host utility. RESA essentially is proposing that virtually all services related to the sale,  
3 delivery, and billing of electricity be re-bundled and handled by the host utility, with the  
4 exception of who actually profits from the sale of the commodity itself.

5 RESA is arguing for a system where competitive suppliers shift as many costs and risks  
6 as possible to the host utilities (and therefore to all customers), while those competitors  
7 are free to charge whatever the market will bear, locking customers into agreements with  
8 evergreen obligations and termination fees, while being able to pick and choose which  
9 customers they will serve.

10 With the exception of meter reading data, all of the services RESA and the other  
11 suppliers desire the utilities to provide are available from unregulated businesses in the  
12 competitive marketplace. However, if such services were acquired in the marketplace,  
13 competitive suppliers would have to pay actual market prices, which include a profit  
14 component for the providers of the services.

## 15 **II. Purchase of Receivables**

16 **Q. Please summarize RESA's proposal for Purchase of Receivables ("POR").**

17 A. RESA is proposing that the Commission implement a policy under which distribution  
18 utilities are required to purchase the receivables from competitive suppliers that use the  
19 distribution company's consolidated billing option. RESA maintains that such a program  
20 is necessary to "remove market entry barriers through economies by greatly reducing  
21 duplicative administrative and cash management functions..."<sup>1</sup> The receivables would  
22 be purchased at a discount (which RESA states is "typically under 1%") based on the

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<sup>1</sup> Testimony of Daniel W. Allegretti, Marc A. Hanks, and Christopher H. Kallaher, page 12, lines 11 – 13.

1 distribution utility's actual uncollectible costs for a given class. The purchase of  
2 receivables would apply only to bills for the residential and small commercial classes.

3 **Q. What justification does RESA provide for implementing a POR program in which**  
4 **distribution utilities bear the risk of collecting amounts due for energy service**  
5 **provided by competitive suppliers?**

6 A. RESA maintains that distribution utilities are in a better position to collect amounts due  
7 for energy service rendered by competitive suppliers because distribution utilities  
8 purportedly have the ability to disconnect service if customers fail to pay their bill.  
9 RESA also maintains that suppliers' inability to disconnect service results in a risk that is  
10 too large for suppliers to assume, and serves as a significant barrier to new market entry.  
11 RESA also contends that POR programs stimulate customer shopping activity since  
12 customers will have a more diverse group of suppliers from which to receive service.

13 **Q. Is the ability of a distribution utility to disconnect a customer for non-payment a**  
14 **fundamental tenet of a POR program?**

15 A. Yes, it is.

16 According to RESA's testimony, "In the event a customer of a competitive supplier does  
17 not pay charges owed for commodity supply service provided by the customer's supplier,  
18 the EDC would have the same recourse it has where the utility is the provider of default  
19 service to the customer, i.e. assessment of late fees and disconnection of service."<sup>2</sup>

20 RESA's reliance upon disconnection for non-payment of supplier charges is also  
21 demonstrated in Attachment SRH-1, which is a discovery response from RESA to a

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<sup>2</sup> Testimony of Daniel W. Allegretti, Marc A. Hanks, and Christopher H. Kallaher, pages 8 – 9.

1 question PSNH posed on this very issue (PSNH 1-38 REVISED). Initially, RESA failed  
2 to respond to the question, providing an obfuscated response. Following the August 16,  
3 2012, Technical Session in this proceeding, RESA revised its response to directly answer  
4 the question. That answer was “Yes” -- a utility's ability to disconnect a customer for  
5 non-payment is a fundamental tenet of a POR program. In other words, a POR program  
6 cannot be viable when the host utility is unable to disconnect service for non-payment of  
7 the energy portion of the bill.

8 **Q. Although RESA contends that a distribution utility’s ability to disconnect service**  
9 **for non-payment is essential to a POR, do distribution utilities have this ability?**

10 A. No, they do not. PSNH asked RESA whether the Commission’s rules allow distribution  
11 utilities to disconnect customers for failure to pay amounts owed to a competitive  
12 supplier (Attachment SRH-2, response PSNH 1-39). RESA objected to this question, but  
13 included a response. That response was, “not explicitly.” This response is somewhat  
14 misleading.

15 What is not stated in RESA’s response is that the Commission’s rules *explicitly forbid* a  
16 distribution utility from disconnecting customers for non-payment of the supply portion  
17 of their bill when the customer receives energy service from a competitive supplier.

18 **Q. Please elaborate.**

19 A. Rule Puc 1203.11 (g)(2) states:

20 (g) A utility shall not disconnect a residential customer’s service and notice of  
21 disconnection shall not be sent to a residential customer if any of the following  
22 conditions exist:

23 (2) The unpaid bill results from other than basic utility service, such as  
24 merchandise, appliance sales, or repairs.

Rule Puc 1202.02 defines basic utility service as “any tariffed fee or rate that has been filed with and approved by the commission...”

1 Energy service provided by competitive suppliers is not a tariffed fee or rate that has been  
2 filed with and approved by the Commission. Therefore, under Rule Puc 1203.11 (g) (2),  
3 a distribution utility cannot disconnect a residential customer for failure to pay amounts  
4 owed to a competitive supplier. Because of this regulation, PSNH has a provision in its  
5 tariff under the Collection Services paragraph of the Terms and Conditions for Suppliers  
6 section which provides, in part: “The Collection Services provided to Suppliers may be  
7 similar to collection activities employed by the Company for its own active and inactive  
8 delinquent accounts, except that such collection activities shall not include disconnection  
9 of service.”

10 Having the distribution utility purchase the receivable created by a competitive supplier’s  
11 sale in the marketplace does not transform that unpaid bill into a bill for “basic utility  
12 service” (for which nonpayment may result in disconnection) simply because the debt is  
13 now the responsibility of the distribution utility. The unpaid bill remains a bill for a non-  
14 tariffed, unregulated service based upon a contract between the customer and the  
15 competitive supplier, and not one for basic utility service based upon a tariffed rate.

16 **Q. Because a distribution utility may not disconnect service to a residential customer**  
17 **for failure to pay the supply portion of his or her bill, how is RESA’s proposal**  
18 **impacted?**

19 A. As stated by RESA in Attachment SRH-1, the utility’s ability to disconnect a customer  
20 for non-payment is a fundamental tenet of a POR program. What RESA refused to  
21 admit, however, is that under New Hampshire regulation, distribution utilities are unable

1 to disconnect service for a customer's failure to pay for a supplier's receivable.

2 Accordingly, because the utility has no ability to disconnect service for failure to pay a  
3 competitive supplier's bill – even if the receivable underlying that bill is purchased by the  
4 utility – the fundamental underpinnings of a POR program do not exist in New  
5 Hampshire.

6 **Q. Is there any way for a supplier to protect itself from a customer's failure to pay his  
7 or her bill even without the ability to disconnect customers?**

8 A. Yes. There are many costs of doing business. Dealing with uncollectible expense is an  
9 issue that all businesses must face. RESA's desire to place the cost, risk and burden of  
10 uncollectible expense onto the state's utilities via a POR program takes that universal risk  
11 of the marketplace away, without any guarantee that customers would benefit. More  
12 likely, the shifting of that risk to the state's utilities would ultimately result in higher, not  
13 lower, delivery charges.

14 There are other means for competitive suppliers to deal with the risk of non-payment. As  
15 with any other business, competitive suppliers may perform credit checks before entering  
16 into contracts to supply energy to customers. In addition, suppliers are free to seek  
17 deposits from customers to mitigate the risk of non-payment. And, competitive suppliers  
18 may implement collections actions to recover overdue amounts.

19 In addition, subject to any terms in their contracts with their customers, competitive  
20 suppliers can cease providing service to any customers that are not paying their bills.  
21 Competitive suppliers are not forced to endure a non-paying customer, and can terminate  
22 their relationship if the unpaid bill is unacceptably high. Suppliers need not await a  
23 customer's next meter read date to terminate that relationship; the Commission's

1 regulations provide suppliers with the ability to seek an off-cycle read in such instances.  
2 (Rule Puc 2004.07(b)). Therefore, suppliers do have means to mitigate their potential  
3 losses without resorting to the utility's authority to disconnect customers.

4 **Q. If the Commission approved RESA's proposal notwithstanding the prohibition on**  
5 **disconnecting customers for failure to pay a competitive supplier's portion of their**  
6 **bill, would there be any negative ramifications?**

7 A. Yes, there would. First, there could be a significant increase in the utility's uncollectible  
8 balance because the utility's ability to mitigate the effect of higher uncollectible amounts  
9 through disconnection of service is limited as described above. I also note that reduction  
10 of uncollectible expense was an issue in PSNH's last rate case (Docket No. DE 09-035)  
11 and PSNH was required to undertake a study to determine ways to reduce uncollectible  
12 expense. Implementation of a POR program would undermine the Commission's actions  
13 in DE 09-035 by increasing PSNH's uncollectible expense, resulting in higher costs for  
14 remaining customers.

15 At least one other competitive supplier in New Hampshire shares the belief that all other  
16 customers will see higher bills as a result of implementation of a POR program. In an  
17 internet posting dated June 12, 2012 (Attachment SRH-3), Freedom Energy Logistics and  
18 its sister company, Resident Power, refer to a POR program as the "sub-prime mortgage"  
19 equivalent for utilities. That posting concludes by stating, "FEL does not favor POR and  
20 will testify against it in the coming months."

21 It must also be noted that in Docket No. DE 10-160, the Commission's Staff recognized  
22 that implementation of a POR program entailed a shifting of risks. In Staff's "Closing  
23 and Legal Argument" at page 8, it noted that "careful attention would need to be given to

1 the shifting of risk of non-payment from competitive suppliers to distribution companies  
2 and the implications of such risk shifting.” I agree with Staff’s observation.

3 Even RESA’s own witness has admitted before this Commission that a POR program is  
4 fundamentally a risk-shifting mechanism. In Docket No. DE 10-160, Mr. Allegretti  
5 (appearing on behalf of Constellation Energy) testified, “You know, a properly designed  
6 purchase of receivables program is really intended to allow suppliers and customers *to*  
7 *syndicate the risk of nonpayment or default across all customers*. And, the distribution  
8 company, because it is itself billing and collecting for distribution services from all of  
9 those same customers, is a very convenient entity to implement that kind of risk  
10 syndication.”<sup>3</sup> In their initial brief in that docket, RESA and Constellation further detail  
11 the cost implications of implementing a POR program: “PSNH incorrectly claims that a  
12 POR program transfers the risk of customer nonpayment from the supplier to the utility.  
13 *... In actuality the cost of non-payment is syndicated across all retail sales* and is not  
14 charged against the utility... .”<sup>4</sup>

15 With risk, comes cost. Shifting the risks of nonpayment or default across all customers  
16 does not eliminate that risk. As RESA and Constellation admitted in their Brief in  
17 Docket No. DE 10-160, a POR program merely “syndicates” the cost of that risk “across  
18 all retail sales.”

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<sup>3</sup> Docket No. DE 10-160, Hearing Day 2, December 1, 2010, Tr. pp. 116-117.

<sup>4</sup> Docket No. DE 10-160, Initial Brief of the Retail Energy Supply Association, Constellation Energy Commodities Group, Inc. and Constellation Newenergy, Inc., February 25, 2011, at 32.

1 **Q. RESA proposes that the uncollectible percentage be adjusted after the fact to**  
2 **account for differences between the applied percentage and the actual percentage.**

3 **Would that solve this issue?**

4 A. Not necessarily. Unless there was a reconciling mechanism to ensure that the entire  
5 shortfall was recovered from suppliers, the issue will remain. RESA proposes a “non-  
6 recourse” POR program, which does not include such a reconciling mechanism. In  
7 response to PSNH request 1-34 (Attachment SRH-4), RESA states that payments made to  
8 a supplier are not subject to retroactive reconciliation based upon actual collections.  
9 Rather, RESA proposes that the discount rate be adjusted on a going forward basis.  
10 Under this type of arrangement, the distribution utility will be unable to record a deferral  
11 on its books, since there is no guarantee of cost recovery in the future. Therefore,  
12 RESA’s proposal would affect the utility’s earnings.

13 **Q. What other negative ramifications could result from RESA’s proposal?**

14 A. RESA’s proposal creates the potential for suppliers to “game” the system. Suppliers  
15 could take advantage of a POR system by segregating customers into “good credit risk”  
16 and “bad credit risk” categories. The receivables for “good credit risk” customers could  
17 be retained by suppliers or aggregators choosing to separately bill those “good”  
18 customers, or even by creating separate special purpose entities to serve “good” and  
19 “bad” customers. Via such gaming, suppliers would benefit by not paying the applicable  
20 receivables discount on “good” customers’ bills, while creating even higher  
21 uncollectibles for utilities by only selling the receivables associated with “bad”  
22 customers.

1 Since distribution utilities cannot disconnect customers for non-payment of the supplier  
2 portion of the bill, suppliers could use this fact as a marketing tool to entice customers to  
3 take service from them by informing customers that they will not be disconnected even if  
4 they fail to pay the supply portion of their bills. Carried to its extreme, RESA's proposal  
5 could create a perverse incentive for unscrupulous suppliers and customers. A supplier  
6 could theoretically target customers who have extremely poor credit and/or are in the  
7 process of moving from the utility's service territory. The supplier could sell energy to  
8 the customer at a very high price, which the customer would be unlikely to pay. Since  
9 the supplier has no cap on what may be charged and would be compensated by the  
10 distribution utility for the full amount charged to the customer (less the discount), there  
11 would be no control mechanism in place to prevent a windfall to such a supplier and a  
12 loss being incurred by the utility.

13 Unless the Commission were to set price caps on suppliers, or otherwise regulate what  
14 they may charge, implementation of a POR program would create a profit opportunity for  
15 suppliers via this flaw in the system. While these may sound like far-fetched scenarios, it  
16 is simply not good policy for the Commission to implement a program where the  
17 potential for such abuse exists.

18 **Q. Would the POR program proposed by RESA reduce motivation for suppliers to**  
19 **follow prudent credit practices?**

20 A. Yes, it would. PSNH asked RESA this question in a discovery request (Attachment  
21 SRH-5, PSNH 1-7). RESA's response was that this wouldn't be the case because of  
22 suppliers' desire to grow their customer bases, and because customers who default are  
23 ultimately subject to termination of service. As discussed above, however, since RESA is

1 in error regarding a distribution utility's ability to terminate service for failure to pay a  
2 competitive supplier's portion of the bill, the POR program would most certainly provide  
3 less motivation to maintain prudent credit practices.

4 This opinion is not just my own. It is shared by an affiliate of Exelon – a company that  
5 employs one of RESA's witnesses. Baltimore Gas and Electric Company (BGE), an  
6 Exelon (Constellation) affiliate, opined on this issue in its filings in Administrative  
7 Dockets Nos. RM 17 (electricity) (Attachment SRH-6), and RM 35 (gas) (Attachment  
8 SRH-7) before the Public Service Commission of Maryland. In its comments dated  
9 January 20, 2009 in Docket No. RM 35, BGE stated, "POR will provide little or no  
10 motivation for suppliers to follow prudent credit practices. Because a supplier knows that  
11 it can sell its receivable to the utility, it will have little incentive to minimize its financial  
12 exposure and ascertain the creditworthiness of the customer by, for example, collecting a  
13 deposit. The risk for collecting the debt that otherwise would have been borne by the  
14 supplier will now shift to the utility's customers." (See Attachment SRH-6, p. 3.)  
15 Despite BGE's express opposition to implementation of POR programs on for both gas  
16 and electric suppliers, in its December 21, 2012 response to PSNH's data request number  
17 1-19 (Attachment SRH-8), RESA responded in relevant part, "BG&E does not oppose  
18 Maryland's POR program, but has criticized certain aspects of its calculation of the  
19 discount rate, including the treatment of late payment revenues."<sup>5</sup>

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<sup>5</sup> RESA originally objected to PSNH question 1-19, but was compelled to respond by Order No. 25,439. RESA's compelled response fails to accurately portray Exelon's/BGE's opposition to implementation of POR programs when they have the burden of being the host utility.

1           Additionally, in an Ohio case involving POR, RESA’s witness agreed that if a POR  
2           program was adopted competitive suppliers would be “*indifferent as to whether the*  
3           *customer pays or not for the service*” – that payment by the customer would no longer  
4           need to be taken into account when they solicited offers.<sup>6</sup> If a competitive supplier is  
5           indifferent to its customers ever paying a bill for their service because a POR program  
6           exists, it is highly unlikely that the supplier will be diligent in following prudent credit  
7           practices. And, ultimately, someone else has to pay the costs,

8           **Q.    RESA refers to POR programs in other states. Have any affiliates of RESA’s**  
9           **members take any positions in other jurisdictions on potential risk shifting which**  
10           **are contrary to RESA’s position in this proceeding?**

11          A.    Yes, they have. PSNH sought information from RESA in discovery requests (PSNH 1-1  
12           and 1-2, Attachment SRH-9) regarding whether implementation of a POR mechanism  
13           could result in an increase in costs to customers or a shifting of the risk of collection from  
14           suppliers to the utility’s customers. RESA’s response was that with an appropriate  
15           discount rate, there would be no such risk shifting.

16           However, in the same Maryland dockets referenced above, Exelon/BGE stated,  
17           “implementing the POR mechanism that is required by the rule can result in increased  
18           costs to customers and will result in the shifting of the risk of collection of debt from the  
19           supplier to the utility’s customers.” (See Attachment SRH-6 and SRH-7, p.1).

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<sup>6</sup> Transcript of the Application of The Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company hearing held on June 5, 2012- Volume III in Case No. 12-1230-EL-SSO at 68-69 available at: <http://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=0c4c92bd-f5a9-4a2c-8474-41c7039302de>

1 Also, in the Pennsylvania Public Utility Commission’s Docket Nos. M-2008-2068982  
2 and I-00040103FOOO2, PECO Energy Company – also an Exelon company – “opted not  
3 to submit a voluntary POR program principally because of the cost involved,  
4 implementation difficulties and ripeness.”<sup>7</sup>

5 Exelon clearly takes a different position on the propriety of implementing a Purchase of  
6 Receivables program depending on whether it is a competitive supplier in the particular  
7 jurisdiction that would benefit from such a program, or if it is the host utility that would  
8 be negatively impacted by a POR program. Through RESA’s testimony supplied by Mr.  
9 Allegretti in this docket, Exelon is taking a completely different position in New  
10 Hampshire than it did elsewhere, by asking this Commission to approve a program in  
11 New Hampshire that Exelon opposed in Maryland and opted not to implement voluntarily  
12 in Pennsylvania. Not only is Exelon’s position completely different here than it was  
13 elsewhere, but as noted in its response to PSNH data request 1-19 (SRH-8), that  
14 opposition was not disclosed.

15 Such changing of positions and failure to disclose completely undermines the credibility  
16 of RESA’s testimony. The opposition to implementation of a POR program in Maryland,  
17 and decision not to implement one in Pennsylvania, was for good reason – to protect  
18 customers from incurring costs associated with a program that will do nothing except  
19 reduce risk (and increase profit) for competitive suppliers.

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<sup>7</sup> Letter dated March 30, 2008, <http://www.puc.state.pa.us/pcdocs/1037398.pdf>

1 **Q. Does RESA acknowledge the possibility of placing the distribution utility in the**  
2 **middle of a dispute between the customer and the supplier regarding the energy**  
3 **portion of the bill?**

4 A. No, it does not. Attachment SRH-10 is a discovery request (PSNH 1-11) propounded by  
5 PSNH to RESA. In that question, PSNH asked, “Could implementation of a POR  
6 program place the utility in the middle of a supplier/customer dispute regarding the  
7 energy portion of a customer's bill?” RESA responded, “No.” RESA went on to state  
8 that there is no potential for a distribution utility to be placed in the middle of such a  
9 dispute because, “The amount charged to a customer is a matter between the customer  
10 and the retail supplier.” However, under a POR program, the receivable for the  
11 underlying energy sale becomes the property – and problem – of the host utility. If the  
12 customer refused to pay the supply portion of the bill due to a dispute regarding their  
13 contractual relationship with a supplier, the distribution utility would unquestionably be  
14 in the middle of the dispute, because the distribution utility would be responsible for  
15 collection of the bill, and the supplier would have already received payment.

16 In this situation, the distribution utility may have to seek recovery of the unpaid amount  
17 due in a court of law. The distribution utility may have to decide whether to bring such a  
18 suit without any direct knowledge of the price or terms of the contract between the  
19 supplier and the customer since the utility would not be a party to that contract.

20 Distribution utilities bill customers on behalf of suppliers based on EDI transactions  
21 submitted by suppliers, and utilities have no information on the underlying contractual  
22 relationship between the supplier and the customer. It is quite likely that a judge, faced  
23 with a defendant who contests a competitive supplier’s charge that is not contained in a

1 Commission-approved tariff and a utility that can only say that the charge is based on an  
2 “EDI transaction” submitted by some other party, would rule in favor of the customer.

3 RESA’s position on this issue is also disputed by Exelon/BGE in the Maryland dockets  
4 referenced above: “If the customer has not paid the supplier, the utility will have to  
5 attempt to recover the erroneous billing amounts from the supplier, which will be  
6 extremely difficult, and will unfairly place the utility in the midst of a supplier/customer  
7 dispute for the commodity portion of the bill. Since the receivable must be purchased by  
8 the utility, the supplier will have little incentive to rectify the dispute with the customer in  
9 a timely manner.” (Attachment SRH-6, p. 3, Attachment SRH-7, p.2).

10 **Q. Could suppliers implement a POR program in conjunction with a financial**  
11 **institution in the absence of forced implementation of such a program by the**  
12 **Commission?**

13 A. Yes.

14 The purchasing of accounts receivable is not unique to the energy business. A quick  
15 Google search reveals that there are many financial institutions in the competitive  
16 marketplace that engage in “factoring”, which is the purchasing of receivables. Suppliers  
17 could achieve the same results they desire without any intervention by the Commission  
18 mandating the monopoly provision of such services. In fact, PSNH's affiliate CL&P had  
19 a similar program several years ago under which it pledged its receivables as collateral  
20 for short-term liquidity purposes.

21 RESA has frequently cited to the New Hampshire Constitution provision that disfavors  
22 monopolies and supports free and fair competition in the trades. Article 83 of this State’s

1 Constitution declares, “Free and fair competition in the trades and industries is an  
2 inherent and essential right of the people and should be protected against all monopolies  
3 and conspiracies which tend to hinder or destroy it.” As recently as January 15, 2013,  
4 RESA quoted this Constitutional provision word-for-word in Docket No. DE 12-295  
5 during the prehearing conference (see Transcript, p. 26 of that prehearing conference).  
6 There is no need to force the state’s utilities to provide POR programs when such  
7 services are available in the competitive marketplace.

8 The state’s restructuring law reinforces this Constitutional provision. The General Court  
9 expressly found that “market forces can now play the principal role in organizing  
10 electricity supply for all customers instead of market regulation.” This finding appears at  
11 1996 N.H. Laws, 129:1, IV, the session law which included the original RSA Chapter  
12 374-F. It would be antithetical to this legislative finding to mandate via regulation that  
13 the state’s monopoly utilities must provide services that are available from the  
14 competitive marketplace to competitive suppliers at below-market rates.

15 RESA and other suppliers may argue that the costs of obtaining such factoring services  
16 on the open market are not as advantageous as what a utility might be forced to accept  
17 under a Commission-mandated POR program; that is, “at cost with no profit.” However,  
18 the potential cost alone does not overcome the “inherent and essential right of the people”  
19 protected by Article 83 of the New Hampshire Constitution.

20 RESA has not even made the effort to determine whether such programs are available in  
21 the competitive marketplace, let alone at what price. Attachment SRH-11 is a response  
22 by RESA to a discovery request (PSNH 1-16) asking whether there are third-party  
23 businesses that would purchase receivables. RESA’s witnesses responded that they were

1           unaware whether RESA had explored such an option. Rather than determining whether  
2           such options exist in the market, RESA is instead seeking the “easy way out” by  
3           proposing that their program be forced on monopoly distribution utilities – contrary to its  
4           own position that the New Hampshire Constitution’s abhorrence of monopolies would  
5           militate against such a program.

6           The Commission should not implement programs designed to enhance suppliers’ bottom  
7           lines via the use of monopoly powers, especially when the proponent of the program has  
8           not made any effort to determine whether it could accomplish the same objectives by  
9           other means that may already exist via “[f]ree and fair competition in the trades”.

10       **Q.    Is a POR program simply a means to shift risk from competitive suppliers to**  
11       **customers?**

12       A.    Yes, it is. It has been reported that Warren Buffett describes the managing of risks as a  
13       goal for his Berkshire Hathaway Inc. and its shareholders in order to allow them to sleep  
14       well at night.<sup>8</sup> RESA and the other suppliers supporting a POR program intend to  
15       “manage” the business risk of dealing with uncollectibles by shifting that risk onto the  
16       state’s utilities and their customers.

17       The entire purpose of a POR program is to eliminate risk for suppliers. Under such a  
18       program, suppliers obtain a known and certain payment for their receivables and no  
19       longer incur the risk of collecting amounts owed by customers. If a POR program did not  
20       reduce risk for suppliers, RESA wouldn’t be proposing it. Any losses due to failure of  
21       customers to pay the supply portion of the bill would be borne by the utility and

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<sup>8</sup> “Buffett, Bono & Gates: Nowhere But Berkshire Hathaway,”  
<http://www.businessbankoftexas.com/buffett-bono-gates-nowhere-but-berkshire-hathaway.htm>

1 ultimately all of its customers. Since utilities could not mitigate that risk through  
2 disconnection of service, that loss could be quite large.

3 RESA's testimony suggests that the risk disappears: "In states with a well-designed POR  
4 program, this risk has been eliminated."<sup>9</sup> While the risk would be eliminated for  
5 suppliers, elimination of the suppliers' risk would be accomplished through shifting that  
6 risk to utilities and their customers. A POR program is not a "magic pill" that somehow  
7 eliminates credit risk. Recall RESA's own admission in Docket No. DE 10-160 noted  
8 earlier: "*In actuality the cost of non-payment is syndicated across all retail sales.*"

9 The Commission must determine if the cost of expanding the marketplace for competitive  
10 suppliers via the regulation of monopolies is worth the benefit; and in New Hampshire, if  
11 there is such a benefit, whether it is substantial enough to overcome Article 83's  
12 Constitutional aversion to such a plan.

13 For all of the reasons stated above, there is no question that a POR program would  
14 significantly increase a utility's uncollectible expense. Exelon's BGE agrees with that  
15 statement. RESA wants the Commission to believe that such expense will somehow be  
16 eliminated through prospective adjustments to the discount rate. However, RESA itself  
17 has said that such costs are merely "syndicated across all retail sales." Higher  
18 uncollectible expense for the utility will result in higher costs for all customers, even  
19 those customers who choose to remain energy service customers of the distribution  
20 utility. The result will be cost shifting from customers who take energy service from the  
21 competitive market to customers who take energy service from the distribution utility.

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<sup>9</sup> Testimony of Daniel W. Allegretti, Marc A. Hanks, and Christopher H. Kallaher, page 9, lines 21-22

1 **Q. Has RESA demonstrated that implementation of its proposed POR program will**  
2 **reduce costs for customers?**

3 A. No, it has not. PSNH asked this question to RESA in discovery (Attachment SRH-12,  
4 PSNH 1-54). In response to a question asking whether RESA was guaranteeing that  
5 implementation of a well-designed POR program would reduce costs to customers,  
6 RESA objected, but responded, “RESA believes that current retail market prices are  
7 lower than New Hampshire EDC’s default service commodity prices.” RESA’s belief  
8 that current prices are below utilities’ default prices provide no assurance that the  
9 proposal will result in lower costs to customers – but it speaks volumes about the fact that  
10 implementation of a POR program is unnecessary in order for RESA’s members to be  
11 able to compete in the New Hampshire marketplace.

12 Nowhere in their testimony does RESA provide any evidence that implementing the  
13 program will result in lower energy costs to customers. Again, compare RESA’s position  
14 in this proceeding with what it said in Docket No. DE 10-160: “the cost of non-payment  
15 is syndicated across all retail sales.” Now, they maintain that enhancement of the market  
16 will entice more suppliers, and therefore result in lower prices to customers. However,  
17 that statement is not a guarantee, and is merely speculation by RESA. Suppliers can  
18 simply pocket any savings from risk reduction under a POR program, thus enhancing  
19 their bottom lines at the expense of the host utility and its customers.

20 **Q. RESA also contends that a POR will help increase customer shopping. Is there a**  
21 **need for such market stimulation?**

22 A. No. As I noted earlier, the most important determinant of whether there will be vibrant  
23 competition is the price of the underlying energy commodity. As PSNH notes below,

1 there has been significant migration of customers to competitive supply options without  
2 the need for a POR. According to a recent article in the New Hampshire Business  
3 Review “some 30,000 [PSNH] residential customers also choose to get their energy  
4 elsewhere.”<sup>10</sup> On its website, CEPS ENH Power states, “Currently ENH Power is buying  
5 power for 48,000 New Hampshire residents and small businesses.”<sup>11</sup> There already is  
6 significant customer shopping for electricity. Contrary to RESA’s contention, there is no  
7 need for a POR program to stimulate that interest. A POR program will only shift risk  
8 away from competitive suppliers operating in New Hampshire, and place that risk  
9 elsewhere.

10 **Q. Please summarize PSNH’s position on RESA’s proposed POR.**

11 A. Implementation of a POR program would be bad public policy that runs afoul of New  
12 Hampshire Constitutional and legislative restrictions. A distribution utility cannot  
13 disconnect a customer for nonpayment of the competitive supplier’s portion of the bill, a  
14 fact that eviscerates any consideration of implementing a POR program. Implementing a  
15 POR program will result in higher costs for the utility, which will have to be recovered  
16 from all customers. It will also shift the risk of collection from competitive suppliers to  
17 distribution utilities, thereby forcing a regulated utility to shoulder risk associated with an  
18 unregulated sale. It will prevent other entities that purchase accounts receivable in the  
19 competitive market from being able to compete for this business in New Hampshire.  
20 This interference in a competitive marketplace clearly was not a stated purpose of  
21 restructuring. The Commission should recognize this attempt by RESA to shift its costs  
22 and risks to distribution utilities and reject RESA’s proposal.

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<sup>10</sup> See <http://www.nhbr.com/businessnews/statenews/994442-257/spike-in-natural-gas-prices-jolts-competitive.html>.

<sup>11</sup> See <http://www.electricitynh.com/>.

1 **III. Electronic Interface Program**

2 **Q. Please summarize RESA's proposal regarding an electronic interface program.**

3 A. RESA is proposing a three point program to the Commission. First, they propose that  
4 distribution utilities be required to maintain dedicated web-based sites that provide  
5 suppliers direct access to confidential customer account and usage data, including  
6 account number, meter number, service address, scheduled read date, rate code, ICAP  
7 tag, historic usage, payment history, whether a customer is served by a supplier or the  
8 distribution utility, and other unspecified data. Second, RESA proposes that distribution  
9 utilities provide suppliers with a quarterly list of all customers served by the supplier.  
10 Third, RESA proposes that suppliers should be allowed to use language in their contracts  
11 with customers as authorization to secure historical monthly usage data, and that  
12 suppliers should be responsible for maintaining Letters of Authorization from customers.

13 **Q. Should the Commission have concerns about granting RESA's request pertaining to**  
14 **electronic interface?**

15 A. Most definitely. RESA's proposal would allow all suppliers unfettered access to  
16 customer information which the New Hampshire Supreme Court has agreed is  
17 confidential, including payment history and consumption data. Moreover, RESA's  
18 proposal to allow suppliers to simply include language in their contracts that provides  
19 them access to historical usage data is alarming.

20 **Q. Why is that?**

21 A. PSNH has observed numerous circumstances where suppliers have deviated from  
22 required and acceptable business practices. Some suppliers have forged customers'  
23 signatures, modified dates on forms, swapped account numbers, changed service terms

1 without the customer's authorization, or sought information for customers that they are  
2 not authorized to serve. Attachment SRH-13 is a listing of circumstances of potential  
3 fraud that PSNH has encountered with respect to suppliers' dealings with large power  
4 customers since May, 2010. PSNH uncovered these cases by conducting due diligence  
5 upon receipt of Letters of Authorization signed by customers instructing PSNH release  
6 confidential customer information to suppliers. Most recently, the Commission's General  
7 Counsel was involved in a situation where an agent for a supplier forged a customer's  
8 signature on a Letter of Authorization. *See* Docket No. DE 12-214.

9 **Q. If suppliers were responsible for maintaining Letters of Authorization, or if the**  
10 **Commission approved RESA's proposal to allow suppliers to include language**  
11 **authorizing such release of information in their contracts, what controls would be in**  
12 **place to ensure that the information was being obtained legitimately?**

13 A. There would be very little control. Attachment SRH-14 is a response to a discovery  
14 request (PSNH 1-69) from RESA where PSNH inquired about verifying that customers  
15 have authorized the release of their confidential information. RESA's response was that  
16 distribution utilities would "have access to a sufficient number of contracts to verify that  
17 a supplier has authorization to access customers' data." This response is hardly  
18 reassuring. While most cases of access to confidential customer data are no doubt  
19 legitimate, Attachment SRH-13 illustrates that there have been a significant number of  
20 circumstances where access has not been authorized. RESA is essentially saying, "Trust  
21 us," yet that trust has not been earned. There is simply no reasonable way to protect  
22 confidential customer information from being obtained without authorization once  
23 control of such authorization is placed with suppliers.

1 **Q. Are there other examples of marketers or suppliers engaging in behavior which**  
2 **demonstrates that they have not earned the trust of utilities and the Commission?**

3 A. Yes. Some currently active marketers have already shown a propensity to do whatever it  
4 takes to sign up customers. A caller representing North American Power recently called  
5 my own home trying to have me switch from PSNH's energy service by stating that  
6 PSNH's rates will be increasing on July 1. One of my job responsibilities is to provide  
7 management of PSNH's recovery of its energy costs, and as of this date even I do not  
8 know whether the Company's energy service rate will be going up, down, or staying the  
9 same on July 1. In addition, my phone number is listed on the Do-Not-Call list, making  
10 that call a violation of both federal law, as well as the Commission's regulations (Rule  
11 Puc 2004.03). I am not alone – I am aware of other people on the Do Not Call Registry  
12 that have received similar calls.

13 I am also aware of another supplier, Glacial Energy of New Hampshire, informing a  
14 potential customer that he must choose a new electricity supplier because PSNH is no  
15 longer in the electric generation business. That was news to the customer – who happens  
16 to be a PSNH employee at Schiller Station.

17 In light of such examples, I have grave concerns about a proposal which would allow  
18 such suppliers to have access to my or other customers' confidential information  
19 maintained by PSNH.

20  
21 **Q. Is customer information available from sources other than the host utility?**

22 A. Yes. Clearly, competition for customers in New Hampshire is vibrant and has  
23 significantly grown without the state's utilities providing personal, confidential customer

1 information to the wide range of suppliers/aggregators in the marketplace. Every resident  
2 of this state has been bombarded by TV ads, direct mail campaigns, telephone  
3 solicitations (regardless of whether or not the customer is on the “Do Not Call” list),  
4 radio shows and messages, and even door-to-door solicitations. It is truly not necessary  
5 to further impinge on the privacy of this state’s citizens by allowing free access to untold  
6 numbers of in-state and out-of-state marketers.

7 Competitive suppliers are obtaining the information for their telephone and direct mail  
8 campaigns from somewhere other than the state’s utilities – just as any other direct  
9 marketer would. No business supplying customer information could ever compete with  
10 the free, unlimited services demanded by RESA.

11 Opening a host utility’s database of confidential customer information to competitive  
12 suppliers for free impinges on the privacy rights of customers; takes value from the host  
13 utilities without compensation; creates opportunities for abuse and misuse of the  
14 information; and tramples upon Article 83 of the New Hampshire Constitution.

15 For all of the above reasons, the Commission should reject RESA’s request for an  
16 electronic interface program and also reject the request that utilities be required to  
17 provide suppliers access to confidential information if such access is granted only via a  
18 confidential contract with the supplier or a Letter of Authorization maintained  
19 exclusively by the supplier.

1 **IV. Customer Referral Program**

2 **Q. Please summarize RESA's proposal regarding a customer referral program.**

3 A. If approved by the Commission, RESA's proposal would mandate that distribution  
4 companies not automatically enroll new customers in their default energy service, but  
5 rather, provide customers with the opportunity to enroll with a competitive supplier at the  
6 time that service with the distribution company is initiated or reinstated. Furthermore,  
7 distribution companies would be required to offer residential and small commercial  
8 customers the option to learn about their electricity supply options when they contact the  
9 distribution company for certain purposes. Under this aspect of RESA's proposal,  
10 distribution companies would also reserve a section on their websites which would  
11 display the rates of competitive suppliers and their contact information. Distribution  
12 companies would also be required to provide bill inserts that explain similar information.

13 **Q. What does RESA see as the main benefit to this proposal?**

14 A. RESA believes that, "the enhancements proposed by RESA would allow customers to  
15 participate more easily in the retail competitive market and to immediately take  
16 advantage of competitive offerings."<sup>12</sup>

17 **Q. Does PSNH agree with this assessment?**

18 A. No, PSNH does not agree with RESA's assessment. The customer referral program  
19 proposed by RESA would benefit competitive suppliers, not customers. RESA seems to  
20 believe that customers are somehow unaware of the competitive market for electricity,  
21 notwithstanding the fact that the market in New Hampshire is vibrant. Apparently,  
22 RESA believes that customers have not seen or heard any of the countless television and

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<sup>12</sup> Testimony of Daniel W. Allegretti, Marc A. Hanks, and Christopher H. Kallaher, page 14, lines 22-23

1 radio advertisements, do not read newspapers, have not read any of the promotional  
2 material that suppliers have disseminated, nor have they viewed display ads on the web.

3 RESA wants the Commission to believe that it is necessary to force feed customers with  
4 information about the competitive market, and they want utilities to do so at no cost to  
5 them. Moreover, RESA wants all of this despite the fact that nearly 50,000 customers<sup>13</sup>  
6 have already availed themselves of competitive supply options.

7 **Q. Has RESA stated that customer referrals should be made at no cost?**

8 A. Yes, they have. Attachment SRH-15 is RESA's August 24, 2012 revised response to  
9 PSNH's discovery request 1-59. In part (f) of that request, PSNH asked whether RESA  
10 proposed that utilities be allowed to charge competitive suppliers for providing referral  
11 service. RESA's response was that such costs should be recovered "as part of the EDC's  
12 general and administrative expense" if such costs could be provided at little or no  
13 incremental cost to the utility. They further stated that if a "significant" incremental  
14 expenditure was required, the costs could be recovered through "some form of user fee."

15 RESA's position on this issue is incredible. RESA wants utilities to provide a valuable  
16 service, yet the suppliers would not pay for that service unless there is a "significant"  
17 incremental cost of providing the service. This notion is contrary to any type of business  
18 arrangement that exists in a competitive environment. Businesses do not provide  
19 valuable services for free without any other consideration, and the suggestion that utilities  
20 should be forced to do so is outrageous. RESA wants to be able to use the host utility's  
21 infrastructure to enhance suppliers' bottom lines without paying for such use.

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<sup>13</sup> January 18, 2013 letter and attachment to Debra A. Howland from PSNH re: 4<sup>th</sup> Quarter Customer Migration Report.

1 **Q. Do competitive suppliers normally pay for customer referrals?**

2 A. Yes, they do.

3 To cite a specific example, on its website, North American Power invites customers to  
4 “Start A Business” through its “unique customer referral program.”<sup>14</sup> North American  
5 states, “The more people you refer, the more your network grows and the more money  
6 you'll make. It is our goal to help you supplement your income or achieve total financial  
7 independence by supporting and rewarding your efforts.” It also says, “We provide you  
8 with the tools to grow your own home-based business when you become a member of our  
9 family.”

10 Aggregator Resident Power Natural Gas and Electric Solutions, LLC (“Resident Power”  
11 or “RPNGES”) has approached municipalities throughout New Hampshire seeking their  
12 entry into its “Channel Partner Program” Such “Partners”, also called “Agents” and  
13 “independent contractors” by Resident Power, are customer referral arrangements:  
14 “RPNGES has no duty or obligation to Agent other than providing Agent with negotiated  
15 commission on each customer Agent successfully signs or generates, provided that  
16 RPNGES successfully places customer with a supplier.”<sup>15</sup> The consideration paid in the  
17 agreement attached at SRH-16 is stated to be, “Unless otherwise Agreed, in writing and  
18 executed by both parties, Agent's commission will be based on a percentage of RPNGES'  
19 negotiated margin from Supplier. That percentage shall be equal to 10%.” In an email  
20 dated October 26, 2012 from Freedom Energy Logistics, LLC to the City of Franklin  
21 (SRH-17), Resident Power provided an estimate of the value of its Channel Partner  
22 Agreement: “10% of our ‘profits’ will be provided to the town for each enrollment. This

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<sup>14</sup> See <http://www.napower.com/start-a-business/how-it-works>

<sup>15</sup> See “Resident Power Natural Gas and Electric Solutions, LLC Channel Partner Agreement” at SRH-16.

1 amounts to about \$1 to \$2.50 per household each month.” Per these figures supplied by  
2 Resident Power/Freedom Energy Logistics itself, its “profit” is \$10 to \$25 per household  
3 each month, and paying 10% of that to a referring entity makes good business sense.

4 These examples are just representative of the value that competitive suppliers place on  
5 customer referrals, and their ability to use existing means in the competitive marketplace  
6 to obtain customers. The Commission should reject RESA’s proposal.

7 **V. Status of the Competitive Market for Electricity**

8 **Q. You have described the competitive market as “vibrant.” What evidence do you  
9 have to support that conclusion?**

10 A. To determine the status of the retail market for electricity in New Hampshire, one needs  
11 only to look at the rapid increase in migration that has occurred over the last two years.  
12 In 2007, when PSNH’s Default Energy Service Rate was low relative to the market, less  
13 than 10% of total load (MWH) had migrated to a third party provider. In the years since  
14 2007, PSNH migration has risen steadily as PSNH’s Default Energy Service Rate has  
15 increased relative to the market. As of December 2012, 43.8% of PSNH’s load had  
16 migrated to a third party provider.

17 RESA contends that residential and small commercial customers are not currently aware  
18 that they have a choice of who provides their energy service. Our data does not support  
19 this contention. Migration amongst PSNH’s Rate G customers (small commercial) has  
20 increased from virtually none in 2007, to 41.2% of load in December 2012 as third party  
21 suppliers heavily market their product in the State. Residential load migration has grown  
22 from zero in 2007 to 8.4% in December 2012, again as third party suppliers continue  
23 their aggressive marketing in the State. In its testimony, RESA maintains that less than

1 1% of residential customers and only 15.2% of small commercial customers have  
2 migrated, and describes those statistics as “concerning.” Those statistics were outdated,  
3 even at the time RESA’s testimony was filed.<sup>16</sup> As can be seen from the above  
4 information, migration has significantly increased, obviating the need for implementing  
5 “market enhancements” to remove alleged “barriers” to competition. The significant  
6 increase in migration of customers to competitive suppliers also contradicts RESA’s  
7 claim that customers are not aware that they have a choice of competitive supply offers,  
8 and markedly alleviates RESA’s “concern” about the level of migration. Attachment  
9 SRH-18 shows a graph of residential and small general service customer migration by  
10 month from 2009 through 2012, while Attachment SRH-19 shows the amount of load  
11 migration by month for those two classes for the same period.

12 **Q. What other information do you have that indicates the market is vibrant?**

13 A. Competitive suppliers themselves have acknowledged the vibrancy of the competitive  
14 market in recent statements made to the press. An October 27, 2012, article in the Union  
15 Leader captioned “Thousands Drop PSNH For Cheaper Electricity Supplier”<sup>17</sup> reported,  
16 “In just three months since opening for business in New Hampshire, ENH Power, a  
17 Maine-based company with offices in Portsmouth, says it has signed up more than 14,000  
18 customers looking to lower their electric bills by lowering the one part of the bill they can  
19 control — the energy supply charge.”

20 In an article appearing in the February 20, 2013 edition of the Concord Monitor  
21 (Attachment SRH-20) reporting on the recent suspension of Power New England (PNE)  
22 from the energy market, Gus Fromuth, the chief executive officer of PNE, was quoted as

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<sup>16</sup> As of the date of filing of RESA’s testimony, residential migration had more than doubled from the level stated in RESA’s testimony.

<sup>17</sup> <http://www.unionleader.com/article/20121028/NEWS02/710289914>

1 saying, “I think the competitive market choice is robust....I think it’s a little early to be  
2 burying the alternative retail market.” In a similar article appearing in the February 20,  
3 2013 edition of the New Hampshire Business Review (Attachment SRH-21), Mr.  
4 Fromuth stated, “We helped jump-start the market for residential choice...[W]e helped  
5 create something that has taken off like wildfire.” Further, in a recent statement about  
6 acquiring certain customers from PNE, the chief executive officer of FairPoint Energy  
7 stated that the transaction “represents an excellent opportunity to acquire customer  
8 accounts in a highly attractive market.”<sup>18</sup>

9 Most recently, in a February 26, 2013 filing made by PNE with the Commission in  
10 Docket No. DE 12-295, PNE expressly noted, “PNE led the way to this vibrant,  
11 flourishing marketplace which is proving beneficial to thousands of PSNH [customers]  
12 who now have compelling economic choices for their electricity vendor that didn’t exist  
13 18 months ago.”<sup>19</sup>

14 When competitive suppliers describe the market as “robust”, “highly attractive”,  
15 “vibrant” and “flourishing” and state that the residential market has “taken off like  
16 wildfire” and that customers now have “compelling economic choices for their electricity  
17 supplier” it is evident that this is not a market that needs “enhancements” at the expense  
18 of all customers. Moreover, it is a direct contradiction to RESA’s statement that “While  
19 medium and large commercial and industrial customers in New Hampshire have enjoyed  
20 the benefits of a robust competitive market, the same cannot be said about the residential

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<sup>18</sup> See <http://www.bloomberg.com/article/2013-02-11/aHOR62JsgbJA.html> (visited 2/21/13).

<sup>19</sup> Petition of Power New England, LLC, Docket No. DE 12-295, letter from PNE to Debra A. Howland dated February 26, 2013.

1 and small commercial market segments.”<sup>20</sup> Competitive suppliers clearly believe that the  
2 market is robust.

3 **VI. Summary and Conclusion**

4 **Q. Please summarize your recommendation to the Commission.**

5 A. The Commission should reject RESA’s “market enhancement” proposals, as they ,  
6 will cost customers and utilities money, will not result in a more robust competitive  
7 market, and are intended only to pad the profit margins of competitive suppliers. RESA  
8 has not demonstrated any need for the enhancements; rather, they rely on migration  
9 statistics that are no longer valid and they provide no other factual evidence of the need to  
10 implement their proposals. The facts presented above show just the opposite – that the  
11 market is robust and growing, and that customers are aware of the opportunities available  
12 to them, especially in view of the marketing blitz that has been underway over the last  
13 year or so.

14 In its request to open this docket, RESA cited language in the Commission’s July  
15 26,2011 Order in Docket No. DE 10-160 in which the Commission ordered:

16 “proposals for purchases of receivables, customer referral, and electronic  
17 interface programs to support customer choice in energy supply should be further  
18 investigated through a generic docket for potential applicability for all residential  
19 electric utility customers and for smaller commercial electric and gas utility  
20 customers *who currently have few, if any, competitive options for energy*  
21 *supply.*” (Emphasis added.)

22 Since that date, the competitive options for customers have increased dramatically, as  
23 demonstrated in this testimony. There no longer exists any need for implementation of

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<sup>20</sup> Testimony of Daniel W. Allegretti, Marc A. Hanks, and Christopher H. Kallaher, page 7, lines 6 – 8.

1 programs based on the premise that customers “have few, if any, competitive options for  
2 energy supply” since the options available to customers are now numerous.

3 The Commission should look into the motives behind RESA’s recommendations and by  
4 doing so will understand that the sole beneficiaries of the “market enhancements” will be  
5 competitive suppliers.

6 There is at least one other market participant, Gus Fromuth, Managing Director of  
7 Freedom Energy Logistics, who shares the opinion that there should be no regulatory  
8 changes to the marketplace:

9 Deregulation was undertaken to let the competitive marketplace work,  
10 therefore, it should be allowed to work. Regulatory re-intervention to  
11 ‘fix’ an evolving marketplace is unnecessary when the marketplace is  
12 already reordering itself. Not only are such efforts unnecessary but,  
13 perversely, they assault the original purpose of deregulation.<sup>21</sup>

14 The New York Attorney General recently submitted comments to the New York Public  
15 Service Commission regarding the role and responsibilities of competitive suppliers in  
16 that state’s energy market. The Attorney General noted:

17 To qualify as independent competitors, ESCOs [energy service  
18 companies, or, in New Hampshire, CEPS] should bear the full risk of  
19 their customers’ uncollectible accounts. After fifteen years in existence,  
20 ESCOs today have adequate financial resources to stand on their own.  
21 To effect a genuine competitive retail energy market, the PSC must  
22 provide that utility ratepayers and shareholders are not responsible for  
23 ESCO collections.<sup>22</sup>

24 The Commission should heed this advice and reject RESA’s proposals since they are not  
25 in the public interest.

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<sup>21</sup> <http://freedomenergy.wordpress.com/2012/06/12/not-always-the-popular-kid-on-the-playground/>.  
Accessed 3/7/13.

<sup>22</sup> “Comments of Eric T. Schneiderman, Attorney General of the State of New York,” NYPS Case Nos. 12-M-0476, 98-M-1343, and 06-M-0647, January 25, 2013.

1   **Q.**    **Does this complete your testimony?**

2   **A.**    Yes, it does.