



Mint Energy, LLC
One Rounder Way, Suite 220
Burlington, MA 01803

March 25, 2014

Debra Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301-2429

RE: DM 14-008, Mint Energy, LLC's Request for Waiver of CEPS Application's Financial Security

Dear Director Howland,

By this letter, pursuant to Puc 201.05, Mint Energy, LLC ("Mint Energy"), in conjunction with its initial application for 5-year registration as a Competitive Energy Power Supplier ("CEPS"), respectfully requests that the New Hampshire Public Utilities Commission ("Commission") grant it a limited waiver of Puc 2003.03(5)(a), which requires that each potential CEPS provide an irrevocable letter of credit or other financial instrument with an expiration date not less than 5 years and 150 days after the date of an initial application.

The applicable Rule here, Puc 201.05 (a), states that a waiver shall be granted by the Commission if it finds that "(1) [t]he waiver serves the public interest; and (2) [t]he waiver will not disrupt the orderly and efficient resolution of matters before the commission."

Mint Energy respectfully suggests that granting it a limited waiver of the bonding provision, specifically, the requirement that the posted financial security have an expiration date of 5 years and 150 days from effective date, to the extent described herein, would both serve the public interest, and not disrupt the orderly and efficient resolution of matters before the Commission. The Commission has recently approved similar term reduction waivers,¹ thus indicating such requests are not disruptive to the matters of the Commission. Further, Mint Energy will assume the burden of compliance with its proposal over the 5-year registration term, as it will take on the responsibility of ensuring that the letter of credit is renewed, so it will not disrupt the orderly and efficient resolution of matters before the Commission in this manner either. In addition, Mint Energy's presence in the New Hampshire market would bring additional competition, resulting in

¹ E.g., Mint Energy notes that the Commission has already approved a similar waiver request and registration, with a "self-reporting" condition for a one-year letter of credit. *See* Secretarial Letter, Debra M. Howland, Executive Director and Secretary, to Stephanie Kueffner, XOOM Energy, LLC. Docket No. DM 13-185, (Aug. 29, 2013).

more competitive energy products and services available to New Hampshire consumers which would ultimately benefit the public interest.

Moreover, Puc 201.05b) states:

In determining the public interest, the commission shall waive a rule if:

- (1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or
- (2) The purpose of the rule would be satisfied by an alternative method proposed.

Mint Energy suggests that the current rule is both onerous to Mint Energy, and that the purpose of the rule would be satisfied by Mint Energy's proposed alternative method.

First, Mint Energy is applying to be a new CEPS, and as such, despite numerous attempts and much time and effort, has not found a compliant bond (e.g., bond or letter of credit) for the required five (5) year and 150 day term. In pursuit of that bond, per the New Hampshire Code of Administrative Rules, Puc 2003.01, Mint Energy filed an original surety bond to the amount of one-hundred thousand dollars (\$100,000) along with its competitive electric supplier application. Following this filing, Mint Energy received a deficiency letter from the Commission, stating that the submitted bond did not conform to the financial security qualifications of the application, primarily explicit language evidencing the five (5) year, 150 day term. Subsequent to this notice, Mint Energy engaged with its underwriters and financial partner to draft a form of security that complied with the Commission's financial requirements, but after significant negotiations, Mint Energy was still ultimately unable to produce a form of security that fulfills the Commission's term requirement of five years and 150 days, and thus, Mint suggests that this requirement is onerous upon Mint.

Second, the purpose of the five-year bonding requirement of Puc 2003.03 (5)(a) is to protect New Hampshire consumers should a CEPS, here Mint Energy, experience a financial difficulty. Here, this purpose would be fulfilled by Mint's proposed alternative, described herein, which keeps a security bond or other security acceptable to the Commission in place on an uninterrupted basis for at least the five-plus year term, but just does so in one year increments. The alternative process Mint Energy suggests is also the process that was successfully in place at the Commission for many years.

Accordingly, Mint Energy requests that the Commission permit Mint Energy to obtain an irrevocable letter of credit with an initial term of one year. Mint Energy's staff and financial partner have both communicated regularly and worked with Commission staff on the language of the draft letter of credit to ensure compliance. Practically, before each annual termination, Mint Energy would either renew such letter of credit, and provide notice and evidence to the Commission of such renewal no less than 30 days before the expiration of the existing one year letter of credit, or employ another financial security option approved by the Commission, and if pursuing another security provision, would provide notice to and comply with Commission protocols for obtaining another instrument of financial security acceptable to the Commission. This alternative fulfills the purpose that the Commission found necessary when establishing the

bonding requirement, namely that there be some measure of financial security for the duration of Mint Energy's 5-year registration term.

In summary, based on the information herein, Mint respectfully requests that the Commission grant Mint Energy's request for a limited waiver of Puc 2003.03(5)(a). Such a waiver is both in the public interest and would not "disrupt the orderly and efficient resolution of matters before the commission."

If Staff or the Commission have any questions regarding this request, please contact me at **(781) 229-6468, ext 305**, or by email at **ddenny-brown@mintenergy.net**.

Sincerely,

A handwritten signature in cursive script that reads "Douglas Denny-Brown".

Douglas Denny-Brown
Director of Legal & Regulatory Affairs