

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 12-097**

**ELECTRIC AND GAS UTILITY CUSTOMERS**

**Investigation Into Purchase of Receivables, Customer Referral, and Electronic Interface  
for Electric and Gas Distribution Utilities**

**Prehearing Conference Order**

**ORDER NO. 25,389**

**July 3, 2012**

**APPEARANCES:** Robinson & Cole LLP by Joey Lee Miranda, Esq. for Retail Energy Supply Association, Robert A. Bersak, Esq. for Public Service Company of New Hampshire, McLane, Graf, Raulerson & Middleton, P.A. by Steven V. Camerino, Esq. for Granite State Electric Company and EnergyNorth Natural Gas, Inc., Gary M. Epler, Esq. for Unitil Energy Systems, Inc. and Northern Utilities, Inc., James T. Rodier, Esq. for PNE Energy Supply, LLC d/b/a Power New England, Erin O'Dea Esq. and Orr & Reno, P.A. by Douglas L. Patch, Esq., for TransCanada Power Marketing, Ltd., Office of Consumer Advocate by Rorie E.P. Hollenberg, Esq., and Suzanne G. Amidon, Esq. and Alexander F. Speidel, Esq. for the Staff of the Public Utilities Commission.

**I. PROCEDURAL HISTORY**

On April 16, 2012, the Retail Energy Supply Association (RESA) filed a letter requesting that the Commission open a generic proceeding to investigate purchase of receivables, customer referral, and electronic interface programs and other retail market enhancements to promote the development of retail electric markets for the residential and small commercial customer segments. RESA noted in its letter that the Commission had indicated its willingness to investigate purchase of receivables, customer referral, and electronic interface programs in *Public Service Company of New Hampshire*, Order No. 25,256 (July 26, 2011).

On May 3, 2012, the Commission issued an order of notice opening this docket to investigate the merits of instituting purchase of receivables, customer referral, and electronic

interface programs for electric and gas distribution utilities and scheduling a prehearing conference, which was held at the Commission on May 31, 2012. Pursuant to the order of notice, all electric and gas distribution utilities subject to the Commission's jurisdiction were made mandatory parties. On June 6, 2012, the New Hampshire Electric Cooperative (NHEC) filed a letter asserting that the subject matter of this docket does not fall within the scope of the Commission's jurisdiction relative to NHEC. Petitions to intervene were timely filed before the prehearing conference by PNE Energy Supply, LLC d/b/a Power New England (PNE), RESA, TransCanada Power Marketing, Ltd. (TransCanada), and North American Power and Gas, LLC and were granted by the Commission at the prehearing conference without objection. On May 9, 2012, the Office of Consumer Advocate (OCA) filed its notice of intent to participate in this docket on behalf of residential utility consumers pursuant to RSA 363:28. On June 15, 2012, Staff filed a report of the technical session which followed the prehearing conference that included recommendations regarding the scope of the docket and a proposed procedural schedule. On June 18, 2012, EnergyNorth Natural Gas, Inc. filed a letter stating its disagreement with one of the recommendations in Staff's report. On June 25, 2012, Direct Energy, a member of RESA, submitted a late-filed petition to intervene pursuant to RSA 541-A:32 ,II

## **II. PRELIMINARY POSITIONS OF THE PARTIES AND STAFF**

At the prehearing conference, the parties addressed the question of the proper scope of this proceeding as well as their position on the merits. The parties' positions on the merits are set forth in this section and their positions on scope are described in section III below.

### **A. Retail Energy Supply Association**

At the prehearing conference, RESA stated it had filed testimony in Docket No. DE 10-160 describing its positions generally regarding purchase of receivables, customer referral, and

electronic interface programs. As to PSNH's comments regarding risks and the shifting of risks resulting from such programs, RESA stated that PSNH does not assert that customer referral or electronic interface programs shifts any risks. As to a purchase of receivables program, where PSNH does assert that risk shifting occurs, RESA denied that any risk would be shifted to residential and small commercial customers because they already bear the risk of increased rates as a result of uncollectible accounts. RESA further asserted that most of the time suppliers charge lower prices than distribution utilities charge for default service and therefore the amount of uncollectibles actually goes down. RESA also argued that under a purchase of receivables program, suppliers pay the utility a percentage to purchase the receivables and therefore no increased risk or risk shifting to ratepayers should result.

**B. Public Service Company of New Hampshire**

At the prehearing conference, PSNH argued that in moving to a restructured competitive paradigm for the electric industry, the legislature established a structure in which unregulated entities would bear the risks and rewards of participating in a competitive marketplace in order to supplant the traditional monopoly role that utility suppliers had played. In PSNH's view, the purchase of receivables program advocated by RESA in this docket would place the risk of uncollectibles back on the utility and/or its customers without any offsetting rewards for the utility. PSNH asserted that if the Commission changes its policy, whether in a generic docket or in one involving only PSNH, the Commission will have to consider how that affects PSNH's existing revenue requirement. PSNH also noted that it too had filed testimony in DE 10-160 regarding its positions with respect to issues being investigated in this docket.

**C. Granite State Electric Company and EnergyNorth Natural Gas, Inc.**

Granite State and EnergyNorth stated that in light of the pending transfer of ownership of the two companies, they would like to hear the specific proposals of the other parties and understand the scope of the proceeding before taking a position on the merits.

**D. TransCanada Power Marketing, Ltd.**

TransCanada noted that as an intervenor in DE 10-160, it supported the exploration of purchase of receivables, customer referral, and electronic interface programs to spur the development of a market for small customers. TransCanada pointed out that PSNH's distribution company affiliate in Connecticut has a purchase of receivables program, and Connecticut has a very high rate of residential customer participation in the market. Also, according to TransCanada, there is already an open docket in Massachusetts, where PSNH has another affiliate, which raises similar issues. TransCanada indicated that the experience in these states could be useful for the Commission to consider.

**E. Unitil Energy Systems, Inc. and Northern Utilities, Inc.**

Unitil and Northern agreed with TransCanada that there may be things that can be learned from similar dockets in Connecticut and Massachusetts. Northern pointed out that because; (1) it does not currently bill on behalf of suppliers, (2) residential gas customers do not have retail choice in New Hampshire, and (3) it is not set up to offer electronic data interchange transactions, extension of the proposed programs to gas utilities would not be beneficial without further developments. On the electric side, Unitil did not take a position other than to state that determining the costs and risks, if any, of the proposed programs and ensuring that the appropriate parties bear the costs and risks is an essential part of this docket. Finally, Unitil and Northern stated that since they are moving forward with efforts to replace their existing customer

information system, it would be very difficult for them to implement any necessary changes during the two years' time it will take to change the system. They stated that, nevertheless, their intention is to change to a system that can accommodate the necessary changes and they would want to explore the additional costs of such changes, if any.

**F. PNE Energy Supply, LLC d/b/a Power New England**

At the prehearing conference, PNE did not offer a preliminary position on the merits of this docket.

**G. Office of Consumer Advocate**

The OCA took no position on the merits at the prehearing conference.

**H. Staff**

Staff stated that it is uncertain whether the proposed purchase of receivables, customer referral, and electronic interface programs would promote retail competition for small natural gas customers since residential customers are currently prohibited from purchasing natural gas from competitive suppliers and mandatory capacity assignment limits such opportunities for small commercial and industrial customers. Staff stated it expected to use this proceeding to develop a position on this issue and to offer the Commission a recommendation.

**III. SCOPE OF THE PROCEEDING**

Staff stated in its report of the technical session that Staff and the parties concluded it would not be appropriate to discuss implementing the market enhancements proposed by RESA for natural gas utilities and thus recommended that the scope of this generic investigation be limited to New Hampshire's electric distribution utilities. Staff and the parties, other than EnergyNorth, recommended that the Commission further explore restructuring of the natural gas market at the conclusion of this proceeding. EnergyNorth stated in its separate letter that it

would not be a productive or efficient use of the Commission's resources, nor those of the gas utilities or others, to begin an open-ended investigation of the competitive natural gas market in New Hampshire. EnergyNorth argued that the Commission should not adopt the recommendation that the Commission further explore restructuring of the natural gas market at the conclusion of this proceeding.

Staff and the parties agreed that the scope of the proceeding should include an examination of the costs and benefits of purchase of receivables, customer referral, and electronic interfacing, including the collection of the associated costs. Staff suggested, and the parties did not object, that this proceeding consider on a generic basis how the costs associated with the provision of competitive supplier services generally should be collected.<sup>1</sup> Staff and the parties also agreed that any new issues, other than those recited above relating to the enhancement of the competitive electric market, should not be considered in this docket. Nonetheless, any party may recommend that the Commission consider additional issues at the conclusion of this investigation, either in a second phase of this docket or in a separate proceeding.

Finally, as evidenced by Staff's report, there is no agreement among the parties about whether a rulemaking proceeding and an implementation process for each utility following the conclusion of this docket is necessary.

#### **IV. COMMISSION ANALYSIS**

##### **A. Scope of the Proceeding**

Regarding the matter of scope, the competing goals are to find a way to make this docket as efficient and useful as possible, without requiring the opening of numerous succeeding

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<sup>1</sup> We understand that consistent with this recommendation, Docket No. DE 12-093 would not be consolidated with this docket and the reasonableness of the specific PSNH tariff charges disputed by PNE in DE 12-093 would not be finally determined in this docket.

dockets to consider new programs and implementation issues, while at the same time providing a scope that is not so all-encompassing that the docket takes too long to complete. With that in mind, we consider the recommendation to limit this docket to New Hampshire's electric distribution utilities to be reasonable. Accordingly, the caption of the docket should be changed and the gas utilities shall not henceforth be deemed to be mandatory parties to this docket. In addition, we do not find it necessary at this time to rule on the question of whether the Commission should open a docket to consider possible changes and enhancements to the Commission-approved market design for retail choice programs applicable to natural gas utilities.

We further agree with the recommendation that this proceeding include an examination of the costs and benefits of purchase of receivables, customer referral, and electronic interfacing,<sup>2</sup> including the collection of the associated costs, as well as consideration on a generic basis on which the costs associated with the provision of competitive supplier services generally should be recovered. Accordingly, Docket No. DE 12-093 will not be consolidated with this docket and the reasonableness of the specific PSNH tariff charges disputed by PNE in DE 12-093 will not be finally determined in this docket. Finally, we expect that parties in this proceeding will address in post-hearing briefs or other written comments, as we determine at a later date, the question of what further steps, including but not limited to rulemaking, are necessary for implementation of any enhancements we may approve.

The order of notice described the types of information the Commission would be soliciting from the parties. Except as may be inconsistent with the rulings on scope made above, the parties are expected to address such matters in their testimony.

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<sup>2</sup> If parties want the Commission to review other possible programmatic enhancements to promote retail choice, such as consolidated billing and website requirements, they should make an appropriate request at the conclusion of this investigation either in a second phase of this docket or in a separate proceeding.

## **B. Interventions And Procedural Schedules**

The Commission granted all then-pending petitions to intervene at the prehearing conference. Direct Energy's has submitted a late-filed petition to intervene pursuant to RSA 541-A:32, II, which grants the Commission discretionary authority to approve intervention petitions at any time upon determining that intervention would be in the interest of justice and would not impair the orderly and prompt conduct of the proceeding. Direct Energy is a member of RESA and states in its petition that it intends to largely work through RESA to avoid duplication of advocacy for the Commission and other parties. Ordinarily, we will not look favorably on an intervention request that does not contain an adequate justification for the late filing. Nonetheless, we find that Direct Energy's petition meets the applicable statutory standard and we will grant the petition in this case, subject to the condition that Direct Energy be required to work through RESA for all discovery and Commission proceedings (that is, Direct Energy will not independently cross examine witnesses, present duplicative testimony or arguments) unless there are particular issues where RESA and Direct Energy's positions are not aligned.<sup>3</sup>

NHEC's letter filed on June 6, 2012 stated because NHEC is not currently a public utility subject to the Commission's jurisdiction for purposes of RSA 378:5 or 7 (the ratemaking statutes cited in the order of notice) and because the Commission's current jurisdiction over NHEC with regard to RSA 374-F:3 (the other statute cited in the order of notice) is limited by the operation of RSA 374-F:4 XII to certain circumstances and procedural prerequisites not presented by this docket, NHEC does not believe that the subject matter of this docket falls within the scope of the Commission's jurisdiction relative to NHEC. We disagree. As discussed above in the section on scope, this docket is a generic one applicable to all electric distribution utilities and the

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<sup>3</sup> Because TransCanada is also a member of RESA, we will impose the same condition on its intervention.

investigation to be conducted does not include setting specific rates or charges of particular utilities. As to NHEC's argument based on RSA 374-F:4 XII, that statute states in part:

“[t]he commission shall have the authority to require that [NHEC] participate in proceedings, answer commission requests for information and file such reports as may be reasonably necessary to permit the commission to make an informed finding concerning the relevant restructuring policy principle actions of such deregulated rural electric cooperatives. . . .Notwithstanding the foregoing, [NHEC] shall be subject to the commission's jurisdiction with regard to those provisions of RSA 374-F pertaining to stranded cost recovery, **customer choice**, open access tariffs, default service, energy efficiency, and low income programs to the same extent as other public utilities.”  
(emphasis added)

In addition, we find that NHEC's participation in this docket will be of assistance to the Commission in making the necessary decisions on the issues to be investigated.

The parties and Staff agreed upon the following schedule:

Supplier Testimony	July 13, 2012
Discovery on Testimony	July 27, 2012
Responses to Discovery	August 10, 2012
Technical Session	August 16, 2012
Staff/OCA/Intervenor Testimony	September 10, 2012
Discovery on Testimony	September 24, 2012
Responses to Discovery	October 15, 2012
Technical Session	October 24, 2012
Settlement Discussions	November 7, 2012
Hearing (2 days)	November 27 and 28, 2012

The Commission has reviewed the proposed procedural schedule and determines that it is reasonable.

**Based upon the foregoing, it is hereby**

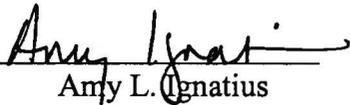
**ORDERED**, that the procedural schedule as proposed herein is reasonable and is hereby APPROVED; and it is

**FURTHER ORDERED**, that the pending petitions to intervene are GRANTED as provided above; and it is

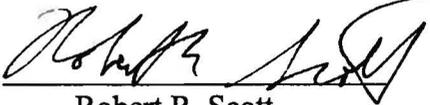
**FURTHER ORDERED**, that the New Hampshire Electric Cooperative is hereby made a mandatory party to this docket; and it is

**FURTHER ORDERED**, that the scope of this proceeding shall be as described above.

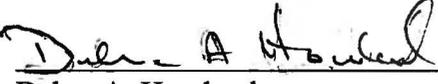
By order of the Public Utilities Commission of New Hampshire this third day of July, 2012.

  
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Amy L. Ignatius  
Chairman

  
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Michael D. Harrington  
Commissioner

  
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Robert R. Scott  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director