

THE STATE OF NEW HAMPSHIRE
before the
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire
Application for Certification of Class IV Small Hydroelectric Facilities.

Docket No. DE 08-053

PUBLIC SERVICE COMPANY'S ANSWER TO GRANITE STATE HYDROPOWER
ASSOCIATION'S AND ASHUELOT RIVER HYDRO, INC.'S PETITION FOR
ADJUDICATORY PROCEEDING, MOTION FOR REHEARING AND MOTION TO
SUSPEND DECISION

Public Service Company of New Hampshire hereby answers the Granite State Hydropower Association's and Ashuelot River Hydro, Inc.'s Petition for Adjudicatory Proceeding, Motion For Rehearing and Motion to Suspend Decision. PSNH supports the request to open an adjudicatory proceeding. PSNH objects to the Motion for Rehearing and the Motion to Suspend Decision. In support of its answer, PSNH says the following:

1. Adjudicatory Proceeding. This proceeding has become a contested case under RSA 541-A:1, IV. Public Service Company of New Hampshire ("PSNH") disagrees with Granite State Hydropower Association's and Ashuelot River Hydro, Inc.'s (collectively ("GSHA")) position with respect to the certification of PSNH's Gorham, Canaan, Hooksett and Jackman hydroelectric generators as Class IV sources of Renewable Energy Certificates ("RECs"). PSNH disagrees with the Commission's decision to combine individual generators of less than five megawatts as a single source of RECs, thus denying PSNH's request for certification of the generation sources at Amoskeag, Garvins Falls, Eastman Falls and Ayers Island. Based upon information already supplied in the non-adjudicative portion of this proceeding, PSNH believes GSHA will contest PSNH's position on this issue. An adjudicative proceeding must be commenced by the Commission when the matter has become a contested case. RSA 541-A:1, I; RSA 541-A:31, I; N.H. Code Admin. Rule Puc §2503.13.

2. Motion for Rehearing. The Commission must first make a determination on certification of an application in a non-adjudicative process. RSA 362-F:11, I. This statutory requirement must be met before an adjudicatory proceeding is commenced. Rule Puc §2503.13. Although the Commission's certification, contained in a letter dated September 23, 2008 to PSNH's William Smagula, is arguably a "decision" under RSA 541:3, it is not a final order because it does not conform to the requirements of RSA 363:17-b. The Secretarial letter alludes to submissions made by GSHA, Representative Suzanne Harvey and others; however, the Commission did not take these submissions into account in making its decision. September 23, 2008 Letter to William Smagula, at page two. To date, there has been no record that the Commission considered in order to base a "decision" other than the information presented in PSNH's application for certification. Interested parties should have an opportunity to introduce evidence, conduct discovery, and present argument before the Commission. Only after a final decision on the merits, following an evidentiary hearing, will a motion for rehearing be ripe.

3. Motion to Suspend GSHA has moved to suspend the Commission's certification of PSNH's four hydro plants under RSA 541:5 and RSA 365:28. GSHA claims that the Commission's decision regarding PSNH' hydro plants resulted in a significant decrease in the Class IV REC market price. This claim is based upon a conversation between one of its representatives and a broker of RECs. Although the Commission is not bound by the strict rules of evidence, suspension of a decision should not be based upon hearsay contained in a motion. Upon information and belief, none of the hydro electric facilities mentioned in the GSHA motion have filed with the Commission for certification. If these facilities had applied for and received certification as sources of Class IV RECs or sought Preliminary Designations under Puc §2505.03 there may be some basis to believe they are aggrieved by the certification of the PSNH facilities. Before the Commission suspends its certification, there should be some investigation of what may constitute the Class IV REC market, both demand and supply, and what competition may come from other markets.

4. PSNH's Position In seeking certification of its hydroelectric generators as Class IV sources, PSNH's sole interest is to reduce costs to its customers. If PSNH can produce Class IV RECs from its existing hydro generators at no additional cost to its customers, PSNH can save purchasing those RECs from the market or paying the alternative

compliance payment, currently at \$28. The Commission should open an adjudicative proceeding, conduct a prehearing conference, establish a procedural schedule including discovery, hold hearings to develop an evidentiary record, allow argument, either oral or written, and issue a final order based upon the record. PSNH does not agree that the Commission may take official notice of what has already been filed in this proceeding. RSA 541-A:33, V. PSNH's rights, duties, privileges and substantial interests in controlling costs to its customer are affected by this proceeding; therefore, PSNH ought to be made a party to this proceeding under RSA 541-A:32.

WHEREFORE PSNH respectfully requests that the Commission issue an order commencing an adjudicatory proceeding, denying the motion for rehearing and denying the motion to suspend the decision, and order such further relief as may be just and equitable.

Respectfully submitted,
Public Service Company of New Hampshire

October 10, 2009
Date

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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Answer to Granite State Hydropower Association's and Asheulot River Hydro, Inc.'s Petition for Adjudicatory Proceeding, Motion For Rehearing and Motion to Suspend Decision o be served pursuant to N.H. Code Admin. Rule Puc §203.11.

Oct 10 2009
Date

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