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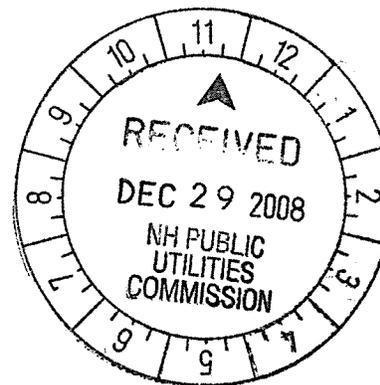
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December 24, 2008

Debra A. Howland  
Executive Director and Secretary  
State of New Hampshire  
Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429

**DE 08-113**  
**2009 DEFAULT ENERGY SERVICE RATE CHANGE**



Dear Ms. Howland:

I am writing on behalf of Intervenors Freedom Logistics, LLC, and Halifax-American Energy (collectively, the “Parties”) to express the deep concern of the Parties with respect to the denial of access to certain RGGI materials during the hearing held in this proceeding on December 4, 2008.

During the closed session held on December 4, inter alia, evidence was taken on the issue of compliance with the Regional Green House Gas Initiative (RGGI). The parties were informed by PSNH on the morning of the hearing that PSNH intended to deny the Parties any access to the RGGI materials and to exclude the Parties from the hearing. Through a third person at the hearing, the Commission was informed that the Parties objected to this procedure. Counsel for the Parties did not attend the hearing because he was not prepared to present argument to the Commission with respect to the afore-mentioned issue on such short notice.

At the hearing on December 4, PSNH refused to provide a copy of the RGGI materials to the Parties under any circumstances or conditions. See Transcript at 8.

There is no lawful basis for PSNH’s denial. The New Hampshire Supreme Court has held that that a party in a legal proceeding in New Hampshire is entitled to be “fully informed

and have access to all information favorable to his side of the issue. This is true whether the issue is one raised by him or by his opponents and whether the evidence is in the possession of his opponent or someone else.” Scontsas v. Citizens Ins. Co., 109 N.H. 386, 388 (1969).

Pursuant to RSA 91-A:5,(IV)(Supp.) and N.H. Code Admin. Rules Puc § 203.08, PSNH routinely asks for protective treatment for data responses in order to prevent disclosure to the public of confidential information that is financially sensitive or would likely create a competitive disadvantage for the PSNH. PSNH customarily discloses such information to Staff and the Consumer Advocate, but not to other parties. However, there is no provision of law or regulation by which such information can be denied to a party willing to abide by an appropriate protective order or willing to execute a confidentiality agreement.

It is my impression that a number of procedures used by the Commission to protect confidential information during telecommunications proceedings have morphed over into electricity proceedings. However, this is entirely inappropriate since RSA 378:43 only applies to telecommunications companies.

The Parties have not sought access to confidential information in a number proceedings before the Commission in order to avoid discovery disputes with PSNH. However, it has become increasingly apparent that PSNH is either unaware of, or is unwilling to comply with, applicable law and procedures regarding confidential treatment.<sup>1</sup>

Sincerely,

/s/ **James T. Rodier**

Certification of Service

Pursuant to Rules Puc 203.02(2) and Puc 203.11, I have served copy of this letter on each person identified on the commission’s service list for this docket.

/s/ **James T. Rodier**

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<sup>1</sup> PSNH’s numerous motions for confidential treatment typically contain nothing more than conclusory allegations about the potential for harm that might result for non-disclosure to the public. However, the Commission Rules require “[a] detailed statement of the harm that would result from disclosure.” N.H. Code Admin. Rules Puc § 203.08 (b) (3).