

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Docket No. DE 08-146

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
MOTION TO STRIKE
THE OBJECTION
OF
segTEL, Inc.

Pursuant to Rule Puc §203.07, Public Service Company of New Hampshire (hereinafter "PSNH" or "the Company") hereby moves to strike the Objection to PSNH's Motion to Dismiss (the "Objection") filed by segTEL, Inc. (the "Petitioner").

This Motion to Strike is based upon the fact that the Objection was not timely filed.

In support of this Motion to Strike, PSNH states the following:

I. The Objection Should be Stricken from the Record as It Was Not Timely Filed

The Objection was not timely filed. Per Rule 203.07(e), Motions, "Objections to a motion, except for motions for rehearing, shall be in writing and filed within 10 days of the date on which the motion is filed." Per Rule Puc 202.05(a), Date of Filing, "Any document submitted to the commission shall be deemed to have been filed on the date the commission receives a complete executed paper filing with the required number of copies, pursuant to Puc 203.02, except as provided in (b) below."

The Objection was a response to PSNH's Motion to Dismiss which had been filed with the Commission on November 24, 2008.¹ Under Rule Puc 203.07(e), Petitioners had until December 4, 2008, (10 days) to file an objection. Petitioners' Objection was not filed with the Commission until December 16, 2008, thereby violating the time limit set in the Commission's rules.

¹ The Objection incorrectly states that PSNH's Motion to Dismiss was filed on December 4, 2008. PSNH's Motion was in fact filed on November 24, 2008. (See the Secretary's "Daily Docket Filing" list for this docket, Exhibit 2). Even if the December 4 date was correct (which it is not), segTEL's Objection would still have been untimely filed.

Although all the documents comprising Petitioners' Object were dated December 15, 2008, the actual date of filing under Rule Puc 202.05(a) was not until the next day, December 16th. The Petitioner's E-Mail Cover Letter concedes this point. (Exhibit 1). segTEL's e-mail providing electronic service of the Objection was sent at 3:16 p.m. on December 15, 2008. In that e-mail, segTEL states "Attached please find segTEL's Objection to PSNH's Motion to Dismiss. This will be filed by hard copy tomorrow." Thus, the E-Mail Cover Letter itself evidences the fact that the Commission did not receive "a complete executed paper filing with the required number of copies" (Rule Puc 202.05(a)) until December 16th – a full twelve days after the filing period had expired. This late filing is confirmed by the Secretary's "Daily Docket Filing" list for this docket, which shows the filing date for the Objection to be December 16, 2008. (Exhibit 2)

Due to the Petitioners' failure to timely file their Objection, that Objection should be stricken from the record of this proceeding.

II. Conclusion

For the reasons set forth herein, the Commission should strike the Objection filed by segTEL, Inc.

Respectfully submitted this 23rd day of December, 2008.

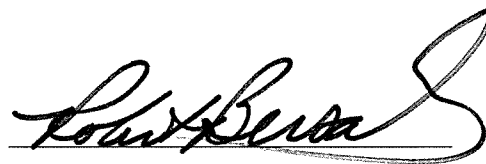
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

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CERTIFICATE OF SERVICE

I certify that on this date I caused the attached Motion to Strike to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

December 23, 2008

A handwritten signature in black ink, appearing to read "Paul J. Berman", is written over a horizontal line.

SERVICE LIST, DOCKET NO. DE 08-146

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EXHIBIT 1



"Kath Mullholand"
<kath@segTEL.com>

12/15/2008 03:16 PM

To "Fabrizio, Lynn" <Lynn.Fabrizio@puc.nh.gov>, "Howland, Debra" <Debra.Howland@puc.nh.gov>, "Bailey, Kate" <Kate.Bailey@puc.nh.gov>, "Hatfield, Meredith" <Meredith.A.Hatfield@oca.nh.gov>, "Ross, F. Anne" <F.Anne.Ross@puc.nh.gov>, "Frantz, Tom" <Tom.Frantz@puc.nh.gov>, Christopher J. Allwarden/NUS@NU, "Jeremy Katz" <jeremy@segTEL.com>

cc

Subject segTEL's Objection to PSNH's Motion to Dismiss

Attached please find segTEL's Objection to PSNH's Motion to Dismiss.
This will be filed by hard copy tomorrow.

kath.

Kath Mullholand
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08-146 segTEL response 12-15-08.pdf segTEL PSNH Resp Cov 12-15-08.pdf

EXHIBIT 2

Daily Docket Filings*** Log Entries for Last 60 Days ***

<u>Date</u>	<u>Docket No.</u>	<u>Utility Name</u>	<u>Description</u>	<u>Type of Filing</u>	<u>Filed By</u>
12/16/2008	DT 08-146	SegTEL Inc.	Request for Arbitration Regarding Failure to provide Access to Utility Poles by PSNH	Segtel's Response to Motion to Dismiss	Kath Mullholand
12/16/2008	DT 08-146	SegTEL Inc.	Request for Arbitration Regarding Failure to provide Access to Utility Poles by PSNH	Cvr Ltr to Segtel's Pole Agreement requesting Confidential Treatmnet	Kath Mullholand
11/24/2008	DT 08-146	SegTEL Inc.	Request for Arbitration Regarding Failure to provide Access to Utility Poles by PSNH	PSNH's Objection to request for Arbitration and Motion to Dismiss	Christopher J. Allwarden
11/19/2008	DT 08-146	SegTEL Inc.	Request for Arbitration Regarding Failure to provide Access to Utility Poles by PSNH	Acknowledgement Letter	Debra A. Howland
11/14/2008	DT 08-146	SegTEL Inc.	Request for Arbitration Regarding Failure to provide Access to Utility Poles by PSNH	Initial Filing	Kath Mullholand