

STATE OF NEW HAMPSHIRE
before the
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

Docket No. DE 09-033

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
OBJECTION TO CONSERVATION LAW FOUNDATION
PETITION TO INTERVENE**

Public Service Company of New Hampshire (“PSNH”) hereby objects to the March 19, 2009 Petition to Intervene of the Conservation Law Foundation (“CLF”) filed in the above-captioned docket. In support of its objection PSNH says the following:

1. CLF fails to state “facts demonstrating that the petitioner’s rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding, or that the petitioner qualifies under any provision of law” as required by RSA 541:A:32(1)(b). CLF alleges generally that intervention in this proceeding “will allow CLF to protect its members’ substantial interests in achieving reductions in the environmental and health impacts of electricity generation” and that CLF’s “*primary interest* is to promote environmental protection” (emphasis added). CLF fails to indicate how its environmental interests are germane to this routine financing proceeding.

2. The proposed financing raises issues regarding financing terms and conditions, capitalization and related matters, not important environmental concerns. An entity’s substantial interests in a proceeding are affected by the proceeding when the entity will

suffer actual and immediate injury as a result of the proceeding, and when the injury is of a type or nature that the proceeding is designed to protect. Re: InternetU, Inc., Docket No. 991989-TX, 000227-TX, PSC-01-0670-FOF—TX, Florida Public Service Commission, March 19, 2001. CLF has provided no suggestion of how actual and immediate environmental injury will occur as a result of this proceeding, and environmental injury is clearly not the type or nature of injury that this proceeding is designed to protect.

3. The interests of CLF members in promoting environmental protection and in achieving reductions in the environmental and health impacts of electricity generation have already been addressed by the New Hampshire Legislature in RSA 125-O:11, I, which specifically found that the installation of scrubber technology at Merrimack Station is in the public interest, and by the New Hampshire Public Utilities Commission (“NHPUC”) in Docket No. DE 08-103, *Investigation of PSNH’s Installation of Scrubber Technology at Merrimack Station*, albeit not to CLF’s satisfaction. CLF has also raised its environmental issues in a variety of other forums. CLF’s lack of satisfaction with the results achieved to date in other forums does not create standing in this forum.

4. The NHPUC has previously held that “merely being interested in a proceeding is not the same as having a legal interest of some nature that may be affected by the proceeding.” Similar to the Commission’s determination in Re: North Atlantic Energy

Company, DE 02-075, Order No. 24,007, July 8, 2002., CLF has a concern about this proceeding, but it has failed to allege a legal nexus to the outcome of the decision of whether or not to approve the financing. Thus, CLF does not qualify as a party pursuant to RSA 541:A:32, I.

5. CLF also alleges that the economic interests of CLF's New Hampshire members as customers may be directly affected by this proceeding. CLF notes that its members include 370 members residing in New Hampshire, but fails to allege that even a small portion of these members are PSNH's customers. A general allegation of possible impact to an undetermined number of members does not equate to specific "facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding, or that the petitioner qualifies under any provision of law" as required by RSA 541:A:32(I)(b). In any event, rate concerns of CLF's New Hampshire members who are residential customers of PSNH are represented by the New Hampshire Consumer Advocate, a statutory party to the proceeding.

6. When an entity cannot make the showing required by RSA 541:A:32(1)(b), RSA 541-A:32, II allows the Commission to grant intervention when it "would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings". The Commission, however, has the discretion to allow intervention in this situation. In this case, there is no need to allow intervention to serve the interests of

justice to address either CLF's environmental interests or its member's concerns. As noted above, this Commission has already addressed CLF's environmental concerns in Docket No. DE 08-103, *Investigation of PSNH's Installation of Scrubber Technology at Merrimack Station*, and CLF is pursuing this issue in other forums as well. To the extent that CLF's New Hampshire members that are PSNH's customers have rate concerns, those concerns are being represented adequately by the New Hampshire Consumer Advocate, a statutory party to this proceeding.

7. Furthermore, it is not clear that CLF's participation in this docket will not impair the orderly and prompt conduct of the proceedings. CLF apparently seeks to bring environmental concerns into this routine financing docket. Attempts to expand the scope of the proceeding, non-relevant discovery and objections thereto and scheduling constraints will impair the orderly and prompt conduct of this docket. PSNH has proposed a fairly tight schedule to maximize the Company's flexibility vis a vis the markets and ensure cost effective financing. Delay has the potential to harm PSNH's customers by increasing the cost of financing, if delay results in missed opportunities in the financial markets.

8. If the Commission determines to allow CLF's intervention pursuant to RSA 541-A:32, II, PSNH requests that the Commission limit and condition CLF's participation so as to assure the orderly and prompt conduct of the proceedings.

WHEREFORE, PSNH respectfully requests that the Commission;

- A. Deny CLF's Motion to Intervene, or if not denied,
- B. Limit and condition any grant of such intervention to assure the orderly and prompt conduct of this proceeding, and
- C. Order such further relief as may be just and reasonable.

Respectfully submitted,



Date: March 24, 2009

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