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The Northeast Utilities System

**Robert A. Bersak**  
Assistant Secretary and  
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March 5, 2010

Ms. Debra A. Howland  
Executive Director and Secretary  
New Hampshire Public Utilities Commission  
21 Fruit Street, Suite 10  
Concord, New Hampshire 03301



**Re: Docket No. DE 09-035, PSNH Distribution Service Rate Case**

***Objection to City of Manchester's March 5, 2010 Request for the Filing of Testimony or to Make a Public Statement***

Dear Secretary Howland:

By Secretarial letter dated February 26, 2010, the City of Manchester was granted intervenor status in the above-captioned proceeding. In that Secretarial letter, the Commission noted that, "Due to the lateness of the intervention request, however, the City must conform to the procedural schedule as it currently exists in order that it not impair the orderly and prompt conduct of the proceeding."

By letter dated March 5, 2010, the City of Manchester wrote the Commission "to seek direction from the Commission on how best to provide the Commission with an explanation of the issues Manchester DPW is concerned about." In that letter, the City indicated that it "is willing to submit prefiled testimony or it could make a public statement during the April hearing."

PSNH hereby voices its objection to both the submission of prefiled testimony and the making of a public statement during the April hearing by the City of Manchester.

The City's intervention was expressly conditioned upon conformance to the procedural schedule as it currently exists. The procedural schedule for this docket was established by a Secretarial letter dated August 17, 2009. That procedural schedule called for the filing of "Staff & Intervenor Testimony" no later than January 15, 2010. As an intervenor required to conform to the existing procedural schedule, the City of Manchester cannot submit testimony in mid-March. If the City was allowed at this late date to file such testimony, there would need to be time for additional discovery, and a delay in the procedural schedule's date for the filing of any required rebuttal testimony. The filing of testimony by the City at this stage of the proceeding would impede the on-going discussions amongst the original parties that could potentially lead to a settlement in this proceeding. Clearly, the filing of

direct testimony two months late would severely impair the orderly and prompt conduct of the proceeding.

PSNH also objects to the City's proposal to provide a public statement during the April hearing. Such a public statement is plainly being offered in lieu of pre-filed direct testimony. It would be unfair to PSNH to have to respond to such "testimony" on the fly, without an opportunity for discovery and without an opportunity for preparation of rebuttal testimony. In addition, such a public statement would be contrary to the Commission's rules. N.H. Admin Rule Puc 203.18 governs the provision of public comment during adjudicative proceedings:

**Puc 203.18 Public Comment.** Persons who do not have intervenor status in a proceeding but having interest in the subject matter shall be provided with an opportunity at a hearing or prehearing conference to state their position.

By rule, only persons who do not have intervenor status are provided an opportunity to make a public statement. The City of Manchester requested, and was granted, intervenor status. Hence, it cannot make an end-run around the constraints of the procedural schedule and attempt to make its case via an unauthorized public statement.

The City has no one to blame but itself for the procedural situation it now faces. As PSNH pointed out in its February 25, 2010, Objection to the City's Petition to Intervene, "over nine months ago, the Commission itself provided the City of Manchester notice of this rate case proceeding." Had the City complied with the Commission's Orders regarding the schedule for intervention, it would not be needing direction from the Commission at this late stage of the proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Bersak", with a stylized flourish at the end.

Robert A. Bersak  
Assistant Secretary and  
Assistant General Counsel

cc: Service List, Docket No. DE 09-035