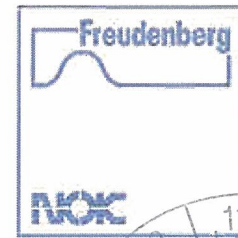


**Freudenberg-NOK
General Partnership**



February 22, 2011

Debra A. Howland
Executive Director
Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429



Re: DE 10-160, PSNH Customer Migration, Public Comment of Freudenberg-NOK

Dear Ms. Howland:

Freudenberg-NOK (FNGP) submits this letter as its public comment in the above-noted docket to assist the Commission in its understanding of the effects and causes of New Hampshire businesses electing under NH RSA 374-F, the Electric Restructuring Law, to procure electric power supply from the competitive market rather than from Public Service Company of New Hampshire (PSNH) under its default energy service rate.

The prudent management of FNGP's power supply purchases is important to our New Hampshire business operations. FNGP employs approximately 1100 people in New Hampshire and operates facilities located in PSNH's service territory in Bristol and Manchester, operates two facilities located in the New Hampshire Cooperative's territory in Northfield and operates one facility in Ashland. These facilities are engaged in the production of a variety of precision-manufactured and custom molded products and collectively have historically used in excess of 44,000 MWhrs annually. FNGP competes for the sale of its products nationally and internationally and our costs of production affect our competitive position. The creation of a competitive power market under NH RSA 374-F and our access to that market pursuant to known and stable rules and pricing policies significantly assists FNGP in controlling its costs, maintaining its competitive market position, and thereby securing New Hampshire jobs. Today, FNGP purchases all of its electrical power needs for the Bristol, Manchester and Northfield facilities from the competitive markets and in the case of Bristol and Manchester has done so, with a single 2 month interval, since August 2006. The Commission should carefully consider the need for the policy changes raised in this docket and the impact those changes may have on New Hampshire businesses and jobs.

FNGP understands that the prepared written testimony submitted by PSNH and others in this docket discussed a range of policy choices in addressing customer migration concerns. Our comments, however, only address PSNH's proposal to solve its loss of customer base with its resulting revenue consequences by imposing a "non-bypassable charge" on those businesses and others who have elected to acquire their power supply from the competitive market. In essence, PSNH proposes that some of its costs presently recovered in the variable default energy service charge instead be recovered as a fixed, non-bypassable, charge assessed either to all customers (Bauman Prepared Testimony, 7-30-10, at 4 and 9) or only to former customers who have elected to acquire a non-PSNH power supply. Id. at 9.

PSNH has asked the Commission to consider rate and policy options to address customer migration, including the potential imposition of a non-bypassable charge, if it first determines there is an energy default

service “fairness issue.” *Id.* at 2. FNGP maintains it is premature to consider PSNH’s non-bypassable charge as a remedy for the alleged “fairness issue”; instead the Commission should further investigate the underlying causes of customer migration and the “fairness issue.” In particular, the Commission should consider whether the energy default service fairness issue is due to customer migration or due to other factors or circumstances, such as PSNH’s provision of the power supply comprising default energy service from its generation assets. In other words, customer migration may not be the cause of the fairness issue, it may only be the response to a larger issue arising from PSNH’s default service power supply sources and cost structure.

In that regard, FNGP notes that RSA 374-F:3 V(c) states in part that “[d]efault service should be procured through the competitive market and may be administered by independent third parties.” Regardless of RSA 369-B: 3-a, the question of who has authority to initiate the process noted therein, and the legal view stated in the Bauman Rebuttal Testimony at 12-13 (requiring the use of PSNH generation assets for default service), the fact remains that PSNH has not sought to initiate such a RSA 369-B:3-a process or otherwise sought authority to provide default service through the competitive market. Instead, PSNH uses its own generation (with its resulting cost structure) as the primary source of default service.¹

PSNH’s provision of default service from a discrete set of generation assets whose costs are not set at market but instead are set on a cost of service plus a regulated return basis means, at times, default energy service rates will exceed the market rate for similar power and thereby stimulate customer migration. Notwithstanding PSNH’s view that the circumstances creating default service costs in excess of competitive market prices will be short-lived (Bauman Prepared Testimony, 7-30-10, at 7-8), other events loom that could produce further upward pressure on default service costs and hence potentially increase customer migration, such as the inclusion in rates of the Merrimack Station scrubber costs and the potential inclusion in rates of the proposed Laidlaw power contract, which contract NHPUC staff prepared testimony in DE 10-195 estimates to be over \$500 million above-market over its twenty-year term. For New Hampshire businesses seeking to manage their costs, the use of PSNH’s set of fixed power supply assets with its resulting cost structure appears to be the primary cause of customer migration today. Imposition of a non-bypassable charge will merely make access to the competitive power supply more expensive, if not ultimately cost prohibitive, for New Hampshire businesses; it does not bring PSNH default energy service costs any closer to the market rate for similar power supply.

Before considering changes to the policies that have promoted access to the competitive market and inured to the benefit of New Hampshire businesses the Commission should investigate how it may mitigate the total cost of service associated with the provision of default service. For example, while some may question whether RSA 369-B:3-a allows the Commission to require PSNH to divest its generation assets, the Commission clearly has the authority to commence an investigative proceeding to determine factually if it is in the economic interest of the retail customers of PSNH for PSNH to divest its generation and whether the resulting procurement of default service power needs in the market would reduce customer migration or at least

¹ “Fairness” should not allow a situation to exist where one states law requires it to provide default service from its own generation assets, hold that divestiture is at its option thereby precluding provision of default service from the competitive market, and then claim that customer migration is creating a revenue problem and a rate impact on remaining non-migrating customers. See Bauman Rebuttal Testimony at 12-13. The Commission should evaluate options to produce “fairness” under such a circumstance. For example, in such a situation one could examine whether the “actual, prudent and reusable costs” of providing default service from PSNH generation assets should be adjusted by the amount determined to not be in the economic interests of retail customers under a RSA 369-B:3-a investigation.

Debra A. Howland

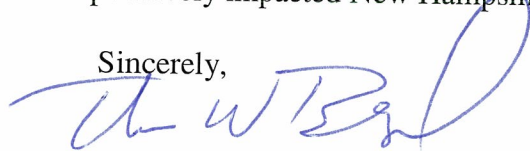
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reduce the economic incentive to switch between PSNH and the market depending upon price.² In such an investigation, the Commission could also factually determine whether PSNH's cost of service structure can be positively affected for customers by methods other than divestiture, such as selling PSNH's generation output into the market and acquiring default service needs through a bid process. See Traum Prepared Testimony, 7-30-10, at 8. These and other factual determinations that could be undertaken by the Commission need not await the resolution of any claims of legal or regulatory issues associated with the above approaches or any other approaches the Commission may envision. Development of the data and factual foundation for these approaches will aid in determining which approach is best to pursue and hence what, if any, legal impediments exist and the nature of the change, if any, needed (*e.g.*, regulatory or legislative) to implement the preferred approach.

FNGP appreciates the opportunity to provide these public comments and is mindful of the significant efforts and complex deliberations undertaken by the Commission to implement the Electric Restructuring Law. Those efforts have positively impacted New Hampshire businesses, including ours.

Sincerely,



Thomas W. Benzel
Freudenberg-NOK
Director Supply Chain Management
50 Ammon Drive
Manchester, NH 03103

cc: NHPUC Commissioners
Service List

² Our comments are not intended to state a position on the merits of divestiture. They are intended to illustrate the point that remedies to address "fairness issues" should not be considered in the absence of an examination of the causes giving rise to the fairness issue noted in Mr. Bauman's testimony. The examination under RSA 369-B:3-a of the economic interests of retail customers would provide data on whether there are viable cost reductions that would reduce the effect of migration on PSNH's customer base if different power supply models are used to provide default service.