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November 23, 2011

Debra Howland  
 Executive Director & Secretary  
 New Hampshire Public Utilities Commission  
 21 S. Fruit Street, Suite 10  
 Concord, New Hampshire 03301-7319

**RE: DE 11-250 PSNH Investigation of Scrubber Costs and Cost Recovery**

Dear Ms. Howland:

We are writing in response to the "Motion for Establishment of Temporary Rates" (the "Filing") filed by Public Service Company of New Hampshire ("PSNH") on November 18, 2011 wherein PSNH requested that the Commission "prescribe temporary rates effective January 1, 2012" for PSNH's recovery of the costs related to the wet flue gas desulfurization system ("Scrubber Project") at Merrimack Station. In its Filing, PSNH requests that the "temporary rate" be set at 1.18 cents per kWh. As set forth in greater detail below, PSNH's Filing was not properly filed. The Conservation Law Foundation ("CLF") hereby respectfully requests that the Commission reject the Filing as improperly filed under the applicable rules. In the alternative, should the Commission determine to accept PSNH's Filing, we respectfully request that the Commission waive the time for responding to the Filing provided in Puc 203.07(e), which would otherwise require that objections to motions be filed within 10 days. This does not provide adequate time to respond to PSNH's filing for a rate increase, even if it is temporary.

Although styled as a "Motion," PSNH's Filing is not a "Motion" which is defined by Puc 102.08 as "a request made to the commission or the presiding officer after the commencement of a contested proceeding for an order or ruling directing some act to be done in favor of the party making the motion, including a statement of justification or reasons for the request. The Commission has not commenced a contested proceeding in DE 11-250 because it has not yet issued a notice as required by Puc 203.12, and such a notice has not yet been published. As set forth in the Commission's letter, dated November 15, 2011, to the parties in DE 11-215,

[a]s soon as is reasonably possible, given notice and due process requirements, the Commission will issue an Order of Notice opening the new docket and scheduling a prehearing conference at which the Commission will consider, among other things, the propriety of setting temporary rates for recovery of the Scrubber Project costs

and a schedule for further testimony from PSNH, if needed, as well as responsive testimony and discovery.

PSNH should have filed a proper "Petition" as required by Puc 102.12, which states: "Petition" means the initial pleading filed with the commission to commence a proceeding for the purpose of seeking commission action pursuant to Puc 202.01(a)." In addition, PSNH's request for a rate increase should have been filed in compliance with, at a minimum, the following rules:

- Puc 202.01, "Request for Commission Determination;"
- Puc 203.05(a)(7), with "such other data as the petitioner considers relevant to the request for authority or relief;" and
- Puc 203.06(c), "All petitions seeking a rate adjustment shall be filed in compliance with Puc 1600 if applicable and shall be accompanied by pre-filed testimony and exhibits" (emphasis added).

In the alternative, should the Commission determine to accept PSNH's Filing, we request a waiver of Puc 203.07(e) to allow parties to respond to PSNH's request for a rate increase after the case is publicly noticed, after a prehearing conference is held, after the Commission rules on motions for intervention, and after discovery can be conducted and reviewed by the parties.

Should you have any questions or wish to discuss this matter, please contact me by electronic mail or at (603) 225-3060.

Respectfully submitted,



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cc: Service lists in DE 11-215, DE 11-216 (by electronic mail only)