

**BEFORE THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

ELECTRIC AND GAS UTILITY :
CUSTOMERS INVESTIGATION INTO :
PURCHASE OF RECEIVABLES, :
CUSTOMER REFERRAL AND : DOCKET NO. DE 12-097
ELECTRONIC INTERFACE FOR :
ELECTRIC AND GAS DISTRIBUTION :
UTILITIES :

PETITION TO INTERVENE OF DIRECT ENERGY

Pursuant to New Hampshire Revised Statutes Annotated 541-A:32(II) and New Hampshire Administrative Rules PUC 203.17, Direct Energy hereby petitions the New Hampshire Public Utilities Commission (“Commission”) to intervene as a party in the above-captioned proceeding. In support of this petition, Direct Energy states the following:

INTRODUCTION

1. On July 26, 2011, the Commission issued an order directing that proposals for purchases of receivables, customer referral, and electronic interface programs to support customer choice in energy supply should be further investigated through a generic docket for potential applicability for all residential electric utility customers and for smaller commercial electric and gas utility customers who currently have few, if any, competitive options for energy supply. *See Public Service Company of New Hampshire Investigation into Effects of Customer Migration*, Docket DE 10-160, Order No. 25,256 at 40 ("Order"). On April 16, 2012, the Retail Energy Supply Association (“RESA”) requested that the Commission open a proceeding to conduct an investigation into these and other retail electric market enhancements as soon as possible ("RESA Request").

2. In response to the RESA Request, the Commission opened this proceeding and issued an Order of Notice ("Notice") indicating that any party seeking to intervene should submit a Petition to Intervene on or before May 28, 2012. Notice at 3. RESA timely submitted its Petition to Intervene on May 24, 2012. Direct Energy is a member of RESA. Direct Energy hereby submits its individual Petition to Intervene in this proceeding.

STANDARD

3. The Commission will grant a petition to intervene if: (a) the petition is submitted in writing at least three (3) days before the hearing; (b) the petition describes how the petitioner is substantially and specifically affected by a proceeding; and (c) the intervention would be in the interests of justice and would not impair the orderly conduct of the proceeding. RSA 541-A:32(I).

4. The Commission also has the discretion to grant a petition to intervene "at any time, upon determining that such intervention would be in the interests of justice and would not impair the orderly conduct of the proceedings." RSA 541-A:32(II).

INTERVENTION REQUEST

5. As noted by RESA's Petition to Intervene, purchase of receivables, customer referral, and electronic interface programs to support customer choice are important tools to promote the development of retail electric markets for the residential and small commercial customer segments. Indeed, without these tools, many smaller customers are unable to participate in the competitive retail market. Direct Energy supports RESA's Petition to Intervene.

6. Direct Energy is not yet licensed to serve retail electric customers in New Hampshire, but is keenly interested in the development of the competitive market in New Hampshire such that a business case can be made to enter into this marketplace. Serving customers in five Canadian provinces and 14 US states plus the District of Columbia, Direct Energy is the

largest residential energy supplier based on number of customers and third largest commercial & industrial retailer in North America based on total energy sales¹.

7. Direct Energy was represented through RESA at the pre-hearing conference and technical session held on May 31, 2012. Direct Energy has not yet determined the full extent of its participation in this docket and reserves the right to fully participate in this docket, including through motion practice, discovery, pre-filed and live testimony, direct and cross-examination and briefs. Direct Energy intends to largely work through RESA to avoid duplication of advocacy for the Commission and other Parties. Direct Energy anticipates its efforts through its individual intervention will likely include advocacy that is in addition to those positions espoused by RESA.

8. Direct Energy is substantially and specifically affected by this proceeding inasmuch as the policy decisions made in this docket will apply to Direct Energy if and when it becomes a licensed competitive energy supplier in New Hampshire. Further, Direct Energy has a great deal of experience with the policy issues being discussed in this proceeding and would offer its expertise to the Commission and other Parties as well as aid in the creation of a sufficient record for the Commission to make its decisions in this case. Granting the intervention would be in the interests of justice and will not impair the orderly conduct of this proceeding. Direct Energy intends to largely work with RESA to find efficiencies where possible and to help ensure the conduct of the proceeding is done in an orderly and efficient fashion.

9. Direct Energy acknowledges its Petition to Intervene is being filed after the deadline set in the Notice. Pursuant to RSA 541-A:32(II), Direct Energy respectfully requests the Commission find that granting Direct Energy's Petition to Intervene would be in the interests of justice and would contribute to the orderly conduct of the proceedings for the same reasons explained above. This proceeding is just getting started (the Commission has not yet

¹ KEMA Retailer Yearbook, 2011

adopted Staff's proposed schedule) and therefore granting the intervention petition would not prejudice any party. Finally, granting the Petition to Intervene would also be consistent with this Commission's precedent.² In particular, the Commission's June 28, 1988 Order in case number DE 87-249 is particularly applicable. In that case, the Commission reviewed a petition from Long Distance North of New Hampshire ("LNH") to operate as a reseller of intrastate long distance telephone service. The Commission rejected LNH's objections to the late-filed petitions to intervene of Sprint and MCI (who were not yet licensed in New Hampshire), saying as follows:

While Sprint and MCI do not have certification petitions before the commission, it is obvious that they have a substantial interest in the outcome of this proceeding. The reputation of Sprint and MCI as providers of intrastate and interstate telecommunications services is well known. If they say they are interested in an opportunity to compete in New Hampshire, we recognize that we have a responsibility to seriously consider the implications of that interest. The docket was still in its infancy when MCI and Sprint sought to intervene. For these reasons, we will allow the intervention because it is in the public interest and will not impair the prompt conduct of the proceeding." *Re Long Distance North of New Hampshire*, Docket DE 87-249, Order No. 19,114, 73 NH PUC 255, 260 (June 28, 1988).

Direct Energy respectfully submits very similar circumstances apply in the case at bar and requests the Commission grants its Petition to Intervene.

² See, e.g., *Energy Efficiency Rate Mechanisms*, Docket DE 07-064, Secretarial Letter, April 3, 2008 (granting late-filed intervention of New Hampshire Sierra Club); *Petition of North American Numbering Plan Administrator for Approval of a Relief Plan for the 603 Area Code*, Docket DT 10-211, Secretarial Letter, December 7, 2010 (granting late-filed intervention of CRC Communications of Maine).

CONCLUSION

For all the foregoing reasons, the Commission should grant Direct Energy's petition to intervene as a party in this proceeding.

Respectfully submitted,
Direct Energy
By:

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Petition to Intervene has this day been sent via electronic mail or first class mail to all persons on the service list.

/s/ Joseph M. Clark
Joseph M. Clark

Dated: June 22, 2012