

STATE OF NEW HAMPSHIRE

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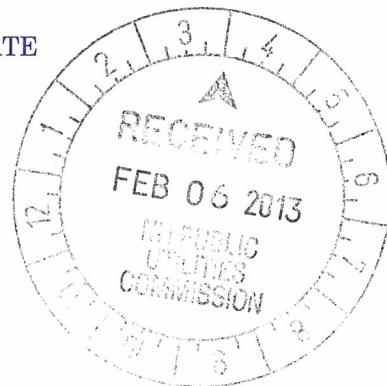
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February 6, 2013



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

**Re: DE 12-295 PNE
Revised Hearings Examiner's Report, OCA Clarification of Position**

Dear Ms. Howland,

On January 22, 2013, F. Anne Ross, Hearing Examiner, filed a revised report of the January 15, 2013 hearing in these proceedings (Report). The OCA files this letter to clarify the Report's summary of its position at this hearing.

The Report states, on page 2, in the "Initial Positions" section,

Although the OCA agreed with PSNH's claims that this docket amounts to single issue ratemaking or a request for a declaratory ruling, it argued that the Commission has the authority to consider policy issues concerning the development of competitive markets, and observed that the issues in this docket appear to be part of a much larger group of issues.

(emphasis added) The OCA, however, did not agree with PSNH that this case is a single-issue ratemaking rate case, and it did not take a position on the declaratory ruling issue.

The OCA views this docket as a proper exercise of the Commission's authority to consider policy issues outside of a rate case. On the issue of single issue ratemaking, we do not understand the petitioner to be seeking a change in PSNH's rates (*i.e.*, to be asking the PUC to engage in single issue ratemaking). However, because other intervenors mentioned the possibility of rate changes (*i.e.*, to compensate PSNH for any policy changes resulting from this docket), the OCA expressly stated its position that this case is not an appropriate vehicle for changing PSNH's rates. This is so for several reasons not the least of which is PSNH's existing, long-term rate plan.

NHPU/C FEB 06 2013 PM 4:16

For your convenience, I attach a copy of the Report as well as the related pages of the transcript from the prehearing conference. Thank you for the opportunity to clarify the OCA's position. Please feel free to contact me with any questions.

Sincerely,



Rorie E.P. Hollenberg
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cc: Service List
Enclosures

1 STATE OF NEW HAMPSHIRE
2 PUBLIC UTILITIES COMMISSION
3

4 January 15, 2013 - 10:03 a.m.
Concord, New Hampshire

5
6 RE: DE 12-295
7 PNE ENERGY SUPPLY, LLC d/b/a
POWER NEW ENGLAND:
8 Petition for Review of Public Service
Company of New Hampshire's Services
9 and Charges to Competitive Electric
Suppliers. (*Prehearing conference*)
10

11 PRESENT: F. Anne Ross, Esq.
(Presiding as Hearings Examiner)
12

13 Sandy Deno, Clerk

14 APPEARANCES: Reptg. PNE Energy Supply:
James T. Rodier, Esq.
15

Reptg. Public Service of New Hampshire:
Robert A. Bersak, Esq.
Matthew J. Fossum, Esq.
17

Reptg. North American Power:
Robert J. Munnely, Jr., Esq. (Murtha Cullina)
18

Reptg. Retail Energy Supply Association:
Douglas L. Patch, Esq. (Orr & Reno)
20

Reptg. Electricity N.H., LLC d/b/a ENH Power:
Christopher G. Aslin, Esq. (Bernstein Shur)
21

Court Reporter: Steven E. Patnaude, LCR No. 52
23
24

1 MS. ROSS: Thank you.

2 MR. ASLIN: Thank you.

3 MS. HOLLENBERG: Good morning.

4 MS. ROSS: Good morning.

5 MS. HOLLENBERG: I'm pleased to say that
6 the Office of Consumer Advocate agrees with PSNH that this
7 is not the context to change PSNH rates. We have an
8 agreement, a long-term rate plan with PSNH, which will --
9 which has described within it, as its terms, the
10 circumstances in which rates may be adjusted. And, we
11 would like to confirm that that is not the intention of
12 this docket. And, that's our understanding.

13 Related to the single-issue ratemaking
14 issue, I realize you're not receiving positions on the
15 Motion to Dismiss, but I would just say that the PUC has
16 the authority to consider policy issues outside the
17 context of ratemaking and rate cases. And, we don't know
18 if this is the appropriate context in which to consider
19 these issues. But we do believe that, as Mr. Patch aptly
20 described earlier, this is a critical time for PSNH and
21 its customers.

22 As the Commission is aware, there are a
23 number of pending dockets at this point in time, which
24 involves significant policy issues, which will have or may

1 have significant financial consequences. And, these
2 include the increasing level of customer migration,
3 increasing energy service costs, the circumstances of
4 PSNH's generation fleet, and the adequacy of PSNH's
5 long-term planning.

6 Where -- we think that the time is now
7 for the Commission to, and very likely for policy leaders
8 in the State of New Hampshire, to look at the
9 circumstances that PSNH is facing at this time. And, so,
10 we're not saying definitively in what context the issues
11 that have been raised in this proceeding are best
12 addressed. They seem to be part of a much broader
13 picture.

14 And, I guess, similarly, with respect to
15 whether or not it's appropriate to expand the scope of
16 this docket to include other issues, again, it seems as
17 though this is a much larger picture that needs some real
18 thought, in terms of how issues are addressed and at what
19 time issues are addressed, to be -- to use the
20 Commission's resources and the parties' resources most
21 efficiently. Excuse me one moment.

22 (Atty. Hollenberg conferring with Mr.
23 Eckberg.)

24 MS. HOLLENBERG: Thank you. That's all.

STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION
INTER-DEPARTMENT MEMORANDUM

Date: January 21, 2013

TO: Commissioners

FROM: F. Anne Ross, Hearing Examiner *FAR*

RE: DE 12-295 PNE Energy Supply, LLC d/b/a Power New England
Petition for Review of Public Service Company of New Hampshire
Charges to Competitive Electric Suppliers

HEARING EXAMINER'S REPORT

At your request, I presided over the January 15, 2013 prehearing conference in the above referenced case.

On October 1, 2012, PNE Energy Supply LLC d/b/a Power New England (PNE) filed a Petition for review of the reasonableness of Public Service of New Hampshire's (PSNH's) charges for selection, billing and payment and collection services to competitive electricity suppliers.

Appearances

James T. Rodier for PNE

Robert A. Bersak and Matthew Fossum for PSNH

Robert J. Munnely, Jr. for North American Power and Gas, LLC (NAPG)

Christopher G. Aslin for Electricity N.H., L.L.C. d/b/a E.N.H. Power (ENH)

Douglas L. Patch for the Retail Energy Supply Association (RESA)

Rorie E.P. Hollenberg for the Office of Consumer Advocate (OCA)

Suzanne Amidon for Staff

Intervention Requests

NAPG

ENH

RESA

OCA request to participate pursuant to RSA 363:28

Objections to Intervention Requests

No party objected to the motions to intervene, however, both Staff and PSNH pointed out that NAPG's and ENH's motions to intervene included issues beyond the scope of PNE's petition.

PSNH Motion to Dismiss

PSNH filed a motion to dismiss on January 4, 2013, however, according to several of the intervenors, the motion was not posted to the Commission's website until January 8, 2013. PSNH moved to dismiss because it claimed that PNE's motion amounted to single issue ratemaking, or alternatively that PNE's petition requested a declaratory ruling because PNE has indicated that a rate adjustment included in the PNE petition would occur in a future general rate case.

At the prehearing conference NAPG, ENH and RESA, opposed PSNH's motion to dismiss and requested that the Commission, either waive its 10 day response rule, or interpret it to provide 10 days after interventions are granted for responses to the PSNH motion to dismiss.

The OCA took no position on PSNH's motion to dismiss, although it observed that this is a critical time for PSNH and its customers. Staff took no position on the motion to dismiss.

Additional Competitive Issues Raised in Motions to Intervene

NAPG asked that the Commission also consider: (1) electronic data processes; (2) the manner in which late fees are applied to competitive suppliers; and (3) the manner in which payments to the utility are allocated to retail suppliers. ENH raised issues (1) and (3) raised by NAPG above, as well as the issue of customer difficulties in signing up for competitive supply.

Initial Positions

PNE repeated the relief sought in its petition and noted that it had complied with applicable rules by filing supporting testimony with its petition.

PSNH argued that if the Commission does not dismiss the docket, it should remain narrow, based on the issues in the PNE petition and the Commission order of notice. PSNH argued that broadening this docket to include additional issues would cause confusion and would not be a productive use of time and resources. PSNH also observed that its high customer migration rates contradict any claims by competitors that there are barriers to entry.

NAPG, ENH and RESA each argued that both the issues raised by PNE, and the additional issues raised by NAPG and ENH in their motions to intervene, are important and must be resolved in order to reduce barriers to entry in the competitive retail electric supply market in New Hampshire.

Although the OCA agreed with PSNH's claims that this docket amounts to single issue ratemaking or a request for a declaratory ruling, it argued that the Commission has the authority to consider policy issues concerning the development of competitive markets, and observed that the issues in this docket appear to be part of a much larger group of issues.

Staff took no position on the initial filing

Technical Session

As reported by Staff, by letter of January 16, 2013, the parties met in a technical session following the prehearing conference and agreed upon a proposed procedural schedule in the event that the Commission does not dismiss this docket and keeps the scope as described in the PNE petition and the order of notice.

Staff further reported that the parties have agreed to develop a list of additional competitive issues and then make recommendations to the Commission concerning resolution of those issues on January 31, 2013.

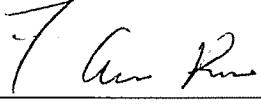
Recommendations

I recommend that the Commission grant all intervention requests.

I recommend that the Commission keep the scope of this docket as initially described in the order of notice and consider other processes for review of the additional issues, a list of which are being developed by the parties to this docket.

I recommend that the Commission interpret N.H. Admin. Code Rule Puc 203.07 as requiring that parties file objections to the PSNH motion to dismiss 10 days from the date that interventions are granted to those parties.

I recommend that the Commission approve the procedural schedule proposed in Staff's letter dated January 16, 2013, if it does not dismiss this docket.

By 
F. Anne Ross, Hearing Examiner