

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: February 27, 2013

AT (OFFICE): NHPUC

FROM: *SEM* Steven E. Mullen, Assistant Director – Electric Division
AOA Amanda O. Noonan, Director – Consumer Affairs Division

SUBJECT: Resident Power, LLC (Aggregator)
PNE Energy Supply, LLC (Competitive Electric Power Supplier)

**Staff's Recommendation for an Immediate Show Cause Hearing
as to Whether Resident Power, LLC and/or PNE Energy Supply,
LLC Should be Subject to Penalties or their Registrations
Suspended or Revoked Pursuant to Puc 2005**

TO: Chairman Amy Ignatius
Commissioner Robert Scott
Executive Director Debra Howland



Staff hereby requests that the Commission immediately schedule a hearing at which Resident Power, LLC (Resident Power) and PNE Energy Supply, LLC (PNE) both appear to show cause as to why they should not be subject to penalties or their registrations to operate as an aggregator and a competitive electric power supplier (CEPS), respectively, should not be revoked or suspended in accordance with N.H. Code Admin. Rules Puc 2005. In support of this request, Staff has identified the following rules which it believes may have been violated by PNE and/or by Resident Power:

- 2003.01(d)(2) Evidence that the CEPS is able to obtain supply in the New England energy market. Such evidence may include, but is not limited to, proof of membership in the New England Power Pool (NEPOOL) or any successor organization, or documentation of a contractual relationship with a NEPOOL member.
- 2003.01(i) Following registration, a CEPS shall continue to maintain compliance with the requirements of Puc 2000.
- 2004.05 (m) The CEPS shall provide a copy of the notice described in (l) above to the commission at the same time notice is sent to affected customers.
- 2004.07 (f) Any CEPS that ceases to sell electricity within the state shall, prior to discontinuing such service: (1) Provide at least 30 days written notice to any affected utility and to the commission; and (2) Provide each

- customer written notice of its intent to cease operations at least 30 days prior to the start date of the customer's next billing cycle.
- 2004.08 (a) (2) Provide notice to customers of the nature of any business relationships or affiliations with any CEPS or utility.

In addition to the rules listed above, Staff also notes that, in accordance with 2006.01(a)(11), PNE's application stated it intended to serve only residential customers. Reports filed in accordance with Puc 2003.03 (b) indicate that PNE has been serving non-residential customers since the fourth quarter of 2011, the first quarter following approval of PNE's registration as a competitive electric power supplier by the Commission.¹

Staff requests this joint hearing partly due to recent events that have occurred, and that continue to develop, that involve business and ownership relationships between the two entities that are so intertwined that attempting to investigate the companies separately would result in an unnecessarily complicated process. Due to the overlapping facts and circumstances that have resulted in this recommendation, Staff believes that having a combined hearing would be the most efficient and expeditious process.

Background

Resident Power is a registered aggregator authorized to operate in New Hampshire pursuant to Puc 2003 (see Docket No. DM 11-081). PNE is a registered CEPS authorized to operate in New Hampshire pursuant to Puc 2003 (see Docket No. DM 11-075). On February 7, 2013, PNE and FairPoint Energy, LLC (FairPoint Energy)² filed a Joint Petition for Expedited Waiver of Puc Rule 2004.05(k) with respect to providing a required 14 day advance notice of PNE's intent to sell its right to serve its customer accounts. That filing was assigned Docket No. DE 13-049. The waiver request was related to a Purchase and Sale Agreement entered into by PNE and FairPoint Energy on February 6, 2013 pursuant to which PNE would transfer approximately 8,500 residential and very small commercial accounts to FairPoint Energy. In addition, PNE would assign all of its right, title and interest in certain customer contacts to FairPoint Energy and FairPoint Energy would assume all of PNE's responsibilities and obligations under the contracts. Included with that filing was the notice that would be provided to customers, a copy of which is attached to this recommendation as Exhibit 1. The waiver request was granted by the Commission on February 8, 2013, and in its letter of approval, the Commission stated the following:

PNE and FairPoint Energy's proposed notice and transfer process complies with the purpose of the rule and includes providing each customer with 30 days to elect default service or another competitive supplier.

¹ A secretarial letter approving PNE's registration as a CEPS was issued on September 22, 2011.

² Staff notes that by its recommendation, it is not suggesting that FairPoint Energy be investigated for its involvement in the unfolding circumstances.

The notice of the transfer was sent to the affected customers of PNE in a letter dated February 11, 2013, with the letters actually mailed out on the dates of February 13 and 14, 2013. While the Commission was not provided with the notice at the same time it was sent to customers as is required in Puc 2004.05 (m), a copy of the notice was posted on the PNE website. The notice provided to customers included the following representations:³

- PNE Energy Supply will be transferring your electricity supply account to FairPoint Energy at the end of your current monthly billing cycle or as soon as the transfer can be processed by PSNH.
- This transfer between suppliers will occur at NO COST to you.
- Your current price plan and contract term will not change as a result of FairPoint Energy becoming your new electricity supplier.
- Under the FairPoint Energy terms and conditions you will have no termination fees. If you are a fixed term customer your contract may be renewed at the end of the fixed term or you will roll to FairPoint Energy's variable rate plan unless you elect to cancel your contract.
- All billing and payment will continue to be done through PSNH.
- Resident Power will no longer be an aggregator for your account, but will cooperate with FairPoint Energy to assist in the transition between electricity suppliers.
- Your account will automatically be assigned to FairPoint Energy. You do not have to respond to this Notice. Your account will remain assigned to FairPoint Energy, unless you contact and select another energy supplier or return to the default service provider (PSNH). If you select another supplier or return to PSNH within 30 days from receipt of this notice, there will be no cost to you to do so, even if the beginning of the next billing cycle (and therefore the change of provider) occurs beyond this 30 day period. Furthermore, under the FairPoint Energy Terms and Conditions there will be no early termination fees.
- Please note that the current PSNH default service rate is \$0.0954 per kWh. Your current PNE Energy Supply rate is lower than the PSNH default service rate, and, as noted above, your rate plan will not change as a result of the transfer to FairPoint Energy.

Significant events occurred subsequent to the Commission's approval of the waiver request in DE 13-049 resulting in the planned transfer of customers from PNE to FairPoint Energy being interrupted and not fully completed. Specifically, on February 14, 2013, PNE's status as a market participant was suspended **BEGIN CONFIDENTIAL** [REDACTED] **END CONFIDENTIAL**⁴ by ISO New England (ISO-NE). As a result, and pursuant to ISO-NE's rules, PNE's remaining load asset as of 12:01am, Wednesday, February 20, 2013 was transferred to Public Service

³ The notice on the website, while substantially the same as that provided in the waiver request in DE 13-049, has some minor differences. See Exhibit 2.

⁴ As reported in a New Hampshire Business Review article dated February 20, 2013, "It was a financially related suspension," said August 'Gus' Fromuth, managing director of Resident Power and PNE, related companies that are both based in Manchester."

Company of New Hampshire (PSNH) as PSNH is the “host utility” and default service provider for the affected customers. As of that time and date, approximately 1,200 former PNE customers had been transferred to FairPoint Energy on their scheduled meter read dates, with the remaining approximately 7,300 becoming default customers of PSNH. In the days leading up to PNE’s suspension by ISO-NE, PNE communicated to Staff **BEGIN CONFIDENTIAL** [REDACTED]

END CONFIDENTIAL

Related to those events, pursuant to a filing dated February 15, 2013 that was officially received by the Commission on February 19, 2013 and filed in Docket No. DM 11-075, PNE submitted the sworn affidavit of the President of PNE in which PNE a) advised the Commission that it would be voluntarily ceasing operations as a CEPS for the period⁶ **BEGIN CONFIDENTIAL** [REDACTED]

END CONFIDENTIAL

As noted above, among the representations made to customers of PNE was that “Resident Power will no longer be an aggregator for your account, but will cooperate with FairPoint Energy to assist in the transition between electricity suppliers.” That sentence, which apparently was made on behalf of Resident Power, was the only mention of Resident Power in the notice provided to customers. It is important to note, however, that most, if not all, of the 8,500 customers of PNE became customers of PNE through Resident Power’s role as an aggregator of customer accounts. In its role as an aggregator, Resident Power, in its Terms and Conditions provided to customers (attached as Exhibit 3), states:

You hereby appoint Resident Power as your exclusive agent, for a period of 12 months from the date of enrollment, to act in your name, place and stead in any way which it could act with respect to researching, negotiating, executing, terminating, assigning, rescinding and delivering,

⁵ The information redacted in this section related to telephone conversations held with PNE regarding certain financial and business information. Although there has been no formal request by PNE to have the information treated confidentially, Staff is erring on the side of caution and has redacted the information subject to a later ruling by the Commission.

⁶ The information regarding PNE’s voluntary cessation of operations as a CEPS was filed pursuant to a Motion for Confidential Treatment in that February 15, 2013 submittal, but it was disclosed in a notice issued by Resident Power to certain customers shortly before midnight on February 21, 2013 (see Exhibit 4).

electricity supply and service agreements with competitive energy suppliers, sellers or service providers.

Resident Power and PNE are affiliates with common ownership. As events unfolded over the past two weeks, Bart Fromuth, a representative of both Resident Power and PNE, engaged in several discussions with Staff on behalf of PNE and Resident Power. To the best of Staff's knowledge, Resident Power failed to disclose this affiliation to its customers as is required in Puc 2004.08 (a)(2).

On February 21, 2013, it was brought to Staff's attention that PNE was in the process of enrolling a large commercial and industrial customer, despite a) PNE having previously been suspended as a market participant by ISO-NE, b) having informed the Commission that it would be voluntarily ceasing operations beginning **BEGIN**

CONFIDENTIAL [REDACTED]

[REDACTED] **END CONFIDENTIAL**, and d) PNE's CEPS registration indicating that it only intended to serve residential customers.

Shortly before midnight on February 21, 2013, Resident Power sent a notice (attached as Exhibit 4) to those of its customers for which the "transfer of your account from PNE Energy Supply to FairPoint Energy has regrettably not gone through as expected." In that notice, those customers were informed that their account was now being served by PSNH. In addition, Resident Power instructed customers how they could "renew" their accounts with Resident Power if they wished to remain customers of Resident Power. Further, if customers "renew" with Resident Power, Resident Power "...will get to work, right away, to find you an alternative to PSNH default service..." Renewal, in and of itself, seems to suggest that some sort of termination of an existing relationship is at hand. Resident Power's notice also contained information describing circumstances by which customers became default service customers of PSNH, an account which differs from the information contained in the filing described immediately below. In that same notice, Resident Power stated that "PNE temporarily and voluntarily suspended their own service of the New Hampshire market, *and was not forcibly suspended or removed from the market as others have suggested...*" (emphasis added), a statement at odds with the formal suspension action taken by ISO-NE.

On February 22, 2013, Resident Power filed a Verified Emergency Petition for Declaratory Judgment⁷ in which, among other things, it made certain representations regarding discussion with PUC Staff counsel regarding the subject of "slamming," a subject described in Puc 2004.10(b) as "...initiating the transfer of a customer to a new CEPS or aggregator without the customer's authorization" and in RSA 374:28-a as any practice that changes a consumer's telecommunications or energy-related service carrier or provider without the customer's knowledge or consent. For purposes of RSA 374:28-a, a "customer" shall mean the person to whom the telecommunications or energy-related services are billed, or that person's designee. In its petition, Resident Power seeks various forms of relief including an order from the Commission finding that:

⁷ That filing was assigned Docket No. DE 13-057.

- Resident Power's registration as an aggregator has not been revoked, suspended or withdrawn;
- No provision of the Commission's rules prevents or prohibits Resident Power from continuing to represent its customers, including those that were formerly customers of PNE;
- For those Resident Power customers with whom an aggregation agreement exists, who were transferred to PSNH's default service, enrollment by Resident Power of any of those customers to FairPoint Energy or any other CEPS shall not constitute slamming; and
- For those Resident Power customers with whom Resident Power has reconfirmed a prior aggregation agreement and were transferred to PSNH's default energy service, enrollment by Resident Power of any of those customers to FairPoint Energy or any other CEPS shall not constitute slamming.

Although the "Emergency Petition" was filed and signed on behalf of only Resident Power, the second paragraph of the "Introduction" includes a statement that "*PNE and R[esident] P[ower]* are requesting the Commission to rule that, under the circumstances described below, transfer of these customer accounts to a competitive energy supplier does not constitute "slamming" under applicable state law and PUC rules, is otherwise permissible under applicable New Hampshire law and PUC Rules, and is in the best interests of the customers involved." (emphasis added). In paragraph 3 of the "Emergency Petition," the Purchase and Sale Agreement that was the subject of DE 13-049 is described as being entered into by PNE, FairPoint Energy and Resident Power.⁸ As mentioned above, the filing in DE 13-049 only described the Purchase and Sale Agreement as being agreed to between PNE and FairPoint Energy.

Beginning February 20, 2013, the Consumer Affairs Division began to receive calls from former PNE customers. In the three day period ending February 22, 2013, 83 calls were received by the Consumer Affairs Division from former PNE customers. Customers were responding either to the notice from PNE dated February 11, 2013, recent news articles or the February 21, 2013 e-mail from Resident Power. There is considerable confusion about the information provided in the two notices, some of which is contradictory, as well as confusion about what options are available to them as customers. Given the suspension of PNE's status as a market participant by ISO-NE on Thursday, February 14, 2013, much of what PNE conveyed to customers is no longer accurate. Despite efforts to get them to do so, PNE has yet to provide a supplemental notice to customers. The notice provided by Resident Power has served only to create further customer confusion.

⁸ Given the knowledge that both PNE and Resident Power are parties to the Purchase and Sale Agreement, Staff recommends that the Commission order PNE and Resident Power to produce the Purchase and Sale Agreement and all other relevant information. Such information is vital to understanding issues such as to what extent the statement in the notice to customers from PNE regarding Resident Power no longer being their aggregator was valid and whether that statement was made with the knowledge and consent of Resident Power.

The PNE notice dated February 11, 2013 stated that Resident Power would no longer be an aggregator for those customers, except to cooperate with FairPoint to assist in the transition between electricity suppliers. The Resident Power notice to customers recognizes this and asks the customer to affirmatively renew his or her account with Resident Power, indicating that if the customer does not renew with Resident Power, he or she will remain on PSNH's default service rate until another supplier is chosen. The Verified Emergency Petition For Declaratory Judgment filed by Resident Power on February 22, 2013 asks the Commission to make a ruling as to whether the Resident Power agreements with former PNE customers are valid and, therefore, any action by Resident Power to change the supplier of former PNE customers would not constitute slamming, something which seems contradictory to the notice provided by Resident Power the previous evening.

Recommendation

To date, documents have been issued by PNE or Resident Power indicating, among other things, that Resident Power is either no longer the aggregator for the former PNE customers, still their aggregator, or that those customers can "renew" their aggregation relationship with Resident Power. Representatives of PNE and Resident Power alternately seem to speak for one entity, the other or both, but at other times appear to fall back to relying on the companies' statuses as separate legal entities to disclaim knowledge of each other's actions. Customers, Staff and the general public are getting confusing and conflicting information, which continues to change over time.

The ongoing situation is very fluid with new information being received each day by Staff, customers and the general public. This recommendation is not meant to encompass all facts and circumstances involving PNE and Resident Power, but given the confusing and at times contradictory information being provided by the two companies, Staff recommends that the Commission have PNE and Resident Power appear before it to answer the numerous questions generated by their recent actions. Toward that end, Staff recommends that the Commission schedule a show cause hearing as soon as practicable. At the hearing, PNE and Resident Power should be required to produce the following information:

1. An organizational chart that details the corporate structure of PNE, Resident Power and all other companies affiliated by cross-ownership, key employee, officer, director or member in a detailed manner that breaks ownership down to individuals;
2. Records of the companies demonstrating ownership of PNE and Resident Power;
3. Financial records showing the financial position of PNE for each day of February 2013;
4. Any type of financial projections prepared by or on behalf of PNE covering time periods in calendar year 2013;

5. Any written projections of what PNE's ISO-NE financial obligations would be for the months of February, March and April 2013;
6. Written projections of PNE's ability to meet those ISO-NE financial obligations;
7. Copies of all communications from ISO-NE with respect to PNE's financial obligations;
8. A list of all commercial and industrial customers of PNE including an indication of which customers were aggregated by Resident Power;
9. A copy of all notices provided to customers of Resident Power pursuant to Puc 2004.08(a)(2) disclosing the nature of any business relationships or affiliations with any CEPS;
10. The date each customer of Resident Power entered into an aggregation agreement and the date each notice referred to in item #9 above was sent to the customer; and
11. A copy of the February 6, 2013 Purchase and Sale agreement entered into by PNE, Resident Power and FairPoint Energy and all other information related to that transaction that is relevant to this recommendation.

In addition, considering PNE's current lack of status as a market participant with ISO-NE and its voluntary suspension of operations in New Hampshire, Staff recommends that the Commission order that PNE cease enrolling new customers, to the extent it has not already done so, and that the New Hampshire electric utilities not be required to accept any customer enrollments from PNE, to the extent they receive any.

Please let us know if you have any questions regarding this recommendation.

cc: David Shulock, Director – Legal Division

CUSTOMER NOTICE OF SERVICE PROVIDER CHANGE

[DATE]

Dear Customer,

PNE Energy Supply, LLC, your current electricity supplier, is pleased to announce that we have reached an agreement with FairPoint Energy LLC, in which FairPoint Energy will assume the duties of providing your electric power. This transfer is expected to occur at the beginning of your next billing cycle, but may take two billing cycles to occur. It is important to note that your current rates and contract length will not change as a result of this transaction. You will still receive your low rates on your monthly PSNH bill; however, the only difference is that now it will read "FairPoint Energy" on page 2 of your PSNH bill rather than "PNE Energy Supply."

This means that the service you currently receive from PNE Energy Supply will be provided by FairPoint Energy, and you will become a customer of FairPoint Energy, www.fairpointenergy.com. A copy of the FairPoint Energy Terms and Conditions are attached for your review. You are not required to do anything to continue receiving the high-quality service and competitive rates that you have come to expect from PNE Energy Supply. PNE Energy Supply will work closely with FairPoint Energy to ensure a seamless transfer of service without interruption or inconvenience to you. Payments, and customer records, for services that were previously provided to PNE Energy Supply will be transferred to FairPoint Energy as well.

Specifically, please note the following:

- PNE Energy Supply will be transferring your electricity supply account to FairPoint Energy at the end of your current monthly billing cycle or as soon as the transfer can be processed by PSNH.
- This transfer between suppliers will occur at NO COST to you.
- Your current price plan and contract term will not change as a result of FairPoint Energy becoming your new electricity supplier.
- Under the FairPoint Energy terms and conditions you will no longer have any termination fees. If you are a fixed term customer your contract may be renewed at the end of the fixed term or you will roll to FairPoint Energy's variable rate plan unless you elect to cancel your contract.
- All billing and payment will continue to be done through PSNH.
- Resident Power will no longer be an aggregator for your account, but will cooperate with FairPoint Energy to assist in the transition between electricity suppliers.
- Your account will automatically be assigned to FairPoint Energy. You do not have to respond to this Notice. Your account will remain assigned to FairPoint Energy, unless

you contact and select another energy supplier or return to the default service provider (PSNH). If you select another supplier or return to PSNH within 30 days from receipt of this notice, there will be no cost to you to do so, even if the beginning of the next billing cycle (and therefore the change of provider) occurs beyond this 30 day period. Furthermore, under the FairPoint Energy Terms and Conditions there will be no early termination fees.

- Please note that the current PSNH default service rate is \$0.0954 per kwh. Your current PNE Energy Supply rate is lower than the PSNH default service rate, and, as noted above, your rate plan will not change as a result of the transfer to FairPoint Energy.
- The contact information for FairPoint Energy is:

FairPoint Energy, LLC
1055 Washington Blvd.
Stamford, CT 06901
Phone: 866-842-1084
Email: support@fairpointenergy.com
www.fairpointenergy.com

Here at PNE Energy Supply it has been our pleasure to provide you with access to affordable electricity service, and we emphasize that you will be treated as a valued customer of FairPoint Energy. We recognize that you have a choice of energy providers. FairPoint Energy is committed to honoring your contract price and contract term with PNE Energy Supply and keeping you satisfied; thus we hope that you choose to remain a customer with FairPoint Energy and thereby continue the same affordable service that you have received from PNE Energy Supply.

Until the actual transfer date, PNE Energy Supply will continue to be responsible for addressing all customer service and billing issues. After the transfer date, you should refer your questions to FairPoint Energy for handling. We appreciate your understanding and support during this transition period. If you have any questions regarding this notice, our address and on-going toll-free customer contact number and address are as follows:

PNE Energy Supply, LLC d/b/a Power New England
816 Elm Street Suite 364
Manchester, NH 03101
Phone: (877) 248-1478

Sincerely,

PNE Energy Supply, LLC d/b/a Power New England



PNE Energy Supply, LLC d/b/a Resident Power New England

310 Elm Street, Suite 300, Manchester, NH 03101-1900, Tel: 603.288.1470

CUSTOMER NOTICE OF SERVICE PROVIDER CHANGE

February 11, 2013

Dear Customer,

RE Account Number: 1234567890

PNE Energy Supply, LLC, your current electricity supplier, is pleased to announce that we have reached an agreement with FairPoint Energy LLC, in which FairPoint Energy will assume the duties of providing your electric power. This transfer is expected to occur at the beginning of your next billing cycle, but may take two billing cycles to occur. It is important to note that your current rates and contract length will not change as a result of this transaction. You will still receive your low rates on your monthly PSNH bill; however, the only difference is that now it will read "FairPoint Energy" on page 2 of your PSNH bill rather than "PNE Energy Supply."

This means that the service you currently receive from PNE Energy Supply will be provided by FairPoint Energy, and you will become a customer of FairPoint Energy, www.fairpointenergy.com. A copy of the FairPoint Energy Terms and Conditions are attached for your review. You are not required to do anything to continue receiving the high-quality service and competitive rates that you have come to expect from PNE Energy Supply. PNE Energy Supply will work closely with FairPoint Energy to ensure a seamless transfer of service without interruption or inconvenience to you. Payments, and customer records, for services that were previously provided to PNE Energy Supply will be transferred to FairPoint Energy as well.

Specifically, please note the following:

- PNE Energy Supply will be transferring your electricity supply account to FairPoint Energy at the end of your current monthly billing cycle or as soon as the transfer can be processed by PSNH.
- This transfer between suppliers will occur at NO COST to you.
- Your current price plan and contract term will not change as a result of FairPoint Energy becoming your new electricity supplier.
- Under the FairPoint Energy terms and conditions you will have no termination fees. If you are a fixed term customer your contract may be renewed at the end of the fixed term or you will roll to FairPoint Energy's variable rate plan unless you elect to cancel your contract.
- All billing and payment will continue to be done through PSNH.
- Resident Power will no longer be an aggregator for your account, but will cooperate with FairPoint Energy to assist in the transition between electricity suppliers.
- Your account will automatically be assigned to FairPoint Energy. You do not have to respond to this Notice. Your account will remain assigned to FairPoint Energy, unless you contact and select another energy supplier or return to the default service provider (PSNH). If you select another supplier or return to PSNH within 30 days from receipt of this notice, there will be no cost to you to do so, even if the beginning of the next billing cycle (and therefore the change of provider) occurs beyond this 30 day period. Furthermore, under the FairPoint Energy Terms and Conditions there will be no early termination fees.
- Please note that the current PSNH default service rate is \$0.0954 per kWh. Your current PNE Energy Supply rate is lower than the PSNH default service rate, and, as noted above, your rate plan will not change as a result of the transfer to FairPoint Energy.



PNE Energy Supply, LLC d/b/a Power New England

815 Elm Street, Suite 364, Manchester, NH 03101 | (877) 248-1478

The contact information for FairPoint Energy is:

FairPoint Energy

Fairpoint Energy uses its name under a license agreement with Fairpoint Communications Inc.

FairPoint Energy, LLC
1055 Washington Boulevard,
7th floor
Stamford, CT 06901
Phone: 866-842-1084
Email: support@fairpointenergy.com
www.fairpointenergy.com

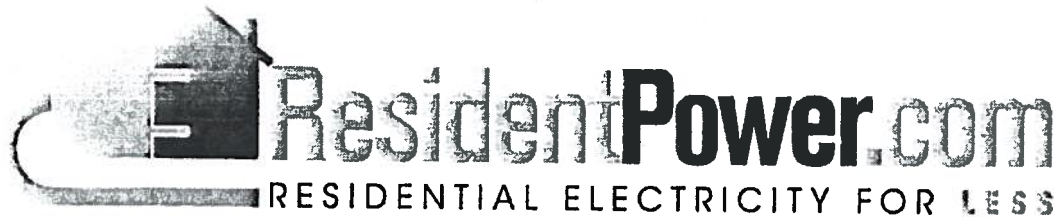
Here at PNE Energy Supply it has been our pleasure to provide you with access to affordable electricity service, and we emphasize that you will be treated as a valued customer of FairPoint Energy. We recognize that you have a choice of energy providers. FairPoint Energy is committed to honoring your contract price and contract term with PNE Energy Supply and keeping you satisfied; thus we hope that you choose to remain a customer with FairPoint Energy and thereby continue the same affordable service that you have received from PNE Energy Supply.

Until the actual transfer date, PNE Energy Supply will continue to be responsible for addressing all customer service and billing issues. After the transfer date, you should refer your questions to FairPoint Energy for handling. We appreciate your understanding and support during this transition period. If you have any questions regarding this notice, our address and on-going toll-free customer contact number and address are as follows:

PNE Energy Supply, LLC d/b/a Power New England
816 Elm Street Suite 364
Manchester, NH 03101
Phone: (877) 248-1478

Sincerely,

PNE Energy Supply, LLC d/b/a Power New England



Terms and Conditions

Resident Power Natural Gas and Electric Solutions, LLC ("Resident Power") operates as a registered aggregator of electricity in New Hampshire and Maine. "We", "us" and "our" refers to Resident Power. "You" or "your" refers to you the Customer. Resident Power will maintain your information with the strictest confidentiality and will utilize it only in the course of providing the services contemplated under these terms and conditions. Please read the terms and conditions below carefully as offers and opportunities may vary depending on utility, state and region of service.

- 1. Appointment of Agent:** You hereby appoint Resident Power as your exclusive agent, for a period of 12 months from the date of enrollment, to act in your name, place and stead in any way which it could act with respect to researching, negotiating, executing, terminating, assigning, rescinding and delivering electricity supply and service agreements with competitive energy suppliers, sellers or service providers.
- 2. Authority to Sign/Enroll:** By accepting the terms and conditions and completing the online or hard copy enrollment form you are representing that you have the authority to sign on behalf of the electricity account/s listed, and that you are either the account owner or the owner's duly authorized representative. **NOTICE:** Anyone enrolling customers without their express permission shall be liable for any and all suits, complaints, damages, fines or charges resulting therefrom. Resident Power does not condone or tolerate customer "slamming" and will turn in any person or persons discovered to be engaged in any such activity to the proper authorities. If you feel that you have been a victim of improper or unauthorized enrollment please contact Resident Power at info@residentpower.com and include **INVALID ENROLLMENT** in the subject line. If you are already with another supplier or aggregator [other than the utility] and you enroll with Resident Power it is your responsibility to inform Resident Power in writing as to when your current supply/aggregation contract expires. Resident Power is not responsible for any early termination penalties that may be charged to you by other suppliers or aggregators as a result of your enrollment with Resident Power.
- 3. Price Guarantee:** Resident Power guarantees that your new electricity rate will be lower than the 12 month average residential rate offered by your local utility company at the time of enrollment with your new competitive electricity provider ("CEP"). Note: The 10% savings guarantee applies to PSNH customers only and reflects Resident Power's commitment to price you, the Customer, 10% or more below the average residential rate offered by PSNH over the prior 12 months. All other utility customers are guaranteed a savings against the posted residential rate offer by their utility; however it may be a savings of less than the PSNH savings percentage referenced above. If Resident Power is unable to secure a rate that is lower than the previous 12 month average residential rate offered by your local utility company, Resident Power will not enroll you with a new CEP and you will remain with the utility company at no additional charge, until such time as a new rate is found or you terminate your membership in the Resident Power program.

Please note that Resident Power cannot find you a lower cost source for your transmission and distribution charges, as those charges are the domain of your utility company and will remain as such even after we find you a new electricity supplier/CEP. Therefore, our guarantee of a lower price relates **ONLY** to the per Kwh electricity charge for electricity supply and does not extend to, describe, or pertain to any other service, offering, product, or charge levied by your local utility company.

*Please note that many utility companies fluctuate their prices every 1, 3 or 6 months, it is for this reason that Resident Power uses a utility's previous 12 month average as the price to compare.

- 4. Term:** Your enrollment in our energy program starts on the day of sign up and submission, and lasts for a period of 12 months from that date. If you wish to be removed from the Resident Power program you must inform us in writing 30 days prior to the expiration of your 12 month term, or you will be automatically renewed for another 12 months. This term listed under this Appointment of Agent does not relate to any Agreement entered into on your behalf with a CEP while acting under the authority provided herein. When a new electricity rate and CEP have been secured on your behalf, you will be notified of your new terms and conditions at that time, by the CEP or their agent.
- 5. Cancellation:** Under this Agreement you are enrolled with Resident Power for a period of 12 months from the date of sign up. At the expiration of the 12 month period, either party may cancel this Appointment of Agent 30 days prior to its expiration, otherwise you will have been deemed to renew for another 12 month interval. You will continue to auto renew for 12 month intervals until such time as either party cancels. In order to successfully cancel, the cancelling party must submit a written notice of cancellation at least thirty (30) days prior to the next expiration date. In the event that you have already been enrolled with a CEP, cancellation of your Agreement with Resident Power will have no impact on the terms and conditions entered into between you and the CEP. **NOTICE:** if you move within state, please notify us of your new account number(s) within (60) days for re-enrollment and your early termination fee will be waived.
- 6. Right of Rescission:** By law the residential consumer has the right to rescind when Resident Power has found you a new rate and new CEP. You will remain a Resident Power customer, however. When we have found you a new rate with a CEP, you will be notified by the CEP of your new rate terms and conditions. At which point you will have the following right of rescission depending on the form of the communication:
 - a. Residential customers and small commercial customers shall have 3 business days from the date of personal or electronic delivery of the written terms of service statement required by (a) above to rescind authorization, and

www.ResidentPower.com
EMAIL: info@residentpower.com
603 232 9293 (Phone)
603 625 8448 (Fax)

816 Elm Street, Suite 364, Manchester, NH 03104

- b. Residential customers and small commercial customers receiving the terms of service statement required by (a) above via the United States postal service shall have 5 business days from the postmarked date to rescind authorization.
- 7. Early Termination:** In order to provide our price Guarantee, you may not sign with another electricity broker or supplier while under contract with Resident Power. You have authorized Resident Power as your exclusive procurement agent for electricity; therefore if you leave prior to proper cancellation, Resident Power reserves the right to charge a \$100 early termination fee. See Section 4 Cancellation for more details.
- 8. Information Release Authorization:** Through your enrollment via web, mail, telephone or other method you agree with the terms and conditions contained within this document and authorize Resident Power to act on your behalf, with your local utility company (i.e. PSNH, Unitil, NGRID, NH CO-OP, etc...) to release or allow access to us any pertinent account information including, but not limited to account number, usage information, payment history, etc...
- 9. Dispute Resolution:** In the event of a billing dispute or a disagreement involving any essential element of this Agreement, the parties will use their best efforts to resolve the dispute. If you have any concerns about your bill, you may call our Customer Service department (M-F 9AM-5PM EST) at 603 232 9293 or send a letter to Resident Power, 816 Elm Street, Suite 364, Manchester, NH 03101, or send an e-mail to info@residentpower.com.
- 10. Low Income Eligibility:** A discount electric rate is available to qualifying residential customers by your utility company. If you are currently on such a rate with the utility company, we suggest that you do not enroll in our program as we cannot guarantee a lower electricity rate against non published, specialized enrollment rates, such as those for low income eligibility.
- 11. Governing Law and Regulations:** This Agreement shall be governed by, construed, enforced and performed in accordance with the laws of the State of New Hampshire. If action is taken by federal or state governmental authorities which might significantly changes the way Resident Power does business with you, Resident Power may terminate this Agreement, after which you can enroll for service from another aggregator or supplier.
- 12. Emergency Service:** In the event of an electric emergency or service interruption, you should immediately call your local utility company immediately.
- 13. Assignment:** Resident Power may assign or transfer your account/s to another entity at any time under the same or substantially similar terms and conditions, unless otherwise agreed between Resident Power and the other entity. In such cases, Resident Power will use best efforts to provide you with 30 days notice via electronic mail. If you have not provided an electronic mailing address to Resident Power, Resident Power reserves the right to inform you by publishing such notice on their website at www.ResidentPower.com.
- 14. Supplier Notice to Customers:** Resident Power will notice you when a new supplier rate is secured for your home or small business. As noted above customers do have the ability to opt out of any rate offered for the time periods outlined in Section 6. Resident Power will utilize the mailing or email address provided by Customer and is not liable for any undelivered supplier notices resulting from incorrect electronic or physical mailing addresses. Customers are encouraged to double check their enrollment forms to ensure that all information is input completely and accurately.

Thank you for your enrollment and we appreciate your support. Don't forget to Like Us on Facebook at <http://www.facebook.com/ResidentPower>

The Resident Power Team

Email Users: Don't forget to allow email from ResidentPower.com, as some mail servers may direct our letters and notices into your SPAM filter

Coming Soon: Resident Power GREEN

EC000006280124



www.ResidentPower.com
 EMAIL: info@residentpower.com
 603 232 9293 (Phone)
 603 625 8448 (Fax)
 816 Elm Street, Suite 364, Manchester, NH 03104



Dear Resident Power Customer:

IMPORTANT UPDATE – REPLY REQUESTED

If you are receiving this message the transfer of your account from PNE Energy Supply to Fairpoint Energy has regrettably not gone through as expected. Your account had been enrolled for transfer to Fairpoint Energy at the same low rates, terms and conditions that you enjoyed with PNE Energy. However, the transfer of your account has been halted, and your account is now back with Public Service of New Hampshire (PSNH), whose rates are considerably higher than those you enjoyed with PNE Energy and would have enjoyed with Fairpoint Energy.

If you would like to still be a customer of Resident Power and authorize us to place you with an electricity provider other than PSNH at rates below PSNH rates, please REPLY to this email and type "RENEW MY ACCOUNT" and your first and last name in the email body or subject line. Or you may also call our office at 603 232 9293, and speak with one of our associates, between 9 am and 5 pm, M-F.

If you renew with us, we will get to work, right away, to find you an alternative to PSNH default service at rates that continue to be well below PSNH. If you do not renew with us, please be advised that you will remain on PSNH's high default service rate of \$.0954 per kwh, until you choose another supplier on your own, or you re-sign with Resident Power.

While we are writing you, we would like to clear up some inaccuracies in the media the last few days.

1. Despite what was reported by the Nashua Telegraph and other news outlets this morning, Resident Power has not been suspended by the ISO or the New Hampshire PUC. The Telegraph and others have since changed their online versions to reflect the truth. We remain in good standing and continue to serve you (should you renew with us) and all of our 14,000 NH customers with superior rates and service.
2. Your account has gone back to PSNH as of Wednesday, February 20, 2013. A request was made to PSNH to transfer your account to Fairpoint Energy automatically and protect your rates, however PSNH declined to make the switch. PSNH stated that although they had the ability to do the automatic transfer, they lacked the "resources" to effect the transfer in the time provided.
3. Your former supplier, PNE Energy Supply, suffered from cash flow issues, stemming from record market volatility that caused them to seek out a buyer for their residential customers (Fairpoint Energy). PNE temporarily and voluntarily suspended their own service of the New Hampshire market, and was not forcibly suspended or removed from the market as others have suggested, nor has PNE Energy gone out of business. PNE Energy tells us that it intends to return to the market as New Hampshire's only locally owned and operated electricity supplier in the next few weeks.

When we started Resident Power, almost two years ago now, all we wanted to do was provide EVERY New Hampshire rate payer with a competitive choice, not just the large businesses. In the early days, the only supplier that would work with us, and be the first to offer service to residential and small commercial customers, was PNE Energy. As their partner these last two years, we salute them for being bold enough to do to what no competitive supplier had done before. Today, almost 50,000 New Hampshire customers have chosen an alternative supplier to help save them money on their electricity bills, and PNE Energy Supply is a major reason for that.

In closing, we hope that you decide to remain with Resident Power. It has been our pleasure to serve you and we hope you give us the chance to continue that relationship.

Please remember, that if you wish to stay with Resident Power, please REPLY to this

email and type "RENEW MY ACCOUNT" and your first and last name in the email body or subject line. Or you may also call our office at 603 232 9293, and speak with one of our associates, between 9 am and 5 pm, M-F.

Sincerely,

Your Resident Power Enrollment Team



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Enrollment from Website www.residentpower.com

Our mailing address is:

Resident Power

816 Elm St.

Suite 364

Manchester, NH 03104



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