


STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: January 7, 2021
AT (OFFICE): NHPUC

FROM: Amanda Noonan 
Director, Consumer Services and External Affairs Division

SUBJECT: DE 13-060, PNE Energy Supply, LLC
Motion to Change Form of Surety
Staff Recommendation

TO: Commissioners
Debra A. Howland, Executive Director

CC: David K. Wiesner, Director, Legal Division

On December 7, 2020, PNE Energy Supply, LLC (PNE), a registered competitive electric power supplier, filed a motion for modification of a term of the Settlement Agreement approved in Docket No. DE 13-060. No objection to that motion has been filed. PNE seeks to modify the Settlement Agreement term requiring it to maintain a financial surety escrow account and to replace it with a surety bond, as permitted under Puc 2003.03. In support of its request, PNE states that no customer complaints regarding PNE have been received by the Commission since 2014 and that, for the past five years, PNE has not served residential customers. PNE further represents that it is not currently serving any commercial customers.

PNE argues that the ongoing requirement to hold money in escrow as a form of financial security imposes a significant burden on it. Not only does PNE not have access to the funds held in escrow, it is incurring fees for administration of the account. PNE asserts that while there is no benefit to the public in maintaining the escrow account, doing so results in economic harm to PNE.

Staff has reviewed PNE's quarterly sales reports for the past five years. PNE reported sales to residential and commercial customers through the fourth quarter of 2017. Staff has also reviewed the contacts regarding PNE made by customers to the Commission's Consumer Services Division since 2014. No customers contacted the Commission with questions or concerns about PNE in 2015. In 2016, ten customers contacted the Commission with questions or concerns about PNE. PNE responded promptly to the contacts forwarded to it for further investigation and resolved the issues in the customers' favor. Five customers contacted the Commission's Consumer Services Division regarding PNE in 2017. All of those customer contacts were prompted by early termination fees that were properly assessed by PNE. Since 2017, no customers have contacted the Commission's Consumer Services Division regarding PNE.

Although PNE's quarterly sales reports, as filed with the Commission, and the contacts received by the Commission's Consumer Services Division, do not support the timeline representations made by PNE in its motion, three years have passed since a customer contacted the Commission regarding PNE and since PNE has provided service to residential customers. In addition, the nature of the contacts received in 2016 and 2017, and PNE's response to those contacts, raise no concerns for Staff.

The Settlement Agreement approved in DE 13-060 required that PNE maintain an escrow account to ensure, in part, access to funds to reimburse customers should PNE fail to comply with the terms of that agreement. The amount held was subsequently reduced by Commission order in 2014. Given the nature of the customer concerns raised in 2016 and 2017 and PNE's prompt and satisfactory response to those concerns, as well as the passage of time, Staff does not have the same concerns today as it did when the Settlement Agreement was negotiated and approved in 2013.

Staff therefore recommends that the Commission grant PNE the relief it seeks in its motion and modify the Settlement Agreement term to allow PNE to replace the financial surety escrow account with a surety bond, as permitted under Puc 2003.03, such approval to be granted by order *nisi* if necessary.