

STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Complaint Against Public Service Company of New Hampshire

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
RESPONSE TO COMPLAINT OF PNE ENERGY SUPPLY, LLC
AND
HALIFAX AMERICAN ENERGY SUPPLY, LLC

Pursuant to RSA 365:2, N.H. Code Admin. Rule Puc 204.02 and 204.03, Public Service Company of New Hampshire (“PSNH” or “the Company”) hereby responds to the complaint of PNE Energy Supply, LLC (“PNE”) and Halifax American Energy Supply, LLC (“HAES”)¹ which was included with an email dated April 8, 2014 to the Commission and sent to PSNH on April 25, 2014. PSNH disputes that complaint and answers as follows:

1. The complainant, PNE, contends that PSNH is not permitted to drop customers from the complainant’s service and enroll those customers with PSNH’s energy service when PSNH is directly requested to do so by the customer. PNE believes that even in the event of an expressed and verified customer request to PSNH from a customer to be dropped from PNE’s service and enrolled with PSNH’s default service, the terms of PSNH’s tariff prevent PSNH from actually dropping the customer from PNE’s service. Instead, according to the complainant, PSNH must

¹ PSNH notes that while HAES contends that it is a “duly registered” competitive electric power supplier (“CEPS”), the entity Halifax American Energy Supply, LLC is not, in fact, registered with the Commission as a CEPS, nor is there any registration with the N.H. Secretary of State for “Halifax American Energy Supply, LLC.” South Jersey Energy Corporation has been registered by the Commission in Docket No. DM 11-119 as a CEPS and is authorized to do business as Halifax American Energy Company. However, there is no entity bearing the name Halifax American Energy Supply, LLC anywhere in the publicly-available records of the Commission, nor is there any authority for Halifax American Energy Supply, LLC to conduct business within the state of New Hampshire. Accordingly, the entity described in multiple places throughout the complaint is not authorized to conduct business as a CEPS in New Hampshire. For this reason, in addition to the fact that the complaint contains no allegations of any activity affecting any entity other than PNE, PSNH contends that Halifax American Energy Supply, LLC has no standing to bring any complaint before the Commission and any complaint on its behalf must be dismissed. As a result, PSNH will only discuss the complaint with respect to PNE.

await the submission of a drop transaction from the existing supplier before moving the customer to PSNH's default service. In rendering its complaint, PNE has misconstrued PSNH's tariff, ignored relevant Commission rules, and has made incomplete and undeveloped requests for relief. Accordingly, the complaint should be dismissed.

2. In making its complaint, PNE focuses on the following provision of PSNH's tariff:

To terminate Supplier Service from a particular Supplier, a Customer may either have the Supplier of record send to the Company a "Supplier Drops Customer" transaction, in accordance with the Terms and Conditions for Energy Service Providers section of this Tariff, or request Supplier Service from an alternative Supplier. Supplier Service from the Supplier of record shall terminate on the next meter read date provided the Company has received either a valid "Supplier Drops Customer" notice from the Supplier of record or a valid Electronic Enrollment from a new Supplier at least two business days prior to the regularly scheduled meter read date.

PSNH Electricity Delivery Service Tariff – NH PUC No. 8, Original Page 12, Section 7. Based upon this section PNE contends that for PSNH to process a drop transaction the customer must either have the existing supplier send a drop transaction or the customer must request service from another supplier. PNE's reading of PSNH's tariff is incorrect and unreasonable.

3. Initially, PSNH notes that PNE's reading of PSNH's tariff ignores the term "may". The provision is permissive and allows the customer flexibility in determining the manner in which a supplier will be selected. The tariff does not restrict a customer in the manner contended by PNE. Accordingly, PNE has misconstrued the tariff and there is no basis for the complaint.

4. Further, PNE's arguments are unreasonable. To accept PNE's allegations would mean, for example, that if a customer on PNE's service moved out of PSNH's service territory and informed PSNH of that move, PSNH would be unable to process a drop for that customer. In this example, there would be no "alternative Supplier" to request service, and PSNH would be required to wait for some action by PNE, which may or may not be aware the customer has left.

PSNH and the customer would be held hostage to a supplier's processes and procedures.

Reading the tariff to create such a situation is not reasonable.

5. Furthermore, PSNH's tariff, at page 9, section 3, specifically states that service rendered under the tariff is "subject to the applicable rules and regulations of the Commission." Pursuant to Puc 1203.01, a customer may orally request service from a utility, and when such a request is made the utility shall complete the service connection without "undue delay." Puc 1203.01(b), (g). To follow the methods promoted by PNE would mean that if a customer called PSNH to begin receiving supply from PSNH, PSNH could not complete that request without first requiring that the customer to return to the supplier (a supplier from which the customer wishes to terminate its relationship), convince the supplier to drop the customer and have the supplier complete whatever steps it deemed appropriate before then processing a drop. Should the supplier delay providing the drop for any reason, PSNH would not be able to complete the actions required by the Commission's rules and expressly requested by the customer.

6. Also, PSNH notes that the Commission is in the final stages of adoption of its Puc Part 300 rules pertaining to electric service. The amendments to those rules have been in process for nearly a year and include specific provisions stating that the utility shall supply the customer with the utility's default service upon request by the customer.

7. To that same end, and to address difficulties in the market for electric service, the Director of the Commission's Consumer Affairs Division engaged with PSNH in discussions approximately a year ago on this very issue. The intent of that discussion was to ensure that honoring a customer's request to the utility to be dropped from a supplier's service, without also requiring that the customer engage in contact with the supplier it desired to leave, was consistent with the Commission's existing rules. The attached email exchange confirms that PSNH was

authorized to act in precisely the manner it has, so long as it retained sufficient records to verify the customer's request. PSNH has complied with the requirements and expectations of the Commission and its Staff under the existing rules, and the pending rules will explicitly require the precise activity PNE criticizes. In short, PSNH is presently acting consistent with the Commission's direction and expectations.

8. In addition, the Commission also has an open rulemaking docket to re-promulgate the Puc Part 2000 regulations governing competitive electric power suppliers. The matter that is the subject of this complaint is a generic issue affecting all of the state's distribution companies, and will either be addressed through the amendments to the Puc Part 300 rules, or should be addressed via on-going rulemaking for the Puc Part 2000 rules. *See* RSA 541-A:1, XV.

9. Finally, PNE's requests for relief are inadequate for the Commission to provide any assistance. First, PNE requests an adjudicative proceeding "as provided in N.H. Admin. Rule PUC 2505.13." Puc 2505.13 relates to the Renewable Portfolio Standard and has no bearing on any of the allegations made by PNE. Furthermore, PNE requests an opportunity to prove its contentions "after discovery and deposition". The Commission has recently clarified how it will address depositions, and the complainant's statements fall far short of the Commission's standards. *See* Order No. 25,566 (August 27, 2013) at 3. In that the complainant has made insufficient requests for relief, the Commission should dismiss the complaint.

10. Additionally, PNE requests that PSNH make reparation, but it has alleged no harm. There are no allegations that any conduct by PSNH caused any harm whatsoever to PNE. Instead, PNE's contentions are that PSNH was not permitted to initiate drops from its service upon a customer's direct request, but that it was required to abide by a different method. PNE does not allege that any customers were unwillingly dropped from PNE's service. In other

words PNE contends that "customer choice" is a one-way street - - that is, customers have the right to choose PNE as a supplier and PNE can initiate enrollments on the behalf of customers which would cause those customers to be dropped from another supplier's service, but those same customers are restricted when they choose to drop PNE as a supplier for PSNH since PSNH would have no ability to initiate a drop from PNE's service. In that any drops represent customers exercising their "customer choice" privileges under the Electric Utility Restructuring Law, RSA chapter 374-F, there has been no harm to the complainant for which reparations would be due. Accordingly, dismissing the complaint is proper.


WHEREFORE, PSNH respectfully requests that the Commission:

- A. Dismiss the complaint;
- B. Grant such further relief as is just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire
By Its Attorney

Dated: 5/8/14

By: 
Matthew J. Fossum
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CERTIFICATE OF SERVICE

I certify that a copy of this response has been served on counsel for the complainant pursuant to Rule Puc 204.02(c).

Dated: 5/8/14

By: 
Matthew J. Fossum





RE: Customer Returning to PSNH Default

From: Noonan, Amanda
To: Matthew J. Fossum

03/25/2013 11:00 AM

History: This message has been replied to and forwarded.

Hi Matthew,

I did get your 3-19-13 email, but not the earlier one today. Odd.

I am all set with what we discussed and the retention guidelines for the phone recordings .

Thanks.
Amanda

Amanda O. Noonan
Director, Consumer Affairs
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord NH 03301
603.271.1164 voice/603-271.3878 fax
amanda.noonan@puc.nh.gov

From: matthew.fossum@nu.com [mailto:matthew.fossum@nu.com]
Sent: Monday, March 25, 2013 10:47 AM
To: Noonan, Amanda
Subject: Fw: Customer Returning to PSNH Default

I just got a rejection notice, so I don't know which of these you had received - so I am sending it along again. I apologize if you get this multiple times.

Matthew J. Fossum
Counsel - Public Service of New Hampshire
PSNH Energy Park
780 N. Commercial St.
Manchester NH 03101
603-634-2961
matthew.fossum@nu.com

----- Forwarded by Matthew J. Fossum/NUS on 03/25/2013 10:46 AM -----

From: Matthew J. Fossum/NUS
To: Amanda Noonan <amanda.noonan@puc.nh.gov>
Date: 03/25/2013 10:43 AM
Subject: Fw: Customer Returning to PSNH Default

Good morning. I was wondering if you had any further concerns on this issue - or if I may confirm with the customer service people here that we have an adequate protocol and that we may continue to accept

customer requests to return to PSNH's service over the telephone. Please let me know. Thanks.

Matthew

Matthew J. Fossum
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780 N. Commercial St.
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----- Forwarded by Matthew J. Fossum/NUS on 03/25/2013 10:41 AM -----

From: Matthew J. Fossum/NUS
To: Amanda.Noonan@puc.nh.gov
Cc: Robert A. Bersak/NUS@NU
Date: 03/19/2013 09:24 AM
Subject: Customer Returning to PSNH Default

Good morning. We spoke about a week ago about a process for customers who call PSNH to return to default service from a supplier's service and how to make that process align with the rules. You had offered up the idea that if PSNH retains calls for those customers for an appropriate period, that would be evidence of the customer's choice in the event of a dispute. After asking around internally, it is my understanding that, generally, we retain inbound calls for 2 years. That is the same amount of time require for suppliers to retain records of customer authorization under 2004.05. Therefore, it appears to me that we have an adequate record retention process for those instances where a customer would request to return to PSNH's service. Thus, we would continue to follow the 1200 rules which would allow oral requests for service over the telephone without the requirement of a written authorization or third-party verification. Please let me know if you have further questions or concerns on this issue. Thanks.

Matthew

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