

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/A EVERSOURCE ENERGY

Petition for Approval of Lease Agreement Between Public Service Company of New Hampshire
d/b/a Eversource Energy and Northern Pass Transmission LLC

Docket No. DE 15-464

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
D/B/A EVERSOURCE ENERGY'S OBJECTION
TO PETITION TO INTERVENE OF
NEW ENGLAND POWER GENERATORS ASSOCIATION

Pursuant to New Hampshire Code of Administrative Rules Puc 203.07 and RSA chapter 541-A, Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH" or the "Company") hereby objects to the petition to intervene of the New England Power Generators Association ("NEPGA"). In support of its objection, PSNH states the following:

1. On October 19, 2015, PSNH filed a petition for approval of a lease transaction between it and Northern Pas Transmission LLC ("NPT") whereby PSNH would lease to NPT certain real estate rights owned by PSNH. On February 17, 2016 NEPGA timely filed a petition to intervene in the proceeding. NEPGA's petition fails to demonstrate that NEPGA meets the requisite standards for intervention under RSA 541-A:32. Accordingly, its petition should be denied.
2. Pursuant to RSA 541-A:32, I, the Commission "shall" grant a petition to intervene if the petitioner demonstrates that its "rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law." Additionally, pursuant to RSA 541-A:32, II, it "may" grant a petition if "such intervention would be in the interests of justice and would

not impair the orderly and prompt conduct of the proceedings.” NEPGA contends that it meets both the mandatory and the discretionary standards for intervention, though it does not differentiate its arguments for intervention on those bases.

3. In support of its intervention, NEPGA contends that:

As participants in the region’s wholesale power markets, NEPGA’s members have a substantial and specific interest in a fully competitive generation market and maintaining a level playing field within that market. NEPGA has a direct and substantial interest in ensuring that Eversource’s competitive electric affiliate, Northern Pass Transmission LLC, is not unfairly advantaged to the detriment of other non-affiliated companies operating in the region. Specifically, NEPGA has a direct and substantial interest in ensuring that the Commission’s newly adopted affiliate rules are complied with, that the valuation of the Lease between Eversource and NPT is based on fair market value in accordance with the valuation methods established in the Commission’s affiliate rules, and the effect of these and related issues on the competitive wholesale electricity market.

NEPGA Petition at 3-4. In sum, NEPGA’s sole interests appear to be that it is interested in ensuring a competitive generation market and in ensuring that PSNH has complied with the Commission’s rules. These general expressions of interest do nothing to demonstrate why rights, duties, privileges, immunities or other substantial interests of NEPGA are at stake. They likewise do nothing to demonstrate that the interests of justice warrant the intervention. NEPGA’s generic petition is insufficient to justify its participation in this docket.

4. As to the claims raised by NEPGA in the petition, PSNH notes first that ensuring a competitive generation market and “maintaining a level playing field within that market” has little, if anything, to do with the proposed lease at issue in the docket, or whether that lease is in the public good. Furthermore, the effect on the wholesale electricity market, including from the “related issues” that NEPGA does not define or explain, are matters

for the Federal Energy Regulatory Commission (“FERC”), or the Independent System Operator – New England (“ISO-NE”) and not this Commission. NEPGA’s generalized claims about interests in competitive markets or matters beyond the Commission’s purview do not demonstrate that it has any interests or rights that may be affected by this proceeding. *See, e.g., Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities*, Order No. 25,715 (September 8, 2014) at 3 (“A general interest in competitive markets . . . is insufficient to entitle these parties to intervene pursuant to RSA 541-A:32, I.”).

5. With respect to NEPGA’s other professed concern – assuring that the Commission’s rules relating to utility affiliates are followed – that general concern about adherence to Commission policy likewise does not support any claim that NEPGA has rights or interests at stake. Only recently, Northern Utilities, Inc. (“Northern”) sought to intervene in a docket relating to a petition by Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty”) to expand its gas franchise. *See generally* Docket No. DG 15-362. In its petition to intervene, Northern contended that its intervention was justified, in part, because it would be affected by any policy decisions made by the Commission in Liberty’s case. In rejecting Northern’s petition to intervene, the Commission noted that it could not discern a limiting principle in Northern’s policy-based petition that would prevent peer companies in New Hampshire, and beyond, from intervening in proceedings because “all Commission rulings regarding such petitions implicate matters of policy of some interest to similarly-situated utilities, and allowing such interventions would result in unwarranted administrative burden.” *Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities*, Order No. 25,864 (February 4,

- 2016) at 3-4. In other words, the Commission concluded that a generalized interest in the “policy” that may be discussed or decided in a particular case, even if that policy might apply to similar entities in the future, was not sufficient to justify intervention.
6. The same holds true here. NEPGA has stated a general interest in ensuring that the Commission’s affiliate rules are followed in this case because, it contends, there could, perhaps, be some unknown and undefined tangential impact on the business or activities of NEPGA or its members from the activities of PSNH or NPT. NEPGA, however, offers no specific facts that explain how this proceeding affects its members. Merely being able to conceive of some way that the Commission’s decisions in this case might, in some way, decide a policy that could implicate activity elsewhere, does not demonstrate that NEPGA’s rights or interests will be affected or that it is justified in participating in the docket. As the Commission noted, essentially all of its decisions implicate matters of policy of some interest to someone. However, the fact that such an interest may exist is not a basis to permit intervention.
 7. Additionally, NEPGA states in its petition that it “has knowledge and experience that are likely to be of value to the Commission and other parties to the proceedings.” NEPGA Petition at 4. In describing that “knowledge and experience,” NEPGA points only to the fact that it has participated in prior Commission dockets. That NEPGA may have participated in prior Commission dockets, however, demonstrates nothing that supports or justifies its intervention here.
 8. In another recent proceeding, various entities had sought to intervene based upon nebulous claims that they would provide helpful information, yet later those entities failed to constructively participate in the proceeding. In commenting upon the undefined

claims justifying intervention, the Commission Chairman expressed doubt about such “blanket” claims being sufficient by stating “So, I think it’s something that, in the future, we should perhaps consider testing that assertion when it’s made in the future. I suspect there are some other entities that appear before us regularly who would probably appreciate it if we started considering such blanket statements by intervenors more closely when they make them.” Transcript of November 30, 2015 Hearing in Docket No. DE 15-068 at 7.

9. To justify its intervention in this proceeding NEPGA has made a blanket statement that it has knowledge and experience to offer. NEPGA does not, however, identify what that knowledge and experience might be, nor does it provide any description of how that knowledge or experience might be uniquely or especially informative or valuable, nor does it clarify how any of the knowledge and experience it might have would aid the Commission in reviewing the lease petition before it. NEPGA has stated that its “mission is to promote sound energy policies to further economic development, jobs and a balanced environmental policy,” and that it “believes that sustainable competitive markets are the best means to provide long-term reliable and affordable supplies of electricity for consumers.” NEPGA Petition at 3. NEPGA offers nothing that might demonstrate that the knowledge or experience it could have gained in promoting its mission on sound energy policies, or from its belief furthering in competitive markets, has any bearing on the pending petition. NEPGA’s blanket claims do not justify its intervention, and its request should be denied.
10. Lastly, Pursuant to RSA 541-A:32, III, and Puc 203.17, the Commission may limit an intervention to, among other things, “designated issues in which the intervenor has a

particular interest.” PSNH hereby requests that if the Commission grants this petition, it require NEPGA to specify the particular interest that it has in specific issues, and that the Commission limit NEPGA’s participation to such identified issues.


WHEREFORE, PSNH respectfully requests that the Commission:

- (1) Deny NEPGA’s petition to intervene;
- (2) If the petition is not denied, then order NEPGA to specify the particular interests that it has in the proceeding and require NEPGA to adhere to those interests; and
- (3) Order such further relief as may be just and equitable.

Respectfully submitted,

**Public Service Company of New Hampshire d/b/a
Eversource Energy**


February 19, 2016
Date

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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Objection to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

February 19, 2016
Date


Matthew J. Fossum