

**THE STATE OF NEW HAMPSHIRE**  
**Before the**  
**PUBLIC UTILITIES COMMISSION**

**PNE Energy Supply, LLC, et al. v. Public Service Company of New Hampshire d/b/a  
Eversource Energy**

**Transfer Question from Superior Court**

**Docket No. DE 15-491**

**UNITIL ENERGY SYSTEMS, INC.**  
**PETITION TO INTERVENE**

Unitil Energy Systems, Inc. (“Unitil” or “Company”) hereby respectfully petitions the New Hampshire Public Utilities Commission (“Commission”) for full party Intervenor status in the above captioned matter pursuant to RSA 541-A: 32 and N.H. Code of Admin. Proc. Puc 203.17. In support of its Petition, Unitil states the following:

1. Unitil is a New Hampshire corporation and public utility primarily engaged in the distribution of electricity in the capital and southeastern seacoast regions of New Hampshire. Unitil’s primary place of business is located at 6 Liberty Lane West, Hampton, New Hampshire.
2. On or about November 30, 2015, the Hillsborough North Superior Court transferred a civil case (Docket No. 216-2015-CV-265) to the Commission. The underlying litigation includes a claim brought by PNE Energy Supply, LLC (“PNE”) and Residential Power Natural Gas and Electric Solutions, LLC (“Resident Power”) (collectively, the “Plaintiffs”) against Public Service Company of New Hampshire d/b/a Eversource Energy (“PSNH”) for tortious interference with contractual relations. PSNH is the host utility for PNE, a competitive electric supplier (“CEPS”). The crux of the Plaintiffs’ claim is that PSNH should have performed a “one-time, off-cycle transfer” of PNE’s customer accounts to FairPoint, which had entered into an agreement to buy the accounts, and should not have enrolled 7,300 of the accounts in PSNH’s default service after PNE defaulted on its security obligations with ISO-NE.

3. PSNH and PNE cited provisions of the ISO-NE Tariff Transmission, Markets and Services Tariff, PSNH's Electricity Delivery Service Tariff, and the the Puc 2000 rules in support of their respective litigation positions. The Superior Court, recognizing the complexity of these tariff provisions and regulations, transferred the following question to the Commission:

Considering the tariff and regulatory provisions cited by plaintiffs and defendant, did defendant act "improperly," within the meaning of a tortious interference with contract claim, by: (a) refusing to perform a one-time, off-cycle transfer of PNE customer accounts to FairPoint; (b) illegally deleting 7,300 pending electronic enrollments for the transfer of PNE customers to FairPoint; and (c) replacing those enrollments with electronic enrollments for the transfer of PNE customers to Default Service?

4. In its Order of Notice, the Commission indicated that the above-captioned docket raises issues relevant to the interpretation of the tariff provisions and regulations cited by the parties, as well as relevant provisions of RSA 374-F and RSA 365:37.

5. RSA 541-A:32, I provides that a petition to intervene shall be granted if: (b) The petition states facts demonstrating that the petitioner's 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 and (c) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

6. Like PSNH, Unitil is an electric distribution utility that provides access to and performs services for CEPS consistent with New Hampshire law and the Commission's rules. Incorporated into Unitil's Tariff for Electric Delivery Service in the State of New Hampshire is a Competitive Electric Supplier Trading Partner Agreement that includes the following provision:

Supplier must either (i) be an ISO-NE member having its own Settlement Account, or (ii) have an agreement in place with an ISO-NE member whereby the ISO-NE member agrees to include the load to be served by the Supplier in such ISO-NE member's Settlement Account. Supplier shall notify Company within twenty-four (24) hours prior, as applicable, to an event reasonably within Supplier's knowledge, and of which Supplier has reason to believe Company has

no knowledge, and that will render Supplier or its agent unable to maintain the status with ISO-NE required to serve load. Upon such notice or upon the occurrence of such an event, Company shall have the immediate right to switch Supplier's Customers so affected to the applicable Default Service Rate under the Company's tariffs.

Unitil Tariff at pp. 83-84 (emphasis added). This provision has been in effect since November 1, 2006. Id.

7. The question transferred to the Commission by the Superior Court requires resolution of issues related to the interplay between Puc Rules, the ISO-NE Tariff Transmission, Markets and Services Tariff, and a New Hampshire Utility's electric distribution tariff. The Commission's determinations in this docket may affect the manner in which all New Hampshire electric utilities, including Unitil, do business with a CEPS and handle customer accounts in the event of a supplier's default with ISO-NE. Unitil will be directly affected by the outcome of this Docket if any of the Commission's determinations are inconsistent with Unitil's Tariff and /or currently effective supplier agreements. Furthermore, Unitil may be subject to increased administrative burdens relative to customer billing if the Commission determines that an electric utility has an obligation to perform a mass "off-cycle" transfer in the event of a supplier's default with ISO-NE. Therefore, any action the Commission may take in this Docket may impact the rights, duties and interests of Unitil and / or its customers.

5. Granting Unitil's Petition for Intervention would not impair the orderly and prompt conduct of the proceedings. In the interest of administrative efficiency, Unitil will attempt to coordinate its participation with that of other electric utilities which are parties to this docket, to the extent that the interests and positions of Unitil and these parties align.

WHEREFORE Unitil respectfully requests that the Commission grant its Petition to Intervene and such further relief as may be just and equitable.

Respectfully submitted,

By: 

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above Petition to Intervene was sent by e-mail to the service list in the above-captioned docket on March 31, 2016.

Dated: March 31, 2016

  
Patrick H. Taylor