

STATE OF NEW HAMPSHIRE

Inter-Department Communication

NHPUC 13DEC17PM3:28

DATE: December 13, 2017

AT (OFFICE): NHPUC


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

SUBJECT: DM 17-024 Constellation NewEnergy, Inc.
Request for Waiver of Puc 2004.06(a)(2), Puc 2004.06(a)(7),
and Puc 2004.05(a) Rules Provisions Applicable to Competitive
Electric Power Suppliers

TO: Commissioners
Debra A. Howland, Executive Director

CC: David K. Wiesner, Staff Attorney

On November 28, 2017, Constellation NewEnergy, Inc. (CNE) filed a request for waiver of certain specific provisions of the Puc 2000 rules applicable to competitive electric power suppliers (CEPS); as such rules were amended effective as of November 1, 2017. *See* N.H. Code Admin. Rules Chapter Puc 2000. Commission Staff (Staff) has reviewed the requested rules waivers and concluded that the waivers are warranted under the standards set forth in Puc 201.05. Staff therefore recommends that the Commission grant the requested rules waivers, as described in detail below.

Puc 2004.06(a)(2) CEPS Bill Inclusion of Starting and Ending Meter Reads

Under Puc 2004.06(a)(2), a CEPS bill issued directly by the CEPS rather than through utility consolidated billing must include certain specified information, including “[t]he starting meter reading and the ending meter reading for the billing period.”

CNE stated it had confirmed with the electric distribution utilities that the starting and ending meter reads are not sent in electronic data interchange (EDI) transactions with CEPS. Instead, only the total consumption for the billing period is sent through EDI. According to CNE, compliance with the rules provisions therefore would be onerous and would be nearly impossible for CNE to accomplish, given that the utilities performing the meter reads do not provide that information to CNE through EDI transactions. CNE represented that its customers would still receive the total consumption information for the billing period.

Staff has confirmed that the required information regarding starting and ending meter reads is not provided to CEPS by the utilities through the EDI transaction system. Accordingly, it appears that information is not readily available to CEPS that directly bill

their customers for electric energy service. Staff therefore recommends that the Commission grant the waiver of Puc 2004.06(a)(2) as requested by CNE.

Staff notes there are a number of other CEPS that directly bill their customers and therefore would face similar compliance constraints as CNE. Staff has been informed by the electric distribution companies that many CEPS are directly billing certain of their residential and/or small commercial customers. For example, Eversource reported that 14 CEPS provide direct customer billing in its service territory to a total of over 6,000 residential or small commercial customers, while New Hampshire Electric Cooperative reported that 5 CEPS provide direct customer billing in its service territory to over 100 residential customers and over 850 small commercial customers. Staff anticipates that those other CEPS may also require a waiver of this particular rules provision.

Puc 2004.06(a)(7) CEPS Bill Inclusion of Average Price Per kWh Information

Under Puc 2004.06(a)(7), a CEPS bill issued directly by the CEPS rather than through utility consolidated billing must include certain specified information, including “[t]he average price expressed per kWh billed by the CEPS to the customer during the billing period.”

CNE represented that it currently averages each line item on the bill rather than the entire bill total divided by the total consumption of the customer. CNE indicated it could have that billing “functionality built out” if it were given additional time in which to achieve compliance with the average kWh price disclosure requirement. CNE requested a waiver of the specific billing obligation under Puc 2004.06(a)(7) “until at least [March 1, 2018].”

Staff understands that changes in specific CEPS direct billing requirements under the amended Puc 2000 rules may require billing system upgrades and modifications by individual CEPS. Staff believes the period of time requested by CNE to achieve compliance with the average kWh price disclosure requirement is reasonable under the circumstances. Staff therefore recommends that the Commission grant the limited waiver of Puc 2004.06(a)(7) as requested by CNE.

Puc 2004.05(a) Environmental Disclosure Label Communication Methods

Under Puc 2004.05(a), each CEPS is required at least annually to “provide each of its customers with an environmental disclosure label identifying the sources of its electric energy service and the environmental characteristics of such sources *using the customer’s preferred form of communication.*” (Emphasis added). Under Puc 2004.02(e), a CEPS must request that each of its residential and small commercial customers specify the customer’s preferred form of communication for receipt of information by choosing either e-mail, U.S. mail, or text messaging if that is offered by the CEPS.

CNE stated it had not requested its existing residential and small commercial customers, all of whom enrolled prior to November 1, 2017, to specify their preferred form of communication, noting that it was not required to do so under the limited grandfathering provisions applicable to existing customer contracts under Puc 2004.20(i). According to CNE, it will not be enrolling or renewing any more residential or small commercial customers, so it would be “onerous” to require CNE to obtain customers’ preferred form of communication solely for the purposes of sending them the environmental disclosure label. CNE therefore requested it be permitted to continue providing its existing customers with the required environmental disclosure label through the communication channel it has used previously rather than through a customer’s preferred form of communication.

Staff believes that CNE’s rule waiver request is reasonable and appropriate under the circumstances, given that its existing contracts with residential and small commercial customers are grandfathered from the preferred form of communication requirement and it will not be enrolling any additional residential or small commercial customers. Staff therefore recommends that the Commission grant the limited waiver of Puc 2004.05(a) as requested by CNE.

In conclusion, Staff recommends that the Commission grant CNE’s requested rules waivers under Puc 201.05, based on a finding that the waivers will serve the public interest and not disrupt the orderly and efficient resolution of matters before the Commission, where compliance with the specific rules provisions would be onerous given the circumstances of the affected person and the purpose of the rules would be satisfied by the alternative methods proposed.

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

Executive.Director@puc.nh.gov
amanda.noonan@puc.nh.gov
amy.klaviter@constellation.com
bryan.connelly@puc.nh.gov
catherine.stanley@constellation.com
david.goyette@puc.nh.gov
david.wiesner@puc.nh.gov
leszek.stachow@puc.nh.gov
ocalitigation@oca.nh.gov
tom.frantz@puc.nh.gov

Docket #: 17-024-1 Printed: December 13, 2017

FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**
- DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**
- c) Serve a written copy on each person on the service list not able to receive electronic mail.**