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October 20, 2017

Debra A. Howland
Executive Director and Secretary State
of New Hampshire
Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

RE: Docket No. 17-153
Request for Rulemaking with Respect to Purchases of
Electric Energy and Capacity Produced from Qualified Facilities

Dear Ms. Howland:

I am writing on behalf of Freedom Logistics LLC ("FEL") to provide a brief reply to the PSNH/Eversource filing dated October 19, 2017 in the above-captioned proceeding. The filing urges the Commission to not undertake a rulemaking proceeding in New Hampshire regarding Purchases of Electric Energy and Capacity Produced from Qualified Facilities. The PSNH/Eversource filing is misleading and incomplete, and appears to assume that New Hampshire is a regulatory backwater.

PSNH/Eversource does not acknowledge the ongoing proceedings that its affiliates are participating in on this matter in Massachusetts (D.P.U. 17-54) and Connecticut (DPUC No. 16-09-26). Instead, PSNH/Eversource attempts to leave the erroneous impression that New Hampshire would be out of line with those states if it opens a rulemaking proceeding to address the avoided cost issue raised in the *Allco* decision by the U.S District Court.

The District Court found that the MDPU's regulations are inconsistent with the FERC regulations and that the MDPU's regulations are therefore invalid. The District Court found that the MDPU has the statutory authority to revisit its implementation of FERC's rules, either through a new rulemaking, a case-by-case adjudication, or other reasonable method.

The PSNH/Eversource comments submitted in this proceeding are largely the same as those submitted by its affiliates in Massachusetts and Connecticut. In stark contrast, the PSNH/Eversource comments are substantially different, and much less progressive, than those submitted by National Grid in the Massachusetts DPU proceeding, to wit:

.... National Grid proposes that QF long term "avoided cost" rates for energy should be set equal to an average of ISO-NE spot energy market prices over the three years just prior to the QF long-term contract's execution, and that QF long-term "avoided cost" for capacity should be set equal to the price (if any) that the specific QF capacity obtains in an ISO-NE Forward Capacity Auction in which it successfully bids. National Grid further proposes that QF contracts with long-term rates should have a maximum duration of seven years, which strikes the correct balance between encouraging investment in QFs and avoiding customer risks associated with long-term contracts.

Initial comments of National Grid USA on proposed rulemaking -- revised 8/23/17

Finally, there appears to be one area in which there may be some agreement between Petitioner and PSNH/Eversource. According to PSNH/Eversource,

the present request [by FEL] appears only to seek confirmation that utilities have an obligation that FEL alleges exists under federal law. In the proposed rules, the proposed "Purchase Requirement" states only that a utility must purchase the output of a QF at avoided cost, or at an agreed upon rate - paraphrasing federal law - and in the proposed definition of "Avoided Cost" it proposes only the language already found in federal regulations. In that the proposed rules appear only to seek to confirm an existing obligation, initiating a proceeding based upon this petition to examine the proposed rules is unnecessary.

FEL concedes that its petition for rulemaking in this proceeding does seek to confirm an existing obligation, that a utility must purchase the output of a QF at avoided cost, or at an agreed upon rate - paraphrasing federal law - and in the proposed definition of "Avoided Cost" it proposes only the language already found in federal regulations. Nonetheless, FEL strongly believes that it is also necessary for the Commission to pin PSNH/Eversource on this important point of law by adopting a similar state regulation. Otherwise, QF's individual or collectively, are left with the looming prospect of having to seeking relief from FERC on this matter.

Sincerely,
/s/James T. Rodier