

STATE OF NEW HAMPSHIRE

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April 9, 2018

Ms. Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: Docket No. DE 18-019
Request of Keene Housing for Waiver of Rule Puc 201.05

Dear Ms. Howland:

Please treat this letter as the response of the Office of the Consumer Advocate (OCA) to the request filed by Keene Housing on February 7, 2018 for a waiver of the above-referenced Commission rule as well as the April 4, 2018 letter of Public Service Company of New Hampshire (PSNH) opposing the requested waiver.

On behalf of residential ratepayers, the OCA recommends that the Commission grant the requested waiver. It is on all fours with the waiver granted on March 29 to Twin Pines Housing in Docket No. DE 18-020. The chief distinction between the two situations is that Twin Pines is in the service territory of Liberty Utilities, which took no position on the waiver request, whereas Keene Housing is served by PSNH.

Both Keene Housing and Twin Pines Housing have sought a waiver of the rule prohibiting master metering of residential apartments. The logic of each request is the same: The housing in question is provided to people in need of housing assistance, in circumstances where the residents will not be paying their own electric bills in any event.

Nevertheless, in opposing the Keene Housing request, PSNH devotes many paragraphs to making what is essentially the classic "slippery slope" argument: If we let Keene Housing do it

then everyone will want to do it. *See* PSNH Letter at 2 (“Permitting a waiver in such a circumstance would open the possibility that any existing customer with multiple tenants and individual meters could make the same request”). That might be persuasive in a common law scenario, in which precedent really does guide future decisionmaking. But this situation requires application of the Commission’s duly promulgated rules – including, in N.H. Code Admin. Rules Puc 201.05, a well-defined standard for when a waiver is appropriate. Specifically, and in relevant part, the Commission “shall” waive a rules requirement when the public interest is served thereby – and the public interest is served when “[c]ompliance with the rule would be onerous or inapplicable given the circumstances of the affected person.” Rule Puc 201.05(b)(1). In their respective waiver requests, Twin Pines Housing and Keene Housing amply demonstrated why compliance would be onerous (i.e., expensive in a way that will ultimately make less resources available to those in need of housing assistance) and inapplicable given the circumstances (because the two housing agencies and not their tenants will be paying the electric bills in any event).

The remainder of the PSNH letter is devoted to explaining various ways in which it believes Keene Housing does not understand the utility’s rates as they would apply in the situation, has not communicated fully with the utility’s engineering or operations staff, and is otherwise not as informed as the agency ought to be in the circumstances. If so, it is difficult to understand why the Company did not reach out to Keene Housing with an offer of help and insight, perhaps asking the Commission in the meantime to hold the waiver request in abeyance.

We stand prepared to help Keene Housing and PSNH resolve this dispute. I assume the Commission’s Electric and Sustainable Energy Divisions could likewise be helpful. In these circumstances, the OCA recommends the Commission grant the requested waiver or, at the very least, put this docket on hold and instruct the parties to talk with one another.

Please feel free to contact me if there are any questions about the foregoing.

Sincerely,



D. Maurice Kreis
Consumer Advocate

cc: Service List (via e-mail)