

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

Public Service Company of New Hampshire
Delivery Service Rate Request

Docket No. DE 09-035

**OBJECTION
of
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
to
THE CITY OF MANCHESTER
PETITION TO INTERVENE**

Pursuant to RSA 541-A:32 and N.H. Code of Admin Rule Puc 203.07, Public Service Company of New Hampshire (“PSNH”) hereby objects to the Petition to Intervene (“Petition”) filed on February 19, 2010 by the City of Manchester, Department of Public Works, (“City of Manchester”) in the above-captioned matter. Per Commission Order No. 24,994 issued on July 30, 2009 in this proceeding, “any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to PSNH and the Office of the Consumer Advocate on or before August 7, 2009....” The City of Manchester Petition was filed nearly seven months late. The Petition is more than just untimely; it was filed after all direct testimony had been filed by PSNH; after discovery had been completed on PSNH’s direct testimony; after the date Staff and other intervenor testimony was due; after the date discovery had been completed on such Staff/Intervenor testimony; and after the City of Manchester had received notice of this proceeding directly from the Commission. Granting this untimely intervention would undoubtedly impair the orderly and prompt conduct of this proceeding. RSA 541-A:32, I (c) and II.

In support of its Objection, PSNH says the following:

1. On April 17, 2009 PSNH petitioned for an increase in temporary rates. An Order of Notice was published in *The Union Leader* newspaper on May 28, 2009. (See, Affidavit of Publication filed with the Commission on June 1, 2009). That Order of Notice required that “any party seeking to intervene in the proceeding shall submit to the Commission an original and eight copies of a Petition to Intervene with copies sent to PSNH and the Office of the Consumer Advocate on or before June 5, 2009....” The City of Manchester did not seek intervention in the temporary rate proceeding. On June 10, 2009, a duly noticed prehearing conference was held in the temporary rate portion of this proceeding. A hearing on temporary rates was held on July 13, 2009.

2. On June 29, 2009, PSNH filed its formal request for a permanent increase in rates. The Commission issued an Order Suspending Tariffs and Scheduling Prehearing Conference (Order No. 24,994) which was published in *The Union Leader* on August 3, 2009. (See, Affidavit of Publication filed with the Commission on August 10, 2009). Order No. 24,995 required, “any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to PSNH and the Office of the Consumer Advocate on or before August 7, 2009....” The City of Manchester did not seek intervention in the permanent rate proceeding by the established deadline. A Prehearing Conference was conducted on permanent rates on August 12, 2009. A Prehearing conference is the appropriate phase in a rate proceeding for Petitions to Intervene to be addressed. N.H. Code of Admin Rule Puc § 203.15 (d)(2).

3. The standard for granting a petition for intervention out of time is set forth in RSA 541-A:32 , II:

The presiding officer may grant one or more petitions for intervention at any time, upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.

4. The City of Manchester's Petition was not filed by the August 7, 2009 deadline established by Order No. 24,994; nor was it filed at least three days before the hearing as required by RSA 541-A:32, I (a). The City of Manchester's Petition was filed nearly 200 days late. In *Re Public Service Company of New Hampshire/ Northeast Utilities*, 75 NH PUC 263 (1990), the Commission denied an untimely petition to intervene that was "only" 110 days late:

Mr. Richards' petition comes 110 days after the date established by the commission for interventions in this proceeding. Mr. Richards stated at a hearing on this docket on April 25, 1990, that his reason for filing late for intervention was the lack of resources and being preoccupied with the PSNH bankruptcy proceedings. The commission does not deem these reasons to be substantial justification for the lateness of his filing and, for this reason alone, would deny the petition. 75 NH PUC 265

5. The City of Manchester has alleged it has only "recently become aware of this proceeding." Petition, at ¶3. This allegation is not only difficult to accept – it is patently disingenuous.

a. In this docket, PSNH caused two orders of notice to be published in Manchester's home paper, *The Union Leader*, providing notice of its rate case petition.

b. Two prehearing conferences and a hearing on temporary rates have already been conducted.

c. Per the Commission's approval in this proceeding, temporary rates went into effect on August 1, 2009; therefore, City of Manchester has already experienced a rate increase resulting from this proceeding.

d. In addition, Pursuant to N.H. Code of Admin Rule Puc §§ 1203.02 (c) and (d), the following statement was included on all customer bills rendered during July 2009 – seven months ago:

On June 30, 2009 PSNH requested a permanent rate increase of \$51.1 million to be applied to the Distribution Charges associated with PSNH's Delivery Service for effect August 1, 2009. Of this amount, PSNH has requested that a \$36.4 million increase be allowed as temporary rates while the Public Utilities Commission (PUC) investigates the permanent rate request. In addition to an overall increase in its Delivery Service rates, PSNH requested a decrease in its Energy Service rate for effect August 1, 2009. The combination of the rate changes, if approved by the PUC, would result in a one percent increase on August 1 in rates for residential customers and a decrease in rates for business customers who purchase energy from PSNH. (NH Code Admin. Rule Puc §1604.02(5).)

e. And, perhaps most notably, over nine months ago, the Commission itself provided the City of Manchester notice of this rate case proceeding. On May 22, 2009, the Commission sent out the Supplemental Order of Notice issued in this proceeding via email to “those persons interested in electric issues at the Commission.” (See attachment 1). The City of Manchester was included as a recipient of this email. The list of addressees included “tarnold@ci.manchester.nh.us” -- Thomas I. Arnold, III, the Deputy City Solicitor for the City of Manchester.

It strains credibility to allege in a formal filing with this Commission that the Petitioner has only “recently become aware of this proceeding.” The City of Manchester has failed to provide substantial justification for the lateness of his filing and, as in *Re Public Service Company of New Hampshire/Northeast Utilities, supra*, for this reason alone, the Commission should deny the petition.

6. PSNH filed its base case for permanent rates, including its direct testimony, on June 30, 2009. The initial and supplementary period for asking data requests on that filing ended three months ago. (November 25, 2009). The deadline for testimony from Staff and intervenors was January 15, 2010. Discovery on that testimony has been asked and answered (responses from Staff and Intervenors were completed by February 12, 2009). The City of Manchester has stated that it

“recognizes that it will have to take the procedural schedule as it stands.” Petition, at ¶3. The City of Manchester therefore admits that it can ask no discovery of PSNH, Staff or any other intervenor. It also acknowledges that it may not submit any testimony. The opportunity for meaningful participation by any new party has passed; therefore, the City of Manchester’s participation in this proceeding at this late date would by necessity “impair the orderly and prompt conduct of the proceedings,” – a result contrary to both the governing statute (RSA 541-A:32, II) and implementing regulation (N.H. Code of Admin Rule Puc 203.17).

WHEREFORE, PSNH respectfully requests this Commission to deny the Petition to Intervene filed by the City of Manchester and order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

February 25, 2010
Date

By: Gerald M. Eaton
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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Objection to the City of Manchester's Petition to Intervene to be served pursuant to N.H.

Code Admin. Rules Puc §203.02 and Puc §203.11

February 25 2010
Date

Gerald M. Eaton
Gerald M. Eaton

ATTACHMENT 1

E-Mail dated May 22, 2009

from

Adele Leighton

Case Coordinator

New Hampshire Public Utilities Commission



"Leighton, Adele"
<Adele.Leighton@puc.nh.gov>

05/22/2009 03:07 PM

To <pjaesd@comcast.net>, <daniel.allegretti@constellation.com>, Christopher J. Allwarden/NUS@NU, <anderson@nhec.com>, <joel.anderson@leg.state.nh.us>, <nancy.andrews@po.state.ct.us>, <jandrews@nhmunicipal.org>, <tarnold@ci.manchester.nh.us>, <glenn.arthur@po.state.ct.us>, <asbury@unitil.com>, <asheys@nhec.com>, <babackus@backusmeyer.com>, <bakasj@nhec.com>, Robert A. Baumann/NUS@NU, Thomas R. Belair/NUS@NU, <kathyb@lightec.net>, Robert A. Bersak/NUS@NU, Rhonda J. Bisson/NUS@NU, <brock@unitil.com>, <kbuck@hbranh.com>, <theresa.burns@us.ngrid.com>, <abuxton@preti.com>, <steven.camerino@mclane.com>, <carroll@unitil.com>, <guy.cattaruzza@uinet.com>, Catalina J. Celentano/NUS@NU, <cleveland@unitil.com>, <kcolburn@symbioticstrategies.com>, <collin@unitil.com>, <mdean@mdeanlaw.net>, <debski@unitil.com>, <lisa.decker@constellation.com>, Jerry Dee/NUS@NU, Allen M. Desbiens/NUS@NU, Scott D. Devendorf/NUS@NU, Gerald M. Eaton/NUS@NU, <epler@unitil.com>, <efoley@smw17nh.org>, <fournier@unitil.com>, <tfrancoqc@yahoo.com>, "Frantz, Tom" <Tom.Frantz@puc.nh.gov>, <gantz@unitil.com>, Gilbert E. Gelineau Jr/NUS@NU, <ronald.gerwatowski@us.ngrid.com>, <jlgordon@appealslawyer.net>, <jimgrady@lightec.net>, <kgrant@gis.net>, <pgromer@peregrinegroup.com>, Stephen R. Hall/NUS@NU, "Hatfield, Meredith" <Meredith.A.Hatfield@oca.nh.gov>, <jhodes@hagehodes.com>, <jarvis@unitil.com>, Steve Johnson S.D.MGR/NUS@NU, <kaminski@nhec.com>, <kaufmanh@nhec.com>, <kroll@gcglaw.com>, <rleidy@grenh.com>, <alinder@nhla.org>, Gary A. Long/NUS@NU, <jeff@catlas.mv.com>, "Martin, Christina" <Christina.Martin@oca.nh.gov>, <jemccaffrey@moheck.com>, <dmeister@nisource.com>, Thomas Mitchell/NUS@NU, <hmoftett@orr-reno.com>, <jmonahan@dupontgroup.com>, <joanne.morin@des.nh.gov>, <smueller@lglm.com>, <joel_newton@fpl.com>, K'LaRae Nolin/NUS@NU, <ran@essexhydro.com>, <margaretnorth@juno.com>, <nudd@unitil.com>, <jobrien@voteconservation.org>, "OCA Litigation" <OCALitigation@puc.nh.gov>, <mofriel@wm.com>, <rolson@bowlaw.com>, <pfundstein@gcglaw.com>, <jroche@nhbia.org>, <jrodier@freedomenergy.com>, <jimrubens@aol.com>, <rshapiro@rubinrudman.com>, Catherine E. Shively/NUS@NU, <wshort@ridgewoodpower.com>, <dshulock@bowlaw.com>, <rsilkman@energymaine.com>, <mark.sorgman@us.ngrid.com>, <wstonge@palmerdodge.com>, <eric.steltzer@nh.gov>, <jstock@nhtoa.org>, <nha@essexhydro.com>, <skwhite@moheck.com>, <woodsca@nhec.com>

cc

bcc

Subject Supp. Order of Notice, DE 09-035, PSNH, Temp Delivery Rates

The attached Supplemental Order of Notice is for those persons interested in electric issues at the Commission.

Adele Leighton

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