

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: January 31, 2013
AT (OFFICE): NHPUC

FROM: Al-Azad Iqbal
Utility Analyst III

SUBJECT: DM 11-066 People's Power & Gas, LLC
Competitive Electric Power Supplier Registration Application
Staff Recommendation

TO: Debra Howland
Executive Director



Summary

The above mentioned docket was opened in 2011 and, as the review process progressed, went through several iterations of updates and changes. Staff is recommending conditional approval of People's Power & Gas, LLC's (PPG or Company) application for registration as a Competitive Electric Power Supplier (CEPS). Because this registration application has been pending for an extended period of time, it is important to provide some of the procedural background.

Background

On March 30, 2011, the Commission received an application from People's Power and Gas, LLC to be registered as a Competitive Electric Power Supplier. Staff reviewed PPG's application and found several deficiencies. On April 12, 2011, Staff sent an e-mail to PPG noting that the application did not comply with New Hampshire Code Admin. Rules Puc 2003.01 (d) (regarding electronic data interchange (EDI) requirements and membership in the New England Power Pool (NEPOOL)) and Puc 2003.03(a) (requiring financial security in an application for CEPS registration).

On May 4, 2011, a representative of PPG submitted proof of PPG's membership in NEPOOL as required by Puc 2003.01 (d)(2). Also provided was a description of TCSmedia (an EDI provider) in an attempt to address the EDI deficiency; and a letter from Citibank stating that PPG has an account with the bank in an apparent attempt to meet the requirement for financial security. Staff replied via email on May 5, 2011 and informed PPG's representative that simply providing a description of TCSmedia did not satisfy the requirement for EDI testing, and that evidence of a bank account did not constitute financial security as required by Puc 2003.03(1).

On October 6, 2011, PPG provided proof of EDI testing with only the New Hampshire Electric Cooperative (NHEC); and on October 13, 2011, a letter of credit was received from General Building Equity of Auckland, New Zealand securing PPG's obligations to the Commission.

On November 28, 2011, the CEO of PPG, David Pearsall, sent an e-mail to a number of recipients, including NHPUC Staff, stating that he had terminated a PPG subordinate for cause. This same subordinate had been responsible for communicating with Staff regarding the Application until November 2011.

On December 13, 2011, PPG requested that the Commission waive Puc 2003.01 (h) which requires that requested information or clarifications to complete an application for registration be provided in 60 days of such request. An updated waiver request was submitted on January 5, 2012. In both of its waiver requests, PPG failed to explain the circumstances and specify the basis for the waiver as required by Puc 201.05.

As part of its review during that time, Staff discovered that PPG was apparently marketing electric power supply and providing for the enrollment of New Hampshire electric utility customers on its website and by phone. As appeared on its website, PPG was offering the service in all electric franchise territories in New Hampshire even though (1) it was not registered as a CEPS and (2) it had submitted evidence of the completion of EDI testing in only NHEC's service area. Staff concluded that PPG appeared to be in violation of Puc 2003.01(b) because it was marketing service to all electric customers in New Hampshire, and recommended that PPG's application for CEPS registration be denied.

In subsequent correspondence dated January 23, 2012, PPG addressed several issues including its online marketing effort. On March 16, 2012, Staff sent a letter to PPG requesting additional information. Staff also addressed the issues raised by PPG in its January 23, 2012 correspondence. Regarding the online marketing effort, Staff stated that a subsequent visit to PPG's website revealed that New Hampshire was removed from the enrollment section. Staff also pointed out that in contradiction to PPG's claim that it "has EDI tested in all Utilities successfully," PPG had only provided proof that it had completed EDI testing in the franchise territory of the NHEC.

On March 21, 2012, PPG provided an updated enrollment form with terms & conditions and letters from PSNH, UNITIL, and NHEC stating that PPG had successfully completed EDI testing required by PUC 2003.01(d). On March 30, 2012, Staff informed PPG that based on Staff's initial review of the updated information, the statement of terms and conditions provided did not comply with the requirements of Puc 2004.02(b) and the application of PPG for registration as a competitive energy supplier status in New Hampshire remained deficient. On April 26, 2012, PPG filed another updated statement of terms and conditions, and an Affidavit signed by Mr. Pearsall stating that PPG had not enrolled any customers through its website. After reviewing the newly updated terms and conditions Staff believed that it still did not comply with the requirements of Puc 2004.02(b) and discussed the issue with PPG's representative.

On October 1, 2012, PPG filed a request for action on its application and stated "PPG requests that its application be granted or, alternatively, the Commission specifies any additional information required for processing of the application." On October 11, 2012, Staff filed an update of current status of the application based on discussions with the company and described specific recommendations with which PPG agreed to comply to complete the application. Following Staff's recommendation, PPG submitted an updated application on November 27, 2012. In its application PPG requested waiver of PUC Rule 2003.01(d)(4) and 2003.03(a). The Company stated "PPG already has submitted proof of financial security to the Commission; it is resubmitted herein. As referenced in the October 11, 2012 Staff letter to PPG, the financial security expires on March 10, 2017 which, given the lengthy review period for this application, no longer fully meets the five years and 150 day period required by the Rule. It would be a hardship to PPG to reissue the financial security." PPG proposed to file a new bond prior to the expiration of the existing bond and stated that it is willing to accept a Commission condition to that effect to allow its license to be approved. With its updated application, PPG also submitted the EDI testing certificate from National Grid/Liberty Utilities.

Staff reviewed the updated application and informed the Company that the Terms of Service agreement still did not comply with the requirements set forth in the rules. After discussion with Staff, PPG filed a revised Terms of Service agreement on December 24, 2012 followed by another revision on January 16, 2013, Staff has reviewed the revised Terms of Service agreement and believes it is compliant with Puc 2004.02(b).

Recommendation

Staff has reviewed PPG's application and believes that, subject to the below recommended conditions, it meets the requirements of Puc 2006.01.

With regard to PPG's proposal to file a new financial surety prior to the expiration of the existing bond, Staff recommends the Commission grant the waiver subject to the following conditions:

- 1) PPG be required to file a new financial surety at least 30 days prior to the expiration of the existing bond under current docket;
- 2) If the Commission does not receive a new financial surety at least 30 days prior to the expiration of the existing bond, PPG's registration will expire instantly. In the case of such expiration, PPG must suspend its New Hampshire operations and file a new registration application if it intends to continue to be a registered CEPS in New Hampshire.

It is Staff's recommendation that PPG's application for registration as a CEPS in New Hampshire be approved for 5 years effective from January 31, 2013, subject to potential earlier termination consistent with the conditions described above.

Should you have any questions, please do not hesitate to contact me.