

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DE 11-216
Public Service Company of New Hampshire
Petition for Alternative Default Energy Service Rate

OBJECTION TO PSNH MOTION FOR PROTECTIVE ORDER AND CONFIDENTIALITY
TREATMENT REGARDING OCA1-8

NOW COME Freedom Logistics, LLC d/b/a Freedom Energy Logistics (“FEL”), and Halifax-American Energy Company, LLC (“HAEC”) hereby object to PSNH’s Motion for Protective Order and Confidentiality Treatment regarding OCA 1-8. In support of their Objection, FEL and HAEC say the following:

1. PSNH’s Rate ADE in this proceeding “will be based on forward market prices (PSNH’s marginal cost) for power necessary to serve additional customers returning to PSNH’s default energy supply...” Order of Notice (October 5, 2011) at 1.

2. Accordingly, the calculation of PSNH’s marginal cost is one of the central issues in this proceeding.

3. PSNH’s marginal cost will be calculated using PSNH’s power supply portfolio model which includes a number of inputs such as forward energy market prices, forward capacity market prices, forecasted ancillary service costs, forecasted ISO-NE market administration costs and forecasted renewable portfolio standard compliance costs. PSNH Motion at ¶ 1.

4. In response to data request OCA 1-8, PSNH provided the power supply portfolio model used to calculate its marginal cost to the OCA but now seeks to bar disclosure of the model to the public in general, and FEL and HAEC in particular.

5. The Commission’s three-step analysis for whether information should be kept from public disclosure is well-settled: (a) evaluate of whether a privacy interest is at stake; (b) evaluate the public’s interest in disclosure; and balance the public’s interest in disclosure with the privacy interest is at stake. As the party resisting disclosure, PSNH bears the heavy burden of shifting the balance to non-disclosure. Union Leader Corporation v. New Hampshire Retirement System (November 3, 2011).

6. The inability to review how PSNH's marginal cost is calculated would significantly inhibits the meaningfulness of FEL's and HAEC's intervention and its ability to protect its rights that may be affected by this proceeding.

7. A party in a legal proceeding is entitled to be "fully informed" and have access to all information favorable to his side of the issue. This is true whether the issue is raised by him or by his opponent, and whether the evidence is in the possession of his opponent or someone else." Scotsas v. Citizens Insurance Co. of New Jersey, 109 N.H. at 388 (1972). The NHPUC itself has ruled that "in order for that organization to meaningfully participate in the docket it should have access to the same information as does the Commission." Order No. 23,986 (June 5, 2002) at 11.

8. There is no provision of law or regulation by which such information can be denied to a party in an electric utility proceeding if the party is willing to abide by an appropriate protective order or confidentiality agreement.¹

WHEREFORE, Freedom Logistics and Halifax-American Energy Company hereby respectfully request the Commission to issue an appropriate order granting them access to PSNH's response to OCA 1-8 pursuant to an appropriate protective order or confidentiality agreement.

Respectfully submitted,
FREEDOM LOGISTICS, LLC
HALIFAX-AMERICAN ENERGY COMPANY, LLC
PNE ENERGY SUPPLY, LLC
By their Attorney,

Dated: November 28, 2011
/s/ James T. Rodier
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Certification of Service

Pursuant to Rules Puc 203.02(2) and Puc 203.11, I have served copy of this petition on each person identified on the commission's service list for this docket.

/s/ James T. Rodier

¹ RSA 378:43 is only applicable to telephone utilities.