

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

**Petition for Review of the Reasonableness and Appropriateness
of Services to Competitive Electricity Suppliers**

Docket No. DE 12-295

PNE'S OBJECTION TO PSNH'S MOTION TO DISMISS

NOW COMES PNE Energy Supply LLC, d/b/a Power New England ("PNE"), by and through its attorney, and hereby objects to PSNH's Motion to Dismiss filed with the Commission in this proceeding on January 4, 2013, and in support hereof says as follows:

1. PSNH's Motion to Dismiss is based upon two interrelated contentions: (a) that the Petition seeks to engage in single issue ratemaking; and (b) that the Petition seeks a declaratory ruling.

2. PNE'S Petition simply seeks a review of the reasonableness and appropriateness of PSNH's charges for services to Competitive Electricity Suppliers. In support thereof, PNE asserts that similar charges are not levied by PSNH's affiliates CL&P, WMECO and NSTAR. They are also not levied by Unitil, Liberty Utilities, or NGrid in Massachusetts and Rhode Island.¹

3. PNE's Petition does not seek to engage in single issue ratemaking, or seek a declaratory ruling. In its Order of Notice, the Commission correctly noted that "PNE said that it is not seeking a rate adjustment in this proceeding and that any rate adjustment that resulted from the Commission's review would take place in a subsequent PSNH general rate case."

4. Accordingly, PNE is not proposing any change to PSNH's present or future allowed revenue level. PNE is simply proposing that the revenue associated with the current supplier charges not be recovered from competitive suppliers because they impede the development of a competitive market for small customers, rather than enhancing the development of a competitive market.

¹ In Paragraph 7 of its Petition, PSNH misrepresents PNE's Petition in this proceeding. PNE did not claim in its Petition or Testimony in this proceeding that NHEC and CMP do not assess similar charges to suppliers.

5. In the Order of Notice, the Commission raised the issue of “whether it is useful for the Commission to conduct a review of the approve tariff changes separate from a review of PSNH’s revenue requirements in a future distribution rate case.”

6. According to PSNH’s currently effective Delivery Tariff, a “Customer” is an entity supplied with Delivery Service by PSNH. “Delivery Service”, in turn, is defined as the delivery of electric power to a Customer. Accordingly, as a threshold matter, Competitive Electricity Suppliers do not take “Delivery Service” from PSNH, and therefore PSNH’s charges for services to Competitive Electricity Suppliers should not be included in its Delivery Tariff and not recovered through distribution rate cases.²

7. In any event, as a result of the Settlement Agreement in Docket No. DE 09-035, PSNH’s next distribution rate case rate case will occur no earlier than July 1, 2015. However, the Settlement Agreement does allow PSNH to adjust its rates prior to that time for “exogenous factors.” *See Order No. 25, 213 (June 28, 2010)* at 38.

8. Accordingly, if the Commission finds that PSNH’s charges for services to Competitive Electricity Suppliers are unreasonable and inappropriate, PSNH should be allowed to recover the lost revenue through an adjustment to its distribution rates.

9. PSNH’s overarching corporate objective at the moment appears to be the full recovery of the Scrubber costs. PSNH obviously understands that this objective is palpably inconsistent with the development of a competitive market for small customers. PSNH has reported to the Securities and Exchange Commission that the trend toward increasing customer migration could lead to PSNH “being unable to support the cost of its generation facilities through an ES rate.” *Transcript (11-18-12)* at p. 27, Docket No DE 11-216. This fully explains why PSNH is vigorously opposed to any market enhancements for small customers.

WHEREFORE, Petitioner respectfully requests the Commission to deny PSNH’s Motion to Dismiss and to grant such other and further relief as may be just and equitable.

² According to the Commission rules, a “tariff” is the schedule of rates, charges and terms and conditions under which a regulated and tariffed service is provided to customers. *See Rule Puc 1602.06*. A “customer”, in turn, is an entity which has contracted for electric, gas, sewer, steam or water service from a utility. *See Rule Puc 102.05*

RESPECTFULLY SUBMITTED,
PNE Energy Supply LLC
by its Attorney,

Dated: January 7, 2013

/s/ James T. Rodier

James T. Rodier, Esq.
1465 Woodbury Ave., No. 303
Portsmouth, NH 03801-5918
jrodier@mbtu-co2.com