

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

DE 12-295

POWER NEW ENGLAND, LLC

**Petition for Review of the Reasonableness of Certain Charges of Public Service Company
of New Hampshire for Services to Competitive Suppliers**

ORDER OF NOTICE

On October 1, 2012, Power New England, LLC d/b/a Power New England (PNE) filed a petition requesting the Commission review the reasonableness and appropriateness of Public Service Company of New Hampshire's (PSNH's) approved charges for certain services to competitive electric suppliers. With its petition, PNE filed supporting testimony and related attachments. 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. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, will be posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2012/12-295.html>.

PNE requested that the Commission review charges that are part of PSNH's Electricity Delivery Service Tariff—NHPUC No. 8 Original Pages 31 through 40 and identified as follows: (1) the \$ 5.00 per request "Selection Charge" which is assessed when a customer switches to or from PSNH's default service; (2) the "Billing and Payment Service Charge" which PSNH charges on a \$0.50 per bill rendered basis for the billing and payment services PSNH provides to a competitive service supplier who has opted for consolidated billing services; and (3) the "Collection Services Charge" which is billed at 0.252% of total monthly receivable dollars

pursuant to a written agreement with competitive suppliers. In support of its petition, PNE testified that the charges impede the development of the competitive market for small customers.

According to PNE, the issue of how costs associated with the provision of competitive supplier services by the utilities should be recovered has become a concern within the past year because of the relatively large increase in the enrollment of residential and small commercial customers by competitive suppliers, primarily by PNE. Regarding the "Selection Charge," PNE said that while the charge of \$5.00 seems small, it is a very large percentage of the competitive suppliers' first month's profit for a small customer. With respect to the Billing and Payment Service Charge, PNE claimed that PSNH's billing and payment process is fully automated and there is no manual intervention by any PSNH employee. PNE said that the collection services provided by PSNH pursuant to the Collection Services Charge are very similar to the collection activities PSNH engages in for its own active and inactive delinquent accounts. PNE asserted that PSNH's affiliates in Connecticut and Massachusetts do not levy similar charges. Finally, PNE testified that if the incremental costs incurred by PSNH for the customer selection, billing and payment and collection services is not zero, the Commission may require PSNH to recover such costs through base rates and not through explicit charges on the competitive suppliers.

With its petition, PNE also filed a motion to clarify New Hampshire Code Admin. Rules Puc 102.22, the definition of a "technical session," and Puc 203.09(b), relative to the rights of parties to ask data requests of any other party to the proceeding. PNE requested that the Commission issue a ruling on Puc 102.22 declaring that (1) information is voluntarily shared on an informal basis at a technical session and (2) a motion to compel cannot be employed in conjunction with a technical session. Also with respect to Puc 203.09(b), PNE requested the Commission to declare that (1) a party may not serve data requests on another party if the other

party has not filed testimony; and (2) a party may not inquire into matters not covered by a party's testimony.

The Commission provides the following guidance regarding PNE's requests. First, as PNE recognizes, a technical session is a meeting of the parties at which information is shared. Technical sessions aid the parties in developing facts and legal positions in preparation for a contested hearing or settlement negotiations and they constitute a form of discovery under Puc 203.09(j). Thus, a petitioner or intervenor that has filed testimony is expected to attend and participate in a technical session approved as part of the procedural schedule for discovery on that party's testimony. Failure to attend and participate in the technical session without good cause would raise the question of whether the motives of the party are to obstruct rather than to enable progress in a docket and could call into question the appropriateness of the petitioner or intervenor continuing as a party in the docket.

As to PNE's assertion that a motion to compel cannot be employed in conjunction with a technical session, the Commission will not address questions such as these in the abstract, but provides the following guidance: gamesmanship by any party in the discovery process will not be allowed. If a discovery dispute arises, the Commission will entertain requests for resolution based on the relevant circumstances.

Because PNE has already filed testimony and it is expected that PSNH will also file testimony, it is not apparent why PNE seeks a ruling regarding its assertion that a party may not serve data requests on a party that has not filed testimony. But to the extent there is uncertainty, Puc 203.09 provides that the petitioner, Staff, the OCA and any person granted intervenor status shall have the right to conduct discovery in an adjudicative proceeding and that, unless

inconsistent with an applicable procedural order, any person covered by the rule shall have the right to serve written data requests upon any party.

The Commission will not rule on PNE's further assertion that parties may not inquire into matters not covered by that party's testimony, as resolution would depend on the particular facts of a discovery dispute. If a discovery dispute arises, the Commission will entertain requests for resolution.

Because the PNE petition directly affects PSNH's tariffs and revenues, PSNH qualifies as an intervenor pursuant to RSA 541-A:32 and shall be considered a necessary party to this proceeding.

The filing raises, inter alia, issues related to whether it is useful for the Commission to conduct a review of the reasonableness of the approved tariff charges separate from a review of PSNH's revenue requirements in the context of a future distribution rate case and, if so, whether the relief requested by the petition is in the public interest and should be granted. Each party has the right to have an attorney represent the party at the party's own expense.

Based upon the foregoing, it is hereby

ORDERED, that a Prehearing Conference, pursuant to N.H. Code Admin. Rules Puc 203.15, be held before the Commission located at 21 S. Fruit St., Suite 10, Concord, New Hampshire on, January 15, 2013 at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the petition; and it is


FURTHER ORDERED, that, immediately following the Prehearing Conference, PNE, PSNH, the Staff of the Commission, and any Intervenors hold a Technical Session to review the petition and allow PNE to provide any amendments or updates to its filing; and it is

FURTHER ORDERED, that pursuant to N.H. Code Admin. Rules Puc 203.12, the Commission shall notify all persons desiring to be heard at this hearing by posting a copy of this Order of Notice on the Commission's website no later than November 26, 2012; and it is

FURTHER ORDERED, that pursuant to N.H. Code Admin. Rules Puc 203.17, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to PNE, PSNH and the Office of the Consumer Advocate on or before January 9, 2013, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Code Admin. Rule Puc 203.17 and RSA 541-A:32, I (b); and it is

FURTHER ORDERED, that any party objecting to a Petition to Intervene make said Objection on or before, January 15, 2013.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of November, 2012.


Debra A. Howland
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:
DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.