

STATE OF NEW HAMPSHIRE

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January 25, 2013

Debra Howland
Executive Director & Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-7319



NHPUC JAN25'13 PM12:36

RE: DE 13-020 PSNH Investigation into Market Conditions Affecting PSNH and its Default Service Customers and the Impact of PSNH's Ownership of Generation on the Competitive Electric Market

Dear Ms. Howland:

Pursuant to the Inter-agency Memorandum of Understanding, dated April 28, 2000 between the Office of Consumer Advocate (OCA) and the Public Utilities Commission (PUC), the OCA hereby notifies the Commission it will be participating in the above-referenced matter on behalf of residential ratepayers. This is consistent with RSA 363:28 (II), which states:

Except as pertains to any end user of an excepted local exchange carrier or services provided to such end user, the consumer advocate shall have the power and duty to petition for, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, and consumer services before any board, commission, agency, court, or regulatory body in which the interests of residential utility consumers are involved and to represent the interests of such residential utility consumers.

The broad statutory language of "any proceeding" does not distinguish between the adjudicatory or investigative nature of the PUC proceedings. The Memorandum of Understanding does not make such a distinction either, using the words "cases" and "proceedings" to describe the various matters before the PUC. See MOU dated April 28, 2000. RSA 365:5, the authorizing statute referenced in the Commission's Order of Notice, also uses broad language referring to "any rate charged" or act having been done or omitted.

Therefore the legal authority granting the Commission investigatory powers and the legal authority granting the OCA participatory powers is to be construed broadly and consistently with

each other and with the inclusive language of the MOU to authorize OCA participation in this investigatory proceeding.

There is precedent for this interpretation. In Docket DE 08-103, the Commission opened an Investigation of PSNH Installation of Scrubber Technology. The OCA filed a letter of participation (See August 26, 2008 OCA letter DE 08-103) which was accepted by implication (See August 26, 2008 secretarial letter DE 08-103). While the Commission may choose to limit the general public's participation, the OCA has a statutory right to participate in this proceeding pursuant to RSA 363:28 (II).

Similarly, RSA 363:17a refers to the Commission as arbiter between the "interests of the customer and the interests of the regulated utilities . . .". Where the consumer advocate is created under the same chapter, RSA 363, as the representative of consumer interests, it follows the Consumer Advocate is authorized to represent those interests in an investigative proceeding as well as an adjudicative proceeding. Particularly where Public Service of New Hampshire will be representing its interests, it is reasonable to have a representative for consumer interests participate in this docket as well. Further, pursuant to RSA 541-A:32, I(c) the Consumer Advocate's participation will not impair the orderly and prompt conduct of the proceedings.

Therefore, I respectfully request the Commission add Susan W. Chamberlin, Stephen R. Eckberg, Christina Martin and ocalitigation@oca.nh.gov to your service list. Please also include the OCA on the distribution list for any Memoranda or Staff Recommendations filed in the docket. Thank you.

Respectfully,



Susan W. Chamberlin
Consumer Advocate

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