

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DT 13-___

**PNE Energy Supply LLC, d/b/a Power New England and
FairPoint Energy, LLC**

JOINT MOTION FOR EXPEDITED WAIVER OF PUC RULE 2004.05(k)

NOW COME PNE Energy Supply LLC, d/b/a Power New England (“PNE”) and FairPoint Energy, LLC (“FairPoint Energy”) (together, the “Parties”) by and through their attorneys, and hereby move the Commission for an expedited waiver of Puc Rule 2004.05(k) regarding the 14 day notice requirement, prior to transfer of a customer account. In support of their Motion, the parties state the following:

1. PNE is a duly-registered CEPS in PSNH’s service territory.¹
2. FairPoint Energy is a duly-registered CEPS in PSNH’s service territory.²
3. PNE and FairPoint Energy have entered into a Purchase and Sale Agreement (“PSA”), dated February 6, 2013, for the transfer of approximately 8,500 residential and very small commercial³ customer accounts. Pursuant to the PSA, PNE will assign all of its right, title and interest in certain customer contracts to FairPoint Energy. FairPoint Energy will assume all of PNE’s responsibilities and obligations under the contracts.
4. The affected customers will not see any change in the rates and contract term as set out in their PNE contracts.
5. Pursuant to Rule Puc 2004.05(k), PNE must provide written notice 14 days prior to the effective date of any change of a customer’s service provider.
6. The Parties desire that FairPoint Energy begin enrolling the transferred customers immediately following grant of the requested waiver, and before the expiration of the 30 day

¹ See DM 11-075.

² See DM 11-175.

³ *I.e.* all customers are served by Small Profile Meters.

notice period described in the following paragraph.⁴

7. The parties represent that service will be provided at the same rates and contract term for fixed rate customers under which they are receiving service now. Variable rate customers will remain on a variable rate plan. Furthermore, the parties represent that every customer will be extended all, or more, of the rights due them under Puc 2004.05(1). In particular, every customer will have the right to find an alternate provider during the initial 30 day period after notice of transfer is served, rather than the 14 period required by the rules. Moreover, notwithstanding that FairPoint Energy may have begun enrolling customers during the 30 day period and notwithstanding that the customer may currently have committed to a set term of service with PNE there will also not be any termination fees during this time. (Note that under the FairPoint Energy terms and conditions there are never any termination fees.) A copy of the proposed customer notice is attached hereto as Exhibit 1.

8. FairPoint Energy represents to the Commission that it has the technical, managerial and financial capability to acquire and service the large quantity of customer accounts contemplated by this transfer

9. No special off-cycle meter read dates will be necessary as a result of this transfer. Customers will transfer suppliers upon their next scheduled meter read date.

10. Rule Puc 201.05 provides that the Commission may waive the provisions of any of its rules if (1) the waiver serves the public interest and (2) the waiver will not disrupt the orderly and efficient resolution of matters before the Commission.

11. Rule Puc 201.05 provides further that, in determining the “public interest,” the Commission may find a waiver request to be in the public interest if “the purpose of the rule would be satisfied by an alternative method proposed.” There will be no risk or detriment to PSNH as a result of this transfer or requested waiver. Furthermore, there will be no risk or detriment to the transferred customers. Every customer will be extended all, or more, of the rights contained within Rule 2004.05(1), and FairPoint Energy will ensure that the customers’

⁴ Please refer to Confidential Exhibit 2, paragraphs 2 through 4, attached hereto, for an affidavit detailing the circumstances that necessitate the requested waiver.

PNE fixed rate and remaining contract term will not change.⁵ They will be affected no differently than if the waiver had not been granted.

12. Finally, because customer transfers of this type do not involve the Commission other than review of the notice, grant of this waiver will not disrupt the orderly and efficient resolution of matters before the Commission.

WHEREFORE, the Parties respectfully request the Commission waive, on an expedited basis, the customer transfer rules as discussed in this Petition.

Respectfully submitted,

By:  _____

Dated: February 7, 2013

FairPoint Energy, LLC
Jan L. Fox, Esq.
Senior Vice President
& General Counsel
1055 Washington Blvd.
Stamford, CT 06901
(203) 517-0130

PNE Energy Supply LLC
By its Attorneys,

DEVINE, MILLIMET & BRANCH, PA
Harry N. Malone, Esq.
111 Amherst Street
Manchester, NH 03301
(603) 695-8532

⁵ Please refer to Confidential Exhibit 2, paragraphs 5 and 6, attached hereto, for an affidavit describing further assurances regarding this transfer.