

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

2014 Default Energy Service Rate
Docket No. DE 13-275

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S OBJECTION TO
PETITIONS TO INTERVENE**

Pursuant to New Hampshire Code of Administrative Rules Puc 203.07 and RSA chapter 541-A, Public Service Company of New Hampshire ("PSNH" or the "Company") hereby objects to the petitions to intervene filed by the North American Power and Gas, LLC ("NAPG"), and Conservation Law Foundation ("CLF") in this docket. Should the Commission grant intervention over PSNH's objection, PSNH requests that NAPG's and CLF's participation in the docket be limited. In support of its objection PSNH states as follows:

1. On September 27, 2013, PSNH filed a petition to adjust its Energy Service ("ES") rate beginning on January 1, 2014. On October 8, 2013, the Commission issued an order of notice in the docket stating:

The filing raises, *inter alia*, issues related to whether the energy service rates is based on PSNH's actual, prudent and reasonable costs of providing such service consistent with RSA 369-B:3, IV(b)(1)(A), whether the costs associated with RPS and RGGI compliance are reasonable and should be included in rates and whether the resulting rates are just and reasonable as required by RSA 378:5 and 378:8¹.

The order of notice also set a pre-hearing conference for October 28, 2013.

2. On October 10, and October 23, 2013, NAPG and CLF, respectively, timely filed petitions to intervene seeking full intervenor status. Neither party, however, has demonstrated that its rights, duties, privileges, immunities or other substantial interests

¹ The order of notice references RSA 387:8, but PSNH believes the correct reference is to RSA 378:8.

may be affected by the proceeding, nor that the interests of justice justify its participation as required by RSA 541-A:32. Accordingly, the petitions should be denied.

3. Addressing first the petition of NAPG, in its petition NAPG based its intervention request on its contention that:

NAPG's interests in the encouragement and protection of a fair and competitive retail electric marketplace rely on the proper treatment of such costs. The issues related to PSNH's legacy costs and other issues have the potential to directly affect the competitive retail marketplace in which NAPG operates.

NAPG Petition to Intervene at 2. The "such costs" in the first sentence refers to "PSNH's legacy generation costs and other default service-related costs." *Id.*

4. As stated clearly in the Commission's order of notice, this is a docket relating to PSNH's rate setting pursuant to the terms of applicable law. It is not a docket about competitive electric supply or suppliers, nor is it a docket intended to discuss or determine any issues relating to a "fair and competitive electric marketplace," nor is it evident that PSNH's legacy costs have any bearing on either of those issues. The mere fact that changes to PSNH's rates in accordance with law may have an incidental effect on the competitive market does not mean that NAPG's interests in "the encouragement and protection" of electric markets are affected by this proceeding.
5. Moreover, NAPG states that in Docket No. DE 09-180, "similar" interventions were granted. In Docket No. DE 09-180, the order of notice specifically stated that the docket would review "whether and how to address the rate impacts resulting from customer migration and whether those impacts are consistent with the restructuring principles of RSA 374-F." October 5, 2009 Order of Notice in Docket No. DE 09-180 at 2. It was on the basis of such noticed issues that interventions were previously sought, *see* Transcript

of October 19, 2009 Pre-Hearing Conference at 6, 8, 10-11. Such issues are not noticed in this case. Thus, PSNH does not believe that the prior interventions are “similar” as contended by NAPG. Accordingly, NAPG has not demonstrated that its intervention is appropriate under RSA chapter 541-A.

6. With respect to the petition of CLF, it too has not demonstrated that its participation is appropriate under applicable law. In its petition to intervene in Docket No. DE 08-103 filed on June 10, 2013 CLF stated:

CLF, through its Clean Energy and Climate Change Program, represents the interests of its members in ensuring that environmental impacts resulting from the generation, production, distribution and/or use of electricity in New Hampshire and the region are minimized....

CLF and CLF’s New Hampshire members have a direct and substantial interest in the outcome of this proceeding. Intervention will allow CLF to protect its members’ substantial interests in the environmental and public health impacts resulting from PSNH’s use of its generating resources and market purchases to supply its customers.

CLF June 10, 2013 Petition to Intervene in Docket No. DE 08-103 at 1-2.

7. Now, in a petition filed only 4 months later, CLF contends that “CLF represents the interests of its members in avoiding adverse economic impacts associated with continued use and reliance on uneconomic, environmentally unsustainable electricity generation such as coal-fired generation at Public Service Company of New Hampshire’s (“PSNH”) Merrimack and Schiller Stations.” October 23, 2013 Petition to Intervene in DE 13-275 at 1. In Docket No. DE 08-103, PSNH objected to the intervention of CLF on the basis that CLF had presented itself as an environmental organization, that by its own admission it represented the environmental interests of its members, and that the Commission was not the proper forum for the discussing or deciding issues of environmental law or policy. CLF now, however, states that it represents its members’ economic interests in addition

to their environmental interests (which remain outside the jurisdiction of the Commission). Further, in its current petition to intervene, each reference of CLF to economic interests is tied to environmental concerns. Accordingly, PSNH quotes from the petition at length:

The decisions made by PSNH in serving its default energy service customers, including addressing the foregoing matters related to generating and supplying energy, dictate the costs of PSNH's energy service, the extent that PSNH's generating resources will operate, *the resulting environmental impacts*, and the energy service rates of customers of PSNH, including CLF members.

CLF and CLF's New Hampshire members have a direct and substantial interest in the outcome of this proceeding. *Intervention will allow CLF to protect its members' substantial interests in the environmental and public health impacts* resulting from PSNH's use of its generating resources and market purchases to supply its customers. The economic interests of CLF's New Hampshire members as ratepayers are also directly affected by this proceeding, including by the costs incurred by PSNH for its self-owned generating assets, *which costs also implicate the environmental interests addressed above*.

In this docket, the Commission must determine whether PSNH's projected future costs of its energy service decisions, with reference to its forecasts of power needs, costs, and related factors, meet the statutory standards of prudence and reasonableness and whether the resulting rates proposed by PSNH are just and reasonable. These issues raise *important economic and environmental concerns* which, as set forth above, will affect the rights, duties and privileges of CLF and its members.

CLF Petition to Intervene at 2-3 (emphasis added). It is not clear how or when CLF's representation of its members interests shifted from minimizing environmental impacts of electricity generation to the "adverse economic impacts associated with continued use and reliance" of certain generating sources nor how that justifies its participation in this docket. It does remain clear, however, that CLF is an environmental organization focused on environmental issues and that this Commission is not the forum for such issues.

8. Furthermore, to the extent that CLF may be said to properly represent it, or its members', interests in economic activity, it states that it represents its members' interests in "avoiding adverse economic impacts" associated with certain generation sources. More explicitly, CLF has stated that its interests, and its members' interests, are with "continued use and reliance on uneconomic, environmentally unsustainable electricity generation such as coal-fired generation at Public Service Company of New Hampshire's ("PSNH") Merrimack and Schiller Stations." CLF Petition to Intervene at 1. This is not a docket intended to determine the economic sustainability of PSNH's generating stations generally, or its coal-fired stations in particular. It is, moreover, not to discuss or determine any issues relating to the continued use of, or reliance on, those generating stations, and it is clearly not for discussion of whether such stations are or are not environmentally sustainable. There may be other dockets before the Commission where such issues are explored and discussed and, in fact, CLF is or has been a participant in such dockets. This docket, however, as stated in the order of notice, relates to setting PSNH's rates at a just and reasonable level pursuant to the terms of applicable law.
9. It is not clear that CLF's mission or desire to "avoid adverse economic impacts" from specific generating sources comports with the scope of the docket as defined by the Commission. Further, CLF's pursuit of that interest as well as its interest in "continued use and reliance on uneconomic, environmentally unsustainable electricity generation" may, in fact, hinder the ability of PSNH to adjust its rates in a timely and appropriate manner. Accordingly, CLF has not demonstrated that its interests are implicated in this proceeding, nor has it demonstrated that the "interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention."

RSA 541-A:32, I(c). If anything, it has demonstrated that its interests would expand the scope of the proceeding and impair its orderly and prompt conclusion.

10. Despite the above, should the Commission determine that NAPG and/or CLF has some interest justifying participation in this docket, PSNH requests that any intervention be limited. As the Commission has made clear, this docket has a particular scope and focus, and that scope does not include issues relating to the competitive supply markets NAPG wishes to explore nor the environmental or other concerns CLF wishes to explore. PSNH, therefore, requests that the Commission confirm the scope of this docket and, to the extent it permits NAPG and/or CLF to participate, that it limit participation accordingly.
11. Lastly, PSNH notes that in its ES dockets, it routinely is required to produce and provide confidential materials. The Commission's rules, at Puc 201.06 and 201.07, acknowledge this obligation and provide protection for certain materials. Further, PSNH may be required to provide other confidential information outside the scope of that identified in the rules. Accordingly, it is all but certain that PSNH will be required to produce confidential information, and PSNH intends to maintain the confidentiality of such materials. Thus, to the extent the Commission permits NAPG and/or CLF to participate, it also should confirm that confidential information should not, and will not, be disclosed to them.

WHEREFORE, PSNH respectfully requests that the Commission:

- (1) Deny NAPG's and CLF's petitions to intervene;
- (2) Limit NAPG's and/or CLF's participation and access to information if the petitions to intervene are granted over PSNH's objection; and
- (3) Order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

October 28, 2013
Date

By: _____


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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Objection to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

October 28, 2013
Date


Matthew J. Fossum